

Con Edison Transmission, Clean Link New Jersey Project - Proposal 990

June 10, 2022

**VIA ELECTRONIC DELIVERY**

Ms. Carmen Diaz  
Acting Secretary Board  
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Phone: 609-292-1599  
Email: [board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

**RE: In the Matter of Declaring Transmission to Support Offshore Wind a Public Policy of the State Of New Jersey – State Agreement Approach Clarifying Questions Set 1  
Docket No. QO20100630**

**CON EDISON TRANSMISSION RESPONSES TO STATE AGREEMENT APPROACH  
CLARIFYING QUESTIONS SET 1**

Dear Acting Secretary Diaz:

Con Edison Transmission, Inc. (“CET”), d/b/a Clean Link New Jersey, LLC, the developer of the Clean Link New Jersey Project, submits the attached redacted responses to the New Jersey Board of Public Utilities’ (“the Board”) clarifying questions in response to the Notice dated May 27, 2022 for the above referenced matter.

Please contact the undersigned if you have any questions.

Respectfully submitted,  
/s/ Marie Berninger

Marie Berninger  
Director

**CON EDISON TRANSMISSION RESPONSES TO STATE AGREEMENT APPROACH  
CLARIFYING QUESTIONS SET 1****Ratepayer Cost Impacts**

- 1. Please discuss any options you have considered to make some, or part, of the project eligible for the current federal investment tax credit that is accessible to qualified offshore wind generation projects. Have you considered options for accessing beneficial tax treatment through a sale/lease back or other financial structuring options? If so, please provide specific details on your analysis, how you intend to pursue the tax credits, and any other matters that Board Staff should consider.**
  - a. We have reviewed current federal investment tax credits and determined that they do not apply to electric transmission projects. We gather there is a potential through other commercial structures like those suggested where beneficial tax treatment could apply to a combined offshore wind and transmission project, but we expect this would be challenging and the outcome uncertain. We have not yet explored such arrangements but are open to discussing possibilities with the NJ BPU and potential offshore wind generation developers. We caution the BPU that this approach will take time and add complexity to the process, and that its success is uncertain at best.
  
- 2. REDACTED**
  
- 3. Do you intend to review and discuss your proposed rate and FPA Section 205 filings with the NJ BPU prior to submitting those proposals with either PJM or FERC? In connection with the foregoing, are you willing to provide the NJ BPU an opportunity to give feedback prior to your making any FERC filing on this matter?**
  - a. Yes, we would welcome the opportunity to review both filings with NJBPU prior to submitting both proposals and appreciate the opportunity to consider feedback. In fact, we typically follow such a pre-filing process with state and federal regulators as well as other key stakeholders.
  
- 4. Do you intend to provide the NJ BPU the opportunity to monitor compliance with the selected cost containment and schedule guarantees that would be incorporated in a Designated Entity Agreement (“DEA”) with PJM? With respect to the DEA, do you intend to provide the NJ BPU an opportunity to present concerns or ask clarifying questions related to your proposed Schedule E terms before they are presented to PJM?**
  - a. Yes, we can provide the NJ BPU the opportunity to review compliance with the cost containment and schedule guarantees incorporated in the Designated Entity Agreement (DEA) with PJM. In October 2021, Con Edison Transmission, Inc. received approval for Pre-Qualification for Designated Entity status in PJM. If Clean Link New Jersey is selected, we will work with PJM to sign all necessary agreements associated with the DEA. We will provide an opportunity for the NJBPU to present concerns or ask clarifying questions related to proposed Schedule E terms before they are presented to PJM.
  
- 5. Please indicate whether you have had, or anticipate having, any discussions with the Department of Energy Loan Programs Office (LPO) regarding obtaining support from the LPO for your proposed project(s). If so, please provide an overview of the discussions you have had with the LPO, whether you have filed an initial application with the DOE, or whether you intend to do so.**
  - a. Clean Link New Jersey is actively engaged in these matters and will be open and transparent regarding how such lower costs could be passed onto customers. The DOE (“Loan Programs Office” or “LPO”) administers several programs that can provide loan guarantees to help

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deploy large-scale energy infrastructure projects in the United States, some of which have already been utilized for the construction of new transmission facilities. Under the Title 17 Innovative Energy Loan Guarantee Program, the DOE is authorized to provide loan guarantees to projects that will expand and improve the transmission grid. Through these programs, the LPO can offer borrowers access to debt capital, flexible financing customized for the specific needs of borrowers, and valuable expertise in energy infrastructure project development. The LPO can also reduce the risk of investment in long-distance transmission projects by providing financing support for projects that analysis shows are likely to support repayment of the loan.

Clean Link New Jersey will continue meet with LPO to evaluate opportunities as the program and our project evolves. If selected, Clean Link New Jersey would look to seek a loan guarantee under the Title 17 Innovative Energy Loan Guarantee Program if it was clear that there is a cost benefit to customers in doing so. The DOE LPO would evaluate the project for factors such as project risk allocation, creditworthiness, technical relevance and merit, technical approach, work plan, construction plan, and legal, environmental, and regulatory factors. While Clean Link New Jersey, as the project sponsor, would be responsible for demonstrating to the DOE LPO that the project meets the eligibility criteria and working with the DOE LPO through the diligence process, the Board could play a significant role in providing information to the DOE LPO regarding the project selection purpose and how the project will satisfy the DOE LPO's financial, credit, legal, environmental, market expectations.

6. **Please discuss any efforts to access non-tax federal support for your project, including, but not limited to, funding from the Department of Energy's Transmission Facilitation Program, other Infrastructure Investment and Jobs Act funding, or other sources of potential support. Would you anticipate filing such a request or would you expect New Jersey to seek any available support?**
  - a. Clean Link New Jersey acknowledges and appreciates the federal funding opportunities that would support transmission projects developed under the State Agreement Approach ("SAA") solicitation. The allocation of these federal funding opportunities relies heavily on the successful coordination the Board and the Department of Energy ("DOE") to align the timing of efforts. Further guidance and solicitations regarding these new DOE programs are still forthcoming. Clean Link New Jersey is actively following these and other federal funding opportunities that may be able to support new offshore transmission connection facilities and could potentially lower the overall cost of our proposed project to New Jersey electric customers. As more information on these funding opportunities becomes available, Clean Link New Jersey will evaluate pursuing funding opportunities in coordination with the state and other stakeholders if there is a material benefit to customers.
  
7. **Do you commit to "flow through" to New Jersey ratepayers any economic benefits that may be received from DOE or other federal funding sources? If so, please provide specific details on the manner in which this would be accomplished. If you are electing to keep the economic benefit of any federal support, please so specify and address any impact on your bid.**
  - a. Clean Link New Jersey will share economic benefits that could result from DOE or other federal funding sources. We continue to monitor the details of expected programs to determine the requirements and fit with our project with these opportunities. As is the case with participating in these programs we expect that there are meaningful administrative costs to participate in these programs that would need to be covered as part of providing these benefits to customers.

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The FERC formula rate structure will provide for a pass-through of these savings. In this structure, savings are captured and treated as a straight pass through to customers; these would be disclosed in the formula rate revenue requirement worksheet which is updated annually.

**8. Please discuss any potential impacts on your project and bid if federal support were made available through DOE's Transmission Facilitation Program in the form of a purchase of transmission capacity, which would then be made available for resale by DOE at a future time.**

- a. Our understanding is that in order to take advantage of the DOE's Transmission Facilitation Program, the PJM/NJBPU solicitation would have to adjust its commercial arrangement to a capacity contract as opposed to a FERC formula rate. Naturally, the impact to the project proposal would depend on the commercial terms of such a capacity contract. In order to provide more specifics about those changes, the DOE program first needs to be established so we can better understand the parameters, as would the framework of PJM/NJBPU's changed commercial structure.

Our recommendation is that we do not believe this type of support is worth pursuing for New Jersey's customers. First, the commercial structure through a FERC formula rate is the most cost effective for customers, allowing for cost recovery over the long-life of transmission assets and is relatively simple and predictable, which reduces risk for development and ultimately a lower cost to customers. Second, the DOE is only contemplating capacity contracts for up to 50% of the transmission capacity, and perhaps not for the long term, so New Jersey would be required to establish offtake contracts for the second 50%. This could be directly with a New Jersey state agency, or PJM if its tariffs allow it, but this may require additional complex and uncertain regulatory steps to establish the cost recovery framework, which would only add cost to the process. We do not believe CLNJ would be able to mix and match capacity contracts and a formula rate, it would be one model or the other, and we think it would be unprecedented to use a formula rate as a backstop in case capacity contracts fell away. Also, at the time permanent financing is sought for a project, certainty of revenue is a key component to determine the financing costs. Introducing regulatory uncertainty or untested revenue recovery mechanisms would likely result in higher financing costs. Finally, we see limited value in changing the commercial structure as the forthcoming DOE program is more like a loan rather than a grant and may be further complicated in the future when the DOE desires to sell its capacity to unknown entities. We are actively advocating with the DOE to expand its application of this funds to better fit the New Jersey SAA process. However, the DOE program does contemplate providing loan guarantees at some point in the future. If loan guarantees became available and they reduced the cost of financing our project, CET would vigorously pursue such opportunity and pass those savings on to ratepayers.

**9. Could the project be structured as a sale of transmission capacity, where such capacity sales would be backed by a ratepayer-backed purchase of all available capacity? What would be the pros and cons of such an approach?**

- a. This question builds on number 8. We think the key benefit of such a model could be to allocate costs to voluntary entities (i.e., industrial, municipal or commercial customers or offshore wind generators) in order to shift cost to those who choose to bear the costs of the clean energy goals, reducing the amount of costs that are paid broadly by New Jersey customers. Indeed, this is a possible outcome of utilizing this alternative commercial structure, possibly facilitated by the DOE Transmission Facilitation Program. As in question 8, we suggest the NJ BPU weigh the complexity and risk introduced by this approach with the possible benefit.

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Capacity contracts with other offtake entities introduce counterparty credit risk that isn't accounted for in the regulated cost recovery model and adds to overall cost. Backstop cost recovery by rate payers can mitigate this risk, but it is unclear how that can be done. Moreover, off takers typically commit only to shorter terms which adds additional risk and cost and is why merchant transmission projects are challenging and have not been done with any frequency, high cost or volume.

As the BPU has already noted, it is crucial that the selected transmission solution be constructed on schedule in advance to meet the OSW generation needs. Shifting to a new commercial structure with the complex elements suggested in this question will slow the process and could put the state's goals and timing in jeopardy.

Nevertheless, Clean Link New Jersey open to further discussions on the pros and cons of this approach if the BPU wishes to explore further.

### **Project Design**

**10. Has your offshore platform been designed with sufficient space and equipment for future interconnection with other offshore platforms as a part of an offshore transmission network?**

- a. Yes, our offshore platforms are designed with sufficient space and equipment for future interconnection with other offshore platforms as a part of an offshore transmission network. This depends on the final power and voltage ratings required for the offshore connections to a future offshore network. Our provision is for 66kV AC connections, the use of higher voltages would require more space.

**11. Please clarify the offshore locations in which you proposed to build your offshore converter stations.**

- a. Clean Link New Jersey has proposed default locations for the offshore converter stations that are beyond the line of sight to the shoreline and are near the lease areas. However, the ultimate location can be optimized for cost with the identified wind leaseholds supplying to the Clean Link New Jersey lines. We understand that there may be a need to relocate our proposed offshore converter station platforms depending on the actual location of the potential wind farms or the greater solution being considered by the NJBPU and PJM.

**12. REDACTED**

**13. If you are able to locate offshore converter stations based on the location of the offshore wind generation facilities selected by the BPU, please explain how you would propose to approach identifying the location of the offshore platforms with OSW generation developers that would result in lowest cost to New Jersey ratepayers and reduce project-on-project risk for delivering the offshore wind generation.**

- a. Yes. Our approach would be to work with selected offshore wind generators to optimize the location, with the ultimate goal of minimizing the overall customer cost. This would include an evaluation of the marine environment to quantify the required platform design parameters at each proposed location and optimizing the cable routing from the refined platform locations to landfall. We would optimize the transmission and generation costs to create lowest overall

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solution cost for the customer.

14. **REDACTED**

15. **REDACTED**

**Siting/Permitting**

16. **REDACTED**

17. **REDACTED**

18. **REDACTED**

19. **REDACTED**

20. **REDACTED**

**Project Schedule**

**21. Offshore wind developers have identified schedule risk as the primary concern for selecting offshore transmission facilities via the SAA. Please explain how your proposed schedule will ensure offshore wind generation facilities will be able to meet their construction schedule and projected in-service date for each solicitation, and the need for electricity back-feed 12 to 15 months prior to its in-service date.**

- a. Clean Link New Jersey will collaborate with offshore wind generation developers to verify that our project will meet reasonable schedule timelines.

Our current milestone schedule reflects expected timelines for a project of this magnitude and has certain execution strategy and assumptions. Once wind generators are selected, we will be working closely to understand their needs, including working back from initial energization needs to construction start to best meet requirements. Moreover, we are open to discussing construction partnerships with wind generators and offering them the opportunity to bid for construction work if they would prefer to seek more involvement in construction.

**22. In the absence of a firm schedule commitment, please describe steps taken to ensure schedule coordination with BPU and developer to ensure timely project delivery, OSW generation & energization.**

- a. Clean Link New Jersey's procurement strategy is to select suppliers as early as possible, dependent on staged limited notice to proceed (NTP) or final NTP. Supplier selection will be based on functional performance specifications to ensure that the original equipment manufacturer (OEM) supplier is able to optimize their own internal scope around achieving the schedule, while Clean Link New Jersey ensures that the end-goal performance is satisfied.

The suppliers for the individual equipment item components are based globally and final selection will consider lead time and impact on the overall schedule. This includes placing orders with the suppliers as soon as possible to secure raw materials, production slots, and any

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required factory-acceptance testing. The usual OEM practice is to have a dedicated shipping and logistics team to ensure that the equipment is shipped in time, and as much margin as possible will be incorporated into the schedule to allow for customs inspection at the point of entry to the USA for internationally delivered items. It should be noted that we have experience with other projects regarding delivery of equipment including equipment from overseas during the pandemic.

**23. REDACTED**

**24. REDACTED**

**Project Benefits:**

**25. REDACTED**

**26. REDACTED**

**Cost Containment**

**27. REDACTED**

**28. Please identify whether ConEd intends to adopt the definition of “Force Majeure” in the DEA, or instead proposes to use a different definition (and, if so, please provide that definition).**

- a. We have accepted the definition of Force Majeure in the DEA. We have proposed a cost containment framework that has been used and accepted by FERC in prior projects that Con Edison Transmission and others have used. The cost containment framework includes allowance for other events that are outside force majeure that are discussed in the cost containment proposal.

**29. REDACTED**

**Environmental**

**30. REDACTED**

**31. State-owned lands (Parks, Forests, Wildlife Management Areas): Have you consulted with the Office of Transactions and Public Land Administration on the use of State-owned lands? Does this project include any alternatives that would avoid state lands? If yes, please describe and explain how you will address potential additional impacts on ratepayers should the alternative site make the project costlier. If an alternative is pursued, what (if any) impacts might that decision have on the project schedule?**

- a. Clean Link New Jersey took significant steps to avoid State-owned lands and/or lands encumbered by public rights-of-way or easements. Several alternatives were considered in an effort to avoid and/or minimize impacts to State-owned lands and other sensitive resources. However, with offshore projects, avoidance of state lands entirely is not possible, and each alternative encroaches on state lands to one degree or another. The preferred route limited encroachment upon State-owned lands by optimizing routing within existing utility corridors.

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Clean Link New Jersey will engage the Office of Transactions and Public Land Administration regarding the use of State-owned lands should Clean Link New Jersey be selected as the successful bidder.

**32. REDACTED**

**33. REDACTED**

**34. Maritime Archaeological Resources Assessment (MARA): What are your plans for conducting a MARA and phase 1 cultural resource investigations? If yes, please describe.**

- a. If selected, Clean Link New Jersey will perform these investigations in accordance with BOEM's Guidelines for Providing Archaeological and Historic Property Information Pursuant to 30 CFR Part 585. It is anticipated that an archaeological survey will be designed, with input from a qualified marine archaeologist and specialists in other fields as appropriate. This survey will be conducted within a defined Area of Potential Effect (APE) utilizing both high-resolution geophysical (HRG) survey techniques and geotechnical testing. Further details on this phase of the Project will be developed as offshore routing is further defined.

**35. Federal Agencies: Have you consulted with any federal agencies regarding permits and approvals for the portions of the project located in federal waters? If yes, please describe.**

- a. Clean Link New Jersey has met with the Bureau of Ocean Energy Management (BOEM) and has discussed the requirements and procedures in obtaining appropriate permits and approvals for our project components in Federal waters. We understand that permitting the Project will be a complex process and will involve coordination and consultation with many Federal and State agencies. We have built a team with experience working with BOEM, USACE, NOAA, EPA, NJDEP, etc. If selected, early consultation will be a priority. For the purpose of the bid, we are in communication with the right personnel at BOEM and if selected, we will be implementing the required actions for permits and approvals.