

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

New York Independent System Operator, Inc.                    )                    Docket No. EL07-39-000

**MOTION TO INTERVENE OF  
THE NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.**

Pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure, 18 C.F.R. 385.212 and 385.214 (2006), and the March 7, 2007 *Notice of Institution of Proceeding and Refund Effective Date*, the New York Independent System Operator, Inc. (“NYISO”) hereby moves to intervene in the above-captioned proceeding.

In support thereof, the NYISO states:

**I.        Communications and Correspondence**

Communications regarding this proceeding should be directed to:

Robert E. Fernandez, General Counsel and Secretary	William F. Young, Esq. <sup>*/</sup>
Elaine D. Robinson, Director of Regulatory Affairs	Michael E. Haddad, Esq.
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**II.        Background**

Attachment H of the NYISO’s Market Administration and Control Area Services Tariff (“Services Tariff”) sets forth market power mitigation measures for sales of Installed Capacity (“ICAP”) by certain generating units located in New York City (“In-

City”) that were divested by the Consolidated Edison Company of New York, Inc. (“ConEd”) as part of New York State’s retail restructuring efforts. The existing In-City ICAP mitigation provisions were approved by the Commission as a result of a filing by ConEd in 1998 in connection with its generation divestiture. On December 22, 2006, the NYISO filed proposed revisions to Attachment H to revise the In-City ICAP mitigation measures, in Docket No. ER07-360-000. The revisions were the result of a joint proposal by ConEd and the New York State Department of Public Service staff that was approved in the NYISO’s stakeholder process.

By order dated March 6, 2007, the Commission rejected the NYISO’s proposed revisions to Attachment H, and instituted an investigation under Section 206 of the Federal Power Act in Docket No. EL07-39-000.<sup>1</sup> The March 7 Order held further hearings in abeyance to give parties a chance to develop a mutually agreeable settlement and, to that end, directed that a settlement judge be appointed.

### **III. Motion to Intervene**

The NYISO is the independent body responsible for providing open access transmission service, maintaining reliability, and administering competitive wholesale markets for electricity, capacity, and ancillary services in New York State. Pursuant to its Commission-approved tariffs, the NYISO is also responsible for administering ICAP auctions, including auctions for ICAP to be supplied to In-City loads. As described above, Attachment H of the NYISO’s Services Tariff establishes market mitigation measures for certain In-City ICAP suppliers.

Because the Section 206 investigation instituted by the Commission, as well as the ordered settlement procedures, specifically involve issues associated with the

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<sup>1</sup> *New York Independent System Operator, Inc.*, 118 FERC ¶ 61,182 at P 17 (2007).

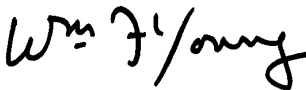
NYISO's In-City ICAP market, the NYISO has a direct and substantial interest that cannot be adequately represented by any other party. Therefore, it should be permitted to intervene and have all the rights of a party.

**III. Conclusion**

WHEREFORE, the New York Independent System Operator, Inc. ("NYISO") respectfully requests that the Commission grant its motion to intervene in the above-captioned proceeding.

Respectfully submitted,

NEW YORK INDEPENDENT  
SYSTEM OPERATOR, INC.

By   
Counsel

Dated: March 20, 2007

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**CERTIFICATE OF SERVICE**

I hereby certify that I have electronically served the foregoing document on the official service list compiled by the Secretary in this proceeding in accordance with 18 C.F.R. § 385.2010 (2006).

Dated at Washington, DC this 20th day of March, 2007.

*/s/ William F. Young*  
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