Comments Submitted on Behalf of the New York Transmission Owners, LIPA and NYPA (“NYTOs”) regarding the NYISO Initial List of Potential Credit Enhancements

January 2009

Distributed as submitted by the NYTOs.

NYTO Proposal Summary

The NYTOs include regulated companies with statutory obligations to provide safe and reliable service, with service territories and an obligation to serve customers within those service territories. The NYTOs also include State Authorities with statutory responsibilities with respect to the provision of electricity services to NY consumers.

The NYTOs suggest that rather than a broad-based revision of current credit policies, many of which have a sound credit basis, the NYISO should develop policies that target the specific circumstances and types of entities that pose realistic credit risks. A broad-based approach, as suggested in the NYISO's initial list of proposed credit enhancements, would impose substantial and unnecessary costs on market participants and, ultimately, New York electricity consumers, without furthering the goal of enhanced credit quality.

The NYTOs would support a more focused approach to credit enhancement that would establish more stringent credit requirements for entities that pose a credit risk, and provide the NYISO with greater discretion to act promptly to effectively address a deterioration in the credit quality of a market participant.

The NYTOs look forward to working with the NYISO on the development of these enhancements.

#1 Eliminate All Unsecured Credit

- The NYISO was established to facilitate the reliable and efficient purchase and delivery of a regulated product, electricity. The NYISO has an important responsibility to avoid imposing unnecessary cost on New York electricity consumers. The NYISO was not designed to be a financial clearing firm as it has different directives, demographics and products.[1]

- Utilizing jointly developed credit policies and procedures, the NYISO has not had significant defaults that were not adequately covered by collateral. The total elimination of unsecured credit would impose an unnecessary burden and cost, especially during the current liquidity constraints, without a material reduction to credit risk.

- It is standard in the energy industry to allow for unsecured credit for companies demonstrating strong financial statements and credit ratings. Restricting unsecured credit does not recognize the decisions and efforts of the companies that consciously strive to maintain investment grade ratings.

- This proposal is in direct contrast to proposal 10 that recommends granting additional unsecured credit for municipalities. The rationale for increasing unsecured credit for municipalities should also be applied to NYTOs. The NYTOs include state authorities and regulated companies with an obligation to serve customers.

[1] During the January 13, 2008 FERC Technical Conference on **Credit and Capital Issues Affecting the Electricity Power Industry**, Chairman Kelliher noted this fact by saying, “There is recognition that RTOs and ISOs are different than exchanges. They are not exchanges, but are utilities that are regulated by FERC.”

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#2 Eliminate Unsecured Credit in TCC and #3 Virtual Transaction Market

- The NYISO should not impose a blanket elimination of unsecured credit for any of its markets.

- The NYTOs do; however, recognize that the TCC and Virtual Transaction markets are financial markets and inherently have more risk than the physical markets.

- The NYTOs are willing to work with the NYISO to develop more targeted and more effective credit policies for the TCC and Virtual Transaction markets.

#4 Six Month Payment History

- Requiring all new market participants to have 6 months payment history prior to allowing unsecured credit may create a barrier to entry, provide minimal benefit or insight and may be unnecessary depending on other criteria; however,

- the NYTOs are willing to work with the NYISO on this proposal as part of a comprehensive agreement on credit policy.

#5 Change Investment Grade Rating and #6 Reduce Composite Rating

- The NYTOs do not consider it appropriate for the NYISO to establish a credit ratings policy that is inconsistent with what is generally accepted in the financial markets.

- A credit rating of BBB - is considered an investment grade rating in the financial markets and we see no justification for the NYISO to establish a different standard applicable to its market

#7 Revalue the Percentage of New Worth and #8 Revise Concentration Cap

- The NYTOs consider this proposal to be an unwarranted reduction in the amount of unsecured credit available to investment grade companies. As noted above, proposals should be targeted to entities and circumstances that pose a demonstrated realistic credit risk to the NYISO.

- Entities, such as the NYTOs, with investment grade ratings and stable businesses do not pose such a credit risk and should not be adversely affected by the NYISOs credit policies. In addition, other attributes should be considered such as regulatory or other arrangements that facilitate payment.

- Further, the NYTOs do not believe that a revision of the concentration cap will have any positive impact on the credit quality of the NYISOs markets.

#9 Credit Scoring Changes

- The NYTOs would be supportive of providing the NYISO with more discretion to act promptly in response to deteriorating credit quality of a market participant.

- The current proposal has not been sufficiently well defined.

- The NYTOs want to work with the NYISO to establish criteria which could be applied to determine that an entity has become a “Financially Distressed Company”. Through a collective collaboration, the NYTOs would bring their experience and insights and, as an added benefit, would save the additional cost for consultants.

#10 Revisions to Unsecured Credit for Municipalities

- The NYTOs are not opposed to this proposal but note that the rationale for increasing the level of unsecured credit for municipalities similarly applies to the NYTOs as well. Comparable rules should apply to entities with similar attributes.

- The NYTOs represent minimal risk as state authorities and regulated companies with regulatory support and an obligation to serve customers.

- The NYTOs understand that governmental entities have unique characteristics that need to be addressed in determining the appropriate level of unsecured credit.

#11 Increase Bank Minimum Rating and #12 Bank Concentration By Market Participant

- The NYTO believe that the NYISO should not establish standards for bank ratings that differ from those generally used in the financial markets (Similar rationale to #5).

- The NYTOs do not consider the bank concentration proposal to be useful or warranted, especially given the recent consolidation in the banking industry.

- If a market participant has a letter of credit from a creditworthy bank that should be sufficient. It should not be required to secure credit support from multiple banks which creates an added burden and cost especially in a market with serious liquidity constraints. This demand could force some MPs to exit the market.

- Additionally, LOCs are often provided by a syndicate of banks, rather than a single bank.

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#13 Accelerated Cash Clearing (Weekly Invoicing)

- This is a major initiative that should be evaluated independently and not grouped with potential credit changes as it has further implications. The NYISO should schedule separate discussions with MPs on this topic to discuss feasibility.

- The NYTOs submitted comments to the NYISO proposal on October 27, 2008.

#14 Reduce Payout Remittance Timeframe

- The NYTOs need sufficient time to validate the NYISOs invoices and; therefore, do not support this proposal.
- An expedited process would create unnecessary burdens and costs with minimal impact on credit.

#15 Reduce Cure Periods

- The NYTOs are willing to work with the NYISO on this proposal as part of a comprehensive agreement on credit policy.

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#16 Authority to Issue Estimated Initial Invoice

- The term “Financially Distressed Entities” has not been defined.

- It is not clear what authority the NYISO is seeking that does not currently exist under the NYISO’s tariff based on a material adverse change.

- The NYTOs are willing to work with the NYISO on this proposal as part of a comprehensive agreement on credit policy.

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#17 Conditions to Terminate: Default in Another ISO/RTO; #18 Conditions to Terminate: 2 Late Payments; #19 Evidence of Financial Support/Capitalization

- The NYTOs are willing to work with the NYISO on these proposals as part of a comprehensive agreement on credit policy or possibly in coordination with Proposal #9 – Credit Score conditions.

- The current proposals have not been sufficiently well defined.

- As stated previously, the NYTOs want to work with the NYISO to establish criteria which could be applied to determine that an entity has become a “Financially Distressed Company”. Through a collective collaboration, the NYTOs would bring their experience and insights and, as an added benefit, would save the additional cost for consultants.