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March 13, 2006

VIA HAND DELIVERY

Honorable John W. Boston
Chairman of the Board of Directors
c/o Mr. Mark S. Lynch
President and Chief Executive Officer
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, New York 12144

Re: Motion in Support of Notice of Appeal

Dear Chairman Boston:

Multiple Intervenors, an unincorporated association of approximately 50 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State, hereby submits the original and three copies of its Motion in Support of the Notice of Appeal filed on or about March 7, 2006 by Niagara Mohawk Power Corporation d/b/a National Grid ("National Grid"). National Grid appeals from the February 28, 2006 decision of the New York Independent System Operator, Inc. ("NYISO") Management Committee to reject Motion #2. That motion addressed: (a) the proposed revision of Locational Installed Capacity Requirements ("LCRs") for NYISO Zones J and K that satisfy reliability criteria and are consistent with the LCRs associated with the Free Flowing Equivalent Installed Reserve Margin ("IRM"); and (b) the proposed establishment of a Statewide Installed Capacity Requirement for the 2006-2007 Capability Year that corresponds to the Free Flowing Equivalent IRM.

A copy of this filing is being transmitted electronically to NYISO Staff, with a request that it be served electronically on all members of the NYISO Management Committee.

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If you have any questions concerning this filing, please call me at (518) 320-3409.

Very truly yours,

COUCH WHITE, LLP

Michael B. Mager

MBM/vaf

Enclosures

cc: Ms. Leigh Bullock (via E-Mail; w/enc.)
Robert Fernandez, Esq. (via E-Mail; w/enc.)
Mr. Ray Stalter (via E-Mail; w/enc.)

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MOTION OF MULTIPLE INTERVENORS IN SUPPORT OF APPEAL BY NATIONAL GRID

Multiple Intervenors, an unincorporated association of approximately 50 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State, hereby submits this Motion in Support of the Notice of Appeal (“Appeal”) filed on or about March 7, 2006 by Niagara Mohawk Power Corporation d/b/a National Grid (“National Grid”). National Grid’s appeal pertains to the February 28, 2006 decision by the New York Independent System Operator, Inc. (“NYISO”) Management Committee to reject Motion #2. That motion addressed: (a) the proposed revision of Locational Installed Capacity Requirements (“LCRs”) for NYISO Zones J and K that satisfy reliability criteria and are consistent with LCRs associated with the Free Flowing Equivalent Installed Reserve Margin (“IRM”); and (b) the proposed establishment of a Statewide Installed Capacity Requirement (“ICR”) for the 2006-2007 Capability Year that corresponds to the Free Flowing IRM.

The facts relevant to this matter are set forth in National Grid’s Appeal (at pages 1-3) and are incorporated by reference herein. In analyzing the instant appeal, it is important for the NYISO Board of Directors (“Board”) to recognize that the outcome of the underlying dispute need not – and should not – impact reliability. Irrespective of the outcome, all existing reliability standards will continue to be satisfied. Rather, at the crux of the appeal are issues of cost allocation and equity. As detailed by National Grid in its Appeal (at pages 3-6), the existing ICR and LCRs fail to account for the fact that constraints in one region of New York are driving up the IRM for the entire State, thereby costing consumers in unconstrained regions millions of dollars in excessive capacity costs. The Board must

determine whether the costs associated with a higher-than-necessary IRM should be socialized throughout New York, or allocated more equitably to the constrained regions in the State in a manner consistent with the principles of cost causation.

As noted by National Grid, the instant dispute was the subject of a complaint by National Grid which was filed with, and subsequently dismissed without prejudice by, the Federal Energy Regulatory Commission (“FERC”). Multiple Intervenors filed a Motion to Intervene and Comments in that proceeding (FERC Docket No. EL06-1-000). A copy of Multiple Intervenors’ Motion to Intervene and Comments is annexed hereto. In its Comments to FERC, Multiple Intervenors supported the relief sought in National Grid’s complaint. For the reasons set forth therein and above, Multiple Intervenors urges the Board to grant the relief sought in the appeal.

Respectfully submitted,

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Multiple Intervenors

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November 22, 2005

VIA ELECTRONIC FILING

Honorable Magalie R. Salas
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Docket No. EL06-1-000 – New York State Reliability Council, L.L.C. and
New York Independent System Operator, Inc.

Dear Secretary Salas:

Pursuant to the Notice of Extension of Time issued by the Federal Energy Regulatory Commission on October 14, 2005 in the above-referenced proceeding, please find enclosed for filing the “Motion to Intervene and Comments of Multiple Intervenors.” A copy of this document is being served upon the active parties in the above-referenced proceeding via U.S. Mail.

Very truly yours,

MULTIPLE INTERVENORS

s / Michael B. Mager

Michael B. Mager

MBM/vaf
Enclosure

cc: Service List (via U.S. Mail; w/enc.)

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

**Niagara Mohawk Power Corporation, a National
Grid Company,**

Complainant,

v.

Docket No. EL06-1-000

**New York State Reliability Council, L.L.C. and
New York Independent System Operator, Inc.,**

Respondents.

**MOTION TO INTERVENE AND COMMENTS
OF MULTIPLE INTERVENORS**

Pursuant to Rules 206 and 214 of the Rules of Procedure promulgated by the Federal Energy Regulatory Commission (“Commission”), 18 C.F.R. §§ 385.206 and 385.214, as well as the Notice of Extension of Time issued by the Commission on October 14, 2005, Multiple Intervenors hereby submits this Motion to Intervene and Comments in the above-captioned docket.

On October 6, 2005, Niagara Mohawk Power Corporation, a National Grid Company (“National Grid”), filed a Complaint against the New York State Reliability Council, L.L.C. (“NYSRC”) and the New York Independent System Operator, Inc. (“NYISO”) seeking an order from the Commission directing: (i) the NYSRC to make certain changes to its methodology for determining New York State’s Installed Reserve Margin

(“IRM”) and minimum Installed Capacity Requirement (“ICR”); and (ii) the NYISO to file, as needed, conforming amendments to its tariffs and manuals. (Complaint at 2, 41-42.) For the reasons set forth herein, Multiple Intervenors urges the Commission to grant the relief sought in National Grid’s Complaint.

I.

PERSON TO BE SERVED

The following person should be included on the official service list for this docket, and all communications concerning this Motion to Intervene and Comments should be addressed to him:

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II.

DESCRIPTION OF INTERVENORS

Multiple Intervenors is an unincorporated association of approximately 55 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State. The vast majority of facilities owned and operated by Multiple Intervenors members within New York are located in the Upstate region. Through five of its members, Multiple Intervenors is a voting member of the NYISO’s Management, Business Issues and Operating Committees. Multiple Intervenors

also participates actively in selected NYISO subcommittees and working groups. Additionally, Multiple Intervenors is the large consumer representative on the NYSRC Executive Committee (“NYSRC EC”).

III.

STATEMENT OF FACTS

The relevant facts in this docket are set forth in National Grid’s Complaint (see, e.g., Complaint at 2-17) and incorporated by reference herein.

IV.

GROUND FOR INTERVENTION

Multiple Intervenors requests intervenor status in this docket. As detailed above, Multiple Intervenors is an unincorporated association of approximately 55 large industrial, commercial and institutional energy consumers with manufacturing and other facilities located throughout New York State. Multiple Intervenors’ members, as large end-use consumers, pay substantial costs for installed capacity (“ICAP”), the magnitude of which is based on, inter alia, New York’s IRM and IRC. As such, Multiple Intervenors has a strong interest in the levels at which the IRM and the IRC are set. For these reasons, Multiple Intervenors’ interests will be affected directly by the outcome of this proceeding. See 18 C.F.R. § 385.214(b)(2)(ii)(A).

Moreover, no other party represents exclusively the interests of large industrial, commercial and institutional energy consumers that operate manufacturing and other facilities located throughout New York State. Thus, the interests of Multiple Intervenors’ members will not be represented adequately by any other party to this docket.

Additionally, Multiple Intervenors' intervention would contribute to the development for a complete record for the Commission's consideration because Multiple Intervenors has been an active participant in NYISO and NYSRC proceedings relating to the matters raised in National Grid's Complaint.

V.

STATEMENT OF ISSUES

The issues presented to the Commission by this Motion to Intervene and Comments are the same as those set forth in National Grid's Complaint (see Complaint at 11-12), and the Statement of Issues in that Complaint is incorporated by reference herein.

VI.

COMMENTS

By its Complaint, National Grid seeks an order from the Commission directing: (i) the NYSRC to establish New York's ICR "based on the Free Flowing Equivalent IRM"; and (ii) the NYISO to allocate to the affected localities, as appropriate, "the cost consequences of existing intra-regional transmission limitations into New York City and Long Island." (Complaint at 11-12.)¹ Multiple Intervenors supports National Grid's Complaint, and urges the Commission to grant the relief sought therein, because: (i) the Free Flowing Equivalent IRM recommended by National Grid is more consistent with principles of cost causation than the IRM methodology adopted by the NYSRC EC; and (ii)

¹ The methodology for calculating the Free Flowing Equivalent IRM proposed by National Grid is set forth in the Complaint. (Id. at 8-9, 32-34.)

granting the relief proposed in the Complaint should have no detrimental impact on reliability.

Currently, the NYSRC possesses the responsibility of setting New York's ICR and IRM; the NYISO is charged with establishing LICAP Requirements for Zone J (New York City) and Zone K (Long Island) that correspond to the ICR and the IRM. (See Complaint at 4.) In its Complaint, National Grid asserts that the NYSRC's existing practice of establishing the Statewide IRM violates the Federal Power Act Section 206 prohibition against unjust, unreasonable and unduly discriminatory rates and practices because:

Instead of rightfully accounting for intra-regional transmission limitations by adjusting the affected zones' LICAP Requirements, NYSRC's current IRM methodology lets intra-regional transmission limitations influence the region-wide resource adequacy requirement. This practice increases the cost to zones which are not import constrained but must nevertheless share the costs of additional capacity for zones which are. As a result, the unconstrained zones in the state are allocated excess capacity resources for the sole reliability benefit of transmission-constrained Zones J and K. While these excess resources are only needed to maintain reliability for customers in Zones J and K, the remaining [New York Control Area] customers have the responsibility to pay for these resources, even though they receive virtually no commensurate benefit. Moreover, as a result of upstate customers directly subsidizing the capacity needs of downstate consumers, locational price signals are diminished.

(Id. at 5; footnote omitted.) National Grid is correct.²

The facts underlying the Complaint – which are based primarily on calculations performed by the NYSRC and the NYISO – should not be in dispute. Absent internal transfer limits, or transmission constraints, New York State's "free flowing" IRM

² Multiple Intervenors agrees with National Grid that the Commission ultimately has jurisdiction over whether the IRM methodology results in just and reasonable prices and practices. (See id. at 18-20.)

would be 15.9%. (Complaint, Appendix A at 40, Case 6.) The IRM could be set based on that analysis, with reliability maintained through the implementation of higher LICAP Requirements. However, under the NYSCR's current practice, constraints that are located in and affect Zones J and K are "regionalized" throughout New York, such that the "Base Case IRM" was calculated to be 17.6% – significantly higher than the "free flowing" IRM. (*Id.*, Appendix A at 40, Case 1.)³ Consequently, under this approach, LICAP Requirements for Zones J and K are reduced or eliminated. National Grid estimates that the current methodology results in Upstate Consumers paying approximately \$22 million per year more than they should. (*Id.* at 6; footnote omitted.)⁴

Probably the most important issue raised by the Complaint for the Commission's determination is how the cost consequences of existing intra-regional transmission limitations into New York City and Long Island should be allocated. Pursuant to the methodology utilized currently by the NYSRC, such costs generally are socialized to all consumers through the adoption of a higher IRM (and correspondingly lower LICAP Requirements calculated by the NYISO). This methodology is not consistent with principles of cost causation.⁵ As National Grid asserts: "The impact of intra-regional transmission

³ The NYSRC EC subsequently voted to "round up" the "Base Case" result of 17.6% to 18.0%, a decision that was not supported by Multiple Intervenors. (*Id.*, Appendix A, NYSRC Resolution at ¶¶ 6-7.)

⁴ See also *id.* at 9, n.22 (noting that adoption of the Free Flowing Equivalent IRM advocated by National Grid would produce a 16.1% IRM, which does reflect a quantifiable impact due to transmission limitations).

⁵ See Complaint at 20-28 (summarizing Commission precedent prohibiting subsidies and assigning cost responsibility to regions or localities responsible for the incurrence of particular costs).

constraints should be taken into account in determining locational, as opposed to region-wide, resource adequacy requirements because the stated intent of a *locational* capacity mechanism is to signal through prices a need for capacity in a particular location.” (Id. at 7; emphasis in original.) As new generation is built, the constraints, and the LICAP Requirements, will be reduced.⁶

Importantly, the relief sought in the Complaint should have no detrimental impact on reliability. The reliability requirements applicable to the NYSRC and the NYISO mandate that New York’s bulk power system be designed so that the region has a loss of load expectation (“LOLE”) of no more than once in ten years, or a 0.1 LOLE. (See Complaint at 2-3.) Pursuant to the methodology advanced by National Grid, the 0.1 LOLE requirement would be maintained. (Id. at 8-9, 29-35.)

⁶ Significantly, however, increasing transmission capacity between Upstate and Downstate could have unintended, detrimental effects because it: (i) would result in higher electricity prices Upstate at a time when the region can least afford it; and (ii) could result in temporary shortages Upstate, where the NYISO had to place demand response providers on notice on numerous occasions this past summer.

VII.

CONCLUSION

For all the foregoing reasons, Multiple Intervenors respectfully requests the Commission to issue an order: (i) granting Multiple Intervenors intervener status in this proceeding; and (ii) granting the relief sought in National Grid's Complaint herein.

Dated: November 22, 2005
Albany, New York

Respectfully submitted,

s/Michael B. Mager

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing “Motion to Intervene and Comments of Multiple Intervenors” has been served upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010, 18 C.F.R. § 385.2010(a)(1)(i), of the Commission’s Rules of Practice and Procedure.

Dated at Albany, New York this 22nd day of November, 2005.

s/Valerie A. Fanelli
Valerie A. Fanelli

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