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June 22, 2000

Chairman Richard Grossi
C/o William J. Museler
President, NYISO
3890 Carman Road
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Dear Chairman Grossi:

Enron Power Marketing, Inc. ("EPMI"), a member of the New York Independent System Operator ("NYISO") Management Committee, hereby submits these comments in support of the appeals of Citizens Power, et al.; Orion Power New York, L.P.; and Hydro Quebec Energy Services (US) (collectively "Appellants") separately filed with the Board on June 15 and 16, 2000. Appellants have appealed the June 5, 2000 decision of the Management Committee requesting that the NYISO seek authority from the Federal Energy Regulatory Commission ("FERC") to impose $1,000/MWH bid caps for all energy and ancillary service markets until October 31, 2000.

EPMI is an affiliate of Enron North America Corp. ("ENA") and was formed to develop a North American merchant services business in electric power. EPMI has developed a range of products and services related to the purchase, sale and delivery of electric power and the management of associated price risks. EPMI markets these products throughout the United States, including New York and its neighboring control areas.

EPMI fully supports Appellants' appeals. However, as Vice President in charge of EPMI's eastern electric trading activities, I wanted to bring to the Board's attention the additional concerns that we have, from a trading perspective, with the proposed bid caps.

First and foremost, the bid cap proposal is likely to exacerbate reliability in New York and elsewhere in the region. This result will occur because marketers will be reluctant to purchase from and sell into New York's day-ahead LBMP market. Marketers who would normally rely on New York's day-ahead market as a source of export power will have an unacceptable risk that their exports will be cut in the real-time, as scarce supplies necessitate curtailments. While those marketers will presumably have their positions bought out at the real-time LBMPs, these will be the capped LBMPs and are likely to be less, perhaps far less, than the cost of covering that curtailed position in external markets. Such risks are extremely difficult to hedge, and will in effect result in fewer marketers purchasing from New York's market. This is especially true whenever weather projections suggest high demand throughout the region. Not only will this result in "hoarding" of supplies, to the detriment of other control areas, but it will also have the effect of arbitrarily depressing day-ahead LBMPs in New York, since the additional "buyers" that might have otherwise purchased power in New York's day-ahead market will be forced to meet their power needs elsewhere. We believe that this clear interference with interregional transmission of energy is contrary to FERC's policy.

Next, the bid cap proposal is also likely to exacerbate reliability problems in New York and elsewhere in the Northeast region. The bid cap proposal is likely to have a negative impact on reliability due to the perverse price signals being given to marketers who have surplus power external to the New York region. These marketers are unlikely to bid into New York's day-ahead market when tight conditions are forecast because their sale price will be capped at $1,000. Sellers will be more likely to sell their surplus power in regions where energy bid caps do not exist, or await the declaration of an emergency by the NYISO, which would allow the ISO to suspend the bid caps and pay market prices to maintain system reliability. However, if the New York ISO fails to declare such an emergency until after the market participants in other regions have purchased power at market rates for the day, New York will find itself in an even worse situation, where it simply does not have access to the power. This is a real possibility given the projections that DOE, NERC and others have made recently of a potentially constrained generation market this summer. Thus, the bid cap proposal actually has the contrary effect for the NYISO – it could exacerbate any reliability problems.

Third, the bid cap proposal will also have a negative impact on retail customers. While EPMI does not market directly to retail customers, other Enron affiliates do, and we are concerned about the discriminatory effect the bid cap proposal will have on load responding to supply shortages. As we understand the proposal, retail customers who respond to a power shortage by selling back their energy to the ISO will be paid only the capped real-time LBMP ($1,000). However, upon declaration of an emergency, the NYISO will begin buying supplies from generators and marketers at market prices. Capping purchase prices paid to retail customers at $1,000, but offering market prices (which could reach several thousand dollars), to marketers and generators during an emergency, unnecessarily discriminates against retail customers and prevents them from realizing the true value to the NYISO of their returns.

Finally, EPMI was a successful participant in the recently conducted TCC auctions, including the six month TCCs for this summer's capability period. EPMI is concerned that it will be financially harmed and may not fully realize the benefits of its bargain in securing TCCs if the bid cap proposal is implemented this summer. If, as we believe, the existence of bid caps will affect market participants' participation and bidding behavior in the day-ahead market, then the resulting day-ahead LBMPs will not be truly reflective of the conditions that were expected to prevail and those conditions that market participants relied upon in formulating their bids.

EPMI recently filed a protest at FERC in response to NYSEG's request for price screens to be implemented in New York this summer. In that protest, attached hereto for your convenience, we explain that price screens (like bid caps) are an inappropriate remedy to address potential supply problems this summer. We proposed alternative short-term market design corrections (such as evaluating bids from external resources on the same basis as bids from internal resources and addressing the seams issues between NEPOOL, NY and PJM) which we believe better address potential problems this summer.

In summary, while the Management Committee claims that the proposed bid caps are "temporary" in nature, there is no assurance that the Management Committee will not request a continuation of such bid caps (or price screens or any other market fluctuation limitation.) Such limitations only add to the vast uncertainty involving any market participation in New York. In addition, this type of uncertainty discourages any development of "quick start" or peaking units in New York, although the need for increased generation has been noted recently by the NYISO and the NYPSC. The NYISO should consider these adverse consequences before seeking to remedy structural design problems with market bid caps.

We appreciate the opportunity to bring these concerns to the Board's attention. Absent a strong showing of market power, which the Management Committee has not shown here, bid caps are unwarranted. The Management Committee's proposed bid caps will undermine the reasonable expectations of market participants and will interfere with the energy markets. Consequently, we urge the Board to (i) reject the Management Committee's bid cap proposal, and (ii) direct the NYISO to implement the short-term market design corrections that we proposed in our protest to FERC.

Sincerely,

Kevin Presto

Kevin Presto
Vice President

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York State Electric and Gas Corporation	)	
Complainant,	)	
v.	)	Docket No. EL00-70-000
New York Independent System Operator, Inc.	)	
Respondent.	)	

MOTION TO INTERVENE OUT OF TIME AND PROTEST OF ENRON POWER MARKETING, INC.

Pursuant to 18 C.F.R. § 385.211 and § 385.214 (1999) and the Commission's April 25, 2000, Notice of Filing, May 4, 2000 Notice of Extension of Time, and May 12, 2000 Notice of Filing of Amended Complaint and Extension of Time, Enron Power Marketing, Inc. ("EPMI") hereby moves to intervene out of time in and protests the filing of the New York State Electric & Gas Corporation ("NYSEG") in the above-captioned docket.

I. COMMUNICATIONS

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II.
INTERVENOR

EPMI is an affiliate of Enron North America Corp.("ENA") and was formed to develop a North American merchant services business in electric power. EPMI has developed a range of products and services related to the purchase, sale and delivery of electric power and the management of associated price risks. EPMI markets these products throughout the United States, including New York. EPMI functions as a power marketer pursuant to a Commission order issued December 2, 1993. *Enron Power Marketing, Inc.*, 65 F.E.R.C. ¶ 61,305, *order on reh'g*, 66 F.E.R.C. ¶ 61,244 (1994).

III.
THE FILING

On April 24, 2000, New York State Electric & Gas Corporation ("NYSEG") filed a complaint against the New York Independent System Operator, Inc. ("NYISO") pursuant to section 206 of the Federal Power Act ("FPA"), along with a request for an emergency technical conference. NYSEG requested the Commission to suspend market-based rates and to require suppliers within the New York Control Area ("NYCA") to use cost-based bids for energy markets in the NYCA, or alternative proposed remedies, in advance of the summer peak season. NYSEG requested that the cost-based bid requirement be made effective for the NYISO-administered energy markets for the period June 1, 2000 through October 31, 2000, or until such earlier date that the Commission determines that the market flaws alleged by NYSEG have been corrected or mitigated.

On May 10, 2000, the Members of the Transmission Owners Committee of the Energy Association of New York State ("Member Systems"), formerly the Member Systems of the New

York Power Pool, filed a Motion to Intervene, Comments, and Request for Expedited Relief. The Member Systems opposed the relief requested by NYSEG and instead proposed that price screens be adopted no later than June 5, 2000, which would be applied retroactively to June 1, 2000. The proposal also includes an extension until October 31, 2000 (the end of the summer capability period) of the Temporary Extraordinary Procedures ("TEPS"), which expired May 16, 2000.

On May 10, 2000, NYSEG amended its complaint filing. The amended filing incorporates the proposals of the Member Systems and withdraws the initial request for relief, including cost-based bidding and price caps.

IV.
INTERVENTION OUT OF TIME

EPMI's interests are directly affected by the outcome in this proceeding. EPMI is a competitor of members of the NYISO and is a user of the NYISO members' transmission facilities. EPMI is also a potential marketer of electric power and related services to members of the NYISO. EPMI's interest cannot be adequately represented by any other party. Therefore, EPMI submits that its intervention in this proceeding is in the public interest.

EPMI submits that good cause exists to grant this motion to intervene one day out of time. Under Rule 214(d)(1), in evaluating whether to grant an out of time intervention, the Commission will consider a number of factors. EPMI respectfully submits that those factors are satisfied here. First, EPMI did not intervene on a timely basis due to the press of business and a last-minute computer malfunction. Second, granting EPMI's intervention will not disrupt this proceeding, which is at its inception. Third, EPMI is an active user of NYISO services, is a member of the NYISO Management Committee, actively participates in the stakeholder process in New York, and has been active in other proceedings established by the Commission that relate to NYISO matters. Fourth, no party will be prejudiced by granting this intervention. Finally, this motion conforms to the requirements of Rule 214(b). For these reasons, EPMI respectfully submits that good cause exists to grant this intervention one day out of time.

V.
EXECUTIVE SUMMARY

EPMI agrees with the thrust of much of NYSEG's concerns that the NYISO markets are not working well. We disagree, however, with NYSEG's proposed remedy that the NYISO impose price screens to correct the market problems that it has identified. In order for markets to operate at maximum efficiency, ISOs should operate the transmission infrastructure and facilitate the markets, but they should not interfere in the markets unless absolutely necessary to deter the exercise of market power. An efficient market in New York will never be achieved unless this principle is studiously followed. Contrary to this principle, however, NYSEG's proposed price screens will unduly and unnecessarily inject the ISO into the operation of the New York power markets, affect the operation of surrounding markets, and interfere with the rational economic decisions that those markets would otherwise make. The Commission should reject this drastic remedy as inappropriate under the circumstances presented here.

Price screens are also unnecessary in New York in light of the fact that far less drastic solutions can be implemented to address, on an interim basis during the critical upcoming summer season, the immediate concerns raised by NYSEG, while the NYISO and market participants in New York address long-term market redesign issues. In this protest, we therefore recommend that the Commission direct the NYISO to focus immediately on resolving a series of issues that have been pending before various NYISO committees and the NYISO staff, the resolution of which would vastly improve liquidity in the market, especially for trades between control areas. Focusing on these "seam" issues is essential to maintaining system reliability for the summer period throughout the Northeast, and is clearly the superior path for the Commission to take, particularly given the fact that price screens have not only been rejected by the NYISO and the majority of the market participants in New York, but have, in fact, been withdrawn from the stakeholder process by NYSEG itself. *See supra* n.1.

VI. PROTEST

A. *Price Screens are Unjust and Unreasonable Because they Will Lead to Excessive Intervention in the Market by the NYISO and are Not Necessary to Solve the Liquidity Problems in NYISO Markets*

Although EPMI generally agrees with NYSEG regarding the severity of the problems in the New York market, we do not believe that price screens are the appropriate solution.[1] Price screens will add little to what the NYISO already does in terms of catching flawed prices. NYSEG's price screen proposal is also unworkable. As proposed by NYSEG, the screens would reverse the presumption that the NYISO gives to prices. "Market prices above the screens would not be permitted to stand unless the NYISO determines that the prices were the result of properly functioning, competitive markets." *See NYSEG Amended Complaint*, at 2.

This reverses the operating presumption in truly free markets that the market will create rational and efficient prices, and in its stead accords the NYISO subjective control over New York's electricity market. Under price screens, the NYISO could preliminarily believe and perhaps ultimately determine that any number of market interventions could produce "better results" than will those that would result under the market design approved for and incorporated in the NYISO Tariffs. Such subjective control of the markets is subject to misuse and abuse and

[1] At the May 24, 2000 Special Meeting of the Management Committee, NYSEG and the other TOs received little support for their price screen proposal. After making an extensive and detailed presentation to the Management Committee, followed by an hour of discussion, when the time came to vote on the TO's proposal, not only did the majority of the market participants expressing their views at the meeting oppose the price screen proposal, but the NYISO itself stated that it saw no need for the TOs' price screens proposal. As a result, NYSEG and the other TOs withdrew the proposal and requested that no vote be taken on it.

will inevitably lead to irrational results. At a minimum the NYISO will be required to spend significant resources addressing the myriad of questions that will arise should it attempt to implement these "better results" under the price screen mechanism. This will distract the NYISO from focusing on the underlying problems in the market.

It also bears noting that the summer peak season will begin in approximately two weeks. Market participants have relied on the fact that market based prices will be in effect in New York this summer. Implementing price screens (or any other type of price cap scenario) will have a detrimental impact on those market participants that have already taken positions in the market with the belief that market based rates will be in effect this summer.

Perhaps most significantly, price screens will not solve the existing problems in NYISO markets. One of the primary reasons that the New York market does not work properly is the lack of liquidity in the market. Market participants trading power in New York (either selling power into New York or buying power from New York to sell into other markets) are faced with restrictive rules on importing or exporting power that greatly limit the amount of power that can be imported or exported into or out of New York. Neither liquidity nor security will be achieved in New York until market participants can easily and reliably schedule energy from external resources into New York. Price screens will not address this fundamental concern.

For these reasons, price screens are an unreasonable response to the market problems identified by NYSEG. In their stead, EPMI submits that the alternatives discussed below should be implemented on an interim basis while a long-term fix to the market design flaws in the NYISO markets is developed.

B. Less Drastic Alternatives Exist that will Increase Liquidity in NYISO Markets in the Short-Term While Avoiding the Harmful Effects that Will Result from NYISO Intervention in the Markets through the Proposed Price Screens

While longer term solutions must be developed to fix the inherent flaws in the New York market, liquidity in the New York market will increase and the immediate problems in New York can be partially allayed during the upcoming crucial summer season if certain interim measures are adopted by the Commission.[2] If implemented, these interim solutions will reduce or eliminate the need for more drastic market interventions, such as the price screens recommended by NYSEG. In order for these changes to be effective for the upcoming summer season, EPMI urges the Commission to require NYISO to make these changes *within 15 days.*

[2] EPMI notes that the NYISO has recognized many of the problems addressed below and is currently working on solutions. In order to avoid serious supply shortages this summer, these problems must be corrected immediately.

1. *Bids from External Transactions Must be Evaluated on the Same Basis as are Bids from Internal Generation.*

The first change that we recommend involves the NYISO's rules on bids (either offers to buy from the pool or sell into the pool) from external resources. Current NYISO rules treat price evaluations for bids to sell into or purchase from the New York pool differently than they treat price evaluations for bids from internal resources. This makes it more difficult to import or export power into or out of New York.

Bids from external resources to sell into the pool or purchase power from the pool are currently evaluated against the "strike price," which is a price that is calculated using the forecast load. By contrast, bids from internal resources are evaluated against the "settlement price," which is calculated using the lower bid load. This leads to irrational and unfair results.

For example, EPMI recently submitted a bid to purchase power from the New York pool up to a price of $9,999 per MWh (a seemingly high price that presumably was going to be accepted by the pool). However, because EPMI was requesting to export power, its bid was evaluated against the strike price, which in certain hours was $12,000 per MWh. The settlement price for this same period was calculated at approximately $45 per MWh. Had EPMI's bid been evaluated against the settlement price rather than the strike price, EPMI's bid to purchase power for all hours requested would have been accepted. But because EPMI's bid to purchase power was instead evaluated against the strike price in certain hours of $12,000 per MWh, EPMI's bid was rejected in those hours on this particular day. By contrast, if a similar bid to purchase power was made by a market participant located within New York, the bid would have been evaluated against the settlement price ($45 per MWh) and would have been accepted. As can be seen, even though power never traded anywhere near EPMI's bid price, EPMI's bid was nevertheless rejected because of these bid evaluation procedures

The bid evaluation process for external resources is a widely-known problem in the New

York market, and the NYISO has developed procedures (approved by the relevant NYISO committees) to eliminate the disparate treatment between external and internal resources. Rather than implement these new procedures, however, the NYISO instead initially alleged that software problems prevented it from taking the necessary corrective measures. The NYISO later acknowledged that the software problems had been resolved, but nevertheless refused to change the bid evaluation process because of a concern that it had as to the effect that this could have on prices in New York, specifically, the potential that day-ahead LBMPs would increase more than the reduction in uplift.

The NYISO's refusal to eliminate the disparate treatment in bid evaluation procedures for internal and external resources because of the effect that this might have on prices is an unacceptable reason not to implement an enhancement to the NYISO's market structure because it once again results in the NYISO interfering with the operation of market forces. As long as market power is not being exercised, the NYISO should not attempt to either suppress or increase market prices. Moreover, the NYISO is operating a regional energy market, not a New York-only market. External buyers and sellers should be able to participate in this regional market to the same extent and subject to the same rules as are internal New York buyers and sellers. The interstate commerce clause of the U.S. Constitution demands no less.

For these reasons, the NYISO's treatment of bids from external resources must be the same as is its treatment of bids on internal resources.

2. ***The NYISO Should be Directed to Allow Generators to Specify "Minimum Run Times" for Power Bid into the New York Market.***

The Commission should also direct the NYISO to implement procedures that will allow power suppliers to specify a "minimum run time." Generators and power marketers often trade power among the northeast pools in trading blocks. For example, a trader may arrange to purchase power from the PJM pool for a 16 hour block. That trader cannot, however, be assured that it will be able to sell the entire 16 hour block into New York because the trader is currently prohibited from requiring the NYISO to accept its entire 16 hour block bid. Rather, the NYISO may choose to purchase only portions of the trader's block of power, leaving the trader with several hours of unpurchased power that the trader needs to unload. Similar problems exist for traders attempting to purchase power from the New York pool.

The uncertainty caused by these bidding practices is discouraging traders (or generatots) from trading in New York, which in turn dampens liquidity in the New York market. This disincentive could be alleviated if external generators and traders are permitted to specify minimum run times. The minimum run times would allow the generator or trader to specify the minimum period that it would accept for the purchase or sale of the power that it has bid into New York. By providing an assurance to traders that they will not be stuck with large amounts of unpurchased power, minimum run time protection will provide the hedge necessary for traders in New York to proceed with an acceptable level of risk. The increased confidence that this would instill in traders and generators would encourage them to more actively participate in the market, thereby increasing liquidity. Such treatment would, moreover, be consistent with the treatment already accorded to internal generation in New York.

3 ***The Commission Should Direct the ISO's Operating in the Northeast to Coordinate the Scheduling of Wheel Throughs Between their Markets.***

Another issue of extreme importance for both market liquidity and security, particularly during the upcoming summer season, concerns the scheduling of wheel throughs between the three ISOs operating in the Northeast (NYISO, PJM, ISO-New England). In particular, EPMI recommends that the Commission require the three ISOs to establish a single joint point of contact with whom all market participants can schedule transactions between any of the ISOs.[3]

The need for such coordination is illustrated by the events of this past May 8th. On that day, EPMI attempted to move power from Ontario, through NYISO, to PJM, which was short on capacity at the time. The transaction was curtailed, however, by the NYISO, reportedly at the request of PJM. When EPMI contacted PJM to corroborate, EPMI was informed that PJM had in fact not curtailed the transaction, but wished to receive the power in light of its existing capacity shortfall. It took EPMI two hours and numerous telephone calls to sort out the situation and get all three control areas involved in this transaction to restart the transaction. In the interim, much needed generation in PJM was lost, and EPMI unfairly lost market opportunities.

Snafus like this will aggravate reliability this summer and will lead to heavier reliance on emergency energy transfers between ISOs outside of the market rules. They are also counterproductive to the development of an efficient market and will create disincentives for marketers and generators to participate in the electricity market in the northeast. It is therefore critical that the aforementioned ISOs quickly coordinate multi-system wheel throughs, with a single point of contact. The ISOs should be directed to submit an interim proposal within 15 days of the Commission's action in this proceeding. If the ISOs fail to reach consensus quickly on this issue, the Commission should convene a technical conference under section 206 of the Federal Power Act, with the objective of developing an interim solution to this critical problem

[3] EPMI recognizes that the ISOs are currently working on a Memorandum of Understanding (" MOU") designed to address the seams issues among the pools, but it does not appear that the ISOs, if left to their own devices, intend to propose any changes or procedures that will enhance coordination in time for this summer.

that will be workable

for the upcoming summer period.

VII.
CONCLUSION

For the foregoing reason, EPMI moves the Commission to grant its intervention one day out of time and that it grant the relief set forth in the foregoing protest.

Respectfully submitted,

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Counsel for Enron Power Marketing, Inc.

May 26, 2000

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York State Electric and Gas Corporation Complainant, v. New York Independent System Operator, Inc., Respondent.	)	Docket No. EL00-70-000

CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, I hereby certify that I have this day served a copy of the foregoing document on all persons designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 26th day of May 2000

Ronald N. Carroll

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