

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

Linden VFT, LLC

)

Docket No. ER07-543-000

**ANSWER OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC. TO THE
MOTION TO INTERVENE AND REQUEST FOR CLARIFICATION OF
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.**

Pursuant to Rule 213 of the Commission's Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully submits this answer to Consolidated Edison Company of New York, Inc.'s ("Con Edison") *Motion to Intervene and Request for Clarification* that was filed on March 7, 2007 in the above-captioned proceeding ("Clarification Request").² The NYISO's answer addresses a number of inaccurate and problematic statements contained in the Clarification Request concerning NYISO interconnection procedures and the ongoing proceedings to address the issue of deliverability in the context of established New York capacity markets. Furthermore, the NYISO requests that the Commission reject the condition requested by Con Edison with regard to any deliverability obligation.³

¹ 18 C.F.R. § 385.213 (2006).

² Rule 213(a)(2) does not expressly prohibit answers to "requests for clarification," and the NYISO thus believes that it is authorized to submit this answer. To the extent that the Commission views the Clarification Request as being tantamount to a protest, the NYISO respectfully requests leave to answer. Although the Commission normally discourages answers to protests, it has previously allowed such answers when they help clarify complex issues, correct inaccuracies, provide additional information, or are otherwise helpful in the development of the record in a proceeding. *See, e.g., New York Independent System Operator, Inc.*, 108 FERC ¶ 61,188 at P 7 (2004); *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000); *Southern Minnesota Municipal Power Agency*, 57 FERC ¶ 61,136 (1991).

³ Con Edison Clarification Request at 8-10.

I. ANSWER

In its Clarification Request, Con Edison argues for the *ad hoc* imposition of a vaguely defined deliverability requirement on the Linden VFT project as a condition of its requested market rate authorization and its participation in NYISO capacity markets. The NYISO would like to address a number of inaccurate and problematic statements made by Con Edison and requests that the Commission reject the condition requested by Con Edison.

A. Con Edison's Requested Relief Is Inconsistent With Controlling Commission Orders and May Lead to Discriminatory Results.

Consistent with the Commission's orders, the NYISO and its stakeholders have been working to reach consensus concerning how best to address deliverability within New York.⁴ Through this work, the parties are dealing with a number of complex and interrelated issues to ensure that the concept of deliverability is carefully defined and implemented in a manner that does not create unintended adverse consequences for New York markets, including established locational capacity markets. Much work remains to be done, but, consistent with the NYISO's recently filed status report and the June 7, 2006 Filing,⁵ the NYISO anticipates submitting a compliance filing in June of this year that will contain a comprehensive proposal to implement a deliverability requirement through the addition of a second interconnection product under the NYISO Open Access Transmission Tariff (the "OATT").⁶ Con Edison's requested condition

⁴ See, e.g., *New York Independent System Operator, Inc.*, Order on Rehearing, 111 FERC ¶ 61,347, at PP 13-14 (June 2, 2005).

⁵ Status Report, Docket No. ER04-449-003, *et al.* (March 20, 2007); *Compliance Filing and Motion of New York Independent System Operator, Inc. for Further Extension of Time*, Docket Nos. ER04-449-003, *et al.* (June 7, 2006).

⁶ The NYISO OATT currently provides for one interconnection service option, Network Access Interconnection Service. Interconnection Requests are evaluated, and the required upgrades are identified, to ensure
(continued...)

would undercut the ongoing NYISO-stakeholder process and upcoming NYISO compliance filing by locking-in a deliverability requirement for a single project.

The NYISO's compliance filing will necessarily address implementation issues, such as which projects in the NYISO interconnection queue will be subject to a deliverability requirement. Once the compliance filing is approved by the Commission, all of its requirements must be applied in a non-discriminatory manner to all projects, including Linden VFT. It is not appropriate to place a "condition" on one particular project—particularly if that condition has the effect of subjecting that project to a deliverability requirement that it would not otherwise have under the NYISO tariffs. Either the condition Con Edison is requesting leads to the same conclusion as the NYISO's future tariff provisions, so the condition is unnecessary, or it will lead to a different conclusion, so condition is discriminatory. In either case, it should be rejected.

B. Con Edison's Requested Relief Would Disrupt NYISO's Interconnection Process.

Linden VFT is one of the twenty projects currently being studied in the Class Year 2006 Facilities Study.⁷ Throughout the proceeding on deliverability, the NYISO has stated that the Class Year 2006 Facilities Study should not apply a yet-to-be filed deliverability requirement.⁸ The Class Year 2006 Facilities Study is substantially complete and scheduled to be finalized

reliable interconnections under the Minimum Interconnection Standard. The current evaluation process does not include a deliverability test or impose a deliverability requirement on projects.

⁷ The NYISO evaluates projects like Linden VFT in accordance with the interconnection procedures in Attachment X to the NYISO OATT, and annually allocates interconnect cost responsibility to "Class Year" groups of projects which have met certain eligibility requirements in accordance with Attachment X and the procedures in Attachment S to the NYISO OATT.

⁸ *Protest and Comments of the New York Independent System Operator, Inc. on the Compliance Filing of the New York Transmission Owners*, Docket Nos. ER04-449-003, *et al.* (June 28, 2006).

within the next few months.⁹ As the NYISO explained in its Protest and Comments filed in response to the New York Transmission Owners' June 2006 compliance filing,¹⁰ the Class Year 2006 Facilities Study is being performed under the currently-effective OATT requirements, including the Minimum Interconnection Standard.¹¹ Under this standard, proposed projects are not subject to a deliverability requirement. The Minimum Interconnection Standard will be in effect until the Commission acts on the NYISO's upcoming compliance filing. This is unlikely to occur before the Class Year 2006 Facilities Study is complete and Class Year projects have accepted their cost allocation for System Upgrade Facilities. For this reason, it is inappropriate to retroactively require that the Class Year 2006 Facilities Study evaluate the deliverability of the Class Year projects (or the deliverability of one Class Year project), which would be the effect of granting the condition that Con Edison is requesting. Such a requirement would severely disrupt the NYISO's interconnection process to the detriment of developers planning to construct needed resources in the New York Control Area.

C. Con Edison's Characterization of Order No. 2003 is Misleading.

Con Edison, throughout its Request, refers to Order No. 2003 as providing the detail necessary to apply a deliverability requirement to Linden VFT.¹² However, Con Edison fails to acknowledge that Order No. 2003 does not address the interconnection requirements,

⁹ The NYISO notes that, contrary to the assertion by Con Edison in its Clarification Request (at 4), all projects subject to Attachment X of the NYISO OATT will, before interconnecting to the New York State Transmission System, enter into an interconnection agreement that includes the developer, the Transmission Owner and the NYISO as parties.

¹⁰ *Id.* at 19-22; *see also Compliance Filing of the New York Transmission Owners*, Docket Nos. ER04-449-003, *et al.* (June 7, 2006).

¹¹ *See, e.g.*, Attachment S to the NYISO OATT, Section II.

¹² *See* Con Edison Clarification Request at 2, 7-10.

deliverability or otherwise, of transmission projects. Order No. 2003 addresses only the interconnection of new generation.¹³ The NYISO's and Transmission Owner's joint compliance filing to implement Order No. 2003 under the NYISO's OATT expanded FERC's *pro forma* Large Generator Interconnection Procedures to apply to merchant transmission projects, such as Linden VFT. Similarly, whether and how a merchant transmission project (or its customers) is subject to a deliverability requirement should be addressed in a manner that is tailored to the unique scope of the NYISO's OATT, not inferred indirectly from an order that does not even contemplate applicability to transmission projects.¹⁴ Granting Con Edison's requested condition would lead to great uncertainty concerning what taking NRIS means for a transmission project.

With that said, the NYISO recognizes that it may be appropriate to address in its upcoming compliance filing whether a new transmission project from an external control area is subject to a deliverability requirement. Of course, any proposal to apply a deliverability requirement to a transmission project must be fully evaluated to ensure that it is consistent with the NYISO's market design. This evaluation should be part of the ongoing stakeholder process.

¹³ As indicated in the NYISO's Protest and Comments filed in response to the New York Transmission Owners' June 2006 compliance filing, Order No. 2003 alone also does not provide the level of detail needed to implement a deliverability requirement for generators in New York, absent a comprehensive compliance filing. *Protest and Comments of the New York Independent System Operator, Inc. on the Compliance Filing of the New York Transmission Owner* at 13, Docket Nos. ER04-449-003, *et al.* (June 28, 2006).

¹⁴ Specifically, Con Edison assumes in its Clarification Request that a second interconnection product, NRIS, should apply to merchant transmission projects in the same manner that it applies to new generation. The NYISO has been discussing with its stakeholders a second interconnection product that a project would be required to elect if it is seeking to participate in the NYISO's capacity markets. A project would be eligible to participate in the NYISO's capacity markets if it was found to be deliverable or paid for the necessary upgrades to become deliverable. However, this concept may not be appropriate for transmission projects, because such projects themselves cannot directly participate in the capacity markets.

II. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept this answer and reject the arguments in the Clarification Request relating to interconnection and deliverability.

Respectfully submitted,

/s/ Karen Georgenson Gach

Karen Georgenson Gach, Esq.

Senior Attorney

New York Independent System Operator, Inc.

10 Krey Blvd.

Rensselaer, NY 12144

Tel: 518-356-8875

Fax: 518-356-4702

kgach@nyiso.com

Dated: March 22, 2007

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing document upon each Party designated on the official service list compiled by the Secretary in Docket ER07-543-000 in accordance with the requirements of Rule 2010 of the Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2006).

Dated at Rensselaer, New York this 22nd day of March, 2007.

/s/ John C. Cutting
John C. Cutting
Regulatory Affairs Senior Specialist
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, NY 12144
518-356-7521