

May 17, 2001

WILLIAM F. YOUNG
DIRECT DIAL: 202 • 955 • 1684
EMAIL: wyoung@hunton.com

FILE NO: 55430.000037

By Hand

The Honorable David P. Boergers, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, DC 20426

Exigent Circumstances Filing of the New York Independent System Operator, Inc.
At the Direction of its Board of Directors to Implement Automated Mitigation Procedure, Request for
June 15th Effective Date and Request for Shortened Comment Period

Dear Mr. Boergers:

Pursuant to Ordering Paragraph B of the Commission's May 9, 2001 *Order on Complaint* in Docket No. EL01-55-000 ("May 9 Order"),¹ the New York Independent System Operator, Inc. ("NYISO") respectfully submits proposed new Attachment H to its Market Administration and Control Areas Services Tariff ("Services Tariff"). Attachment H is a revised version of the NYISO's Commission-approved Market Mitigation Measures ("MMM"),² which are currently on file but are not part of a NYISO tariff. The revisions incorporate into the Market Mitigation Measures a description of the NYISO's proposed "Automated Mitigation Procedure" ("AMP") for the mitigation of exercises of market power in the Day Ahead Market administered by the NYISO ("DAM"). The NYISO is not proposing any other changes to its current market mitigation procedures, and submits the revised MMM as a new schedule to the Services Tariff in order to clarify the legal status of the MMM and to consolidate this document with others governing the operation of the markets administered by the NYISO.

¹ *Mirant Americas Energy Marketing, L.P., et al. v. New York Independent System Operator, Inc.*, 95 FERC ¶ 61,189 (2001).

² *See Central Hudson Gas & Electric Corp.*, 89 FERC ¶ 61,196 (1999) (accepting in part and rejecting in part the NYISO's proposed market monitoring plan and market mitigation measures). *See also Central Hudson Gas & Electric Corp.*, 90 FERC ¶ 61,317 (2000), *clarified* 91 FERC ¶ 61,154 (2000) (accepting the NYISO's market monitoring and market mitigation compliance filings).

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The NYISO is making this filing pursuant to Section 205 of the Federal Power Act at the direction of its independent Board of Directors (“Board”). Section 19.01 of the ISO Agreement empowers the Board to direct the NYISO to make such filings without the concurrence of the NYISO’s Management Committee³ when the Board concludes that “exigent circumstances” relating to “the reliability of the NYS Power System” or “an ISO-Administered market” exist and the “urgency of the situation justifies a deviation from the normal ISO governance procedures.” The Board concluded that exigent circumstances exist in this instance because there is a material risk that prices in the NYISO-administered markets will be tainted by abuses of market power during at least some intervals in the high load periods of this coming summer. Because the NYISO is not authorized to mitigate market power abuses retroactively, it should have the ability to mitigate such abuses prospectively as quickly and effectively as possible. The Board concluded that absent such expedited procedures, the NYISO’s inability to mitigate retroactively presents an open invitation to exercise market power. The AMP will serve this purpose, by eliminating unavoidable delays, which can be one full DAM cycle under the NYISO’s current manual procedures, between the NYISO’s detection and subsequent mitigation of market power abuses. The AMP will therefore prevent market participants with market power from setting unjust and unreasonable market clearing prices in the Day Ahead Market.

The NYISO Board has concluded that it is essential that gaps resulting from the practicalities of manual mitigation procedures be closed and that AMP be in place for as much of 2001 Summer Capability Period as possible. The NYISO therefore respectfully requests that the Commission act on this filing in an expedited manner and make it effective no later than June 15, 2001. The issues raised by this filing are already very familiar to market participants. As noted in the May 9 Order, at 6, the NYISO “consulted extensively with market participants, the Business Issues Committee, the Management Committee, and the NYISO Board during the development of the AMP, and participated in a series of eight Circuit Breaker Working Group meetings on the AMP at which every market sector was represented.” Moreover, the market participants have had an opportunity to express their views on the AMP in Docket No. EL01-55-000. Thus, the NYISO also requests that the Commission facilitate expedited review by shortening the comment period in this proceeding.

I. List of Documents Submitted

The NYISO submits the following documents:

1. This filing letter;

³ Capitalized terms not otherwise defined herein have the meaning set forth in Article 2 of the Services Tariff.

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2. A clean version of the proposed new Attachment H of the Services Tariff (Attachment I);
3. A redlined version of the proposed new Attachment H of the Services Tariff, which depicts the proposed changes to the currently effective MMM, which is on file, but not part of the Services Tariff (Attachment II);
4. Affidavit of James H. Savitt, Ph.D., NYISO Market Monitor (Attachment III).
5. A Form of Notice suitable for publication in the *Federal Register* (Attachment IV).

II. Copies of Correspondence

Copies of correspondence concerning this filing should be served on:

Robert E. Fernandez	William F. Young
General Counsel and Secretary	Ted J. Murphy
John P. Buechler	Hunton & Williams
Director of Regulatory Affairs	1900 K Street, N.W., Suite 1200
New York Independent System Operator, Inc.	Washington, DC 20006
3890 Carman Road	wyoung@hunton.com
Schenectady, NY 12303	(202) 955-1684
rfernandez@nyiso.com	tmurphy@hunton.com
(518) 356-7504	(202) 955-1588
jbuechler@nyiso.com	
(518) 356-6153	

III. Description of the Proposed AMP

A. Summary of AMP

The AMP does not make any substantive changes in the two-part test for market mitigation accepted by the Commission when it approved the NYISO's Market Mitigation Measures. Under the MMM, in order to impose a mitigation measure the NYISO must determine that: (i) a bid or set of bids exceed a conduct threshold, expressed as a specified percentage or dollar amount increase in the level of the bids relative to a reference level specific to the bidder; and (ii) any resulting increase in market prices exceeds a market impact threshold, expressed as a specified percentage or dollar amount

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increase in market prices relative to the prices that would prevail if bids are mitigated.⁴ The AMP will make no change to either of these thresholds, nor does it introduce any new thresholds not presently incorporated in the approved Market Mitigation Measures.

Rather than changing these standards, as noted in the May 9 Order, at 3, the AMP automates their application by upgrading the capabilities of the Security Constrained Unit Commitment (“SCUC”) computer program used to determine unit commitments and prices in the Day Ahead Market.⁵ The SCUC proceeds by a series of computer runs, or passes, that sequentially evaluate the generation resources bid into the DAM against load-serving entity demand bids, NYISO load forecasts, ancillary services needs, and reliability requirements. The AMP will add an additional pass to the SCUC in order to evaluate the price effect of DAM bids that exceed the economic withholding thresholds specified in the MMM. *See* revised Market Mitigation Measures at § 3.2.2. If the additional SCUC pass determines that both the conduct and market impact thresholds specified in the MMM are violated, the default bid mitigation measure would be implemented to adjust the bids of the economically withheld resources to the appropriate reference level, and DAM prices would be determined and promulgated on that basis.

As noted by the Commission in its May 9 Order, at 6, the Market Mitigation Measures “specifically envisions use of the SCUC to identify questionable conduct.” The AMP is thus fully consistent with the logic of the market mitigation procedures and standards in the MMM previously approved by the Commission. As shown more fully below, this evolution does not entail any deviation from the thresholds for the application of mitigation measures previously approved by the Commission, and is accompanied by appropriate provisions for consultations with Market Parties and other procedural safeguards. These provisions ensure that the AMP will make reasonable trade-offs between

⁴ In its Answer to the Notice of Withdrawal, Motion to Intervene in the Complaint, and Answer in Support of the Complaint of Dynegy Power Marketing, Inc., in Docket Nos. ER01-181-000 and EL01-55-000, Dynegy asserts, at 2, that the AMP create a “formula-based hard price cap.” This is wrong for two reasons. First, the Market Mitigation Measures incorporate only bid caps, not price caps. Second, the AMP does not change any of the mitigation thresholds or default bid provisions previously approved by the Commission. Dynegy also asks whether non-ICAP units (*i.e.*, units with an Installed Capacity obligation under New York Control Area reliability requirements) are included in the AMP. The MMM, and hence the AMP, apply to all units bidding into the DAM, without regard to whether those units have ICAP obligations.

⁵ The NYISO is evaluating the potential for using automated mitigation in its Real Time Market as well as the DAM. The compressed timeframes for determining Real Time prices, however, make the adoption of automated mitigation measures for the Real Time Market significantly more difficult.

protecting the interests of sellers and buyers, and preserving the integrity of the NYISO-administered markets.

The current manual procedures for evaluating the impacts of economic withholding on prices in a given DAM occur outside of the SCUC run for that DAM. If the manual evaluation reveals that mitigation is warranted, time does not permit a second SCUC run using mitigated bids. As a result, mitigation would normally commence with the bids for the following DAM, if the bidding conduct continues and market conditions are expected to be similar. Thus, without the implementation of the AMP software enhancements, at present an entity with market power can economically withhold from the DAM secure in the knowledge that those bids can influence the market clearing price for at least one day. This amounts to an invitation to exercise market power, and must be rectified. Using the AMP would close this gap while at the same time improving the accuracy of the mitigation process, by allowing mitigation decisions to be based on price effects occurring on the day to be mitigated, rather than on effects observed in the prior day. Accordingly, the AMP allows mitigation to be implemented in a manner that is fully consistent with, and improves upon, the original intent of the Market Mitigation Measures. With the critical summer high load season looming, the NYISO respectfully requests authorization to put the AMP in place in accordance with the schedule outlined herein.

B. Consultation Procedures

The AMP provides appropriate opportunities for consultation between the NYISO and bidders into the DAM in connection with the imposition of any mitigation measures under the AMP. As noted in the May 9 Order, the Market Mitigation Measures have from their inception contemplated that appropriate opportunities, subject to the limitations of § 11.1 of the Market Monitoring Plan, would be provided for Market Parties to inform the NYISO of unusual market conditions that might warrant the submission of bids that would otherwise trigger the bidding conduct thresholds. Under the manual mitigation procedures currently used by the NYISO, there is an opportunity for consultation after an initial determination has been made that mitigation appears to be appropriate, because the conduct and market impact thresholds specified in the MMM have been violated. In practice, however, and as noted in the May 9 Order, in most cases bids exceeding the conduct thresholds are pending, and are spotted by the NYISO, before they have a market impact, and the bidding parties are then contacted for an explanation of the bids. *See* Affidavit of James H. Savitt, Attachment III.

Under the AMP, such advance consultations will continue to occur when the NYISO observes the submission of unusually high bids. In addition, language has been added to § 3.3 of the Market Mitigation Measures to make clear that if a Market Party anticipates submitting unusually high bids, it can consult with the NYISO in advance about the reasons for such bids. Each bidder presumably tracks the cost, risk or other factors affecting its bids, and of course is the entity that determines the level of its bids. Each bidder is also able to assess whether those factors will cause its bids to increase in

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amounts that will cross the conduct thresholds for mitigation. In compliance with the Commission's orders, the MMM disclose to the Market Parties the conduct thresholds used to identify economic withholding. In connection with implementation of the AMP, the NYISO also has put in place procedures for communicating to each Market Party its reference levels. Thus, each bidder is uniquely situated to inform the NYISO in advance if conditions have arisen that will legitimately cause its bids to exceed the conduct thresholds. The only distinction between the AMP consultation process and the manual consultation process is that the Market Party rather than the NYISO must initiate the discussion of unusually high bids to avoid being mitigated under the AMP. The NYISO does not view this shift as either significant or onerous.

As a further safeguard against unwarranted mitigation, the AMP implementation process also includes opportunities for each Market Party to consult with the NYISO on the bidding history, cost, risk or other factors that should be considered by the NYISO in determining the Market Party's reference levels. In late April, the NYISO made an initial dissemination of the reference levels calculated by the NYISO for each bidder potentially subject to mitigation under the AMP, along with a template for the submission of data that may be relevant to making adjustments to the initial reference levels.⁶ As specified in the MMM, the reference levels were determined primarily on the basis of the bidding behavior of the Market Parties under competitive market conditions. After the reference levels and templates were sent out, meetings were scheduled with each bidder wishing to review the bidder's initial reference levels, or to review any new or additional data that the bidder believes should be used to determine its reference levels. Following completion of the bidder meetings and the submission of the data requested in the template, the NYISO will analyze the reference levels to determine whether any revisions, either upward or downward, may be appropriate under the Market Mitigation Measures. The primary basis for the determination of reference levels, however, will continue to be the competitive bidding history of each Market Party (adjusted for fuel costs). Revised reference levels will be disseminated again to each Market Party. Procedures will be established for a Market Party to consult with the NYISO on an on-going basis about changes in the factors used to determine that Market Party's reference levels.

In light of these extensive opportunities for input from each Market Party in connection with implementation and administration of the AMP and the broad bidding flexibility accorded by the mitigation thresholds, it is unlikely that the AMP will result in mitigation being imposed when yet further consultation would indicate that it should not have been. In light of the ability of a Market Party to take the initiative in contacting the NYISO with respect to factors that would legitimately cause specific bids

⁶ Each bidder was sent only its own reference levels. The template was sent to the Market Parties pursuant to the NYISO's authority under the Market Monitoring Plan to require the production of certain information needed by the NYISO to carry out its market monitoring responsibilities.

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to exceed the conduct thresholds, or that would legitimately cause its reference levels to increase, any unwarranted mitigation is most likely to result from a failure by a Market Party to come forward with relevant new facts for evaluation by the NYISO. Indeed, it seems safe to conclude that if a Market Party does not come forward with data supporting higher bids or upward revisions in its reference levels, mitigation of any of its bids that cross the conduct and market impact thresholds is warranted.

C. Effect on Market Clearing Prices

The May 9 Order, at 7, directs the NYISO to “address the concerns that inaccurate market-clearing prices will result even if the party whose bid was improperly mitigated is ultimately made whole.” This concern arises from Mirant’s assertion that “after-the-fact compensation from improperly mitigated bids would not correct the artificially depressed price signals sent to other market parties.” *Id.* at 4.

It is of course possible that, notwithstanding the safeguards built into the AMP, a bid could be improperly mitigated. In that event, consistent with the Commission’s strictures against retroactive price corrections, the AMP does not authorize retroactive revision upward of market clearing prices for all other Market Parties.⁷ For the reasons discussed below, however, the likelihood that improper mitigation will occur, or will give rise to significant adverse market effects, are both quite small. This likelihood must be weighed against the demonstrated potential for very substantial and unjustifiable wealth transfers from buyers to sellers to occur as a result of the delays in implementing mitigation measures under the current manual procedures.

As described above, the AMP includes extensive procedures for consultation between individual Market Parties and the NYISO, both with respect to the levels of that Market Party’s specific bids, and with respect to the determination of its reference levels. As a result, Market Parties can avoid being improperly mitigated by taking the initiative to inform the NYISO of changes in market conditions that will legitimately impact that Market Party’s bids.

In addition, as the NYISO stated in making its December 23, 1999 compliance filing to include specific thresholds for triggering bid mitigation, “the trigger points are intended to reflect clear instances of abuses of market power that should not be permitted to continue, even for relatively short periods.” December 23, 1999 filing letter in Docket Nos. ER97-1523-010, OA97-470-009 and ER97-4234-007, at 3. This is consistent with the stated purpose of the Market Mitigation Measures, as set forth in § 1(a), “to provide the means for the NYISO to mitigate the market effects of any conduct that would substantially distort competitive outcomes in the New York Electric Markets administered by the

⁷ As the May 9 Order acknowledges, there are procedures to ensure that the mitigated bidder is made whole.

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NYISO, while avoiding unnecessary interference with competitive price signals.” Consequently, the mitigation thresholds are set at levels that trigger mitigation only if bids and market outcomes depart significantly from expectations for a workably competitive market, and the thresholds provide substantial room for bids to respond to market conditions without triggering mitigation. It follows that if the mitigation thresholds are crossed, bids and prices will have increased to a degree that makes legitimate competitive explanations unlikely—particularly if none have been forthcoming from bidders. Thus, the level of the thresholds in combination with the consultation procedures provide substantial protections against unwarranted mitigation.

At the same time, other sellers and the market generally would not be harmed by the rare imposition of an unwarranted mitigation measure. By definition, in a market clearing price auction, all other sellers would be infra-marginal, or at worst the marginal unit, and thus would be compensated at or above, perhaps well above, the price levels at which they had expressed (through their bids) a willingness to operate. In addition, it seems very unlikely that the possibility of unwarranted mitigation under the AMP would undermine the integrity of the price signals sent by market clearing prices. First, as explained above, errors should be rare, since they should generally occur in the unlikely event that a Market Party fails to inform the NYISO of market conditions affecting its bids or reference levels. Second, as explained in the NYISO’s prior filings, the reference levels used to mitigate bids are set at levels that mimic the normal competitive behavior of the mitigated seller, and thus are set at levels that will result in clearing prices consistent with the normal expectations of other sellers. Third, any unwarranted mitigation should be short-lived, ideally lasting no longer than one Day Ahead Market, since sellers can consult with the NYISO after the fact to have unwarranted mitigation removed. Thus, unwarranted mitigation, were it to occur, seems very unlikely to affect any entity’s decision to enter a New York market or otherwise respond to DAM price signals.

By contrast to the situation of sellers, experience with the existing manual procedures for market mitigation has shown that a delay of even one day in imposing mitigation can cause many millions of dollars to be transferred improperly from buyers to sellers. Indeed, on June 26 of last year, buyers incurred over \$100 million in increased costs for their purchases in the DAM before mitigation measures could be imposed. Thus, the NYISO respectfully submits that the AMP provides important protection for buyers, while not imposing unreasonable risks or burdens on sellers.

D. Starting Price for Use of AMP

Contrary to Mirant’s assertions, the AMP does not establish a new threshold of \$150 for the imposition of mitigation measures. Instead, the NYISO proposes to set an initial pricing point at which it makes sense to activate the AMP to determine whether automated mitigation is warranted. In all cases, whether the AMP is used or not, the imposition of mitigation measures requires that the conduct and market impact thresholds specified in the Market Mitigation Measures be crossed. The

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NYISO has initially determined, however, that given the shape of the supply curve in New York and the level of the market impact thresholds, it is very unlikely that the thresholds for mitigation will be crossed if prices in a given area of New York are below \$150. Thus, if the initial SCUC evaluation of unmitigated bids indicates that prices will be below that level, it makes little sense to force the SCUC to perform an additional series of complex calculations that are very unlikely to serve any useful purpose and could cause delays in posting Day Ahead Market prices. Authority for the NYISO to forgo use of the AMP for any Day Ahead Market for which an initial determination has been made that the likelihood of mitigation being triggered is minimal is set forth in new § 3.2.2(c) of the Market Mitigation Measures. Of course, all other provisions of the Market Mitigation Measures, including its manual mitigation procedures, would remain applicable to any such DAM.

E. Exclusions from AMP

Revised § 4.2.2(d) of the Market Mitigation Measures exempts from the AMP hydroelectric resources, external units, and bids by bidding organizations with 50 MW or less of capacity. All such bids would, however, continue to be subject to all other provisions of the Market Mitigation Measures. Thus, such bids would be subject to mitigation if the NYISO determines by means other than automated procedures that such action is appropriate.

Hydroelectric and external resources are not included in the AMP because of the likelihood that opportunity costs will be the primary determinant of the marginal costs of such resources. Dispatching a hydroelectric resource will cause it to use limited water supplies that may have significantly greater value if used to generate electricity at some other time. The values of these legitimate opportunity costs may well fluctuate over short periods, making them difficult or impossible to reflect in the applicable bid reference levels, and may well fluctuate by amounts that would cause bids from hydro units to exceed the conduct thresholds. Similarly, any external unit will, by virtue of its location, have an opportunity to sell into the market where it is situated, and perhaps into other markets external to it besides New York. As conditions in those other markets change, the value of these legitimate opportunity costs may also fluctuate over short periods, and by significant amounts, presenting the same practical difficulties for automated mitigation. In addition, if transmission and other system conditions permit the NYISO to accept bids from external resources, the geographic area providing energy to serve load in New York is likely to be sufficiently large that such external sellers are unlikely to have market power. At the same time, paying high prices to external resources may well be necessary to attract such resources to New York in the face of high prices in the other markets.

Finally, bidding that trips the conduct thresholds by a bidding organization, including its Affiliates, which owns or controls 50 MW or less of capacity is exempt from the AMP because withholding of such small amounts will rarely have a material effect on prices. Thus, it is unlikely that any such bidding would reflect an effort to abuse market power, and may well reflect legitimate bidding

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considerations. The same considerations may also apply to withholding of only 50 MW or less by any bidding organization, and the NYISO is evaluating such an extension of the exclusion and the software requirements to do so. Of course, as noted above, the mere fact that a category of bids is not subject to automated mitigation does not mean that such bids are exempt from mitigation under the other procedures of the Market Mitigation Measures, if the NYISO determines on a case-by-case basis that such mitigation is appropriate.

In the May 9 Order, the Commission also asked whether exports are exempt from the AMP. The Market Mitigation Measures by their terms are only triggered by bids that have the specified effect on market clearing prices in the markets administered by the NYISO. Moreover, the NYISO does not have any authority under the Market Mitigation Measures to limit or prevent export transactions. Thus, the pricing of exports from New York to external markets is beyond the scope of the Market Mitigation Measures, and for that reason necessarily beyond the scope of the AMP as well.

F. Total Costs Test

In some limited circumstances, the mitigation of bids in the SCUC to reference levels in a limited number of hours may result in an overall increase in the average prices of energy in relevant Day Ahead Market locations over the course of DAM as a whole. In such cases, the use of mitigated bids as a means of protecting buyers from unwarranted price increases would be counterproductive. Accordingly, § 4.2.2(d) of the revised Market Mitigation Measures provides that mitigation under the AMP will not be carried out if the price effects of the measures would cause the average day-ahead energy price in the mitigated locations or zones to rise over the entire day.

IV. Proposed Effective Date and Request for Waiver

The NYISO respectfully requests that the Commission waive its usual sixty-day notice period and make this filing effective no later than June 15, 2001, pursuant to Section 35.11 of the Commission's regulations.⁸ Good cause exists for a waiver because waiting the full sixty days to make the AMP effective, *i.e.*, until July 15, 2001, would provide opportunities for much of the summer for a market participant that engages in market power abuses to distort market prices during the time period required before manual market power mitigation measures can be imposed. Under the circumstances, it is entirely appropriate for the Commission to take expedited action in this proceeding.

⁸ 18 C.F.R. § 35.11 (2000).

V. Request for Shortened Comment Period

The NYISO also requests that the Commission shorten the period during which interested parties may intervene and file comments or protests in this proceeding to one week, *i.e.*, until May 24, 2001. The Commission has previously adopted abbreviated comment periods in proceedings where expedited Commission action is requested,⁹ especially in cases involving high priority market issues that must be addressed prior to summer's arrival.¹⁰ Shortening the comment period is well-justified in this proceeding because the scope of the NYISO's proposal is narrow, and because the relevant issues have already been aired before the Commission. A one week comment period will provide interested stakeholders with adequate time to respond,¹¹ thus ensuring that they are afforded procedural due process, while leaving the Commission with three weeks to review the record and issue an order.

VI. Proposed Expiration Date

Section 19.01 of the ISO Agreement specifies that an "exigent circumstances" tariff filing must contain an expiration date of no later than 120 days after the date that it is filed with the Commission. Such filings may become permanent in duration if they are subsequently endorsed by the Management Committee. Accordingly, the NYISO proposes that Attachment H to the Services Tariff expire on September 13, 2001, unless it is subsequently ratified and made permanent by the Management Committee.

VII. Stakeholder Approvals

Because it was so important to make this filing as early as possible, in order to accelerate the implementation of the AMP, the NYISO staff has not yet had time to submit this filing to its market participant committees for their review and approval. However, the NYISO staff will present the AMP

⁹ See *e.g.*, *New York State Electric & Gas Corp. v. New York Independent System Operator, Inc.*, Docket No. EL00-63-000 (consolidated with *Niagara Mohawk Power Corp. v. New York Independent System Operator, Inc.*, Docket No. EL00-57-000); *Strategic Power Marketing, Inc. v. New York Independent System Operator, Inc.*, Docket No. EL00-67-000.

¹⁰ See, *e.g.*, *Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States*, 94 FERC ¶61,272 (2001); see also *San Diego Gas & Electric Co., et al.*, 95 FERC ¶61,115 (2001) (giving interested parties five days to comment on the California ISO's generator outage coordination plans, and ten days to comment on a WSCC-wide investigation).

¹¹ In order to afford interested stakeholders adequate time to respond, the NYISO is e-mailing a copy of this filing to all subscribers to its Technical Information Exchange list.

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proposal at a May 23, 2001 meeting of the Management Committee, and will request that it endorse the proposal. If the Management Committee ultimately approves this the NYISO will so inform the Commission.

VIII. Service List

The NYISO has mailed a copy of the filing to all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, to the New York State Public Service Commission, the electric utility regulatory agencies in New Jersey and Pennsylvania and to all parties in Docket Nos. EL01-55-000 and ER01-181-000. In addition, in order to facilitate accelerated Commission action, the NYISO has e-mailed an electronic copy of this filing to all subscribers to the NYISO Technical Information Exchange ("TIE") list, which encompasses virtually all New York market participants.

IX. No Costs Relating to Discriminatory Employment Practices

The NYISO has no expenses or costs that have been alleged or judged to be illegal, duplicate, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

X. Federal Register Notice

A form of *Federal Register* Notice is provided as Attachment IV hereto. A diskette of the Notice is also provided in WordPerfect format.

XI. Conclusion

WHEREFORE, for the foregoing reasons, the New York Independent System Operator, Inc. respectfully requests that the Commission approve the revised Market Mitigation Measures submitted herewith as new Attachment H to the Services Tariff.

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Respectfully submitted,

William F. Young
Counsel for
New York Independent System Operator, Inc.

cc: Mr. Joshua Z. Rokach, Advisor to Chairman Hebert, Suite 11-E,
Tel. (202) 208-0748
Mr. Michael D. Alexander, Advisor to Commissioner Breathitt, Suite 11C,
Tel. (202) 208-0377
Mr. Wilbur C. Earley, Advisor to Commissioner Massey, Suite 11-D,
Tel. (202) 208-0100

Mr. Daniel L. Larcamp, Director Office of Markets, Tariffs and Rates, Room 8A-01,
Tel. (202) 208-2088
Ms. Alice M. Fernandez, Director Office of Markets, Tariffs and Rates—East Division, Room
82-15, Tel. (202) 208-0089
Ms. Andrea Wolfman, Office of the General Counsel, Room 101-29,
Tel. (202) 208-2097
Mr. Stanley Wolf, Office of the General Counsel, Room 102-37,
Tel. (202) 208-0891
Mr. Michael Bardee, Office of the General Counsel, Room 101-09,
Tel. (202) 208-2068

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, to the New York State Public Service Commission, the electric utility regulatory agencies in New Jersey and Pennsylvania and to all parties in Docket Nos. EL01-55-000 and ER01-181-000.

Dated at Washington, DC this 17th day of May, 2001.

Hunton & Williams
1900 K Street, N.W.
Washington, DC 20006-1109
(202) 955-1595

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

New York Independent System Operator, Inc.) Docket No. _____

NOTICE OF FILING

Take notice that on May 18, 2001, the New York Independent System Operator, Inc. (“NYISO”), at the Direction of its independent Board of Directors, made an exigent circumstances filing to propose changes to its Market Administration and Control Area Services Tariff (“Services Tariff”) designed implement automated mitigation procedures. The NYISO has requested that the Commission act on this filing in an expedited manner and that it shorten the usual period for comments. The NYISO has also requested that the Commission waive its usual 60-day notice requirement and make the filing effective no later than June 15, 2001.

The NYISO has served a copy of the filing on all parties that have executed Service Agreements under the NYISO’s Open-Access Transmission Tariff or Services Tariff, on the New York State Public Service Commission, on the electric utility regulatory agencies in New Jersey and Pennsylvania and on all parties in Docket Nos. EL01-55-000 and ER01-181-000. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO’s Technical Information Exchange list.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission’s Rules of Practice and Procedure (385.211 and 385-214). All such motions or protests should be filed on or before _____. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

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Secretary

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