

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

PJM INTERCONNECTION, L.L.C.

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Docket No. ER17-75-000

**MOTION TO INTERVENE OUT OF TIME, MOTION FOR LEAVE TO ANSWER AND
ANSWER OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR**

The New York Independent System Operator, Inc. (“NYISO”), respectfully moves to intervene out of time, moves for leave to answer and submits an answer to the protest filed by Lackawanna Energy Center LLC (“Lackawanna”) in the captioned docket.¹ The NYISO should be permitted to intervene in this proceeding which involves a dispute over terms in an unexecuted Interconnection Service Agreement (the “Interconnection Agreement”) among PJM Interconnection, L.L.C. (“PJM”), PPL Electric Utilities Corporation (“PPL”) and Lackawanna - terms regarding the construction of upgrades identified by the NYISO to mitigate the adverse impacts to the New York State Transmission System caused by the Lackawanna project.

The NYISO’s late intervention will not disrupt the proceeding or prejudice any party. To the contrary, the NYISO’s intervention and answer to the protest filed by Lackawanna² clarifies issues raised by Lackawanna and provides a more complete record to assist the Commission in this proceeding.

¹ NYISO submits this filing pursuant to Rules 212, 213 and 214 of the Federal Energy Regulatory Commission’s (“FERC” or “Commission”) Rules of Practice and Procedure. *See* 18 C.F.R. §§ 385.212, 385.213 and 385.214 (2016).

² *See* Motion to Intervene and Protest of Lackawanna Energy Center LLC and Request for Expedited Issuance of an Order Accepting for Filing and Modifying Interconnection Service Agreement, Docket No. ER17-75-000 (October 18, 2016) (“Lackawanna Protest”).

As discussed in more detail below, the Lackawanna Protest submits extensive information that goes beyond the limited issues before the Commission. Lackawanna raises concerns about a pending Interconnection Impact Study being performed by the NYISO as an Affected System for the Lackawanna interconnection (“Affected System Study”); however, Lackawanna’s concerns regarding this study are not ripe for Commission action and are beyond the scope of the limited issues before the Commission in this proceeding.

Lackawanna acknowledges that the Protest is limited to the very narrow issue of whether PJM appropriately proposes to limit Lackawanna’s injection and Capacity Interconnection Rights until required upgrades are constructed.³ The NYISO fully supports PJM’s inclusion of the disputed terms in the Interconnection Agreement to the extent such provisions are required under the PJM Open Access Transmission Tariff (“PJM Tariff”).⁴ Further, NYISO agrees that limiting the injection of the Lackawanna project until all required upgrades are constructed is necessary to protect the New York State Transmission System.⁵

I. BACKGROUND RELEVANT TO THE LACKAWANNA PROTEST

Consistent with its obligations under the Amended and Restated Northeastern ISO/RTO Planning Coordination Protocol among the NYISO, PJM and ISO-New England, PJM identified the NYISO as a system potentially impacted by the proposed Lackawanna project. PJM subsequently included the NYISO as an Affected System in the PJM interconnection studies for the Lackawanna project.⁶ NYISO provided a preliminary report on its Affected System Study to

³ *Id.*

⁴ *See* PJM Interconnection, L.L.C. Filing, Docket No. ER17-75-000 (November 2, 2016) (“PJM Answer”).

⁵ *Id.*

⁶ Under the PJM Tariff, an “Affected System” is “[a]n electric system other than the Transmission Provider’s Transmission System that may be affected by a proposed interconnection or on which a proposed

Lackawanna, PJM and the affected Transmission Owners (*i.e.*, PPL and National Grid), identifying transfer limit degradations that require mitigation in the form of upgrades. NYISO continues its technical evaluation regarding the viability of alternative upgrades to mitigate the adverse impacts of the Lackawanna project on the reliability of the New York State Transmission System, and continues to provide Lackawanna, PJM, PPL and National Grid the opportunity to review and comment on the NYISO's analyses.

On October 12, 2016, in the midst of the above-referenced technical analysis, PJM filed (at Lackawanna's request) an unexecuted Interconnection Agreement among PJM, Lackawanna and PPL.⁷ Among the provisions in the Interconnection Agreement are two provisions specific to the NYISO. First, the Interconnection Agreement includes a milestone in Section 6.5 requiring Lackawanna to enter into a Facilities Construction Agreement with the NYISO for the construction of any upgrades identified by the NYISO in its Affected System Study.⁸ Second, Section 2.1a of the Interconnection Agreement limits the total injections from the Lackawanna facility to 1,000 MW until all network upgrades required on the NYISO transmission system are completed and in service.⁹ Lackawanna disputes the language in Section 2.1a of the Interconnection Agreement.

On October 18, 2016, Lackawanna filed a Motion to Intervene and Protest to the PJM Filing. Lackawanna's Protest requests that the Commission direct PJM to remove the language in Section 2.1a of the Interconnection Agreement that limits the injections from the Lackawanna facility until all network upgrades required on the NYISO transmission system are completed

interconnection or addition of facilities or upgrades may require modifications or upgrades to the Transmission System." See PJM Tariff, Section 1.01A.

⁷ See PJM Interconnection, L.L.C. Filing, Docket No. ER17-75-000 (October 12, 2016) ("PJM Filing").

⁸ *Id.* at 4.

⁹ *Id.* at 5.

and in service. Among the issues raised in the Lackawanna Protest, although admittedly not issues for the Commission's determination,¹⁰ are the analyses and results of NYISO's Affected System Study regarding the impacts of the Lackawanna facility on the New York State Transmission System.¹¹

II. COMMUNICATIONS

Copies of correspondence concerning this filing should be served on:

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III. MOTION TO INTERVENE

The NYISO is the independent body responsible for providing open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity, and ancillary services in New York State. Additionally, the NYISO administers the interconnection process pursuant to its Commission-approved tariffs. The NYISO was identified by PJM as potentially impacted by the Lackawanna project and as a result, has been included as an Affected System in PJM's interconnection studies evaluating the Lackawanna project. The NYISO is currently finalizing its Interconnection Impact Study report regarding adverse impacts

¹⁰ Lackawanna Protest at 21.

¹¹ Lackawanna Protest at 5.

the Lackawanna project has on the New York State Transmission System, and the specific upgrades required to mitigate such impacts. The NYISO, therefore, has a unique interest in this proceeding that cannot be adequately represented by any other entity and requests that the Commission permit the NYISO to intervene with all the rights of a party.

The NYISO submits that good cause exists for the Commission to grant this motion to intervene out of time in accordance with Rule 214(d), 18 C.F.R. § 385.214(d). The NYISO was unable to timely intervene because the NYISO was not made aware of this proceeding until November 2, 2016. The NYISO therefore requests that the Commission permit it to intervene in this proceeding.

V. MOTION FOR LEAVE TO ANSWER

The Commission has discretion to accept, and has accepted, answers to responsive pleadings when doing so assures a complete record, provides helpful information, permits the issues to be narrowed or clarified, or aids the Commission in understanding and resolving issues.¹² This answer satisfies these standards because it is narrowly drawn to clarify certain issues raised in the Lackawanna Protest - namely to (1) correct misstatements regarding the Lackawanna project's adverse impact on the reliability of the New York State Transmission System; and (2) clarify the status of the ongoing study by the NYISO regarding the Lackawanna project, concerns about which are not ripe for Commission's consideration or determination in this proceeding.

¹² See, e.g., *New York Independent System Operator, Inc.*, 134 FERC ¶ 61,058 at P 24 (2011) (accepting the answers to protests and answers because they provided information that aided the Commission in better understanding the matters at issue in the proceeding); *New York Independent System Operator, Inc.*, 140 FERC ¶ 61,160 at P 13 (2012) and *PJM Interconnection, LLC*, 132 FERC ¶ 61,217 at P 9 (2010) (accepting answers to answers and protests because they assisted in the Commission's decision-making process).

VI. ANSWER

A. The Interconnection Agreement Appropriately Limits Lackawanna's Output Prior to Completion of Required Upgrades.

The Commission need not address the concerns related to the NYISO's Affected System Study or other issues that are beyond the scope of the limited issue in dispute. Lackawanna raises concerns as tangential as the NYISO's economic and public policy planning processes.¹³ These issues have no relevance to the issues in dispute in the Lackawanna Interconnection Agreement.

Lackawanna acknowledges that it is not asking the Commission to resolve any issue other than the limitations the Interconnection Agreement imposes on Lackawanna's injection capability and Capacity Interconnection Rights pending completion of all required upgrades:

To be clear, for purposes of addressing this Protest, Lackawanna is not asking the Commission to resolve any challenge to any of PJM's or the NYISO's factual assertions,¹⁴ or to evaluate whether NYISO correctly performed its studies, or whether it correctly identified the upgrades required to mitigate interface degradation attributable to a 13 MW flow on the Huntley-Sawyer 230 kV line or whether Lackawanna should be required to pay for those upgrades.¹⁵

Therefore, the Commission need not at this time evaluate the standards, methodology, upgrades or cost estimates being developed by the NYISO in its Affected System Study.

The results of NYISO's Affected System Study are not ripe for Commission consideration. The evaluations are not yet complete. To the extent Lackawanna disputes the NYISO's ultimate study results, upgrades and/or cost estimates for the required upgrades, the

¹³ Lackawanna Protest at 16-19.

¹⁴ It is unclear to which "factual assertions" Lackawanna refers to here.

¹⁵ Lackawanna Protest at 21.

appropriate forum for such a dispute would be the filing with the Commission of the applicable construction agreement for the construction of such upgrades.

B. Necessary Clarifications to Assertions in the Lackawanna Protest

While the Commission need not issue a determination regarding the NYISO's Affected System study, the NYISO would like to clarify several issues for the Commission. First, the adverse impacts on the New York State Transmission System seen in the NYISO's Affected System Study are not pre-existing issues; they are adverse impacts seen only with the addition of the Lackawanna project. Second, contrary to the indications in the Lackawanna Protest, the transfer limit degradation that results from adding the Lackawanna project is not 13 MW; but is in excess of 200 MW. Lackawanna's repeated characterization of this significant degradation as "de minimis" is therefore inaccurate.¹⁶

Third, the adverse impacts at issue are not economic issues related to congestion, but rather, are reliability concerns related to the NYISO's ability to manage flows over interfaces critical to the New York State Transmission System. The Affected System Study performed by the NYISO reveals significant degradations in transfer limit capability with resulting adverse impacts on key interfaces. Degradation of interface transfer capability requires mitigation so as not to hinder the NYISO's ability to operate its systems in a reliable manner. The NYISO's identification of such degradations in its Affected System Study is therefore entirely appropriate. To the extent the Affected System Study identifies upgrades required to mitigate Lackawanna's impact on such degradations of transfer capability, it is equally appropriate, indeed necessary, for PJM to limit Lackawanna's interconnection rights until such time as the required upgrades are in place.

¹⁶ *Id.* at 7-10, 21, 29, 32-35.

VII. CONCLUSION

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission grant this motion to intervene out of time, grant this motion for leave to answer and consider this Answer in its determination on the issues in dispute in this proceeding.

Respectfully submitted,

/s/ Sara B. Keegan

Sara B. Keegan

Senior Attorney

New York Independent System Operator, Inc.

November 10, 2016

cc: Michael Bardee
Anna Cochrane
Kurt Longo
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CERTIFICATE OF SERVICE

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

Dated at Rensselaer, NY this 10th day of November 2016.

By: /s/ John C. Cutting

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