

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

Linden VFT, LLC

)

Docket No. ER07-543-000

**REQUEST FOR CLARIFICATION
OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rule 212 of the Commission's Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. ("NYISO") respectfully requests that the Commission clarify its April 19, 2007, order in Docket No. ER07-543-000 ("April 19 Order").² Specifically, the NYISO seeks clarification of the Commission's statement in paragraph 40 of the April 19 Order regarding the on-going proceedings in Docket Nos. ER04-449-003, *et al.*, related to the development of a deliverability requirement associated with interconnection service in compliance with Order No. 2003.³

The NYISO requests this clarification in connection with its review of a pending request by Linden VFT, LLC ("Linden VFT") for Unforced Capacity Deliverability Rights ("UDRs") that would facilitate the sale of Unforced Capacity ("UCAP") at the interface to the New York City Locality.⁴ Linden VFT's request for UDRs may be determined differently under the rules currently in effect than it would be under the rules as they will be modified to include a

¹ 18 C.F.R. § 385.212 (2006).

² *Order Authorizing Negotiated Rates*, 119 FERC ¶ 61,066 (April 19, 2007).

³ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003) ("Order No. 2003").

⁴ Capitalized terms that are not otherwise defined herein shall have the meaning specified in Article 2 of the NYISO Market Administration and Control Area Services Tariff.

deliverability requirement in compliance with Order No. 2003.⁵ As such, and in light of the Commission's April 19 Order, the NYISO requests guidance as to whether Linden VFT's request for UDRs should be evaluated under the rules currently in effect or whether the quantity of UDRs awarded should be reduced to reflect the application of a deliverability test as it is being developed in compliance with Order No. 2003 in the ongoing proceedings in Docket Nos. ER04-449-003, *et al.*

I. COPIES OF CORRESPONDENCE

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel and Secretary
Elaine D. Robinson, Director of Regulatory Affairs
*Karen Georgenson Gach, Senior Attorney
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144
Tel: (518) 356-6000
Fax: (518) 356-4702
rfernandez@nyiso.com
erobinson@nyiso.com
kgach@nyiso.com

*Ted J. Murphy
Hunton & Williams LLP
1900 K Street, N.W.
Suite 1200
Washington, D.C. 20006-1109
Tel: (202) 955-1500
Fax: (202) 778-2201
tmurphy@hunton.com

*Kevin W. Jones⁶
Hunton & Williams LLP
951 East Byrd Street
Fax: (804) 344-7999
Richmond, VA
kjones@hunton.com

* -- Persons designated for service.

⁵ In partial compliance with Order No. 2003, the NYISO submitted a conceptual proposal regarding the implementation of a second level of interconnection service in the NYCA that includes a deliverability component. *See Compliance Filing of the New York Independent System Operator, Inc. and the New York Transmission Owners In Docket Nos. ER04-449-003, ER04-449-007, and ER04-449-008*, Docket Nos. ER04-449-003, ER04-449-007, and ER04-449-008 (October 5, 2007).

⁶ The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2006) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.

II. BACKGROUND

In a February 14, 2007 filing, Linden VFT requested that the Commission grant it authority to charge negotiated rates under a merchant transmission proposal.⁷ The proposed project involves extending slightly and upgrading a 345 kV transmission line between a generating facility in Linden, New Jersey and Consolidated Edison Company of New York, Inc.'s ("ConEd's") transmission system in the New York City Locality.⁸ The proposed project would increase transmission capacity on the existing transmission facilities by 300 MW, and Linden VFT would be authorized to charge negotiated rates for the incremental capacity.⁹

ConEd filed a timely motion to intervene and requested that the Commission require Linden VFT to comply with an interconnection deliverability requirement as a condition of the approval of its requested negotiated rate authority.¹⁰ ConEd argued that Linden VFT should be required to meet a deliverability requirement "to prevent the interconnection of transmission and generation projects at locations that require unduly expensive transmission upgrades for the deliverability of the project's capacity and to prevent the shifting of upgrade costs to other project developers or consumers."¹¹ ConEd went on to argue that "[t]herefore, it is imperative that Order No. 2003's deliverability requirement be implemented on a project-specific basis pending the NYISO's adoption of procedures to generically implement the requirement."¹²

⁷ *Application of Linden VFT, LLC for Authority to Make Sales of Transmission Rights at Negotiated Rates*, Docket No. ER07-543-000, Docket No. ER07-543-000 (February 14, 2007).

⁸ April 19 Order at PP 3-4.

⁹ *Id.* at PP 1, 3-4.

¹⁰ *Id.* at PP 11, 39.

¹¹ *Motion to Intervene and Request for Clarification of Consolidated Edison Company of New York, Inc.*, Docket No. ER07-543-000 (March 7, 2007) at 9.

¹² *Id.*

Linden VFT filed a response to ConEd in which it stated that “Con Edison’s Request addresses matters that are outside the limited scope of Linden VFT’s petition for market-based rate authority for a proposed merchant transmission project.”¹³ Linden VFT went on to state:

As the Commission is aware, the cost of deliverability enhancements is the subject of a pending proceeding in which Con Edison concedes it has previously requested corresponding relief. It is unnecessary for the Commission to clarify those generic transmission service matters here. Linden Venture would be bound by the Commission’s decision in that pending docket.¹⁴

In its April 19 Order, the Commission authorized Linden VFT to charge negotiated rates for service on its merchant transmission proposal.¹⁵ In paragraph 40 of the order, the Commission responded to ConEd’s request that the approval be conditioned on compliance with a deliverability requirement. The Commission stated:

In response to ConEd’s concern regarding delivery enhancements, Linden states that it will be bound by the Commission’s decision in the on-going proceedings in Docket No. ER04-449-003, *et al.* Since Linden states that it will be bound by the outcome of those proceedings, there is no need to condition the authorization for negotiated rates as requested by ConEd.¹⁶

III. REQUEST FOR CLARIFICATION

The NYISO respectfully requests that the Commission clarify its statement in paragraph 40 of its April 19 Order that “[s]ince Linden states that it will be bound by the outcome of [the proceedings in Docket Nos. ER04-449-003, *et al.*], there is no need to condition the authorization for negotiated rates as requested by ConEd.” Specifically, the NYISO requests clarification as to whether the NYISO should evaluate Linden VFT’s pending request for UDRs using the

¹³ *Response of Linden VFT, LLC to Request for Clarification of Consolidated Edison Company of New York, Inc.*, Docket No. ER07-543-000 (March 9, 2007) at 1.

¹⁴ *Id.* at 4.

¹⁵ April 19 Order at Order A.

¹⁶ *Id.* at P 40.

existing standard or apply a deliverability requirement as it is being developed in Docket Nos. ER04-449-003, *et al.*

Since the issuance of the Commission's April 19 Order, Linden has submitted a request to the NYISO for 300 MW of UDRs in connection with the additional transmission capacity to be provided by the Linden VFT project. UDRs are rights, measured in MWs, that may be granted to a new incremental controllable transmission project that provides a transmission interface to a Locality within the NYCA. Those UDRs may then be matched with an External Generator to allow the sale of UCAP in the Locality.¹⁷ UDRs are granted for the life of an incremental controllable transmission facility.

Under the current rules, UCAP associated with an External Generator may be sold through the use of UDRs as long as the Energy is deliverable to the NYCA interface at which the UDR transmission facility is situated.¹⁸ Under the rules currently in effect, there is no requirement that addresses the deliverability of UCAP sold using UDRs within a Locality. Under the rules being developed to add a second level of interconnection service in the NYCA, UDRs would only be granted to the extent that UCAP sold via the transmission facility meets the deliverability requirement that is being developed in Docket Nos. ER04-449-003, *et al.*¹⁹

While the project is not scheduled to become operational until late 2009 and the NYISO tariffs do not establish a deadline for the NYISO to respond to a request for UDRs, Linden VFT has met the requirements currently established in the NYISO's tariffs and manuals for requesting

¹⁷ See *NYISO Market Administration and Control Area Services Tariff*, §§ 5.11.4, 5.12.2. Linden's request is for External UDRs, which enable sales of UCAP from External Resources in a Locality.

¹⁸ *Id.*

¹⁹ The proposed deliverability requirement is described further in a separate filing submitted to the Commission. See *Compliance Filing of the New York Independent System Operator, Inc. and the New York Transmission Owners In Docket Nos. ER04-449-003, ER04-449-007, and ER04-449-008*, Docket Nos. ER04-449-003, ER04-449-007, and ER04-449-008 (October 5, 2007).

and receiving UDRs associated with the project. However, the number of UDRs that the NYISO can award to Linden VFT depends on whether or not Linden VFT is subject to, for the purpose of evaluating its pending request, the deliverability requirement currently under development by the NYISO in Docket Nos. ER04-449-003, *et al.*, in compliance with Order No. 2003.

Under the interconnection requirements currently in effect, which impose only a minimum interconnection standard, and the existing rules associated with the award of UDRs to an incremental controllable transmission facility, the NYISO may award up to 300 MWs of UDRs to Linden VFT, which may then be associated with qualified External Generators to sell UCAP in the New York City Locality. Under the proposed deliverability requirement now under development in Docket Nos. ER04-449-003, *et al.*, the NYISO would award UDRs only up to the number of MW found to be deliverable.

IV. CONCLUSION

WHEREFORE, for the foregoing reasons, the NYISO respectfully requests that the Commission clarify its statement in paragraph 40 of its April 19 Order and provide guidance as to whether the NYISO should apply a deliverability standard in its evaluation of Linden VFT's pending application for UDRs.

Respectfully submitted,

/s/ Ted J. Murphy
Ted J. Murphy
Counsel for
New York Independent System Operator, Inc.

Ted J. Murphy
Hunton & Williams LLP
1900 K Street, N.W.
Suite 1200
Washington, D.C. 20006

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 (2007).

Dated at Washington, DC this 9th day of October, 2007.

By: /s/ Ted J. Murphy
Ted J. Murphy
Hunton & Williams LLP
1900 K Street, NW
Washington, DC 20006-1109
(202) 955-1500

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