

September 1, 2005

To: NYISO Management Committee

From: Larry DeWitt, Chris Wentlent and Jerry Ancona

Subject: Management Committee process for participating in the selection of new NYISO Board Members

John W. "Bill" Boston, our current NYISO Chairman of the Board, has announced that he will retire from the Board effective April 2006. We all thank Mr. Boston for his distinguished service to the NYISO, both as Chairman since 2003 and as a Board Member since inception in 1999.

The Management Committee is involved in the process of replacing Board Members. Attached is a summary of the NYISO Agreement specifications of the necessary qualifications for being a NYISO Board Member, and also the role that the Management Committee must play in the selection process.

Briefly, the Management Committee has the responsibility to "conduct a search" and recommend three or more qualified candidates to the NYISO Board when any vacancy occurs. The Board can select whomever they wish, but if they wish to select someone not on the Management Committee list, then the Management Committee must have the opportunity to comment on such a candidate before the Board acts. In the instance at hand, there is a further requirement that the candidate have "prior relevant experience in the electric industry."

The NYISO Board's By-Laws provide that the Board's Governance Committee conduct the search and nominate the candidates for the Board's review and action. The NYISO Agreement calls upon the Management Committee to "assist the ISO Board in filling ISO Board vacancies". Peter Berle heads the Board's Governance Committee. He and Larry DeWitt met late in August to discuss coordinating the Management Committee's and the Board Governance Committee's search and review process. The Board had already determined that it would hire an executive search firm (they have since chosen Heidrick and Struggles).

Absolutely no commitments were made, but the clear theme of the discussion between Mr. Berle and Mr. DeWitt was that there seemed to be significant advantage all around to consolidate the Management Committee and the Board search processes by both having equal access to the same formal search process. Either group would reserve the right to proceed with names that were not vetted through this process, though it was not clear why either would want to do so. Mr. Berle also made it clear that the Board thought it most desirable that a new Board member be selected by the time Mr. Boston retires in April 2006, although there is no quorum or other necessity for doing so.

The Management Committee Co-Chairs and Vice-Chair met on August 31, 2005 to discuss the process the Management Committee might use to participate in the process of selecting a new Board Member. We also had the opportunity to meet with Mr. Paul Benson, the Partner of Heidrick and Struggles who will manage the search process for the Board (he also participated in the selection process for the initial NYISO Board back in 1999).

The Management Committee By-Laws do not specify a process for how the Management Committee would (1) "conduct a search", or (2) arrive at its recommended three or more names, or (3) provide comments on candidates proposed by the Board other than those recommended by the Management Committee. We need such By-Laws and ask that the By-laws Committee consider the following approach, and propose it or some better alternative for consideration by the Management Committee at our October 12, 2005 meeting. If further deliberation is needed for a permanent and formal By-Laws procedure, we could act at the October 12th meeting to approve a process for just this initial instance of Board selection, and act subsequently on a more general process. Hopefully we can do it all at once on October 12th.

The theme of the following, recommended by the Management Committee Co-Chairs and Vice-Chair, is premised upon a collaborative search and review process with the NYISO Board. Please understand that this task is greatly complicated by the need to meet somewhat incompatible goals: full disclosure about candidates to the Management Committee Market Participants, and the need for a significant amount of personal confidentiality concerning the candidates.

The process would consist of three phases.

1. Initial Identification and Verification of Potential Candidates

- a) Search firm will provide a standard form (for resume/contact information) for Market Participants (and Board Members) to suggest potential candidates. (September 7th?)
- b) Search firm will provide a "position specification" form indicating quantitative/qualitative requirements of candidates (September 23rd?)
- c) Search firm, Market Participants and Board members offer suggested candidate names (October 15th?)
- d) Search firm will screen list of potential candidates to verify that qualifications are met and that each candidate indicates interest in the position – produces "Screened" List – The contents of the "Screened" List needs to be kept confidential (November 30th?)

2. Narrowing of the Field of Candidates

- a) Management Committee forms an MC Board Member Nominating Committee with one or two representatives from each sector.
 - This committee could be, but is not necessarily, the same as the standing MC Nominating Committee that reviews candidates for MC Vice Chair. The composition of sector representatives would need to be worked out by each sector.
- b) The MC Board Nominating Committee reviews the “Screened” List, and reviews data provided by Mr. Benson of Heidrick and Struggles who will interview a subset of candidates deemed “strong candidates” by the Board Governance Committee and/or by the MC Board Member Nominating Committee.
 - The contents of the “Screened” List and further narrowing of the field needs to be kept confidential among Market Participants, but should be shared on a confidential verbal basis between the MC Board Nominating Committee and other Market Participants for additional consultation
- c) MC Board Nominating Committee independently, or working jointly with members of the Board’s Governance Committee, narrows the list down to 3 to 6 names. If the MC Board Nominating Committee acts independently of the Board Governance Committee, it may have the opportunity for consultations with that Board Committee. Any MC Market Participant will have the prerogative to comment in writing directly to the NYISO Board concerning its views concerning any of the candidates—whether or not they were on the MC Board Nominating Committee list or not.

3. Final Candidate Selection

- a) Board Governance Committee arrives at final list of nominees for full Board Consideration. If any of these candidates are not on the list provided by the MC Nominating Committee, the MC Nominating Committee will be informed, provided background information on the candidate(s), and given an opportunity to provide comments. The MC Nominating Committee members will canvas their sector to inform them about such candidates. Any MC Market Participant will have the right to comment directly to the Board about their views on such candidates.

Language from the ISO Agreement:

5.01 Composition Of The ISO Board And Voting.

The ISO Board shall be comprised of ten (10) members (or “ Directors”), none of whom shall be affiliated with any Market Participant. Attendance or participation by proxy by six (6) Directors shall constitute a quorum. Each Director shall have one vote. An affirmative vote by six (6) Directors shall be required to pass a measure. Voting may be done in person or by proxy. A Director must be a natural person.

A Director shall be deemed “affiliated” with a Market Participant or its Affiliate if:

(a) Such person or his or her spouse or minor children owns, controls, or holds with power to vote, securities of a Market Participant or any of its Affiliates; provided, however, (i) that each newly elected Director shall dispose of such securities in accordance with the terms of the ISO’s Code of Conduct, (ii) if such person or his or her spouse or minor children owns, controls or holds with power to vote such securities as a result of an entity becoming a Market Participant, such person shall dispose of such securities in accordance with the terms of the ISO’s Code of Conduct, and (iii) if such person or his or her spouse or minor children owns, controls or holds with power to vote such securities as a result of a gift, inheritance, distribution of marital property or other involuntary acquisition, such person shall dispose of such securities in accordance with the terms of the ISO’s Code of Conduct;

(b) Such person or his or her spouse or minor children purchases securities of any Market Participant or any Affiliate of any Market Participant while such person is a Director;

(c) Such person is an officer, director, partner or employee of a Market Participant or any of its Affiliates;

(d) Such person (i) is a former executive officer of a Market Participant which Market Participant, together with its Affiliates, has three percent or more of the voting shares on the Management Committee or of any Affiliate of such Market Participant and (ii) is receiving continuing benefits under an existing employee benefit plan, arrangement or policy of such Market Participant or any of its Affiliates, except to the extent permitted under the ISO Code of Conduct; or

(e) Such person has a material ongoing business or professional relationship with a Market Participant or any of its Affiliates; provided, however, that such person shall not be deemed to have a material ongoing business relationship with a Market Participant or any of its Affiliates solely as a result of being served, as a customer, with electricity or gas by such Market Participant or its Affiliates. The term “securities” used above is defined in the ISO’s Code of Conduct.

5.04 Future ISO Board Vacancies.

The ISO Board shall be self-perpetuating. Vacancies on the ISO Board shall be filled by the Directors then in office and new Directors shall be required to meet the same basic qualifications as the nine (9) initial Directors. The ISO Board shall always be comprised of at least three (3) Directors with prior relevant experience in the electric industry. The Management Committee shall assist the ISO Board in the filling of ISO Board vacancies. The Management Committee shall conduct a search for new Directors and provide the ISO Board with a list of at least three (3) qualified candidates for each vacancy. The ISO Board may seek candidates from other sources, including an executive search firm. The ISO Board shall provide the Management Committee with an opportunity to review the qualifications of candidates not forwarded to the ISO Board by the Management Committee and to comment on their qualifications prior to the selection of a new Director.

Language from the MC Bylaws:

9.02 The Management Committee shall assist the ISO Board in the filling of ISO Board vacancies.

9.02.1 The Management Committee shall conduct a search for new Directors and provide the ISO Board with a list of at least three qualified candidates for each vacancy.

9.02.2 The Management Committee shall have the opportunity to review the qualifications of all candidates being considered by the ISO Board, from whatever source recommended, and to comment on their qualifications prior to the selection of a new Director.