

124 FERC ¶ 61,156
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

New York Independent System Operator, Inc.

Docket No. ER08-618-001

ORDER GRANTING CLARIFICATION

(Issued August 13, 2008)

1. Consolidated Edison Company of New York, Inc. (Con Ed) submitted a request for clarification of the April 29, 2008 Order in this proceeding.¹ For the reasons discussed below, we grant Con Ed's request.

I. Background

2. Con Ed and the New York Independent System Operator, Inc. (NYISO) submitted for filing an unexecuted interconnection agreement (IA) among Con Ed, NYISO, and Linden VFT, LLC (Linden). The IA governed the interconnection of Linden's merchant transmission project (VFT Project) with Con Ed's Goethals Substation.²

3. Con Ed objected to several provisions in the IA, including the proposed reconfiguration of certain equipment in the Goethals Substation into a ring bus with an overhead feeder (feeder no. 22) and the proposal to connect feeder nos. 25 and 26 to segments of the ring bus that would act as the synchronizing (syn) buses if the Goethals Substation was ever converted to a breaker-and-a-half configuration. Con Ed argued, inter alia, that these proposed physical modifications would create reliability concerns and frustrate the second-contingency design criterion it applies in designing and

¹ *New York Independent System Operator, Inc.*, 123 FERC ¶ 61,093 (2008) (April Order).

² NYISO, Con Ed, and Linden are all parties to the IA: NYISO as the Transmission Provider, Con Ed as the Transmission Owner, and Linden as the Developer.

operating its own system. Con Ed admitted that it had previously allowed such overhead crossings and syn bus connections, but stated that in February 2008 it amended its System Operating Procedure No. EP-7100-5 (EP-7100-5) to avoid these configurations.³ Con Ed argued that the VFT Project should have to comply with EP-7100-5 as revised.

4. In paragraph 35 of the April Order, which is at issue in the request for clarification, the Commission rejected Con Ed's argument, finding that application of revised EP-7100-5 was prohibited by Attachment S of NYISO's Open Access Transmission Tariff (OATT):

Attachment S provides that “[t]he Applicable Reliability Requirements applied [to the assessment of a project] are those in effect when the particular assessment is commenced.” Con Ed's amendments [to EP-7100-5] prohibiting overhead crossings and syn bus connections were not promulgated until February 2008, a full 20 months after NYISO commenced its study of the VFT Project. Moreover, as Linden points out, Con Ed has made no claim that its amendments qualify currently as Applicable Reliability Rules or Local Reliability Rules. Linden is correct in asserting that Commission precedent requires that any change (barring the type of emergency orders specifically allowed for in [*Central Hudson Gas & Electric Corp.*]⁴) to a Local Reliability Rule must be approved by [the New York State Reliability Council (NYSRC)] and is subject to protest by NYISO.⁵

II. Request for Clarification

5. Con Ed asserts that paragraph 35 of the April Order implies that EP-7100-5 is a NYSRC Local Reliability Rule. Con Ed states, however, that EP-7100-5 is part of its “Local Transmission Design Criteria,” and that while it constitutes an Applicable Reliability Requirement under Attachment S,⁶ it is not a Local Reliability Rule subject to

³ Con Ed Comments at 15. The amendments Con Ed refers to are to a section of the System Operating Procedure No. EP-7100-5 entitled “Transmission Planning Criteria,” dated February 2008. See Con Ed Comments, Attachment No. 2.

⁴ 83 FERC ¶ 61,352 (1998), *order on reh'g*, 87 FERC ¶ 61,135 (1999).

⁵ April Order, 123 FERC ¶ 61,093 at P 35 (internal citations omitted).

⁶ Applicable Reliability Requirements are the standards applied when conducting the Annual Transmission Baseline Assessment and Annual Transmission Reliability Assessment to determine the System Upgrade Facilities needed to maintain the reliability of the New York State Transmission System.

NYSRC's approval. Con Ed also states that EP-7100-5 is an Applicable Reliability Standard under Attachment X,⁷ and that as such, it is reviewed by NYISO rather than NYSRC. Consequently, Con Ed requests that the Commission clarify that its local planning and design criteria is not subject to NYSRC approval, and that these criteria are valid Applicable Reliability Requirements and Applicable Reliability Standards under Attachments S and X.

6. Con Ed explains that NYSRC's Local Reliability Rules are different from a transmission owner's local planning rules and design criteria. Con Ed states that NYSRC's rules address statewide or regional reliability concerns while a transmission owner's local planning and design criteria address reliability concerns specific to the transmission owner. Con Ed states that a transmission owner's local planning and design criteria do not need to be approved by NYSRC, and are instead included in NYISO's FERC Form No. 715 filing. Con Ed states that NYISO included revised EP-7100-5 in NYISO's April 2008 Form No. 715 filing, and argues that it should be applied to all Attachment S cost allocation assessments that commence after that filing's April 1, 2008 effective date.

7. Con Ed further explains that although a transmission owner's local planning and design criteria are not approved by NYSRC, they are Applicable Reliability Requirements under Attachment S. Con Ed states that Attachment S defines Applicable Reliability Requirements to include "[t]he NYSRC Reliability Rules and other criteria, standards and procedures, as described in Section [IV.G.1.(a)(1)],"⁸ and that Section IV.G.1.(a)(1) specifies that the "local Transmission Owner criteria included in FERC Form No. 715" constitute Applicable Reliability Requirements.⁹

8. Con Ed also claims that EP-7100-5 is an Applicable Reliability Standard under Attachment X of NYISO's OATT. Con Ed states that Attachment X defines Applicable Reliability Standards to include "the requirements and guidelines of the . . . Transmission District [] to which the Developer's Large Facility is directly interconnected."¹⁰ Con Ed

⁷ Applicable Reliability Standards are the standards to be used in reviewing interconnection requests and are considered in NYISO's Feasibility and System Reliability Impact Studies.

⁸ New York Independent System Operator, Inc., FERC Electric Tariff, Original Volume No.1, Attachment S, Fourth Revised Sheet No. 655. In its request for clarification, Con Ed states that it has been advised by NYISO that this provision incorrectly references section IV.F.1.(a)(1) rather than section IV.G.1.(a)(1).

⁹ *Id.* at Original Sheet No. 664A-Second Revised Sheet No. 665.

¹⁰ *Id.* at Attachment X, First Revised Sheet No. 741.

argues that these guidelines are subject to approval by NYISO and must be posted on its website, and do not have to be approved by NYSRC.

III. Commission Determination

9. We clarify that in paragraph 35 of the April Order the Commission did not intend to imply that EP-7100-5 is a NYSRC Local Reliability Rule, or that it fails to qualify as an Applicable Reliability Requirement or Applicable Reliability Standard.

10. We agree with Con Ed that EP-7100-5 is an example of the “local Transmission Owner criteria included in FERC Form No. 715” that may constitute an Applicable Reliability Requirement under Attachment S, and that like other such criteria, is not subject to NYRSC approval. We also agree that EP-7100-5 is an example of “the requirements and guidelines of the . . . Transmission District” that may constitute an Applicable Reliability Standard under Attachment X, and that like other such requirements and guidelines, it has only to be reviewed by NYISO and posted on its website rather than approved by NYSRC. Accordingly, we grant Con Ed’s request for clarification.

The Commission orders:

Con Ed’s petition for clarification is hereby granted.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.