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October 25, 2005

Hon. John W. Boston
c/o Mr. Mark S. Lynch
President & CEO
New York Independent System Operator, Inc.
3890 Carman Road
Schenectady, NY 12303

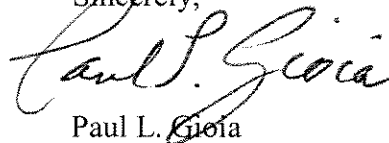
Re: Appeal of the Management Committee's Decision Not to
Approve a Motion to Extend the Voltage Support Service Program

Dear Chairman Boston:

Pursuant to the Procedural Rules of Appeals to the NYISO Board, Central Hudson Gas & Electric Company, Consolidated Edison Company of New York, Inc., New York State Electric and Gas Corporation, National Grid, the New York Power Authority, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, "Movants") hereby submit three copies of its notice of appeal of an action taken during the October 11, 2005 NYISO Management Committee meeting. The Movants appeal the NYISO Management Committee's decision not to approve Motion #6c, which would have authorized an extension of the Voltage Support Service Program through March 31, 2006. A copy of this appeal has been electronically transmitted to the NYISO staff for purposes of service.

If the NYISO Board requests oral argument related to this appeal, the Movants request the opportunity to participate.

Sincerely,



Paul L. Gioia

**Appeal of the Management Committee's Decision Not to Approve a Motion to
Extend the Voltage Support Service Program**

Pursuant to the "Procedural Rules for Appeals to the ISO Board," Central Hudson Gas & Electric Company, Consolidated Edison Company of New York, Inc., New York State Electric and Gas Corporation, National Grid, the New York Power Authority, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation (collectively, "Movants") hereby file this motion in appeal of the Management Committee's decision not to approve the Secondary Motion re: Extension of Voltage Support Service Program through March 31, 2006.¹

The NYISO's working groups and committees have been engaged in a difficult process to develop an economically sound and fair compensation methodology for providers of Voltage Support Services (VSS) and an associated cost allocation methodology for loads. Issues considered in these discussions have included: appropriate base compensation levels; the appropriateness and level of inflationary adjustments to base compensation levels; appropriate compensation applicable to non-generation based sources of voltage support; system voltage support needs and applicable location based requirements; moving from gross lagging to net lagging compensation measurement; adjusting compensation to lead and lag at high and low load levels; appropriate testing requirements; and ultimate allocation of costs. A number of competing proposals were offered for consideration at both the Business Issues Committee and the Management Committee, with no proposal achieving the necessary 58% affirmative vote to pass. In response to the failure of any of the VSS proposals to pass, the NYISO staff proposed an

¹ Management Committee Motion #6c, October 11, 2005, proposed by NYISO staff.

alternative motion of a simple limited extension of the current rates so that a defined rate would be in place for the start of 2006, and market participants could be afforded additional time to consider the difficult issues related to voltage support services and reach a consensus. By failing to pass the NYISO staff's alternative motion, the Management Committee left the NYISO in the position of starting the 2006 calendar year without a defined voltage support rate. This would leave the NYISO in the position of potentially violating the Filed Rate Doctrine by requiring generators to provide a service without having a filed rate to pay for it, and would raise potentially serious reliability concerns.

The Movants request that the NYISO Board of Directors overturn the Management Committee's decision not to approve the NYISO staff's alternative motion and to file with FERC under Section 206 of the Federal Power Act for a limited extension of current rates, with certain minimal modifications discussed below, and establish a defined process to reach consensus on a revised Voltage Support Services Rate Schedule. Additionally, due to the contentious process that has unfolded to date, the Movants support the NYISO staff proposal that the Board consider requesting assistance from FERC's Dispute Resolution Service.

Argument

A. Background

With the advent of competition, FERC attempted to establish a level playing field for all market participants through the development of an Open Access Transmission Tariff (OATT). The provisions contained in the OATT were designed to ensure comparable access to transmission service for all

participants. The OATT defined levels of transmission service and provided specified ancillary services to support the reliable operation of the transmission grid. One such service was voltage support service. VSS was designed to ensure adequate provision of reactive support for the transmission grid and proper compensation for VSS suppliers.

The NYISO's OATT and Market Services Tariff similarly define the terms and conditions surrounding the procurement of VSS and associated allocation of those costs. Since the inception of the NYISO, VSS compensation has been a cost based service, *i.e.*, it is intended to reflect the actual cost incurred by the providers of the service. As initially defined in the NYISO tariffs, VSS rates were developed using FERC Form 1, or equivalent cost data from the generation owners.

In 2001 the NYISO's committee and working group structure undertook an effort to modify the VSS rate recognizing the competitive and independent generation sector that exists within the NYISO markets. The result of this effort was a decision to maintain a cost based compensation methodology. As a starting point, the transmission owners' OATT rates in place just prior to the start of the NYISO were utilized. It was recognized when this rate was developed that it was an imperfect solution and it was agreed the rate would be put in place for one year, and that in the intervening year a modified rate methodology would be developed. Unfortunately, other market issues have taken precedence in the intervening years and the imperfect rate methodology has simply been extended from year to year.

For most of 2005, the Market Structure Working Group has endeavored to develop a new rate methodology. While market participants on all sides of the issue have worked diligently to resolve this issue, the votes at the Business Issues Committee and Management Committee demonstrate that additional work is needed to reach a consensus.

B. A VSS Rate Must Be In Place For 2006

The current VSS rate methodology expires on December 31, 2005. Moving into 2006 without a VSS rate in place is certain to result in significant problems for the NYISO and its market participants. It is clear that the transmission system requires voltage support, and it has historically been a compensable service under the NYISO's tariffs. A failure by the NYISO to have a defined rate in its tariffs will undoubtedly lead to uncertainties and potential litigation regarding the rights, obligations, and responsibilities of the NYISO, generators, and loads, and raise potentially serious reliability concerns. Further, a failure to have a rate on file with the Commission could place the NYISO in the position of requiring a service without having a rate in place to pay for it in contravention of the Filed Rate Doctrine.²

C. The NYISO Staff's Proposal for a Brief Extension of Currents Rates, With Minor Modifications, is a Reasonable Solution

Recognizing the need for an ongoing VSS rate, the NYISO's staff has made a reasonable proposal to continue the current rate for a brief period of time.

² See *Montana-Dakota Utilities Co. v. Northwestern Pub. Serv. Co.*, 341 U.S. 246, 251-52 (1995), where the Supreme Court found that a party "can claim no rate as a legal rate that is other than the filed rate, whether fixed or merely accepted by the Commission, and not even a court can authorize commerce in a commodity on other terms."

This would allow market participants additional time to work out a consensus proposal. The Movants do, however, propose some minor modifications to a simple extension of the current rate.

1. The revenue requirement should be adjusted to recognize generator additions and retirements that have occurred since the rate was last adopted.
2. Non-generator VAR sources, specifically the Cross Sound Cable, should be eligible for VAR compensation. Additional details on the methodology for such compensation is contained in a separate filing made by LIPA and supported by the Movants.
3. The three-month extension proposed by the NYISO may be insufficient to resolve the complex issues related to a VSS rate methodology. It would be reasonable, therefore, to extend the current rates for six months.

D. A Comprehensive Proposal is Warranted

All parties deserve to have their issues addressed at the same time in a comprehensive VSS proposal and associated rate. In order to develop a comprehensive VSS rate, a number of important issues should be addressed: the validity of current baseline costs; appropriate inflationary factors to apply, and to what elements of the costs they should be applied; fair compensation for non-generator VSS suppliers; a determination of system VSS needs including any locational requirements; fair allocation of costs; moving from gross lagging to net

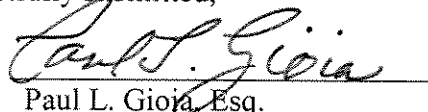
lagging compensation measurement; and adjusting compensation to lead and lag at high and low load levels; and appropriate testing requirements. The Movants propose that the NYISO Board direct its staff to undertake a collaborative process with the market participants to complete a study of such issues.

Given the contentious nature of the discussions to date, the Movants also support the suggestion made by NYISO staff that the Board consider requesting assistance from FERC's Dispute Resolution Service to assist the NYISO and its market participants in resolving the difficult issues related to the Voltage Support Service Program.

Dated: October 25, 2005

Respectfully submitted,

By:



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