NEWS RELEASE

NEW YORK INDEPENDENT SYSTEM OPERATOR

<u>For Immediate Release:</u>
June 19, 2001

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

NYISO BOARD APPROVES BALANCED PENALTIES PLAN

-"Exigent Circumstances" Filing To Be Made With FERC Under Section 205
As A Means Of Protecting Consumers From Market Manipulation -

NEW YORK, NEW YORK–In a measure to protect New York electricity consumers during the approaching summer months, the New York Independent System Operator ("NYISO") Board of Directors voted unanimously today to file a proposal with the Federal Energy Regulatory Commission ("FERC") for a penalty plan to serve as a deterrent to market participants from manipulating New York's wholesale electricity markets during times of tight supply.

"Given the very tight supply situation we are facing in New York this summer, we believe as a Board, we have a responsibility to protect consumers against the possibility that someone might manipulate the market during extreme demand periods," said Richard J. Grossi, NYISO Board Chairman. "We had hoped to have another proposal, the AMP or Automated Mitigation Procedure, in place by now and continue to believe it is a necessary tool for protecting consumers against improper market behavior. We believe that the sanctions proposal we are filing with the FERC balances the short-term need for consumer protections with the long-term need to attract additional supply."

Made as a Section 205 "exigent circumstances" filing, the NYISO FERC penalties proposal will request a waiver of the filing notice period to permit immediate provisional implementation of penalties, pending FERC approval. The proposal also stipulates that no penalties will be collected unless and until the FERC approves the filing and will sunset on October 1, 2002. As an "exigent circumstances" filing, it will automatically sunset after 120 days unless the NYISO Management Committee concurs in the filing.

Under the terms of the NYISO penalty proposal, both load serving entities (LSEs) and generators can be penalized for non-competitive conduct as specified by the NYISO's Market Monitoring Plan ("MMP") and Market Mitigation Measures ("MMM"). Upon the second instance of mitigation for substantially similar conduct, the offending party would be fined an amount equal to the Locational Based Marginal Price times the number of megawatts involved in the offense. Upon the third instance of mitigation for substantially similar conduct, the first penalty would be doubled and then tripled for subsequent offenses. The "substantially similar" test is to be based on the conduct of a Market Participant and its Affiliates over the current and preceding two Capability Periods.

-more-

"We believe this proposal reasonably balances the NYISO's obligation to address improper behavior with the need to foster an environment in New York State that will attract new investment in generation," said Grossi.

In another action, the Board also received an appeal, filed by New York State Electric & Gas (NYSEG) as a result of the Management Committee's approval of the Stage II Installed Capacity (ICAP) filing. NYSEG requested a stay of the effectiveness of the Committee's decision. The Board found that the stay request was moot, since the Board will not authorize a tariff filing until its own appeals procedures are exhausted.

The Board also suggested that the Management Committee consider the eventual desirability of adopting the same Obligation Procurement Periods as were recently adopted by PJM, and that the Management Committee make its findings known to the Board.

###

The New York Independent System Operator (" NYISO") www.nyiso.com-- is a not-for-profit corporation established in 1999 to facilitate the restructuring of New York State's electric industry. Based in New York's Capital Region, 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 exceeded $5.2 billion, more than all of the other Northeast markets combined.

Summary of Market Mitigation Penalty Proposal

Set forth below is an outline of a revised penalties proposal adopted by the NYISO Board at its June 19, 2001 meeting.

Process

- Make a § 205 "exigent circumstances" penalties filing.
- Exigent circumstances filings sunset automatically after 120 days, unless the Management Committee later concurs in the filing.
- Request a waiver of the filing notice period to permit provisional implementation pending FERC approval, but no penalties will be collected unless and until FERC approves the filing.
- Penalties for reliability, other market manipulation or data withholding, to be deferred and considered through normal Committee process.

Administration

- Market mitigation determinations to be made by the NYISO in accordance with the criteria and procedures currently specified in the Market Monitoring Plan ("MMP") and the Market Mitigation

- Penalties to be applied to repeated mitigation, but would not apply to:

* Mitigation under the Automated Mitigation Procedures ("AMP");
* Mitigation under the ConEd in-City mitigation measures.

- Loads to be subject to the penalty provisions specified in § 4.4.3 of the MMM, but subject to the penalty multipliers specified below.
- Initial penalty proposal to be limited to generator and load conduct violating market mitigation standards, pending committee review of possible additional reliability and ancillary services sanctions.

Level and Scope of Penalties and Disclosure

- Amounts:
- ✶ First instance of mitigation for a type of conduct: no penalty;
- ✶ Second instance of mitigation for substantially similar conduct: MW subject to mitigation unit during "Mitigated Hours" * "Penalty LBMP";
- ✶ Third instance of mitigation for substantially similar conduct: first penalty doubled;
- ✶ Subsequent offense, etc.: first penalty amount trebled.
- "Substantially similar" test to be based on the conduct of the Market Party and its Affiliates over the current and preceding two Capability Periods.
- "Mitigated Hours" = (a) for a DAM: hours in which the conduct was mitigated; (b) for Real-Time: hours mitigated in the calendar day in which the conduct was first mitigated; and (c) for loads, hours in which Penalty Level payments apply (as specified in the MMM).
- "Penalty LBMP" =
- ✶ For generators, LBMP at the generator's bus.
- ✶ For loads, the LSE's zonal LBMP.
- No disclosure provisions.

Dispute Resolution

- Disputes as to the imposition of a penalty would be subject to resolution under the dispute resolution provisions of the Services Tariff:
- ✶ Arbitration under the auspices and rules of the American Arbitration Association ("AAA");
- ✶ Ultimate right to go to FERC on the grounds that an arbitral decision violates the Federal Power Act).

- ADR issues can include qualitative MMM standards for mitigation (*i.e.*, justifications for a higher bid under particular market circumstances).
- Penalty amounts would not be payable until the conclusion of any arbitration proceeding, but with interest payable from the date of the alleged infraction (and pending FERC approval of the filing penalties would be determined but not collected).
- Parties (including NYISO) to have discretion to resolve ADR by settlement.