

September 1, 2004

BY HAND

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

Compliance Filing of New York Independent System Operation, Inc.
in Docket No. EL02-23-

Dear Secretary Salas:

In its Opinion No. 476,¹ the Federal Energy Regulatory Commission ("Commission") ordered the New York Independent System Operator ("NYISO") and PJM Interconnection LLC ("PJM") to determine if additional authority was needed in order to carry out certain market monitoring requirements imposed in paragraph 215 and ordering paragraph (B) of that Opinion. The NYISO has determined that certain revisions to its Market Monitoring Plan² are necessary to permit full compliance with the requirements of Opinion No. 476 and tenders this compliance filing for the Commission's consideration.

I. Documents Submitted

1. This letter;
2. Clean revised sheets from the NYISO's Market Monitoring Plan incorporating the NYISO's proposed compliance revisions ("Attachment I");
3. Redlined revised sheets from the NYISO's Market Monitoring Plan identifying the NYISO's proposed compliance revisions ("Attachment II"); and
4. A form of *Federal Register* notice ("Attachment III").

¹ *Consolidated Edison Company of New York v. Public Service Electric and Gas Company, et al.*, 108 FERC ¶ 61,120 (2004).

² The NYISO's Market Monitoring Plan was initially accepted for filing by the Commission in *New York Independent System Operator, Inc.*, 89 FERC ¶ 61,196 (1999).

II. Copies of Correspondence

Communications regarding this proceeding should be addressed to:

Robert E. Fernandez, General Counsel and Secretary
Elaine D. Robinson, Acting Director of Regulatory Affairs
Alex M. Schnell
New York Independent System Operator, Inc.
290 Washington Avenue Ext.
Albany, NY 12203
Tel: (518) 356-8707
Fax: (518) 356-7570
aschnell@nyiso.com

III. Service List

Copies of this filing are being served on all parties designated on the official service list maintained by the Secretary of the Commission in these proceedings. The NYISO is also serving a copy of this filing to all parties that have executed Service Agreements under the NYISO's OATT or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

IV. Description of Proposed Changes

The NYISO proposes to make the following changes to its Market Monitoring Plan in order to permit compliance with paragraph 215 and ordering paragraph (B) of the Commission's Opinion No. 476:

1. The NYISO and PJM have determined that, in order to carry out the joint investigations discussed in paragraph 215 of Opinion No. 476, the NYISO and PJM market monitoring units must be able to share certain confidential information. The proposed revisions to the NYISO's Market Monitoring Plan permit the NYISO and the New York ISO Market Advisor to release confidential information of Public Service Electric & Gas Company ("PSE&G"), Consolidated Edison Company of New York ("ConEd"), and their affiliates, and the confidential information of any Market Participant regarding generation and/or transmission facilities located within the ConEd Transmission District, to the PJM Market Monitor. Confidential information may only be released in order to permit the NYISO and PJM market monitoring units to conduct joint investigations to ensure that gaming, abuse of market power, or similar activities do not take place with regard to power transfers under the contracts that are the subject of FERC Opinion No. 476.

Magalie R. Salas
September 1, 2004
Page 3

2. In order to accomplish the same goals identified above, information received from PJM Interconnection LLC or the PJM Market Monitor that is designated as confidential shall be protected from disclosure by the NYISO.

3. Finally, in order to protect the confidential information of its Market Participants, and ensure compliance with the requirements of section 6.3 of the NYISO's Market Monitoring Plan and the NYISO's Code of Conduct, the NYISO and the New York ISO Market Advisor are only permitted to release a Market Participant's confidential information to the PJM Market Monitor if the PJM Market Monitor is subject to obligations limiting the disclosure of such information that are equivalent to or greater than the limitations on disclosure specified in the NYISO's Market Monitoring Plan.

The changes discussed above are reflected in the clean and redlined versions of the Market Monitoring Plan included as Attachments I and II to this letter.

V. Proposed Effective Date

The NYISO proposes that its compliance revisions become effective on the date determined by the Commission.

VI. Federal Register Notice

A form of *Federal Register* notice is provided as Attachment III hereto.

VII. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission accept its compliance filing for filing.

Respectfully submitted,

/s/ Alex M. Schnell

Robert E. Fernandez

Alex M. Schnell

New York Independent System Operator, Inc.

cc: Daniel L. Larcamp
Alice M. Fernandez
Connie N. Caldwell
Michael A. Bardee

ATTACHMENT I

the ISO web site or comparable means, and shall be subject to review and approval by the Board.

d) Consistent with the foregoing requirements, the Market Monitoring Unit, in consultation with the New York ISO Market Advisor, shall make available through the NY ISO web site or comparable means such reports on the New York Electric Markets as it determines will, at reasonable cost, facilitate competition in those markets.

e) Any data or other information collected by the NY ISO relating to any of the New York Electric Markets shall be provided upon request, and without undue discrimination between requests, to a Market Party, other interested party, or an Interested Government Agency, provided: (i) such data or information is not Protected Information, or the party designating it as Protected Information has consented in writing to its disclosure; (ii) such information can be provided without undue disruption to or interference with the other duties and responsibilities of the NY ISO; and (iii) the requesting party if other than an Interested Government Agency provides appropriate guarantees of reimbursement of the costs to the NY ISO of compiling and disclosing the data or information. If the Market Monitoring Unit, in consultation with the New York ISO Market Advisor, determines that doing so would not be unduly burdensome or expensive, or inconsistent with maintaining the competitiveness or economic efficiency of any market, the Market Monitoring Unit shall make data or information provided in accordance with this paragraph available to interested parties through the NY ISO web site or other appropriate means.

6.5 Sharing Information With PJM Interconnection LLC

a) Subject to the requirements of section 6.5(b), the NY ISO and the New York ISO Market Advisor may release Protected Information of Public Service Electric & Gas Company ("PSE&G"), Consolidated Edison Company of New York ("ConEd"), and their affiliates, and the Protected Information of any Market Participant regarding generation and/or transmission facilities located within the ConEd Transmission District (see section 2.184 of the NY ISO's Open Access Transmission Tariff) to the PJM Interconnection LLC Market Monitor ("PJM Market Monitor") to the limited extent that the NY ISO's Market Monitoring and Performance Department determines necessary to carry out the responsibilities of the market monitoring units of PJM Interconnection LLC and the NY ISO under FERC Opinion No. 476 (see *Consolidated Edison Company v. Public Service Electric and Gas Company, et al.*, 108 FERC ¶ 61,120 at P 215 (2004)) to conduct joint investigations to ensure that gaming, abuse of market power, or similar activities do not take place with regard to power transfers under the contracts that are the subject of FERC Opinion No. 476.

b) The NY ISO and the New York ISO Market Advisor may release a Market Participant's Protected Information pursuant to section 6.5(a) to the PJM Market Monitor only if the PJM Market Monitor is subject to obligations limiting the disclosure of such Protected Information that are equivalent to or greater than the limitations on disclosure specified in section 6.3 of this Plan. Information received

from PJM Interconnection LLC or the PJM Market Monitor under section 6.5(a) that is designated as Protected Information shall be protected from disclosure in accordance with section 6.3 of this Plan.

7. PERFORMANCE INDICES AND SCREENS

7.1 Development of Indices and Screens

The Market Monitoring Unit or the New York ISO Market Advisor, with due consideration of the proposals and comments of Market Parties and other interested parties submitted as specified below, with the approval of the Chief Executive Officer, and subject to review and approval by the Board, shall develop, adopt and refine on the basis of experience with their application, such indices or other screens for reviewing the data or other information collected in connection with the implementation of this Plan as the Market Monitoring Unit and the New York ISO Market Advisor deem appropriate. All proposed or adopted indices and screens shall be described in the ISO Procedures and shall be made available through the NY ISO web site or comparable means, provided and to the extent that any such description does not provide details of the standards, criteria or thresholds for evaluating such data or information that would facilitate conduct inconsistent with the competitiveness or economic efficiency of any of the New York Electric Markets.

7.2 Consultation with Market Parties

In connection with the development of indices and screens as specified above, Market Parties or other interested parties may submit proposed indices or screens for review of the data or other information collected in connection with the implementation of this Plan, along with any justification for the adoption thereof, to the Market

ATTACHMENT II

the ISO web site or comparable means, and shall be subject to review and approval by the Board.

d) Consistent with the foregoing requirements, the Market Monitoring Unit, in consultation with the New York ISO Market Advisor, shall make available through the NY ISO web site or comparable means such reports on the New York Electric Markets as it determines will, at reasonable cost, facilitate competition in those markets.

e) Any data or other information collected by the NY ISO relating to any of the New York Electric Markets shall be provided upon request, and without undue discrimination between requests, to a Market Party, other interested party, or an Interested Government Agency, provided: (i) such data or information is not Protected Information, or the party designating it as Protected Information has consented in writing to its disclosure; (ii) such information can be provided without undue disruption to or interference with the other duties and responsibilities of the NY ISO; and (iii) the requesting party if other than an Interested Government Agency provides appropriate guarantees of reimbursement of the costs to the NY ISO of compiling and disclosing the data or information. If the Market Monitoring Unit, in consultation with the New York ISO Market Advisor, determines that doing so would not be unduly burdensome or expensive, or inconsistent with maintaining the competitiveness or economic efficiency of any market, the Market Monitoring Unit shall make data or information provided in accordance with this paragraph available to interested parties through the NY ISO web site or other appropriate means.

6.5 Sharing Information With PJM Interconnection LLC

a) Subject to the requirements of section 6.5(b), the NY ISO and the New York ISO Market Advisor may release Protected Information of Public Service Electric & Gas Company ("PSE&G"), Consolidated Edison Company of New York ("ConEd"), and their affiliates, and the Protected Information of any Market Participant regarding generation and/or transmission facilities located within the ConEd Transmission District (see section 2.184 of the NY ISO's Open Access Transmission Tariff) to the PJM Interconnection LLC Market Monitor ("PJM Market Monitor") to the limited extent that the NY ISO's Market Monitoring and Performance Department determines necessary to carry out the responsibilities of the market monitoring units of PJM Interconnection LLC and the NY ISO under FERC Opinion No. 476 (see *Consolidated Edison Company v. Public Service Electric and Gas Company, et al.*, 108 FERC ¶ 61,120 at P 215 (2004)) to conduct joint investigations to ensure that gaming, abuse of market power, or similar activities do not take place with regard to power transfers under the contracts that are the subject of FERC Opinion No. 476.

b) The NY ISO and the New York ISO Market Advisor may release a Market Participant's Protected Information pursuant to section 6.5(a) to the PJM Market Monitor only if the PJM Market Monitor is subject to obligations limiting the disclosure of such Protected Information that are equivalent to or greater than the limitations on disclosure specified in section 6.3 of this Plan. Information received

from PJM Interconnection LLC or the PJM Market Monitor under section 6.5(a) that is designated as Protected Information shall be protected from disclosure in accordance with section 6.3 of this Plan.

7. PERFORMANCE INDICES AND SCREENS

7.1 Development of Indices and Screens

The Market Monitoring Unit or the New York ISO Market Advisor, with due consideration of the proposals and comments of Market Parties and other interested parties submitted as specified below, with the approval of the Chief Executive Officer, and subject to review and approval by the Board, shall develop, adopt and refine on the basis of experience with their application, such indices or other screens for reviewing the data or other information collected in connection with the implementation of this Plan as the Market Monitoring Unit and the New York ISO Market Advisor deem appropriate. All proposed or adopted indices and screens shall be described in the ISO Procedures and shall be made available through the NY ISO web site or comparable means, provided and to the extent that any such description does not provide details of the standards, criteria or thresholds for evaluating such data or information that would facilitate conduct inconsistent with the competitiveness or economic efficiency of any of the New York Electric Markets.

7.2 Consultation with Market Parties

In connection with the development of indices and screens as specified above, Market Parties or other interested parties may submit proposed indices or screens for review of the data or other information collected in connection with the implementation of this Plan, along with any justification for the adoption thereof, to the Market

ATTACHMENT III

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Consolidated Edison Company of New York

v.

Docket No. EL02-23-___

Public Service Electric and Gas Company,
PJM Interconnection, L.L.C., and
New York Independent System Operator, Inc.

NOTICE OF COMPLIANCE FILING
BY THE NEW YORK INDEPENDENT SYSTEM OPERATOR

(September __, 2004)

Take notice that, on September 1, 2004, the New York Independent System Operator, Inc. ("NYISO") submitted a compliance filing pursuant to the Commission's August 2, 2004 order in Docket No. EL02-23-000.

The NYISO states that copies of this filing are being served on all parties designated on the official service list maintained by the Secretary of the Commission in these proceedings. The NYISO is also serving a copy of this filing on all parties that have executed Service Agreements under the NYISO's OATT or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on all parties to the proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

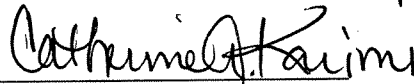
Comment Date: 5:00 pm Eastern Time on (insert date).

Magalie R. Salas
Secretary

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties listed on the official service list maintained by the Secretary of the Commission in Docket No. EL02-23-000 in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure 18 C.F.R. § 385.2010 (2004). Copies of this filing were also served upon each person that has executed a Service Agreement under the NYISO's Open Access Transmission Tariff or Market Administration and Control Area Services Tariff, and also upon the electric utility agencies in New York, New Jersey and Pennsylvania.

Dated at Washington, D.C. this 1st day of September, 2004.



Catherine A. Karimi
Sr. Professional Assistant
Hunton & Williams LLP
1900 K Street, N.W.
Washington, D.C. 20006-1109