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June 24, 2004

**Via E-Mail and Federal Express**

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: Appeals of Management Committee Decision on  
Rate Schedule 1 Cost Allocation

Dear Chairman Boston:

Pursuant to the "Procedural Rules for Appeals to the ISO Board," Central Hudson Gas & Electric Company, New York State Electric and Gas Corporation, Niagara Mohawk, a National Grid Company, LIPA and the New York Power Authority (the "Movants") hereby file this motion in opposition to the Appeals (the "Appeals") filed by Entergy and the NY Municipals. The Appeals relate to the Management Committee's decision to approve a revision in the allocation of Rate Schedule 1 costs on June 4, 2004.

The Movants request the NYISO to post this document on its website and serve a copy via e-mail to all members of the Management Committee.

Very truly yours,

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Paul L. Gioia, Esq.

For the Movants

## **MOTION IN OPPOSITION TO APPEALS**

Pursuant to the “Procedural Rules for Appeals to the ISO Board,” Central Hudson Gas & Electric Company, New York State Electric and Gas Corporation, and Niagara Mohawk, a National Grid Company, LIPA and the New York Power Authority (collectively, “Movants”) hereby file this motion in opposition to the Appeals (the “Appeals”) filed by Entergy and the NY Municipals (the “Appellants”). In the Appeals, Appellants seek to overturn the decision of the Management Committee (“MC”) on June 4, 2004 to approve a proposal to change the allocation of Rate Schedule 1 charges to 80% to load and 20% to supply, starting in 2005 and for five years thereafter. The current cost allocation is 85% to load and 15% to supply.

Entergy appeals the Management Committee action on the grounds that the NYISO should work to implement an unbundled rate structure for Rate Schedule 1 charges and, until that is done, the current 85/15 split should remain in place. Entergy contends that the simple percentage charge adopted by the Management Committee inappropriately allocates the cost of credit risk for the LBMP market to parties that are not participating in the market and have already covered their exposure in their bilateral contracts.

NY Municipals appeal on the grounds that the NYISO is required to unbundle the NYISO’s charges to its customers and that the measure adopted by the Management Committee is inconsistent with the study conducted by RJ Rudden Associates and discriminates against Market Participants with bilateral contracts. The NY Municipals also object to freezing the cost allocation for a five year period.

The Appeals should be denied on the grounds that the Management Committee acted reasonably in adopting the 80/20 cost allocation for a period of five years.

**I. THE MANAGEMENT COMMITTEE ACTED REASONABLY**

The Management Committee decision that is the subject of the Appeals was based on a recommendation of the Budget Standards and Performance Subcommittee (“BS&P Subcommittee”) which had carefully considered all aspects of the cost allocation issue over an extended period. It also was based on the study conducted by, and the recommendations of, RJ Rudden Associates.

The allocation of Rate Schedule 1 costs among Market Participants cannot be done with complete precision. Any decision in this area must be based on an analysis of the available facts, and on reasonable judgment. After extensive analysis and consideration, it was determined by both the BS&P Subcommittee and the Management Committee that moving from an 85/15 cost allocation to a 80/20 cost allocation is clearly warranted. This change was approved by the Management Committee with the broad support of Market Participants (87.63% in favor), and with support from all sectors.

The contention that the allocation discriminates against Market Participants who engage in bilateral transactions is not supported by the Appellants. The operations of the NYISO benefit all Market Participants, including those who engage in bilateral transactions, and such Market Participants should share in the costs incurred by the NYISO in performing its basic functions. Appellants have not demonstrated that the cost responsibility of Market Participants who engage primarily or exclusively in bilateral transactions should be significantly different from that of other suppliers. To the contrary,

it is clear that parties who engage in bilateral transactions take advantage of the basic NYISO services that are supported by the Rate Schedule 1 charge.

The decision by the Management Committee to freeze the cost allocation for five years also was reasonable. In the consideration of this issue, many Market Participants emphasized the importance of providing stability with respect to the cost allocation in order to encourage longer term forward contracts. Appellants do not contend that the allocation of Rate Schedule 1 costs is likely to vary significantly over the next five years from the 80/20 allocation approved by the Management Committee. The five year freeze will provide stability and will allow the Market Participants and the NYISO to avoid spending time and resources in the repeated review of a very difficult and complex issue, with the great likelihood that the cost allocation would not be revised in a significant way. The resources of the NYISO and Market Participants can be better spent on other pressing issues.

### **CONCLUSION**

For the reasons stated above, the NYISO Board of Directors should reject Appeals and uphold the decision of the Management Committee to revise the allocation of Rate Schedule 1 charges, to 80% to load and 20% to supply, and to retain that allocation for a five year period.

Dated: June 24, 2004

Respectfully submitted,

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