

**ORIGINAL**

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

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FEDERAL ENERGY  
REGULATORY COMMISSION

**KeySpan Energy Development Corporation,  
KeySpan-Ravenswood, LLC, New York Power  
Authority, Electric Power Supply Association  
and Independent Power Producers of New York, Inc.,  
Complainants,**

**v.**

**New York Independent System Operator, Inc.,  
Respondent**

**Docket No. EL02-125-000**

**PROTEST OF  
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.  
TO COMPLAINANTS' PROHIBITED PLEADING**

The New York Independent System Operator, Inc. ("NYISO") hereby protests<sup>1</sup> the answer filed on October 11, 2002 by the Complainants in response to the NYISO's answer in this proceeding, as filed on September 24, 2002.

**I. Protest of Prohibited Pleading**

Rule 213(a)(2) of the Commission's Rules of Practice and Procedure,<sup>2</sup> and Commission precedent,<sup>3</sup> prohibit answers to answers except when the responsive pleading provides new

<sup>1</sup> The NYISO protests the Complainants' prohibited pleading in accordance with Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission"). See 18 CFR §§ 385.212 and 213 (2001).

<sup>2</sup> See 18 CFR § 213(a)(2) (2001).

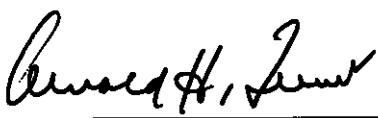
<sup>3</sup> See, e.g., *Morgan Stanley Capital Group, Inc. v. New York Independent System Operator, Inc.*, 93 FERC ¶ 61,017, at 61,036 (accepting an answer that was "helpful in the development of the record . . .") (2000); *New York Independent System Operator, Inc.*, 91 FERC ¶ 61,218 at 61,797 (allowing an answer deemed "useful in addressing the issues arising in these proceedings . . .") (2000); *Central Hudson Gas & Electric Corp.*, 88 FERC ¶ 61,137 at 61,381 (1999) (accepting otherwise prohibited pleadings because they helped to clarify the issues).

information that clarifies issues and further develops the record in the proceeding. The NYISO submits that the Complainants' answer to the NYISO's answer does neither. The Complainants' pleading is essentially a reprise of their earlier complaint. As such, the Complainants' pleading does not satisfy the established criteria for exception from prohibition.

## II. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully submits that the Commission should not accept the Complainants' pleading filed in this proceeding on October 11, 2002.

Respectfully submitted,

By   
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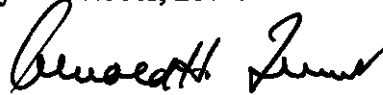
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October 18, 2002

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing has been served upon each person on the official service list for this Docket, in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 CFR § 2010 (2001).

Dated at Washington, D.C. this 18th day of October, 2002.



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