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15 June 2000

Mr. Richard Grossi  
C/o Mr. William Museler  
President and Chief Executive Officer  
New York Independent System Operator  
3890 Carman Road  
Schnectady, New York

Dear Mr Grossi:

Enclosed are three originals of an appeal of the June 5, 2000 Management Committee by Orion Power New York, L. P. to the NYISO Board of Directors. This appeal is being sent to you via Mr. William Museler, President and Chief Executive Officer of the NYISO. A copy for each Board member is enclosed.

Copies of this appeal have being sent to each Management Committee member.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Mary M. Lynch".

Mary M. Lynch  
Vice President, Fuels Management

## NOTICE OF APPEAL

Orion Power New York L.P. ("Orion Power"), a member of the New York Independent System Operator ("NYISO"), hereby appeals the June 5, 2000 decision of the Management Committee ("Committee") to request that the NYISO seek authority from the Federal Energy Regulatory Commission ("FERC") to impose bid caps on the energy and ancillary services markets until October 31, 2000.

Orion Power fully supports and endorses the joint petition submitted by Citizens Power, LLC, et. al., opposing the imposition of bid caps altogether ("Petition"). Orion Power believes the NYISO would be making a serious mistake pursuing a bid cap strategy. The FERC has already indicated its dissatisfaction with such measures and we believe that this is a perilous route to travel if the NYISO truly intends to foster a competitive market.

Nonetheless, should the NYISO Board decide to request FERC approval to implement a bid cap, we respectfully submit that it is necessary to modify the bid cap proposal insofar as it calls for suspension of Bid Production Cost Guarantees ("BPCGs") for a supplier that bids minimum generation levels, start-up costs, or minimum run times when the LBMP at the supplier's bus averages \$200 per MWh or more per day. We are certain that neither the New York Public Service Commission (as a forceful proponent of the Committee's recommendation) nor the Committee itself intends this provision to have the perverse consequences set out below. Our proposal eliminates this flaw and yet provides protection against bidding abuses that may have been of concern to the Committee.

### **I. SUSPENSION OF BPCGs**

The bid cap proposal provides for Bid Production Cost Guarantees ("BPCGs") to be suspended for a supplier that bids minimum generation levels, start-up costs, or minimum run times when the LBMP at the supplier's bus averages \$200 per MWh or more per day.

## II. ARGUMENT

### A. THE PROBLEM – PART A -- ECONOMICS

Gas turbines are the most costly generators to operate. As a consequence, when the gas turbines portion of the generator stack is reached, gas turbine bids should set the market clearing price. In the case of Orion Power's GT's, however, more than 50% of the time, an accepted gas turbine bid has not set the clearing price. The NYISO has, however, recognized that gas turbines can and do get called on to run even without setting the clearing price. In such instances, the NYISO uses the BPCG to ensure that the generation owner is made whole to its bid.

The apparent purpose of this feature of the bid cap proposal suspending the BPCG is to prevent generators from submitting minimum generation bids, including start up costs and minimum run times, in a way that would cause the payments to that generator to exceed the bid cap. Where the proposal errs and creates a perverse dynamic is that the trigger is effectively set well below the \$1,000 per MWh cap generally proposed.

The proposal would negate the BPCG mechanism when the 24 hour average LBMP price is over \$200 per MWh. This penalizes a gas turbine generator that bids in and is called on for some number of hours short of 24 hours. Thus, a generator may bid at \$300 per MWh with a minimum run time of 4 hours and be called upon to supply the NYISO. If the average clearing price for that day is \$200 per MWh or greater, the generator would not be able to receive its energy bid. Instead, it would receive the clearing price for those 4 hours, which could be below its accepted bid. The NYISO's desire to impose a \$1,000 per MWh bid price cap would not be affected by allowing the generator to utilize the BPCG mechanism in this case.

### B. THE PROBLEM – PART B -- RELIABILITY

Because the proposal would result in a generator owning a gas turbine receiving payment that is less than its accepted bid (even within the constraints of a market with a \$1,000 per MWh bid cap), gas turbine operators will be compelled to remove gas turbines from the real time hourly market at precisely the peak times that they are needed most, in order to avoid being forced to operate these units at a loss. This will only increase the risk that system reliability problems will occur this summer and will ensure that average prices go even higher.

### C. THE SOLUTIONS

Orion Power believes the correct approach would be to require that the maximum hourly price a generator may receive for gas turbines, taking into consideration minimum generation bids and start-up costs, as well as the energy bid price, ought to be \$1,000 per MWh. This aligns the gas turbine market with the remainder of the broader market, while precluding gaming and achieving what we believe is the Committee's intent.

CONCLUSION

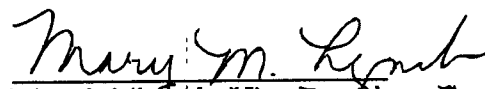
In light of the foregoing, Orion Power respectfully request that the NYISO deny the Committee's request that the NYISO seek authority from FERC to impose bid caps on the energy and ancillary services markets.

Alternatively, a \$1,000 per MWh all-in rate cap for gas turbines should be implemented in lieu of the suspension of BPCG when the average LBMP exceeds \$200 per MWh.

Respectfully submitted,

ORION POWER HOLDINGS, Inc.  
on behalf of Orion Power New York, L. P.

By:



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