

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Cassadaga Wind LLC

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Docket No. ER15-1056-000

**MOTION TO INTERVENE AND COMMENTS OF
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 213 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”) moves to intervene and submits comments in the above-referenced proceeding. The NYISO requests that the Commission consider these comments in its determination regarding the relief requested.

I. Background

On February 13, 2015, Cassadaga Wind LLC (“Cassadaga”) filed a request for waiver of one of the eligibility requirements for the Class Year Interconnection Facilities Study (“Class Year Study”) as applied to Cassadaga’s Queue No. 387 wind project in the NYISO interconnection queue (“the Cassadaga project”).^{2,3} Cassadaga specifically requests waiver of the requirements in Attachment S and Attachment X of the NYISO

¹ 18 C.F.R. §§ 385.212 and 385.213 (2015).

² Capitalized terms not otherwise defined in this letter have the meaning set forth in Attachments S, X and Z of the NYISO’s Open Access Transmission Tariff (“OATT”), as amended by the enclosed proposed revisions to Attachments S, X and Z of the OATT.

³ *Cassadaga Wind LLC*, Petition of Cassadaga Wind LLC for Limited Waiver of the NYISO OATT Regulatory Milestone Deadline and Request for Action by March 6, 2015, Docket No. ER15-1056-000 (Feb. 13, 2015) (“waiver request”).

Open Access Transmission Tariff (“OATT”) that a project must have satisfied the regulatory milestone required by Attachment S in order to enter a Class Year Study.⁴

Under the NYISO’s OATT, proposed Large Facilities such as the Cassadaga project are required to proceed through three (3) successive interconnection studies, as detailed in Attachment X to the OATT.⁵ First is the Interconnection Feasibility Study, which is a high level evaluation of the configuration and local system impacts.⁶ The second study is the Interconnection System Reliability Impact Study, a detailed single-project study that evaluates the project’s impact on transfer capability and system reliability.⁷ The final study in the interconnection process is the Class Year Study.⁸ The Class Year Study is a detailed study that evaluates the cumulative impact of a group of projects that have met specified Class Year Study eligibility requirements by the Class Year Start Date.⁹ The Class Year Study identifies and cost allocates the upgrade facilities needed to reliably interconnect all the projects in a Class Year.

A project becomes eligible to enter a Class Year Study when it has satisfied the two critical developmental milestones identified in Attachment S of the OATT:

(1) NYISO Operating Committee approval of an Interconnection System Reliability

⁴ See Section 25.6.2.3.1 of Attachment S and Section 30.8.1 of Attachment X. Cassadaga’s waiver request does not specify any particular section of Attachment X from which it seeks waiver but presumably it is seeking waiver from Section 30.8.1 of Attachment X, which provides for rules applicable to Eligible Class Year Projects, as well as Section 25.6.2.3.1 of Attachment S, which is specifically referenced in the waiver request.

⁵ Attachment X contains the procedures for processing FERC-jurisdictional interconnections of Large Generating Facilities and Merchant Transmission Facilities, collectively defined in Attachment X as “Large Facilities.”

⁶ See Attachment X, Section 30.6.

⁷ See Attachment X, Section 30.7.

⁸ See Attachment X, Section 30.8.

⁹ See Attachment X, Section 30.8.1. See also Attachment S, Section 25.6.2.3.1.

Impact Study; and (2) the regulatory milestone.¹⁰ The Cassadaga project recently satisfied one of the two Class Year eligibility milestones – Operating Committee approval of its Interconnection System Reliability Impact Study. The Interconnection System Reliability Impact Study for the Cassadaga project was approved by the NYISO’s Operating Committee on February 13, 2015. The Cassadaga project has not yet satisfied the second Class Year eligibility requirement – the regulatory milestone required by Attachment S, Section 25.6.2.3.1.1.

In order to enter a Class Year Study, a project must have satisfied both of the above-mentioned milestones prior to the Class Year Start Date. Pursuant to Section 25.5.9 of Attachment S, the Class Year Start Date for Class Year 2015 is March 1, 2015. Cassadaga does not anticipate it will be able to meet the regulatory milestone in Attachment S by March 1, 2015, and therefore requests waiver of this Class Year Study eligibility requirement in order that it may enter Class Year 2015.

II. Motion to Intervene

The NYISO is the independent body responsible for providing open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity, and ancillary services in New York State. Additionally, the NYISO administers the interconnection process pursuant to its Commission-approved tariffs. In this proceeding, Cassadaga is requesting waiver of a requirement of the interconnection process established by Attachment S and Attachment X of the NYISO OATT. The NYISO, therefore, has a unique interest in this proceeding that cannot be

¹⁰ See Attachment S, Section 25.6.2.3.1.

adequately represented by any other entity and, therefore, requests that the Commission permit the NYISO to intervene with all the rights of a party.

III. Comments

The NYISO understands Cassadaga to be requesting (1) that its project be permitted to enter Class Year 2015 without satisfying the tariff-mandated eligibility requirement set forth in Section 25.6.2.3.1(ii) of Attachment S (*i.e.*, that it be permitted to enter Class Year 2015 without satisfying the regulatory milestone requirement); and (2) that Cassadaga be provided a 13-month extension within which to complete the regulatory milestone required by Section 25.6.2.3.1.1 of Attachment S – until March 31, 2016.

NYISO recognizes that the Commission evaluates a waiver request based on the specific facts and circumstances of the request, and upon a number of factors, including (i) whether the requestor is acting in good faith; (ii) whether the request will remedy a concrete problem; (iii) whether the request is of limited scope; and (iv) whether the waiver, if granted, will have undesirable consequences such as harming third parties.¹¹ The Commission's evaluation of a waiver request is highly dependent on the specifics of a particular request, and the Commission has recognized, therefore, that the granting of a waiver request is not precedent for granting future waiver requests.¹² The Commission has further recognized that waiver of tariff requirements should not be construed as

¹¹ See *PJM Interconnection, L.L.C. and Trans-Allegheny Interstate Line Company*, 144 FERC ¶ 61,060 at P17 (2013); *Air Energy TCI, Inc.*, 143 FERC ¶ 61,172 at P16 (2013); *Hudson Transmission Partner, LLC*, 131 FERC ¶ 61,157 at P10 (2010).

¹² See *PJM Interconnection, L.L.C. and Trans-Allegheny Interstate Line Company*, 144 FERC ¶ 61,060 at P17 (noting that the granting of the requested waiver “is based on the specific facts and circumstances of the request”); see also, *Air Energy TCI, Inc.*, 143 FERC ¶ 61,172 at P16 (2013) (noting that “our grant of waiver is limited to the facts and circumstances of the case before us”).

having any impact on the applicability of the same requirements to other projects.¹³ It is important that the Commission continue to reinforce the importance of tariffs and manual deadlines that enhance certainty and transparency in the NYISO's administration of the interconnection process.

The NYISO has concerns regarding Cassadaga's request and respectfully requests that the Commission consider these concerns in its decision on the merits of the waiver request. The NYISO is primarily concerned that the waiver is not of limited scope and may therefore raise questions regarding the applicability of the same tariff requirements as applied to other projects. This is particularly true given that this is a substantive milestone reflecting the progress of the project, rather than an administrative deadline. The regulatory milestone serves an important function in the NYISO's interconnection process, ensuring that projects have reached a certain stage of project development before they are evaluated in this comprehensive, final study with other projects. Allowing projects to be included in the Class Year Study before they have demonstrated this developmental milestone will tend to slow down the Class Year Study process. As the Commission emphasized in one of the few instances in which it has granted a waiver of tariff-mandated deadlines in the NYISO's interconnection procedures, "we emphasize the importance of meeting [] deadlines and note that in the future, we expect parties to

¹³ See *Air Energy TCI, Inc.*, 143 FERC ¶ 61,172 at P16 (2013) (noting that despite granting the requested waiver, "we do not intend that NYISO's regulatory milestones be taken lightly."); *Innovative Energy Systems, LLC*, 131 FERC ¶ 61,066 at P7 (2010) (noting that despite granting the requested waiver, "we emphasize the importance of meeting financial security deadlines and note that in the future, we expect parties to arrange for deposits to be submitted in sufficient time to meet the requirements of their tariffs.").

arrange for [compliance with such deadlines] to be submitted in sufficient time to meet the requirements of their tariffs.”¹⁴

In addition, it is not clear what unique circumstances exist here that (1) warrant a waiver of the generally applicable requirements or (2) distinguish this project from the other projects that have not yet satisfied the regulatory milestone but otherwise qualify for Class Year entry. To allow one project Developer to enter a Class Year Study without meeting the same requirements that other project Developers must meet would lead to an inequitable result.

Cassadaga emphasizes that the Article 10 milestone was added to the tariff after the project entered the queue.¹⁵ The NYISO notes that the general framework of the regulatory milestone—that a permitting application must be deemed complete by the applicable regulatory agency—has been in the NYISO’s tariff since 2001. Further, the NYISO’s tariff previously contained a reference to Article 10’s predecessor (referred to in the New York Public Service Law as “Article X”).¹⁶ When the regulations implementing the new Article 10 became effective on July 17, 2012, it was appropriate to explicitly describe how a project subject to Article 10 can satisfy the regulatory milestone. The tariff revisions proposing to do so were first posted for stakeholder

¹⁴ See *Innovative Energy Systems, LLC*, 131 FERC ¶ 61,066 (2010) (granting a waiver of developer’s obligation as a Class Year 2008 project to submit a security deposit to its Connecting Transmission Owner within a date prescribed by Attachment S).

¹⁵ See Waiver Request at 10.

¹⁶ The original reference to Article X was filed on August 29, 2001 and was later removed from the tariff after Article X expired in response to a Commission Order. See *Astoria Gas Turbine Power LLC v. NYISO*, 128 FERC ¶ 61,221, at P 38 (2009) (holding that the NYISO had appropriately concluded that certain projects had not met the regulatory milestone and should be excluded from the Class Year Study, but ordering NYISO to delete the reference to Article X from Attachment S in light of the fact that Article X was no longer in effect).

review on August 2, 2012 – just 11 days after Cassadaga submitted its Interconnection Request.¹⁷

Moreover, it is not clear how the facts presented in the waiver request demonstrate a concrete problem that requires Commission action. Cassadaga points to anticipated delays in project development that it assumes will occur if its project is not included in Class Year 2015. These statements appear to be based on the misconception that no project development can commence prior to completion of a Class Year Study and does not appear to recognize the flexibility in the NYISO's tariff.¹⁸ In fact, under the NYISO's interconnection process the project has the flexibility to remain in the queue and enter a later Class Year Study. Further, the NYISO's process permits projects to move forward with interconnection agreement negotiations and, under certain circumstance, to become operational before the project completes the Class Year study process. NYISO is willing to continue to work with Cassadaga to move its project forward and to help Cassadaga utilize the flexibility that the existing interconnection procedures provide in this regard.

Finally, the granting of the requested waiver could impact the Class Year 2015 schedule. To the extent FERC grants the requested waiver significantly after the March

¹⁷ See Transmission Planning Advisory Subcommittee Meeting Materials for the August 7, 2012 meeting (posted August 2, 2012), available at: http://www.nyiso.com/public/markets_operations/committees/meeting_materials/index.jsp?com=oc_tpas The final proposed tariff language was filed on December 19, 2012, adding the following as one of the ways to satisfy the regulatory milestone requirement: "For a Large Generator that is larger than 25 MW, a determination pursuant to Article 10 of the Public Service Law that the Article 10 application filed for the Large Generator is in compliance with Public Service Law § 164."

¹⁸ See Section 30.11.2 of Attachment X. In doing so, however, the facility can only provide ERIS and cannot participate as an Installed Capacity Supplier until it has been evaluated for deliverability in the Class Year Interconnection Facilities Study and accepted its Project Cost Allocation and posted Security for any required System Deliverability Upgrades.

1, 2015 Class Year Start Date, the NYISO would be required to add the Cassadaga project to the Class Year after the Class Year membership has been finalized.

Furthermore, should the Commission grant Cassadaga's request, and Cassadaga subsequently fails to meet its regulatory milestone by the extended deadline, the NYISO would be required to withdraw the project from Class Year 2015 that may well be near completion by then, if not already completed. Adding or withdrawing a project from a Class Year so far along could require the NYISO to (1) create new base cases; (2) delay the start or require the re-running of Class Year Study analyses; and (3) potentially identify and cost allocate new or different upgrades. This could delay the Class Year Study and increase the time and expense of the Class Year Study for other Class Year 2015 members.

IV. Communications and Correspondence

All communications and service with regard to this filing should be directed to:

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V. Conclusion

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission (i) grant this motion to intervene, and (ii) consider these comments in making its decision on the Cassadaga's waiver request.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan

Counsel for the

New York Independent System Operator, Inc.

February 27, 2015

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. §385.2010.

Dated at Rensselaer, NY this 27th day of February, 2015.

/s/ Joy A. Zimmerlin

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