

**STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350**

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May 21, 2007

Ms. Karen Antion
Chair, NYISO Board of Directors
c/o Mark S. Lynch, President and CEO
New York Independent System Operator, Inc.
10 Krey Boulevard
Rensselaer, NY 12144

Re: New York State Department of Public Service Staff
Motion In Opposition To IPPNY's Appeal From The
Management Committee's April 30, 2007 Decision
Adopting Real Time Bid Production Cost Guarantee
Mitigation Measures.

Dear Ms. Antion:

The pending appeal of the Independent Power Producers
of New York, Inc. (IPPNY) should be denied for several reasons.

First, while IPPNY's proposal would prohibit
mitigation beyond 70-90 days from the issuance of the initial
invoice, it would not similarly lock down a generator's Bid
Production Cost Guarantee or other revenues, which could
subsequently increase but be exempt from Real Time Guarantee
Payments mitigation. It is in principle inherently unfair to
require loads to bear the risk of changes to

settlement data beyond IPPNY's proposed deadlines in order to provide a level of certainty to generators. In fact, while loads have no control at all over such charges, generators do. A generator will face the uncertainty that is the subject of IPPNY's complaint *only if* it manages its bids in a way that fail conduct in the first place. The NYISO's market monitoring unit provides every opportunity for timely adjustments to generators' reference prices when such adjustments are justified.

Second, as a purely practical matter, the NYISO staff has expressed concern regarding its ability to implement IPPNY's proposal, indicating that it would require significant time and cost to implement a process to lock down just one component of the invoice while all other components continue to adjust with revised inputs. It seems obvious that the cost of doing so would most certainly exceed any perceived benefit, while at the same time introducing another potential source of error into the NYISO invoices. The proper course for the NYISO to follow to reduce bill uncertainty, not only for generators but for all market participants, is to maintain the integrity of the settlement system software and to continue to make improvements to shorten the settlement cycle for all.

Finally, we note that in its May 3, 2007 Order in Docket ER07-590, the Federal Energy Regulatory Commission reaffirmed the NYISO's right to finalize mitigation up to the

end of the final billing cycle. That result should not be disrupted.

Very truly yours,

/s/ Saul A. Rigberg
Saul A. Rigberg
Assistant Counsel
(518) 486-2652

cc: Robert E. Fernandez, Esq. (via e-mail)
Ray Stalter (via e-mail)
Management Committee Members (via e-mail)