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February 27, 2004

Mr. John W. Boston
Chairman of the Board
c/o Mr. William Museler
President and CEO
New York Independent System Operator, Inc.
3890 Carman Road
Schenectady, N.Y. 12303

Re: IPPNY Appeal to ISO Board of Management Committee Decision on
Voting by Distributed Generators and Demand Response Providers

Dear Chairman Boston:

Pursuant to the "Procedural Rules for Appeals to the ISO Board, New York Power Authority ("NYPA") and LIPA (collectively, "the Authorities") hereby file this motion in opposition to the February 19, 2003 Appeal (the "Appeal") filed by the Independent Power Producers of New York, Inc. ("IPPNY"). IPPNY's Appeal relates to the Management Committee's decision to clarify the voting rights of Demand Response Providers and Distributed Generators.

The Authorities would appreciate the NYISO posting this document on its website and serving a copy by e-mail to all members of the Management Committee. Thank you.

Very truly yours,

David E. Blabey, by

/s/ Edgar K. Byham
New York Power Authority

/s/ Joseph B. Nelson
LIPA.

MOTION IN OPPOSITION TO AN APPEAL

Pursuant to the “Procedural Rules for Appeals to the ISO Board,” New York Power Authority (“NYPA”) and LIPA (collectively “the Authorities”) hereby file this motion in opposition to the February 19, 2003 Appeal (the “Appeal”) of the Independent Power Producers of New York, Inc. (“IPPNY”). By its Appeal, IPPNY seeks to overturn the February 4, 2004 decision of the Management Committee (“MC”), which provided that Demand Response Providers (“DRP”) and Distributed Generators (“DG”) would, unless they have strong characteristics of other sectors, vote and participate in the Other Suppliers sector in all NYISO committees.

IPPNY’s primary contention is that the MC’s decision “would upset the already precarious balance between suppliers and load in the NYISO’s shared governance process.”¹ This claim is based on two assumptions, neither of which is supported in the IPPNY appeal: 1) that there is a clear division in NYISO governance with all entities falling neatly into either supplier or load categories (with a few entities that serve as swing voters holding the balance of power); and 2) that a significant portion of the DGs and DRPs will vote with load, rather than supply, despite their predominately supply characteristics.

Since IPPNY presents no evidence to support either of its claims, it would be logical to assess the situation two years hence and see if there has been a significant shift in the “precarious balance” as a result of this change. Otherwise the Board is being called on to act on pure supposition. And indeed, it is precisely because the DG/DRP segment has been so slow to exert itself in the NYISO context that the MC approved a

¹ IPPNY Appeal, page 3.

reduced fee to encourage their participation; we simply do not know if they will even respond to the invitation and participate actively in the governance process.

Assuming *arguendo* that IPPNY is correct and there is a delicate balance between supply and load now evident in NYISO governance, this would be no reason to reject the MC action. The governance structure of the NYISO was developed through lengthy negotiations by all segments of the market, and it was a compromise that has worked remarkably well. When the issue of DG/DRG participation was brought to the Bylaws Committee in May 2003 by representatives of the DG/DRG market segment, the Committee carefully and at great length considered the issue. The issue before that Committee was how to incorporate new entities with some unique characteristics into the existing sectors with a minimum of disruption and maximum fairness – while adhering fully to the ISO Agreement. . Like the original governance structure as set forth in the ISO Agreement, what the Committee presented to the MC and the MC approved was a compromise. If it did not perfectly achieve its goals that was only because no suggestion was made there that would have done so. IPPNY and the other suppliers were active in these discussions and suggested many aspects of the compromise plan which was presented by the Committee.

By IPPNY's own admission, there is an ebb and flow to NYISO governance depending on what representatives are present at a given meeting and often by the persuasiveness of the arguments presented. Voting in the NYISO evidences substantial commitment to the maintenance of a healthy market by all sectors.

Thus, IPPNY complains of a problem which it cannot prove and objects to a solution crafted in full accord with NYISO governance. Their appeal should be rejected and the decision of the MC be upheld.

CONCLUSION

For the reasons stated above, the Board should reject IPPNY's appeal, uphold the decision of the MC and file the new voting structure with FERC.

Dated: February 27, 2004

Respectfully submitted,

/s/ Edgar K. Byham

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