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NEW YORK INDEPENDENT SYSTEM OPERATOR

FOR IMMEDIATE RELEASE

MAY 15, 2001

Contact:
Carol E. Murphy 518-356-7580
Steven C. Sullivan 518-356-7605
Ken Klapp 518-356-6253

Acting On Appeals, NYISO Board Requests Market Participants Develop Proposals For "Sanctions"

NEW YORK CITY– At its meeting today, the Board of Directors of the New York Independent System Operator (NYISO), in response to appeals of a Management Committee motion on Penalties and Disclosure ("Sanctions"), issued a request to Market Participants (MP) to work through the committee governance process to develop a "balanced sanctions," proposal by June 13, 2001.

The sanction proposal was proposed by the New York State Consumer Protection Board (CPB) in response to the NYISO's lack of authority to retroactively mitigate abuses of market power. Currently, an abuser cannot be forced to disgorge the gains achieved as a result of market abuse. Under the terms of the CPB proposal, an MP found to have exercised market power would be penalized with increasingly severe sanctions—including escalating financial penalties and public disclosure—with repeat offenses. Upon the third offense, the CPB motion provides for imposition of what amounts to the withdrawal of market-based rate authority for six months, regardless of whether the offenses are the same or different.

"While we agree with the CPB that the NYISO's lack of authority to retroactively mitigate abuses of market power leaves a tangible incentive for abuse, we do believe that a more balanced sanctions program is necessary for both reliability and market-related reasons," said NYISO Board Chairman Richard J. Grossi. "Therefore, we are requesting that a more balanced program be submitted to the appropriate participant committee or committees and, if approved, filed expeditiously with the FERC." Grossi added that the Board would cooperate fully to expedite such a process.

Some of the issues the Board identified in the CPB proposal as needing more balance were: public disclosure, repeat offense period, and withdrawal of market-based rate authority provisions. "We cannot lose sight of the fact that the legitimate need for the penalties is to act as a disincentive to abuse and, except to the extent the two are inseparable, not as punishment to the abusers," said Grossi.

Because the Board also decided at today's meeting to file an expedited request with the FERC for approval of its AMP, it believes the sanctions proposal should be pursued assuming that the FERC approves the Automated Mitigation Procedure (AMP). However, if the FERC does not approve the AMP, the Board has instructed staff to recommend an alternative sanction proposal.

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The NYISO is a not-for-profit corporation established in 1999 to facilitate the restructuring of New York State's electric industry. In addition to administering the State's wholesale energy markets, the NYISO operates the State's high voltage electric transmission system. Last year, the NYISO's market volume (including energy, ancillary services, ICAP and TCC auctions) exceeded $5.2 billion, more than all of the other Northeast markets combined.