

Exhibit \_\_\_\_ (SLC-4)

The NYISO's Board of Directors Decision

**August 27, 2008**

**NYISO Board of Directors' Decision  
on  
Appeal of the Management Committee's June 27, 2008  
Approval of the NYRI SRIS**

Consolidated Edison Company and Orange and Rockland Utilities (collectively, the “Appellants”) appeal from a June 27, 2008, decision of the Management Committee to approve the System Reliability Impact Study (“SRIS”) for the New York Regional Interconnect’s (“NYRI’s) planned 190-mile transmission line between the towns of Marcy and Windsor, New York (the “NYRI Project”). Appellants challenge the technical merits of the NYRI SRIS, arguing that it incorrectly concluded that the NYRI Project will not degrade the reliability of the transmission system (“the Appeal”). Dynegy Power Marketing (“Dynegy”) filed a Motion in Support of the Appeal, and NYRI filed a Motion in Opposition. The parties presented oral arguments in support of their respective positions at a joint meeting of the Board of Directors’ Governance and Reliability & Markets Committees held on August 18, 2008.

For the reasons set forth below, the NYISO’s Board of Directors declines to reverse the decision of the Management Committee and therefore denies the Appeal.

**DISCUSSION**

Appellants proffer two main arguments in support of the Appeal. First, Appellants assert that technical deficiencies of the NYRI SRIS incorrectly model the UPNY/Con Ed Interface (the “Interface”) as voltage limited when it is, Appellants argue, thermally limited. These alleged modeling deficiencies include the use of artificially-low voltage levels, the exclusion of certain capacitor banks associated with a project that comes after the NYRI Project in the interconnection queue, and the incorrect modeling of certain transformers. Thus, Appellants argue, because the Interface is in fact thermally limited, the NYRI SRIS mistakenly concludes that the NYRI Project’s resultant decrease in the Interface’s thermal capability will not degrade reliability. Second, Appellants argue that the approval of the NYRI SRIS endangers the financial value of Appellants’ assets in contravention of the NYISO’s fiduciary duty to protect the assets over which it assumed operational control.

In its Motion in Support of the Appeal, Dynegy reiterates Appellants' position. Dynegy also questions NYISO's ability to offset any resultant degradation in transfer limits caused by the NYRI Project by dispatching the NYRI Project down or off, and argues that the rules requiring the preservation of existing system deliverability should be extended to apply to facilities such as the NYRI Project.

In response to the Appeal, NYRI argues that the NYRI SRIS is technically sound and complies with all applicable requirements and that the reduction in the thermal transfer capability of the Interface when the NYRI Project is operating at full output is controllable and does not have an adverse impact on the transfer limits of the Interface or on transmission system reliability. Accordingly, the conclusion that the NYRI Project will not have an adverse impact on system reliability is correct.

### **BOARD DECISION**

After considering the positions of the parties, the Board declines to reverse the decision of the Management Committee and therefore denies the Appeal.

The Board finds that the NYRI SRIS does not suffer from any deficiency that would justify overruling the Management Committee's approval. First, the NYRI SRIS properly followed the study scope, as approved by the Operating Committee on September 14, 2006, in accordance with NYISO rules and procedures. An SRIS is performed based on a defined "snapshot" of the system. Thus, once the Operating Committee approves the scope of the SRIS, it is not amended to account for any subsequent projects. Otherwise, an SRIS would never be complete, because its scope would be re-set with the frequent entrance of each new project in the interconnection queue. Thus the scope of the NYRI SRIS properly excluded all projects that come after the NYRI Project in the interconnection queue. This is not grounds for its invalidation.

Second, Appellants describe several alleged technical deficiencies of the NYRI SRIS and assert that these deficiencies render inaccurate the study's findings. To the contrary, where Appellants have provided sufficient information, NYISO staff's analysis found no support for these claims. The NYISO staff, for example, found that the voltage limits for New York City and the Lower Hudson Valley used in the NYRI SRIS are marginally within the normal range. In addition, recent similar NYISO studies have consistently shown that the limiting factor on the

Interface is voltage, not thermal. Thus, both the analysis of the NYRI Project's effect on the voltage capability of the Interface and the conclusion that the predicted resultant decrease in thermal capability will not degrade reliability were proper. Furthermore, because the amount of power flowing on the NYRI line would be under the control of the NYISO, it would be able to adjust flows as necessary to achieve and maintain the reliable operation of the transmission system if such decrease in thermal capability was experienced.

Furthermore, NYISO staff has determined that none of the alleged technical deficiencies, even if true, rise to a level that would materially impact the results of the NYRI SRIS. NYISO staff concluded that NYRI SRIS correctly analyzed the impact of the NYRI Project on system reliability and properly found that there would be no degradation to system reliability. Because the alleged deficiencies, even if true, would not have a significant impact on the outcome of the NYRI SRIS, they are not grounds to overrule its approval by the Management Committee.

Third, the SRIS is a preliminary, non-binding study with a limited scope. It is not the final study of the impact of a project on the reliability of the transmission system. The Interconnection Facilities Study, which will be performed after the approval of the NYRI SRIS, will provide a detailed, comprehensive analysis of the overall system performance with inclusion of the NYRI Project and all other Class Year projects. The Interconnection Facilities Study will use modeling assumptions that have been updated from those used in the scope of the NYRI SRIS. Thus, because Appellants' concerns about updating study assumptions will be addressed in a subsequent study, they are not grounds for overruling the Management Committee's approval of the NYRI SRIS.

Several of the concerns voiced by Appellants and Dynegy are beyond the scope of the SRIS or any other interconnection study. An SRIS, for instance, does not consider the effect of a project on the commercial interests of the developer's potential competitors, nor does it consider the impact the project may have on the financial value of the assets of a developer's potential competitors. Nor is the present appeal the proper avenue to pursue a change in the NYISO tariffs or rules. Dynegy should pursue its suggested changes to the deliverability rules through the NYISO's well-established stakeholder process, where the merits and feasibility of the proposed changes will be fully and fairly evaluated.

Finally, while the Board encourages the use of appeals as a means to resolve issues that might otherwise result in administrative litigation before jurisdictional agencies, it takes a dim view of appeals commenced for purposes clearly outside the NYISO's authority as established in the tariffs. In the papers submitted by Appellants, there was a striking paucity of tariff-based or other legal authority supporting the relief requested. The SRIS process is well defined. There is nothing in this appeal to cause the Board to interfere in a process which has been duly adopted and has worked well. Every Market Participant has a right to appeal to the Board, but the Board requests that they only do so where there is a legitimate controversy.

For all the foregoing reasons, the Board declines to reverse the decision of the Management Committee and therefore denies the Appeal.

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