

June 22, 2001

Richard J. Grossi  
Chairman of the Board of Directors  
New York Independent System Operator  
C/O Mr. William J. Museler  
President and CEO  
3890 Carman Road  
Schenectady, NY 12303

Re: Enron Motion in Opposition to NYSEG Appeal of Management  
Committee's June 6, 2001 Decision Approving the Stage II ICAP Tariff

Dear Chairman Grossi:

Enron Power Marketing, Inc. (Enron) respectfully submits this letter as a Motion in Opposition to the NYSEG appeal of the Management Committee's June 6, 2001 decision approving the Stage II ICAP Tariff. We understand that the Board has established an expedited process for considering this appeal. If that is incorrect, then pursuant to Section 2.06 of the Procedural Rules for Appeals to the ISO Board, Enron hereby requests expedited process so that the approved Tariff can be filed with FERC in time for action and implementation for this winter's capability period.

Enron urges that the NYSEG appeal be denied. Granting the appeal would undermine the painstaking governance process conducted over the past 18 months to revise and improve New York's ICAP market that culminated in the Management Committee's June 6<sup>th</sup> action, retain in place in New York a six month obligation procurement period that is inconsistent with both PJM's and New England's ICAP markets and that can impose significant financial harm on load serving entities in New York, and unnecessarily and improperly freeze New York's efforts to modify its market rules just because PJM has recently adopted different revisions to its ICAP market that are interim in nature and will be further reviewed and refined as part of a new Market-Based Capacity/Reliability Steering Committee just established by PJM's Members Committee. Finally, contrary to NYSEG's unsupported assertions, the change to a monthly obligation procurement period will not result in reduced reliability in New York. In fact, NYSEG's contention was rejected by an independent analysis commissioned by the Board last year.

## NYSEG's Appeal Would Undermine a Painstaking Governance Process

Although Enron has long been on record in New York and elsewhere as favoring robust and liquid forward energy markets rather than mandatory ICAP requirements as the proper means of assuring adequate supply adequacy and reliability, Enron has been an active participant in New York's efforts to make its existing ICAP market more rational, more consistent with its neighbors, and more accommodating to a competitive retail energy market. To that end, the undersigned has served as Chairman of the Business Issues Committee's ICAP Working Group since its inception nearly 18 months ago.

During this time period, the ICAP working group together with the Business Issues Committee and the Management Committee has engaged in the most thorough and deliberate process to review and revise the ICAP market design, including dozens of meetings and a presentation by PJM staff. The change from a six-month to a monthly procurement period was not some last minute revision added as an afterthought at the tail end of this process. Rather, it was an issue that was thoroughly debated from the outset of the working group meetings, and was even brought before the Management Committee a year ago for its conceptual approval (along with the change to UCAP) because broad consensus on these changes did not exist in the working group. Following the MC's conceptual approval last summer, the working group held numerous meetings and conference calls to arrive at a revised Tariff (and a nearly 200 page accompanying Manual) that implements the Management Committee's clear policy guidance and that has been overwhelmingly approved by both the Business Issues Committee and the Management Committee. To upset the Management Committee's decision following such a long and deliberate effort would do irreparable harm to the committee process.

## NYSEG's Appeal Would Leave in Place a Procurement Period Requirement that is Inconsistent with Both PJM and New England

NYSEG argues that the Management Committee's decision should be reversed because moving to a monthly procurement requirement would make New York's ICAP market design "fundamentally inconsistent" with PJM's recently approved revisions and "create new seams issues and divergent market rules." What NYSEG ignores is that New York's existing ICAP requirements are and will remain inconsistent with both PJM's just revised and New England's ICAP requirements. Maintaining the status quo does nothing to improve this situation. In contrast, the changes approved by the Management Committee actually move us much closer to NYSEG's stated goal of regional consistency.

The ICAP working group and both the BIC and Management Committee were mindful of the need to strive for consistency between New York's ICAP market design and its neighbors. It was precisely for that reason that the working group pushed to adopt the UCAP methodology that had been in use in PJM for years. Ironically, early efforts to make New York's obligation procurement period consistent with PJM's even shorter daily obligation procurement period were resisted by many in the working group and abandoned in favor of New England's monthly requirement.

NYSEG's appeal also ignores the fact that the existing six month procurement period has the potential to inflict serious financial harm on load serving entities. As was just experienced upstate in connection with this summer's six month obligation period, ICAP deficiencies that result from a lack of supply being offered to the market can result in huge financial penalties for loads, which are assessed for the entire six month capability period, even where the loads might be able to cover their short positions in subsequent months during the capability period. Nearly \$60 million in deficiency payments were collected from LSEs for the entire summer capability period. A monthly procurement period would have reduced these penalties significantly had loads been able to cover their short positions in later months (as the ISO was able to do in a matter of days). The ISO Board itself has recognized this reality by issuing an ECA that effectively converted the New York City and Long Island localities to a monthly procurement requirement in the face of potential supply deficiencies this summer. It should also be noted that a monthly procurement requirement reduces the barriers to entry for small load serving entities, by reducing the amount of security that has to be posted to cover their ICAP purchases.

Moreover, with the move to UCAP and a monthly procurement period, New York will be much more consistent with PJM's capacity market than is the case today. Even with PJM's interim adoption of three different capability periods, we will now have common product definitions, and suppliers in both markets will be able to easily choose whether to sell into one market or the other. Suppliers in PJM who elect not to sell their ICAP for lengthy periods will have the option of coming to New York's market on a monthly basis knowing that New York's monthly market is likely to be far more robust than is currently the case. Suppliers and loads in New York that still wish to procure ICAP for longer periods will still have this option, either through bilateral arrangements or through the capability period strip auctions that will still be conducted by the ISO.

#### It is Unwise and Unnecessary to Freeze Action in New York While PJM Considers more Permanent Changes to Their ICAP Market

One year after the Management Committee's conceptual approval of changing to a monthly procurement period, and the work of the ICAP working group to implement this policy decision having been completed, NYSEG now argues for a delay in this effort to achieve consistency with ICAP market changes just adopted by PJM in response to their own market concerns. Such an action is both unwise and unwarranted. The recently approved revisions to PJM's ICAP market that NYSEG would have New York strive to be consistent with are interim in nature. There is no guarantee that these changes will become a permanent part of PJM's market design. FERC has directed that PJM report back within a year on a permanent set of changes, and to that end, the PJM Members Committee recently approved the creation of a new Market-Based Capacity/Reliability Steering Committee "to develop and implement a market-based capacity market while meeting existing reliability standards." (See, June 7, 2001, PJM Members Committee

Agenda, Item 10.) Our understanding is that this effort will entail a comprehensive and fundamental reexamination of the ICAP market, including the need for its continuation.<sup>1</sup>

New York's Management Committee has also set in motion a similar process. During the debate on the Stage II Tariff, the ICAP working group Chair was asked and agreed to undertake a comprehensive reexamination of the entire ICAP market over the next six to nine months. There is no reason why NY's reexamination efforts cannot be coordinated with PJM's. The issue is whether it makes sense to throw out the last 18 months of work in New York while such a fundamental reexamination of ICAP, including the need for this market, goes forward. As discussed above, there are many benefits to the market from moving to a monthly procurement period. The working group was also concerned that the Stage II ICAP market changes be implemented in time for this winter, so that experience could be gained during periods when demand is lower and available supplies are greater. Any delay in the schedule envisioned by the working group and the Committees in getting this Tariff change to the Board would seriously jeopardize the likelihood of obtaining FERC approval of the tariff changes in time for the late September auctions that will be held for the winter capability period that begins November 1, 2001.

#### Changing to a Monthly Requirement will not Reduce Reliability in New York

The final points argued by NYSEG are that moving to a monthly procurement period will "contribute to the destabilization of the NYISO ICAP Market" and "degrade reliability." NYSEG offers no support for these fears, other than to point to the problems that PJM had experienced with its daily markets. Never mind that NYSEG fails to perceive any difference between a daily and a monthly requirement, or fails to explain why a monthly market in New England is not "destabilizing" or "degrad reliability. On this issue the ISO has already spoken. As part of the comprehensive and thorough analysis conducted in developing these tariff changes, the ISO Board commissioned an independent analysis of the impact on reliability of moving to a monthly procurement period. The consultant's report, prepared by the Brattle Group in May 2000, concluded as follows: "Nothing in our analysis suggests that changing the ICAP procurement period from six months to one month will materially reduce reliability." (Report, at page 2.)

#### Conclusion

While Enron certainly appreciates NYSEG's focus on making the markets in New York and the rest of the Northeast seamless and more efficient, we see no benefit here from delaying the carefully developed changes to New York's ICAP markets and realizing the significant benefits and protections that will result from their adoption and

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<sup>1</sup> The pendency of PJM's proposed revisions and FERC's subsequent decision were known to and thoroughly discussed by both the BIC and the Management Committee during the debates on the Stage II Tariff. Given the overwhelming support to move forward received from both Committees notwithstanding these developments in PJM, NYSEG's position that New York should grind to a halt represents nothing more than a minority point of view entitled to little weight.

implementation. Can more be done to improve the ICAP markets in New York and elsewhere while they remain in place? Absolutely. Should we be asking fundamental questions about what purpose this market serves and are there better ways to assure reliability in the region without saddling loads with billions of dollars in costs that should be reflected in hourly energy prices? Definitely. Enron is committed to pursuing answers to both. In the interim, however, we urge the Board to proceed with the Tariff changes approved by the Management Committee. NYSEG's appeal should be denied and the Stage II Tariff amendments should be promptly approved by the Board and submitted to FERC for its approval.

Respectfully submitted,

Howard A. Fromer