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May 24, 2002

The Honorable Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, D.C. 20426

New York Independent System Operator, Inc.'s Filing of  
Tariff Revisions to Reflect Revised Transmission Service Charges

Dear Ms. Salas,

The New York Independent System Operator, Inc. ("NYISO"), by counsel and on behalf of the Long Island Power Authority ("LIPA"),<sup>1</sup> hereby submits revisions to its Open Access Transmission Tariff ("OATT")<sup>2</sup> to revise LIPA's wholesale Transmission Service Charge ("TSC").<sup>3</sup>

**I. Documents Submitted**

1. This letter;
2. A clean revised sheet of the OATT incorporating the changes proposed by the NYISO on behalf of LIPA ("Attachment I");
3. A redlined revised sheet of the OATT identifying the tariff revisions proposed by the NYISO on behalf of LIPA ("Attachment II");
4. A copy of the resolution of the Long Island Power Authority's Board of Trustees approving the update of LIPA's transmission service charge components incorporated into the NYISO OATT ("Attachment III"); and
5. A form of Federal Register Notice ("Attachment IV").

**II. Copies of Correspondence**

Communications regarding this proceeding should be addressed to:

Robert E. Fernandez, General Counsel and Secretary  
Mollie Lampi, Associate General Counsel  
Belinda Thornton, Director of Regulatory Affairs  
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### **III. Discussion of Proposed Changes**

The NYISO, on behalf of LIPA, is submitting changes to Table 1 in Section 4.0 of Attachment H to the OATT to revise LIPA's wholesale TSC calculation information. Specifically, the NYISO is submitting changes to LIPA's Revenue Requirements ("RR"), Scheduling System Control and Dispatch Costs ("CCC"), Billing Units ("BU"), and Transmission Service Charge ("TSC") rate. These changes are included in the clean and redlined versions of the OATT contained in Attachments I and II of this letter. The proposed update to LIPA's TSC components was subject to public review and comment pursuant to the New York State Administrative Procedures Act and Article 5, Title I-A of the New York Public Authorities Law, Section 1020-f(u) and 1020-s and approved by the Long Island Power Authority's Board of Trustees on April 25, 2002. A copy of the resolution approving the implementation of these changes is contained in Attachment III of this letter.

The Commission has previously stated that it "cannot review LIPA's rates under the Section 205 just and reasonable standard, but will apply the comparability standard [it uses] when evaluating non-jurisdictional, so-called 'NJ' transmission tariffs to assure that the tariff rate is comparable to the rate LIPA charges itself and others."<sup>5</sup> This TSC rate applies to all parties using LIPA's wholesale transmission facilities under the NYISO—including LIPA's usage of its own transmission facilities in its capacity as a load-serving entity. Therefore, LIPA's proposed TSC rate satisfies the Commission's comparability standard. Furthermore,

because LIPA is not a “public utility,” 18 C.F.R. § 35.13 is inapplicable with respect to the change in LIPA’s TSC rate.

#### **IV. Proposed Effective Date**

The NYISO respectfully requests that the tariff revisions proposed in this filing become effective on June 1, 2002. The NYISO requests a waiver of the Commission’s usual sixty-day notice period<sup>6</sup> and notes that in approving this change to LIPA’s TSC, the Long Island Power Authority’s Board of Trustees set an effective date for the change of June 1, 2002.<sup>7</sup> Under the Long Island Power Authority Act, rates for service over LIPA’s transmission facilities are set by the Long Island Power Authority’s Board of Trustees.<sup>8</sup> Good cause for the Commission to grant a June 1, 2002 effective date exists to allow for enactment of the TSC update as directed by the jurisdictional authority setting the rates, the Long Island Power Authority’s Board of Trustees. The failure to grant the requested waiver would create an inconsistency between the NYISO OATT and the rates approved by the Long Island Power Authority. Furthermore, such a waiver is consistent with the Commission’s policy toward the treatment of non-jurisdictional or “NJ” tariff rates.<sup>9</sup>

#### **V. Federal Register Notice**

A form of Federal Register Notice is provided as Attachment IV hereto.

#### **VI. Service List**

Copies of this filing are being served on all signatories of the OATT as well as the New York Public Service Commission.

#### **VII. Conclusion**

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

Respectfully submitted,

NEW YORK INDEPENDENT  
SYSTEM OPERATOR, INC.

By\_\_\_\_\_

Counsel

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Of Counsel

cc: Daniel L. Larcamp, Director Office of Markets, Tariffs and Rates, Room 8A-01,  
Tel. (202) 208-2088  
Ms. Alice M. Fernandez, Director Office of Markets, Tariffs and Rates-East  
Division, Room 82-15, Tel. (202) 208-0089  
Ms. Andrea Wolfman, Lead Counsel for Market Oversight and Enforcement,  
Room 9E-01, Tel. (202) 208-2097  
Mr. Stanley Wolfe, Office of the General Counsel, Room 102-37,  
Tel. (202) 208-0891  
Mr. Michael Bardee, Lead Counsel for Markets, Tariffs and Rates, Room 101-09,  
Tel. (202) 208-2068

## **ATTACHMENT I**

## **ATTACHMENT II**

## **ATTACHMENT III**



## **ATTACHMENT IV**

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

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

**Docket No. \_\_\_\_\_**

**NOTICE OF FILING**

Take notice that on May 24, 2002, the New York Independent System Operator, Inc. (“NYISO”) on behalf of the Long Island Power Authority (“LIPA”), filed proposed revisions to the NYISO’s Open Access Transmission Tariff (“OATT”). The proposed filing would revise LIPA’s wholesale transmission service charge. The NYISO has requested that the Commission make the filing effective on June 1, 2002.

A copy of this filing was served upon all signatories of the NYISO OATT.

Any person desiring to be heard to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (18 C.F.R. §§ 385.211 and 385.214). All such motions or protests should be filed on or before \_\_\_\_\_. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Magalie R. Salas  
Secretary

## CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all signatories of the NYISO OATT in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure 18 C.F.R. § 2010 (2000).

Dated at Washington, D.C. this 24th day of May 2002.

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Catherine A. Karimi  
Sr. Professional Assistant  
Hunton & Williams  
1900 K Street, N.W.  
Washington, D.C. 20006-1109

Section 2.1 of Attachment H to the OATT states that the components of LIPA's Transmission Service Charge that the NYISO seeks to amend in this filing "will be updated based on Transmission Owner filings to FERC (or a NYISO filing to FERC on behalf of LIPA)" under the Federal Power Act whenever a Transmission Owner determines that a change is required.

<sup>1</sup> As discussed in greater detail below, the Commission has previously stated that it will apply a “comparability standard,” rather than Section 205 of the Federal Power Act, when evaluating non-jurisdictional transmission tariffs such as LIPA’s. The NYISO therefore makes this filing subject to the Commission’s comparability standard.

<sup>2</sup> Capitalized terms that are not otherwise defined herein shall have the meaning set forth in Article 1 of the OATT.

<sup>3</sup> The NYISO respectfully requests a waiver of the Commission’s regulations (18 C.F.R. § 385.203) to allow the inclusion of more than two persons for service and communications.

<sup>4</sup> *Central Hudson Gas & Electric Corp. et al*, 88 FERC 61,138, 61403 (1999).

<sup>5</sup> 18 C.F.R. § 35.11 (2000)

<sup>6</sup> *See* Attachment III.

<sup>7</sup> New York Public Authorities Law, Article 5, §1020-f(u).

<sup>8</sup> *See Central Hudson Gas & Electric Corp. et al*, 88 FERC at p. 61403.