

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

New Jersey Board of Public Utilities)	
)	
Complainant)	
)	
v.)	Docket No. EL18-54-000
)	
PJM Interconnection, LLC, New York)	
Independent System Operator, Inc.,)	
Consolidated Edison Company of)	
New York, Inc., Linden VFT, LLC,)	
Hudson Transmission Partners, LLC, and)	
New York Power Authority)	
)	
Respondents)	

**ANSWER TO COMMENTS OF THE
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

In accordance with Rule 213 of the Commission’s Rules of Practice and Procedure,¹ the New York Independent System Operator, Inc. (“NYISO”), respectfully submits this answer to the *Comments of the Independent Power Producers of New York, Inc.* (“IPPNY”) and the *Comments of the Indicated New York Generators* (the “NYGenerators”; IPPNY and the New York Generators together “IPPNY/NYGenerators”) in this proceeding. As discussed below, IPPNY/NYGenerators are attempting to introduce issues that were not raised by the New Jersey Board of Public Utilities (“NJBPU”) in the Complaint² that initiated this case. These new issues need not be addressed to fully dispose of or resolve the issues that actually were raised in the

¹ 18 C.F.R. 385.213 (2017).

² *Complaint of the New Jersey Board of Public Utilities*, Docket No. EL18-54-000 (December 22, 2017).

Complaint. IPPNY/NYGenerators' arguments are thus beyond the scope of this proceeding and should not be considered here.

I. REQUEST FOR LEAVE TO ANSWER

Rule 213 authorizes answers to pleadings styled as comments as a matter of right.

Accordingly, the NYISO is permitted by rule to respond to other parties' comments.

If, however, the Commission were to deem this pleading to be tantamount to a response to an answer or a protest then the NYISO would respectfully ask that the Commission exercise its discretion to permit the NYISO to answer IPPNY/NYGenerators. The Commission routinely accepts answers that would otherwise be unauthorized when they help to clarify complex issues, provide additional information, or are otherwise helpful in the development of the record in a proceeding.³ This answer will assist the Commission in its disposition of this case by highlighting issues that are clearly beyond the scope of the proceeding.

II. ANSWER

A. IPPNY/NYGenerators Impermissibly Attempt to Inject Issues into this Proceeding that Are Clearly Beyond its Scope

1. The Commission Should Not Consider the Eligibility of Linden VFT or Hudson Transmission Partners ("HTP") to Be Used to Sell Capacity in the New York Control Area in this Proceeding

IPPNY asks the Commission to use this docket to determine that "the PJM and NYISO tariffs, past Commission orders, and the core distinction between firm and non-firm transmission service prohibit Linden VFT and HTP from continuing to supply installed capacity ("ICAP")

³ See e.g., *Midcontinent Independent System Operator, Inc.*, 162 FERC ¶ 61,176 at P 55 (2018) (accepting answers to otherwise unauthorized pleadings, "because they have provided information that assisted us in our decision-making process."); *New York Independent System Operator, Inc.*, 108 FERC ¶ 61,188 at P 7 (2004) (accepting the NYISO's answer to protests because it provided information that aided the Commission in better understanding the matters at issue in the proceeding); *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017 at 61,036 (2000) (accepting an answer that was "helpful in the development of the record . . .").

over their transmission lines to NYISO.”⁴ Specifically, they request that the Commission, “order PJM and the NYISO: (i) to recognize the post-Conversion non-firm curtailable properties of these lines; and (ii) because these lines cannot show they have firm service to the New York border and no longer meet the definition of an Installed Capacity Supplier to prohibit further ICAP sales to NYISO Zone J across these lines.”⁵ IPPNY contends further that PJM and the NYISO’s alleged “erroneous tariff interpretations” jeopardize reliability in both regions and threaten to “artificially suppress” capacity prices in New York.⁶

IPPNY/NYGenerators are impermissibly attempting to inject multiple new issues into this proceeding that were not raised by the NJBPU. The Complaint is concerned with various questions related to PJM Regional Transmission Expansion Plan (“RTEP”) cost allocations to New York entities and the interpretation of the Joint Operating Agreement between PJM and the NYISO. The Complaint does not ask for the relief sought by IPPNY/NYGenerators.⁷ It makes no mention of the NYISO tariff provision that IPPNY/NYGenerators claim the NYISO is misinterpreting. The Complaint likewise does not address the supposed impacts of capacity sales by Installed Capacity Suppliers⁸ using Linden VFT and HTP on reliability or capacity prices in New York. All of the issues raised by the Complaint can (and should) be fully resolved without reference to the new claims that IPPNY/NYGenerators are seeking to introduce.

⁴ See *Comments of Independent Power Producers of New York* (“IPPNY”) at 2. See also *Comments of the Indicated New York Generators* at 2, 3 (stating their Comments support IPPNY).

⁵ IPPNY at 3, 15-16.

⁶ IPPNY at 3, 14-15.

⁷ See Complaint at 4, 50-52, 60-61 (setting forth NJBPU’s request for relief.)

⁸ Installed Capacity Supplier is a term defined in Section 2.9 of the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”).

IPPNY/NYGenerators make no attempt to justify using this proceeding to advance their arguments. They, as stated by IPPNY, argue that the “ultimate dispute” in the docket is whether New York entities “should be able to avoid their proportionate share of the costs of RTEP projects, specifically, the \$1.2 billion Bergen-Linden Corridor Project . . . by converting their Firm TWRs to Non-Firm TWRs.”⁹ In fact, NYGenerators oppose the relief actually sought by the NJBPU.¹⁰ Nevertheless, IPPNY/NYGenerators seek to use this proceeding to advance their own agenda.

The Commission has consistently rejected attempts by third parties to inject new issues into complaint proceedings that were not raised by complainants.¹¹ It should follow its precedent here and reject IPPNY/NYGenerators’ arguments for being outside the scope of the Complaint. This is especially true in this instance because, as the NYISO explained in its February 23 Answer, the Complaint itself is an impermissible attempt to collaterally attack settled determinations and to needlessly rehash questions already being litigated elsewhere.¹² Allowing IPPNY/NYGenerators to further expand the scope of a complaint that should be rejected would only increase the litigation burdens that have already been needlessly imposed on the NYISO and other respondents.

⁹ IPPNY at 3-4.

¹⁰ See *NYGenerators* at 2 (“As explained herein and in the IPPNY Comments, the Commission should reject the assertions in the Complaint that Linden VFT and HTP are responsible for [RTEP] costs associated with the [BLC] project.”); and 11-12.

¹¹ See, e.g., *La Paloma Generating Company, LLC. v. California Independent System Operator Corporation*, 158 FERC ¶ 61,002 at P 32 (2016) (rejecting requests by commenters that were beyond the scope of the underlying complaint in a proceeding); *Northern Indiana Public Service Co. v. Midcontinent Independent System Operator, Inc. and PJM Interconnection, L.L.C.*, 155 FERC ¶ 61,058 at PP 94, 187 (2016); (rejecting arguments that were not raised in underlying complaint as beyond the scope of complaint); *Tampa Electric Company, et al.*, 110 FERC ¶ 61,206 at P 35 (2005) (Commission declined to make findings requested by protest submitted in Section 206 proceeding where the protest raised issues outside the scope of the proceeding).

¹² NYISO Answer at Section I.A.

Accordingly, the Commission should reject IPPNY/NYGenerators' concerns and assertions as an impermissible attempt to expand the Complaint.

B. IPPNY/NYGenerators Are Wrong to Claim that the NYISO Has Misinterpreted its Tariff

For the reasons set forth above, it would not be appropriate to consider IPPNY/NYGenerators' arguments regarding capacity sales into the New York Control Area ("NYCA") using the Linden VFT and HTP to supply capacity to the NYCA in this proceeding. The NYISO would briefly note, however, that the recent statements it made to stakeholders on this point, which are cited by IPPNY/NYGenerators,¹³ are fully consistent with the controlling provision of the Services Tariff.

Specifically, the NYISO has informed stakeholders, most recently in a January 17, 2018 presentation at the stakeholder Business Issues Committee that: "[b]ased on the NYISO's current understanding and its discussions with PJM, External ICAP that procures Long Term Firm Point-to-Point Out Service with receipt at the source of the External ICAP (or equivalent) and delivered to the UDR Point of Interconnection within PJM is eligible to satisfy the NYISO UDR deliverability provisions of [Services Tariff Section] 5.12.2.1."¹⁴ Section 5.12.2.1 provides that holders of UDRs, *i.e.*, customers of Linden VFT and HTP, are eligible to sell capacity in the NYCA, "if they demonstrate to satisfaction of the NYISO that the Installed Capacity Equivalent of their Unforced Capacity is deliverable to ... the NYCA interface associated with that UDR transmission facility and will not be recalled or curtailed by an External Control Area to satisfy

¹³ See, *e.g.*, IPPNY at 9.

¹⁴ Zachary T. Smith, *Proposed ICAP Manual Revisions Regarding Deliverability Requirements for Capacity Imports from PJM*, NYISO (Jan. 17, 2018), at 2, available at: <http://www.nyiso.com/public/webdocs/markets_operations/committees/bic/meeting_materials/2018-01-17/5%20Import%20Right%20Deliverability%20Requirements%20final.pdf>. Unforced Capacity Deliverability Rights ("UDRs") is a term defined in Section 2.21 of the Services Tariff.

its own Control Area Loads.” The key question is thus whether such entities have made the required demonstration to the NYISO’s satisfaction.¹⁵ The NYISO is satisfied at this time that holders of UDRs associated with the Linden VFT facility meet the requirement of Section 5.12.2.1.¹⁶

In addition, IPPNY claims that “allowing the impermissible export of ICAP over the Linden VFT line has artificially suppressed – and will continue to artificially suppress – the ICAP clearing prices in all of New York.”¹⁷ Even if this claim fell within the scope of this proceeding, which it does not, it should be rejected because it is unsupported.

IPPNY/NYGenerators’ have not proffered evidence of capacity market price suppression in the NYCA, let alone of suppression attributable to transactions using the Linden VFT. They have not shown that price suppression in New York occurred either before Linden VFT relinquished its Firm Transmission Withdrawal Rights or after it secured Long Term Point to Point Service for use by its UDR rightsholders (*i.e.*, its customers)¹⁸ to support their capacity transactions.

If IPPNY/NYGenerators believe that the NYISO’s market rules allow holders of UDRs associated with the Linden VFT¹⁹ to suppress NYISO capacity market prices, they should, in the

¹⁵ Whether an external Control Area imposes a charge on services under its own tariff, in this case an RTEP cost allocation under the PJM tariff rules, has no bearing on whether a transaction is permissible under the NYISO’s rules.

¹⁶ The NYISO will evaluate the eligibility of transactions proposed by HTP’s UDR rightsholders under its Services Tariff if and when proposed.

¹⁷ IPPNY at 15. *See also* NYGenerators at 4-5.

¹⁸ Holders of UDRs are referred to in the NYISO’s market as “UDR rightsholders”. These entities are the “customers” of the UDR facility (at issue in this proceeding, the Linden VFT and HTP.)

¹⁹ IPPNY/NYGenerators further confuse the record by asserting the Linden VFT facility no longer meets the NYISO tariff definition of “Installed Capacity Supplier.” *See, e.g.*, IPPNY at 3, IPPNY Affidavit of Mark D Younger at PP 13, 15. It is the UDR rightsholders; *i.e.*, the entities that offer capacity into the NYISO’s market using controllable transmission lines line, that must meet qualify as Installed Capacity Suppliers.

first instance, propose revisions to the NYISO's tariffs through the NYISO's stakeholder process. The Linden VFT has been in service since 2010 and holders of UDRs associated with it have been using those rights to participate in the NYISO's market since that time, and yet no stakeholder has ever offered such a proposal.

Accordingly, in addition to being outside the scope of the Complaint, the Commission should reject IPPNY/NYGenerators' comments because they are incorrect and unsupported.

III. CONCLUSION

For the reasons specified above, the NYISO respectfully requests that the Commission find that the issues raised and the relief sought by IPPNY/NYGenerators are outside the scope of this proceeding and therefore reject them.

Respectfully submitted,

NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.

By: /s/ Gloria Kavanah

Counsel to the New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, New York 12144
(518) 356-6000

Ted J. Murphy
Hunton & Williams LLP
2200 Pennsylvania Ave, NW
Washington, DC 20037
(202) 955-1500

Dated: March 12, 2018

cc:	Anna Cochrane	Larry Parkinson
	James Danly	Arnold Quinn
	Jette Gebhart	Douglas Roe
	Kurt Longo	Kathleen Schnorf
	David Morenoff	Gary Will
	Daniel Nowak	

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 12th day of March 2018.

By: /s/ John C. Cutting

John C. Cutting
New York Independent System Operator, Inc.
10 Krey Blvd.
Rensselaer, NY 12144
(518) 356-7521