

City of New York  
Consumer Power Advocates

February 27, 2004

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

Re: Motion in Opposition to Appeal to the Board of Directors by the Independent Power Producers of New York, Inc. Regarding the February 4, 2004 Decision of the Management Committee to Approve Sector Voting Procedures for Demand Response Providers and Distributed Generators

Dear Chairman Boston:

In accordance with the Procedural Rules for Appeals to the NYISO Board, the City of New York (City) and Consumer Power Advocates (CPA) respectfully submit this Motion in Opposition to the Notice of Appeal of a February 4, 2004 decision by the New York System Operator (NYISO) Management Committee. CPA represents New York University, Columbia University, Beth Israel Health Care Systems, Mount Sinai Medical Center, New York Presbyterian Hospital, and Refined Sugars, Inc. in the NYISO shared governance process. We urge that the Board of Directors deny the appeal of IPPNY, and approve the Management Committee (MC) decision concerning sector participation and voting procedures for Demand Response Providers and Distributed Generators.

The arguments raised by the Appellant are not new, and moreover are cloaked in highly conclusory terms that will not withstand scrutiny. Contrary to the hyperbolic claims made by Appellant that the procedures adopted by the MC would “eviscerate” a purported “precarious balance” in the NYISO governance process, and thereby “undermine the NYISO’s shared governance structure,”<sup>1</sup> the proposal adopted by the Management Committee represents a reasonable compromise measure that fully takes into account the functional roles of the entities that can be expected to participate in the NYISO as DGs and DRPs.

The proposal adopted by an affirmative MC vote of greater than 65% was the product of extended market participant discussions long before its adoption. This was true not only in the principal governance Committees, but also at great length and through many drafts in the By Laws Subcommittee over a period of several months. Appellant was itself a party to the discussion of numerous proposals, and to the

---

<sup>1</sup> IPPNY Notice of Appeal at pp. 1, 6-7

refinement and compromise of those proposals to achieve consensus among the various market participant interests. Others have described in some detail the lengthy process in the By Laws Subcommittee in their Motions in Opposition to the Appeal in this matter. Concessions were made by numerous parties – notably including a number of supporters of the MC action at issue here – in an effort to achieve agreement. Appellant is of course entirely free to modify or reconsider its positions on this or any issue. However, as a matter of process and fairness, the Board in considering this appeal should be fully aware of all the circumstances behind the adoption of the compromise measure ultimately affirmed by the Management Committee.

As to the more important issue of the substantive merits of the motion adopted by the MC, we view its action as an entirely reasonable measure to take into account the varied nature of DG and DRP entities, and to permit the most logical and equitable role for such entities in the NYISO governance process. It is an artificial construct to suggest, as Appellant does, that there exists within the NYISO governance structure a simple clash of monolithic entities that IPPNY characterizes as “load” and “suppliers.”<sup>2</sup>

Also unsupported is the IPPNY contention that the votes of these entities are predictable on critical issues. The voting record of market participants over the history of the NYISO belies any such claim. A disinterested review of NYISO governance committee voting records would reveal that: 1) it is the Generation Owners sector that is more likely than others to engage in highly disciplined bloc voting on key issues, and 2) despite Appellant’s claim that generators face nearly insuperable odds in NYISO voting,<sup>3</sup> their position has prevailed in recent critical committee votes ranging from imposition of the capacity demand curve to scarcity pricing. In both of the latter instances, the record shows that some support for the generation sector position came from the very interests that IPPNY suggests in its appeal here would not provide such votes.

Equally without foundation is the Appellant’s contention that the so-called load interests will in some fashion exert pressure on DGs or DRPs to influence their voting behavior.<sup>4</sup> As has been pointed out by other parties in opposition to the Board appeal in this matter, the interests of the parties under consideration here are far more likely to be in having higher market prices from which they can derive financial benefit. Appellant’s claims to the contrary are entirely speculative and unsupported, and should be rejected by the Board.

---

<sup>2</sup> *Id.* at pp. 1, 3.

<sup>3</sup> *Id.* at p. 3, citing a presumptive 57% vote for the collective sectors that Appellant claims “primarily vote as Load”

<sup>4</sup> *Id.* at p. 4

## Conclusion

For the reasons explained herein, the City and CPA urge the Board of Directors to deny the IPPNY Appeal, and ratify the February 4, 2004 decision of the Management Committee.

A copy of this letter has been electronically transmitted to Ms. Leigh Bullock to facilitate service on the members of the Management Committee and NYISO website posting.

Respectfully submitted,

*/s/ Michael Delaney*

Michael J. Delaney  
Energy Policy Advocate  
City of New York

*/s/ Catherine Luthin*

Catherine Luthin  
Principal, Luthin Associates  
for Consumer Power Advocates