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**American Lung Association in New York \* Association for Energy Affordability \*  
Environmental Advocates of New York \* Natural Resources Defense Council \*  
Pace Energy and Climate Center \* Riverkeeper, Inc.**

March 17, 2011

**VIA HAND DELIVERY AND EMAIL**

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

**RE: Appeal of MC's February 24, 2011 Rejection of Motion # 4**

Dear Ms. Antion,

The undersigned groups respectfully submit this letter in support of the appeal to the NYISO Board of Directors filed by the NYS Consumer Protection Board (CPB) regarding the authorization of funding for a consumer consultant to assist the End Use Sector of the NYISO governance structure.<sup>1</sup>

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<sup>1</sup> In addition, while not Management Committee Members and so not permitted to formally participate in this proceeding, the following entities also wish to note their support for this Motion: Environmental Defense Fund, The Project for Sustainable FERC Energy Policy (a coalition of environmental, energy policy and consumer groups from around the country), and Western Resource Advocates.

The CPB has filed an appeal of the February 24, 2011 NYISO Management Committee's rejection of a motion to amend the NYISO's tariffs to provide a structure and funding mechanism for an End Use Consumer Sector Consultant. The motion was rejected because it did not receive support from generators and load serving entities—the two groups that dominate the NYISO governance process, and whose interests do not necessarily coincide with those of consumers. The motion did receive full support from the end use representatives, demand response providers and environmental organizations.

The NYISO states its mission is “to serve the public interest and provide benefit to consumers” through the planning and operation of a reliable grid and competitive wholesale markets. The NYISO's shared governance structure, and the time demands it entails, is making it increasingly difficult for the public interest—in the form of consumers and the environment—to maintain adequate representation. This in spite of the fact that the NYISO's mission is expressly to ensure that the decisions made and policies adopted via the governance process are consistent with these parties' interests. The number of working group and committee meetings at the NYISO has increased and the discussion grows ever more technical, hampering the ability of the end use and environmental parties to keep up. This inability seriously compromises the notion of balanced representation in the governance structure and threatens to undermine the ability of the NYISO to fulfill its mission of serving the public interest. Approval of funding for a consultant to assist with the workload would help begin to rectify this situation.

We also note that the rejection of the motion was done by secret ballot. This lack of transparency on an issue of adequate representation in furtherance of the core mission of the NYISO is troubling, and in order to avoid undermining the credibility of the institution we believe the Board should consider changing the NYISO bylaws to narrow the allowable use of secret ballots. The use of a secret ballot on a substantive issue (as opposed to, for example, electing Committee Chairs) and the manner in which this vote occurred show a lack of transparency as to how and who makes decisions at the NYISO. In this case, New York retail consumers are kept in the dark as to who exactly is voting against funding a consumer consultant that would ensure their interests are adequately represented. We believe governance sector representatives should vote on the merits of proposals before them and be held accountable for their votes.

The End User and Environmental Parties involved in the shared governance structure do not have the resources to devote full-time attention to NYISO activities nor to engage experts. In contrast, members of the other sectors have staff assigned to the NYISO full time and have access to expert consultants and analyses, as well as vast resources to devote to advancing their agenda and interests. The resulting skewed playing field calls into question the integrity of the entire NYISO shared governance structure. The proposal for a consumer consultant is entirely reasonable, costing approximately \$0.00002 per kWh, and would raise wholesale rates by an estimated five thousandths of one percent (.005%), to fund a vital function intended to protect the interests of 19 million New York energy consumers.<sup>2</sup> This amount is trivial compared to the revenues of the generators, transmission owners and the NYISO's own operating budget, while

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<sup>2</sup> This calculation is based on the maximum annual consumer consultant budget of \$350,000 divided by the 2010 Annual NYISO Market Volume of \$6.9 billion, which is associated with 168,7000,000 MWh. Were bilateral volumes included in the calculation, the per kilowatt hour cost of the consultant would drop significantly.

the benefits are quite significant and include improved consumer representation, more knowledgeable and balanced discussions and support for the NYISO's institutional integrity.

We fully support the appeal of the CPB and respectfully request that the NYISO Board of Directors approve funding for a consumer consultant as soon as possible.

Respectfully Submitted,

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Vice President, Public Policy & Communications  
American Lung Association in New York

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Executive Director  
Association for Energy Affordability, Inc.

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cc: Rob Fernandez  
Diane Egan

NYISO Board of Directors  
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