

Mark S. Lynch  
President & CEO

July 20, 2006

Robert M. Loughney, Esq.  
Couch White LLP  
540 Broadway  
Albany, New York 12201-2222

Re: Installed Capacity in New York City

Dear Mr. Loughney:

This is in response to your letter of July 19, 2006, concerning the electricity capacity markets in New York City. The issue you describe came to our attention immediately after the May capacity auctions, and we immediately investigated the issue and reported our findings to the Federal Energy Regulatory Commission (FERC), who regulates our markets and approved the pricing regime which gave rise to the current issue. Far from taking a "hands-off approach," as suggested in your letter, we have subjected this issue to intense scrutiny and referred it to the only entity with the authority to address it.

We are attaching a copy of the letter we sent to FERC. In brief, the letter shows that the arrangements that permit the pricing regime you describe were made well before the New York Independent System Operator (NYISO) even existed. They were made in order to induce unregulated companies to bid on the facilities being offered by the Consolidated Edison Company of New York, Inc. (Con Ed) as part of its generating plant divestiture. Those arrangements were approved by Federal and State government and by Con Ed. The situation described in your letter and in the letter from Chairperson Santiago was specifically foreseen at that time, and valuable consideration was paid for the power plants, presumably in reliance upon those arrangements.

The NYISO is not a governmental organization and is not in a position to change or to second guess the determination made by appropriate governmental organizations pursuant to Federal and State law. Needless to say, your client is free to propose changes to the NYISO tariffs or bring appropriate complaints before FERC, but the NYISO's authority is limited by its tariffs and applicable FERC orders.

Sincerely yours,

**Mark S. Lynch**

Attachment

cc: R. Addepalli  
T. Niazi