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# U.S. House of Representatives

## Committee on Agriculture

Room 1301, Longworth House Office Building

Washington, DC 20515-6001

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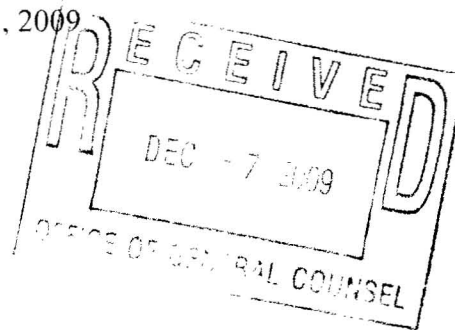
December 1, 2009

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Mr. Robert E. Fernandez  
General Counsel  
New York Independent System Operator, Inc.  
2890 Carman Road  
Schenectady, NY 12303



Dear Mr. Fernandez:

The U.S. House of Representatives Committee on Agriculture is beginning a preliminary investigation into activities taking place on and through regional transmission organizations (RTOs) and independent system operators (ISOs) in what potentially could be swap/over-the-counter (OTC) activity occurring contrary to the requirements of the Commodity Exchange Act (CEA). To aid this investigation, the Committee is seeking information regarding your company's activity in what are commonly called financial transmission rights.

Financial transmission rights (FTRs) – your company calls them “Transmission Congestion Contracts” – are purely financial contracts used to hedge the cost of congestion in RTO/ISO markets. As you know, these contracts are often auctioned off by RTOs and ISOs to generators and consumers of electricity, as well as banks, hedge funds and other speculators. As financial instruments used for hedging and speculating, it is possible that there are implications for FTRs under the CEA, which is under our Committee's jurisdiction. Should FTRs meet the statutory terms under the CEA, then FTRs – like swaps and other OTC transactions – would generally be exempt from the vast majority of provisions of the Act; however, some provisions, particularly those governing clearing and trading, may still be applicable to FTRs.

Therefore, we request your company to provide the Committee with the following information relating to its activities with regard to FTRs (to the extent the information is held by an affiliate or separate company to which you have a contractual relationship (e.g. market monitors), please note that and facilitate our request to such entities):

- documentation outlining the terms, conditions, and obligations (generally) between your RTO/ISO and a holder of an FTR;
- the manner in which FTRs are sold or traded on or through your company, including any initial auction or secondary markets managed or overseen by your company;

- the qualifications and administrative obligations your RTO/ISO establishes as necessary for a person or entity to purchase, sell, transfer, or hold FTRs or otherwise collect revenues or pay obligations associated with holding an FTR;
- a list of names, addresses, and contact information for those persons and entities that have met such qualifications and administrative obligations;
- the manner in which your RTO/ISO tracks both the transfer/sale and general holding of FTRs;
- a list, as of December 1, 2009, of all entities holding FTRs and the quantities held by each entity for each type of FTR;
- the manner in which your RTO/ISO limits the number of FTRs an entity may hold at any time;
- the methodology generally in which collateral requirements, if any, for holders of FTRs are established, adjusted, collected, held, and returned as well as current levels of collateral required, and particularly:
  - how does your methodology determine whether its collateral requirements are set at an appropriate level necessary to ameliorate the market risk and volatility associated with FTRs,
  - how does your methodology set collateral positions for both flow and counterflow FTRs,
  - how does your methodology determine whether the components of collateral offered by FTR market participants are suitable to cover the market risk associated with FTRs,
  - how does your methodology differentiate between FTR market participants in establishing collateral requirements based on such participants' creditworthiness or credit risks;
- policies, rules, or other procedures for handling the default of a FTR holder from meeting its obligations under the FTR; and
- all information regarding past defaults by FTR holders' from meeting obligations under an FTR including dollar value of losses, including secondary defaults, and how such losses were handled by your company.

Thank you for your time and attention to this request. The Committee requires this information be delivered by close of business Monday, December 14, 2009. We also request that you provide a contact name for further discussions regarding this matter. I look forward to hearing from you shortly. If you have any questions, please contact Clark Ogilvie at (202) 225-0720.

Sincerely,



Collin Peterson  
Chairman