

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

New York Independent System Operator, Inc.)	
and)	Docket No. ER11-3479-000
Consolidated Edison Company of)	
New York, Inc.)	

**MOTION FOR LEAVE TO FILE ANSWER
AND ANSWER TO PROTEST**

Pursuant to Rules 212 and 213 of the Commission’s Rules of Practice and Procedure (18 CFR §§385.212, 385.213), the New York Independent System Operator, Inc. (“NYISO”) and Consolidated Edison Company of New York, Inc. (“Con Edison”) (collectively, “Joint Filing Parties”) file this Motion for Leave to File an Answer and Answer to the Protest that the New Jersey Board of Public Utilities (“NJBPU”) filed in this proceeding on May 23, 2011.

Motion for Leave to File Answer

Rule 213 states that an answer to a protest may be made only if allowed by the Commission. The Joint Filing Parties submit that good cause exists in this instance for the submission of an answer to the NJBPU Protest and move the Commission to accept this Answer. The Commission allows unscheduled answers where they correct misstatements in other pleadings, complete the record, or otherwise assist the

Commission in reaching an informed decision. *See, e.g., New York Independent System Operator, Inc.*, 108 FERC ¶61,188, P 7 (2004); *Morgan Stanley Capital Group v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017, at 61,036 (2000). As indicated by the following discussion, this Answer satisfies those standards. Accordingly, the Joint Filing Parties move pursuant to Rule 212 for leave to file this Answer to the NJBPU's Protest.

Answer

The NJBPU's Protest raises issues that are beyond the scope of this proceeding and the NYISO's interconnection process. To a large extent, the NJBPU's issues have been addressed in other proceedings and need not - indeed, may not - be revisited here.

The NJBPU's Protest challenges the Merchant Transmission Facility Interconnection Agreement among Hudson Transmission Partners, LLC ("HTP"), the NYISO, and Con Edison (the "NY Interconnection Agreement") which the NYISO and Con Edison jointly filed in this proceeding on April 29, 2011.¹ The NY Interconnection Agreement provides for the interconnection to the New York State Transmission System of a 660 MW transmission line and related equipment that will originate in New Jersey and extend to New York City. The facility will connect the control area operated by PJM Interconnection, LLC ("PJM") to the control area operated by the NYISO.

The NY Interconnection Agreement is one of the final requirements of the NYISO's interconnection process for the HTP project. That process is conducted in accordance with the procedures prescribed by Attachment S and Attachment X to the

¹ See letter dated April 29, 2011 to Honorable Kimberly D. Bose in Docket No. ER11-3479-000 ("Filing Letter").

NYISO Open Access Transmission Tariff (“OATT”) for the review of generation and transmission interconnection proposals. That process requires a series of studies “to evaluate the impact of the proposed interconnection on the reliability of the *New York State Transmission System*.”² The NY Interconnection Agreement specifies the System Upgrade Facilities that must be constructed to preserve the reliability of the New York State Transmission System when the HTP project is interconnected.

The NY Interconnection Agreement substantially conforms to the NYISO’s *pro forma* Large Generator Interconnection Agreement (“LGIA”) contained in Attachment X of the NYISO OATT. The agreement reflects a limited set of modifications to the *pro forma* LGIA. As discussed in the Filing Letter, those modifications are necessary to adapt the *pro forma* LGIA to the unique characteristics of the HTP project.³ For example, the textual modifications account for the difference in characteristics of a transmission facility as compared to a generating facility and reflect the execution of the NY Interconnection Agreement prior to HTP’s submission of an application for Unforced Capacity Deliverability Rights. The NYISO and Con Edison filed the NY Interconnection Agreement because of its limited non-conforming provisions. Therefore, the only issue in this proceeding is whether those modified provisions are appropriate.

The NJBPU’s Protest raises issues that are beyond the scope of this proceeding and the interconnection process governing the NY Interconnection Agreement. The NJBPU protest raises issues regarding the PJM capacity markets, the PJM Open Access Transmission Tariff, the processes that PJM uses to delist generation capacity, and the

² See NYISO OATT, Attachment X, §30.7.3, at http://www.nyiso.com/public/webdocs/documents/tariffs/oatt/oatt_attachments/att_x.pdf (Emphasis added).

³ Filing Letter, pp. 2-8.

schedules for expanding the PJM system. None of those matters are at issue in this proceeding. The NJBPU's issues regarding the reliability and economics of electric service in New Jersey do not relate in any way to the NY Interconnection Agreement or its non-conforming terms which are subject to review in this proceeding.

To a large extent, the NJBPU's issues have been addressed in other proceedings before the Commission. Those proceedings include the proceeding in which PJM filed its HTP Interconnection Service Agreement ("PJM Interconnection Agreement"),⁴ the proceeding regarding HTP's request for negotiated rate authority,⁵ and the proceeding regarding PJM's Minimum Offer Price Rule.⁶ The NJBPU's issues which were not addressed in those proceedings could have been raised in those proceedings. In its interconnection process, PJM reviewed the HTP project, concluded that the project would not jeopardize reliability, and executed the PJM Interconnection Agreement with HTP and Public Service Electric and Gas Company.⁷ The Commission accepted the PJM Interconnection Agreement, noting that it provided HTP with 320 MW of Firm Transmission Withdrawal Rights.⁸ The NJBPU did not intervene in the docket in which that agreement was filed. The reliability implications of the HTP project were further considered in connection with HTP's request in Docket No. ER11-3017-000 for

⁴ See *PJM Interconnection, L.L.C.*, Docket No. ER10-1740-000 (2010).

⁵ See *Hudson Transmission Partners, LLC*, 135 FERC ¶ 61,104 (2011).

⁶ See *PJM Interconnection, L.L.C.*, et al., 135 FERC ¶ 61,022 (2011).

⁷ Interconnection Service Agreement By and Among PJM Interconnection, L.L.C. and Hudson Transmission Partners, L.L.C. and Public Service Electric and Gas Company, Service Agreement No. 2536, effective June 9, 2010.

⁸ *PJM Interconnection, L.L.C.*, Docket No. ER10-1740-000, Letter Order, dated August 31, 2010. NJBPU states, throughout its Protest, that the HTP Project will result in the removal of 660 MWs of existing capacity from the PJM system; however, the PJM Interconnection Agreement limits the amount of firm capacity that may be exported from PJM to 320 MW.

authorization to charge negotiated rates for transmission rights on its project.⁹ In granting HTP's request, the Commission found that HTP "has met the regional reliability and operational efficiency requirement subject to [HTP's] continued participation in the regional planning process."¹⁰ The NJBPU did not intervene in Docket No. ER11-3017-000.

The NJBPU requests, in this case, that the Commission reject the NY Interconnection Agreement or hold it in abeyance and initiate a proceeding to further consider the asserted impacts on New Jersey. However, the NJBPU's issues are beyond the scope of this case and could have been raised in more appropriate proceedings. Accordingly, the NJBPU's relief request must be denied and its protest dismissed.

Conclusion

For the reasons stated in this Answer, the NYISO and Con Edison respectfully request that the Commission reject the NJBPU's Protest.

Respectfully submitted,

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⁹ *Hudson Transmission Partners, L.L.C.*, 135 FERC ¶ 61,104 (April 29, 2011) ("HTP Market Rate Order").

¹⁰ HTP Market Rate Order, P 37.

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of June, 2011 caused the foregoing document to be served upon each party designated on the official service list compiled by the Secretary in this proceeding by email.

/s/ Donald J. Stauber

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