

**Proposed Changes to the Management Committee By-Laws
Regarding the Sector Designations of
Demand Response Providers and Distributed Generators**

**Management Committee Meeting
February 4, 2004**

Article XI. Divisions of Members into Sectors

11.01 The Management Committee shall be comprised of five sectors:¹

11.01.1 Generator Owners;

11.01.2 Other Suppliers;

11.01.3 Transmission Owners;

11.01.4 End-Use Consumers; and

11.01.5 Public Power/Environmental Parties.

11.02 As provided in the ISO Agreement, a Party must, within 30 days of the commencement of ISO operations or within 30 days of becoming a Party and thereafter not later than the thirtieth day of November of each year, advise the President of the ISO, in writing, of the sector in which the Party is qualified to participate.²

11.02.1 If a Party is qualified to participate in more than one sector, it shall advise the ISO President and the Secretary of the Management Committee, in writing, of the sector in which it chooses to vote; *provided, however*, that an Investor-Owned Transmission Owner may vote only in the Transmission Owners sector, a State Public Power Authority qualified to vote in the Public Power/Environmental Party sector may vote only in that sector, and a Party qualified to participate in the Large Energy Using Governmental Agency subsector of the End-Use Consumer sector or in the government agency subsector of the End-Use Consumer sector may not participate in the Large Consumer subsector of the End-Use Consumer sector.³ An ESCO, Municipal Electric System, Cooperatively Owned Electric System, Generator Owner, State Public Power Authority or Environmental Member may not vote in the End-Use Consumer sector. **Notwithstanding anything to the contrary in these By-Laws or the ISO Agreement, (i) a Demand Response Provider that is not a Transmission Owner shall be eligible to vote only in the Other Suppliers sector, and (ii) a Distributed Generator Owner shall be eligible to vote in the Other Suppliers sector; provided, however, that:**

¹ Section 7.04.

² Section 7.04.

³ Section 7.04.

- (a) if the Distributed Generator is owned by an End-Use Consumer or an Affiliate thereof, and the primary purpose of the Distributed Generator is to supply electrical energy and capacity to that End-Use Consumer, then the Distributed Generator Owner shall participate in the End-Use Consumers sector; or**
- (b) if the Distributed Generator is owned by an entity that is not an Affiliate of an End-Use Consumer, and the primary purpose of the Distributed Generator is to sell electrical energy and capacity into the grid, then the Distributed Generator Owner shall participate in the Generator Owners sector.**

In determining the primary purpose of a Distributed Generator under paragraphs (a) and (b) above, the ISO shall consider *inter alia*: (1) the size of the Distributed Generator relative to its host Load; (2) the intended use for which the Distributed Generator was constructed; (3) the historical use of the Distributed Generator; and (4) the location of the Distributed Generator.

Notwithstanding any other provision in these By-Laws or the ISO Agreement, and subject to challenge, if either a Distributed Generator Owner or a Demand Response Provider is an Affiliate of either a Generator Owner or an End-Use Consumer, the ISO shall determine the most appropriate sector in which the affiliated entity shall vote.

11.02.2 A Party may participate in the Small Consumer subsector of the End-Use Consumer sector if it is either:

- 11.02.2.1 a single Small Consumer that (i) had a peak Load in any month within the previous twelve months that was 500 kW or more, (ii) is not under the employ or the control of the federal, state or municipal government or any government-owned or operated agency, authority, corporation or other similar entity that is actively involved in ISO matters, (iii) is not an officer, director, employee, owner, operator, partner, agent or affiliate of, or an entity with Control of, a Transmission Owner, Generator, Other Supplier, Public Power Party or Environmental Party, (iv) is not an officer, director, employee, owner, operator, partner, agent or affiliate of, or an entity with Control of, any person, entity or organization having an interest in becoming an Other Supplier or in developing generation or transmission facilities in New York State which would be subject to the administration of the ISO, and (v) does not have any significant interest in any aspect of the ISO markets or operations other than that of a Small Consumer; or
- 11.02.2.2 an organization that represents the interests of at least ten (10) Small Consumers or, at the discretion of the ISO Board, fewer than ten (10) Small Consumers but with an aggregate Load of 500 kW or more in any month within the previous twelve months; provided that no such organization representing this

interest, or any of the Small Consumers it represents, may be an owner, operator, partner, agent or affiliate of, or an entity with Control of, a Transmission Owner, a Generator, Other Supplier, Public Power Party or Environmental Party; and provided that such organization and the Small Consumers it represents do not have any significant interest in any aspect of the ISO markets or operations other than that of Small Consumers.