

**VIA FEDERAL EXPRESS**

May 20, 2003

John W. Boston, Chairman  
New York Independent System Operator  
3890 Carman Road  
Schenectady, NY 12303

**Re: Notice of Appeal and Request for Clarification With Respect to the  
Management Committee's Decision to Approve the Settlement Process for  
TCCs**

Dear Chairman Boston:

Pursuant to the "Procedural Rules for Appeals to the ISO Board," New York Power Authority respectfully submits three copies of its appeal of the Management Committee's decision at its May 14, 2003 Special Meeting to approve the Settlement Process for TCCs, which was the sole substantive item on that agenda . A copy of this appeal has been electronically transmitted to Kristen Kranz who has agreed to serve it on the members of the Management Committee.

Sincerely,

/s/

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**NOTICE OF APPEAL AND REQUEST FOR CLARIFICATION OF  
NEW YORK POWER AUTHORITY  
OF THE MANAGEMENT COMMITTEE'S DECISION WITH RESPECT TO  
APPROVAL OF THE SETTLEMENT PROCESS FOR TCCS**

**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," New York Power Authority ("NYPA") hereby files this notice of appeal of the decision of the Management Committee ("MC") at its May 14, 2003 Special Meeting to approve the Settlement Process for TCCs, which was the only substantive item on that agenda.

NYPA has a major concern with the proposal as approved, at least insofar as that proposal was interpreted by Arthur Desell of NYISO Staff – how is the "Make-Whole Approach" to be applied when a line is out of service because of the action of another Transmission Owner (TO) in taking its substation equipment out of service? NYPA requests that the Board act consistently with its previous support of cost-causation and make it clear in any tariff filing with the Federal Energy Regulatory Commission ("FERC") that it is the TO that caused the outage that will assigned the cost and not the TO whose facility was taken out of service due to the action of another.

**II. BACKGROUND**

The issue of the funding of shortfalls in the settlement process for TCCs has been before the Management Committee for many months. The Staff in its white paper entitled "NYISO TCC Revenue Shortfall Proposal" correctly states that it has been "challenging" to "reach a comprehensive solution to the congestion shortfall issue." After discussion at various MC meetings it became obvious by the February 2003 meeting, that there was a consensus on moving ahead to address certain issues even absent a comprehensive solution. To that end the Staff developed a proposal addressing certain issues, prepared the white paper, and sought approval from the Business Issues Committee ("BIC"). This is the proposal which was approved at the Special MC Meeting on May 14, 2003.

In approving the proposal, the MC authorized a Filing under Section 205 of the Federal Power Act by the NYISO Board to amend the ISO's Open Access Transmission Tariff to allocate costs as set forth in the proposal. This appeal addresses only paragraph 1 of the resolution approved by the MC, which referred to that portion of the NYISO Staff proposal that provides for:

A method for determining charges for decreases in congestion rent and auction revenue collections attributable to transmission facility outages that are modeled in the DAM, TCC reconfiguration auctions, or TCC capability period auctions.

At the Special MC Meeting Mr. Desell mentioned that he had answered a question during the BIC discussion of this proposal that he wished to reverse. That question at BIC, posed by NYPA's representative, concerned the allocation of costs to TO's. Mr. Desell said at the BIC that it would be appropriate to allocate the costs to a TO whose actions caused the outage rather than to the owner of the facility if that owning TO played no role in causing the outage. At the MC, however, Mr. Desell said that after speaking with others, including economists, he had decided that since the TO causing the outage might not be the recipient of any TCC revenue associated with its facility, the outage of which caused the outage and hence the shortfall, that TO should not then be penalized.

Because of this reversal of opinion by Mr. Desell, as the NYISO Staff spokesperson on this issue, NYPA voted against the proposal at the Special MC Meeting.

It is not completely clear what the effect of Mr. Desell's opinion might be on the draft tariff language, but if it is the same language used in both Mr. Desell's presentation and in the white paper ("Once the congestion rent shortfall has been calculated for each binding constraint, it will be allocated to *the TO's with facilities out of service.*") it will clearly be subject to interpretation. Without Board statements to the contrary, Mr. Desell's interpretation will likely be dispositive.

### **III. ARGUMENT**

#### **A. The action of the NYISO Staff was not timely and interfered with the MC's full consideration of the matter**

It was inappropriate for Mr. Desell to make known the change in his interpretation of the proposal at the Special MC Meeting without any prior notice to the party most affected, NYPA. NYPA's representative had asked the question at BIC and Mr. Desell apparently spent considerable time reevaluating his position, yet he did not inform NYPA, or apparently any Market Participants, of his change of mind on this major issue. Because it came as a surprise, NYPA was unprepared to address the issue.

#### **B. The Staff interpretation will send the wrong signals**

It is remarkable that a proposal said to be needed to give appropriate signals regarding scheduled outages will now do exactly the opposite. NYPA has transmission lines which enter the substations of other TO's, sometimes at both ends. Other TOs also have lines that terminate at NYPA substations. NYPA has been at the forefront of scheduling outages to minimize disruption to the transmission system by using hot-wire techniques and extensive weekend or other off-peak period work. If the TO that owns the substation into which NYPA's facility terminates takes equipment out of service that necessitates an outage of a NYPA line, that TO under the Desell/Staff interpretation will incur no penalty. There will be no incentive for that TO to use more expensive but less disruptive weekend maintenance or schedule maintenance at other times when impacts may be minimal because NYPA (which has no control over the outage) would be assigned the cost.

While Mr. Desell's concern that TO's which are not receiving TCC revenue for a facility should not be charged for any associated shortfall has some theoretical merit, his cure is far worse than the disease. Albeit an expensive signal, it will nevertheless be a clear one to the TO which causes an outage that such action will have financial consequences. Since NYPA as a TO also owns substations into which the transmission lines of others

terminate, it is willing to be assigned such costs when its actions in a substation cause the lines of others to be taken out of service.

### **C. The Staff Proposal contradicts this Board's support of cost causation**

This Board, in its very recent "Deferral of Decision on the Supplemental Congestion Reduction Proposal Appeal" issued April 28, 2003; addressed issues closely related to the instant appeal and came down strongly on the side of cost-causation. On page 3, this Board said:

[W]e conclude that allocating congestion rent shortfalls on cost causation principles is more equitable than the current system which allocates shortfalls based on each TO's proportion of residual TCC auction revenues.

This Board went on to explain why cost-causation is appropriate and the benefits of assigning costs based thereon:

In short, the LECG Proposal assigns more completely the costs of shortfalls to *the owners of transmission facilities that create the problem in the first place*. We believe this approach sends appropriate economic signals and will provide incentives for TO's to efficiently schedule outages during periods of low congestion and manage transmission O&M in a manner that would minimize congestion rent shortfalls (emphasis added).

*Deferral of Decision, page 4*

The Desell/Staff interpretation would not assign costs to the party causing them and would not have the benefit of sending the appropriate economic signals to TOs as envisioned by this Board.

## **IV. CONCLUSION**

NYPA respectfully requests that the NYISO Board reject the decision of the Management Committee to adopt the Proposal in its current form as interpreted by its Staff. In the alternative, the NYISO Board should issue a clarifying statement that cost causation

principals require that the entity causing an outage and subsequent under funding of TCCs be assessed the cost thereof.

Dated: May 20, 2003  
White Plains, N.Y.

Respectfully submitted,  
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Executive Vice President, Secretary and General Counsel

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