



New York State Energy Research and Development Authority

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March 17, 2011

Ms. Karen Antion
Chair of the Board
c/o Mr. Stephen G. Whitley
President and CEO
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, New York 12144

Re: Motion in Support of the Consumer Protection Board's Appeal of the Management Committee's February 24, 2011 Rejection of Motion # 4

Dear Chair Antion:

Pursuant to the Procedural Rules for Appeals to the Independent System Operator Board, the New York State Energy Research and Development Authority (NYSERDA) files this Motion in Support of the Consumer Protection Board's appeal of the Management Committee's vote at its February 24, 2011 meeting rejecting a proposal to include in the NYISO tariffs a funding and administrative mechanism for an End Use Sector Consultant.

NYSERDA requests that the NYISO post this document on its website and serve a copy via e-mail to all members of the Management Committee.

Sincerely,

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Enclosure

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NYSERDA's MOTION IN SUPPORT OF APPEAL

The New York State Energy Research and Development Authority ("NYSERDA") files this motion in support of the Appeal filed by the Consumer Protection Board ("CPB") on March 10, 2011 of the Management Committee's Rejection of Tariff Amendments Authorizing Funding of a(n) End Use Consumer Sector Consultant ("CPB Appeal"). NYSERDA contends that the approval of an End Use Consumer Sector Consultant, funded through a wholesale electricity tariff, will add integrity and credibility to the shared governance process by making the End Use Consumer sector a more informed group. With all sectors fully engaged, the New York Independent System Operator ("NYISO") would be better able to maintain robust market structures that benefit all market participants.

The Management Committee ("MC") rejected a proposal to support an End Use Consumer Sector consultant (the "Proposal") on February 24, 2011. The Proposal would authorize the NYISO to implement a new tariff for the sole purpose of supporting the engagement of consultant services to support the participation of all representatives of the End Use Sector in NYISO activities. In its appeal, CPB requests that the NYISO Board overrule the MC's vote and file with the Federal Energy Regulatory Commission ("FERC"), under Section 206 of the Federal Power Act, a tariff amendment that would support the proposal.

NYSERDA's INTEREST IN THIS PROCEEDING

NYSERDA is a voting member within the NYISO governance structure and regularly participates at the NYISO Business Issues Committee ("BIC") and MC meetings. NYSERDA participates as a member of the End Use Consumer Sector and represents small consumers and governmental entities. For the reasons stated below, NYSERDA supports the Appeal, contending that (1) robust participation of the End Use Consumer Sector is an essential component for a functioning wholesale electricity market, and (2) the support of additional resources to support consumer participation will ultimately provide broad societal and economic benefits for all market participants.

ARGUMENT

1. THE END USE SECTOR OPERATES AT A DISADVANTAGE

End Use Sector members are not consistently able to provide effective input on critical issues. Tracking the full spectrum of NYISO issues and activities is complicated and extremely time-intensive. Most of the End Use Sector participants are resource constrained, in that it is not generally the primary mission of all of the Sector's participants to participate in NYISO activities. Thus, End Use Sector participants lack the time and resources required to influence the stakeholder process. To illustrate, while market participants cast binding votes at the Operating Committee ("OC"), BIC, and the MC, policy changes within the NYISO are formulated much earlier in the overall process, and any one voting item before a Committee often involves multiple rounds of discussions and edits at the working group level prior to advancing to a Committee vote. To assume an active, policy-forming role, rather than simply reacting to policies already crafted, a market participant must attend multiple meetings, on every issue, each month. In all, there are about 15 working groups and task forces that conduct meetings on a regular basis. During a typical month, accounting for all committees, working groups, conferences, and task forces, more than 20 meetings are held at the NYISO that, if fully attended, would require more than 100 hours of committed time. Beyond this meeting time, significant additional time must be invested in studying issues and performing due diligence on issues as they arise and evolve, as well as traveling to and from meetings.

Market participants from the Generation Owner and Transmission Owner Sectors have demonstrated that they possess adequate resources to send staff and/or experts to nearly all NYISO meetings. In marked contrast, End Use Sector participants typically do not possess such resources. Most if not all End Use Sector members participate in the NYISO governance process on a part-time basis, with numerous other unrelated job responsibilities.

Additionally, the issues discussed at the NYISO can be highly technical and complex, making part-time participation even more problematic. Since members of the Generation Owners, Other Suppliers, and Transmission Owners Sectors often conduct business directly with the NYISO, they have the ability and ready-made opportunity to easily develop relationships with NYISO technical staff. These NYISO staff members can become valuable resources for

these sector participants when a deeper understanding of a policy proposal is needed, creating a disadvantage to End Use Sector participants in both formal and informal NYISO activities.

2. THE END USE SECTOR NEEDS TO BE PROPERLY REPRESENTED

Within the NYISO governance structure, sector allocations and voting rules were established to strike a balance among the various economic interests in the NYISO markets. This structure supports a system of checks and balances, provides that all sectors of the energy economy are represented, and seeks to develop policies that are fair across all sectors. However, this structure assumes that all market participants are able to participate in these processes with equal resources. Indeed, the NYISO governance process likely would not function as designed without adequate representation and participation from all sectors, including consumers.

By adding a Consumer Liaison, the NYISO recognizes the lack of adequate information and resources for End Use consumers. The NYISO should be commended for taking this step. However, NYSERDA agrees with the CPB that this liaison function does not adequately provide for all End Use Sector needs. The Consumer Liaison keeps Sector members up-to-date on upcoming meetings and related issues, and helps facilitate communication between Sector members and key NYISO staff as needed. However, unlike the proposed End Use Consultant, the Consumer Liaison cannot attend meetings and represent End Use Sector positions at such meetings. Nor can the Consumer Liaison directly advise members on key issues, provide technical guidance, or perform analyses on wholesale market rules as requested by Sector members. These are critical functions for which End Use Sector participants need significant support. Absent such support, End Use Sector participation in NYISO decision-making processes will be much less meaningful.

A consultant engaged by the End Use Sector participants could also be directed to provide identified education needs, and would also allow End Use Sector participants to most effectively participate at the working group level in shaping policy. End Use Sector members will be able to cast more informed votes at the OC, BIC, and MC meetings. In short, such consultant services will be able to augment current End Use Sector representation, and all market participants should ultimately benefit from more informed End Use Consumer Sector participation.

3. **CPB'S PROPOSAL ON BEHALF OF THE END USE SECTOR IS REASONABLE**

In its Appeal, CPB, on behalf of the End Use Consumer Sector, seeks \$350,000 in 2011 to support first-year End Use consultant services. This support level equates to \$.002 per MWh withdrawn. This support level is reasonable considering the extreme demands that are expected for the consultant's time, and takes account of the highly specialized skills, experience, and education required to effectively perform this job. At the proposed level, the cost of the consultant would equate to less than .002% of annual retail electricity bills in New York State. NYSERDA believes that the benefits to consumers in more effective representation at the NYISO far outweigh this modest cost.

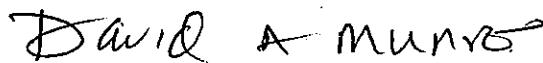
NYSERDA agrees with CPB that the most equitable and effective mechanism to procure needed funds for this function is a new NYISO Rate Schedule in the Open Access Transmission Tariff (OATT). Moreover, the NYISO tariff mechanism provides the best opportunity for regular, direct oversight and input from NYISO market participants, and also provides for a high level of certainty regarding year-over-year continuity.

CONCLUSION

For the foregoing reasons, NYSERDA joins the CPB in requesting that the NYISO Board overturn the decision of the MC and file a tariff amendment with FERC, under Section 206 of the Federal Power Act, in accordance with the specifications noted in the Appeal.

Dated: March 17, 2011

Respectfully submitted,



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