STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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July 16, 2009

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

Re: Appeal of the Management Committee's decision at its June 24, 2009 meeting rejecting a motion to implement a comprehensive package of enhancements to the NYISO's Credit Worthiness Policies and Motion to implement Accelerated Cash Clearing (Weekly Invoicing)

Dear Chairwoman Antion:

Attached, is the Motion in Opposition by the Staff of the New York State Department of Public Service to the Notice of Appeal filed by the Independent Power Producers of New York, Inc. regarding the above-referenced subject matter. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler
Assistant Counsel

MOTION IN OPPOSITION
OF THE STAFF OF THE NEW YORK STATE
DEPARTMENT OF PUBLIC SERVICE

INTRODUCTION

On June 24, 2009, the Management Committee (MC) of the New York Independent System Operator, Inc. (NYISO) approved various enhancements to the NYISO's creditworthiness policies. While seven of the nine proposed enhancements were approved, the two motions (i.e., Motions 2 and 3c) that included the implementation of Accelerated Cash Clearing (referred to as Weekly Invoicing), were rejected.

On July 9, 2009, the Independent Power Producers of New York, Inc. (IPPNY) filed a Notice of Appeal (Appeal), requesting that the NYISO Board of Directors (Board) override the stakeholders' rejection of Motions 2 and 3c, and seek the Federal Energy Regulatory Commission's (FERC) approval of Weekly Invoicing. IPPNY argues that reducing the remittance period by end users from monthly to weekly is necessary to mitigate the exposure of market participants to bad debt losses they would incur from a default by one of the participants. The Staff of the New York State Department of Public Service (NYDPS Staff) hereby submits its Motion in Opposition to IPPNY's Appeal, pursuant to the Procedural Rules for Appeals to the NYISO Board.

DISCUSSION

While we recognize and support the laudable goals of the NYISO Staff to enhance the NYISO's creditworthiness requirements and reduce its working capital reserve fund, NYPDS Staff believes that the enhancements the MC has already approved would go a long way toward achieving those objectives at a much lower overall cost than the move, at this time, to Weekly Invoicing, which would result in significant benefits to certain market participants and have significant adverse consequences for others.[1] Specifically, Weekly Invoicing would increase costs for end-use consumers, who would ultimately be charged for borrowing costs associated with the needed cash flow, as well as additional administrative costs, incurred by Load-Serving Entities to implement weekly invoicing. The cost-benefit analysis prepared by NYISO Staff excluded these costs, and therefore overstates the potential benefits of Weekly Invoicing. Moreover, the costs would come during the current economic crisis, when end use consumers can least afford them.

In addition, Energy Service Companies (ESCOs), which have limited capital resources, would incur increased expenses and borrowing costs associated with the cash flow necessary to float between paying weekly invoices and being reimbursed by end-use consumers that are billed on a monthly basis. This could have a

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1 Not surprisingly, IPPNY's members would be the primary beneficiaries as a result of increased cash flow.

significant adverse affect upon retail access markets in New York, because existing ESCOs may reduce or terminate their retail sales, or potential ESCOs may determine not to enter the market, as a result of the increased credit requirements and costs.

It is important to recognize that the net bad debt losses incurred by the NYISO, to date, have been relatively small. Regardless, the seven creditworthiness enhancements that were approved by the MC should go a long way toward reducing the risks associated with such losses. Moreover, NYDPS Staff anticipates that additional enhancements will be presented to the MC after further discussion, and we welcome further discussion of Weekly Invoicing.

Furthermore, IPPNY's reliance on weekly invoicing within other Independent System Operators/Regional Transmission Organizations around the country, in order to support market changes by the NYISO, is misplaced. Although FERC did approve the transition to weekly invoicing in PJM, the markets in PJM have significant differences from those within the NYISO, and should not be considered analogous. In particular, compared to PJM, the NYISO's markets have more ESCOs and more fully developed retail access, and therefore, for the NYISO, the costs of implementing Weekly Invoicing would be greater. For the same reason, the potential adverse impacts upon the NYISO's retail access markets would be higher. The Board should not override the stakeholder's votes in light of these concerns.[2]

CONCLUSION

There are several legitimate reasons why market participants rejected the proposals before the MC that included the implementation of Weekly Invoicing at this time. Given these reasons, the Board should defer to the stakeholder process and find that the MC's rejection of Weekly Invoicing was reasonable. Accordingly, the Board should not override the votes of market participants, and should deny IPPNY's Appeal.

Respectfully submitted,

David G. Drexler
Assistant Counsel
(518) 473-8178

[2] It is also our understanding that stakeholders in PJM did vote affirmatively to pursue weekly invoicing before FERC. Thus, PJM did not seek to override the stakeholder vote.