

# STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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## PUBLIC SERVICE COMMISSION

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August 17, 2011

Mr. Robert A. Hiney  
Chairman, NYISO Board of Directors  
c/o Mr. Stephen G. Whitley  
President and Chief Executive Officer  
New York Independent System Operator, Inc.  
10 Krey Boulevard  
Rensselaer, NY 12144

RE: IPPNY Notice of Appeal of the Management Committee's approval of Motions #5, #5A, and #5B on July 27, 2011 (Rate Schedule 1 Cost Recovery Allocation) - DPS Staff Motion in Opposition to IPPNY Appeal

Dear Chairman Hiney:

Pursuant to the Procedural Rules for Appeals to the NYISO Board, the New York State Department of Public Service Staff (DPS Staff) hereby submits its Motion in Opposition to the appeal filed by the Independent Power Producers of New York, Inc. (IPPNY) on August 10, 2011. IPPNY appeals the Management Committee's decision on July 27, 2011 to approve Motion #5, which recommended that the NYISO Board approve modifications in the Cost Recovery Allocation under Rate Schedule 1. IPPNY also appeals the Management Committee's decisions rejecting Motion #5A, which sought to table Motion #5 for further review, and Motion #5B, which sought a three-year phase-in period.

For circulation to the Management Committee, DPS Staff's Motion in Opposition is being delivered concurrently to the individuals identified as copied below. Should you have any questions please feel free to contact me at (518) 473-8178.

Very truly yours,



David G. Drexler  
Assistant Counsel  
3 Empire State Plaza  
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(518) 473-8178

Attachment

cc: Deborah Eckels, [deckles@nyiso.com](mailto:deckles@nyiso.com)  
Leigh Bullock, [lbullock@nyiso.com](mailto:lbullock@nyiso.com)  
Kate Hockford, [khockford@nyiso.com](mailto:khockford@nyiso.com)

MOTION IN OPPOSITION OF THE  
NEW YORK STATE DEPARTMENT  
OF PUBLIC SERVICE STAFF

BACKGROUND

On July 27, 2011, the Management Committee passed Motion #5, with 67% of stakeholders voting in concurrence, to recommend that the NYISO Board of Directors (NYISO Board) approve modifications to the allocations for recovering costs under Rate Schedule 1. The recommended modifications were based on the study prepared by Black & Veatch (B&V Study), and would adjust the current allocation from 80% load/20% supplier to 72% load/28% supplier. The Management Committee recommended that the NYISO Board file these changes with the Federal Energy Regulatory Commission (FERC) pursuant to Section 205 of the Federal Power Act.

The Management Committee also rejected Motion #5A, which sought to table Motion #5 so that the B&V Study could be reviewed further. In addition, the Management Committee rejected Motion #5B, which sought a three-year phase-in period for the revised cost recovery allocations.

On August 10, 2011, the Independent Power Producers of New York, Inc. (IPPNY) appealed the Management Committee's decisions approving Motion #5 and rejecting Motions #5A and #5B to the NYISO Board. IPPNY contends that the B&V Study contains "potential flaws," "fails to provide an adequate justification,"

and that the recommended cost allocation is "not just and reasonable in comparison to other ISOs/RTOs."<sup>1</sup> IPPNY requests that the NYISO Board reject the Management Committee's recommended modifications to the cost recovery allocation under Rate Schedule 1, and remand the issue to the stakeholder working group to further evaluate the B&V Study. Alternatively, IPPNY seeks a three-year phase-in of the cost-recovery allocations while a supplemental study is prepared and the results are implemented beginning on January 1, 2015.

#### DISCUSSION

Department of Public Service Staff supports the Management Committee's decisions regarding Motions #5, #5A, and #5B. The proposed modifications for allocating the costs recovered under Rate Schedule 1 of the NYISO tariff, whereby 72% would be allocated to loads and 28% to suppliers, are within the range of allocations utilized in other ISOs/RTOs and are reasonable. These allocations fall in between the California ISO's allocation of 67% to loads/33% to suppliers, and PJM's and

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<sup>1</sup> IPPNY Notice of Appeal, pp. 1, 6-7.

ISO-New England's allocations of 79%/78% to loads, and 21%/22% to suppliers, respectively.<sup>2</sup>

While we recognize that the results of any cost allocation study may vary based on the assumptions, the B&V Study provides an independent assessment of the reasonable range for allocating cost between loads and suppliers. In so far as both IPPNY and load interests disagree with certain assumptions in the B&V Study, it is unlikely that IPPNY's objections will be resolved by tabling action for one month, as it sought to accomplish through Motion #5A. Accordingly, the NYISO Board should find that the Management Committee's rejection of Motion #5A was appropriate.

Similarly, the NYISO Board should reject IPPNY's attempts to delay the implementation of the modified cost recovery allocations by phasing the allocations in over three years. By phasing in the allocations, IPPNY inappropriately attempts to shift costs from suppliers to loads. The Management Committee's rejection of Motion #5B was thus appropriate.

Because the Management Committee's decisions were supported by the B&V Study and consistent with the NYISO Staff's recommendation, the NYISO Board should uphold the Management

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<sup>2</sup> While ERCOT and Southwest Power Pool allocate 100% of their costs to load, it appears that the approach employed in these regions does not rely upon the type of cost analysis utilized by the NYISO, and therefore should not be considered relevant in comparing cost allocations between regions.

Committee's decisions, which were supported by 67% of stakeholders. The NYISO Board has frequently expressed support for the stakeholder governance process, and should continue to support that process here by finding the Management Committee's determinations were reasonable and appropriate.

CONCLUSION

For the reasons noted above, the NYISO Board should deny IPPNY's appeal of the Management Committee's decisions regarding Motions #5, #5A, and #5B. Further, the NYISO Board should not delay in filing with FERC the recommended modifications to the cost recovery allocations under Rate Schedule 1 of the NYISO tariff.

Very truly yours,



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Dated: August 17, 2011  
Albany, New York