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November 15, 2007

**By Hand**

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, D.C. 20426

New York Independent System Operator, Inc.'s  
Proposed Tariff Revisions Regarding  
its Working Capital Fund Provisions

Dear Ms. Bose:

Pursuant to Section 205 of the Federal Power Act,<sup>1</sup> the New York Independent System Operator, Inc. ("NYISO") hereby submits revised tariff sheets for Attachment V of its Open Access Transmission Tariff ("OATT") to revise the NYISO's Working Capital Fund provisions.<sup>2</sup> This filing seeks to improve the clarity and transparency of certain Working Capital Fund provisions in Attachment V.

The NYISO uses the Working Capital Fund to offset temporary imbalances in the NYISO's cash flow and to ensure the liquidity and stability of the NYISO-administered markets. Attachment V establishes that each customer is responsible for a contribution to the Working Capital Fund in proportion to the dollar volume of its transactions in the NYISO-administered markets. The NYISO recently conducted an internal review of Attachment V and identified opportunities to improve the clarity and transparency of certain provisions. The NYISO proposes to revise such provisions as described in Section IV below.

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<sup>1</sup> 16 U.S.C. § 824d (2000).

<sup>2</sup> Capitalized terms that are not otherwise defined herein shall have the meaning specified in the NYISO's tariffs.



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**I. List of Documents Submitted**

The NYISO submits the following documents:

1. This filing letter;
2. A clean version of the proposed revisions to the OATT (Attachment I); and
3. A blacklined version of the proposed revisions to the OATT (Attachment II).

**II. Copies of Correspondence**

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel and Secretary  
Elaine D. Robinson, Director of Regulatory Affairs  
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<sup>3</sup> The NYISO respectfully requests waiver of 18 C.F.R. § 385.203(b)(3) (2006) to permit service on counsel for the NYISO in both Washington, D.C. and Richmond, Virginia.

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### **III. Service List**

The NYISO will electronically send a link to this filing to the official representative of each of its customers, to each participant on its stakeholder committees, to the New York Public Service Commission, and to the electric utility regulatory agencies of New Jersey and Pennsylvania. In addition, the complete filing will be posted on the NYISO's website at [www.nyiso.com](http://www.nyiso.com). The NYISO will also make a paper copy available to any interested party that requests one. To the extent necessary, the NYISO requests waiver of the requirements of Section 35.2(d) of the Commission's Regulations (18 C.F.R. § 35.2(d) (2006)) to permit it to provide service in this manner.

### **IV. Description of Proposed Revisions**

The NYISO proposes to revise the Working Capital Fund provisions in Attachment V of the OATT as described below.

#### **A. Repayment of Draws from the Working Capital Fund**

The NYISO proposes to revise Section 1.0 to explicitly establish that the NYISO is responsible for repaying any draws from the Working Capital Fund.

#### **B. Customer Contributions to Increases of the Working Capital Fund**

The NYISO proposes to revise Section 3.0 to more clearly indicate that the purpose of the Section is to establish that NYISO customers are responsible for a pro rata share of any increase in the Working Capital Fund based on the dollar volume of each customer's transactions in the NYISO-administered markets.

The NYISO also proposes to revise Section 3.0 to clarify the formula that determines each customer's pro rata share. The formula currently provides that each customer's share of any increase of the Working Capital Fund is determined based on the dollar volume of that customer's transactions in the "month of collection." Because the NYISO cannot determine the dollar volume of a customer's transactions in a given month until the end of the month, the NYISO proposes to revise the formula to provide that each customer's share of such an increase will be determined based on the dollar volume of that customer's transactions in the "service month prior to the month in which the billing invoice is issued."

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**C. Return of Working Capital Contribution Upon a Customer's Exit from the NYISO Markets**

The NYISO proposes to revise Section 5.1 to clarify when the NYISO will return, or "refund," the working capital contribution of a customer exiting the NYISO-administered markets. Currently, Section 5.1 provides that the NYISO shall retain an exiting customer's working capital contribution as security until "all final Settlement adjustment invoices for that Customer have been paid and . . . the applicable period for challenging the accuracy of final Settlement information has expired."<sup>4</sup> The NYISO proposes to simplify this provision to state simply that the NYISO will refund to a customer its working capital contribution upon the customer's exit from the NYISO markets, provided that the NYISO will retain such portion of the contribution as is necessary to provide security for any unsatisfied financial obligations to the NYISO.

The NYISO also proposes to revise Section 5.1 to specify the mechanism through which the NYISO will effect a refund of an exiting customer's working capital contribution. As described below, the NYISO will refund an exiting customer's working capital contribution through the NYISO's annual rebalancing process, except for such portion of the contribution as the NYISO has retained as security for unsatisfied financial obligations.

**D. Annual Rebalancing of Working Capital Fund Contributions**

The NYISO proposes to revise Section 7.0 to more clearly establish that the NYISO rebalances each customer's working capital contribution every January based on the dollar volume of a customer's transactions in the NYISO-administered markets in the prior calendar year. The Commission previously approved the annual rebalancing process as developed by the NYISO with input from NYISO Market Participants.<sup>5</sup> Section 7.0 currently provides for an annual rebalancing process, but makes reference to a formula that could be read to require that the NYISO annually rebalance a customer's contribution on the basis of the dollar volume of that customer's transactions in the prior month, rather than the prior year. For this reason, the NYISO proposes to revise Section 7.0 to remove this reference and to replace it with a formula

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<sup>4</sup> OATT, Attachment V § 5.1.

<sup>5</sup> The annual rebalancing of customers' working capital contributions was the product of Market Participant consensus in the NYISO's Scheduling and Pricing Working Group and its Credit Policy Working Group. *Second Compliance Filing of New York Independent System Operator, Inc. in Docket No. ER03-200-003*, Docket No. ER03-200-003 at p. 3 (June 13, 2003). This time-frame was reviewed with the NYISO's Business Issues Committee and its Management Committee without objection. *Id.* This time-frame was subsequently accepted by the Commission. *FERC Letter Order*, Docket No. ER03-200-003 (September 29, 2003).

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consistent with the annual rebalancing of customer working capital contributions as approved by the Commission.

**E. Removal of Provisions that Do Not Correctly Characterize the Accounting Treatment of the NYISO's and its Customers' Obligations to the Working Capital Fund**

The NYISO proposes to remove Section 5.4 and Section 9.0 because these provisions do not correctly characterize the accounting treatment of the NYISO's and its customers' obligations to the Working Capital Fund. The initial intent of Section 5.4 was to memorialize the NYISO's obligation to repay draws from the Working Capital Fund. This has been established with the revision to Section 1.0, and the proposed revision more accurately reflects the proper accounting treatment of such funds.

The intent of Section 9.0 was to provide a means for the NYISO to replenish its Working Capital Fund following a draw made to cover a nonpayment by a NYISO customer. Under such circumstances, however, the NYISO would first attempt to collect the payment from the non-paying customer pursuant to Attachment U of the OATT. If the NYISO is ultimately unable to collect the payment, the NYISO would declare a bad debt loss and recover the associated funds from other NYISO customers in accordance with Attachment U. These funds would then be used to replenish the Working Capital Fund. As such, Section 9.0 does not accurately reflect the proper accounting treatment which is addressed in other provisions of the NYISO tariffs. Moreover, if Section 9.0 was applied as written, it could lead to a double collection from NYISO customers. For these reasons, the NYISO proposed to remove this provision.

**F. Non-Substantive Drafting Improvements**

The NYISO also proposes to make general, non-substantive drafting improvements to Attachment V. For example, the NYISO proposes to remove an inadvertent comma in Section 5.2.

**V. Effective Date**

The NYISO respectfully requests that this filing become effective sixty (60) days after the date of this filing.

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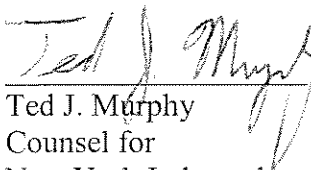
**VI. Requisite Stakeholder Approval**

The tariff revisions proposed in this filing were discussed with stakeholders in the NYISO's Billing & Accounting Working Group on June 18, 2007. The revisions were approved unanimously by show of hands at the NYISO's Business Issues Committee meeting on August 8, 2007, and unanimously by show of hands at the NYISO's Management Committee at its meeting on August 29, 2007. On September 18, 2007, the NYISO's Board of Directors approved a motion directing the NYISO to file the proposed tariff revisions approved by the Management Committee.

**VII. Conclusion**

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept the proposed tariff changes identified in this filing.

Respectfully submitted,



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Counsel for

New York Independent System Operator, Inc.

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## **Attachment I**

## **ATTACHMENT V**

### **ISO WORKING CAPITAL FUND**

The ISO's Working Capital Fund shall be maintained according to the provisions of this Attachment V to the ISO OATT.

#### **1.0 Purpose of the ISO Working Capital Fund**

The ISO has accumulated and will maintain a Working Capital Fund through charges, as the ISO deems necessary, under Rate Schedule 1, Section 3.A of the ISO OATT. The Working Capital Fund will be used , among other items, to offset temporary imbalances in ISO cash flow and to ensure the liquidity and stability of the markets administered by the ISO under the ISO Services Tariff. Pursuant to its authority under the ISO Agreement, the ISO Board will determine the ISO's working capital requirements. The ISO shall repay any draws from the Working Capital Fund as soon as reasonably practicable.

#### **2.0 Monitoring and Reporting of Working Capital Fund**

The ISO will monitor the activity of the Working Capital Fund, both in the aggregate and according to each Customer's pro rata share of the Working Capital Fund. With respect to each Customer's pro rata share of the Working Capital Fund, the ISO will provide to each Customer, in each monthly consolidated billing invoice, a summary of the Customer's (i) opening balance, (ii) current month contributions, (iii) current month accrued interest, (iv) any other adjustments,



and (v) ending balance. When practicable, the ISO will also provide a separate detailed working capital transaction history page within the consolidated billing invoice for each Customer, in a format that can be downloaded for the Customer's use. The detailed working capital transaction history page will provide a complete history of all transactions relating to the Customer's contributions to the Working Capital Fund.

### **3.0 Customer Contributions to Increases of the Working Capital Fund**

The ISO shall determine each Customer's pro rata share of any increase of the amount of the Working Capital Fund using the following formula:

Issued by: Mark S. Lynch, President  
Issued on: November 15, 2007

Effective: January 14, 2008

$$\text{Customer's Percentage of Total Collection} = \frac{\text{CAR} + \text{CAP}}{\text{NYAR} + \text{NYAP}}$$

Where:

CAR = Customer's accounts receivable, including WTSC, for the service month prior to the month in which the billing invoice is issued.

CAP = Absolute value of Customer's accounts payable, including WTSC, for the service month prior to the month in which the billing invoice is issued.

NYAR = ISO's gross accounts receivable plus the Transmission Owners' accounts receivable from WTSC for the service month prior to the month in which the billing invoice is issued.

NYAP = Absolute value of ISO's gross accounts payable plus the absolute value of the Transmission Owners' accounts payable from WTSC for the service month prior to the month in which the billing invoice is issued.

### **5.1 Distributions to Customers Exiting the ISO Markets**

The ISO will refund to a Customer terminating its ISO Service Agreements and exiting the ISO markets its cumulative principal contribution to the Working Capital Fund, along with any earned interest that has been accrued but not previously distributed, through the annual contribution adjustment process in Section 7.0 of this Attachment V; *provided, however*, that the ISO shall retain these amounts as security for any unsatisfied financial obligations to the ISO. Customers shall be responsible for providing the ISO with the wire transfer information necessary for the ISO to complete any refund of the Customer's Working Capital Fund contribution.

### **5.2 Customer Nonpayment and Default**

In the event that part or all of a payment owed by a Customer remains unpaid after the payment is due, the ISO may use the Working Capital Fund as necessary to meet its cash flow requirements; *provided, however*, that the ISO shall set aside the nonpaying Customer's contribution to the Working Capital Fund pending determination of ISO's counsel and/or the appropriate bankruptcy courts regarding the appropriate disposition of such funds. If the ISO draws from the Working Capital Fund to meet its cash flow requirements in the event of a Customer nonpayment and then

## **6.0 Contributions to Working Capital Fund from New Customers**

Customers that execute ISO Service Agreements and become approved ISO Customers after the effective date of this Attachment V will not be required to make an initial contribution to the Working Capital Fund, but will be required to (i) contribute, through a Rate Schedule 1 charge, their pro rata share of any subsequent increases of the Working Capital Fund as described in Section 3.0 of this Attachment V and (ii) make a contribution to the Working Capital Fund in connection with the next annual adjustment as described in Section 7.0 of this Attachment V.

## **7.0 Annual Adjustment of Working Capital Fund Contributions**

During the month of January of each calendar year, the ISO shall determine and adjust, if necessary, the contributions to the Working Capital Fund required from each Customer during that year using the following formula, except as provided in Section 5.1 of this Attachment V.

$$\text{Customer's Annual Adjusted Percentage of Total Collection} = \frac{\text{CAR} + \text{CAP}}{\text{NYAR} + \text{NYAP}}$$

Where:

CAR = Customer's accounts receivable, including WTSC, during the prior calendar year.

CAP = Absolute value of Customer's accounts payable, including WTSC, during the prior calendar year.

NYAR = ISO's gross accounts receivable plus the Transmission Owners' accounts receivable from WTSC during the prior calendar year.

NYAP = Absolute value of ISO's gross accounts payable plus the absolute value of the Transmission Owners' accounts payable from WTSC during the prior calendar year.

In February of each calendar year, the ISO shall either refund or charge, as applicable, each Customer for the difference between the Customer's principal share of the Working Capital Fund at the conclusion of the prior calendar year and the Customer's adjusted principal share of the Working Capital Fund as calculated in accordance with this Section 7.0. The ISO shall have the discretion to amortize such refunds or charges over one or more months beyond February, based upon the magnitude of the annual adjustments.

#### **8.0 Working Capital Fund Contributions Not Considered As Collateral**

A Customer's contributions to, and its pro rata share of, the Working Capital Fund shall not be considered as, or counted towards, any collateral that may be required from the Customer.

## **Attachment II**

## ATTACHMENT V

### ISO WORKING CAPITAL FUND

The ISO's Working Capital Fund shall be maintained according to the provisions of this Attachment V to the ISO OATT.

#### 1.0 Purpose of the ISO Working Capital Fund

The ISO has accumulated and will maintain a Working Capital Fund through charges, as the ISO deems necessary, under Rate Schedule 1, Section 3.A of the ISO OATT. The Working Capital Fund will be used to, among other items, to offset temporary imbalances in ISO cash flow and to ensure the liquidity and stability of the Energy markets administered by the ISO under the ISO Services Tariff. Pursuant to its authority under the ISO Agreement, the ISO Board will determine the ISO's working capital requirements. The ISO shall repay any draws from the Working Capital Fund as soon as reasonably practicable.

#### 2.0 Monitoring and Reporting of Working Capital Fund

The ISO will monitor the activity of the Working Capital Fund, both in the aggregate and according to each Customer's pro rata share of the Working Capital Fund. With respect to each Customer's pro rata share of the Working Capital Fund, the ISO will provide to each Customer, in each monthly consolidated billing invoice, a summary of the Customer's (i) opening balance, (ii) current month contributions, (iii) current month accrued interest, (iv) any other adjustments,

and (v) ending balance. When practicable, the ISO will also provide a separate detailed working capital transaction history page within the consolidated billing invoice for each Customer, in a format that can be downloaded for the Customer's use. The detailed working capital transaction history page will provide a complete history of all transactions relating to the Customer's contributions to the Working Capital Fund.

### **3.0 Customer Contributions to Increases of the Working Capital Fund**

~~Each customer's contributions to the ISO Working Capital Fund made through Rate Schedule 1 charges shall be tracked and reported by the ISO in accordance with Section 2.0 of this Attachment V.~~ The ISO shall determine each Customer's pro rata share of any increase required contribution of the amount of the Working Capital Fund using the following formula:



$$\text{Customer's Percentage of Total Collection} = \frac{\text{CAR} + \text{CAP}}{\text{NYAR} + \text{NYAP}}$$

Where:

CAR = Customer's accounts receivable, including WTSC, for the service month prior to the month in which the billing invoice is issued~~in month of collection.~~

CAP = Absolute value of Customer's accounts payable, including WTSC, for the service month prior to the month in which the billing invoice is issued~~in month of collection.~~

NYAR = ISO's gross accounts receivable plus the Transmission Owners' accounts receivable from WTSC, in month of collection for the service month prior to the month in which the billing invoice is issued.

NYAP = Absolute value of ISO's gross accounts payable plus the absolute value of the Transmission Owners' accounts payable from WTSC, in month of collection for the service month prior to the month in which the billing invoice is issued.

### **5.1 Distributions to Customers Exiting the ISO Energy Markets**

The ISO will refund to a Customers terminating ~~its~~their ISO Service Agreements and exiting the ISO energy markets ~~it~~will be refunded their cumulative principal contribution to the Working Capital Fund, ~~along with~~including any earned interest that has been accrued but not previously distributed, ~~through the annual contribution adjustment process in Section 7.0 of this Attachment V; provided, however, that the ISO shall retain these amounts as security for any unsatisfied financial obligations to the ISO. this refund shall not occur until (i) all final Settlement adjustment invoices for that Customer have been paid and (ii) the applicable period for challenging the accuracy of final Settlement information has expired.~~ Customers shall be responsible for providing the ISO with the wire transfer information necessary for the ISO to complete any refund of the Customer's Working Capital Fund contribution.

### **5.2 Customer Nonpayment and Default**

In the event that part or all of, a payment owed by a Customer remains unpaid after the payment is due, the ISO may use the Working Capital Fund as necessary to meet its cash flow requirements; *provided, however*, that the ISO shall set aside the nonpaying Customer's contribution to the Working Capital Fund pending determination of ISO's counsel and/or the appropriate bankruptcy courts regarding the appropriate disposition of such funds. If the ISO draws from the Working Capital Fund to meet its cash flow requirements in the event of a Customer nonpayment and then

#### ~~5.4~~ **ISO Share of the Working Capital Fund**

~~Certain transactions within the Working Capital Fund (including, but not limited to, monthly transactions with other ISO's, payments and recoveries of Day Ahead contract adjustments, timing of past due receivables, and temporary draws on working capital due to load forecasting shortfalls) are not specific to individual Customers and will be considered to represent the ISO's share of the Working Capital Fund.~~

#### **6.0 Contributions to Working Capital Fund from New Customers**

Customers that execute ISO Service Agreements and become approved ISO Customers after the effective date of this Attachment V will not be required to make an initial contribution to the Working Capital Fund, but will be required to (i) contribute, through a Rate Schedule 1 charge, their pro rata share of any subsequent ~~replenishments~~ increases of the Working Capital Fund as described in Section 3.0 of this Attachment V and (ii) make a contributions to the Working Capital Fund ~~based upon~~ in connection with the next the annual adjustments as described in Section 7.0 of this Attachment V.

#### **7.0 Annual Adjustment of Working Capital Fund Contributions**

During the month of January of each calendar year, the ISO shall determine and adjust, if necessary, the contributions to the Working Capital Fund required from each Customer during that year using the following formula, except as provided in Section 5.1 of this Attachment V, according to the formula contained in Section 3.0 of this Attachment V.

$$\text{Customer's Annual Adjusted Percentage of Total Collection} = \frac{\text{CAR} + \text{CAP}}{\text{NYAR} + \text{NYAP}}$$

Where:

CAR = Customer's accounts receivable, including WTSC, during the prior calendar year.

CAP = Absolute value of Customer's accounts payable, including WTSC, during the prior calendar year.

NYAR = ISO's gross accounts receivable plus the Transmission Owners' accounts receivable from WTSC during the prior calendar year.

NYAP = Absolute value of ISO's gross accounts payable plus the absolute value of the Transmission Owners' accounts payable from WTSC during the prior calendar year.

Issued by: ~~William J. Museler~~ Mark S. Lynch, President                      Effective:              January 14, 2008  
Issued on:              ~~October 23~~ November 15, 2007  
Filed to comply with order of the Federal Energy Regulatory Commission, Docket No. ER03-984-000, issued September 22, 2003, 104 FERC ¶ 61,311 (2003).

In February of each calendar year, the ISO shall either refund or charge, as applicable, each Customer for the difference between the Customer's principal share of the Working Capital Fund ~~any contributions allocated to it pursuant to Section 3.0 of this Attachment V in~~ at the conclusion of the prior calendar year and the Customer's annually-adjusted principal share of the relevant portion of the Working Capital Fund based as calculated above ~~in accordance with this Section 7.0.~~ The ISO shall have the discretion to amortize such refunds or charges over one or more months beyond February, based upon the magnitude of the annual adjustments.

#### **8.0 Working Capital Fund Contributions Not Considered As Collateral**

A Customer's contributions to, and its pro rata share of, the Working Capital Fund shall not be considered as, or counted towards, any collateral that may be required from the Customer.

#### **9.0 ~~Replenishment of the Working Capital Fund~~**

~~The Working Capital Fund shall be subject to replenishment for distributions at the discretion of the ISO Board, based on its assessment of, among other factors, the balance of the Working Capital Fund remaining after any distributions and forecasted ISO cash flow requirements. The ISO will notify Customers, via the monthly posting announcement of the upcoming Rate Schedule 1 charge, of any decision to replenish the Working Capital Fund.~~