

152 FERC ¶ 61,246
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Philip D. Moeller, Cheryl A. LaFleur,
Tony Clark, and Colette D. Honorable.

Caithness Long Island II, LLC

Docket No. EL15-84-000

v.

New York Independent System Operator, Inc.

ORDER GRANTING COMPLAINT

(Issued September 30, 2015)

1. On July 10, 2015, Caithness Long Island II, LLC (Caithness) filed a complaint against the New York Independent System Operator, Inc. (NYISO) pursuant to sections 206 and 306 of the Federal Power Act (FPA)¹ and Rule 206 of the Commission's regulations.² Caithness alleges that NYISO's application of a local reliability requirement will violate its Open Access Transmission Tariff (OATT or Tariff) and Order No. 2003.³ Specifically, Caithness seeks to prevent NYISO from applying the Long Island Local Reliability Interface Transfer Capability Test (Long Island Guideline)⁴ to identify System Upgrade Facilities required, as part of the 2015 Class Year

¹ 16 U.S.C. §§ 824e, 825e (2012).

² 18 C.F.R. § 385.206 (2015).

³ *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 (2004), *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

⁴ Caithness Complaint, Exhibit 1; NYISO August 10, 2015 Answer, Attachment 3.

Interconnection Facilities Study process,⁵ regarding Caithness' request for Energy Resource Interconnection Service (ERIS). Caithness requests fast track processing of its complaint, with Commission action by September 30, 2015.⁶ In this order, we grant the complaint, as discussed below.

I. Background

A. Caithness II Project

2. Caithness is the developer of a 750-MW natural-gas fired, combined-cycle generating facility proposed to be built on Long Island in Brookhaven, New York (Caithness II Project). The Caithness II Project is a NYISO Class Year 2015 project and is currently being studied as part of the 2015 Class Year Interconnection Facilities Study. The proposed point of interconnection is at the Long Island Power Authority (LIPA)⁷ Sills Road 138kV substation, therefore LIPA is the Connecting Transmission Owner.⁸

⁵ Section 25.1.2 of the OATT defines "Class Year Interconnection Facilities Study" as: "a study conducted by NYISO or a third party consultant for the Developer to determine a list of facilities (including Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System Deliverability Upgrades as identified in the Interconnection System Reliability Impact Study), the cost of those facilities, and the time required to interconnect the Large Generating Facility or Merchant Transmission Facility with the New York State Transmission System or with the Distribution System. The scope of the study is defined in Section 30.8 of the Standard Large Facility Interconnection Procedures." NYISO OATT, Attachment S Rules to Allocate Responsibility for the Cost of New Interconnection Facilities (Attachment S), 25.1 Introduction (2.0.0), § 25.1.2.

⁶ Caithness states that fast track processing is necessary to avoid undue delays in the ongoing NYISO 2015 Class Year Interconnection Facilities Study.

⁷ Since January 2014, PSEG Long Island has been the operator of LIPA's facilities and acts on behalf of LIPA in NYISO functions.

⁸ Section 25.1.2 of the OATT defines "Connecting Transmission Owner" as: "The New York public utility or authority (or its designated agent) that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, (ii) owns, leases or otherwise possesses an interest in the portion of the New York State Transmission System or Distribution System at the Point of Interconnection, and (iii) is a Party to the Standard Large Interconnection Agreement." NYISO OATT, Attachment S, § 25.1.2.

Caithness is the owner of an existing 350-MW gas-fired power plant on Long Island that entered commercial operation in August 2009.

B. Order No. 2003

3. Order No. 2003 requires transmission providers, such as NYISO, to offer two separate levels of interconnection service: ERIS and Network Resource Interconnection Service (NRIS).⁹ ERIS is a “basic or minimal interconnection service.”¹⁰ NRIS is a more flexible and comprehensive interconnection service for resources that seek to be designated network resources or capacity resources. To obtain NRIS, the interconnection customer has to satisfy a deliverability test to ensure that the output of the generating facility will not be bottled up during peak load conditions. The Commission stated that NRIS

ensures that the Generating Facility, as well as other generating facilities in the same electrical area, can be operated simultaneously at peak load and that any output produced above peak load requirements can be transmitted to other electrical areas within the Transmission Provider's Transmission System. Thus, Network Resource Interconnection Service ensures that the output of the Generating Facility will not be "bottled up" during peak load conditions.¹¹

4. The Commission explained that “the principal difference between the study requirements for [ERIS] and [NRIS] is that the study for [NRIS] identifies the Network Upgrades that are needed to allow the Generating Facility to contribute to meeting the

⁹ See Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 751 *et seq.*; Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 12. See also *N. Y. Indep. Sys. Operator, Inc.*, 111 FERC ¶ 61,347, at P 2 (2005) (“Order No. 2003’s *pro forma* [Large Generator Interconnection Procedures] and [Large Generator Interconnection Agreement] require Transmission Providers to offer interconnection Customers two levels of interconnection service: [NRIS] and [ERIS].”); *N. Y. Indep. Sys. Operator, Inc. and New York Transmission Owners.*, 108 FERC ¶ 61,159, at P 24 (2004) (“[O]ffering two levels of interconnection service is a crucial component of Order No. 2003 and . . . NYISO must offer a level of interconnection service that incorporates a deliverability component.”).

¹⁰ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 329, 752.

¹¹ Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 531.

overall capacity needs of the Control Area or planning region whereas the study for [ERIS] does not.”¹²

C. NYISO's OATT

5. Pursuant to Order No. 2003, NYISO offers two levels of interconnection service: ERIS, which entitles interconnection customers to participate only in NYISO's energy and ancillary services markets, and Capacity Resource Interconnection Service (CRIS), which is a form of NRIS adapted for the NYISO market and entitles interconnection customers to the basic ERIS but also allows them to participate in NYISO's Installed Capacity market.

6. Every project, both those that choose ERIS and those that choose CRIS, must meet the NYISO Minimum Interconnection Standard.¹³ However, those who choose CRIS must additionally meet the NYISO Deliverability Interconnection Standard.¹⁴ The NYISO Deliverability Interconnection Standard “is designed to ensure that the proposed project is deliverable throughout the New York capacity region where the project will

¹² Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 784.

¹³ Section 25.1.2 of the OATT defines “NYISO Minimum Interconnection Standard” as: “The reliability standard that must be met by any generation project or merchant transmission project, under these rules, proposing to connect to the New York State Transmission System or to the Distribution System. The Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System or to the Distribution System, as applicable. The Standard does not impose any deliverability test or deliverability requirement on the proposed project.” NYISO OATT, Attachment S, § 25.1.2.

¹⁴ Section 25.1.2 of the OATT defines “NYISO Delivery Interconnection Standard” as: “The standard that must be met by any generation project larger than 2 MW proposing to interconnect to the New York State Transmission System or to the Distribution System, and to become a qualified Installed Capacity Supplier and must be met by any merchant transmission project proposing to interconnect to the New York State Transmission System or to the Distribution System and receive Unforced Capacity Deliverability Rights. To meet the NYISO Deliverability Interconnection Standard, the Developer of the proposed project must, in accordance with these rules, fund or commit to fund the System Deliverability Upgrades identified for its project in the Class Year Deliverability Study.” *Id.*, Attachment S, § 25.1.2.

interconnect.”¹⁵ To meet the NYISO Deliverability Interconnection Standard, the developer of a proposed project must fund or commit to fund the System Deliverability Upgrades¹⁶ required for a project’s proposed capacity to be fully deliverable.

7. In contrast, those facilities that choose ERIS need only meet the NYISO Minimum Interconnection Standard. The NYISO OATT specifies that, unlike the NYISO Deliverability Interconnection Standard, the NYISO Minimum Interconnection Standard “does not impose any deliverability test or deliverability requirement on the proposed interconnection,”¹⁷ and “it is not anticipated that the installation of any interconnection facilities covered by the NYISO Minimum Interconnection Standard will improve the deliverability of power.”¹⁸ Facilities that choose ERIS need not incur the costs of System Deliverability Upgrades needed for CRIS; rather, they need only incur the costs of System Upgrade Facilities¹⁹ necessary to meet the NYISO Minimum Interconnection Standard.

¹⁵ *Id.*, Attachment S, 25.3 Deliverability Interconnection Standard (0.0.0), § 25.3.1.1.

¹⁶ Section 25.1.2 of the OATT defines “System Deliverability Upgrades” as: “The least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications or additions to Byways and Highways and Other Interfaces on the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Deliverability Interconnection Standard at the requested level of Capacity Resource Interconnection Service.” *Id.*, Attachment S, § 25.1.2.

¹⁷ *Id.*, Attachment S, 25.2 Minimum Interconnection Standard (1.0.0), § 25.2.1.1; *Id.*, Attachment X Standard Large Facility Interconnection Procedures (Attachment X), 30.1 Definitions (4.0.0).

¹⁸ *Id.*, Attachment S, § 25.2.1.1.2.

¹⁹ Section 25.1.2 of the OATT defines “System Upgrade Facilities” as: “The least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications to the existing transmission system that are required to maintain system reliability due to: (i) changes in the system, including such changes as load growth, and changes in load pattern, to be addressed in accordance with Section 25.4.1 of this Attachment S; and (ii) proposed interconnections. In the case of proposed interconnection projects, System Upgrade Facilities are the modifications or

(continued ...)

D. The Long Island Guideline

8. According to Caithness, PSEG Long Island introduced the Long Island Guideline at the February 17, 2015 NYISO Transmission Planning Advisory Subcommittee meeting and NYISO accepted the Long Island Guideline as an Applicable Reliability Standard²⁰ for Interconnection System Reliability Impact Studies that commence after the guideline becomes effective, and as an Applicable Reliability Requirement²¹ for the 2015 Class Year Interconnection Facilities Study. Caithness states that NYISO plans to use the Long Island Guideline to identify System Upgrade Facilities for projects proposing to interconnect on Long Island, including Caithness, as part of the 2015 Class Year Interconnection Facilities Study process.²² The Long Island Guideline states that “[a]pplication of [the Long Island Guideline] will be performed in conjunction with the NYISO Minimum Interconnection Standard procedure as part of the NYISO interconnection study process ... Upgrades identified through application of this local reliability criterion shall be considered System Upgrade Facilities under the NYISO Minimum Interconnection Standard.”²³ The Long Island Guideline states that it

additions to the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard.” *Id.*, Attachment S, § 25.1.2.

²⁰ Section 30.1 of the OATT defines “Applicable Reliability Standards” as: “the requirements and guidelines of the Applicable Reliability Councils, and the Transmission District, to which the Developer’s Large Facility is directly interconnected, as those requirements and guidelines are amended and modified and in effect from time to time; provided that no Party shall waive its right to challenge the applicability or validity of any requirement or guideline as applied to it in the context of the Large Facility Interconnection Procedures.” *Id.*, Attachment X, 30.1 Definitions (4.0.0).

²¹ Section 25.1 of the OATT defines “Applicable Reliability Requirements” as: “The New York State Reliability Council Reliability Rules and other criteria, standards and procedures, as described in Section 25.6.1.1.1.1 of this Attachment S, applied when conducting the Annual Transmission Baseline Assessment and the Annual Transmission Reliability Assessment to determine the System Upgrade Facilities needed to maintain the reliability of the New York State Transmission System. The Applicable Reliability Requirements applied are those in effect when the particular assessment is commenced.” *Id.*, Attachment S, § 25.1.2.

²² Caithness Complaint at 3.

²³ Long Island Guideline at 2.

maximizes transfer capability West to East as well as East to West (depending on location of target resource) to assure ***no bottling*** and that all resources can reliably serve the system load such that the internal interface capability is sufficient to allow the output of all resources in one load center to be transferred to the adjacent load center. When a new unit is being considered, the unit should be evaluated based on its location.²⁴

II. The Complaint

9. Caithness argues that the use of the Long Island Guideline would: (i) violate the NYISO OATT, (ii) violate the Commission policy established in Order No. 2003 requiring two levels of interconnection service, and (iii) permit a Transmission Owner to unilaterally adopt a rule that conflicts with explicitly approved NYISO Tariff provisions without an FPA Section 205 or 206 filing²⁵ to amend the Tariff.²⁶ Caithness argues that the Long Island Guideline would lead to an unjustifiable increase in interconnection costs measured in the hundreds of millions of dollars for the Caithness II Project.²⁷

10. Caithness states that, in accordance with the NYISO Minimum Interconnection Standard, NYISO will dispatch down other resources to determine whether a proposed generator can inject its energy into the system without causing reliability problems. Caithness characterizes the ability to manage transmission system limitations through dispatch as “intrinsic” to ERIS. However, Caithness states that, instead of dispatching down, the Long Island Guideline contains a deliverability test that dispatches all resources in the electrical area of the proposed interconnection at their capacity levels adjusting for forced outages to determine that the interconnecting resource and all existing capacity resources will be simultaneously deliverable so capacity is not bottled behind a transmission constraint.²⁸

²⁴ Long Island Guideline at 4.

²⁵ 16 U.S.C. §§ 824d, 824e (2012).

²⁶ Caithness Complaint at 3.

²⁷ *Id.* at 9 (citing Caithness Complaint, Exhibit 2 (May 2014 Draft SRIS) at 9).

²⁸ *Id.* at 14-16.

11. Caithness notes that ERIS must satisfy the NYISO Minimum Interconnection Standard which does not permit any deliverability test or requirement, and asserts that the Long Island Guideline impermissibly applies a deliverability requirement to ERIS.²⁹ Therefore, Caithness argues that, in requiring energy-only projects to pay for upgrades necessary to satisfy deliverability, the Long Island Guideline effectively eliminates ERIS interconnection service required by the Commission in Order No. 2003.³⁰ Caithness states that it wants to preserve its option to seek ERIS, distinct from CRIS.³¹

12. Caithness asserts that applying the Long Island Guideline also violates the NYISO OATT. Caithness states that System Upgrade Facilities are defined to be the “modifications or additions...that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard,” and that the NYISO Minimum Interconnection Standard “does not impose any deliverability test or deliverability requirement on the proposed interconnection.”³² However, Caithness argues that the Long Island Guideline contains a deliverability test that is virtually identical to NYISO’s Deliverability Interconnection Standard.³³ In accordance with the NYISO Tariff, Caithness emphasizes, the Deliverability Interconnection Standard is used to identify System Deliverability Upgrades, not System Upgrade Facilities for ERIS. Moreover, Caithness notes that an interconnecting generator has the right to decline its cost allocation associated with System Deliverability Upgrades and interconnect to the NYISO transmission system as an energy-only resource instead of a capacity resource. By applying the Long Island Guideline, Caithness argues that NYISO is effectively eliminating this right.³⁴

13. Caithness also argues that the Long Island Guideline is substantively identical to LIPA’s prior local criterion (2010 LIPA Guideline) that NYISO found to be inappropriate for the Caithness II Project. Caithness explains that, in May 2014, NYISO provided a draft System Reliability Impact Study that applied the 2010 LIPA Guideline, indicating

²⁹ *Id.* at 2, 7.

³⁰ *Id.* at 13-14, 16.

³¹ *Id.* at 32.

³² *Id.* at 27 (citing NYISO OATT, Attachment X, § 30.1; *Id.*, Attachment S, § 25.1.2).

³³ *Id.* at 21.

³⁴ *Id.* at 33.

that Caithness would be responsible for System Upgrade Facilities estimated to cost hundreds of millions of dollars.³⁵ Caithness states that it objected to the application of the 2010 LIPA Guideline because it contained deliverability criteria inapplicable to the System Reliability Impact Study. In December 2014, according to Caithness, NYISO ultimately concluded that it was inappropriate to apply the 2010 LIPA Guideline to the Caithness II Project because System Upgrade Facilities are to be based on the NYISO Minimum Interconnection Standard, which does not impose any deliverability test or requirement. Subsequently, Caithness states, NYISO revised the Caithness II Project's System Reliability Impact Study to remove all references to the 2010 LIPA Guideline and provided an estimate of System Upgrade Facilities costs of approximately \$14 million.³⁶ Caithness argues that PSEG Long Island adopted a substantively identical or materially similar deliverability test/requirement in the current Long Island Guideline, but now refers to it as a reliability requirement as opposed to a deliverability requirement.³⁷ Caithness contends that PSEG Long Island merely avoided the use of the word "deliverability" and any references to the guideline being applicable to capacity resources.³⁸

14. Caithness asserts that a Connecting Transmission Owner is free to adopt an Applicable Reliability Requirement, but only to the extent it does not directly conflict with explicit provisions of the Tariff.³⁹ Caithness argues the NYISO Tariff limits the subject of an Applicable Reliability Requirement used "to determine the System Upgrade Facilities" to those facilities "needed to maintain the reliability of the New York State Transmission System," not the deliverability of capacity resources from one load area to another.⁴⁰ Accordingly, Caithness asserts that NYISO may not apply the Long Island Guideline as an alleged Applicable Reliability Requirement because it would violate the NYISO Minimum Interconnection Standard, the definition of System Upgrade Facilities, and the purpose of Applicable Reliability Requirements, all as set forth in the NYISO OATT.⁴¹ Thus, Caithness contends that the Commission should hold that the only

³⁵ *Id.* at 41-42.

³⁶ *Id.* at 43.

³⁷ *Id.* at 11.

³⁸ *Id.* at 25.

³⁹ *Id.* at 36.

⁴⁰ *Id.* at 35-36 (citing NYISO OATT, Attachment S, § 25.1.2).

⁴¹ *Id.* at 35-36 (citing NYISO OATT, Attachment S, § 25.1.2).

reasonable interpretation of the NYISO Tariff is that NYISO is not required to and may not apply an individual Transmission Owner's local criteria that conflict with the explicit requirement of the NYISO Tariff without an FPA section 205 or 206 filing to amend the Tariff.⁴²

15. Caithness explains that OATT provisions were vetted in an extensive, multi-year stakeholder process and filed with and approved by the Commission, while in contrast, PSEG Long Island adopted the Long Island Guideline unilaterally without a vote by any NYISO committee.⁴³ Caithness states that the Long Island Guideline was disseminated three business days before PSEG Long Island announced it was going to apply it to the 2015 Class Year Facilities Interconnection Study. Caithness asserts that the only stakeholder vetting the Long Island Guideline received was at one Transmission Planning Advisory Subcommittee meeting, without any vote and without any response to substantive requests for information, and notes that there was no Commission review under FPA 205 or 206, as would be required for changes to NYISO Tariff.⁴⁴

III. Notice of Filing and Responsive Pleadings

16. Notice of the complaint was published in the *Federal Register*, 80 Fed. Reg. 42,802 (2015) with answers, interventions, and comments due on or before August 10, 2015. Timely motions to intervene were filed by Independent Power Producers of New York, Inc. (IPPNY), TDI USA Holdings Corp. (TDI), Indicated New York Transmission Owners (Indicated NYTOs),⁴⁵ and LIPA. IPPNY, LIPA and Indicated NYTOs filed comments.

17. On August 10, 2015, NYISO filed an answer to the complaint. On August 25, 2015, Caithness filed an answer to the comments. On September 4, 2015, LIPA filed an answer to Caithness' Answer. On September 15, 2015, Caithness filed an answer to LIPA's answer.

⁴² *Id.* at 4, 37.

⁴³ *Id.* at 40.

⁴⁴ *Id.* at 37.

⁴⁵ Indicated NYTOs collectively consist of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York Power Authority, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, and Orange and Rockland Utilities, Inc.

A. NYISO Answer

18. NYISO requests that the Commission deny the complaint. NYISO argues that its determination that the Long Island Guideline should apply as an Applicable Reliability Requirement and Applicable Reliability Standard is consistent with its OATT and Commission precedent. NYISO states that pursuant to its Tariff requirements, it incorporated a Transmission Owner's local criteria into the Applicable Reliability Requirement/Standard to serve as the basis for evaluating reliability impacts of the Caithness II Project under the NYISO Minimum Interconnection Standard. NYISO notes that it "does not have its own reliability criteria for transmission studies, but rather [it] recognizes and applies the applicable reliability criteria and standards of ...the local Transmission District(s)⁴⁶ for transmission expansion and interconnection studies."⁴⁷ NYISO maintains that the Commission accepted NYISO's process for applying a Transmission Owner's criteria as an Applicable Reliability Requirement/Standard when they have been reviewed and approved by NYISO.⁴⁸ Further, NYISO states that the Commission accepted NYISO's independent entity variation in NYISO's Order No. 2003 compliance filing regarding NYISO's use of a Transmission Owner's criteria in its interconnection process.⁴⁹

19. NYISO argues that it properly reviewed the Long Island Guideline and approved it as an appropriate Applicable Reliability Requirement under the NYISO Minimum Interconnection Standard after determining that it was required to address reliability issues on Long Island. Further, NYISO states that consistent with the requirements for an Applicable Reliability Requirement under Attachment S of the OATT, NYISO included the 2015 LIPA Guideline in its most recently filed annual FERC Form No. 715 on

⁴⁶ Section 1.20 of the OATT defines a "Transmission District" as: "[t]he geographic area served by the Investor-Owned Transmission Owners and LIPA, as well as the customers directly interconnected with the transmission facilities of the Power Authority of the State of New York." NYISO OATT, 1.20 OATT Definitions (3.0.0).

⁴⁷ NYISO August 10, 2015 Answer at 6 (citing NYISO Transmission Expansion and Interconnection Manual, Manual 23, Version 2.0 (November 2012) at Section 4.1).

⁴⁸ *Id.* at 11-12 (citing *N.Y. Indep. Sys. Operator, Inc.*, 124 FERC ¶ 61,156, at PP 9-10 (2008); *N.Y. Indep. Sys. Operator, Inc. and New York Transmission Owners.*, 111 FERC ¶ 61,347, at P 17 (2005)).

⁴⁹ *Id.* at 12 (citing *N.Y. Indep. Sys. Operator, Inc. and New York Transmission Owners*, 108 FERC ¶ 61,159 at PP 91-96, *order denying reh'g and granting request for clarification*, 111 FERC ¶ 61,347 at PP 15-17).

April 1, 2015. Therefore, NYISO states that in accordance with its OATT, it is appropriately applying the Long Island Guideline in its interconnection studies to evaluate whether upgrades are required to reliably interconnect projects on Long Island, including the Caithness II Project.⁵⁰

20. NYISO states that LIPA faces unique reliability concerns with the Long Island transmission system due to Long Island's inherent limited interconnectivity with external resources and to the particular location on Long Island of load and generation resources that limit the ability to transfer power and operating reserves from generation resources to where it is required to assist in ensuring reliability. Thus, NYISO asserts that the Long Island Guideline is intended to address the potential adverse impact that a new generating resource could have if it degraded LIPA's ability to transfer power and operating reserves from east to west via the portion of the Long Island transmission system critical to local transmission system operating reliability. NYISO notes that a local Long Island transmission interface known as the "Holbrook Interface" serves as an example of Long Island's limited ability to transfer power for the sake of reliability.⁵¹ NYISO explains that there are approximately 500 MW of quick-start gas turbine units east of the Holbrook Interface that are needed for operating reserves on Long Island.⁵² NYISO states that reliability concerns specific to the transmission limitations of this interface cannot be addressed through NYISO's security constrained unit commitment and dispatch process.⁵³ As a result, NYISO states that System Upgrade Facilities are necessary to address reliability impacts that may arise from the interconnection of new generation behind the constrained Holbrook interface if LIPA is unable to manage these impacts through its normal operating procedures.⁵⁴

21. In regard to whether the Long Island Guideline includes a deliverability test, NYISO asserts that a Transmission Owner's criteria that addresses a reliability issue is not prohibited from being applied as part of the NYISO Minimum Interconnection

⁵⁰ *Id.* at 13.

⁵¹ *Id.* at 17.

⁵² *Id.* at 8.

⁵³ NYISO explains that it does not secure transmission elements east of the Holbrook interface because the limiting constraints involve the impact of the contingency loss of local 138 kV facilities upon local 69 kV system facilities which are not secured by the NYISO. *Id.* at 17.

⁵⁴ *Id.* at 18.

Standard because it shares similarities with certain deliverability analyses or may result in the identification of System Upgrade Facilities that have an incidental impact on deliverability.⁵⁵ NYISO states that some elements of deliverability are necessary within the reliability standards applicable under the NYISO Minimum Interconnection Standard.⁵⁶

22. NYISO argues that the Long Island Guideline is materially different from the 2010 LIPA Guideline it rejected. According to NYISO, it determined that the 2010 LIPA Guideline was not appropriate as an Applicable Reliability Standard under the NYISO Minimum Interconnection Standard because NYISO believed that the 2010 LIPA Guideline would have redefined NYISO's Deliverability Interconnection Standard. NYISO asserts that it worked with LIPA to eliminate a section of the 2010 LIPA Guideline that described the guideline as a requirement for projects seeking CRIS and to participate in the NYISO-administered Installed Capacity market.⁵⁷

23. NYISO states that its determination to apply the Long Island Guideline to projects proposing to interconnect to the Long Island transmission system under the NYISO Minimum Interconnection Standard for purposes of ERIIS does not violate Order No. 2003's dictate to create two levels of interconnection service. NYISO explains that this application "will not in any way supplant or displace NYISO's distinct and separate evaluation for purposes of CRIS of projects' deliverability under NYISO's Deliverability Interconnection Standard."⁵⁸ NYISO argues that the fact that significant System Upgrade Facilities might be required under the NYISO Minimum Interconnection Standard for a developer to obtain ERIIS does not support a conclusion that there are not two levels of interconnection services.

24. NYISO supports Caithness' request for expedited treatment. NYISO explains that the 2015 Class Year Interconnection Facilities Study has been well underway for five months. NYISO states that an expedited Commission order will assist in mitigating potential delays in the 2015 Class Year Interconnection Facilities Study that could arise

⁵⁵ *Id.* at 15.

⁵⁶ *Id.* at 18.

⁵⁷ *Id.* at 21.

⁵⁸ *Id.* at 22.

as a result of the Commission order and would minimize the potential adverse impacts on other Class Year members.⁵⁹

B. Comments

25. IPPNY supports Caithness' complaint and alleges that NYISO's application of the Long Island Guideline to determine System Upgrade Facilities violates the OATT and the Commission's interconnection policies in Order No. 2003. IPPNY argues that, in Order No. 2003, the Commission explained that the only distinction between ERIS and CRIS is that customers that obtain CRIS are required to fund the necessary transmission upgrades to make their capacity deliverable. IPPNY states that these upgrades, referred to in the OATT as System Deliverability Upgrades, are identified by the application of the deliverability test contained in NYISO's Deliverability Interconnection Standard.⁶⁰ IPPNY asserts that no such deliverability requirement applies to customers that obtain ERIS, and that ERIS customers only incur the costs of System Upgrade Facilities to meet the NYISO Minimum Interconnection Standard, not the costs of System Deliverability Upgrades.

26. IPPNY also argues that NYISO's application of the Long Island Guideline to a generator that is eligible for ERIS is in direct conflict with the OATT because the NYISO Minimum Interconnection Standard prohibits the application of "any deliverability test or deliverability requirement" in determining the upgrades necessary for ERIS.⁶¹ IPPNY contends that the requirement that a generator meet a deliverability requirement effectively eliminates ERIS from the OATT, and the Long Island Guideline employs a deliverability test very similar to, but more stringent than, NYISO's deliverability test in NYISO's Deliverability Interconnection Standard. IPPNY concludes that the Commission should not allow NYISO to apply, in the guise of an Applicable Reliability Requirement, an individual Transmission Owner's deliverability requirement that conflicts with the OATT, without making a section 205 or 206 filing to amend the OATT.⁶²

⁵⁹ *Id.* at 22.

⁶⁰ IPPNY August 10, 2015 Comments at 4 (citing NYISO OATT, Attachment S, § 25.3.)

⁶¹ *Id.* (citing NYISO OATT, Attachment S, §25.2.1.1.)

⁶² *Id.* at 4-6.

27. The Indicated NYTOs state that the Commission should affirm that NYISO's Tariff and current practice of incorporating local interconnection reliability requirements in its interconnections studies is appropriate. According to the Indicated NYTOs, the Commission has acknowledged the need to abide by individual Transmission Owners' local interconnection reliability criteria that are particular to specific control areas and has emphasized that "an Interconnection Customer must adhere to established reliability practices within the control area with which it is interconnecting."⁶³ The Indicated NYTOs assert that the Commission has specifically held that the New York Transmission Owners' local interconnection reliability criteria must be applied to generators interconnecting under the OATT, and the conformance of those local interconnection reliability criteria is essential to maintaining reliability.⁶⁴

28. LIPA urges the Commission to dismiss the Caithness complaint and argues that the Long Island Guideline is consistent with the NYISO OATT and Order No. 2003 because it is a reliability requirement and not a deliverability test.⁶⁵ According to LIPA, the characteristics of operations in New York City and Long Island are, in significant part, the reason for the existence of Applicable Reliability Standards, which were standards initially developed by, and unique to, NYISO's individual Transmission Districts. LIPA contends that these Applicable Reliability Standards, applied in a non-discriminatory manner, play a critical role in assessing the feasibility of interconnection requests and determining whether an interconnection will necessitate system transmission upgrades to maintain system reliability.⁶⁶

29. LIPA asserts that NYISO has properly applied the Long Island Guideline to its 2015 Class Year Interconnection Facilities Study. LIPA argues that the reliability standards of the local Transmission Districts are applicable because NYISO has no

⁶³ Indicated NYTOs August 10, 2015 Comments at 3 (citing *Standardization of Small Generator Interconnection Agreements and Procedures*, Order No. 2006, FERC Stats. & Regs. ¶ 31,180, at P 208 (2005).) *See also* Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 823 ("Because we intend to supplement rather than supplant the work that regional reliability groups already have undertaken regarding interconnection, we are permitting a Transmission Provider, on compliance, to offer variations based on existing regional reliability requirements.").

⁶⁴ *Id.* at 3-4 (citing *Con Edison Co. of New York, Inc.*, 107 FERC ¶ 61,103, at P 9 (2004); *N. Y. Indep. Sys. Operator, Inc.*, 124 FERC ¶ 61,156 at PP 9-10).

⁶⁵ LIPA August 10, 2015 Comments at 2.

⁶⁶ *Id.* at 4.

reliability criteria of its own for transmission studies.⁶⁷ LIPA states that the OATT recognizes the role of Transmission Districts in fashioning Applicable Reliability Standards to apply to generator and transmission interconnections. LIPA explains that it has applied an interface transfer capability test, which it considers a reliability test, to new interconnections for years, but that the Long Island Guideline did not go into effect as an Applicable Reliability Standard until March 2015.⁶⁸

30. LIPA argues that the Long Island Guideline was not unilaterally imposed, as Caithness asserts.⁶⁹ LIPA states that NYISO excluded the 2010 LIPA Guideline because it contained language that could be interpreted to conflict with the NYISO Minimum Interconnection Standard. LIPA states that the language was revised, and, subsequently, NYISO adopted the Long Island Guideline as an Applicable Reliability Standard on March 1, 2015. LIPA contends that without the upgrades identified in the Long Island Guideline, Caithness II Project's interconnection would result in adverse effects on reliability.⁷⁰

31. LIPA argues that contrary to Caithness' Complaint, the Long Island Guideline is an Applicable Reliability Standard, not a deliverability test. LIPA explains that generating units in the east of Long Island provide operating reserves for loads in the center and west of Long Island, as well as other parts of NYISO and neighboring PJM Interconnection, LLC and ISO New England. LIPA states that with the 750 MW of energy produced by Caithness, if there is a major system event, all of the operating reserves cannot be deployed to maintain reliability.⁷¹ LIPA explains that the NYISO Minimum Interconnection Standard does not secure the operating reserves and preserve the reliability of the Long Island transmission system, but that the Applicable Reliability Standards, such as the Long Island Guideline, fill the reliability gap left by the NYISO

⁶⁷ *Id.* at 8 (citing NYISO Transmission Expansion and Interconnection Manual, Manual 23, Section 4.1).

⁶⁸ *Id.* at 8-9.

⁶⁹ *Id.* at 11.

⁷⁰ *Id.* at 9.

⁷¹ *Id.* at 15 (citing LIPA August 10, 2015 Comments, Attachment 1 (Statement of Curt J. Dahl), at 9).

Minimum Interconnection Standard where local conditions require additional protection.⁷²

32. LIPA argues that Caithness' reference to the "no bottling" language in the Long Island Guidance is misplaced. LIPA explains that the goal of the Long Island Guideline is not to ensure that existing sellers can continue to market their energy output. Rather, the objective is to ensure that operating reserves critical to *reliability* in the LIPA Transmission District are not "bottled up" for a variety of scenarios where NYISO cannot dispatch around these reliability issues.⁷³ LIPA further states that while NYISO allows dispatch down, it does not do so where it would create a reliability problem, and it also tests for double circuit contingencies.⁷⁴

33. LIPA argues that the purpose of the deliverability test and the local reliability standards are different. LIPA contends that although it has used different names, the LIPA local reliability standard has been applied for at least fifteen years, and has as its purpose preservation of reliable electric service on Long Island, an area with geographic characteristics producing unique reliability challenges.⁷⁵ LIPA asserts that the NYISO OATT recognizes the difference between a deliverability test, which NYISO applies in CRIS studies, and Applicable Reliability Standards, which the Tariff separately permits LIPA to adopt and NYISO to apply as part of the NYISO Minimum Interconnection Standard and an ERIS interconnection study. LIPA explains that local reliability rules

⁷² *Id.*

⁷³ *Id.* at 16.

⁷⁴ *Id.* at 17. LIPA further explains:

NYISO's Minimum Interconnection Standard, standing alone, tests for double circuit contingencies. But, because it does not incorporate a transfer capability analysis, it does not address the reliability concerns for Long Island created when an interconnection "bottles up" needed operating reserves. That concern is picked up in the Applicable Reliability Standard for LIPA's Transmission District - which [New York Power Authority] applies as part of the interconnection study process.

Id. at 17, n.56.

⁷⁵ *Id.* at 18.

must be consistent with NYISO's own rules, and generators have the right to complain if they are not. LIPA argues that the existence of an Applicable Reliability Standard is consistent with the existence and application of a separate NYISO deliverability test.⁷⁶

C. Answers to Comments/Answers to Answers

34. In its answer, Caithness reiterates that the Long Island Guideline is a deliverability test because it requires that all capacity in the area of the Caithness II Project be deliverable at full capacity levels to avoid bottling and that it would require an expansion, not maintenance, of interface transfer capacity.⁷⁷ Caithness states that this would prevent an energy-only resource from displacing less efficient capacity resources by effectively reserving interface capacity, and by saddling new entrants with upgrades required to satisfy deliverability.⁷⁸ Caithness argues that it does not matter if a deliverability test could be used for a reliability test, because it is explicitly prohibited under the NYISO Minimum Interconnection Standard. Caithness asserts that an Applicable Reliability Standard or Applicable Reliability Requirement cannot conflict with and override an approved Tariff provision.⁷⁹

35. Caithness contends that there is no reliability concern to permit the Tariff violation. Caithness asserts that the Long Island Guideline is not a test of whether there would be adequate operating reserves, and it is not needed to procure operating reserves in a reliable and efficient manner.⁸⁰ Caithness further argues that, to the extent operating reserves east of Holbrook are required to operate the system reliably, the OATT already requires NYISO to procure sufficient locational operating reserves on Long Island, while complying with local reliability rules and operating within transmission constraints.⁸¹

36. Caithness argues that accepting LIPA's rationale would squelch true competitive merchant entry that is responding to locational based marginal price signals. Caithness states that for a new entrant to proceed on an energy-only, merchant basis means that the

⁷⁶ *Id.* at 19.

⁷⁷ Caithness August 25, 2015 Answer at 11-13.

⁷⁸ *Id.* at 3, 8.

⁷⁹ *Id.* at 12.

⁸⁰ *Id.* at 7.

⁸¹ *Id.* at 14.

energy prices are so high in a given area that there is a sufficient margin in the energy market alone to justify the capital investment in new, efficient and environmentally superior generation. Caithness argues that by saddling the new entrant with upgrades required to satisfy deliverability, LIPA would be depriving market participants of the ability and opportunity to respond to the energy price signals, thereby undermining competition.⁸²

37. Caithness states that the Long Island Guideline does not refer to operating reserves at all but rather tests the deliverability of all resources at full capacity without regard to operating reserves. Caithness states that the entire operating reserve requirement for all of Long Island is 660 MW on-peak (120 MW of 10-minute reserves and 540 MW of 30-minute reserves) and 390 MW off-peak, and that the Caithness II Project will be capable of providing 255 MW of 10- or 30-minute reserves. Moreover, there is over 1,000 MW of operating reserves located on Long Island west of Holbrook, with enough quick start capability to satisfy all of the 10-minute reserves requirement. Therefore, Caithness argues that it is possible to satisfy the entire Long Island locational operating reserve requirement from west of Holbrook.⁸³ Caithness contends that it is indeed an odd requirement imposed on a developer that to obtain ERIS, it must ensure that 2,750 MW of capacity and energy east of Holbrook is deliverable, representing about 2,100 MW more capacity than the maximum operating reserve requirement for all of Long Island.⁸⁴

38. Caithness states that adverse system impacts associated with the double circuit contingency overloading the underlying 69 kV facilities is an existing reliability problem that NYISO or LIPA must address when operating the existing transmission system under current conditions.⁸⁵ Caithness argues that operating procedures are already in place to secure the 69 kV facilities.⁸⁶

39. Furthermore, Caithness contends that any reliability issues could be addressed through other existing NYISO rules without violating the OATT. Caithness argues that NYISO's Commission-approved market design, as implemented by the OATT, provides a solution for procuring operating reserves in a reliable, efficient, and non-discriminatory

⁸² *Id.* at 8.

⁸³ *Id.* at 20.

⁸⁴ *Id.* at 5.

⁸⁵ *Id.* at 26.

⁸⁶ *Id.* at 29.

manner that respects Transmission Owner Local Reliability Rules. Caithness contends that, under these provisions, a Transmission Owner can adopt operating rules to provide for local reliability when NYISO cannot see certain local transmission elements.

Caithness contends that this must already be happening to address LIPA's operating reserve requirement, and there is ample time to resolve any additional issues in the NYISO stakeholder process because the Caithness II Project will not become operational until 2019 at the earliest.⁸⁷ Further, Caithness concludes that if there are any factual issues in need of resolution, they should be set for expedited evidentiary hearing.

Caithness requests that, if the Commission does not prohibit the application of the Long Island Guideline to the Class Year 2015 Interconnection Facilities Study, then it is important to direct the NYISO to perform the Class Year Facilities Study both with and without the Long Island Guideline to avoid having to redo the study if it is determined that the Long Island Guideline should not have applied.⁸⁸

40. Finally, Caithness states that it recognizes that if it elects CRIS it will be responsible for the System Deliverability Upgrades NYISO allocates to Caithness pursuant to the NYISO Deliverability Interconnection Standard.⁸⁹

41. In response to Caithness' answer, LIPA claims that Caithness simply repeats the same arguments - that the Long Island Guideline is a deliverability test that is precluded for energy-only interconnections under the NYISO Tariff and Order No. 2003. LIPA claims that it and NYISO have explained why NYISO's Tariff expressly contemplates local Applicable Reliability Standards, why the Long Island Guideline qualifies as an Applicable Reliability Standard, and why those standards can, and often do, require system upgrades that might also incidentally resolve deliverability issues.⁹⁰

42. LIPA argues that Caithness' new request for an evidentiary hearing should be rejected. LIPA states that the issues Caithness asks the Commission to set for hearing are irrelevant to its complaint. LIPA argues that procedurally the request is untimely and improper since Caithness should have asked for that relief in its complaint if it thought there might be issues necessitating an evidentiary hearing. LIPA claims that Caithness' request is also impermissibly vague, noting that Rule 206(b)(7) of the Commission's regulations require the complainant to identify the "specific relief or remedy

⁸⁷ *Id.* at 6.

⁸⁸ *Id.* at 35.

⁸⁹ *Id.* at 30.

⁹⁰ LIPA September 4, 2015 Answer at 2.

requested.”⁹¹ LIPA argues that it is not clear if Caithness is requesting one hearing or two, whether one or both should be expedited, or what purpose the hearing would serve.⁹²

43. LIPA contends that, in suggesting that standard operating procedures would obviate the need for the reliability upgrades identified under the 2015 Guidelines, Caithness has conflated system planning with system operations. In response to Caithness’ claim that system operators have a range of operating procedures that will allow both Caithness to operate, and for operating reserves, without necessitating facility upgrades, LIPA reiterates NYISO’s statement that that “[a]dverse reliability impacts due to internal transmission limitations on Long Island east of the Holbrook interface cannot be mitigated by NYISO’s operating procedures.”⁹³

44. LIPA also claims that Caithness’ argument that the Long Island Guideline should plan to accommodate overloads of the 69 kV system during low load periods would raise, not lower, the costs of interconnecting its facilities. LIPA states that Applicable Reliability Standards, like other transmission design criteria, are mostly designed for summer peak system conditions, not necessarily for all system conditions. LIPA asserts that it would not be efficient or cost-effective, in terms of transmission transfer capability, to design transmission systems for off-peak lighter load system conditions. In response to Caithness’ argument that that it is possible to satisfy the entire Long Island locational operating reserve requirement from the 1,000MW of operating reserves west of Holbrook, LIPA asserts that a utility must design for its worst contingency.⁹⁴ LIPA further asserts that Caithness’ claim that LIPA is acting to block competition from new generators should be rejected. LIPA notes that it is a not-for-profit municipal utility and that LIPA is in business only to meet the needs of the communities it serves at the lowest reasonable cost consistent with maintaining reliability. LIPA states that if Caithness believed the Applicable Reliability Standard accepted by NYISO was an anticompetitive device and not a tool to protect reliability then Caithness was obligated to raise that issue in its complaint and not its answer to LIPA’s intervention. LIPA further states that Caithness has not offered any evidence to support such a claim and states that neither

⁹¹ *Id.* at 4; 18 C.F.R. § 385.206(b)(7) (2015).

⁹² *Id.* at 4-5.

⁹³ *Id.* at 10-11 (citing NYISO August 10, 2015 Answer at 17).

⁹⁴ *Id.* at 13-4.

LIPA nor NYISO have the financial motivation, ability, or incentive to block competitive new entrants.⁹⁵

45. LIPA argues that Caithness has mischaracterized the differences between ERIS and CRIS. LIPA refutes as inaccurate Caithness' claim that the Long Island Guideline, as applied to the ERIS, is more difficult to satisfy than the Deliverability Interconnection Standard NYISO applies to CRIS. Because a generator interconnecting under CRIS will first have to meet the NYISO Minimum Interconnection Standard, which includes the Long Island Guideline, and then additionally meet the Deliverability Interconnection Standard, LIPA contends that the tests are cumulative and that meeting the 2015 Guideline cannot be more difficult to satisfy.⁹⁶ Moreover, LIPA claims that Caithness' asserted willingness to pay for deliverability upgrades if it elects CRIS is really an attempt to avoid paying for reliability related upgrades.

46. In its September 15, 2015 answer, Caithness largely reiterates its complaint and previous answer. It also withdraws its alternative request for an evidentiary hearing.⁹⁷

IV. Discussion

A. Procedural Matters

47. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure,⁹⁸ the timely, unopposed motions to intervene serve to make the entities that filed them parties to this proceeding.

48. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure⁹⁹ prohibits an answer to an answer or protest unless otherwise ordered by the decisional authority. We will accept the answers filed in this proceeding because they have provided information that assisted us in our decision-making process.

⁹⁵ *Id.* at 15-17.

⁹⁶ *Id.* at 17-18.

⁹⁷ *See supra* P 39.

⁹⁸ 18 C.F.R. § 385.214 (2015).

⁹⁹ 18 C.F.R. § 385.213(a)(2) (2015).

B. Commission Determination

49. We grant Caithness' Complaint. As discussed below, we find that the Long Island Guideline constitutes a deliverability test and therefore using it to identify System Upgrade Facilities is inconsistent with Order No. 2003 and violates the NYISO OATT.

50. With respect to Order No. 2003, the Long Island Guideline specifically states that it ensures "no bottling" and allows "the output of all resources in one load center to be transferred to the adjacent load center."¹⁰⁰ We find that such a requirement is effectively a deliverability test and conflicts with Order No. 2003. As noted above, in Order No. 2003-A, the Commission explained that to obtain NRIS, the interconnection customer has to satisfy a deliverability test to ensure that the generating facility, as well as other generating facilities in the same electrical area, can be operated simultaneously at peak load and that any output produced above peak load requirements can be transmitted to other electrical areas within the transmission provider's transmission system. The Commission explained that the deliverability test ensures that the interconnection customer, along with other facilities in the area, can be operated simultaneously and that no capacity is bottled.¹⁰¹ Essentially, that is what the Long Island Guideline requires. Indeed, NYISO acknowledges that such a requirement represents a deliverability test.¹⁰²

51. In Order No. 2003, the Commission required that transmission providers offer two separate levels of interconnection service: one "basic or minimal interconnection service,"¹⁰³ and one which is a more flexible and comprehensive interconnection service for resources that seek to be designated network resources or capacity resources. Imposing a deliverability requirement on the basic/minimal energy-only interconnection means that both levels of interconnection service would require deliverability. This erases the distinction between the two levels of interconnection service required by Order No. 2003, and effectively results in only one level of service being offered. This is a violation of Order No. 2003.

52. We also find that allowing NYISO to implement the Long Island Guideline is impermissible because it creates a conflict with the NYISO Minimum Interconnection

¹⁰⁰ Long Island Guideline at 4.

¹⁰¹ Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 531. ¹⁰²

NYISO August 10, 2015 Answer at 18-19.

¹⁰³ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at PP 329, 752.

Standard¹⁰⁴ by imposing a deliverability requirement on a project requesting energy-only interconnection under ERIS. Such an imposition not only creates an irreconcilable conflict within NYISO's Tariff—i.e., the interaction between the Tariff provisions governing Applicable Reliability Requirements and the NYISO Minimum Interconnection Standard—but also conflicts with the Commission's previous statements with respect to an energy-only interconnection.¹⁰⁵ Thus, while LIPA and NYISO assert that the Long Island Guideline is intended to be performed in conjunction with the NYISO Minimum Interconnection Standard,¹⁰⁶ the NYISO Minimum Interconnection Standard “does not impose any deliverability test or deliverability requirement on the proposed project.”¹⁰⁷

53. Moreover, the NYISO OATT provides that the NYISO Minimum Interconnection Standard is not intended to address, in any way, the allocation of responsibility for the cost of upgrades and other new facilities associated with transmission service and the delivery of power across the transmission system, the reduction of congestion, economic transmission system upgrades, or the mitigation of transmission system overloads associated with the delivery of power.¹⁰⁸ These are the very requirements imposed by the Long Island Guideline. The NYISO Minimum Interconnection Standard prohibits application of a deliverability test because an energy-only interconnection such as ERIS allows the generator to interconnect to the transmission provider's system and be eligible to deliver its output on an as available basis of transmission capacity. The NYISO OATT also provides that “[i]t is not anticipated that the installation of any interconnection

¹⁰⁴ Section 25.2.1 of the NYISO OATT states that each proposed large facility subject to Attachment S, regardless of whether the developer elects ERIS or CRIS, must meet the NYISO Minimum Interconnection Standard. NYISO OATT, Attachment S, § 25.2.1.

¹⁰⁵ For example, the Commission has noted that ERIS—by itself—provides the interconnection customer with no expectation that it will be protected from congestion. *Entergy Servs., Inc.*, 116 FERC ¶ 61,275, at P 192 (2006). This is consistent with the interconnection service Caithness is requesting; Caithness is not expecting to be protected from congestion or be fully deliverable. Such features are not provided under an energyonly interconnection, yet the Long Island Guideline effectively forces Caithness to ensure the deliverability of its resource.

¹⁰⁶ Long Island Guideline at 2.

¹⁰⁷ NYISO OATT, Attachment S, § 25.1.2. ¹⁰⁸

Id., Attachment S, § 25.2.1.1.1

facilities covered by the NYISO Minimum Interconnection Standard will improve the deliverability of power, reduce congestion, or mitigate overloads associated with the deliverability of power.”¹⁰⁹

54. In addition, we note that NYISO’s application of the guideline also conflicts with another provision of its Tariff. Specifically, NYISO plans to use the Long Island Guideline to identify System Upgrade Facilities for projects proposing to interconnect under ERIS. However, as Caithness notes, System Upgrade Facilities are defined to be the “modifications or additions...that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard.”¹¹⁰ As we noted above, the NYISO Minimum Interconnection Standard “does not impose any deliverability test or deliverability requirement on the proposed project.”¹¹¹ Yet, the Long Island Guideline contains a deliverability requirement. Thus, NYISO’s implementation of the Long Island Guideline violates the Tariff provisions governing System Upgrade Facilities.

55. NYISO argues that its determination that the Long Island Guideline should apply as an Applicable Reliability Requirement and Applicable Reliability Standard is consistent with its OATT and Commission precedent. Further, NYISO states that the Commission accepted NYISO’s independent entity variation in NYISO’s Order No. 2003 compliance filing regarding NYISO’s use of a Transmission Owner’s criteria in its interconnection process.¹¹² We disagree with NYISO that adopting the Long Island Guideline as an Applicable Reliability Requirement/Standard is consistent with Commission precedent.¹¹³ The cases NYISO cites for support are inapposite. In those cases, while the Commission permitted Transmission Owners to apply their local criteria in interconnecting transmission projects to their system, NYISO’s implementation of those criteria did not conflict with any explicit provisions of the OATT or any

¹⁰⁹ *Id.*, Attachment S, §25.2.1.1.2

¹¹⁰ Caithness Complaint at 35 (citing NYISO OATT, Attachment S, § 25.1.2). ¹¹¹

NYISO OATT, Attachment S, § 25.1.2.

¹¹² NYISO August 10, 2015 Answer at 12 (citing *N.Y. Indep. Sys. Operator, Inc.*, 108 FERC ¶ 61,159, at PP 91-96 (2004), *order denying reh’g and granting request for clarification*, 111 FERC ¶61,347, at PP 15-17 (2005)).

¹¹³ *See, e.g. N.Y. Indep. Sys. Operator, Inc.*, 124 FERC ¶ 61,156; *Con Edison Co. of New York, Inc.*, 107 FERC ¶ 61,103.

Commission policies, including Order No. 2003.¹¹⁴ That is not the case here. The Long Island Guideline violates the OATT and Order No. 2003 because it conflicts with NYISO's requirement to offer two separate levels of interconnection service. While the Commission acknowledges the need to consider a Transmission Owner's local interconnection reliability criteria,¹¹⁵ in this instance, NYISO accepted an Applicable Reliability Requirement/Standard that violates its OATT and Order No. 2003. Accordingly, we find that NYISO should only accept and apply local reliability criteria to the extent that they do not conflict with Order No. 2003's requirement to offer these two levels of service.

56. Finally, we address the issue of operating reserves that LIPA raises in support of the Long Island Guideline. While LIPA frames its need for the Long Island Guideline as a way to protect transfer capability necessary to move operating reserves,¹¹⁶ we find no reference of operating reserves within the Guideline. Also, we note that NYISO is already required, under its Tariff, to procure the necessary operating reserves in order to maintain reliability.¹¹⁷ We agree with Caithness that the issues concerning the operation of the 69 kV portion of the LIPA system are addressed by NYISO and LIPA operating

¹¹⁴ For example, in *N.Y. Indep. Sys. Operator, Inc.*, 124 FERC ¶ 61,156, the Transmission Owner noted that, due to certain reliability concerns, the interconnecting transmission project must comply with System Operating Procedure No. EP-7100-5 and, as such, NYISO accepted EP-7100-5 as an Applicable Reliability Requirement under Attachment S of the OATT. Also, in *Con Edison Co. of New York, Inc.*, 107 FERC ¶ 61,103, the Transmission Owner required the interconnecting generator to comply with New York State Reliability Rule No.3 by designing and constructing a dual-fuel capability. In both cases, the Commission permitted NYISO to accept the Transmission Owner's local criteria as Applicable Reliability Requirements/Standards but none of the local criteria conflicted with other provisions of the OATT or interconnection policies under Order No. 2003.

¹¹⁵ Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at P 823 ("Because we intend to supplement rather than supplant the work that regional reliability groups already have undertaken regarding interconnection, we are permitting a Transmission Provider, on compliance, to offer variations based on existing regional reliability requirements.").

¹¹⁶ See *supra* at P 44.

¹¹⁷ NYISO Tariffs, NYISO MST, Market Administration and Control Area Services Tariff (MST), 15.4 MST Rate Schedule 4 - Payments for Supplying Operating Reserves (3.0.0), § 15.4.1.1.

procedures.¹¹⁸ Moreover, NYISO determines the appropriate amount and location of operating reserves necessary to maintain reliability on LIPA's transmission system.¹¹⁹ Finally, we note that the Minimum Interconnection Standard contemplates the scenario envisioned by LIPA; specifically, the Minimum Interconnection Standard provides that any potential, adverse reliability impact identified by a proposed interconnection can be managed through the normal operating procedures of NYISO and the Transmission Owner.

The Commission orders:

The complaint is hereby granted, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

¹¹⁸ See *supra* at P 38.

¹¹⁹ See NYISO's Locational Reserve Requirements, *available at*, http://www.nyiso.com/public/webdocs/markets_operations/market_data/reports_info/nyiso_locational_reserve_requirements.pdf.