

November 9, 1999

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: New York Independent System Operator, Inc. and Central Hudson
Gas & Electric Corp., et al., Docket No. ER00- -000

Dear Secretary Boergers:

Pursuant to Section 205 of the Federal Power Act ("FPA") and Part 35 of the Commission's Regulations, the Member Systems of the New York Power Pool ("Member Systems")¹ and the New York Independent System Operator, Inc. ("NYISO" or "ISO") hereby submit changes to the various Tariffs and related Agreements which have been submitted and

¹ The Member Systems include Central Hudson Gas & Electric Corporation ("Central Hudson"), Consolidated Edison Company of New York, Inc. ("Con Edison"), LIPA, New York State Electric & Gas Corporation ("NYSEG"), Niagara Mohawk Power Corporation ("Niagara Mohawk"), Orange and Rockland Utilities, Inc. ("O&R"), Power Authority of the State of New York ("NYPA"), and Rochester Gas and Electric Corporation ("RG&E").

approved in Docket Nos. ER97-1523, et al.² The NYISO has undertaken an independent review of these documents, and the purpose of these revisions is to memorialize the outcome of negotiations between the Member Systems and the NYISO with respect to proposed changes to the Commission-approved ISO Tariffs and ISO Related Agreements. The Member Systems and the NYISO respectfully submit for filing the revised tariff sheets and Agreement provisions included in Appendix A hereto. With one exception, the Member Systems and the NYISO propose that these tariff sheets be made effective on the date that the ISO commences operations.³

I. Background

By this filing, the Member Systems and the NYISO seek to revise certain tariff sheets which were submitted as part of the NYISO Open Access Transmission Tariff ("ISO OATT") and the NYISO Market Administration and Control Area Services Tariff ("ISO Services Tariff"), as well as several provisions of the ISO Related Agreements. While the Tariffs and Agreements have already been approved by the Commission, the Member Systems and the NYISO have now had the opportunity to jointly review them. As a result of this review, the Member Systems and the NYISO are proposing modifications addressing mutual concerns which have been identified during negotiations over the past several months. In addition, several of these modifications have

² "Filing in Compliance with the Commission's Order of January 27, 1999 Regarding the Comprehensive Proposal to Restructure the New York Wholesale Electric Market" ("April 30 Filing" or "Compliance Filing").

³ This exception is the proposed effective date for First Revised Sheet No. 145 for which a January 1, 2000 effective date is proposed.

been identified by the NYISO as reasonably necessary for its effective operation including securing both insurance coverage and financing at reasonable cost.

The ISO OATT and the ISO Services Tariff were submitted as part of the Member Systems' April 30 Compliance Filing to comply with the Commission's January 27, 1999 Order in the above-captioned dockets.⁴ The April 30 Compliance Filing was approved by the Commission on July 29, 1999 to be effective upon the commencement of NYISO operations.⁵

In addition to these two Tariffs, the Commission has also approved related Agreements submitted by the Member Systems which also are critical to the successful implementation of NYISO operations. These Agreements include: 1) the Agreement between the New York Independent System Operator and the Transmission Owners ("ISO/TO Agreement");⁶ 2) the

⁴ Central Hudson Gas & Electric Corp., et al., 86 FERC ¶ 61,062 (1999) ("January 27 Order").

⁵ Central Hudson Gas & Electric Corp., et al., 88 FERC ¶ 61,138 (1999) ("July 29 Order").

⁶ Submitted as part of the April 30 Compliance Filing, and approved in the July 29 Order.

Independent System Operator Agreement ("ISO Agreement");⁷ and 3) the Agreement between NYISO and the New York State Reliability Council ("ISO/NYSRC Agreement").⁸

Among the issues which the instant filing addresses are indemnification of or by the NYISO, limitations on the liability of both the ISO and the Transmission Owners, the ISO's obligations with respect to the Transmission Owners, the procedures for formally amending the ISO Tariffs, the ISO/TO Agreement and the ISO Agreement, identification of the rights which the Transmission Owners will retain under the ISO-administered regime, and the procedures under which the Transmission Owners can either withdraw from, or terminate their participation in, the ISO/TO Agreement and the related Tariffs.

These changes relate primarily to the relationship between the NYISO and the Transmission Owners, as well as their mutual duties and obligations. They reflect a carefully-crafted compromise between the NYISO and the Member Systems and are being offered as a comprehensive package. The proposed changes to the ISO/TO Agreement are the product of arms-length discussions, and reflect a consensus between the NYISO and the Member Systems concerning their business relationship. To obtain this consensus, they have each compromised

⁷ The Member Systems submitted a revised ISO Agreement on July 2, 1999, in compliance with Ordering Paragraph (C) of the Commission's April 30 Order in these same proceedings. Central Hudson Gas & Electric Corp., et al., 87 FERC ¶ 61,135 at 61,546 (1999) ("April 30 Order"). The Commission accepted this revised ISO Agreement on September 15, 1999. Central Hudson Gas & Electric Corp., et al., 88 FERC ¶ 61,229 (1999) ("September 15 Order").

⁸ The Member Systems submitted the ISO/NYSRC Agreement as part of the April 30 Compliance Filing. This Agreement was approved by the Commission in its July 29 Order. July 29 Order, 88 FERC at 61,380 n. 7.

their positions on many issues related to this relationship. In addition, the proposed modifications to the ISO Tariffs and to the other ISO Related Agreements address certain issues which must be resolved for the orderly functioning of NYISO operations and to provide for greater consistency between the ISO Tariffs and Agreements.

These changes are discussed in greater detail below.

II. Proposed Changes

A. ISO OATT

The Member Systems and the NYISO propose the following specific changes to the OATT:

1. The Table of Contents has been amended to reflect the addition of **Section 10.1A**, as discussed below.
2. A new Section has been added to the ISO OATT. **Section 10.1A**, Limitation on Liability, establishes limits on the liability of the ISO and the Transmission Owners to any Transmission Customer, Market Participant, or any other third party for damages resulting "from any act or omission in any way associated with a Service Agreement or the ISO OATT." Consistent with the Commission's pro forma tariff, however, such limitation will not apply where either the ISO or the Transmission Owner is found liable for negligence or intentional misconduct.⁹
3. Language has been added to **Section 10.2**, addressing Indemnification. The added language provides that the ISO will obtain sufficient insurance, or an alternative risk financing arrangement, to discharge its responsibilities under the OATT. It further provides that any insurance proceeds will be used prior to the ISO invoking its right to indemnification. Moreover, this Section has been clarified to state that

⁹ Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities, Order No. 888-A, FERC Stats. & Regs. ¶ 31,048 at 30,514 (1997). In this regard, this proposed change is consistent with the Commission's decision in the California ISO restructuring proceeding. See Pacific Gas & Electric Co., et al., 81 FERC ¶ 61,122 at 61,519-20 (1997), order on reh'g, 82 FERC ¶ 61,223 (1998).

“[e]xcept to the extent that indemnification of the ISO is required from a particular Transmission Customer because of the acts or omissions of the Transmission Customer, indemnification of or by the ISO shall be effected through the Rate Schedule 1 charge.”¹⁰

4. **Section 4 of Rate Schedule 1** has also been amended to include the costs related to “[a]ny indemnification of or by the ISO” in accordance with Section 10.2 as one of the cost categories recoverable under this charge.
5. **Section 4B of Rate Schedule 1** has also been amended to reflect a change in the amortization period for the recovery of costs associated with the start-up and formation of the NYISO. This change results from discussions between the NYISO and the lenders who will provide the NYISO with the funds to reimburse the Member Systems for the start-up and formation costs. The banks have expressed concern that the term of the loan should not extend beyond the date when the ISO/TO Agreement could be terminated. Section 6.01 of the ISO/TO Agreement permits the Transmission Owners to terminate the ISO/TO Agreement after the fifth anniversary of the effective date, by a unanimous vote of the Transmission Owners. A ten-year amortization period for recovery of the start-up costs would result in a period of recovery well beyond the date on which the Transmission Owners could seek to terminate the ISO/TO Agreement. The NYISO and the lenders have negotiated a loan that would permit repayment by the NYISO with the revenues from the amortization of the start-up costs. If the recovery of the start-up costs from the NYISO 's customers starts promptly after the ISO commences operations, and is limited to five years, the start-up costs will be largely recovered by the time the Transmission Owners have the ability to vote to terminate the ISO/TO Agreement. The lenders have advised the ISO that this five year amortization period is acceptable.¹¹

In their August 25, 1999 filing to recover the start-up costs in Docket No. ER99-4235 ("August 25 Filing"), the NYISO and the Member Systems indicated that, given the assumptions made in that filing, the start-up costs would be

¹⁰ In this regard, these proposed changes are consistent with, and superior to, Section 10.2 of the Commission's pro forma tariff.

¹¹ On October 20, 1999, the PSC approved the reduction in the amortization period from ten to five years. See Petition of The New York Independent System Operator, Inc. to Amend the Terms of Its Long-Term Debt Previously Approved in this Proceeding, issued Oct. 20, 1999 (Case 99-E-1176).

approximately \$.04/MWh for the first year. Although the costs per MWh will be higher in the first five years because of a shortened amortization period (approximately \$.07/MWh for the first year), the increase will be extremely modest in relation to the cost of energy and the transmission service charges. Furthermore, as a result of the shortened period, the total amount of interest charges will be significantly reduced, and the total start-up costs will be eliminated in half the time as originally proposed.¹²

B. ISO Services Tariff

The Member Systems and the NYISO propose the following specific changes to the Services Tariff:

1. **Section 12.4**, Indemnification, has been modified to clarify when the terms Market Participant and Customer would include a Transmission Owner for the purposes of the indemnifications provided to the ISO, the Transmission Owners, or the NYSRC. In addition, it clarifies that the representatives of the ISO, Transmission Owners, or the NYSRC covered by the indemnifications provisions shall include "members, managers" and "committee members" in their capacity as members, managers or committee members, but not in their capacity as Market Participants.

Similar to the proposed modifications to Section 10.2 of the ISO OATT, a paragraph has also been added to parallel the existing provisions of the ISO Agreement. The proposed language provides that the ISO will obtain sufficient insurance, or an alternative risk financing arrangement, to discharge its responsibilities under the Services Tariff. It further provides that any insurance proceeds will be used prior to the ISO invoking its right to indemnification. Moreover, "[e]xcept to the extent that indemnification of the ISO is required from a particular Market Participant or Customer because of the acts or omissions of that Market Participant or Customer, indemnification of or by the ISO shall be effected through the Rate Schedule 1 charge of the ISO OATT."

¹² Although the Member Systems and the NYISO are filing the revised tariff sheet in this docket, the change to the five year amortization period will also be addressed in the concurrent Commission proceeding to recover the NYISO start-up costs in Docket No. ER99-4235. On October 13, 1999, the Commission accepted the August 25 Filing subject to refund, and established hearing procedures. See New York Independent System Operator, Inc., and Central Hudson Gas & Electric Corporation et al., 89 FERC ¶ 61,032 (1999).

2. **Section 4 of Rate Schedule 1** of the Services Tariff has been amended to include the “costs related to any indemnification of or by the ISO” in accordance with Section 12.4 as one of the cost categories recoverable under this charge.

C. **ISO/TO Agreement**

The Member Systems and the NYISO propose the following changes to the ISO/TO Agreement:

1. **Article 2.04** has been changed to correct typographical errors.
2. **Article 2.05(a)** has been renumbered to reflect a conforming change.
3. **Article 2.05(b)** has been amended to eliminate the provision establishing the authority of the Transmission Owners' control centers to review the Security Constrained Unit Commitment ("SCUC") as well as certain other aspects of the NYISO's Day-Ahead operating plan.
4. **Article 2.06** has been amended to spell out a term not otherwise defined, to correct a typographical error and to eliminate a phrase that is not relevant in the context of this Article.
5. **Article 2.07** has been amended to correct a typographical error.
6. **Article 3.02** has been changed to set forth the NYISO's obligations with respect to the ISO Agreement, the NYSRC Agreement and the ISO/NYSRC Agreement.
7. **Article 3.03** has been changed to indicate that the procedure to be followed for formally amending the ISO Tariffs applies to the ISO Agreement as well. Language has also been added to establish the right of the ISO Board under certain limited circumstances to unilaterally propose amendments to the ISO OATT, the ISO Services Tariff, and the ISO Agreement without the concurrence of the ISO's Management Committee, as well as the procedures regarding the same. The provision in this Article preserving parties' Section 206 rights has been revised to clearly apply to the ISO as well.
8. **Article 3.04**, governing the granting of authority by the Transmission Owners to the ISO subject to certain express conditions, also has been amended. Such changes include:

- ! The ISO's responsibility with respect to Installed and Operating Capacity is now limited to requiring Market Participants to use "all reasonable efforts" to maintain "applicable" levels.
- ! The requirement that the ISO OATT allow for the full recovery of the Investor Owned Transmission Owners' Annual Transmission Revenue Requirement "to the extent allowed, accepted or approved by FERC."
- ! The assurance provided to Con Edison, LIPA and NYPA that the tax-exempt status of their tax-exempt bonds, the ability of an Investor-Owned Transmission Owner to deduct interest, or the ability of the Transmission Owners to secure future tax-exempt financing will not be jeopardized, is limited to their participation in the NYISO.
- ! **Article 3.04(e)** has been deleted. **Article 3.04(f)** has been renumbered and a provision has been added to reflect the condition that the ISO not act in violation of "lawful" Public Service Commission of the State of New York ("PSC") or FERC orders.
- ! **Article 3.04(g)** has been renumbered as **Article 3.04(f)**.
- ! **Article 3.04(h)** has been deleted, and **Article 3.04(i)** has been renumbered as **Article 3.04(g)**.
- ! **Article 3.04(j)** has been renumbered as Article 3.04(h), and articulates the condition that the ISO not "seek modification of any provision" of either the ISO OATT or the ISO Services Tariff so as to require wheeling "to end users except as authorized by the PSC or a retail access tariff approved by the Long Island Power Authority's Board of Trustees" or to require wheeling in a "sham wholesale transaction." Those provisions are intended to track the Commission's pro forma Tariff.
- ! **Article 3.04(k)** has been deleted.
- ! **Article 3.04(l)** has been renumbered as **Article 3.04(i)**.
- ! **Article 3.04(m)** has been renumbered as **Article 3.04(j)**. It sets forth the ISO's responsibility to enforce and comply with the creditworthiness and collection standards of the ISO Procedures, the ISO OATT and the ISO Services Tariff.

9. **Article 3.05**, concerning Collection and Billing, has been modified to reflect the elimination of the listed billing items.
10. **Article 3.06**, addressing the NYPA Annual Transmission Revenue Requirement, has been changed slightly to provide that the Agreement is contingent on each Investor-Owned Transmission Owner being authorized to recover the NTAC.
11. **Article 3.07**, regarding Proposed Material Modifications to the New York State Power System, has been modified to eliminate language referencing its effect upon the Transmission Owner's responsibilities to expand its transmission system.
12. **Article 3.08** has been amended to reflect that the ISO shall maintain the Open Access Same-time Information System ("OASIS") for the NYCA.
13. **Article 3.09** has been amended to indicate that the ISO's obligation to reimburse the Transmission Owners for the costs associated with the start-up and establishment of the ISO is contingent upon the Commission authorizing recovery of such costs from the ISO's customers.
14. **Article 3.10**, Retention of Non-Transferred Obligations, has been moved to **Article 3.11**. Article 3.10 now addresses Transmission Owners Reserved Rights. This section delineates the rights which the Transmission Owners will retain under the ISO regime. It has been added to memorialize many of the rights contained in Article 17A of the ISO Agreement. Article 17A was submitted as part of April 30 Compliance Filing, and was approved by the Commission in the July 29 Order.

For example, each Transmission Owner will have:

- ! the right to unilaterally make a Section 205 filing to change the ISO OATT, a Service Agreement under the ISO OATT, or the ISO Agreement for the purposes of recovering its reasonably incurred costs and to accommodate changes to its retail access program;
- ! the right to make filings with respect to the reallocation of revenues among Transmission Owners as a result of a merger or acquisition;
- ! all the rights incidents to ownership of its transmission assets, including the ability to terminate its relationship with the ISO to facilitate an alternative arrangement for the ownership/operation of its transmission facilities on an unbundled basis, subject to receiving necessary regulatory approvals;

- ! the right to recover all reasonably incurred costs associated with expansion of its transmission facilities;
 - ! neither expanded nor diminished responsibilities to modify or expand its transmission system, and the Agreement does not confer upon the ISO the authority to direct the Transmission Owner to modify or expand its transmission system;
 - ! the right to adopt and implement necessary procedures to prevent physical damage to electrical facilities, as well as to prevent injury to persons and property;
 - ! the right to take necessary actions in fulfillment of local, state, or federal law; and
 - ! the right to make filings with the PSC.
15. **Article 3.11** is now Retention of Non-Transferred Obligations. This section provides that the Transmission Owners will retain all other rights and responsibilities with respect to the ownership and/or operation of their transmission assets, or their rights to withdraw such assets from ISO control, which have not been specifically transferred to the ISO under this Agreement, or otherwise addressed under this Agreement.
16. **Article 3.12**, now LIPA Scheduling Procedures, was formerly Article 3.11 and has not been changed.
17. **Article 5.01**, Limitations of Liability, has been amended to state that a Transmission Owner is not excused from an obligation to pay for services which it has obtained from the ISO, nor to pay any ISO-imposed deficiency payments, penalties or sanctions under the ISO OATT or the ISO Services Tariff.
18. **Article 5.03**, Indemnification, has been modified to limit the circumstances in which the ISO shall indemnify the Transmission Owners. The ISO's obligation to indemnify the Transmission Owner is now limited to any acts or omissions of either the Transmission Owner or the ISO, which are related to the Transmission Owner's ownership or operation of its transmission facilities when such acts or omissions are either (1) pursuant to or consistent with ISO Procedures or direction; or (2) in any way related to the Transmission Owner's or the ISO's performance under the ISO OATT, except to the extent that a Transmission Owner is found liable for negligence or intentional misconduct, and under the ISO

Services Tariff, the ISO Agreement, the ISO/NYSRC Agreement, the NYSRC Agreement, or this Agreement.

19. **Article 6.01**, which addresses the Term and Termination of the ISO/TO Agreement, has been modified in several respects. First, the language concerning ISO implementation being contingent upon the Transmission Owners and LIPA being provided a reasonable opportunity to recover prudent and verifiable expenditures and commitments, has been removed. Second, further specification has been provided with respect to the notice procedures to be followed when a Transmission Owner seeks to withdraw from the ISO under Article 6.01 because the ISO has failed to meet one of its defined obligations in Article 3.04 of the Agreement.
20. **Article 6.02**, Withdrawal, has been modified to reflect the Commission's role in the process by which a Transmission Owner can, under Article 6.02, withdraw from the ISO Agreement and the related Tariffs and withdraw its assets from ISO control. First, written notice of withdrawal must be provided to the ISO Board and the Commission. Second, an Investor-Owned Transmission Owner's ability to withdraw is subject to a Commission determination that such withdrawal is not contrary to the "public interest" standard as developed by judicial precedent interpreting the Mobile-Sierra¹³ doctrine. Third, parties whose tax-exempt financing is jeopardized by ISO participation can retain their status by withdrawing from the ISO upon thirty days notice.
21. **Article 6.03**, Obligations after Termination or Withdrawal, has been amended to correct typographical errors.
22. **Article 6.04**, Winding Up, has also been modified. In addition to a minor typographical correction, the proposed modification imposes the additional obligation upon the ISO and withdrawing parties "to make a good faith effort" to develop a mutually acceptable termination plan. Such a plan shall seek to effect an orderly termination or withdrawal, as well as address any allocation of costs related to the termination/withdrawal.
23. **Article 6.05**, Confidentiality, has been amended slightly. The existing section addressing party access to documents and data has been modified to limit the

¹³ United Gas Pipeline Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) ("Mobile") and FPC v. Sierra Pacific Power Co., 350 U.S. 348 (1956) ("Sierra") (jointly "Mobile-Sierra").

access of Transmission Owners to review or receive any documents of another "Transmission Owner or the ISO supplied pursuant to this Agreement."

24. **Article 6.09**, Contract Supremacy, has been revised to state that the "express" terms of the ISO/TO Agreement will control in the event of any conflict with the express terms of the ISO Agreement, the ISO/NYSRC Agreement, or the ISO Tariffs.
25. **Article 6.14**, which addresses the modification of this Agreement, has been changed to further articulate the extent to which the Agreement is governed by Sections 205 and 206 of the FPA. First, this Agreement can be changed under Section 205 upon the mutual agreement of the Parties. Second, absent such mutual agreement, Sections 2.01, 3.03, 3.04, 3.09, 3.10, 3.11, 4.01, 4.02, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 6.01, 6.02, 6.09 and 6.14 of this Agreement shall be subject to change only upon an express finding by the Commission "that such change is required under the public interest standard under the Mobile-Sierra doctrine." All other sections of this Agreement may be changed under the "just and reasonable" standard of Section 206.
26. **Article 6.15** is now Good Faith Resolution. This section provides that if cost shifting occurs as a result of the Commission's final decision in Central Hudson Gas & Electric, et al., Docket Nos. ER97-1523-011, OA97-470-010 and ER97-4234-008, the ISO and the Transmission Owners will work together to develop a fair and equitable resolution.
27. **Article 6.16**, now Counterparts, was formerly Article 6.15 and has not been changed.

D. ISO Agreement

The Member Systems and the ISO propose several revisions to the ISO Agreement. These changes include:

1. **Section 1.43**, Independent System Operator Agreement, has been modified to correct a typographical error.
2. **Section 1.92**, Operating Reserves, has been amended to correct two typographical errors.

3. **Section 1.109**, Reliability Rules, has been revised to correct a typographical error. The word "Local" has been substituted for the word "Load".
4. **Section 6.01**, governing the general duties of the ISO, has been changed to correct a typographical error, and to reflect the correct reference to the Article in the ISO Agreement which addresses penalties for non-performance.
5. **Section 7.11**, addressing Committee Procedures, has been amended to require special meetings of the Management Committee where requested by the ISO Board, or at the request of Parties representing a quorum of three voting sectors.
6. **Section 17A.8**, governing Transmission Owners' Reserved Rights under the Federal Power Act, has been modified to reflect the limitation, "[e]xcept as expressly provided herein."
7. **Section 19.01** has been changed to reflect the revised procedures for formally amending the ISO Tariffs and the ISO Agreement. The revised language is similar to that which has been proposed for Article 3.03 of the ISO/TO Agreement, supra.
8. **Section 23.01**, addressing Indemnification, has been modified to be consistent with Article 5.03 of the ISO/TO Agreement. The ISO's obligation to indemnify the Transmission Owner is now limited to any acts or omissions of either the Transmission Owner or the ISO, which are related to "the Transmission Owner's ownership or operation of its transmission facilities when such acts or omissions are either (1) pursuant to or consistent with ISO Procedures or direction; or (2) in any way related to the Transmission Owner's or the ISO's performance under the ISO OATT, except to the extent that a Transmission Owner is found liable for negligence or intentional misconduct, and under the ISO Services Tariff, the ISO/TO Agreement, the NYSRC Agreement, the ISO/NYSRC Agreement, or this Agreement..."
9. **Section 25.01**, Limitation of Liability of ISO, has been modified to clarify that the term Market Participants will not include Transmission Owners only "with respect to acts or omissions related in any way to the Transmission Owner's ownership or operation of its transmission facilities when such acts or omissions are either (1) pursuant to or consistent with ISO Procedures or direction; or (2) in any way related to the Transmission Owner's or the ISO's performance under the ISO OATT, the ISO Services Tariff, the ISO/TO Agreement, the ISO/NYSRC Agreement or this Agreement."

E. ISO/NYSRC Agreement

The Member Systems and the ISO propose to amend one specific provision of the ISO/NYSRC Agreement.

1. **Article 11** of the ISO/NYSRC Agreement, governing Indemnification, has been modified to eliminate the language previously contained in Section 11.1, and Section 11.2 has been renumbered Section 11.1. Language has been added to clarify that the ISO's indemnification extends to NYSRC "members" and "managers".

III. Additional Supporting Information

- 35.13(b)(1)** The Member Systems and the ISO have submitted the documents listed in V below.
- 35.13(b)(2)** The Member Systems and the ISO respectfully request an effective date on the date the ISO commences operation, with the one exception identified in footnote 3, supra, in accordance with IV, below.
- 35.13(b)(3)** A copy of this filing has been served upon all persons on the official service list in Docket Nos. ER97-1523, et al., in accordance with VII, below.
- 35.13(b)(4)** A description of the changes to be effected by this filing is contained in this transmittal letter.
- 35.13(b)(5)** The reasons for the changes to be effected by this filing are contained in this transmittal letter.
- 35.13(b)(6)** The requisite agreement of all the Member Systems and the ISO for the changes effected by this filing is evidenced by the fact that this is a joint filing.
- 35.13(b)(7)** The Member Systems and the ISO have no knowledge of any relevant expenses or costs of service that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

- 35.13(b)(8)** A draft form of notice concerning this filing that is suitable for publication in the Federal Register has been enclosed pursuant to Section 35.8 of the Commission's Regulations. A computer diskette containing such draft notice is also attached.
- 35.13(c)(1)** The resulting changes, if any, in sales, services and revenues cannot be reasonably forecasted and no comparison with earlier sales, services and revenues is possible.
- 35.13(c)(2)** The Member Systems and the ISO do not jointly provide services under other rate schedules that are similar to the wholesale for resale and transmission services jointly provided under the ISO OATT and the ISO Services Tariff. Individual Member Systems continue to provide transmission services under their respective pro forma tariffs on file with the Commission and each of such Member Systems has or will file any necessary amendments to their individual tariffs to conform with the ISO OATT and ISO Services Tariff.
- 35.13(c)(3)** No specifically assignable facilities have been or will be installed or modified in order to supply service under the changes effected by this filing.

IV. Effective Date

The tariff sheets and the Agreement provisions included in Appendix A are being requested to become effective on the date the ISO commences operation. The Member Systems and the NYISO respectfully request the Commission grant any and all waivers of its Regulations that it deems necessary to allow the tariff sheets to be effective on the date.

With respect to the effective date for changing the amortization period for the recovery of start-up costs, the NYISO requests an effective date of January 1, 2000, assuming that by that date the NYISO has commenced operations and successfully completed an initial operating period. That date is consistent with the NYISO 's intention to avoid any type of retroactive collection.

V. Contents of the Filing

In accordance with Section 35.7 of the Commission's Regulations, the Member Systems and the NYISO are submitting the following, including an original and five (5) copies of items 1-4:

- (1) This transmittal letter;
- (2) The revised tariff sheets and the revised Agreement provisions (Appendix A);
- (3) A highlighted/strikeout version of the revised tariff sheets and the revised Agreement provisions (Appendix B);
- (4) A form of notice suitable for publication in the Federal Register;
- (5) A computer diskette containing the proposed Federal Register Notice; and
- (6) A computer diskette containing the revised tariff sheets.

VI. Company Contacts

The names, titles, mailing addresses, and telephone numbers of those persons to whom correspondence and communications concerning this filing should be addressed are as follows:¹⁴

¹⁴ The Member Systems and the NYISO request waiver of Rule 2010(c), 18 C.F.R. Section 385.2010(c), in order to permit designation of more than one additional parties on the service list. The Member Systems and the NYISO submit that waiver is appropriate in this case due to the joint nature of this filing.

NEW YORK POWER POOL

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VII. Certificate of Service

A copy hereof, together with all enclosures except for the computer diskettes, is being served upon each person on the official service list in Docket Nos. ER97-1523, et al. Please

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confirm receipt of this filing by so indicating on the enclosed copy of this filing and returning it to me in the envelope provided.

Respectfully Submitted,

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Enclosures