154 FERC ¶ 61,218
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Norman C. Bay, Chairman;
Cheryl A. LaFleur, Tony Clark,
and Colette D. Honorable.

Caithness Long Island II, LLC

v.

New York Independent System Operator, Inc. Docket No. EL15-84-001

ORDER DENYING REHEARING

(Issued March 17, 2016)

1. On October 28, 2015, the Long Island Power Authority and its wholly-owned subsidiary Long Island Lighting Company d/b/a Power Supply Long Island (collectively, LIPA) requested rehearing of the Commission's September 30, 2015 order[1] granting the complaint filed by Caithness Long Island II, LLC (Caithness) against the New York Independent System Operator, Inc. (NYISO) in the above-captioned proceeding. As discussed below, we deny LIPA's request for rehearing.

I. Background

2. Caithness is the developer of a 750-MW natural-gas fired, combined-cycle generating facility proposed to be built on Long Island in Brookhaven, New York (Caithness II Project). The Caithness II Project is a NYISO Class Year 2015 project and is currently being studied as part of the 2015 Class Year Interconnection Facilities

[1] *Caithness Long Island II, LLC v. N. Y. Indep. Sys. Operator, Inc,* 152 FERC ¶ 61,246 (2015) (September 2015 Order).

Study.[2] The proposed point of interconnection is at LIPA Sills Road 138 kV substation, therefore LIPA is the Connecting Transmission Owner.[3] Caithness is the owner of an existing 350-MW gas-fired power plant on Long Island that entered commercial operation in August 2009.

3. On July 10, 2015, Caithness filed a complaint, pursuant to section 206 of the Federal Power Act (FPA), against NYISO, alleging that NYISO's application of a local reliability requirement would violate its Open Access Transmission Tariff (OATT) and Order No. 2003.[4] Specifically, Caithness sought to prevent NYISO from applying the Long Island Local Reliability Interface Transfer Capability Test (Long Island Guideline)

[2] Section 25.1.2 of the OATT defines "Class Year Interconnection Facilities Study" as: "a study conducted by NYISO or a third party consultant for the Developer to determine a list of facilities (including Connecting Transmission Owner's Attachment Facilities, Distribution Upgrades, System Upgrade Facilities and System Deliverability Upgrades as identified in the Interconnection System Reliability Impact Study), the cost of those facilities, and the time required to interconnect the Large Generating Facility or Merchant Transmission Facility with the New York State Transmission System or with the Distribution System. The scope of the study is defined in Section 30.8 of the Standard Large Facility Interconnection Procedures." NYISO OATT, Attachment S Rules to Allocate Responsibility for the Cost of New Interconnection Facilities (Attachment S), 25.1 Introduction (2.0.0), § 25.1.2.

[3] Section 25.1.2 of the OATT defines "Connecting Transmission Owner" as: "The New York public utility or authority (or its designated agent) that (i) owns facilities used for the transmission of Energy in interstate commerce and provides Transmission Service under the Tariff, (ii) owns, leases or otherwise possesses an interest in the portion of the New York State Transmission System or Distribution System at the Point of Interconnection, and (iii) is a Party to the Standard Large Interconnection Agreement." NYISO OATT, Attachment S, § 25.1.2.

[4] *Standardization of Generator Interconnection Agreements and Procedures*, Order No. 2003, FERC Stats. & Regs. ¶ 31,146 (2003), *order on reh'g*, Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160, *order on reh'g*, Order No. 2003-B, FERC Stats. & Regs. ¶ 31,171 (2004), *order on reh'g*, Order No. 2003-C, FERC Stats. & Regs. ¶ 31,190 (2005), *aff'd sub nom. Nat'l Ass'n of Regulatory Util. Comm'rs v. FERC*, 475 F.3d 1277 (D.C. Cir. 2007), *cert. denied*, 552 U.S. 1230 (2008).

to identify System Upgrade Facilities[5] required as part of the 2015 Class Year Interconnection Facilities Study process, regarding Caithness' request for Energy Resource Interconnection Service (ERIS). Caithness argued, *inter alia*, that the Long Island Guideline contains a deliverability test that dispatches all resources in the electrical area of the proposed interconnection at their capacity levels adjusting for forced outages to determine that the interconnecting resource and all existing capacity resources will be simultaneously deliverable so capacity is not bottled behind a transmission constraint.[6] Caithness asserted that applying the Long Island Guideline to its application for ERIS violates the NYISO OATT because ERIS must satisfy the NYISO Minimum Interconnection Standard[7] which does not permit any deliverability test or requirement.[8] Moreover, Caithness argued that, in requiring energy-only projects to pay for upgrades necessary to satisfy deliverability, the Long Island Guideline effectively eliminates ERIS interconnection service required by the Commission in Order No. 2003.[9]

---

[5] Section 25.1.2 of the OATT defines "System Upgrade Facilities" as: "The least costly configuration of commercially available components of electrical equipment that can be used, consistent with Good Utility Practice and Applicable Reliability Requirements, to make the modifications to the existing transmission system that are required to maintain system reliability due to: (i) changes in the system, including such changes as load growth, and changes in load pattern, to be addressed in accordance with Section 25.4.1 of this Attachment S; and (ii) proposed interconnections. In the case of proposed interconnection projects, System Upgrade Facilities are the modifications or additions to the existing New York State Transmission System that are required for the proposed project to connect reliably to the system in a manner that meets the NYISO Minimum Interconnection Standard." NYISO OATT, Attachment S, § 25.1.2.

[6] Caithness July 10, 2015 Complaint at 14-16.

[7] Section 25.1.2 of the OATT defines "NYISO Minimum Interconnection Standard" as: "The reliability standard that must be met by any generation project or merchant transmission project, under these rules, proposing to connect to the New York State Transmission System or to the Distribution System. The Standard is designed to ensure reliable access by the proposed project to the New York State Transmission System or to the Distribution System, as applicable. The Standard does not impose any deliverability test or deliverability requirement on the proposed project." NYISO OATT, Attachment S, § 25.1.2.

[8] Caithness July 10, 2015 Complaint at 2, 7.

[9] *Id*. at 13-14, 16.

4. On September 30, 2015, the Commission granted the complaint. The Commission held that the Long Island Guideline constitutes a deliverability test and that using it to identify System Upgrade Facilities for projects seeking ERIS violates Order No. 2003 and the NYISO OATT.[10] Therefore, the Commission found that it would be impermissible for NYISO to apply the Long Island Guideline as an Applicable Reliability Standard[11] to projects requesting ERIS.[12]

5. The Commission stated that, under Order No. 2003-A, only the interconnection customer seeking Network Resource Interconnection Service is required to satisfy a deliverability test that ensures that the interconnection customer, along with other facilities in the area, can be operated simultaneously and that no capacity is bottled.[13] The Commission found that essentially, that is what the Long Island Guideline requires because it specifically states that it ensures "no bottling" and allows "the output of all resources in one load center to be transferred to the adjacent load center."[14] The Commission also found that imposing a deliverability requirement on the energy-only interconnection conflicts with Order No. 2003's requirement to offer two separate levels of interconnection service.[15]

6. The Commission also found that allowing NYISO to implement the Long Island Guideline on projects seeking ERIS is impermissible because it creates a conflict with the

---

[10] September 2015 Order, 152 FERC ¶61,246 at P 49.

[11] Section 30.1 of the OATT defines "Applicable Reliability Standards" as: "the requirements and guidelines of the Applicable Reliability Councils, and the Transmission District, to which the Developer's Large Facility is directly interconnected, as those requirements and guidelines are amended and modified and in effect from time to time; provided that no Party shall waive its right to challenge the applicability or validity of any requirement or guideline as applied to it in the context of the Large Facility Interconnection Procedures." NYISO OATT, Attachment X, 30.1 Definitions (4.0.0).

[12] September 2015 Order, 152 FERC ¶ 61,246 at P 55.

[13] *Id*. P 50 (citing Order No. 2003-A, FERC Stats. & Regs. ¶ 31,160 at P 531).

[14] *Id*. (citing Long Island Guideline at 4).

[15] Under Order No. 2003, transmission providers are required to offer two separate levels of interconnection service: one "basic or minimal interconnection service, and one which is a more flexible and comprehensive interconnection service for resources that seek to be designated network resources or capacity resources. Order No. 2003, FERC Stats. & Regs. ¶ 31,146 at PP 329, 752.

NYISO OATT. For instance, the Commission stated that, though LIPA and NYISO asserted that the Long Island Guideline is intended to be performed in conjunction with the NYISO Minimum Interconnection Standard,[16] the NYISO Minimum Interconnection Standard "does not impose any deliverability test or deliverability requirement on the proposed project."[17] Moreover, the Commission noted that the NYISO OATT provides that the NYISO Minimum Interconnection Standard is not intended to address, in any way, the allocation of responsibility for the cost of upgrades and other new facilities associated with transmission service and the delivery of power across the transmission system, the reduction of congestion, economic transmission system upgrades, or the mitigation of transmission system overloads associated with the delivery of power.[18] The Commission found that these are the very requirements imposed by the Long Island Guideline. The Commission additionally found that NYISO's implementation of the Long Island Guideline also violates certain OATT provisions governing System Upgrade Facilities because the Long Island Guideline contains a deliverability requirement.[19]

7. On October 28, 2015, LIPA filed a request for rehearing of the September 2015 Order.

II. Request for Rehearing of the September 2015 Order

8. LIPA asserts that the Commission erred in the September 2015 Order by not addressing its request in its August 10, 2015 comments that if the Commission granted Caithness' complaint, the Commission should also order that NYISO's 2015 Class Year Deliverability Test be modified to incorporate the Long Island Guideline.[20] LIPA asserts that, without such a change to NYISO's Deliverability Test, the NYISO Tariff would be rendered unjust and unreasonable because it would inhibit the full and reliable delivery of capacity.[21]

---

[16] Long Island Guideline at 2.

[17] September 2015 Order, 152 FERC ¶ 61,246 at P 52 (citing NYISO OATT, Attachment S, § 25.1.2).

[18] *Id*. (citing NYISO OATT, Attachment S, § 25.2.1.1.1).

[19] *Id*. P 54.

[20] LIPA October 28, 2015 Rehearing Request at 1 (citing LIPA August 10, 2015 Comments at 22).

[21] *Id*. at 3, 5.

9. LIPA contends that, if System Upgrade Facilities identified under the Long Island Guideline are not required to be built under NYISO's Deliverability Test, the reliability issues on Long Island could go unaddressed.[22] LIPA reiterates the point that it raised in its August 15, 2015 comments that the NYISO Minimum Interconnection Standard takes into account the loss of a double circuit tower on facilities under its control, but does not address "bottling" of capacity or take into account the loss of a double circuit tower on local transmission facilities.[23] LIPA asserts that these analyses are part of the Long Island Guideline but they are not conducted under NYISO's 2015 Class Year Deliverability Test. LIPA notes that had the Commission accepted NYISO's treatment of the Long Island Guideline as an Applicable Reliability Standard, these analyses would have been required by the Minimum Interconnection Standard process. Instead, by ruling that the Long Island Guideline was a deliverability test and not an Applicable Reliability Standard, LIPA contends that the Commission effectively invalidated the application of the Long Island Guideline in its entirety.[24] Thus, according to LIPA, the Commission's holding in the September 2015 Order created a gap that should now be filled with the tariff change it requested in its comments.[25] LIPA argues that if Caithness interconnects as a capacity resource and there is an outage of Long Island's central double circuit during a peak period when Caithness is operating at full output, the transmission system will not be able to accommodate the transfer of operating reserves located east of Holbrook without a potential overload of 138 kV and local 69 kV facilities.[26] According to LIPA, incorporating the Long Island Guideline into NYISO's Deliverability Test would address this reliability issue.

10. Additionally, LIPA alleges that Caithness has indicated to NYISO that it intends to seek interconnection as a capacity resource and asserts that, if Caithness were to do so, without the tariff changes requested herein, Caithness would be allowed to connect as a capacity resource without the full transmission upgrades needed to preserve the current deliverability of Long Island generation east of Holbrook.[27]

---

[22] *Id*. at 4.

[23] *Id*. at 2 (citing August 10, 2015 Corey Aff . ¶ 23; August 10, 2015 Dahl Aff. at ¶ 11, ¶ 48).

[24] *Id*. at 2-3.

[25] *Id*. at 4 (citing August 10, 2015 Dahl Statement, ¶ ¶ 7-13); *id*. at 5.

[26] *Id*. at 4.

[27] *Id*. at 5.

III. Discussion

A. Procedural Matters

11. On November 13, 2015, Caithness and Independent Power Producers of New York, Inc. (IPPNY) jointly filed an answer to LIPA's rehearing request. On November 18, 2015, LIPA filed an answer.

12. Rule 713(d) of the Commission's Rules of Practice and Procedure[28] prohibits an answer to a request for rehearing. Accordingly, we reject the answers of Caithness and IPPNY, and LIPA to the request for rehearing filed in this proceeding.

B. Commission Determination

13. We find that LIPA's request for rehearing is beyond the scope of the issues raised in Caithness' complaint and, therefore, we deny LIPA's request for rehearing of the September 15 Order.[29] In its request for rehearing, LIPA argues that the Commission erred by not directing NYISO to include the Long Island Guideline in the NYISO Deliverability Test. However, the changes LIPA seeks are neither necessary to grant proper relief on Caithness' complaint, nor supported by LIPA's effort to establish – through a few sentences in its comments rather than a properly filed complaint – that NYISO's existing tariff is unjust and unreasonable without LIPA's requested revisions.[30]

14. We disagree with LIPA's contention that the Commission invalidated the Long Island Guideline entirely by ruling that the Guideline is a deliverability test and not an

---

[28] 18 C.F.R. § 385.713(d)(1) (2015).

[29] *See Consol. Edison Co. of N.Y., Inc.*, 152 FERC ¶ 61,110, at P 48 (2015) (finding the request for rehearing constituted an inquisition into buyer side market power mitigation and exemptions from minimum offer price rules in general to be beyond the scope of the proceeding because the proceeding was limited to the competitive entry exemption and its related provisions); *Cities of Anaheim, Azusa, Banning, Colton, and Riverside, California v. California Independent System Operator Corp.*, 95 FERC ¶ 61,197, at 61,687 (2001) (rejecting assertions in the rehearing request involving dates that were beyond the scope of the period encompassed in the underlying complaint).

[30] Thus, this case is distinguishable from *Consolidated Edison Co. of N.Y., Inc. v. N. Y. Indep. Sys. Operator, Inc.*, 150 FERC ¶ 61,139, at P 53 (2015), relied upon by LIPA for the proposition that the Commission has recognized that changes to a tariff ordered under FPA section 206 in response to a complaint may require other changes to the tariff. *See* LIPA October 28, 2015 Rehearing Request at 6-7.

Applicable Reliability Standard. LIPA misconstrues the Commission's ruling in the September 2015 Order. As noted above, Caithness' Complaint concerned, and the Commission addressed, NYISO's application of the Long Island Guideline to Caithness' request for ERIS. The Commission found that it would be impermissible for NYISO to implement the Long Island Guideline to projects seeking ERIS because the Long Island Guideline contained a delivery test.[31] The Commission concluded that allowing NYISO to implement the Long Island Guideline as an Applicable Reliability Standard to apply it as part of the Minimum Interconnection Standard Process for ERIS projects would be inconsistent with Order No. 2003 and the NYISO OATT.[32] Contrary to LIPA's assertions, the Commission did not make any determination as to whether the Long Island Guideline could or could not be used as an Applicable Reliability Standard for Capacity Resource Interconnection Service (CRIS), as Caithness' complaint involved ERIS and not CRIS. Based upon the foregoing, we deny LIPA's request for rehearing.

The Commission orders:

LIPA's request for rehearing is hereby denied, as discussed in the body of this order.

By the Commission.

(S E A L)

Nathaniel J. Davis, Sr.,
Deputy Secretary.

[31] September 2015 Order, 152 FERC ¶ 61,246 at P 52.

[32] *Id*. P 49.