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### All Parties

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CASE 07-M-0548 – Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard.

**Comments of the New York Independent System Operator on  
EPS Administration Consensus Recommendation**

The New York Independent System Operator (NYISO) respectfully comments pursuant to the January 15, 2008 Ruling Establishing Comment Schedule on the proposal styled an “EPS Administration Consensus Recommendation” submitted by Natural Resources Defense Council (NRDC), Pace Energy Project (Pace), City of New York (NYC), Association for Energy Affordability, Inc. (AEA), Consolidated Edison Company of New York, Inc. (Con Edison), KeySpan Energy Delivery New York and KeySpan Energy Delivery Long Island (KEDNY and KEDLI), National Fuel Gas Corporation (NFG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), New York State Electric and Gas Corporation (NYSEG), Orange and Rockland Utilities, Inc. (Orange and Rockland), Rochester Gas and Electric Corporation (RG&E), and the New York Power Authority (NYPA) (Consensus Parties).

As a threshold matter, the NYISO notes that it was not informed of any discussions among the Consensus Parties regarding Working Group I governance issues following the last all-parties meeting in December. The NYISO has diligently participated in the Working Group sessions, devoting substantial resources, both in terms of staff expertise and data, to further progress toward the “15 x 15” goal of the Energy Efficiency Portfolio Standard proceeding. Inviting all involved parties to participate in negotiation sessions will result in more valuable proposals and broader buy-in. Indeed, in

the absence of a notification to all parties, the Consensus Proposal cannot be treated as a formal settlement proposal in this proceeding.<sup>1</sup>

Notwithstanding the limited participation of parties to this proceeding in crafting the Consensus Proposal, it does indicate that some progress has been made toward an agreement on how to administer the EPS. It is disappointing to the NYISO, however, in that it fails to recommend the formation of an advisory council, a body the NYISO has consistently advocated be created. Such a body should consist of interested stakeholders who are not directly involved in administration of the EPS programs, but that nonetheless have important interests at stake in its fair, accurate and efficient administration. For example, non-utility load serving entities, affected local governments, interested community groups such as housing agencies and organizations, and demand response program administrators, including the NYISO, should be consulted on a regular and ongoing basis for data inputs and to solicit their interests and concerns in EPS program administration. This advisory council could provide valuable data, inputs into and feedback on the EPS programs. The absence of such an advisory council will reduce the ability of the New York Department of Public Service Staff (Staff) and NYSERDA to produce, expand and maintain as valuable a set of programs and new initiatives as they might otherwise.

The NYISO could continue lending expertise to the issues Staff and NYSERDA will be addressing, if invited to do so as a member of an advisory council. The NYISO

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<sup>1</sup> Section 3.9 of the Commission's Procedural Rules states that "[a]s soon as it appears, based upon exploratory discussions with another party or potential party, that settlement of an issue or issues in a pending proceeding is possible, the utility shall file, with the Secretary, a notice of impending negotiation." 16 NYCRR § 3.9(a); *see also* Cases 90-M-0255, 92-M-0138, *Opinion, Order and Resolution Adopting Settlement Procedures and Guidelines*, Opinion No. 92-2, 1992 N.Y. PUC LEXIS 5, 32 NY PSC 71 (March 24, 1992).

could advise whether the data inputs and assumptions going into the EPS programs are consistent with the NYISO's data and, as such, are accurate and complete. The NYISO has already provided Staff with load forecasting data for system-wide peak load, adjusted actual load, and utility non-coincident peak loads and has consulted regularly with Staff on the appropriate data inputs and assumptions for defining the 15 x 15 goal.

The NYISO shares in the interest of Staff and NYSERDA that consistent data inputs be used both for the NYISO's planning processes and for the programs carried out by the Commission. Data used by the NYISO in its annual bulk power system operation and planning studies, including summer and winter operation studies, interconnection studies, the Installed Reserve Margin Study, and the Reliability Needs Assessment and Comprehensive Reliability Plan should also be data inputs used to define the 15 x 15 goal, and for planning and administering the EPS programs. Such coordination will avoid a situation in which the state and federal programs produce conflicting results or otherwise end up at cross purposes.

In projecting load growth for its Installed Capacity Market and in carrying out its planning studies, the NYISO can include only EPS program performance that is accurately measured and verified. For instance, the NYISO can assume that utility conservation programs will produce future savings only if those programs have produced verifiable savings in their early years. Empirical evidence is necessary for these evaluations.

In its 2008 Reliability Needs Assessment,<sup>2</sup> the NYISO conducted a scenario to evaluate the impact of the achievement of the 15 x 15 goal on the future reliability needs

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<sup>2</sup> 2008 Reliability Needs Assessment, on the NYISO website at [http://www.nyiso.com/public/webdocs/newsroom/press\\_releases/2007/RNA\\_and\\_Supporting\\_FINAL\\_REPORT\\_12-12-07.pdf](http://www.nyiso.com/public/webdocs/newsroom/press_releases/2007/RNA_and_Supporting_FINAL_REPORT_12-12-07.pdf)

of the bulk power system in New York. The scenario determined that the desired energy savings, if accomplished, would satisfy bulk power system reliability needs. In future iterations of the Comprehensive Reliability Planning Process,<sup>3</sup> the NYISO will undertake more detailed evaluations to determine whether the EPS programs are successful in not only reducing energy consumption, but in avoiding the need for transmission or generation capacity resource additions to meet bulk power system reliability needs.

The NYISO therefore believes it is critical that it assist Staff and NYSERDA in assuring that EPS programs are accurately measured and that their savings are accurately verified.<sup>4</sup> In this way, conservation effects resulting from the State's 15 x 15 effort will be fully recognized in the NYISO's evaluations of load growth and the impacts of ongoing conservation efforts in the Comprehensive Reliability Planning Process and in other planning studies. An advisory council, on which the NYISO has membership, will provide the vehicle for this assistance.

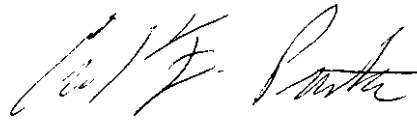
Because the NYISO is an independent entity operating under federal tariffs approved by the Federal Energy Regulatory Commission, the NYISO cannot participate directly in the administration of EPS programs. Nevertheless, accurate and efficient coordination of the NYISO's planning processes, studies and programs with Staff's efforts and the administration of the EPS programs is essential for the reasons stated above. Accordingly, the NYISO urges the inclusion of an advisory council and the NYISO's participation on that body in the final EPS governance model that is adopted by the Commission.

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<sup>3</sup> NYISO Open Access Transmission Tariff, Attachment Y.

<sup>4</sup> The NYISO's experience in measurement and verification stems from its tariff requirement that only those load reductions that are measurable and verifiable can be recognized as providing a product in the wholesale electric market. *See* NYISO Services Tariff, § 2.39.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Carl F. Patka", written over a horizontal line.

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