



coordinate with ISO-New England (“ISO-NE”) and stands ready to support implementation of this change on December 1, 2004, as requested in the NEPOOL filing. The approval of these filings will provide significant benefits to both New York and New England by improving the efficiency of transactions between both regions. In support hereof, the Joint Filing Parties state the following:

**I. Copies of Correspondence**

The following persons should be included on the official service list in this proceeding,<sup>2</sup> and all communications concerning these Comments should be addressed to the following:

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<sup>2</sup> Waiver of the Commission’s regulations (18 C.F.R. § 385.203) is requested to the extent necessary to permit the inclusion on the service list of all of the parties below.

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**II. Background**

On March 24, 2004, the Commission issued an order (the “March 24 Order”) requiring, *inter alia*, the transmission owners in New England and ISO-NE (“RTO Filing Parties”) to submit a compliance filing within 90 days proposing the elimination of Through or Out service charges between New England and New York within six months of that compliance filing. On June 21, 2004, the Joint Filing Parties filed in Docket No. ER04-943 revisions to the NYISO’s Open Access Transmission Tariff (“OATT”) to eliminate the charges that NYISO currently imposes on exports to the New England Control Area. The proposed changes to the NYISO’s OATT are designed to become effective on the same date on which the RTO Filing Parties eliminate similar charges on exports through or out of New England to New York.

In accordance with the Commission’s March 24 Order, on June 22, 2004, the RTO-NE Filing Parties submitted a compliance filing in which they proposed to make a filing as soon as reasonably practicable and requested an extension of the time for filing the RTO OATT sheets. As described by NEPOOL (Cover Letter at 3), the RTO Filing Parties concluded that the elimination of New England/New York Through or Out service charges could occur faster if changes were first made to the existing NEPOOL Tariff and then adopted into the RTO tariff upon implementation of the RTO. Accordingly, the proposal filed herein was developed.

On October 1, 2004, the NEPOOL Participants Committee submitted to FERC the One Hundred Eighth Agreement Amending New England Power Pool Agreement (“108th Agreement”). The 108<sup>th</sup> Agreement amends the NEPOOL Tariff to reduce to zero the Through

or Out service charge for transactions through or out of NEPOOL that have the New York control area boundary as their point of delivery. NEPOOL requests an effective date of December 1, 2004. The filing also indicates that both ISO-NE and the New England Public Utility Commissioners, Inc. ("NECPUC") support the elimination of the Through and Out charges between New England and New York on December 1, 2004. Further, RTO Filing Parties note that they intend to adopt these proposed amendments into the RTO Tariff upon implementation of that tariff.

### **III. Motion To Intervene**

The NYISO is the independent body responsible for providing open-access transmission service, maintaining reliability, and administering competitive wholesale electricity markets in the state of New York. The NYISO commenced operations under the NYISO OATT and NYISO Market Administration and Control Area Services Tariff ("Services Tariff") on November 18, 1999.

The New York Transmission Owners, for purposes of this filing, are comprised of seven of the eight electric systems in the State of New York that own the transmission facilities operated by the NYISO. The New York Transmission Owners own the transmission facilities operated by the NYISO and recover their costs of operating those facilities under the NYISO OATT and Services Tariff.

The filing made by NEPOOL in this proceeding would eliminate Through or Out service charges for those transactions that have the New York control area as their point of delivery. As discussed above, the Joint Filing Parties have filed with FERC a similar tariff provision for the NYISO that will eliminate its charges for transactions through or out of New York for delivery in New England on a reciprocal basis effective on the date that amendments proposed herein become effective. The Joint Filing Parties, therefore, have a direct and substantial interest in this

proceeding. This interest cannot be adequately represented by any other party, and the Joint Filing Parties should thus be permitted to intervene herein.

**V. Comments in Support**

The Joint Filing Parties fully support NEPOOL's filing in this proceeding and request that the Commission approve the requested tariff amendments. The NYISO, the New York Transmission Owners and the New State Public Service Commission ("NYPSC") have been discussing the elimination of export charges between the New York and New England regions with ISO-NE, the New England Transmission Owners and NECPUC for over a year. During that time, there have been a number of legitimate issues and concerns that have been addressed. In April 2004, an Agreement in Principle was reached among the NYISO, ISO-NE, the NYPSC and NECPUC to support the development of tariff revisions in both regions that would provide for the reciprocal elimination of export fees as soon as possible, but no later than, the December 22, 2004 date called for in the March 24, 2004 Order. This Agreement recognized that both regions could expect to achieve benefits from more efficient transactions that were expected to occur as a result of the elimination of export charges.

The Joint Filing Parties are pleased to note that the NEPOOL Participants Committee has also recognized the importance of eliminating the export charges between New England and New York and fully supports approval of both the NEPOOL and the NYISO filings in order to implement these changes on December 1, 2004. The commitment from the RTO-NE Filing Parties to adopt these tariff changes into the RTO Tariff will ensure that the reciprocity conditions will continue to be met following the transition from the NEPOOL Tariff to the RTO Tariff.

In summary, the Joint Filing Parties urge prompt Commission approval of both the NEPOOL October 1, 2004 filing as well as the Joint Filing Parties' filing made in Docket No. ER04-943, with an effective date of December 1, 2004 for both sets of tariff amendments. The

approval of these tariff amendments will provide significant benefits to both New York and New England by improving the efficiency of transactions between both regions.

**V. Conclusion**

The Joint Filing Parties respectfully request that the Commission grant Joint Filing Parties' motion to intervene in this proceeding and afford them all the rights of a party to this proceeding. The Joint Filing Parties also request that the Commission approve the amendments to the NEPOOL Tariff contained in the 108<sup>th</sup> Agreement.

Respectfully submitted,

NEW YORK TRANSMISSION OWNERS

NEW YORK INDEPENDENT SYSTEM OPERATOR,  
INC.

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Counsel

By: /s/ Karen Georgenson Gach  
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Dated: October 22, 2004

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document on the applicant in this proceeding in accordance with the Notice of Filing issued in Docket No. ER05-3-000 on October 7, 2004.

Dated at Albany, New York this 22nd day of October, 2004.

/s/ Karen Georgenson Gach  
Karen Georgenson Gach

Submission Contents

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