

NOTICE OF APPEAL OF MANAGEMENT COMMITTEE'S
SEPTEMBER 29, 2006 DECISION APPROVING CAPACITY
MARKET MONITORING AND MITIGATION MEASURES

SUMMARY

Independent Power Producers of New York, Inc. ("IPPNY"), acting on behalf of its members identified in the footnote below, who are members of the NYISO's Management Committee ("MC"), hereby appeals the MC's September 29, 2006 decision to approve Motion #4.¹ Motion #4 recommends that the NYISO Board adopt proposed in-City installed capacity ("ICAP") market monitoring and mitigation measures (the "Proposal") applicable to the divested generation owners ("DGOs") and file them with the Federal Energy Regulatory Commission ("FERC").

The NYISO Board should reject the Proposal and establish a schedule for the ICAP working group to perform a comprehensive evaluation of the ICAP markets, because the Proposal (1) was hurriedly prepared and is devoid of any meaningful analysis or evidentiary support demonstrating the necessity or appropriateness of such a tariff change; (2) is one sided, in that it fails to address the exercise of market power by buyers; (3) has not received the support of the NYISO's Independent Market Advisor, as required by tariff before a new mitigation mechanism may be approved; (4) if adopted, would send diametrically opposite signals to the marketplace concerning the need for and timing of new capacity resources in the NYISO compared to the findings in the NYISO's inaugural Comprehensive Reliability Planning Process ("CRPP"); and (5) is an inequitable, blatant price suppression tactic, sending a strong message of "Buyer Beware" to any entity contemplating investment in New York.

¹ AES Eastern Energy, LP, Brookfield Power Corp., Dynegy Power Marketing, Inc., Entergy Nuclear Power Marketing, LLC, Fortistar/Lockport Energy Associates, L.P., FPL Energy, LLC, Indeck Energy Services, Inc., KeySpan-Ravenswood, LLC, Mirant New York, Inc., New Athens Generating Company, LLC, NRG Energy, Inc., PPL EnergyPlus, LLC and PSEG Energy Resources & Trade, LLC.