

July 2, 2001

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By Hand

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

Exigent Circumstances Filing of the New York Independent System Operator, Inc.
At the Direction of its Board of Directors to Implement Market Mitigation Penalties,
and Request for Waiver of Notice Period

Dear Mr. Boergers:

The New York Independent System Operator, Inc. (“NYISO”) respectfully submits revisions to Attachment H to its Market Administration and Control Areas Services Tariff (“Services Tariff”). Attachment H sets forth the NYISO’s Commission-approved Market Mitigation Measures

¹ The revisions incorporate into the Market Mitigation Measures provisions for the implementation of certain proposed penalties for repeated abuses of market power, as evidenced by repeated mitigation of conduct under the measures previously approved by the Commission for the mitigation of market power.

The NYISO is making this filing pursuant to Section 205 of the Federal Power Act at the direction of its independent Board of Directors (“Board”). Section 19.01 of the ISO Agreement

¹ See *Central Hudson Gas & Electric Corp.*, 89 FERC ¶ 61,196 (1999) (accepting in part and rejecting in part the NYISO’s proposed market monitoring plan and market mitigation measures); *Central Hudson Gas & Electric Corp.*, 90 FERC ¶ 61,317 (2000), *clarified* 91 FERC ¶ 61,154 (2000) (accepting the NYISO’s market monitoring and market mitigation compliance filings); and *New York Independent System Operator, Inc.*, Order Accepting Tariff Filing as Modified, Docket No. ER01-2076-000 (June 28, 2001).

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empowers the Board to direct the NYISO to make such filings without the concurrence of the NYISO's Management Committee² when the Board concludes that "exigent circumstances" relating to "the reliability of the NYS Power System" or "an ISO-Administered market" exist and the "urgency of the situation justifies a deviation from the normal ISO governance procedures." The Board concluded that exigent circumstances exist in this instance because there is a material risk that prices in the NYISO-administered markets could be tainted by abuses of market power during at least some intervals in the high load periods of this summer. While the NYISO has significant ability under the MMM to mitigate prospectively the market impacts of exercises of market power, and will have significantly greater ability to do so under the Automated Mitigation Procedures ("AMP") recently approved by the Commission, except in cases of physical withholding its mitigation measures are not intended to and do not provide an affirmative deterrent to exercises of market power. Rather, they are intended to restore competitive market outcomes, while avoiding unnecessary intervention in the New York Electric Markets and providing appropriate incentives to participate in those markets.³ The proposed penalties will thus complement the NYISO's existing market power mitigation authority by giving it authority to impose reasonable penalties to deter market power abuses from occurring in the first place.

The proposed penalties do not change the market mitigation thresholds or other substantive provisions of the MMM. If, however, the NYISO has repeatedly mitigated similar conduct, it likely will have become apparent that additional measures are needed to deter yet further violations of the thresholds. The proposed penalties provide such a targeted deterrent. They are also consistent with the overall design of the MMM, which have since their inception included penalties for physical withholding, and for certain load bidding behavior. Under the attached proposal, the NYISO would have a parallel authority to impose penalties for repeated mitigation of economic withholding, and would use the same penalty structure for all three types of conduct. Accordingly, the Board has concluded the penalty revisions to the MMM provide a necessary and appropriate addition to the existing mitigation measures that provide additional protection against efforts to engage in significantly abusive conduct in the New York Electric Markets.

Such protections are particularly warranted during the potentially tight supply and demand conditions that New York may face this summer. In light of the potential for abuses of market power during the peak summer demand periods, the NYISO Board has concluded that it is essential that the additional, deterrent protections of the penalties be in place for as much of 2001 Summer Capability Period as possible. The NYISO therefore respectfully requests that the Commission act on this filing in

² Capitalized terms not otherwise defined herein have the meaning set forth in Article 2 of the Services Tariff.

³ See MMM at § 3.2(a).

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an expedited manner, and waive the statutory notice to permit the penalties to become effective one day after this filing is made, subject to the following conditions: (i) penalties will not be collected unless and until the imposition of such penalties pursuant to this filing has been approved by the Commission; and (2) if collection of penalties is authorized, any uncollected penalties will become payable with interest (at the NYISO' average cost of borrowing) from the date of the conduct giving rise to the penalty to the date of payment.

I. List of Documents Submitted

The NYISO submits the following documents:

1. This filing letter;
2. A clean version of the proposed new Attachment H of the Services Tariff (Attachment I);
3. A redlined version of Attachment H (NYISO Market Mitigation Measures) of the Services Tariff showing the proposed changes (Attachment II);
4. A copy of the NYISO Board of Directors Decision on Appeals of Consumer Protection Board Motion on Penalties and Disclosure (Attachment III); and
5. A Form of Notice suitable for publication in the *Federal Register* (Attachment IV).

II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez, General Counsel and Secretary	William F. Young
John P. Buechler, director of Regulatory Affairs	Ted J. Murphy
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III. Description of the Proposed Penalties

A. Summary of Penalty Provisions

The revisions to the MMM setting forth the proposed penalty provisions can be found in Section 4.3 of the attached revised MMM, with one or two conforming changes elsewhere. The new penalties provisions do not change the standards for mitigating market power previously approved by the Commission. Market mitigation decisions will continue to be made in accordance with the standards and procedures in the existing MMM.⁴ In addition to previously granted authority, however, under the proposed revisions the NYISO would have the ability to impose an escalating set of penalties on entities that repeatedly violate the thresholds for mitigation, with two major exceptions: mitigation imposed under the AMP, and mitigation under the measures approved by the Commission for generation divested by ConEd.⁵ The proposal embodies a balanced approach, by potentially applying the same escalating penalty schedule to loads that incur mitigation under the MMM as well as sellers.⁶

Penalties would be determined by multiplying a Base Penalty Amount by an escalating schedule of multipliers. The Base Penalty Amount is defined as the “MW meeting the standards for mitigation”⁷ For a given day’s Day-Ahead Market, the number of “Mitigated Hours” would be determined by the number of hours in which a seller’s bids were mitigated.⁸ For the Real-Time Market, in recognition of the continuous nature of the market and the time that may be necessary to confirm that mitigation is warranted, penalties would be determined on the basis of the hours meeting the standards for mitigation in the calendar day in which the conduct was first mitigated.⁹ For loads, penalties would be applied to the hours giving rise to mitigation under the existing load bidding mitigation measures.¹⁰ The number of MW in Mitigated Hours would be multiplied by the “Penalty LBMP” to determine the Base Penalty Amount. For sellers, the Penalty LBMP would be the

⁴ MMM § 3 and § 4.4.

⁵ MMM § 4.3.2; the ConEd measures were approved in *Consolidated Edison of New York, Inc.*, 84 FERC ¶ 61,287 (1998).

⁶ MMM § 4.3.2.

⁷ MMM § 4.3.3(a).

⁸ MMM § 4.3.3(b).

⁹ *Id.* and MMM § 4.4.

¹⁰ *Id.*, and

LBMP at the generator bus of the withheld resource.¹¹ For Load Serving Entities, the Penalty LBMP would be the Load Serving Entity's zonal LBMP.¹² LBMPs themselves will not be redetermined in connection with or as a result of imposing penalties.¹³

As noted, the Base Penalty Amount would be subject to an escalating schedule of multipliers. In the first instance of a given type of conduct, the multiplier would be one, except that the first instance of economic withholding would have penalty of zero, meaning that there would be no penalty.¹⁴ A zero initial multiplier for economic withholding is appropriate, given that default bids are the primary means of mitigation for this type of conduct. Repeated instances of economic withholding, however, should be subject to the escalating penalties schedule. On the other hand, under the existing MMM penalties are the only means of mitigation for physical withholding, uneconomic dispatch, and sanctionable load bidding. Thus, consistent with the existing MMM, penalties should be applicable to first instances of these types of conduct. A multiplier of one, that is, a penalty of the Base Penalty Amount, would be applied to all second instances of substantially similar conduct within the current or the two immediately previous Capability Periods by the same Market Party or its Affiliates.¹⁵ Third instances of repetitive market abuse would result in a doubling of the Base Penalty Amount, in recognition of the fact that the Base Penalty Amount would not have proved to be a sufficient deterrent.¹⁶ Fourth and subsequent instances of substantially similar conduct would result in a multiplier of three, for the same reason.¹⁷ Determination of whether conduct has been repeated would be made by considering the conduct of the original Market Party and its Affiliates in order to prevent an entity from evading penalties for the same market strategy by such expedients as separately incorporating each of its generating units in a geographic area in which the units are capable of exercising market power.

¹¹ MMM § 4.3.3(c).

¹² *Id.*

¹³ MMM § 4.3.3(d).

¹⁴ MMM § 4.3.4(a).

¹⁵ MMM § 4.3.4(b). The term "Affiliates" is defined in the Services Tariff respect to a person or entity, any individual, corporation, partnership, firm, joint venture, association, joint-stock company, trust or unincorporated organization, directly or indirectly controlling, controlled by, or under common control with, such person or entity. The term "Control" shall mean the possession, directly or indirectly, of the power to direct the management or policies of a person or an entity. A voting interest of ten percent or more shall create a rebuttable presumption of control." Services Tariff § 2.3.

¹⁶ MMM § 4.3.4(c).

¹⁷ MMM § 4.3.4(d).

Any disputes over the imposition of penalties would be subject to resolution through the existing dispute resolution provisions of the Market Monitoring Plan.¹⁸ The Market Monitoring Plan adopts by reference the dispute resolution provisions of the New York Independent System Operator Agreement, which preserve the rights of parties to seek Commission review of dispute resolution determinations that assertedly violate the laws or regulations administered by the Commission.¹⁹ In the first instance, a Market Party should use the consultation provisions of the MMM to demonstrate to the NYISO that conduct that the NYISO has identified for mitigation is in fact consistent with the conduct that would be expected in a workably competitive market.²⁰ If, however, a Market Party believes that the NYISO has improperly ignored legitimate market justifications for the Market Party's conduct, it would be entitled to raise those issues in dispute resolution.²¹ As a further protection against unwarranted penalties, a Market Party would be entitled to withhold payment of a penalty pending the outcome of dispute resolution, subject to later payment of the penalty with interest if the penalty is determined to have been properly imposed.²²

Except as specified in Section 4.4.3(b) of the MMM, amounts collected as a result of the imposition of financial penalties are to be credited against costs collectable under Rate Schedule 1 of the NYISO Services Tariff.²³ Section 4.4.3(b) of the existing MMM provides that penalties assessed against loads that deliberately underbid in the DAM are to be rebated *pro rata* to the sellers scheduled in the affected DAM.

The NYISO's authorization to impose penalties under the proposed revisions to the MMM would expire on October 31, 2002. The NYISO will evaluate during that period whether market conditions justify discontinuing penalties after that date or, alternatively, whether it is necessary for the NYISO to request, by a further filing, a continuation of penalty authority after that date.

B. Reasons for Adoption of Penalties

After careful deliberation, the Board has concluded that the attached penalty proposal provides a necessary and appropriate means of assuring that the New York bulk power markets will not be

¹⁸ MMM § 4.3.5(a).

¹⁹ Market Monitoring Plan § 13(b); New York Independent System Operator Agreement Article 10.

²⁰ MMM § 3.3.

²¹ MMM § 4.3.5(a).

²² MMM § 4.3.5(b).

²³ MMM § 4.3.6.

subject to significant repeated abuses of market power. The Board reached this conclusion after consideration of the results of the review on several occasions of evolving penalty proposals by the NYISO Management Committee, and determination by the Board of appeals of the Management Committee's approval of a more stringent penalty proposal.

The existing mitigation measures, as embodied in the MMM approved by the Commission, are designed to restore competitive market outcomes on a prospective basis by substituting default bids for bids that violate the thresholds for mitigation set forth in the MMM. Default bids are designed to restore bids based on market power to the levels at which a unit normally bids, or would be expected normally to bid, under conditions of workable competition, adjusted for changes in fuel costs and similar factors. Thus, the default bid mitigation measures are intended to require units exhibiting market power to offer to sell at the levels at which they would be willing to sell under conditions of workable competition. In addition, however, the mitigation thresholds are not triggered unless a reference price is exceeded by a significant percentage or dollar amount (for energy, 300% or \$100). Thus, the mitigation thresholds provide substantial margins for recognition of changing market conditions and for exercise of a seller's judgment on how best to respond to those conditions. Units subject to default bid mitigation measures are entitled to be paid for their output at the applicable market clearing price, and thus may be paid at levels substantially in excess of their mitigated bids. The long and the short of it is that the current mitigation measures are simply intended to require generators to behave competitively, even though they may have the ability not to. The mitigation measures are not, and are not intended to be, punitive.

As approved by the Commission, the MMM can be applied only prospectively. In most cases, the NYISO is able to detect bids violating the applicable conduct threshold before they affect market outcomes, and to implement default bids prospectively to prevent market prices from rising to levels reflecting market power. The NYISO's ability to protect the integrity of its markets in this manner will be significantly enhanced by the implementation of the Automated Mitigation Procedures, or AMP. Even with the implementation of the AMP, however, because of the prospective nature of its mitigation measures the NYISO cannot rule out the possibility that that situations can arise in which market outcomes will be distorted by exercises of market power. Moreover, the Commission has approved the utilization of the AMP only through October 31 of this year.²⁴ Market power distortions of prices could arise in the Day-Ahead Market ("DAM") as a result of delays in implementing mitigation measures arising from the NYISO's normal practice of consulting with a market participant, or otherwise conducting an adequate investigation of the facts and circumstances, before imposing mitigation. Such delays could cause at least one DAM to clear at levels influenced by abusive bids before default bids could be substituted in the computer algorithm that computes DAM prices.

²⁴ *New York Independent System Operator, Inc.*, Order Accepting Tariff Filing as Modified, Docket No. ER01-2076-000 (June 28, 2001).

Similarly, the time constraints inherent in the continuous operation of Real-Time Markets (“RTM”), and the fact that the AMP does not apply to the RTM, could cause several hours to be affected by abusive conduct before mitigation could be imposed. In either case, there is also the possibility that conduct violating the mitigation thresholds might not be immediately detected.

In short, the reality is that no system of prospective, default bid mitigation measures can be made fool-proof or incapable of evasion. Thus, the proposed penalties provide an appropriate level of additional market protection, by providing an affirmative deterrent to abuses of market power. Under the proposal, conduct that results in repeated distortions of market outcomes would be subject to an escalating schedule of penalties, as described above. The penalties proposal does not make any change in the mitigation standards to be applied by the NYISO, but only puts in place a means to deter violation of those standards. The penalties are reasonable, because they are graduated, and triggered only by repeat violations of the mitigation thresholds. Thus, an inadvertent violation of the mitigation thresholds that is not repeated would not be penalized. More generally, the Market Parties are aware of their reference prices, and of the bidding conduct thresholds, and thus avoidance of penalties is within the control of each market participant.

Over the last several months, a series of penalties proposals has been considered by the NYISO Management Committee (the senior stakeholder committee) and subordinate stakeholder groups, including the Business Issues Committee and Scheduling and Pricing Working Group. These deliberations were triggered by a proposal for sanctions and penalties put forward by the New York State Consumer Protection Board (“CPB”) this Spring. On April 18, the Management Committee adopted a revised version of the CPB’s proposal by a vote of 60.66%, with a request that it be reduced to tariff language and approved by the Board for filing under § 205.²⁵ A number of entities appealed the Management Committee’s decision to the Board.²⁶ On May 15, 2001, the Board issued its Decision on Appeals of Consumer Protection Board Motion on Penalties and Disclosure.²⁷ In this decision, the Board stated that:

We are in agreement with the Consumer Protection Board (CPB) that the ISO’s lack of authority to mitigate abuses of market power retroactively leaves a tangible incentive for abuse, since the abuser cannot now be forced to disgorge the gains achieved as a result of the abuse. Because not all market power abuse can be detected and mitigated instantaneously, the potential abuser can look forward to keeping the fruits of his abuse. We understand that the CPB motion is intended to eliminate or reduce this incentive

²⁵ See [http://www.nyiso.com/services/documents/groups/mgmt_comm/meeting_materials.html].

²⁶ See [http://www.nyiso.com/services/documents/groups/board_of_directors.html].

²⁷ A copy is attached as Attachment III.

and, to that end, we agree with the establishment of penalties for that purpose.

We also appreciate the importance of maintaining a market environment that is neither hostile nor risk-ridden to vendors. This market environment is particularly important at a time when supply deficiency threatens both reliability and price stability. We must not sacrifice the crucial long range need to attract both investment and energy transactions through what seem to us to be somewhat excessive penalties. Also, we cannot lose sight of the fact that the legitimate need for the penalties is to act as a disincentive to abuse and, except to the extent the two are inseparable, not as punishment to the abusers.

The Board then requested the Management Committee to reconsider the penalties proposal, with particular attention to a number of issues, including the balanced application of penalties to both buyers and sellers, the level of the penalty multipliers, the exercise of discretion in applying penalties and the related role of dispute resolution, and the appropriateness of disclosing the identity of penalized entities.²⁸

These and the stakeholders' other concerns with penalties were thereafter considered at length in meetings of the Scheduling and Pricing Working Group on May 22 and May 31.²⁹ At the June 6 meeting of the Management Committee, the CPB moved the adoption of a revised penalties proposal. After discussion, the motion received an affirmative vote of 55.6%, but did receive the 58% voted needed to pass.

At its meeting on June 19, the Board voted unanimously to file the attached proposal. As stated by Richard J. Grossi, Chairman of the Board: "Given the very tight supply situation we are facing in New York this summer, we believe as a Board, we have a responsibility to protect consumers against the possibility that someone might manipulate the market during extreme

²⁸ Attachment III at 2-3.

²⁹ See [http://www.nyiso.com/services/documents/groups/bic_sched_&_pricing_group/meeting_materials.html].

demand periods.”³⁰ Chairman Grossi further stated that: “We believe this proposal reasonably balances the NYISO’s obligation to address improper behavior with the need to foster an environment in New York State that will attract new investment in generation.”³¹

Resolution of difficult and contentious issues such as those arising in connection with market mitigation penalties is the quintessential role of the Board as the independent governing body for the NYISO. Given the Board’s desire for a balanced penalties proposal that potentially applies to loads as well as sellers, and the other contentious issues identified in the Board’s May 15 decision on the penalties appeals, a range of stakeholders may well find aspects of such a proposal that they do not like. At the same time, the majority votes in favor of market mitigation penalties at two Management Committee meetings shows a significant recognition of a need for additional protection for the New York markets. It thus becomes the Board’s responsibility to protect the integrity of the New York markets, and ensure that the benefits of competition are realized in those markets. For all the reasons articulated above, the Commission should find that the attached penalties proposal carries out those larger responsibilities of the Board.

The Commission has recognized the importance of deterrence of anticompetitive behavior through penalties as an adjunct to ISO monitoring of competitive markets.³² In New York, as in New England, penalties will “serve both to enforce the market rules and to complement . . . market power

³³ The Commission has also previously granted the NYISO authority to impose penalties for physical withholding, and for certain load bidding strategies, in approving the existing MMM. Thus, as it did for ISONE, and as it has done for certain conduct in New York already, the Commission should approve the request of the Board for comprehensive market mitigation penalty authority for the NYISO.

IV. Proposed Effective Date and Request for Waiver

The NYISO respectfully requests that the Commission waive its usual sixty-day notice period and make this filing effective one day after the filing, pursuant to Section 35.11 of the Commission’s

³⁰ NYISO Press Release “NYISO Board Approves Balanced Penalties Plan,” June 19, 2001, See [<http://www.nyiso.com/topics/articlesw/index.html>].

³¹ *Id.*

³² New England Power Pool, *Order Conditionally Accepting Market Rules, And Conditionally Approving Market-Based Rates*, 85 FERC ¶ 61,379.

³³ *Id.* at 62,467.

regulations,³⁴ subject to the following conditions: (i) penalties are not to be collected unless and until the imposition of penalties pursuant to this filing has been approved by the Commission; and (2) if collection of penalties is authorized, any uncollected penalties will become payable with interest (at the NYISO's average cost of borrowing) from the date of the conduct giving rise to the penalty to the date of payment. Good cause exists for a waiver because waiting the full sixty days to make the AMP effective would leave the New York markets without any deterrent against conduct that repeatedly violates the market mitigation standards approved by the Commission. Under the circumstances, and in light of the potential for relatively tight supplies in New York during peak summer load periods, it is entirely appropriate for the Commission to take expedited action in this proceeding.

VI. Proposed Expiration Date

Section 19.01 of the ISO Agreement specifies that an "exigent circumstances" tariff filing must contain an expiration date of no later than 120 days after the date that it is filed with the Commission. Such filings may become permanent in duration if they are subsequently endorsed by the Management Committee. Accordingly, the penalty provisions in Attachment H to the Services Tariff will expire on October 30, 2001, unless the provisions are subsequently ratified and made permanent by the Management Committee. In that event, however, the penalty provisions will expire on October 31, 2002, subject to the NYISO seeking such further penalty authority after that date if and as may be appropriate in light of market conditions and experience with the instant penalties.

VII. Stakeholder Approvals

See discussion in Section III(B) above.

VIII. Service List

The NYISO has mailed a copy of the filing to all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, to the New York State Public Service Commission, the electric utility regulatory agencies in New Jersey and Pennsylvania and to all parties in Docket No. ER01-2076-000. In addition, in order to facilitate accelerated Commission action, the NYISO has e-mailed an electronic copy of this filing to all subscribers to the NYISO Technical Information Exchange ("TIE") list, which encompasses virtually all New York market participants.

³⁴ 18 C.F.R. § 35.11 (2000).

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IX. No Costs Relating to Discriminatory Employment Practices

The NYISO has no expenses or costs that have been alleged or judged to be illegal, duplicate, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

X. Federal Register Notice

A form of *Federal Register* Notice is provided as Attachment IV hereto. A diskette of the Notice is also provided in WordPerfect format.

XI. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission approve the attached revisions to the Market Mitigation Measures, submitted herewith as revisions to Attachment H to the Services Tariff and authorizing the NYISO to impose certain penalties on Market Participants that incur repeated mitigation under the Market Mitigation Measures.

Respectfully submitted,

Ted J. Murphy
Counsel for
New York Independent System Operator, Inc.

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cc: Mr. Joshua Z. Rokach, Advisor to Chairman Hebert, Suite 11-A,
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Mr. Daniel L. Larcamp, Director Office of Markets, Tariffs and Rates, Room 8A-01,
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, to the New York State Public Service Commission, the electric utility regulatory agencies in New Jersey and Pennsylvania and to all parties in Docket No. ER01-2076-000.

Dated at Washington, DC this 2nd day of July, 2001.

Ted J. Murphy
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1900 K Street, N.W.
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UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. _____

NOTICE OF FILING

Take notice that on July 2, 2001, the New York Independent System Operator, Inc. (“NYISO”), at the Direction of its independent Board of Directors, made an exigent circumstances filing to propose changes to its Market Administration and Control Area Services Tariff (“Services Tariff”) designed implement certain market power mitigation penalties. The NYISO has requested that the Commission act on this filing in an expedited manner. The NYISO has also requested that the Commission waive its usual 60-day notice requirement and make the filing effective on July 3, 2001.

The NYISO has served a copy of the filing on all parties that have executed Service Agreements under the NYISO’s Open-Access Transmission Tariff or Services Tariff, on the New York State Public Service Commission, on the electric utility regulatory agencies in New Jersey and Pennsylvania and on all parties in Docket No. ER01-2076-000. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO’s Technical Information Exchange list.

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 (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