

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

GDQ ESS, LLC

)

Docket No. ER24-2926-000

**ISO NEW ENGLAND INC.’S MOTION TO INTERVENE
AND ANSWER IN OPPOSITION TO THE PETITION
FOR LIMITED WAIVER OF GDQ, ESS LLC**

Pursuant to Rule 213 of the Rules of Practice and Procedure¹ of the Federal Energy Regulatory Commission (“Commission” or “FERC”),² ISO New England Inc. (the “ISO”) hereby submits this motion to intervene and answer (“Answer”) in opposition to the limited waiver request (“Waiver Request”) that GDQ ESS, LLC (“GDQ”) submitted in the above-captioned docket on August 29, 2024.

The Commission has granted prospective waivers when: (1) the applicant acted in good faith; (2) the waiver was of limited scope; (3) a concrete problem needed to be remedied; and (4) the waiver did not have undesirable consequences such as harming third parties. The Commission should deny GDQ’s Waiver Request because it does not meet the second, third, and fourth prongs of the Commission’s standard for granting waivers.

As fully explained in this Answer, GDQ’s requested waiver is not of limited scope because it modifies the currently-effective rules in the Large Generator Interconnection Procedures (“LGIP”) as well as the design proposed by the ISO, the New England Power Pool Participants Committee, and the Participating Transmission Owner’s Administrative Committee³ for the

¹ See 18 C.F.R. § 385.213 (2019).

² Capitalized terms used but not defined in this pleading shall have the meaning ascribed to them in the ISO New England Inc. Transmission, Markets and Services Tariff (“Tariff”).

³ ISO New England Inc., *Revisions to the ISO New England Inc. Transmission, Markets and Services Tariff in Compliance with Order Nos. 2023 and 2023-A*, Docket No. ER24-2009-000 (May 14, 2024); and *Errata to Revisions to the ISO New England Inc. Transmission, Markets and Services Tariff in Compliance with*

transition to the new first-ready, first served interconnection rules required in Order Nos. 2023 and 2023-A.⁴ In addition, given that the Commission has not yet accepted the ISO's Order No. 2023 Compliance Revisions, there is no concrete problem to address at this time. Furthermore, granting the waiver would have undesirable consequences. If GDQ is requesting that the System Impact Study ("SIS") for its project be completed before the SIS for a higher queued project is completed, then the waiver has undesirable consequences because it would run counter to the currently-effective serial queue construct, and, as such, it could affect the reliability of the New England Transmission System or an Affected System. On the other hand, if GDQ is asking for a waiver from the August 30, 2024 proposed deadline *until* the SIS for the higher queued project is completed so that the SIS for its project can also be completed, then granting the waiver would constitute undue preferential treatment for GDQ as the same treatment that GDQ requests would not be extended to other projects in the ISO's queue that did not receive completed SISs before the August 30, 2024 deadline due to delays related to higher queued projects.

I. IDENTIFICATION OF THE ISO

The ISO is the private, non-profit entity that serves as the regional transmission organization ("RTO") for New England. The ISO operates and plans the New England bulk power system and administers New England's organized wholesale electricity markets pursuant to the Tariff and the Transmission Operating Agreement with the New England Participating Transmission Owners. In its capacity as the RTO for New England, the ISO has the

Order Nos. 2023 and 2023-A, Docket No. ER24-2009-000 (May 31, 2024) ("Order No. 2023 Compliance Revisions").

⁴ *Improvements to Generator Interconnection Procedures and Agreements*, Order No. 2023, 184 FERC ¶ 61,051 (2023), *order on reh'g*, Order No. 2023-A, 186 FERC ¶ 61,199 (2024).

responsibility to protect the short-term reliability of the Control Area, as well as to provide oversight and fair administration of the New England Markets.

II. MOTION TO INTERVENE

The Commission should grant the ISO's motion to intervene because the ISO has an interest that may be directly affected by the outcome of this proceeding. Specifically, GDQ is seeking a waiver of ISO Tariff provisions and the Waiver Request directly affects the ISO's administration of the interconnection process.

III. BACKGROUND

On May 14, 2024, the ISO submitted its compliance filing with FERC Order Nos. 2023 and 2023-A to the Commission. The Order No. 2023 Compliance Revisions, together with the revisions contained in a companion filing submitted pursuant to Section 205 of the Federal Power Act,⁵ are necessary to achieve compliance with Order No. 2023, in particular, the requirement to move to a first-ready, first-served cluster study construct in which all Interconnection Requests included in a given cluster are considered equally queued, in a seamless and implementable manner.

Order Nos. 2023 and 2023-A require that transmission providers adopt a process for transition to be conducted prior to the first Cluster Study. To comply with this requirement, the Order No. 2023 Compliance Revisions adopt, with minor deviations, the transition process set forth in Order No. 2023 in full (including, as explained in the ISO's compliance filing, Transitional Facilities Studies and a Transitional Cluster Study). In addition, and in response to

⁵ ISO New England Inc., *Revisions to Section II of the ISO New England Inc. Transmission, Markets and Services Tariff Related to Compliance with Order Nos. 2023 and 2023-A*, Docket No. ER24-2007-000 (May 14, 2024).

stakeholder input, the Order No. 2023 Compliance Revisions include two additional transition processes. One of those processes, the Late Stage SIS Completion process, was designed to ensure that late stage projects are not harmed by the transition. Specifically, the Order No. 2023 Compliance Revisions provide, in Section 5.1.1.2 of the ISO's LGIP that, for Interconnection Requests with assigned Queue Positions as of thirty Calendar Days after May 14, 2024, and for which SISs are projected to be completed between June 13, 2024, and August 30, 2024, the ISO will tender the Interconnection Customer a Transitional Cluster Study Agreement. However, *if the ISO completes the SIS* and the Interconnection Customer accepts it by August 30, 2024, the Interconnection Request would no longer proceed to the Transitional Cluster Study. Instead, the Interconnection Customer will be tendered an Interconnection Agreement pursuant to Section 11 of the ISO's LGIP and will be refunded any deposits, if any deposits had been submitted by that time, associated with participation in the Transitional Cluster Study. Accordingly, the Order No. 2023 Compliance Revisions incorporate the following language in Section 5.1.1.2 of the ISO's LGIP:

Interconnection Customers for which the System Operator projects to complete the system impact studies between June 13, 2024 and August 30, 2024, shall be tendered a Transitional Cluster Study Agreement, in the form of Appendix 7 to this LGIP, no later than the Commission-approved effective date of this LGIP. However, if the Interconnection Customer accepts the results of its system impact study on or before August 30, 2024, the System Operator shall not include the Interconnection Request in the Transitional Cluster Study and instead tender a Large Generator Interconnection Agreement pursuant to Section 11 of this LGIP, and refund any deposits associated with participation in the Transitional Cluster Study. (Emphasis added).

While the ISO requested an August 12, 2024 effective date for the Order No. 2023 Compliance Revisions and an order on or before that date, the Commission has yet to issue an order on the ISO's compliance filing.

GDQ states that it is the Interconnection Customer for a 203 MW battery energy storage project. Based on the date of its Interconnection Request, the project was assigned QP1163. In the Waiver Request, GDQ provides some of the history of the SIS for the project. While the ISO views that history as incomplete, providing additional details regarding that history serves no purpose because the SIS for the Project was not completed prior to August 30, 2024 due to a dependency on a higher queued project, designated as QP1121. In other words, regardless of the actions that GDQ has taken, the SIS for QP1163 cannot be completed because the SIS for QP1121 has not been completed. As such, the Late Stage SIS Completion option provided for in the Order No. 2023 Compliance Revisions does not apply to GDQ's project. Furthermore, as explained below, the Commission should deny the Waiver Request because it does not meet the Commission's standard for granting waivers.

IV. ANSWER IN OPPOSITION TO WAIVER REQUEST

In the past, the Commission has granted prospective waiver requests when the requests have met certain requirements. Specifically, the Commission has granted waivers when: (1) the applicant acted in good faith; (2) the waiver was of limited scope; (3) a concrete problem needed to be remedied; and (4) the waiver did not have undesirable consequences. As explained below, GDQ's Waiver Request does not meet the second, third, and fourth prongs of this standard.

A. The Waiver is Not of Limited Scope

In the Waiver Request, GDQ does not explain whether it is requesting that the SIS for its project (QP1163) be completed prior to the completion of the SIS for the higher queued project (QP1121) so that the Late SIS Completion option can be applied to GDQ's project, or whether it is asking that the proposed Late SIS Completion date of August 30, 2024 deadline be extended

until the SIS for QP1121 is finalized, after which the SIS for GDQ's project can be completed, and, effectively the Late SIS Completion option can be applied to GDQ's project.

Completing an SIS for GDQ's project before the SIS for the higher queued project is completed would change the design and administration of the currently-effective rules in the LGIP. As such, if this is what GDQ is requesting, then the waiver is not of limited scope.

GDQ requests a waiver of the Order No. 2023 Compliance Revisions' proposed August 30, 2024 deadline to accept a completed SIS,⁶ but GDQ does not state what the new deadline would be or for how many days the deadline would be extended. Thus, if GDQ is asking that that the deadline be extended until the SIS for QP1121 is finalized, granting the waiver would constitute a change in the design of the Late SIS Completion option under the Order No. 2023 Compliance Revisions. The Late SIS Completion option was developed with a specific cut-off date (August 30, 2024) that was based on the timing needed to transition to the cluster study construct, specifically, the need to establish an appropriate Base Case for the Transitional Cluster Study and ensure that ongoing coordination with distribution level Affected System Operator Studies would not result in the need to change the analysis conducted in those studies to include additional Commission jurisdictional projects.⁷

At this time, the timing for completion of the SIS for QP1121 is uncertain and, as such, the timing for completion of the SIS for QP1163 is also uncertain. Thus, granting the GDQ a

⁶ Notably, the August 30, 2024 deadline that GDQ asks a waiver of has passed, and the Commission has not ruled on the Order No. 2023 Compliance Revisions. Thus, once the Commission issues an order, the ISO may have to reconsider the deadlines included in those revisions. The ISO communicated this to stakeholders on September 5, 2024. See ISO-NE Memo on Ongoing Order No. 2023 Compliance Proposal Implementation Activities (Sept. 5, 2024), https://www.iso-ne.com/static-assets/documents/100015/memo_re_order_2023_implementation.pdf.

⁷ See Order No. 2023 Compliance Revisions Transmittal Letter at 77.

waiver until an indeterminate time after the SIS for QP1121 is completed would not allow an orderly transition to the cluster study construct.

B. There is No Concrete Problem to Remedy

The Commission has not ruled on the Order No. 2023 Compliance Revisions and, once the Commission issues an order, the ISO may have to reconsider the deadlines included in those revisions, depending on the Commission's directives. For this reason, there is currently no concrete problem to remedy. While GDQ filed the waiver request on August 29, 2024 so that it can be considered a prospective waiver, given that the Order No. 2023 Compliance Revisions are still pending at FERC, the Waiver Request is speculative and, as such, it should be denied.

The ISO recognizes that GDQ has committed to withdrawing or amending its Waiver Request to the extent that the Commission does not accept the Order No. 2023 Compliance Revisions. Likewise, the ISO reserves its right to amend this Answer in order to respond to an amended Waiver Request.

C. The Waiver Has Undesirable Consequences

As mentioned above, in the Waiver Request, GDQ does not explain whether it is requesting that the SIS for its project (QP1163) be completed prior to the completion of the SIS for the higher queued project (QP1121) so that the Late SIS Completion option can be applied to GDQ's project, or whether it is asking that the August 30, 2024 deadline in the Order No. 2023 Compliance Revisions be extended until QP1121 is finalized so that the SIS for GDQ's project can be completed so that, at that point, the Late SIS Completion option can be applied to GDQ's project.

If GDQ is requesting that the SIS for its project be completed before the SIS for the higher queued project is completed, then the waiver has undesirable consequences because doing

so would run counter to the currently-effective serial queue construct, and, as such, it could affect the reliability of the New England Transmission System or an Affected System. Under the ISO's LGIP, the SIS serves as the single, comprehensive evaluation, which ensures that the addition of the proposed Generating Facility will not cause any reliability issues on the New England Transmission System or on an Affected System, and to identify needed upgrades. The SIS is also the means by which the ISO meets the requirement of Section I.3.9 of the ISO Tariff to ensure that the interconnection of generation to the Administered Transmission System will have no adverse impact to the transmission system or the system of another Market Participant. Accordingly, an SIS must consider the results of the SIS of any higher queued positions that are relevant to it (*i.e.*, those that could have an interaction with it or that have upgrades that would significantly impact its results that are required to meet the ISO's Network Capability Interconnection Standard and maintain a reliable Bulk Electric System). In this particular case, the proposed Points of Interconnection for QPs1121 and 1163 result in QP1121 being relevant to the SIS for QP1163. In other words, it is not possible to complete the SIS for QP1163 without considering the results of the SIS for QP1121 because doing so could have reliability impacts.

If GDQ is asking for a waiver of the August 30, 2024 deadline until the SIS for the higher queued project (QP1121) is completed so that the SIS for its project (QP1163) can also be completed, then granting the waiver would constitute undue preferential treatment for GDQ as the same treatment that GDQ requests would not be extended to other projects in the ISO's queue that did not receive completed SISs before the August 30, 2024 deadline due to delays related to higher queued projects. Given these undesirable consequences, the Commission should deny GDQ's Waiver Request.

V. CONCLUSION

For the foregoing reasons, the ISO respectfully requests that the Commission deny GDQ's Waiver Request.

Respectfully submitted,

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Dated: September 6, 2024

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.

Dated at Holyoke, Massachusetts this 6th day of September 2024.

/s/ Julie Horgan

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