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February 20, 2002

Richard J. Grossi
Chairman
c/o William J. Museler
President and Chief Executive Officer
New York Independent System Operator
3890 Carmen Road
Schenectady, New York 12303

Re: William P. Short III's Appeal of a Decision of the Management Committee To Adopt Certain Changes And Not To Adopt Certain Other Suggested Changes To The Membership Criteria For Voting Membership In the Small End Use Consumer Subsector

Dear Chairman Grossi:

Pursuant to the "Procedural Rules for Appeals to the ISO Board," I, William P. Short III, respectfully submit three copies of my appeal of the Management Committee's decision at its February 7, 2002 meeting to adopt certain changes and not to adopt certain other suggested changes to the membership criteria for voting membership in the Small End Use Consumer Subsector. This item was titled "Proposed Revisions to the ISO Agreement and Committee By-Laws" and was listed at Motion #8 on the agenda.

I am appealing this decision because (i) it restricts not only my direct participation but also every similarly situated end user in the NYCA as a **voting** member of the Management Committee, Business Issues Committee or Operating Committee (the "Committees") as a Small End Use Consumer **unless that consumer has a monthly peak load of 500 KW or greater in the prior 12 months** and (ii) it continues the participation of numerous large commercial and industrial end users as members of the Small End Use Consumer Subsector whose individual monthly peak load, **in the aggregate**, exceeds 2,000 KW in the prior 12 months. These criteria, if allowed to stand, would not only shut out of direct voting participation in NYISO governance nearly all residential and small commercial end users in the NYCA but would also continue the domination of the Small End Use Consumer Subsector by large Downstate New York commercial and industrial loads.

A copy of this appeal has been electronically transmitted to Mollie Lampr, Esq. of the NYISO staff who has agreed to serve it on each member of the Management Committee on this date.

Sincerely yours,

cc: Mollie Lampi, Esq.

**Appeal Of William P. Short III Of A Decision Of The Management
Committee To Adopt Certain Changes And Not To Adopt Certain Other
Suggested Changes To The Membership Criteria For Voting Membership In
the Small End Use Consumer Subsector**

I. Summary Of Argument

In accordance with Article 5 of the ISO Agreement and Section 1.02 of the NYISO's "Procedural Rules for Appeals to the ISO Board," I, William P. Short III, file this appeal of the Management Committee's decision at its February 7, 2002 meeting to adopt certain changes and not to adopt certain other suggested changes to the membership criteria for voting membership in the Small End Use Consumer Subsector. This item was titled "Proposed Revisions to the ISO Agreement and Committee By-Laws" and was listed at Motion #8 on the agenda.

The adopted motion would result in an inequitable situation because (i) it restricts not only my direct participation but also every similarly situated end user in the NYCA as a voting member of the Management Committee, Business Issues Committee and Operating Committee (the "Committees") as an Small End Use Consumer in the NYCA unless that end user consumer has a monthly peak load of 500 KW or greater in the prior 12 months and (ii) it continues the participation of numerous commercial and industrial end users as members of the Small End Use Consumer Subsector whose individual monthly peak electrical load, in the aggregate, exceeds 2,000 KW in the prior 12 months. These criteria, if allowed to stand, would not only shut out of direct voting participation in governance nearly all residential and small commercial end users in the NYCA but would also continue the practice of large Downstate New York commercial and industrial loads of dominating the Small End Use Consumer Subsector. The disapproved motions to amend would have resulted in an equitable resolution of this matter.

As described in more detail below, if the adopted motion of the Management Committee is allowed to stand, persons, who are small end user consumers in the NYCA, will be denied direct voting participation in the governance of the NYISO while large

Downstate New York commercial and industrial end use consumers will be allowed to continue to dominate this portion of the NYISO governance. Accordingly, I respectfully request the NYISO Board modify the motion of the Management Committee as described in my amendments to Motion #8, of which the Management Committee adopted neither.

II. Background

Beginning in November 2001, I participated in meetings of the By-Laws and Governance Subcommittee of the NYISO. These meetings, in part, centered on how to set objectively criteria for membership in the Small End Use Consumer Subsector so not to permit persons affiliated with organizations in the other Sectors from participation in that Subsector. Except for the setting of a minimum monthly peak load of 500 KW for direct participation as a voting member of the Committees and the refusal to change the definition of Small End Use Consumer to require certain large commercial and/or industrial end use consumers to aggregate their separately metered loads, I completely approve of the suggested changes approved by the By-Laws and Governance Committee. The vast bulk of this work is an improvement to the governance process of the NYISO and is a step in the right direction. This appeal is simply about whether (i) an individual end user with less than 500 KW of monthly peak load can be precluded from direct voting participation in NYISO governance matters and (ii) large Downstate New York commercial and industrial end users, which do not aggregate their monthly peak loads, will be allowed to continue their domination of this Subsector.

III. End Users With Less Than 500 KW Of Month Load Are Affected By NYISO Actions; Thus, Direct Voting Participation Is Needed

As an end user in NYCA, I am impacted by the actions of NYISO no different than that of any other end user who is neither a direct customer nor a limited customer of the NYISO. In fact, the Small End Use Consumer Subsector is populated with nothing but such persons while, in Large End Use Consumer Subsector, nearly all members are similarly situated. To have someone tell me that I am not impacted by NYISO actions

and argue for the continued existence of the End Use Consumer Sector is nothing more economic discrimination practiced by large institutions and corporations against individual citizens and small businessmen and women. Since I directly pay three residential power bills and am personally liable for a fourth one that averages \$15,000 per month (all of which are issued by persons that are direct customers of the NYISO), I believe that my situation clearly calls for nothing less than direct voting participation by persons like me in NYISO governance matters.

IV. The New York Consumer Advocate Does Not Represent The Business Interest of All End Users With Less Than 500 KW Of Monthly Peak Load; Thus, Direct Voting Participation Is Needed

In order for me to protect my economic interest as those interests pertain to the deregulated electric industry, I am the only person capable of speaking and voting for me. The New York Consumer Advocate and other similar organizations, which claim to represent Small End Use Consumers with less than 500 KW of monthly peak load, have neither expressed nor voted my true beliefs about the deregulated electric industry in the Committees. I believe in such things as high reliability standards and efficient electricity markets. These beliefs nearly always put me directly at odds with these so-called consumer organizations that claim to represent me. To give them my vote and, thus, deny me any vote is akin to have a rule that only Socialists can represent conservative Republicans because only Socialists truly know what conservative Republicans really want. Accordingly, no organization representing Small End Use Consumer should ever be permitted to represent all Small End Use Consumers; thus, direct voting participation in NYISO governance matters by myself is necessary.

V Large Commercial and Industrial Downstate End Users Exploit A Loophole And Populate The Small End Use Consumer Subsector With Its Majority

The majority of the members of the Small End Use Consumers Subsector are well-known large universities or hospitals, located in the New York City metropolitan area. They are nearly all represented by the same persons. They each claim that they have no single monthly peak load greater than 2,000 KW and, not-to-surprisingly, they

all claim to have at least 500 KW of monthly peak load. One of the largest members of this group is New York University, which boasts of having at least 20,000 employees, 50,000 students and nearly 10 million square feet of class rooms, office buildings, dormitories, etc. To put this organization in perspective, the World Trade Center towers had approximately the same amount of office and commercial space and a monthly peak load of 70 MW. Consequently, a similar monthly peak load, in the aggregate, can be reasonably assumed for this organization while a monthly peak load in the aggregate of 2,000 KW or more can be reasonably assumed for nearly every similar organization in this Subsector.

The existence of these entities in this Subsector is not without other oddities. All members of the Large End Use Consumer Subsector are Upstate-based corporations or organizations. There are no corporate Small End Use Consumers from Upstate New York and there are no Large End Use Consumers from Downstate New York. Yet, I think that everyone would be hard pressed to state that these two types of end users do not simultaneously exist in each of these two geographical areas.

These Downstate entities exploit a loophole that currently permits them not to have to aggregate their monthly peak load and, thus, compete with their Upstate counterparts for the Large End Use Consumer Subsector voting share. The obvious observation is that these two groups have an unwritten agreement not to populate the other's so-called Subsector. The solution to this travesty of NYISO governance is to require these Small End Use Consumer entities to aggregate their loads and to get themselves into their proper Subsector, even if that it turns out to be the Large End Use Consumer Subsector. Until this is done, what the small end use consumer has for governance is basically a 4-½ % of NYISO governance process represented by entities who could not pass the laugh test for honesty and integrity on Subsector qualification.

VI. Conclusion

I respectfully request that the NYISO Board reject the decision of the Management Committee to adopt certain aforementioned changes to the membership criteria for voting membership in the Small End Use Consumer Subsector.

Instead, the Board should adopt certain other suggested changes to the membership criteria for voting membership in the Small End Use Consumer Subsector which were proposed by me but not adopted by the Management Committee. In the alternative, I respectfully request that the NYISO Board send this issue back to the By-Laws and Governance Committee with clear guidance that the issues identified herein must be addressed and that the membership criteria for Small End Use Consumer Subsector:

- (i) not restrict my direct participation or any other similarly situated end user in the NYCA as a voting member of the Management Committee, Business Issues Committee and Operating Committee (the “Committees”) as an Small End Use Consumer in the NYCA solely because the end use consumer has a monthly peak load of 500 KW or less in the prior 12 months; and
- (ii) require the aggregation of the monthly peak load of commercial and industrial end users for membership of the Small End Use Consumer Subsector.

Respectfully submitted,