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April 18, 2002

**By Electronic Filing  
By Hand**

The Honorable Magalie R. Salas, Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E., Room 1A  
Washington, DC 20426

**Re: New York Independent System Operator, Inc Request to Extend Existing  
Automated Mitigation Measures and Penalties- Docket Nos. ER01-3155-000,  
ER01-1385-001, & EL01-45-001**

Dear Secretary Salas:

On March 20, 2002, the New York Independent System Operator, Inc. (“NYISO”) filed its Compliance Filing Regarding Comprehensive Market Mitigation Measures and Request for Interim Extension of Existing Automated Mitigation Procedure (“Comprehensive Filing”). By this letter, the NYISO respectfully restates its request to extend the current automated mitigation procedures<sup>1</sup> and the penalties provisions,<sup>2</sup> until the Commission has the opportunity

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<sup>1</sup> See *Compliance Filing of New York Independent System Operator, Inc. Regarding Comprehensive Market Mitigation Measures and Request for Interim Extension of Existing Automated Mitigation Procedure*, filed March 20, 2002, at 34-35 [hereinafter *NYISO Compliance Filing*].

<sup>2</sup> See *id.* at 59-60.

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to fully consider, and render a decision regarding, the NYISO's Compliance Filing. Currently, these provisions are set to expire on April 30, 2002.

**Automated Mitigation Procedures**

As the NYISO stated in the Comprehensive Filing, the conditions necessitating the Automated Mitigation Procedures ("AMP") are almost certain to be present during this coming summer and during the shoulder period leading up to the summer.<sup>3</sup> The shoulder period, in particular, is often vulnerable to potential market power problems as generation resources are taken offline for maintenance in preparation for the high-demand summer months.

Furthermore, the Commission has recognized the benefits of the AMP in prior Orders, noting that the AMP closes the one-day lag inherent in the manual operation of mitigation to the Day Ahead Market.<sup>4</sup>

**Penalties**

As the NYISO also stated in the Compliance Filing, the rationale for the current penalties remains valid.<sup>5</sup> These penalties are consistent with, and an integral part of, the

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<sup>3</sup> *See id.* at 34-35.

<sup>4</sup> *See New York Independent System Operator, Inc.*, 97 FERC ¶ 61,242 at 62,098 (2001).

<sup>5</sup> *See NYISO Compliance Filing* at 59.

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overall design of the NYISO's current Market Mitigation Measures.<sup>6</sup> These penalties provide the only means for imposing mitigation measures on physical withholding that meets the applicable conduct and impact tests because an entity engaged in physical withholding is, by definition, not submitting bids that can be changed to an appropriate reference level, as is the case with economic withholding.<sup>7</sup>

Therefore, it is preferable to extend the existing AMP and penalties provisions for the protection of New York energy consumers until the Commission has the opportunity to fully consider the NYISO's pending Comprehensive Filing. Moreover, by extending these provisions, the Commission would be doing nothing more than maintaining the status quo. That is, participants in New York energy markets have already had the opportunity to offer comments and suggestions regarding these provisions, and should suffer no harm if the Commission extends them.

The NYISO has mailed a copy of this letter to all parties that executed Service Agreements under the OATT or Services Tariff, to the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

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<sup>6</sup> *See id.*

<sup>7</sup> *See id.* at 59-60.



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The NYISO has also mailed a copy to each person designated on the official service list maintained by the Commission in Docket Nos. ER01-3155-000, ER01-1385-001, & EL01-45-001.

Sincerely,

A handwritten signature in black ink that reads "Wm F Young".

William F. Young

cc: Daniel L. Larcamp, Director, Office of Markets, Tariffs & Rates, Rm. 8A-01,  
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