

HUNTON &
WILLIAMS

December 19, 2000

FILED
OFFICE OF THE SECRETARY
00 DEC 19 PM 2:50
FEDERAL ENERGY
REGULATORY COMMISSION

1900 K STREET, N.W.
WASHINGTON, D.C. 20006-1109

TEL 202 • 955 • 1500
FAX 202 • 778 • 2201

ARNOLD H. QUINT
DIRECT DIAL: 202 • 955 • 1542
EMAIL: aquint@hunton.com

FILE NO: 55430.000005

DUPLICATE

BYHAND

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

New York Independent System Operator, Inc.'s
Report on Governance Issues in Docket Nos. ER97-1523-005,
ER97-1523-006, OA97-470-006, ER97-4234-004 and EC99-31-001

Dear Mr. Boergers:

In its September 15, 1999 *Order Approving Agreement on Governance and Denying Requests for Rehearing* ("Governance Order") in the above-captioned proceeding,¹ the Commission approved the New York Independent System Operator, Inc.'s ("NYISO") current governance structure. The governance structure was initially proposed by the Member Systems of the former New York Power Pool² ("Member Systems"), and was substantially modified pursuant to a Commission-mandated settlement process. When the resulting compromise governance proposal was filed with the Commission, three market participants protested certain elements of its sector voting system. Responding to these concerns, the *Governance Order* directed the NYISO to "file a status report on the operation of the governance structure after one year from the commencement of operations."³ The *Governance Order* specified that the NYISO's report would "allow the Commission to revisit parties' concerns regarding sector representation."⁴ Accordingly, pursuant to the Commission's

¹ *Central Hudson Gas & Electric Corp., et al.*, 88 FERC ¶ 61,229 (1999).

² After the NYISO assumed the responsibilities of the New York Power Pool the Member Systems reconstituted themselves as the Member Systems of the Transmission Owners Committee of the Energy Association of New York State.

³ See 88 FERC at 61,760.

⁴ *Id.*



The Honorable David P. Boergers
December 19, 2000
Page 2

December 8th order granting an extension of time to make this filing, the NYISO hereby submits the required report.⁵

Accordingly, the NYISO is submitting a report on the operation of its governance structure that focuses on the specific sector voting matters that were discussed in the *Governance Order*.

I. Documents Submitted

1. This report;
2. Form of *Federal Register* Notice.

II. Copies of Correspondence

Communications regarding this proceeding should be addressed to:

Robert E. Fernandez, General Counsel
John P. Buechler, Director of Regulatory Affairs
New York Independent System Operator, Inc.
3890 Carman Road
Schenectady, NY 12303
Tel: (518) 356-6153
Fax: (518) 356-4702
rfernandez@nyiso.com
jbuechler@nyiso.com

Arnold II. Quint
Ted J. Murphy
Hunton & Williams
1900 K Street, N.W.
Washington, D.C. 20006
Tel: (202) 955-1500
Fax: (202) 778-2201
aquint@hunton.com
tmurphy@hunton.com

⁵ In its December 1 filing requesting an extension of time to file this report, the NYISO indicated that it would address other governance issues besides those identified in the *Governance Order*. However, because these additional issues continue to be discussed in the NYISO's RTO Working Group process, the NYISO will defer addressing them until the time that it makes its RTO compliance filing.

The Honorable David P. Boergers
December 19, 2000
Page 3

III. Report

A. Background

As was noted in the *Governance Order*, three market participants filed protests concerning certain aspects of the governance structure that was ultimately approved by the Commission. Specifically: (i) the City of New York on behalf of the New York City Public Utility Service ("NYCPUS") complained that it was being improperly excluded from the governance process and should be permitted to participate in the "Other Supplier" sector; (ii) the New York Power Authority ("NYPA") claimed that it should be permitted to participate in sectors other than the "Public Power/Environmental" sector because possible changes in its operations and services, e.g., a divestiture of its generation and transmission, could render its participation in that sector inappropriate; and (iii) 1st Rochdale Cooperative Group, Ltd. and Consolidated Housing Services, Inc. ("1st Rochdale") argued that retail marketers were deprived of a "distinct voice" in the governance process because the "Other Supplier" sector did not include separate sub-sectors for retail marketers and wholesale marketers. 1st Rochdale also asked that the NYISO be required to report on "how the NYISO governance sector voting is working by way of a report after one year."⁶

In the *Governance Order*, the Commission rejected these protests and stated:

We find that the concerns of the City of New York, NYPA and 1st Rochdale do not warrant rejection or modification of this widely-supported governance proposal. First, the City of New York's interest is adequately represented in the governance under the "end use Consumer" sector. Second, creating additional subsectors to accommodate each variation of market participants, as advocated by 1st Rochdale, seems unnecessary and would complicate a result which has been negotiated and agreed upon by most parties at this time. Third, with regard to the concerns of NYPA, the circumstances which may warrant a change in its status within the governance structure (*i.e.*, changes in legislation) are speculative at this time. We do not see a need to modify the governance

⁶ *Protest of 1st Rochdale Cooperative Group, Ltd. and Coordinated Housing Services, Inc.*, Docket No. ER97-1523-006, *et al.* at 7 (July 22, 1999).

The Honorable David P. Boergers
December 19, 2000
Page 4

proposal at this time to address a concern regarding a possible future need for NYPA to change sectors.⁷

In addition, the Commission directed the NYISO to “file a status report on the operation of the governance structure after one year from the commencement of operations” which would “allow the Commission to revisit parties’ concerns regarding sector representation ”⁸

B. Report

At this time there is no need to modify the NYISO’s governance structure in response to the concerns raised by NYCPUS, NYPA or 1st Rochdale. The NYISO also believes that NYCPUS has been well represented in the governance process by large and small end users, the government representatives, and the Metropolitan Transit Authority.⁹ Similarly, the NYISO believes that 1st Rochdale has been fairly represented within the Other Supplier sector despite the lack of a distinct subsector for retail marketers. The NYISO continues to monitor this situation and would propose a change, as it did with respect to the End Use Consumer sector, if it were to conclude that a change was necessary. Finally, because the circumstances which might warrant a change in NYPA’s status have not yet arisen NYPA’s concerns are as speculative now as they were a year ago. In the event that NYPA’s circumstances do change, the NYISO will revisit this issue.

IV. Federal Register Notice

A form of *Federal Register* Notice is attached hereto.

⁷ 88 FERC ¶ 61,229 at 61,760.

⁸ *Id.*

⁹ The City of New York, nevertheless, contends it is disproportionately underrepresented at the NYISO, but does not request a change in the governance structure at this time.

HUNTON &
WILLIAMS

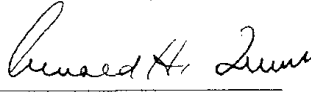
The Honorable David P. Boergers
December 19, 2000
Page 5

V. Service

Copies of this filing are being served on all of the parties in Docket Nos. ER97-1523-005, ER97-1523-006, OA97-470-006, ER97-4234-004 and EC99-31-001.

Respectfully submitted,

NEW YORK INDEPENDENT
SYSTEM OPERATOR, INC.

By 
Counsel

Arnold H. Quint
Ted J. Murphy
Hunton & Williams
1900 K Street, N.W.
Washington, DC 20006-1109
Of Counsel

December 19, 2000

cc: Mr. 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, Office of the General Counsel, Room 101-29,
Tel. (202) 208-2097

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System)	
Operator, Inc.)	
)	Docket Nos. ER97-1523-005,
)	ER97-1523-006,
)	OA97-470-006,
)	ER97-4234-004,
)	EC99-31-001
)	

NOTICE OF FILING

Take notice that on December 19, 2000, the New York Independent System Operator, Inc. filed a Report on Governance Issues in the above-captioned dockets.

A copy of this filing was served upon all parties in the above-captioned dockets.

Any person desiring to be heard or 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.

David P. Boergers
Secretary