

139 FERC ¶ 61,180
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 5, 2012

New York Independent System
Operator, Inc.,
New York Power Authority, and
Consolidated Edison Company of
New York, Inc.
Docket No. ER12-1624-000

New York Power Authority
Attn: Andrew F. Neuman, Special Counsel
123 Main Street
White Plains, NY 10601

Consolidated Edison Company of New York, Inc.
Attn: Marc Richter, Vice President
4 Irving Place, Room 1815-S
New York, NY 10003

Dear Messrs. Neuman and Richter:

1. On April 26, 2012, the New York Independent System Operator, Inc. (NYISO), the New York Power Authority (NYPA), and Consolidated Edison Company of New York, Inc. (Con Edison) (jointly, Applicants) filed an executed Interconnection Agreement (Agreement) between NYPA and Con Edison.¹ They state that the Agreement provides for an additional interconnection between NYPA's Astoria Annex substation and Con Edison's Astoria East substation. They further explain that the Agreement is necessitated by the decision of Astoria Generating Company, L.P. to mothball its No. 2 generator² effective June 11, 2012, and by the long-term outage of the

¹ Service Agreement No. 1873 under NYISO's Open Access Transmission Tariff (OATT).

² The No. 2 generator is a 180 MW (name plate) gas-fired steam unit, which was first operational in 1954, mothballed in 1993, and subsequently restored to operation in 2001.

No. 4 generator at the Astoria Generating Station in Queens, New York, which they indicate would cause localized reliability deficiencies for two transmission load areas in Queens, New York, commencing in the summer of 2012.³ They also request waiver of the 60-day prior notice requirement to allow an effective date of May 1, 2012, for the Agreement. For the reasons discussed below, the Commission grants waiver of the 60-day prior notice requirement and accepts the Agreement for filing, effective May 1, 2012, as requested.

2. The Applicants propose a new transmission tie between the Astoria Annex and the Astoria East substations as a solution for the reliability deficiencies resulting from the mothballing of the Astoria No. 2 generator and the unavailability of Astoria No. 4, which will require the construction within the Astoria Annex substation of system upgrade facilities (e.g., relay equipment and an extension of the gas-insulated bus). The Applicants state that Con Edison will design, procure, and construct those facilities at its own cost; NYPA will own the system upgrade facilities within its Astoria Annex substation.

3. The proposed Agreement includes a number of material deviations from the *pro forma* Large Generator Interconnection Agreement (LGIA) in Attachment X of the NYISO OATT, which principally reflect the fact that the Agreement relates to a transmission rather than a generation project. The Applicants state that the proposed Agreement is similar to the recently approved Hudson Transmission Partners (HTP) interconnection agreement.⁴ The Applicants also state that the Commission has accepted changes to the *pro forma* LGIA terms where, as here, there are unique circumstances associated with the interconnections, including “reliability concerns, novel legal issues or other unique factors.”⁵

4. Notice of the filing was published in the *Federal Register*, 77 Fed. Reg. 27,043 (2012), with interventions and protests due on or before May 17, 2012. Subsequently, Con Edison filed a motion to shorten the comment period to May 7, 2012, and requested expedited action. On May 8, 2012, the same date the original notice was published, the Commission issued an errata notice shortening the comment deadline to May 11, 2012.

³ The deficiencies result from a second contingency design and operating requirement, which is a local reliability requirement established by the Reliability Rules of the New York State Reliability Council and the New York Public Service Commission’s regulations.

⁴ Transmittal Letter at 4 (citing *N.Y. Indep. Sys. Operator, Inc.*, 135 FERC ¶ 61,264 (2011)).

⁵ *Id.* at 4-5 (citing and quoting *PJM Interconnection, LLC*, 111 FERC ¶ 61,163, at PP 10-11, *reh’g denied*, 112 FERC ¶ 61,282 (2005)).

5. Astoria Generating Company, L.P. (Astoria) and Champlain Hudson Power Express, Inc. timely filed motions to intervene. Astoria submitted comments to clarify that the April 26, 2012 filing only relates to an interconnection with NYPA's Astoria Annex substation and that acceptance of the April 26 filing will not affect Astoria's interconnection rights at Con Edison's Astoria East substation. Astoria supports the April 26, 2012 filing and request for expedited action. NYISO submitted an answer in support of Con Edison's May 2, 2012 motion for a shortened comment period and request for expedited action. The NRG Companies⁶ filed a motion to intervene and a limited protest, discussed below. Pursuant to Rule 214 (18 C.F.R. § 385.214 (2011)), the unopposed, timely filed motions to intervene serve to make the entities that filed them parties to this proceeding.

6. The NRG Companies do not protest allowing the proposed new transmission tie to go forward to address localized reliability deficiencies. The NRG Companies request, however, that the Commission clarify that for purposes of cost allocation 2012 Class Year participants will be held harmless from any adverse impacts caused by the emergency transmission fix proposed by the parties. The NRG Companies state that requiring this transmission project to follow the established cost allocation rules is important because Con Edison and NYPA propose to use headroom on the existing transmission system in order to interconnect the new tie line to the Astoria Annex substation. The NRG Companies explain that, if the Commission were to allow Con Edison to bypass the existing cost allocation procedures, Con Edison could utilize this existing headroom and require the NRG Companies to pay the cost of an additional breaker (and perhaps significant substation expansions), even though the NRG Companies were first in line to use these spare facilities.

7. On May 11, 2012, Con Edison submitted a letter to the Commission stating that it believes it is necessary to energize the project prior to the issuance of an order accepting the Agreement, in order to test the equipment and, if necessary, to make any repairs necessary to ensure the new equipment is fully operational for the summer capability period. Con Edison further states that energizing the project now will maintain reliability and better position the company to avoid a loss of load in New York City. Con Edison points out that the NYISO OATT directs parties to interconnection agreements to proceed with their obligations upon signing the agreement, subject to the Commission's acceptance and possible modification of the agreement.⁷

⁶ In this filing the NRG Companies include: NRG Power Marketing LLC, Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Dunkirk Power LLC, Huntley Power LLC, and Oswego Harbor Power LLC.

⁷ Con Edison May 11, 2012 Letter at 2 (citing NYISO OATT, Attachment X, § 30.11.4).

8. On May 15, 2012, Con Edison also submitted a response to the NRG Companies' protest. On May 23, 2012, NYPA likewise submitted an answer. And on May 24, 2012, Con Edison filed another answer. The NRG Companies followed with another answer on May 30, 2012. On May 31, 2012, NYISO submitted an answer to the NRG Companies' protest and answer. Rule 213(a)(2) of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.213(a)(2) (2011), prohibits an answer to a protest unless otherwise ordered by the decisional authority. We are not persuaded to accept Con Edison's, NYPA's, the NRG Companies', or NYISO's answers and will, therefore, reject them.

9. The Commission grants waiver of the 60-day notice requirement and accepts the proposed Agreement between NYPA and Con Edison, effective May 1, 2012, as requested. The Agreement reflects a limited set of modifications to NYISO's *pro forma* LGIA. As the Commission has stated, the Commission may accept deviations from *pro forma* interconnection agreements as "may be necessary for a small number of interconnections with specific reliability concerns, novel legal issues, or other unique factors"⁸ However, a transmission provider seeking such deviations "bears a high burden to justify and explain that its changes are not merely 'consistent with or superior to' the *pro forma* agreement, but are necessary changes."⁹ In this instance, we find that the proposed non-conforming provisions of the Agreement are necessary changes to NYISO's *pro forma* LGIA, given that the proposed Agreement relates to a transmission facility rather than a generating facility, and, we note, no party objected to the deviations.

10. Con Edison states that it will, at its sole expense, construct, own, and operate the new transmission tie, which is approximately two thousand feet long. Section 3.7 of NYISO's OATT states that nothing in the tariff precludes a Transmission Owner from proposing and constructing a transmission facility in the public interest in accordance with all applicable regulatory requirements.¹⁰ The proposed interconnection between NYPA's Astoria Annex substation and Con Edison's Astoria East substation will address and alleviate localized reliability deficiencies due to the loss of the 180 MW unit at the Astoria Generating Station. These reliability deficiencies result from the system's second contingency design and operating requirement established by the Reliability Rules of the New York State Reliability Council and the New York Public Service Commission's regulations; thus, we find this proposed transmission facility solution to be in the public interest.

⁸ See *Midwest Indep. Transmission Sys. Operator, Inc.*, 111 FERC ¶ 61,421, at PP 11-12 (2005); see also *Southwest Power Pool, Inc.*, 132 FERC ¶ 61,062, at P 3 (2010) (*Southwest Power*).

⁹ *Southwest Power*, 132 FERC ¶ 61,062 at P 3.

¹⁰ NYISO OATT § 3.7.

11. While the NRG Companies' protest raises a specific concern about cost allocation, nothing in the Agreement purports to modify or waive NYISO's existing cost allocation procedures for interconnection. Consequently, any claims of adverse impact on 2012 Class Year participants' cost allocation process associated with this project are beyond the scope of this proceeding.

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.