

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

**Midwest Independent Transmission System     )**  
**Operator, Inc.   )**     **Docket No. ER02-2033-000**  
**American Transmission Company LLC             )**

**MOTION TO INTERVENE OF  
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC.  
AND COMMENTS IN SUPPORT OF FILING**

Pursuant to Rules 212 and 214 of the Commission’s Rules of Practice and Procedure,<sup>1</sup> the New York Independent System Operator, Inc. (“NYISO”) hereby moves to intervene in the above-captioned proceeding.

**I. Copies of Correspondence**

Communications regarding this proceeding should be addressed to:	
Robert E. Fernandez, General Counsel and Secretary	Arnold H. Quint
Belinda R. Thornton, Director of Regulatory Affairs	Ted J. Murphy
New York Independent System Operator, Inc.	Hunton & Williams
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**II. Motion to Intervene**

The NYISO is the independent body responsible for providing open-access transmission service under its Open Access Transmission Tariff, maintaining reliability, and administering competitive wholesale electricity markets in New York State. It possesses operational control over the transmission facilities in New York.

On June 5, 2002, the Midwest Independent Transmission Operator, Inc. (“Midwest ISO”) and American Transmission Company LLC (“ATCLLC”) filed proposed revisions to the Midwest ISO Open Access Transmission Tariff (“OATT”) to include provisions that limit the

liability of the Midwest ISO and Transmission Owners for damages related to services provided under the Midwest ISO OATT, including interruptions, deficiencies or imperfections of service.

The NYISO has a direct and substantial interest in this proceeding that cannot adequately be represented by any other party, and requests leave to intervene herein.

### **III. Comments in Support of Filing**

The Midwest ISO and ATCLLC are requesting that the Commission change its current policy on liability limitation provisions for services as they apply to Commission-regulated entities. Liability limitation provisions are an important part of a utility's tariff and its resulting rates. Entities like the NYISO providing service under FERC tariffs cannot rely on state tariff provisions for liability protection. The Commission should recognize that liability limitation provisions will benefit ratepayers through lower rates. By allowing ISOs and Transmission Owners to have federal liability protection similar to previously applicable state liability protections, FERC will remove disincentives to RTO and transco formation.

WHEREFORE, the NYISO should be permitted to intervene.

Respectfully submitted,  
NEW YORK INDEPENDENT  
SYSTEM OPERATOR, INC.

By /s/ Arnold Quint  
Counsel

Arnold H. Quint  
Ted J. Murphy  
Hunton & Williams  
1900 K Street, N.W.  
Washington, D.C. 20006  
Of Counsel

June 26, 2002

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing document upon each party designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. 385.2010 (2001).

Dated at Washington, D.C. this 26th day of June, 2002.

/s/ Arnold Quint  
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18 C.F.R. § 385.212 and 214 (2001).