

May 29, 2003

Hon. John W. Boston  
Chairman, Board of Directors  
New York Independent System Operator, Inc.  
c/o William J. Museler, President & CEO  
New York Independent System Operator, Inc.  
3890 Carman Road  
Schenectady, NY 12303

**Re: Motion in Opposition by National Grid USA, New York State  
Electric & Gas Corporation, and Rochester Gas and Electric  
Corporation To Notice Of Appeal filed by the New York Power  
Authority of the Management Committee's Approval of NYISO  
TCC Revenue Shortfall Proposal**

Dear Chairman Boston:

Enclosed for filing are three copies of the Opposition of National Grid USA, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation To Notice Of Appeal filed by the New York Power Authority to the Management Committee's May 14, 2003 Approval of NYISO TCC Revenue Shortfall Proposal, pursuant to Section 5.07 of the ISO Agreement and Article IV of the Procedural Rules for Appeals to the ISO Board. A copy of this submission has been electronically transmitted to NYISO Staff for purpose of service on the members of the Management Committee.

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National Grid USA has authorized the submission of this Motion in Opposition on its behalf.

Respectfully submitted,

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Authorized Agent and Counsel for  
New York State Electric & Gas Corporation  
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Enclosure

cc: Ira Freilicher, Esq. (via in-hand delivery)  
Robert Fernandez, Esq. (via fax and e-mail)  
Molli Lampi, Esq. (via e-mail)  
Kristen Kranz (via e-mail)  
George Pond, Esq. (Counsel for National Grid USA)

**OPPOSITION OF NATIONAL GRID USA, NEW YORK STATE ELECTRIC & GAS CORPORATION AND ROCHESTER GAS AND ELECTRIC CORPORATION TO NOTICE OF APPEAL OF THE MANAGEMENT COMMITTEE'S APPROVAL OF NYISO TCC REVENUE SHORTFALL PROPOSAL**

On April 30, 2003, the Power Authority of the State of New York ("NYPA") submitted its Notice of Appeal and Request for Clarification ("the Appeal") of the Management Committee's ("MC") approval of the NYISO TCC Revenue Shortfall Proposal ("the Shortfall Proposal"). National Grid USA ("National Grid"), New York State Electric & Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E") (collectively, the "MC Supporters") submit this Opposition to NYPA's Appeal pursuant to section 4.01 of the Procedural Rules for Appeals to the ISO Board dated November 17, 1999. The MC Supporters request that the Board of Directors ("Board") of the New York Independent System Operator ("NYISO") promptly reject NYPA's Appeal and approve the Shortfall Proposal for the reasons discussed below.

**BACKGROUND**

The MC Supporters have worked for almost two years to attempt to achieve a consensus among the participants in the NYISO's markets to reform the current inequitable and inefficient method used to allocate the Transmission Congestion Contract ("TCC") revenue shortfalls caused by outages of transmission facilities. In its Deferral of Decision on the Supplemental Congestion Reduction Proposal Appeal issued April 28, 2003, the Board expressed its support for a more equitable allocation of congestion revenue shortfalls and urged the Market Participants to work cooperatively to develop and implement a proposal to achieve that objective before the start of the 2003 Winter Capability Period. Responding to this request, the

Management Committee acted on May 14, 2003, to adopt the Shortfall Proposal submitted by NYISO Staff.

In its Appeal, NYPA notes that there are situations where one Transmission Owner owns a transmission line and another Transmission Owner owns the breaker(s) connecting that line to a substation. NYPA expresses the concern that it would be unfair – and inconsistent with fundamental principles of cost causation – for a Transmission Owner (TO-1) to bear the TCC revenue shortfall caused by an outage of a transmission line which it owns caused solely by the unavailability of a breaker owned by another Transmission Owner (TO-2) (*e.g.*, “nested” within TO-1’s facilities). NYPA states that NYISO Staff appeared to share its concerns when the Shortfall Proposal was presented to the Business Issues Committee, but that NYISO Staff reversed its position on this issue when that proposal was presented to and voted upon by the Management Committee. NYPA urges the Board to either: (1) clarify that cost causation principles require that the entity causing an outage bear the TCC revenue shortfalls associated therewith; or (2) overturn the decision of the Management Committee to adopt the Shortfall Proposal in its present form.

### **SUMMARY OF POSITION**

The MC Supporters urge the Board: (a) to authorize NYISO Staff to proceed expeditiously with a Federal Power Act (“FPA”) Section 205 filing to implement the Shortfall Proposal approved by the Management Committee; and (b) to direct NYPA to pursue any changes to that Shortfall Proposal through an expedited stakeholder process that would permit those concerns to be addressed at the July 2003 meeting of the Management Committee. Delaying the Shortfall Proposal’s implementation would needlessly delay realization of the significant benefits that the proposal was designed to provide, *e.g.*, enhanced reliability,

decreased congestion, and more efficient dispatch of resources. Approving the pending proposal will allow these benefits to be realized as soon as possible.

Moving forward with the Shortfall Proposal is particularly appropriate here because the problem that NYPA identifies is rare and clearly separable from the other aspects of the serious existing problems that the NYISO TCC Revenue Shortfall Proposal was designed to fix. Moreover, adopting NYPA's proposed solution would create a new set of inequities by imposing TCC revenue shortfalls with respect to facilities that do not provide their owners with any offsetting TCC auction revenues or congestion rents. Accordingly, the MC Supporters urge the Board: (i) to promptly approve the Shortfall Proposal and direct NYISO Staff to file necessary Tariff revisions with FERC to implement the Proposal in time for the start of the 2003 Winter Capability Period; and (ii) to permit NYPA to pursue the changes to the Shortfall Proposal requested in its Appeal through an expedited stakeholder process designed to permit consideration of NYPA's concerns at the July meeting of the Management Committee.

## **OPPOSITION**

### **I. THE BOARD SHOULD NOT DELAY IMPLEMENTATION OF THE SHORTFALL PROPOSAL**

NYPA's suggestion that the Board should overturn the Management Committee's approval of the Shortfall Proposal is plainly inappropriate. The current allocation method produces results that are neither just nor reasonable. In contrast, the Shortfall Proposal adopted by the Management Committee would produce a just and reasonable allocation of such costs. As previously noted, Market Participants have struggled with the issue of the proper allocation of TCC revenue shortfalls for almost two years, and tens if not hundreds of millions of dollars in

costs have been misallocated during this period due to the absence of an appropriate TCC revenue shortfall allocation method.

Moreover, the MC approved the Shortfall Proposal by nearly 90 percent and has been waiting since February of 2002 when it first approved congestion reduction measures for a filing with the Federal Energy Regulatory Commission (“FERC”) and implementation of those measures. Implementing the Shortfall Proposal approved by the Management Committee will therefore provide significant benefits such as enhanced reliability, decreased congestion and more efficient dispatch of resources. Accordingly, it is critically important that the NYISO act now to revamp its TCC revenue shortfall allocation process prior to the commencement of the 2003 Winter Capability Period, as the Board has requested.

**II. NYPA’S CONCERNS DO NOT JUSTIFY DELAY IN IMPLEMENTATION OF THE SHORTFALL PROPOSAL OR PREJUDGING THE ISSUES NYPA RAISES**

In contrast, the concern raised by NYPA involves only one minor aspect of the overall issue of properly allocating TCC revenue shortfalls. NYPA has provided no indication that an outage of a breaker owned by another Transmission Owner that would affect any of its transmission lines is imminent. In actuality, the possibility of such a breaker outage affecting any of NYPA’s transmission lines is relatively remote, both because the number of cases of divided ownership of breakers and transmission lines in New York is limited and because in many such situations, the breakers in question are part of a ring bus, permitting any single breaker to be taken out of service without affecting NYPA’s lines. In such circumstances, NYPA’s suggestion that the Board should address this relatively minor concern through the drastic measure of overturning the Management Committee’s approval of the entire NYISO TCC Revenue Shortfall Proposal must be rejected.

NYPA's alternate suggestion – that the Board should issue a “clarifying statement” that cost causation principles require the entity causing an outage to bear any resulting TCC revenue shortfalls – may appear to have the virtue of avoiding unnecessary delay in implementing the beneficial aspects of the NYISO TCC Revenue Shortfall Proposal noted above. However, the MC Supporters oppose this request because it was not presented to or adopted by the Management Committee and because it would prejudge how the Management Committee might decide to address the issue raised by NYPA.

**III. THE BOARD SHOULD DIRECT NYPA TO PURSUE THE CHANGES TO THE SHORTFALL PROPOSAL IT SEEKS THROUGH AN EXPEDITED STAKEHOLDER PROCESS WITHOUT DELAYING IMPLEMENTATION OF THE SHORTFALL PROPOSAL IN ITS PRESENT FORM**

The MC Supporters share NYPA's concern that, as a general matter, congestion shortfall costs should be allocated to the entities causing such shortfalls and receiving the economic benefit of the congestion auction or TCC revenues associated with such facilities. However, the MC Supporters also share the concern of NYISO Staff that because Transmission Owners receive no TCC revenues for “nested” breakers that support the transmission lines of other Transmission Owners, NYPA's proposal would create an asymmetric risk and constitute an “unfunded mandate” unfairly assigning responsibility for TCC revenue shortfalls to facilities that create no TCC revenues for their owners to offset those revenue shortfalls.

The MC Supporters believe that rather than mandating NYPA's position, the Board should direct NYPA to pursue any amendment to the Shortfall Proposal through an accelerated stakeholder process designed to permit the Management Committee to act on NYPA's concerns as soon as its July meeting. This approach will provide Market Participants (with the assistance of NYISO staff) an opportunity to work expeditiously to develop a consensus proposal

addressing NYPA's narrow concerns in a way that accommodates both of the above two competing interests.

For the reasons noted above, however, this expedited stakeholder process should not be used as a pretext to delay implementation of the Shortfall Proposal. To the extent the Management Committee determines at its July meeting or at any time thereafter that further modifications to that proposal are appropriate, any additional Tariff filing that is required can be made at that time. As noted above, the problem NYPA raises in its appeal may never arise before the subsequent Tariff filing (if one is in fact required).

### **CONCLUSION**

For the reasons discussed above, the MC Supporters urge the Board: (i) to promptly approve the NYISO TCC Revenue Shortfall Proposal in its present form and file necessary Tariff revisions with FERC to implement such proposal in time for the start of 2003 Winter Capability Period; and (ii) to remand the narrow issue raised by NYPA to the Management Committee for consideration at its July 2003 Management Committee Meeting. To the extent the Management Committee determines that clarification or modification of the proposal is required, any additional Tariff filing that is required can be made shortly thereafter.

Respectfully submitted,

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Corporation

Dated: May 29, 2003

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**VIA FEDERAL EXPRESS**

June 4, 2003

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

**Re:      Objection to Motion in Opposition by National Grid, New York State  
          Electric & Gas Corporation and Rochester Gas and Electric  
          Corporation to Notice of Appeal of the New York Power Authority  
          With Respect to the Management Committee's Decision to Approve  
          the Settlement Process for TCCs**

Dear Chairman Boston:

The New York Power Authority objects to material misstatements of fact in the Motion in Opposition to its May 20 Appeal by National Grid, New York State Electric & Gas Corporation ("NYSEG") and Rochester Gas and Electric Corporation ("RG&E") (collectively the "Upstate TOs"), dated May 29, 2003.

While this objection seems extraordinary, the misstatement in question is essentially the entire argument made by the Upstate TOs in their objection. The false claim is that "the problem that NYPA identifies is rare ..."

The Upstate TOs go on to state:

[T]he concern raised by NYPA involves only one minor aspect of the overall issue of properly allocating TCC revenue shortfalls. NYPA has provided no indication that an outage of a breaker owned by another Transmission Owner that would affect any of its transmission lines is imminent. In actuality, the possibility of such a breaker outage affecting any of NYPA's transmission lines is relatively remote ... The TOs focus exclusively on breaker outages, but there are many reasons why work in a substation can result in a transmission line being taken out of service. In fact, there have been fifty-eight instances of NYPA-owned transmission lines being

out of service because of scheduled substation work by the Upstate TOs alone since early 2000, as is illustrated on the attached table (Exhibit 1) which shows the date, time and duration of such outages. The affected transmission lines are listed on Exhibit 2.

Moreover, this table indicates, with the exception of outages requested by RG&E, that the majority of such outages occur during weekday periods when labor costs are lower but congestion costs are generally higher.

It would not be appropriate to repeat our arguments herein but it is important for the Board to realize that NYPA did not raise a largely theoretical concern which is unlikely to have real economic impacts on it and similarly situated transmission providers.

A copy of this Objection has been electronically transmitted to Kristin Kranz who has agreed to serve it on the members of the Management Committee.

Sincerely,

/s/

David E. Blabey  
Executive Vice President, Secretary and General Counsel  
By: Edgar K. Byham, Principal Attorney  
New York Power Authority  
(914) 390-8006

cc: Kristin Kranz (via e-mail)  
Mollie Lampi, Esq. (via e-mail)  
Ira Frielicher, Esq. (via e-mail)  
Rob Fernandez, Esq. (via e-mail)

Exhibit 1

## Scheduled Outages in Substations Owned by Others Resulting in Outages of NYPA Transmission

**Rochester Gas & Electric**

<u>Start Date</u>	<u>Start Day</u>	<u>Start Time</u>	<u>Duration</u>
9/9/2000	Saturday	7:08 AM	27 Hrs.
9/24/2000	Sunday	6:13 AM	15 Hrs.
10/14/2000	Saturday	7:32 AM	8 Hrs.
10/21/2000	Saturday	7:47 AM	6 Hrs.
11/4/2000	Saturday	7:08 AM	6 Hrs.
12/2/2000	Saturday	6:54 AM	11 Hrs.
12/9/2000	Saturday	7:04 AM	3 Hrs.
12/16/2000	Saturday	7:52 AM	3 Hrs.
4/22/2001	Sunday	7:42 AM	9 Hrs.
4/28/2001	Saturday	6:17 AM	4 Hrs.
6/9/2001	Saturday	7:00 AM	10 Hrs.
6/10/2001	Sunday	7:21 AM	10 Hrs.
7/7/2001	Saturday	7:26 AM	5 Hrs.
4/27/2002	Saturday	7:27 AM	3 Hrs.
4/27/2002	Saturday	10:27 AM	3 Hrs.
5/11/2002	Saturday	7:29 AM	3 Hrs.
5/11/2002	Saturday	10:52 AM	2 Hrs.
10/12/2002	Saturday	7:19 AM	4 Hrs.
10/12/2002	Saturday	1:00 PM	3 Hrs.

**NYS Electric & Gas**

<u>Start Date</u>	<u>Start Day</u>	<u>Start Time</u>	<u>Duration</u>
5/7/2000	Sunday	11:37 AM	2 Hrs.
10/19/2000	Thursday	9:53 AM	5 Hrs.
12/22/2000	Friday	10:08 PM	10 Hrs.
12/29/2000	Friday	12:31 PM	3 Hrs.
1/3/2001	Wednesday	8:52 AM	9 Hrs.
1/17/2001	Wednesday	8:40 AM	6 Hrs.
3/2/2001	Friday	9:26 AM	7 Hrs.
3/6/2001	Tuesday	9:35 AM	6 Hrs.
3/16/2001	Friday	9:10 AM	7 Hrs.
4/22/2001	Sunday	7:42 AM	9 Hrs.
5/15/2001	Tuesday	9:53 AM	3 Hrs.
10/4/2001	Thursday	9:08 AM	6 Hrs.
10/16/2001	Tuesday	9:46 AM	52 Hrs.
8/6/2002	Tuesday	8:19 AM	10 Hrs.
3/11/2003	Tuesday	9:17 AM	6 Hrs.
3/12/2003	Wednesday	9:29 AM	6 Hrs.
3/13/2003	Thursday	9:12 AM	5 Hrs.
4/14/2003	Monday	9:10 AM	7 Hrs.
4/15/2003	Tuesday	9:04 AM	5 Hrs.
5/17/2003	Saturday	8:30 AM	8 Hrs.

**National Grid**

<u>Start Date</u>	<u>Start Day</u>	<u>Start Time</u>	<u>Duration</u>
4/13/2000	Thursday	9:28 AM	6 Hrs.
5/1/2000	Monday	5:40 AM	13 Hrs.
5/25/2000	Thursday	9:26 AM	20 Hrs.
8/29/2000	Tuesday	8:41 AM	5 Hrs.
8/30/2000	Wednesd:	6:00 AM	34 Hrs.
10/5/2000	Thursday	8:39 AM	151 Hrs.
10/12/2000	Thursday	8:30 AM	199 Hrs.
3/2/2001	Friday	8:20 AM	6 Hrs.
3/28/2001	Wednesd:	10:38 AM	1 Hr.
8/14/2001	Tuesday	11:19 AM	2 Hrs.
8/18/2001	Saturday	7:57 AM	7 Hrs.
9/14/2001	Friday	1:38 PM	2 Hrs.
11/5/2001	Monday	5:47 AM	106 Hrs.
11/26/2001	Monday	8:23 AM	268 Hrs.
2/4/2002	Monday	8:04 AM	462 Hrs.
3/14/2002	Thursday	9:58 AM	4 Hrs.
6/1/2002	Saturday	6:11 AM	28 Hrs.
6/25/2002	Tuesday	8:45 AM	58 Hrs.
10/29/2002	Tuesday	8:11 AM	7 Hrs.

# NYPA 345 kV lines impacted by Upstate TO substation work 2000-May 2003

## **NYSEG**

Coopers Corners-Rock Tavern 42 line  
Edic-Fraser 24-40 line  
Gilboa-Fraser 5-35 line  
Somerset-Rochester1-39 line  
Niagara-Somerset1-38 line

## **National Grid**

Edic-Marcy1-7 line  
Gilboa-Leeds-3 line  
Pannell-Clay-1 line  
Clay-Edic2-15 line  
Fitzpatrick-Edic-1 line  
Fitzpatrick-Scriba-10 line  
Edic-Fraser24-40 line  
Clay-Edic1-16 line  
Pannell-Clay-2 line  
Gilboa-New Scotland-1 line

## **Rochester Gas & Electric**

Pannell-Clay-1 line  
Pannell-Clay-2 line  
Rochester-Pannell-1 line  
Rochester-Pannell-2 line  
Somerset-Rochester1-39 line  
Niagara-Rochester-2 line  
Pannell-Clay-2 line