

1 FEDERAL ENERGY REGULATORY COMMISSION  
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3 TRANSMISSION PLANNING AND INCENTIVES FOR  
4 INFRASTRUCTURE DEVELOPMENT  
5 PANEL DISCUSSION  
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7  
8 DATE: October 20, 2003  
9 1:20 p.m.  
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11 Con Edison  
12 4 Irving Place  
13 New york, New York  
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PRESENT:

PAT WOOD, III, Chairman,  
FEDERAL ENERGY REGULATORY COMMISSION

WILLIAM FLYNN, Chairman,  
New York Public Service Commission

LARRY DEWITT, for JOE OATES,  
Con Ed Management Committee

WILLIAM J. MUSELER, President and CEO  
New York ISO

ELAINE ROBINSON, Moderator  
New York ISO

REPORTER: Michael Williams

## 1 PANELISTS

## 2 Panel I

3

## 4 GENERATOR OWNERS:

5 Glenn Haake

6 Jim Parmelee

7 Mike Mager

8 Masheed Rosenqvist

9 Stuart Nachmias

10 Matt Picardi

11

## 12 Panel II

13 Mark Younger

14 William Roberts

15 Tom Rudebusch

16 Tariq Niazi

17 Ray Kinney

18

## 19 Panel III

20 Susann Felton

21 Bob Hiney

22 Mike Delaney

23 Paul Gioia

24 Dan Allegretti

## 1 PROCEEDINGS

2 CHAIRMAN WOOD: Good afternoon. I'm Pat  
3 Wood, Chairman of FERC and I'd like to welcome you  
4 all to our White Paper Technical Conference for the  
5 New York independent system appraisers. This is a  
6 formal meeting of the Federal Energy Regulatory  
7 Commission, FERC, and the discussion here will be  
8 transcribed today. So as we go through the day, if  
9 you haven't been introduced or otherwise recognized,  
10 if you could, for the courtesy of the transcriber  
11 here, just say who you are, that will be great.

12 If you have a cell phone or some audible  
13 device, if you want to put that on silent, to  
14 vibrate, that will be great as well.

15 The point of our conference today is to  
16 understand where we are as we travel across the  
17 nation in response to our initiatives on standard  
18 market design, which we put out for discussion and  
19 for proposal last summer and revised in April, with  
20 the White Paper that is its name.

21 This conference was a commitment to go  
22 across the country to the different regions, to the  
23 different developing electricity, wholesale markets,  
24 and get an understanding for the status of those  
25 markets, for the issues that remained unaddressed or

1 outstanding or unresolved in those markets, and we  
2 played for a template of eight large major areas in  
3 the White Paper to focus on.

4 From that template here in New York, based  
5 on both our discussions with ISO leadership, with  
6 the Station Commission leadership, with market  
7 participants and, importantly, from prior orders of  
8 our Commission, we had identified three large  
9 groupings of items for consideration that we would  
10 like to focus on today.

11 The first of those is transmission  
12 planning and transmission expansion; the second of  
13 those is pancaking and transmission rates and seams  
14 with the neighboring regional transmission  
15 organizations or ISOs; and third, government issues  
16 that we tend to see really in the more mature ISOs,  
17 in this one, and the PYMs come up for market  
18 participants that are of interest to our Commission  
19 as we try to move along with the agenda toward  
20 complete transparent, vibrant, robust, fair,  
21 investor-friendly, customer-friendly, wholesale  
22 markets. A lot of adjectives there.

23 We want to make sure you check them all.  
24 All of the, I want to say the groundrules for this,  
25 as it has been for all of the other commissions, has

1       been as robust and wide open as possible.

2                   We want to discourage people from sticking  
3       to scripts or giving party lines, but we really want  
4       to understand and we will be involved in asking  
5       questions, certainly. My two colleagues, William  
6       Flynn and Bill Massey are pros at asking questions  
7       of market participants, but at the end of the day,  
8       when we open it up for discussion with other  
9       regulators and with industry participants, we want  
10      to basically let that be a time when issues that  
11      have not been addressed, have not been raised by the  
12      invited panelists, are welcome and invited at that  
13      time.

14                   We really, again, find these  
15      opportunities. Unfortunately, they are more settled  
16      than they need to be, but we try to commit to doing  
17      more outreach as these markets develop and mature,  
18      but we really want to get a very clear understanding  
19      from the regulatory point of view as to what is  
20      negligence, to ensure that all those adjectives in  
21      front of the power market are satisfied up here in  
22      New York.

23                   I'm honored to welcome the members of the  
24      independent system operating board who are here  
25      today. The Chairman and board members are sitting

1 over here. I want to thank you all for your  
2 participation, from Bill Flynn, Chairman, New York  
3 City PSC and his colleagues, Ross at the PSC. I'm  
4 honored to have the Ken Fell, from the New York  
5 Commission and Tom Welch, from the Maine Commission,  
6 who are colleagues and also representatives of  
7 adjacent ISOs and RTOs and probably have some  
8 thoughts to share with us later today.

9 So with those thoughts and introductions,  
10 at this point, I would like to turn it over to  
11 either of my colleagues, if they have anything to  
12 add.

13 MS. ROBINSON: Nothing.

14 CHAIRMAN WOOD: Our host, Commissioner  
15 Bill Massey from the New York ISO.

16 Bill?

17 COMMISSIONER FLYNN: Good afternoon.  
18 Thank you Chairman Wood, and welcome everybody.

19 I'd first like to welcome Pat and  
20 Commissioner Brownell and New York State and New  
21 York City, as well as to thank FERC for holding this  
22 conference today. Bill Massey and staff at the New  
23 York ISO deserves thanks as well for their efforts  
24 and cooperation with my staff in preparation for  
25 this conference.

1           I would also like to thank G. McGraph and  
2 Consolidated Edison for hosting this conference.

3           Last, let me take this opportunity to  
4 personally thank employees of Con Ed and generating  
5 plants in New York City for their efforts in  
6 restoring power in New York City following the  
7 August blackout. All the state's utilities,  
8 generators and other market participants, including  
9 the ISOs, deserve credit and thanks for their  
10 efforts to restore power following the blackout.  
11 When the lights went off in New York City, the  
12 national spotlight was, once again, shining bright  
13 in New York, to see how the City would respond to  
14 its latest challenge.

15           The professionals working for Con Ed and  
16 generators in the city responded admirably, under  
17 the circumstances, to bring power back to the City  
18 within about 30 hours, and I want to commend them  
19 for their efforts.

20           Over here we discuss issues associated  
21 with standard market design and to address ideas  
22 that can occur for more efficient improvement and  
23 pricing following electricity, following the state  
24 and legal boundaries. What I would like to start  
25 with, it goes slightly off the subject, is briefly

1 to talk about the blackout.

2 It was just about two months ago last week  
3 that more than 50 million people in the northeast  
4 and Canada were thrown into the darkest, largest  
5 blackout in the nation's history. A lot of them  
6 wrote about the event and I think in a rush to reach  
7 conclusions, there has been some misinformation and  
8 speculation that may have been reported as if it  
9 were fact.

10 For better or worse, the frenzy and sense  
11 of urgency surrounding the blackout seems to have  
12 waned, but I can assure you, within the walls of the  
13 Public Service Commission, understanding the cause  
14 of the blackout and its effects on the power grid in  
15 New York State remain the highest priority for our  
16 staff.

17 Immediately following the blackout, at the  
18 request of Governor Pataki, the Public Service  
19 Commission took the lead role in the state's inquiry  
20 on the effects of the outage on New York. Based on  
21 the results of this inquiry, we worked to develop  
22 sound recommendations to avoid future outages of  
23 this nature.

24 At the risk of venturing into speculation  
25 before our inquiry was complete, I would like to

1 address some of the information out there by  
2 discussing briefly what kind of policies or  
3 regulatory changes I don't see coming out of this  
4 blackout in New York State.

5 First, I don't see the state turning away  
6 from energy industry restructuring. This blackout  
7 didn't distinguish, between regulated or deregulated  
8 state, it impact Ontario in much the same way it  
9 impacted New York State. For some, deregulation may  
10 be a convenient explanation for the blackout. The  
11 facts, as we know them, simply do not support that  
12 conclusion. We believe deregulation is not the  
13 answer.

14 Restructuring in New York State remains an  
15 evolving process and has problems and issues that  
16 are identified that hinder the markets. We will  
17 continue to develop market-based solutions and  
18 adjustments to enable competition and promote  
19 greater choice.

20 Some have suggested that deregulation has  
21 allowed for a decline in capital investment in the  
22 transmission and distribution systems. They have  
23 pointed to a statement in the New York State  
24 Planning Board that examined the liability of the  
25 transmission and distribution systems in the state.

1           Those referencing this liability study  
2 failed to point out that it states very clearly that  
3 the transmission system in New York State actually  
4 improved in its ability to withstand severe  
5 disturbances, despite the decline in transmission  
6 investments. I do not argue that no additional  
7 investment in the transmission system is needed in  
8 the post-blackout area, but to blame deregulation  
9 for the decline in transmission systems is simply  
10 unfounded. In fact, our pro competitive  
11 restructuring policies are attracting significant  
12 interest where it's most needed, including Cross  
13 Hudson Cable and the proposed HVDC Cable, from  
14 Albany to New York.

15           The liability study also makes it very  
16 clear, the transmission investments began declining  
17 long before the restructuring process was initiated  
18 in New York State. In 1988 the transmission  
19 investment level in the state was 304 million  
20 dollars. In 1994, the investment level was already  
21 less than half it was in 1998, or about 160 million  
22 dollars. That decline in investment is a natural  
23 response to changes of the siting of generation  
24 facilities over the years, among other things.

25           Large transmission investments were

1       necessary in the '70s and '80s, because at that time  
2       large generating facilities were being constructed  
3       far away from the centers. During the late '80s and  
4       throughout the '90s, much smaller generating  
5       facilities were built in New York State and located  
6       closer to load centers, decreasing the need for  
7       additional transmission. Since the blackout, others  
8       have pointed to statements from the New York ISO  
9       that there is congestion on the transmission grid in  
10      New York and investments and upgrades to the grid  
11      would alone alleviate that congestion. Again, I'm  
12      not here to refute that, but congestion is an  
13      economic issue and not a liability issue.

14                The fact that congestion exists on the New  
15      York grid does not mean the grid isn't reliable or  
16      even uneconomical. It simply means that lines in  
17      congested areas are effectively operating at full  
18      capacity during peak periods.

19                It is on its own a fact that there may not  
20      be enough transmission to take advantage of the  
21      lowest cost generation capacity during these times.

22                Something that many people fail to  
23      recognize is that congestion also has the ability to  
24      move around on the grid. In 1992, the central east  
25      interface in New York State was congested only about

1 four percent of the time.

2 In 1996, due largely to changes in  
3 purchasing patterns, that same interface was  
4 congested about 70 percent of the time.

5 By 2000, with no new investment or the  
6 reinforcement of the transmission system, congestion  
7 on this interface had dropped down to about 40  
8 percent of the time.

9 While there still may be economic reasons  
10 to upgrade this area of the system, clearly the  
11 economics changed over time.

12 Solutions for a 70 percent congestion  
13 problem are likely to be quite different from a  
14 solution for a 40 percent congestion problem. A lot  
15 of investment could have been thrown at this,  
16 "congestion problem" in 1996. By allowing the  
17 market to address the congestion issue first, we can  
18 make a more responsible analysis of the need for an  
19 upgrade. Furthermore, there are numerous ways to  
20 reduce congestion on the transmission system, such  
21 as siting power plants within low pockets,  
22 investment and demand reduction and energy  
23 efficiency measures or building generation on-site.

24 Congestion does not necessarily warrant  
25 investment in new transmission lines. That is

1 simply one of many methods we are addressing. There  
2 is clearly a need to identify any weaknesses in the  
3 transmission systems and develop solutions to  
4 reinforce the system. However, we should not use  
5 the blackout for an excuse to push for investment  
6 that may not be necessary. We need to understand  
7 the root cause of the blackout, developing pragmatic  
8 solutions and do the right thing, rather than simply  
9 do something.

10 We simply cannot afford to throw money at  
11 a problem that has not yet been identified just to  
12 personally respond to personal agendas. I would  
13 like to thank you for allowing me to venture  
14 slightly off topic a bit, but I think the blackout  
15 has a direct bearing on issues we'll be addressing  
16 today, most notably, transmission planning. If the  
17 blackout teaches us anything, there is a need to  
18 view transmission planning on a regional basis, and  
19 the rules for investment must provide clarity and  
20 certainty to market participants. I think the New  
21 York ISO is committed to putting forth a sound  
22 planning process and the department staff will  
23 continue the partnership we have established with  
24 the ISO in this process, but I don't think we should  
25 necessarily end there. The next logical step would

1 be to integrate our planning process to ensure New  
2 York transmission planning is optimized with the  
3 planning going on at PJM, the New England ISO, and  
4 our neighbors in Canada.

5 The PSC generally favors market investment  
6 in by transmission systems, but we recognize the  
7 market may not always be capable of providing all  
8 investments needed. Regulated investment should be  
9 permitted but limited to projects identified by a  
10 planning process, like the New York ISOs that is  
11 clear and understood by all market participants.

12 These regulated investments should be  
13 carefully monitored to ensure their necessary  
14 responses to market failures, rather than a  
15 roadblock to market based investments. To the  
16 extent market participants are adequately investing  
17 in the new generation capacity, new transmission  
18 capacity or even demand reduction to address  
19 transmission issues, regulation should be avoided.  
20 And to the greatest extent possible, beneficiaries  
21 of these regulated transmission investments should  
22 bear the cost of the upgrades.

23 In terms of merchant investments, we need  
24 to ensure adequate centers are in place to stimulate  
25 activity where it is warranted, and it may be

1 necessary to create alternative streams rather than  
2 merchant transmission, than relying solely on  
3 congestion revenues which may not be sufficient. I  
4 know the New York State Public Service Commission,  
5 the Federal Regulatory Energy Commission and the New  
6 York independent system operators largely share the  
7 same vision of standard market design and how  
8 regional standard markets should ultimately  
9 function. We should eliminate rate pancaking and  
10 the Department endorses a recommendation FERC  
11 proposes in its White Paper. Pancaking is the low  
12 hanging fruit that we can address relatively quickly  
13 to produce a bigger seams improvements and having  
14 worked closely with the ISO in New York State to  
15 develop a proposal to eliminate pancaking, we look  
16 forward to addressing the issues of our neighbors,  
17 of PJM and the New England ISO.

18 We are pleased to establish a new group to  
19 address market monitoring. Competitive markets  
20 function best when consumers have confidence in  
21 them. That confidence can be obtained when adequate  
22 resources are in the market to discourage  
23 manipulation by indentifying instances of  
24 manipulation and take corrective action. Any  
25 increased efforts in this area will be greatly

1 appreciated.

2 Today's meeting will give us the  
3 opportunity to go into the details of these issues  
4 and take steps towards achieving our common vision.

5 I have confidence in developing the  
6 relationships. We prefer, New York ISO and the  
7 market participants operating in New York State. We  
8 can work through any differences in the details  
9 toward our common goals.

10 Thank you, Ms. Chairman.

11 CHAIRMAN WOOD: Thank you, Chairman  
12 Flynn.

13 We appreciate those opening thoughts and  
14 issues for today.

15 For our final opening comments, we have  
16 the Chairman of the Management Committee, Joe Oates  
17 from our host utility Con Ed, member ISO.

18 MR. DEWITT: Those of you who know me  
19 well know that I'm not Joe P. Oates. Joe has been  
20 detained and will be joining us later.

21 I am Larry DeWitt. I work for the Pace  
22 Energy Project. I represent environmental and  
23 consumer interests at the New York ISO, and I'm here  
24 because I also currently serve as Chairman of the  
25 Business Issues Committee for the New York ISO

1 Business Issues Committee.

2 What I'm going to do is simply read in the  
3 first person Joe's comments, and I begin:

4 I thank you on behalf of all of the state  
5 coalition for coming to New York for a technical  
6 conference on wholesale power market design issues.

7 My remarks are general in nature and are  
8 offered as an overview for today's discussion.

9 Individual market participants may not  
10 necessarily agree entirely by choice -- and I'm sure  
11 they will let you know this when they do not. In  
12 New York we believe that many of the elements of the  
13 proposed market design already exist here. We have  
14 been operating a wholesale electricity market for  
15 about four years now and are living proof that many  
16 of the elements work: Locational pricing,  
17 transmission congestion contracts, capacity markets  
18 and market power monetary.

19 As I'm sure you've heard, and will hear  
20 later today, there are different opinions about the  
21 way New York can improve these elements, but despite  
22 these opinions, the fact is that our markets are  
23 working.

24 While New York is still an evolving  
25 market, we believe we offer, in addition to the PJM,

1 a very good model of what works. In the first four  
2 years, our markets, as is no surprise, singularly  
3 have had some growing pains. We have also weathered  
4 an industry financial crisis and lately a blackout.  
5 In spite of all of these challenges, the New York  
6 market still works well.

7 I think all market participants support  
8 the need nationally for at least some degree of  
9 regional flexibility. As we recognize, in many  
10 instances the physical nature of our galactic  
11 systems are different than in other parts of the  
12 country, which sometimes requires us to do things  
13 differently.

14 What works for one area may not exact work  
15 in ours, but while we agree that this is an  
16 important feature, we also want to remind the  
17 Commission that we need to be mindful of  
18 standardization and seams issues as well, to the  
19 geographic boundaries set forth by the northeast and  
20 MidAtlantic ISOs may not be the same boundaries that  
21 the power system follows, and it is critically  
22 important that all markets work well together.

23 I am also here to tell you that most  
24 parties believe that the governmental process we  
25 have set up in New York generally works well.

1           Through the management committee, we  
2 continuously evaluate and periodically update market  
3 rules and make changes that are needed to keep our  
4 markets working effectively.

5           There are many issues that we deal with  
6 that make their way to the Commission and at times  
7 the Commission has to be the arbitrator, to help us  
8 decide controversial issues, but it is also  
9 important to recognize that these issues are often  
10 only a fraction of all the issues that we address  
11 through our stakeholder process.

12           With more than 30 committees, working  
13 groups and taskforces all chaired by stakeholders  
14 with full administrative and technical support of  
15 the New York ISOs staff, we make these changes all  
16 of the time. Many of these changes are in the end  
17 generally agreed upon and make their way to the  
18 Commission without any controversy. Of course, if  
19 we continue to make additional changes to our market  
20 and our processes, we will identify some issues  
21 ourselves and some issues will be directed by the  
22 Commission.

23           Some will be controversial, some will not,  
24 but in any case, we look forward to working closely  
25 with the Commission to continue our successful

1 market.

2 As I close, I would like to leave you with  
3 three important points to consider as we begin these  
4 panel discussions:

5 First, the New York ISO already has  
6 implemented the ultimate proposed wholesale power  
7 market design and New York should be heralded as an  
8 example of how the market design can work well. In  
9 fact, we view some benefits, simultaneous  
10 cooperative energy and ancillary service that is  
11 superior to any other ISO.

12 The stakeholder process: It just happens  
13 the stakeholder process usually works well for most  
14 market participants. We work together to compromise  
15 and reach consensus on many issues.

16 I should also note that the market  
17 participants generally have a good working  
18 relationship with the New York ISO staff and the New  
19 York ISO board. All of these contributes to a  
20 better understanding of the issues for many  
21 different points of view.

22 Third, the issues that you see coming  
23 forth from the New York ISO stakeholder process are  
24 but a fraction of all of the issues we work through  
25 each day, and it seems like we always have lots of

1        comments and emerging attendants on issues. Please  
2        remember we are New Yorkers. There is no shortage  
3        of thought wontedness or forthrightness here. Thank  
4        you for the opportunity to share with the markets.

5                I think Bill Museler will be taking up the  
6        next presentation.

7                COMMISSIONER MUSELER:    Thank you, Larry.  
8        Good afternoon, Chairman Wood, Commissioner  
9        Brownell, Commissioner Massey. Thank very much for  
10       joining us here today.

11               My role today is to set out major issues  
12       and provide the framework of the discussion you are  
13       going to hear.

14               What you will hear from the market  
15       participants in the succeeding panel discussions  
16       will really be a microcosm of how the New York ISO  
17       works, not perfect coordinating meetings, but  
18       there's enough consensus to make continuing progress  
19       towards our common goal, ensuring reliability,  
20       advancement, competitive, robust markets. New York  
21       generally meets the requirements of the White Paper.

22               With the area still requiring major work,  
23       being planning, I know that we are moving  
24       aggressively and will provide additional details in  
25       a few minutes.

1           Our work is admittedly a work in progress,  
2           but I believe one of enough record of success to  
3           warrant continuing on our current path, and with the  
4           deployment of our new realtime scheduling system  
5           next spring, we'll be in full compliance with FERC's  
6           direction on market design as embodied in the  
7           Commission's network and White Paper. In fact, by  
8           next summer the NYISO will be the only independent  
9           transmission provider in the country with fully  
10          automated ancillary markets evoked and headed into  
11          realtime.

12           As advocated by yourselves, by our board,  
13          by our market participants, we have taken the  
14          initiative in a number of areas to resolve some  
15          issues in order to achieve a majority of benefits  
16          that will accrue from combining FERC's operations  
17          and combining dispatch from the general areas.

18           The NYISO have several inter-area  
19          coordinating agreements in place that include all of  
20          our neighbors and which address operation, planning  
21          and market design issues of common interest.

22           As you know, from our coordinating to our  
23          Commission, significant progress has been made in  
24          addressing and resolving numerous inter-area seams  
25          issues throughout the northeast, including PJM. We

1 are also taking steps to develop broad regional  
2 reserve and regulation sharing agreements.

3 The ISO Council, which I Chair, is leading  
4 the efforts to further improve inter-area regional  
5 communication by moving toward a common data flow.  
6 I would note especially that New York, New England,  
7 PJM and Ontario already exchange operational  
8 information via the data link and New York and New  
9 England and the ISO RTO Council for developing the  
10 common information extension which will allow a  
11 realtime exchange of market data for the first time.  
12 This is the technology direction that FERC has been  
13 encouraging to allow capability between the ISO and  
14 RTO software systems.

15 Pancake, the elimination of export fees  
16 between New York and the adjacent regions is the  
17 highest priority of the New York ISO. During early  
18 2003 NYISO was successful in working with the New  
19 York service transmission and New York Commission  
20 for developing a set of principles for the  
21 elimination of export fees from the New York control  
22 area, and that was presented to our stakeholders in  
23 June. Bill Flynn was instrumental in achieving  
24 this agreement.

25 It is just that since that time we have

1 worked with many control areas, including IMOs, to  
2 schedule agreements leading to reciprocal agreements  
3 on each of our borders, determining basically, it  
4 takes two to tango. Our goal is the elimination of  
5 export fees, to actually start reduction,  
6 eliminating them next year, in 2004, starting with  
7 the New York/New England interface.

8 We recently held a productive meeting with  
9 ISO New England and the transmission owners from  
10 both New York and New England, at which both present  
11 indicated their support for reaching a reciprocal  
12 agreement as soon as possible.

13 Good progress was made and there is  
14 another meeting scheduled for mid November.

15 The New York ISO has been working since  
16 early 2002 with PJM and ISO New England to develop  
17 the details of a common forward market, for capacity  
18 in accordance with the framework established by New  
19 England. The group contacted a consultant in New  
20 York last spring and charged them with the  
21 development of the principles for this forward  
22 market and the recommendation of an appropriate  
23 watching model for its simple inspection.

24 In parallel, several inter-ISO working  
25 groups are developing criteria for research

1 eligibility, verification of testing, applicable  
2 demand response criteria and credit requirements.

3 The ISOs will bring the results of these  
4 efforts to their respective stakeholders to discuss  
5 tariff and market clarification, market rule changes  
6 needed for implementation. We will be making a  
7 status report in our efforts to you, in February of  
8 2004. Indeed, the accomplishments in the seams area  
9 have been and continue to be the results of  
10 extensive stakeholder participation within the ISOs  
11 committees.

12 There are multiple opportunities for broad  
13 stakeholder participation in developing the  
14 proposals for our SMD2 realtime scheduling system,  
15 the open scheduling system, OSS, eventual regional  
16 dispatch, and the resource adequacy model.

17 We report regularly on progress with  
18 resolving leads and other seams issues with our  
19 three principle stakeholder committees on a monthly  
20 basis.

21 The development of a comprehensive system  
22 planning process that meets the Commission's  
23 requirements has been the open issue for New York,  
24 and in that area, too, we are moving forward at an  
25 increasing pace. Early in the year the ISO brought

1       this issue to our stakeholders and there was wide  
2       support for taking action. As a result, we formed  
3       the Electric System Planning Group comprised of  
4       representatives from the Business Issues and  
5       Operating Committees and the State Public Service  
6       Commission to work with our staff on this  
7       initiative.

8               After four months of intensive efforts,  
9       the NYISO operating committee voted unanimously last  
10      month to endorse phase one of that process and to  
11      move ahead expeditiously to address the remaining  
12      issues.

13             Phase two will develop the criteria of  
14      dealing with the liability and economic needs  
15      identified in that planning process. The New York  
16      State Department of Public Service has been deeply  
17      involved in this process and I believe we will be  
18      able to send you an acceptable filing in the second  
19      half of 2004.

20             Our Board of Directors is fully supportive  
21      of these efforts and it is monitoring them closely.  
22      Through its adequacy and reliability meeting  
23      significant accomplishments have also been made  
24      through the year with inter-regional planning with  
25      our neighbors. Early in the year an inter-regional

1 task force was established, consisting of all the  
2 ISOs and control areas of MPPC, including the  
3 Canadian entities as well as PJM. This group is  
4 developing a proposed protocol for coordination of  
5 inter-regional planning for the northeast, starting  
6 with the basics, such as ensuring consistency of  
7 databases, planning models and assumptions. This  
8 protocol also addresses coordination of  
9 interconnection and system enhancement studies and  
10 has the long-term goal of developing a northeastern  
11 regional plan.

12 We expect a draft protocol to be made  
13 available with our stakeholders in our prospective  
14 regions at the end of year. Governance is an area  
15 where the majority of our stakeholders and the  
16 Public Service Commission feel strongly that our  
17 shared governance is working. This is an area where  
18 New York does have a regional difference and a  
19 regional difference that works.

20 Our diverse market participants have  
21 worked together with our board to create the most  
22 advanced market designs, increased diversionary  
23 trading demand in both capacity and operational  
24 research markets, and a cutting edge realtime system  
25 that is moving toward market trial energy monthly.

1 Applying in major issues, such as those that are  
2 shared governance, in general, is a major plus for  
3 this arrangement.

4 Sometimes the pace has been agonizingly  
5 slow, as in the development of a comprehensive  
6 credit policy, but the end result was superior to  
7 what we would have produced without the extensive  
8 stakeholders' input and the multiple iterations.

9 We know that our market participants bring  
10 to the table extremely valuable knowledge and  
11 experience and I'd like to think of the working  
12 group and committee process as preconsulting  
13 searches to the New York ISO.

14 On the other hand, when we have had to, we  
15 have moved quickly, as demonstrated by joint  
16 filings, to address scarcity in pricing and new  
17 market rules at non competitive pricing just this  
18 past spring. It is true that it seems difficult to  
19 achieve a 58 percent consensus of market  
20 participants, but an inclusive process like this can  
21 and does produce a fair and more efficient result  
22 and I believe that ours does that.

23 Nor do the shared governments compromise  
24 an independence over the ISO board of directors  
25 which has the ultimate authority over budget and

1 management decisions and which can require original  
2 standards at FERC 205 without market participants,  
3 without absolute necessity in exigent circumstances.  
4 The existing process has enabled the ISO to make  
5 incremental changes in its governance as the  
6 occasion requires, and we expect that it will  
7 continue to so.

8 The ISO strategic plan currently under  
9 development will include a process for evaluating  
10 possible future enhancements in the area of  
11 governance.

12 A majority of ISO market participants, the  
13 NYISO board and the New York Public Service  
14 Commission believe this elaborate governance process  
15 is working and the NYISO and Commission can continue  
16 under this arrangement to focus our efforts on  
17 achieving these goals, ensuring liability and  
18 enhancing competitive electric markets, and also  
19 avoid encountering the potential different legal  
20 issues raised in the Atlantic City decision in the  
21 D.C. Circuit Court of Appeals.

22 Those are the NYISO thoughts on major  
23 focus areas relative to FERC's SMB. We believe we  
24 are compliant with the principles outlined in your  
25 White Paper and that where we have regional

1 differences they provide equal or superior results.

2 One area that we owe you a comprehensive  
3 filing on is planning, and we will have an SMD  
4 compliant process on your desk next year.

5 Like you, I'm looking forward to the  
6 dialogue with New York market participants and  
7 stakeholders on behalf of the NYISO. I want to  
8 express my appreciation for you inviting us here to  
9 the "Big Apple."

10 CHAIRMAN WOOD: Thank you very much,  
11 Bill.

12 At this time I would like to invite the  
13 participants who are on Panel Number One to come  
14 forward. We have a table set up right in front  
15 here.

16 MS. ROBINSON: I'm Elaine Robinson from  
17 the New York ISO, and my job here is to basically  
18 keep time for the panelists.

19 On the first panel we are going to open  
20 with the transmission owners represented by Masheed  
21 Rosenqvist, from National Grid of Con Ed.

22 MR. NACHMIAS: Good afternoon. Thank you  
23 for the opportunity to share the views of the New  
24 York Transmission Owners with you today on these  
25 major issues. I am Stuart Nachmias from Con Edison

1 and I am together with Masheed Rosenqvist of  
2 National Grid. We have the privilege of  
3 representing our sector today and sharing with you  
4 our thoughts for the effective planning process in  
5 New York, one that completes the competitive markets  
6 that we have developed and that, as we have just  
7 discussed, work very well. I will cover issues  
8 related to reliability and Masheed will cover issues  
9 related to congestion.

10 For sure we need a needs assessment as  
11 part of our planning process, and the New York ISO  
12 should have the responsibility to identify regional  
13 reliability needs.

14 Transmission owners should have the  
15 responsibility to identify local reliability needs.

16 As to the identification of specific  
17 reliability projects, we have the responsibility and  
18 the authority to propose specific projects to  
19 address reliability needs that are identified by the  
20 New York ISOs planning process.

21 The New York ISO would have to verify that  
22 a project adequately addresses the identified need.

23 TOs should have the responsibility to  
24 construct these projects with up-front assurances  
25 that costs are fully recoverable through rates. The

1 TOs should have the ability to contest a New York  
2 ISO finding of reliability needs through the New  
3 York ISO dispute resolution process.

4 And, lastly, its transmission owners  
5 should be the back stop, subject to conditions of  
6 cost recovery for the development of solutions to  
7 meet reliability needs that are identified by the  
8 New York ISO and that are not met by market-driven  
9 proposals after the market has had the opportunity  
10 to propose such projects.

11 The Commission must not allow for an RFP  
12 at that point, if such a request for proposal is  
13 intended to provide regulated recovery, for all or  
14 part of the market solution will cause market  
15 solutions to wait for the RFP so that a subsequent  
16 need for development is available. This would all  
17 begin to unravel the competitive market.

18 The New York ISO planning process should  
19 also identify what we call gap reliability needs.  
20 These are interim needs to maintain reliability  
21 until a permanent project that maintains reliability  
22 and has been identified and included in the plan is  
23 completed. Gap projects should include  
24 transmission, demand response, and generation.

25 And the appropriate transmission owner or

1 owners would identify the specific project to meet  
2 that need and take the lead with coordination among  
3 appropriate regulatory bodies on the development of  
4 the project that is specified.

5 The transmission owners also are  
6 identifying the need to provide appropriate signals  
7 for the developers to locate their facilities so  
8 that the output is deliverable to the loads that  
9 need it.

10 The discussion involves consideration of  
11 three methods to address the deliverability,  
12 including:

13 One, using locational capacity markets and  
14 requirements as is the current practice in New York.

15 Two, the PJM methodology to require  
16 deliverability for persons to be able to qualify for  
17 self-capacity.

18 Three, a combination of those two.

19 We are currently considering the process  
20 and counsel of these methodologies in both the  
21 context of complying with 2003 as well as working  
22 through the New York ISO as stakeholders' committees  
23 in development of this planning process.

24 And the last issue I will cover is the  
25 recovery of costs related to construction of

1 liability projects.

2 TOs should be assured by the Public  
3 Service Commission and FERC of a full-cost recovery,  
4 including alternative methods for reliability  
5 projects.

6 Reliability projects need to comply with  
7 FERC and with PSC, and New York State reliability  
8 counsel are quite serious that provided system-wide  
9 benefits should be funded by ratepayers throughout  
10 the state, and projects that require local benefits  
11 should be funded by ratepayers locally.

12 The transmission owners will support the  
13 development. The transmission owners are working to  
14 determine if it is possible to have criteria for the  
15 allocation of costs for a transmission project to  
16 address economic needs, which would be approved by  
17 FERC and the PSC and adopted as part of the NYISO  
18 planning process.

19 Now, I will turn it over to Masheed.

20 MR. ROSENQVIST: Thank you. Good  
21 afternoon. My name is Masheed Rosenqvist, and my  
22 focus is on planning for market efficiency.

23 Providing information about historical  
24 congestion is the first step in understanding the  
25 causes and impact of congestion.

1           New York ISO prerecords rates for some  
2           concern among market participants as to the most  
3           appropriate measure of true congestion in an LMP  
4           world. The work is underway at the electric system  
5           planning working group to better define quantified  
6           congestion. The transmission owners also understand  
7           that there is a general desire for a forecast of the  
8           congestion.

9           We support the projection of future  
10          congestion by New York ISO, provided that the  
11          assumption upon which the projections are based are  
12          reviewed, and are approved in the NYISO committee  
13          process. The range of function and the  
14          corresponding results are provided and projections  
15          are accompanied by appropriate disclaimers on  
16          assumptions that may or may not prove to be correct.

17          How to identify projects to relieve  
18          congestion: In the first instance, market  
19          participation would, on an ongoing basis, take  
20          action that may lead to market based investments  
21          that potentially address economic needs.

22          If the market does not respond adequately,  
23          the transmission owner may propose a regulated  
24          solution to relieve such a condition. It is  
25          proposed that the determination for a regulated

1 project to address an economic need will be made by  
2 the FERC and the New York PSE. The New York ISO  
3 would not make that determination but will report  
4 its view on the proposed regulated projects to the  
5 regulators for their consideration.

6 How to recover cost-regulated projects  
7 that relieve congestion: If a Keogh constructs the  
8 transmission project on a regulated process, the  
9 Keogh should be assured the full cost recovery from  
10 the regulator; in applying the beneficial pay  
11 concept is not easy and without significant issues.  
12 The transmission owners are working to determine if  
13 it's possible to have criteria for cost allocation  
14 for such transmission projects that address economic  
15 needs, which will then be approved by FERC and the  
16 PSC and adopted as part of the New York ISO planning  
17 process.

18 Any such criteria will be netted through  
19 the stakeholder process and would qualify as the PSC  
20 national.

21 We will be happy to answer any questions  
22 you may have.

23 MS. ROBINSON: The next panelist is Jim  
24 Parmelee, representing Public Power Environmental  
25 Center.

1                   MR. PARMELEE:     Good afternoon.  I'm Jim  
2     Parmelee, Director of Power America for Long Island  
3     Power Authority.  I also chair the budget standards  
4     and performance committee of New York ISO.

5                   Today I'm representing the public  
6     environmental sector, which consists of three  
7     subsectors:  Public power authorities, municipal  
8     utilities and environmental groups.  On behalf of  
9     all of us, I would like to thank FERC for this  
10    opportunity to provide input on the wholesale power  
11    market platform and regional flexibility.

12                  In such a diverse sector, a consensus is  
13    often difficult to reach.  I believe that most of  
14    what I say today represents the majority position of  
15    our sector.  If it isn't, then I'm sure someone from  
16    our sector will speak up.

17                  As Bill Museler mentioned in his  
18    presentation, development of the transmission  
19    planning in areas where market participants are  
20    actively working with New York ISO to develop a  
21    process more compliant with the FERC wholesale Power  
22    measuring platform.

23                  Many in our sector  are actively involved  
24    in the Electric System Planning Group addressing  
25    this issue.  They supported the phase one process,

1 and I believe you have a general consensus in many  
2 areas of the phase two process.

3 I think some of the key areas of agreement  
4 in our sector includes:

5 One, the planning process should report  
6 the cost congestion in a manner that helps to  
7 facilitate the correct solution to transmission  
8 issues. Careful attention must be made to  
9 developing definitions of how congestion is handled  
10 to avoid inappropriate responses to congestion.

11 Different measurements may be required for  
12 different purposes. For instance, the measurement  
13 of congestion in the New York ISO power alert,  
14 three, while adequate for reporting overall levels  
15 of congestion occurring in the ISO, it would be  
16 misapplied if used on the side of the wind built  
17 transmission. It grossly overstates the revenues  
18 that building congestion relief projects would  
19 receive in the market building such projects. It  
20 would also be misapplied if it were used to gauge  
21 benefits of a congestion relief project to load or  
22 the overall benefit to society. The Electric System  
23 Planning Group is working on developing appropriate  
24 measurement criteria.

25 Two: Resolution of transmission problems

1       should be open to all types of solutions, including  
2       transmission generation, distributed generation, and  
3       demand side management measures.

4                 Within the past few years, LIPA has used  
5       all of these approaches to address local liability  
6       issues. The planning process should facilitate  
7       finding the best lowest-cost solution.

8                 The process also needs to consider other  
9       criteria, such as ensuring the project is sited and  
10      built in a timely manner, and the project is able to  
11      address reliability problems adequately and does not  
12      adversely affect the functioning of the competitive  
13      market.

14                Three: To allow the market to work, the  
15      planning process must identify both reliability and  
16      market needs for transmission.

17                And we recognize that most projects will  
18      have both market and reliability benefits. Because  
19      of this, opportunity should be provided to the  
20      market to develop solutions to the problem prior to  
21      intervention by a planning process, whenever  
22      possible.

23                Generally, we believe that reliability  
24      projects should be treated somewhat differently than  
25      market-based projects.

1           For the next minute I'm going to focus on  
2           the reliability-based projects.

3           First, for projects built primarily for  
4           reliability, the agreed ISO process should address  
5           both power assisted reliability and then  
6           transmission owners should be able to identify local  
7           reliability needs that the ISO will not capture.

8           Second, in the event that other solutions  
9           to the reliability issues are not viable, the  
10          transmission owners should have the obligation to  
11          implement transmission-based solutions.

12          Such an obligation should be implemented  
13          towards the end of the planning process and is  
14          subject to the ability to secure the necessary  
15          permits.

16          In assuming this obligation, the  
17          transmission owner must be assured of the way of  
18          recovering the cost of building, financing and  
19          operating the project.

20          Third, we agree that in the event that  
21          long-term solutions cannot be implemented in times  
22          of duress, reliability needs, there is a need to  
23          construct on an interim basis gap projects that  
24          address reliability needs.

25          Our sector needs to reach a consensus on

1 the details of implementing such gap projects.

2 Next, I will address the need for  
3 transmission to support markets.

4 While there is much agreement regarding  
5 the reliability-based projects, there is less  
6 consensus about the market-based projects. For  
7 purely market-based solutions to work, the market  
8 must provide proper pricing to all types of  
9 solutions.

10 Generation, inside management and merchant  
11 transmission projects must receive appropriate  
12 compensation for services they provide to the  
13 market. This includes compensation for energy  
14 capacity ancillary services.

15 Currently New York ISO is a leader in this  
16 area compared to its neighbor ISO/RTOs; however, the  
17 New York ISO does not provide full compensation for  
18 energy capacity ancillary services for all types of  
19 solutions. These issues will need to be addressed  
20 in the ISO market design in the planning process.

21 Given the current market structure or even  
22 with enhanced compensation for the benefits provided  
23 by the projects, there may be times when the market  
24 does not provide solutions to congestion problems  
25 that need to have resolution. We have less

1 agreement amongst ourselves whether regulated  
2 projects should be built through the planning  
3 process, and if regulated projects are to be built,  
4 how to do it.

5 However, if one accepts the presumption  
6 that there are to be such regulated projects, we do  
7 have agreement in the following areas:

8 First, the New York ISO planning process  
9 should identify the need for regulated congestion  
10 relief projects, and transmission owners should be  
11 allowed to propose regulated projects.

12 Regulators, such as the New York PSC and  
13 perhaps FERC, should play a clear role in  
14 determining whether such identified projects  
15 actually do get built and how the costs are  
16 recovered.

17 While cost recovery should be assured to  
18 those who build regulated projects, there should not  
19 be the opportunity for such builders to double dip  
20 by collecting both the market benefits of the  
21 project, plus the full cost of building the project.  
22 Cost- regulated projects could be offset by any  
23 market benefit revenues received.

24 If such regulated projects are built,  
25 those that benefit from the project should pay for

1 the cost of building the project. Of course, that's  
2 a difficult nut to crack.

3 The above discussion is focused on the New  
4 York ISO planning process. We also believe that it  
5 is essential for there to be a regional planning  
6 process that provides for stakeholders' input for  
7 the development of regional plans.

8 As with the New York process, stakeholders  
9 input is essential to ensure that the cost of  
10 mistakes are voided and the interest of market  
11 participants are protected.

12 For New York, the planning region should  
13 especially comprise all the national systems. In  
14 many ways, regional issues are the same as the New  
15 York issues, but more complex because of the seams  
16 issues that interfere with the market-based  
17 solutions. LIPA's experience with both the merchant  
18 and the regulated transmission across the seams has  
19 not been good. Not only has the politics in  
20 Connecticut prevented operation of new lines and  
21 suggested removal of existing lines, but the market  
22 rules between the national ISALIPS have prevented  
23 scheduling the transactions and the flow of energy  
24 across lines. This inability has not only adversely  
25 affected supply, but all the market participants

1 that should be able to use the transmission lines.

2 Resolution of these issues is difficult  
3 since it requires a cooperation, interest and  
4 commitment of all of those involved ISOs to reach a  
5 solution. While LIPA continues to work with the  
6 stakeholders and the ISOs for solutions to these  
7 problems, the performance to date has been  
8 discovering that based on the track record those  
9 looking to invest in inter-ISO transmission should  
10 be cautious.

11 In closing, I would like to observe that  
12 the development of answers to these issues, to both  
13 the New York planning process and the regional  
14 planning process, will be a challenge to the  
15 stakeholders and the ISOs. We look forward to the  
16 opportunity to present our solutions to FERC. We  
17 urge FERC to provide the flexibility for a New York  
18 consensus-based solution, provided such a solution  
19 is able to work well within the regional planning  
20 process and regional work.

21 MS. ROBINSON: Next we will hear from  
22 Mike Mager, representing the end users sector.

23 MR. MAGER: Thank you. Good afternoon.  
24 Thank you for the opportunity to speak with you  
25 today regarding transmission planning and incentives

1 for infrastructure development. My name is Michael  
2 Mager. I'm counsel for Multiple Intervenors, which  
3 is an association of 57 large commercial and  
4 industrial consumers with facilities located  
5 throughout New York State.

6 Multiple Intervenors is an active  
7 participant in the New York ISO community and the  
8 various proceedings before the New York Public  
9 Service Commission and FERC.

10 Initially Multiple Intervenors would like  
11 to commend the New York ISO for initiating a  
12 planning process that will address the need for  
13 additional investment and transmission  
14 infrastructure. The members of Multiple Intervenors  
15 require reliable electric service for their  
16 business. Although it appears the August 14th  
17 blackout was caused by circumstances unrelated to  
18 the New York bulk power system, that event does  
19 serve as an important reminder that reliability  
20 cannot be taken for granted and infrastructure  
21 cannot be neglected.

22 At the same time, how capital investment  
23 and transmission infrastructure should proceed in  
24 unregulated markets, and who should pay for it are  
25 incredibly complex issues. Any rush to spend money

1 must be weighed against the fact that unregulated  
2 electricity prices in New York during 2003 have been  
3 the highest since the New York ISO began operations.  
4 These high prices are having an adverse impact on  
5 the competitiveness of New York's businesses and the  
6 state's economy as a whole. Therefore, any  
7 evaluation of transmission infrastructure  
8 requirements must proceed deliberately, with full  
9 consideration of the effects of New York's nascent  
10 marketplace and our consumers.

11           There is general recognition that,  
12 ideally, transmission planning should take place at  
13 the regional level. Transmission planning in New  
14 York cannot ignore what is happening outside of the  
15 State's borders, particularly in the adjoining  
16 control area.

17           Given the mixture of regulated entities  
18 and competitive energy markets, it is not clear at  
19 this time precisely what entity or entities should  
20 be responsible for planning. Therefore, we urge  
21 that the roles of the New York ISO and the New York  
22 PSC and FERC be clarified with respect to  
23 transmission planning.

24           It is Multiple Intervenors' expectations  
25 that the New York ISOs initial planning efforts will

1 be informational in nature. Clearly, the planning  
2 structures must be cognizant of what the market is  
3 doing to solve constraint problems. For example, in  
4 the New York ISOs markets, generators have responded  
5 to price signals by obtaining permits to site power  
6 plants on the constrained side of the system. This  
7 is precisely what LBMP was designed to do. The fact  
8 that actual construction has been delayed or  
9 postponed is a reflection of uncertain credit  
10 markets and other factors, but not incorrect price  
11 signals. Moreover, to the extent that planning  
12 efforts indicate that new generation will not be  
13 available to solve a constraint and, therefore, that  
14 additional transmission investment is needed, it is  
15 Multiple Intervenors' hope that the market will  
16 respond to those signals in a timely manner.

17           However, if the market fails to respond,  
18 it may be necessary for some entity to step in to  
19 ensure that needed transmission investment is made  
20 to preserve reliability. Multiple Intervenors  
21 believes that the New York ISO, the New York City  
22 PSC and FERC all possess requisite authority to take  
23 certain steps to ensure that necessary  
24 infrastructure investments are made. For instance,  
25 the New York PSC still regulates the New York

1 State's transmission owners and could direct one or  
2 more such companies to construct a transmission line  
3 that is needed to maintain reliability. However,  
4 before such a mandate could interfere with  
5 unregulated markets, that authority must be  
6 exercised judicially. Potential transmission  
7 upgrades for reliability purposes must be evaluated  
8 on a case-by-case basis, and the responsible entity  
9 should strive to ensure that, to the greatest extent  
10 practicable, the beneficiaries of the upgrade pay  
11 for the investment and hold other customers harmless  
12 from any adverse price impacts. For instance,  
13 customers on the unconstrained side of a constrained  
14 system should not be required to fund upgrades that  
15 will increase their prices with no offsetting  
16 benefit.

17 This hold harmless principle applies with  
18 even greater force when transmission upgrades are  
19 proposed for economic purposes. Since upgrades  
20 affect market participants on both sides of the  
21 constraint and could result in financial harm to  
22 generators, marketers and consumers who made  
23 investments, entered into contracts, or otherwise  
24 hedged their positions based on their forecast of  
25 market forces undisturbed by governmental

1 interference. Regulators should be extremely  
2 cautious about ordering upgrades for economic  
3 purposes only, and if they do, they should follow  
4 this "hold harmless" recovery principle.

5 Turning to the issue of incentives:  
6 Multiple Intervenors is very concerned that  
7 customers not be asked to fund excessive rates of  
8 return to ensure a reliable electric infrastructure.  
9 For regulated transmission service, Multiple  
10 Investors supports cost-based ratemaking.

11 On March 13th of this year, Multiple  
12 Intervenors filed comments in response to FERC's  
13 Notice of Proposed Policy Statement in a document  
14 entitled "Proposed Pricing Policy for Efficient  
15 Operation and Expansion of Transmission Grid." In  
16 those comments, Multiple Intervenors recommended  
17 that FERC refrain from adopting its proposed policy,  
18 which would have provided financial incentives, in  
19 the form of higher authorized rates of return, to  
20 entities that transfer operational control of  
21 transmission facilities to an RTO and/or that  
22 participate in an ITC. While Multiple Intervenors  
23 support efforts to increase investments in  
24 transmission infrastructure, it has a number of  
25 concerns regarding the direction of FERC's proposed

1 policy.

2 First, the proposed policy appears to  
3 create significant opportunities for free ridership.  
4 For instance, in New York the state transmission  
5 owners have already transferred operational control  
6 of their transmission assets to the New York ISO.  
7 These entities do not require additional financial  
8 incentives to do what they have already done.

9 Second, it has not been demonstrated that  
10 the formation of ITCs will provide substantial  
11 financial benefits to consumers. Multiple  
12 intervenors is unaware of any economic analysis  
13 which demonstrates that ITC participation in an RTO  
14 or ISO will promote transmission grid investment and  
15 a commensurate reduction in prices, to justify the  
16 results of inflated rates of return. Moreover, the  
17 free ridership concerns that I mentioned earlier are  
18 also present with respect to ITCs. For instance, a  
19 number of New York's transmission owners have  
20 expressed an interest in forming or joining an ITC,  
21 even without the promise of financial incentives  
22 that may be wholly unnecessary.

23 Third, the financial incentives discussed  
24 in the proposed Policy Statement are substantial and  
25 would result in higher prices for consumers. As

1       noted earlier, consumers, particularly New York  
2       businesses, cannot afford higher electricity prices.  
3       Moreover, there has been no demonstration that the  
4       benefits of the desired transmission investment --  
5       assuming it materializes -- would offset the impact  
6       of layering substantial financial incentives on top  
7       of cost-based rates. Without the proper analyses  
8       being undertaken, the proposed policy is just a big  
9       gamble with consumers' money.

10               In conclusion, Multiple Intervenors  
11       supports competitive energy markets and, in the  
12       first instance, would like to see the marketplace  
13       address the need for additional transmission  
14       investment. The New York ISO planning process  
15       represents an important first step in identifying  
16       what investments may be needed and provided market  
17       participants with helpful information to evaluate  
18       potential investments. However, if the market fails  
19       to respond, there must be a way to ensure that  
20       necessary investments are, in fact, made,  
21       particularly those needed to ensure reliability.

22               The New York ISO, the New York PSC and  
23       FERC must work together to ensure that reliability  
24       is maintained, even if it means directing that  
25       certain upgrades be undertaken. However, in

1       considering possible transmission investments, due  
2       consideration must be accorded to potential cost  
3       impacts on consumers.

4               Thank you for the opportunity to present  
5       Multiple Intervenors' issues on these important  
6       issues.

7               MS. ROBINSON:       Matt Picardi will  
8       represent the other suppliers.

9               MR. PICARDI:     I'm Matt Picardi, supplier  
10       of Coral Power, of the other sector representing the  
11       retail suppliers that operate in New York State, as  
12       well as wholesalers that find ways to hedge, expose  
13       it in the market for retailers who have utilities  
14       and all other market participants that are filed  
15       within the state.

16               For our other supplier sector, I think  
17       I'll do the short spot of this presentation because  
18       I worked on your -- I worked on RTO official citing  
19       applications back in the 1980's, and that qualified  
20       me, I guess, to be up here today.

21               But seriously, many of the issues that I  
22       recall thinking about back then on the regulated  
23       side, in some ways, are still here today, and what  
24       we could think about today is that we have a market  
25       where we are seeing -- look, in New York State, the

1 local pricing of coming lines valued in the form of  
2 transmission, demand-side response and generation,  
3 measuring generation or even generation put on a  
4 contract, and that's a very positive thing in a pool  
5 that we did not have in the late '80s and early  
6 '90s. If then you were looking at cost benefit  
7 analyses, from what I recall, if the merchant side  
8 of the business, the supplier sectors are concerns  
9 that are probably easy to define. We are concerned  
10 that to determine the transmission planning process  
11 could end up frustrating the market, and have a huge  
12 impact on our ability to operate in the market.

13 Chairman Flynn recognized some of our  
14 concerns when he said regulated solutions should be  
15 avoided, if at all possible.

16 We commend the New York ISO for setting up  
17 the New York System Planning Electric Group. What  
18 that group means to us is not only do we get to see  
19 the operational decisions that are made, but we also  
20 get the opportunity to understand the potential  
21 business impact of those solutions on our ability to  
22 operate, depending on our ability to forecast and  
23 manage risk. And if we can do that by having access  
24 to information and understanding the direction the  
25 markets are going to proceed in, that is very

1 helpful, and it is helpful in two ways:

2 We understand that reliability issues are  
3 always going to be there and they are going to have  
4 to be addressed and those tend to be shorter-term  
5 type decisions relating to making sure that we are  
6 an operating system consisting of planning criteria.  
7 Where we are to be concerned is when we cross over  
8 to the economic side of the equation in dealing with  
9 congestion.

10 The other supplier groups pretty uniformly  
11 are opposed to a regulated solution in that area,  
12 but we think that New York State has an example of  
13 at least the proposal, and in some cases a lot of  
14 merchant solutions coming to the fold.

15 We think that we do need to continue to  
16 work on the incentives that are driving some of the  
17 investments that need to be made in merchant  
18 transmission and merchant generation, but we think  
19 that there has been a lot of good things that have  
20 been done.

21 The other concern is that we need to make  
22 sure that the planning process takes a regional  
23 approach. And we have the same access to  
24 information, to what's going on in the other  
25 regions.

1           One thing that the blackout showed us, and  
2           if you've been involved with transmission for a long  
3           time, that an investment or any change in the system  
4           in one spot can affect people in another spot. For  
5           example, my company holds an interest in  
6           transmission congestion contracts; we use those to  
7           hedge positions. We use those to sort of retailers  
8           or anybody in the market.

9           Well, we see an event, for example, TLRs  
10          being declared in Ontario, and those things you  
11          could find out probably have an impact on the value  
12          of or congestion contracts. Now, not that that  
13          shouldn't happen, it is just that as people are in  
14          the market trying to offer fixed price solutions to  
15          customers, we just need to know that that's  
16          something that can happen, for lack of a better  
17          term, "handicap" that, and understand that there is  
18          a potential for that and why. We want no guarantee  
19          when we make investments or honor the contracts, but  
20          we just want to be able to understand what we are  
21          facing.

22          So we think one challenge to commit the  
23          Federal Energy Regulatory Commission to is when you  
24          set all these regional or state projects and state  
25          commission committees, is how to get regions within

1 the northeast talking to each other so that when  
2 transmission investments or generation investments  
3 or other solutions are made, they are coordinated  
4 and we can get those projects done.

5 And Jim Parmalee from Long Island  
6 certainly addressed one of the concerns with the  
7 Crosstown Cable project.

8 So, I guess, from our sector's view, we  
9 had five basic points, and that is in the process of  
10 looking at transmission planning, don't discard the  
11 market solutions. We think we are at a point where  
12 there have been a lot of solutions proposed in New  
13 York. There's been a process where maybe all are  
14 not being implemented. Certainly the current  
15 environment, with the post-Enron credit issues, a  
16 lot of siting issues have made it difficult, but we  
17 think there are a lot of projects that came and will  
18 go forward.

19 Again, we need access information to the  
20 stakeholders in a given process, which New York has  
21 implemented. It just needs to be extended for the  
22 stakeholders to the regional state committee that  
23 FERC is considering as White Paper.

24 Once we go through this process of setting  
25 up a transmission plan process, we need to make sure

1       that the rules for when this economic versus  
2       reliability upgrade -- that is the direction in  
3       which we are heading, is very clear to us so we know  
4       the potential of liability investment, so we are not  
5       blindsided -- we can take some risk, but we continue  
6       to have to take the risk of unintended or unknown  
7       decisions. That will be difficult for our sector to  
8       operate.

9                 We also are a little concerned about  
10       providing regulated incentives to deal with  
11       congestion. We think that regulated investments  
12       competing with merchant investments are very  
13       difficult and have the possible of discovering or  
14       chasing that investment potential out of the market.  
15       We do look forward to working with New York ISO and  
16       other participants, on developing a transmission  
17       developing process that meets those needs.

18                MS. ROBINSON:       Finally, Glen Haake will  
19       be representing the generator sector, and he is also  
20       the Chair of the NYISO's transmission planning  
21       advisory subcommittee.

22                MR. HAAKE:        Thanks, Elaine. I am  
23       representing the Independent Power Producers of New  
24       York, and I thank you for this opportunity to  
25       address these issues on behalf of the independent

1 sector.

2 We start our talk with a couple of main  
3 principles, which we think embody the first  
4 commitment to SMD, as well as the approach that  
5 should be taken as we look to the transmission  
6 policy.

7 The first of these is that market forces,  
8 the interplay of competitive market forces will lead  
9 to the most efficient allocation and investment  
10 decisions, and the most efficient market design;

11 the second main principle is that planning  
12 rules should be developed to effect a level playing  
13 field in which all resource types, generation,  
14 transmission and demand-side resources can compete  
15 without any one type having a presence over the  
16 other.

17 This being baseball season, and I'm  
18 calling the second set, I'm reminded of a baseball  
19 photo that said, "When you come to a fork in the  
20 road, take it." Because we are at a fork in the  
21 road here and in light of the blackout, I think  
22 Chairman Flynn has already pointed out it would be  
23 easy to say that deregulation was the culprit, and  
24 that would be wrong.

25 It would be equally wrong to assume that

1 the only response that should be considered when  
2 planning for the electric system is transmission.  
3 And in this regard, I think the name of this panel  
4 being a "transmission planning panel" is a bit of a  
5 misnomer. It was this sensitivity that lead us in  
6 New York to entitle our new planning program the  
7 Electric System Planning Working Group, because it  
8 is not just a semantic difference to say we are not  
9 trying not to preordain the decision, before  
10 subsequent raising of transmission or demand-side  
11 management, that should be the most efficient  
12 response in a given condition.

13 NYISO has administered the planning market  
14 and the process should be structured in the manner  
15 that ensures market price signals that provide  
16 incentives for the market to respond to economic  
17 upgrades.

18 ISOs should not be in the business of  
19 directing economic upgrades.

20 It is our view that the theory that  
21 underlines the standard market design based on  
22 principles that location-based marginal pricing will  
23 send a signal that will spur the appropriate  
24 upgrades, allowing ISOs to undertake what is  
25 essentially a command and control function, is that

1 a fall-back to the regulated integrated resource  
2 planning paradigm is antithetical to the competitive  
3 market forces philosophy that has been at the center  
4 of FERC's efforts to develop competitive regional  
5 marketplaces via SMD.

6 Such a role for the ISOs would undermine  
7 the ability of suppliers to rely on competitive  
8 market signals as an accurate predictor of the value  
9 of their proposed projects and thereby render future  
10 development even more risky and uncertain than it  
11 already is.

12 This is particularly the case if  
13 independent projects are competing against regulated  
14 projects, without a guaranteed rate of return.

15 We need to be careful with regard to this  
16 issue as we develop the plans process further.

17 Also, our experience in New York shows us  
18 there has been no dearth of economic proposals for  
19 transmission upgrades and others. We have got  
20 several thousand "mail-wise" of transmission  
21 proposals to deal with congestion, and these include  
22 Pegasus, Conjunction Empire Connection, and I guess  
23 his project, PSEG Power's Bergen Line, and the  
24 beleaguered Cross Sound Cable. So it can't be said  
25 that the market is not responding to economic

1 upgrades or the upgrades that would be supported on  
2 an economic basis.

3 So it is our view that the focus of the  
4 planning process should be to identify needed  
5 reliability upgrades as opposed to doing economic  
6 upgrades.

7 If the market fails to respond to needed  
8 reliability upgrades, the ISOs first response should  
9 be to determine whether the existing market rules  
10 are flawed in such a manner that they are failing to  
11 send the appropriate market signals, and if they  
12 are, they should be revised to send those  
13 appropriate market signals to enable the market to  
14 respond to these needed reliability upgrades.

15 Only if the market fails to respond to the  
16 needed upgrades and the market rules are found not  
17 to be flawed, should the TOs be given the  
18 opportunity to undertake the upgrade outside of a  
19 competitive procurement process.

20 So that, again, the ISOs response or role  
21 should be to facilitate the RFP process to the best  
22 reliability needs that are not responded to by the  
23 marketplace.

24 And as we said, no in-house department  
25 fighting and no one resource having a preordained

1 advantage over the structure of the planning  
2 process. And that sending a regulated transmission  
3 should not have a right to cause fusion.

4 Criteria should be developed that we use  
5 to evaluate among competing programs, and that's one  
6 of the areas that we need to focus on, the planning  
7 process, as to how you would evaluate, and the  
8 procedure should be developed to address the  
9 possibility that a reliability upgrade project is  
10 canceled or delayed, and to address the operational  
11 impact, price impact. That is something we are  
12 dealing with here in New York, in terms of  
13 operational impacts of the market, of short-circuit  
14 issues that are here in New York City.

15 Infrastructure should be considered, but  
16 only if they can be structured for those in favor of  
17 a particular type of resource and they are available  
18 to all resources, not just available to regulated  
19 TOs.

20 And, finally, I would just like to say a  
21 few words on congestion. We believe that it is  
22 dangerous for ISOs to be forecasting future  
23 congestion, because that can send signals that are  
24 sent to the central market.

25 Congestion is different things to measure,

1 and it is open to a lot of different  
2 interpretations, so that sends a signal that you are  
3 sending the wrong signal to the market, as Mr. Flynn  
4 pointed out. Congestion can move a system quite a  
5 bit, and if we have a 10 year planning process it  
6 might be difficult to send that out or forecast.

7 Second, we would support a planning  
8 process identifying the components of the historical  
9 congestion, and in measuring congestion, we think it  
10 is important to distinguish between the system  
11 congestion and that which is associated with unusual  
12 circumstances, such as transmission outages or  
13 generation outages. It is really only a consistent  
14 cause of congestion that may warrant upgrades.

15 Changes in the congestion component of  
16 LBMP resulting from changed system conditions may  
17 merely result in a transfer of costs from those on  
18 the erstwhile constrained to those on the  
19 unconstrained side of the transmission constraining  
20 and, therefore, do not represent real savings to  
21 consumers at large.

22 Thank you for the opportunity to speak.

23 CHAIRMAN WOOD: I could also blink my  
24 eyes and be in Atlanta, except the accent is a  
25 little different.

1                   I have a lineup of the cost beneficiaries,  
2                   the last participatory funding camp, and I wonder,  
3                   let me ask you first: It seems to me, and this is  
4                   an issue that we have had in your major ISOS, we  
5                   have got pending issues right now with both New  
6                   England PJM on this whole issue of cost allocation.  
7                   I think if you addressed this with extreme clarity,  
8                   I would hope you would, early on in your next round  
9                   of the planning process, the first bullet of the  
10                  White Paper's fair cost allocation for existing --  
11                  and underline for new transmission -- what would it  
12                  be for the economic case? How would the cost be  
13                  allocated? What level of regulation would the ISO  
14                  recommend to the state and federal commissions about  
15                  allocation of that cost?

16                  If that question can be answered, then I  
17                  think you will have pretty clear choices as to  
18                  whether to build upon the market or by the  
19                  regulations. Let me ask, if you didn't build upon  
20                  the market and you folks, Masheed and Stuart, your  
21                  companies also have, as a provision, your companies  
22                  also have low-serving entities' responsibility;  
23                  could you, as a low-serving entity or could the  
24                  retailer as rater, a low-serving entity on behalf of  
25                  their customers, actually enter into a contract with

1 the merchant transmission, provide for an economic  
2 upgrade to access for generation maybe across the  
3 break? Can you do that under the state processes or  
4 are there economic issues if that merchant  
5 transmission project from, say, down to New York  
6 were built?

7 Could Con Ed actually negotiate with the  
8 employer of that service to get it, or do we just  
9 ultimately fall back to regulated economic projects?

10 MR. NACHMIAS: I think the answer to that  
11 question is, certainly in our competitive generator  
12 any competitive LLC could enter into a contract with  
13 any competitive subsequent rater or transmission  
14 combined with generation for any term that they  
15 desire.

16 As far as Con Edison as the regulated  
17 entity, we certainly can enter into a contract, but  
18 we certainly would work with our regulator on the  
19 recovery. The regulator would be the decision  
20 maker on how we can or if we can pass those costs on  
21 to our customers.

22 In fact, there is a 500 megawatt RFP that  
23 we did recently. We did enter into a contract with  
24 a generator to be built, come on service in a few  
25 years, and that was a project that we worked on for

1 the use of the process for the RFP.

2 CHAIRMAN WOOD: For the wires charge or  
3 the generation charge?

4 MR. NACHMIAS: Well, I guess it is really  
5 the contract charged and how that will get passed on  
6 to customers.

7 CHAIRMAN WOOD: More of a purchase power  
8 cost?

9 MR. NACHMIAS: Yes. I think it would be  
10 entering into a transmission, the contract costs,  
11 and that's exactly in the comments that Masheed  
12 said, a transmission's owner's, good, for economic  
13 purposes to propose the project and the New York  
14 FERC and someone can draw their own conclusion,  
15 whether or not that should go ahead, but would not  
16 necessarily have to be a standard process that the  
17 ISO has.

18 CHAIRMAN WOOD: I think what we are  
19 making absolutely crystal clear, you are members of  
20 the ISO clinic. This is the process that will work  
21 in the State of New York. This is how we should  
22 anticipate recovering costs of economically  
23 constructed merchant projects; our economically  
24 constructed projects that would be put on a  
25 regulated rate, here's how we would cost allocate



1 a regulated transmission working on the process,  
2 then we will all have made the decision that, in  
3 fact, the New York customer will, in fact, pay for  
4 that path. I don't know if it is the entire Lang  
5 study. That was made in the prior environment, but  
6 we are continuing that payment and added to that a  
7 regulated environment, and I think that project  
8 went, to say regulated as opposed to merchant, then,  
9 I think, that decision would have been made. So it  
10 won't change as the customer's status changes. It  
11 has already been decided.

12 CHAIRMAN WOOD: Regulated economic  
13 transmission world. As a transmission customer you  
14 are saying right, as long as he set up the reels or  
15 set it up, up front. Our problem is on a case-by-  
16 case basis, as we identify one project, a whole  
17 bunch of customers, say we are in a renovation  
18 project, I don't really have a bilateral project.  
19 If you bottom line, you are going to affect my  
20 price, so, therefore, we should hold you harmless,  
21 which I think I heard from this side of the table.  
22 How much, if they receive the if they haven't  
23 receive an act. So all is taking place in New York  
24 deciding what is appropriate.

25 CHAIRMAN WOOD: Why is it we are here

1       rather than on the PJM in New England? Do you think  
2       it is unique about New York, how its market is  
3       largely mature or I'm wondering what.

4               MR. ROSENQVIST:     May I offer one. The  
5       way the rate design is now in New England, rates in  
6       New York are bundled with T and E or what generation  
7       should be. Even transmission owners have to do the  
8       right thing because of the right impact.

9               For example, I was using my space outside  
10       and folks in New York seem to be perfectly happy  
11       between, some jumped on me for the magnitude of it,  
12       some are 600 million dollars a year on congestion  
13       studies, but they don't want to discuss half that  
14       cost, of the transmission that would save the entire  
15       region.

16              CHAIRMAN WOOD:     That's before?

17              MR. ROSENQVIST:    That's before individual  
18       calls could be continued throughout.

19              CHAIRMAN WOOD:     How does that work? I  
20       can understand that the state still has a regulated  
21       rate.

22              What is it that you are representing here  
23       that is different than the other states?

24              MR. HAAKE:        One of the differences, as  
25       Masheed says, is the transmission goes up, the

1 transmission owner charges for transmission,  
2 delivery services can go up.

3 In New York, depending on the entity that  
4 is providing transmission services, there is a  
5 different arrangement for each utility. They may  
6 not be able to pass those increased costs on to the  
7 consumer.

8 MR. NACHMIAS: Sure I was going to say one  
9 of the differences in New York compared to PJM is we  
10 have a much higher level of outages; so we have much  
11 more competitive owners, competitive developers, and  
12 I think we see them respond to many of the signals  
13 and we also see congestion changes over time because  
14 of transmission outages or the next or other  
15 changes, as Chairman Flynn pointed out.

16 And I think all the panels are confirmed  
17 because we see so many merchant projects be  
18 developed both on agreements, because the effect of  
19 the forecasts are real on the developers. They  
20 forecast and if they're right and they take risk,  
21 they will win. If they don't, they will lose. It  
22 is on them and not regulated customers, and I think  
23 we are all very wary of regulated intervention for  
24 congestion, being those are costs that are then  
25 based on consumers for the next number of years

1 going forward, and we just want to be very cautious.

2 One, if there are costs like that, how do  
3 you determine them and how would you pass them on?  
4 And I think there is a variety. There are some of  
5 us that think case-by-case may work best. The  
6 markets are so new and we are seeking competitive  
7 solutions to develop for the first time. We have to  
8 see what happens. There are other factors that  
9 confound it, but financially, the main thing, over  
10 time, we may work out over time.

11 Then there are others of us that think we  
12 may need a more specific process.

13 So it is just a very tough call as we work  
14 with the market; as we try to work, we certainly  
15 want to be prudent of what the decision is, but we  
16 don't want to pull the rug out from the current  
17 investments that are coming forward.

18 MR. MAGER: I just want to jump in and  
19 follow up on a couple of Stuart's comments.

20 I think the preferred response is a  
21 market-based response. I think New York  
22 stakeholders, as a whole, support that and I think  
23 the difference sometimes between the sectors shows  
24 up when you ask the question: What if the market  
25 doesn't respond, and we have pretty new markets?

1       There is not a lot of history here, and we don't  
2       know for sure. There are a lot of projects on the  
3       drawing board. It looks like the market is  
4       responding to price signals and is responding.

5               But I think where some sectors differ and  
6       I think where the end-use consumer sectors perhaps  
7       differ from the other sectors is that where there is  
8       no market response or where it appears that the  
9       market response is connected, is questionable or is  
10      going to be unduly delayed, I think we are more open  
11      to regulated response, particularly in the event of  
12      ensuring the liability, which we don't think can be  
13      compromised.

14              So I think we differ from other sectors  
15      to, say, let the market work and then don't address  
16      what happens if it doesn't.

17              In terms of cost recovery principles, I  
18      guess, I think we kind of preferred a combination of  
19      different approaches. I think because this is such  
20      a complicated issue and the facts differ from  
21      project to project, I think it has to be a case-by-  
22      case analysis, but at the same time, I think it is  
23      important to establish guiding principles with some  
24      specificity to put out there and agreed upon.

25              That people have a good idea what the

1 rules are probably is going to be subject to  
2 case-by-case variances.

3 CHAIRMAN WOOD: I recommend that we don't  
4 go through that. To look at the neighbors PJM and  
5 NIA of New England, we are moving down toward a  
6 relatively crisp definition, they are not unanimous,  
7 but there are definitely crisp definitions.

8 But ISO in many of those cases is involved  
9 very aggressively on the front end of saying to  
10 transmission owners of all stripes what their local  
11 level of projects are, look at their own expertise,  
12 what their interim utility and inner regional  
13 projects are, and I think as you all talked about  
14 more consultation with the neighbors, what they are  
15 planning to do as well.

16 But, again, that's probably more down the  
17 road, but we want to make sure that the regional  
18 plan is done through the expertise of the staff on  
19 the independent system since we are required to make  
20 sure that the more disinclination that we have seen  
21 across the country for utilities to build better  
22 interconnectivity to the neighboring utility, that  
23 that gets basically overridden on behalf of all of  
24 New York.

25 We are very strong in that concept. We

1       actually asked PJM to return quite an established  
2       process that they have, to not look at economic  
3       projects as well. That's not to say, however, that  
4       we go ahead and preordain, that those they know will  
5       be regulated projects included in FERC or state  
6       regulated transmission rate. But we do want those  
7       identified. We want the source, the same in that  
8       case would be congestion related, looked at and  
9       analyzed not just from whether we handle congestion  
10      from the last year and look at is there enough  
11      transmission and generation to meet that load? Do  
12      we understand the inability of this state to locate  
13      the generation there?

14                 Looking at really that kind of real broad  
15      view, where we need to think of new transmission  
16      because it is not a place we want to be skimpy, that  
17      it makes it one megawatt short of failure, a little  
18      robust in the transmission rate is not a bad thing.

19                 But that's what we look for as the  
20      planning process we identified, but it is up, again,  
21      to the stakeholders that we have pointed out here,  
22      and that you all are planning to do, to tell the  
23      world and tell us how we all need to allocate and,  
24      of course, we refer to the regional state committee,  
25      which will be one commission.

1           The first preference is how particularly  
2 economic transmission upgrades, if there had to be a  
3 filed and regulated entity, would be paid for.

4           Once that vote sought there, the merchant  
5 guys know exactly what they have to compete against,  
6 the customers know if or how they are going to get a  
7 bill, and I think that stuff works.

8           Matt, you were going to add something  
9 else?

10           MR. PICARDI: Following up on the point  
11 earlier, I think from the supplier side, I think we  
12 would be, if the regulated transmission in making  
13 investments would relieve congestion, I think we  
14 would like to understand why the merchant responds  
15 to the signal entity that there was significant  
16 congestion. Why couldn't anybody do it? There was  
17 a site regulated then unregulated entity, but I  
18 think that would be one thing we would want to  
19 understand.

20           And then I think we'd like to see, at  
21 least on the economic side, give it time because  
22 even in this environment, where capital markets have  
23 been restricted in the post-Enron fallout, to see as  
24 many projects, especially the transmission side to  
25 come forward, can be quite remarkable.

1           I don't think we want to discourage those,  
2           but I think from our prospective, when we are in the  
3           process and in a working group, to make sure we  
4           understand why a merchant solution wouldn't work,  
5           for building on Pat's comments, in terms of the  
6           independent analysis, that's important to us  
7           effectively working.

8           I have a process question that any one of  
9           you or all of you can comment on.

10           You are going to file something with us in  
11           phase one, and I'm not quite sure what you are going  
12           to file in 2004, but then not until phase two is  
13           there any discussion of the determination of the  
14           ISO's role in the planning process. I guess in our  
15           minds that actually is the question. I think we  
16           have answered that question.

17           But maybe you want to take a shot at it  
18           and give us an idea of time lines on the second  
19           filing, and then you talk about necessary tariff  
20           changes, which is why I'm assuming it is divided  
21           into two phases, although planning, of course, needs  
22           to go on today, and I'm not quite sure how that is  
23           happening in a coordinated way, how that marries up  
24           to a regional planning perspective. Can you sort of  
25           dive down for me on those issues?

1                   MR. MUSELER:  If I could, I will try to  
2                   address that and let the market participants tell me  
3                   whether we get it right.

4                   The phase one is actually producing a  
5                   transmission plan that will include an assessment of  
6                   where we are, a look back on the cost of congestion  
7                   historically, and a look forward, based on what we  
8                   know, in terms of the state, of the system and the  
9                   needs of the system moving forward, particularly any  
10                  short-term reliability issues.

11                  So that we will certainly provide the  
12                  Commissioner with, but we don't feel -- we don't  
13                  need permission.  We don't need to file to go do  
14                  that.

15                  The filing we mentioned that we need to  
16                  make with you mid to late 2004 is a filing that will  
17                  define the rules that we have been discussing here.  
18                  What are the rules for determining reliability  
19                  projects?  How do you differentiate between  
20                  reliability projects and economic projects?  I think  
21                  the kinds of things you mentioned we at New England  
22                  and PJM are grappling with right now, and then the  
23                  response as, well, first, how we do that, the  
24                  criteria for how we make those evaluations,  
25                  including some scenario analysis, because you can't

1 predict the future accurately; and then the  
2 responsibility for who gets to make the final  
3 decision on both reliability projects, who can order  
4 reliability projects to be built; whether the cost  
5 of recovering rules that go along with that and the  
6 same thing for economic projects, where I gather  
7 there's certainly anonymity on how we handle that,  
8 and we actually can start working on those criteria.  
9 So our goal then is by the middle of next year we  
10 would have the addition of the phase one plan, that  
11 would not be other than an urgent reliability issue,  
12 that will not tell us to plan what may be built out  
13 in the future.

14 We will file the tariff requirements to  
15 get approval on how we will do the second part of  
16 that process. We don't anticipate that it will take  
17 a long time once that is approved, because we are  
18 going to keep working the process in the interim.

19 To then issue what I will call the first  
20 comprehensive system plan, probably within six to  
21 nine months, the time we would get approval on the  
22 changes to our tariff to allow us to do that.

23 So does that clarify, to some extent?

24 MS. ROBINSON: It clarifies a little.

25 So phase one is 2004, not a long time

1 after that is phase two, but "not a long time" in  
2 RTO words tends to be a decade. What's not a long  
3 time?

4 MR. MUSELER: Not a long time. There'll  
5 be a comprehensive plan issued not later than '05,  
6 the preliminary.

7 MS. ROBINSON: That's a long, long time  
8 in our minds.

9 MR. MUSELER: Well, we think it is going  
10 to take us a good bit of 2004 to get agreement on  
11 how we are going to allocate these area decisions,  
12 and, again, we will have the forward looking plan,  
13 but it will not have that initial plan phase one,  
14 which will be issued the middle of next year.

15 That will not have a, I will call it, it  
16 won't have the recommendations on here, the specific  
17 projects that need to be dealt with from a long-term  
18 reliability standpoint or from an economic  
19 standpoint. Any specific projects, we won't be  
20 addressing any short-term liability needs at that  
21 point.

22 MS. ROBINSON: Will you have to see both  
23 phases move a little faster?

24 MR. MUSELER: Let me be clear. On the  
25 RTOs, it is the planning committee's mission to

1 outline kind of rules of the road, bring some  
2 consensus, but the analytics of implementing, the  
3 analytics will be done by the ISO and not by the  
4 transmission owners themselves. It will be this  
5 independent variable.

6 MR. PARMELEE: Saying the analytics will  
7 be done by the ISO, I agree. But we are still  
8 looking at the state's supply process in the  
9 analysis and also reviewing the comments on that  
10 process as it moves forward.

11 MS. ROBINSON: Just wanted to make sure  
12 the door was open on the independent issue.

13 We didn't hear much on the demand response  
14 other than the passing reference. I don't know if  
15 anyone in the audience -- do you want to comment?

16 PARTICIPANT: If I may. I thank you for  
17 the opportunity.

18 MS. ROBINSON: Identify yourself.

19 MR. FERNANCE: With the Price Responsive  
20 Load Coalition. Thank you for the opportunity to  
21 specifically address demand side response resources.  
22 I want to also thank the Commission for being here.

23 The New York ISO has been at the forefront  
24 often in demand side response programs. They were  
25 the first ISO to have a day ahead demand response

1 program, and that program has been a great first  
2 step.

3 Moving the demand response forward,  
4 though, has required demand responses to be able to  
5 participate in all markets, that means day ahead,  
6 realtime and ancillary service markets, especially  
7 the compromised reserving markets we heard a lot  
8 about, to allow demand side's response to  
9 participate effectively in those markets, there has  
10 to be a proper sense for demand response to  
11 participate. Again, removing as many administrative  
12 hurdles as we can, and the New York ISO has been  
13 good about that, and as we need to move forward, not  
14 requiring owners metering or other infrastructure,  
15 but allowing people to participate.

16 Some additional things, the demand  
17 response needs to do as we have talked about, being  
18 able to participate in transmission problems. LIPA  
19 is a good example of using demand response to meet a  
20 transmission problem.

21 Unfortunately, or fortunately, many areas  
22 are deregulated, in terms of the load being served  
23 for someone else in the transmission openers, so the  
24 structure, I believe, the ISO has to be involved,  
25 should be involved in that process, and we have

1       talked allowing competitive solutions such as  
2       generation owners and demand side response to bids  
3       alongside transmission solutions to solve those  
4       reliability issues, as well as economic problems. I  
5       believe that the demand side response needs to be  
6       part of that.

7                Last, I would like to mention that with  
8       demand response is this whole ramp process, which  
9       you are going to be hearing a lot of, I think, in  
10      the coming months, and the capacity markets.

11              Demand side resources has a lot of issues  
12      with the current process. We have been active in  
13      these forums, and we are concerned about the  
14      capacity markets, that they allow for demand side  
15      response to effectively participate in those  
16      markets.

17              Some of the requirements that have been  
18      thrown around is that for demand side response, you  
19      have to have three years out, four years out to be  
20      able to commit to reducing so much, which often  
21      people don't know what they are going to be three or  
22      four years out, and often where you are going to be  
23      in your business process, you're business cycle  
24      three and four years out. Is this a difficulty for  
25      demand side response?

1           So all those issues, transmission, demand  
2 side response, participating effectively in the  
3 ancillary service markets and all energy markets,  
4 are things that demand side response wants to be  
5 more active in and we have had great support from  
6 both FERC, from the state and from others, from the  
7 ISO in trying to further demand side response, and I  
8 think with great retention in the interest of  
9 increasing participation in those programs. Thank  
10 you.

11           MR. NACHMIAS:    If I may, I would just  
12 like to briefly follow up on that.    Multiple  
13 Intervenors) has strengthened some of the ISOs and  
14 many of our members participate in those programs.

15           Initially I think that you folks should  
16 recognize that New York ISO has been a national  
17 leader in demand response programs and Bill and his  
18 staff have worked very diligently, have been making  
19 sure that demand has an opportunity to participate  
20 in New York ISO's markets, and has worked with us to  
21 try to overcome the barriers of demand response.

22           And I think kind of the initial phase of  
23 getting the demand response program off the ground  
24 has been completed and completed successfully. And  
25 I think now we are kind of moving to the next step

1 of how do we maintain and build upon the success we  
2 have achieved, and I think certainly demand response  
3 has to be considered in planning efforts and in the  
4 development of markets going forward, to make sure  
5 that demand, which obviously has some very unique  
6 characteristics as compared to generators and other  
7 options, does get to participate on a level playing  
8 field, and I think that's what we are looking for.

9 And so far I can say that the results  
10 achieved have been very successful. We look forward  
11 to working with the ISO and other market  
12 participants in building on that success.

13 MR. PICARDI: A lot of your questions are  
14 addressing the end response, I think merchant  
15 trained transmission is also the same issue of a  
16 level playing field.

17 And, again, New York has been a leader in  
18 developing the new cap market proposal to provide  
19 the capacity benefit for merchant transmission, but  
20 we still don't have in New York ancillary service  
21 market components nor merchant transmissions and in  
22 the national system, the New England ISO, the  
23 merchant transmission system does not have the  
24 capacity for the ordinance benefits to put it on a  
25 level playing field.

1                   MR. NACHMIAS:    I will agree with all my  
2    fellow panelists that depend response really has  
3    worked well and New York is an example of how it --  
4    one of the things going forward with the planning  
5    process is that there is not a process where  
6    customers at the end of the day will have to pay  
7    through a regulated process and reduce congestion,  
8    because the question is, will that reduce an  
9    incentive to pay visually for a depend response  
10   program that has been invested. In other words,  
11   will they even perhaps be paying twice, paying  
12   investment and demand response, and again for a  
13   transmission project.

14                   CHAIRMAN WOOD:   To follow up on that, is  
15   what I'm hearing, you do have probably the merchant  
16   progress per capita, at least for now. I was  
17   worried if the announcement would work, but just  
18   about anywhere else in the world. And I'm  
19   wondering, if this is the model that you all would  
20   go to, I think it would be, why this going to be the  
21   only way to do it?

22                   I'm a little worried though about who the  
23   customer for the merchant transmission project is.  
24   Who is the customer? Is that the load serving  
25   entity distribution wires company that is basically

1       souping up its expense ability? Does it go to the  
2       transmission license plate rate? Does it go, in the  
3       Con Ed mode serving entity distribution rate? Does  
4       it go in the Con Ed provider last resort purchase  
5       power rate? I mean, once I know who the customer  
6       is, then I can see that both of these public  
7       entities really get built.

8                 But as of now they are great headlines and  
9       a fun story. We have got one coming out this week  
10      from another part of the country, but I want to see  
11      them turn into hardware.

12                MR. NACHMIAS: I think we have lots of  
13      chickens and lots of eggs, and certainly competitive  
14      retail LSEs can sign agreements with transmission  
15      and generators to get power for their customers;  
16      generators might see agreements in order to sell  
17      their output into perhaps New York City, which is  
18      constrained.

19                The question is, really, what is the term  
20      of that agreement and really the need to, at that  
21      point, sign along with agreement? They don't know  
22      whether or not they will have those customers for  
23      the long term and I think that's the issue -- in  
24      time, as people become more comfortable with the  
25      format and are willing to take longer term

1 positions.

2 CHAIRMAN WOOD: I assume now they do not  
3 want to take that kind of risk. What do we know now  
4 that allows congestion to amount, even though it is  
5 economical to solve that with transmission  
6 construction.

7 MR. NACHMIAS: I think right now that's  
8 going back to the point earlier that the ISOs are  
9 the largest LSEs. If there is congestion in a  
10 project, that makes sense, should they look at that  
11 and propose that and make it make sense? Maybe it  
12 doesn't, but certainly through that process people  
13 will be able to work with the regulators and  
14 determine if that's the best course.

15 MR. PARMELEE: The one thing that it has  
16 hatched in Crosstown Cable, when those costs in the  
17 case of Long Island Power, they do not go into the  
18 Long Island service charge. They are part of the  
19 retail supply equation and the benefit is accrued to  
20 the retail customer along the power. So that  
21 decision was made in the case of the Crosstown Cable  
22 solutions facility. The customers are the end-use  
23 customers.

24 MR. PICARDI: I was just going to add, I  
25 think you have the point a little bit earlier with

1       Stuart, some of the projects that you look to get  
2       are the ones that are connected to the longer-term  
3       deal, where it may be an obligation to the fixed  
4       price and procedure. And part of that is the  
5       rationale for the idea that maybe we need to, within  
6       the group of the ISOs, the working group looks at  
7       management.

8                   CHAIRMAN WOOD:     And that, in effect, is  
9       saying the generators get the bill.

10                  MR. PICARDI:     Yes.

11                  MR. MASSEY:     There's a lot of comments and  
12       talk around this issue. Let me ask, more or less, a  
13       philosophical question, and it has been raised here  
14       today, it seems to me. We are talking about a level  
15       playing field for all resources.

16                  There seems to be a philosophical divide  
17       in the area of transmission planning, sort of a  
18       polarity debate. I'm not sure I hear it so much  
19       here, but I've heard it elsewhere. On the one hand,  
20       there are people, "Let's not worry about building  
21       the transmission grid. We need to upgrade. We have  
22       reliability issues in many parts of the country. We  
23       have too much congestion. We need to upgrade this  
24       backbone of our electricity system. Let's not worry  
25       about overbilling. You can never get too much

1 transmission." That's one side.

2 And the other side is "Well, wait a  
3 minute. What we really do want is a level playing  
4 field. You can resolve congestion in a variety of  
5 ways that have been discussed here today. We  
6 shouldn't throw money at transmission. FERC should  
7 not be offering additional incentives for those who  
8 want to build transmission projects."

9 And even though, I wonder, there's a lot  
10 of talk here about a level playing field, do you  
11 really want a level playing field? Is that what  
12 everyone at the panel wants? Let's not tilt for a  
13 transmission. Let's not tilt toward any particular  
14 resource in solving congestion problems, solving  
15 reliability problems.

16 How do you see it?

17 MR. MAGER: I will start off for now. I  
18 will take a break in answering that. One of the  
19 reasons you might see a divergence of opinion  
20 nationwide, I think it is easier to say you can't  
21 build enough transmission when you are paying  
22 build-on rates of three cents a kilowatt hour. And,  
23 unfortunately, in New York, we are seeking commodity  
24 prices along at six cents and up sometimes, and add  
25 on delivery. It is very expensive. We don't have

1 the luxury of spending indiscriminately.

2           Fortunately, however, I think New York's  
3 system is probably one of the most, if not the most  
4 reliable in the country. I don't think you see the  
5 reliability problems in New York that you may see  
6 elsewhere. And New York has probably the most  
7 stringent reliability rules of any state in the  
8 country, and because of that, probably devotes more  
9 attention to maintaining reliability.

10           In terms of the level playing field, I  
11 think, again, it comes down to a question of are you  
12 talking a project where it's for reliability  
13 purposes or economic purposes? And I think a lot  
14 more work needs to be done to distinguish those two  
15 because I think it is not a black and white choice,  
16 as it is easy to talk about.

17           But when you are talking about  
18 reliability, if we see that a transmission upgrade  
19 is needed to maintain reliability, that should be  
20 made. If that's the quickest way of adjusting the  
21 problem, it should be made.

22           When you are talking about an economic  
23 problem, an economic investment, I think it really  
24 is in the state's long term interest to look at all  
25 options on a level playing field. There may be

1 solutions to that economic problem that are less  
2 expensive to consumers. That, perhaps, in deciding,  
3 problems can be implemented more quickly.

4 It really has to be done on a case-by-case  
5 basis. We just want to make sure that if the market  
6 doesn't respond, there are some facts on it.

7 MR. HAAKE: I think it is crucial that we  
8 have a level playing field because I think if we  
9 don't have one, we are going to really prevent the  
10 independent sector from coming forward. And the  
11 reason is if you are a developer looking to  
12 capitalize on the fact of pushing congestion into an  
13 area, and a constrained area is going into risk to  
14 invest the funds to develop a project and to  
15 accommodate it in a constrained area, and you are at  
16 the mercy of having the rug pulled out from  
17 underneath you by a regulated project that comes in  
18 and has a guaranteed rate of recovery and a real leg  
19 up, I think it is going to operate with difficulty  
20 to convince the independent investor to go in and  
21 put that money at risk, to take those kind of  
22 chances.

23 And as Stuart said, it is really, perhaps,  
24 in the consumer's best interest that those risks are  
25 borne by independent entities as opposed to sort of

1 someone in control, the government type thing.  
2 Otherwise, you can see what we have seen in New  
3 York, which is a persistence of emergency generators  
4 have been to be brought in by the government, and  
5 that's not really the market design that we want to  
6 look to for the long term.

7 MR. PARMELEE: I think you are not seeing  
8 the divide here because a lot of people want to see  
9 the market work and they hope the market will work,  
10 providing a level playing field.

11 Where there seems to be a divide in New  
12 York is whether they are willing to accept the  
13 possibility that maybe even with the best level  
14 playing field, the rules may not produce a desired  
15 result, including transmission economics.

16 On the other hand, we have to be very  
17 careful, as I said early on, that we measure what is  
18 economically correct. Earlier Masheed pledged this  
19 6 to 900 million dollar cost per year of congestion,  
20 and that's exactly the fear that we have, because  
21 the way the market is structured, a lot of that nine  
22 million dollar cost is not a real cost.

23 It is handled by contract for differences.  
24 It is handled by the TCC revenues passed back to the  
25 holders of TCC and/or the revenues from the auctions

1 of those congestion contracts being used to reduce  
2 the transmission links.

3 You have to take out all of those feedback  
4 mechanisms, and depending on the region, congestion  
5 costs, that's the true congestion costs, may be a  
6 small fraction, possibly as small as five or 10  
7 percent of that total amount may be the true cost  
8 congestion, and Glen, in his talk, mentioned about  
9 the production cost savings caused by congestion  
10 being a measure of the actual cost congestion. And  
11 LIPA agrees that that's probably the lower boundary  
12 of what is the true cost congestion.

13 The upper boundary is somewhere a little  
14 higher than that, but certainly not the number that  
15 is expanding to that.

16 MR. ROSENQVIST: It is really hard to  
17 argue with phrases like "level playing field" and  
18 "resource parity" and some folks have really created  
19 -- you have to ask yourself, level playing feed for  
20 what?

21 We decided to go into the generation  
22 market and set up a competitive generation market  
23 and a man market later on to the two settlement  
24 bids, and we have a competitive market for each  
25 product.

1           The question we have is are we moving into  
2 a competitive market for transmission? Are we fully  
3 deregulating the markets as well as the  
4 transmission? Are we moving into -- I have seen a  
5 proposal actually that says: Bill transmission  
6 solid through rate holders, they can then withhold  
7 or bid into the market at the prices that they see  
8 the market bear, and you bid it only for the amount  
9 that you wish to bid.

10           So, basically, they are advocating a new  
11 structure for transmission that is not regulated,  
12 and any time you can withhold and say, "yes," as  
13 much as you can withhold generation into the market,  
14 and we are going to find out.

15           But that's the two paradigms. The two  
16 paradigms is, what the basis of this debate is  
17 should we deregulate the transmission markets, and  
18 basically there's no one there as they deregulate  
19 the market. Don't build any transmission unless  
20 somebody has to be around, somebody has to pay for  
21 transmission and you build anyway you want. Guess  
22 what is happening to them? There are a lot of jobs  
23 in Brazil for regulators and other companies.

24           They are going back to regulation. Now if  
25 we want to pull the rug out from under the market

1 for generation, well, let's try the deregulation for  
2 transmission as well.

3 We talk about level playing field, ask the  
4 generators in upstate New York whether they are  
5 competing on a level playing field for generators in  
6 New York City.

7 MR. NACHMIAS: I was going to say for  
8 reliability, the number one concern, I think,  
9 certainly regulated transmission in many cases is a  
10 needed solution, if there is a reliability issue.  
11 You need to ask quickly and swiftly and make sure  
12 that we have the system that we need.

13 When it comes to economics, with people  
14 responding to marginal pricing signal, we want to  
15 make sure that we are sure everybody has an  
16 opportunity to respond to the same signal, and LMP  
17 is the one that was encouraged to price the  
18 investment, which is high, and we just need to make  
19 sure of the level playing field. Everybody needs to  
20 respond to the top prices in the same way.

21 One of the concerns is you can increase  
22 congestion by either not acting when prices are high  
23 so they stay high or investing when prices go lower  
24 and you then increase congestion.

25 If it gets to a certain point in people,

1       then someone comes in with a regulated solution to  
2       respond, so that those prices are more levelized,  
3       you now have an incentive mechanism in which we  
4       think people will invest when prices are low. It is  
5       possible generally to do it in this way.  
6       Construction costs are blurred. People will build  
7       when costs are low, and wait for regulatory  
8       solutions. I think that is not a level playing  
9       field, and we just need to be careful about turning  
10      the incentives of a locational marginal system  
11      upside down.

12               MR. PICARDI:    The only comment I want to  
13      make, Commissioner Massey, is your question about  
14      the difference of New York and other places. Maybe  
15      where you want to make significant investments in  
16      transmissions. We have the locational-based system.  
17      Other places don't, so we see the value, economic  
18      value of moving power from one place to the next.

19               Many people are debating whether or not  
20      some type of regulating recession needs to deal with  
21      that and that is going to be something we are going  
22      to go through.

23               I just wanted to make the point that in  
24      addressing what Masheed said, I would be a little  
25      concerned to say we are not going to have a system

1 going forward because we think people are going to  
2 commit economic withholding and that behavior is  
3 certainly not condemned by any marketplace system,  
4 obviously, here and we're very active in this  
5 market, so people engage in that type of behavior.

6 I think Bill will pick up on it pretty  
7 quickly.

8 CHAIRMAN WOOD: Let me just add, panel two  
9 can start coming up.

10 Masheed, can you envision, I'm sorry, a  
11 project to resolve congestion that would be placed  
12 with regulated rates?

13 MR. ROSENQVIST: Of course.

14 MR. PICARDI: Then I assume the  
15 assumption would be, at that point, there is value  
16 that is not being captured by the market for  
17 whatever reason. It should be from the society or  
18 local benefit that needs to be dealt with, or  
19 addressed in terms of an investment of moving power  
20 from one place to another.

21 MR. MAGER: I think it is difficult to  
22 invest. I think that the markets address these  
23 issues, particularly with respect to economic  
24 upgrades.

25 The only thing I can envision is that a

1 significant economic need is identified, and the  
2 market is provided ample opportunity to respond, and  
3 for whatever reason fails to do so and, perhaps, I  
4 don't know, for cited reasons or something like  
5 that, it can only be done by a regulated entity and,  
6 again, I think we believe that the New York ISO has  
7 the authority to direct that those upgrades be  
8 built. We would prefer the market to handle it. We  
9 would expect the Commission to be reluctant to act  
10 unless it was shown that it had, and in those  
11 circumstances it would be very important, in our  
12 opinion, that the beneficiary of those upgrades pay  
13 for it.

14 MR. NACHMIAS: I would agree with a lot  
15 of what Mike just said.

16 I'd like to say that the market failures  
17 is legible versus ineligible, but frankly, I don't  
18 understand how that works.

19 So if there is a circumstance where the  
20 market truly fails and the regulators determine that  
21 some action is needed, in that case, but generally  
22 speaking, we think the process should be set up to  
23 let the process work.

24 MR. PARMELEE: In many ways I think I  
25 would echo what Mike and Sue said. You would have

1 to have a persistent market problem on an historical  
2 and projecting basis; using that range of projection  
3 demonstrated that the market was not responding to a  
4 significant societal loss because the projects were  
5 not being built. I emphasize societal loss because  
6 it is key to the measurement process. You have to  
7 have the right measurements to make that decision  
8 and then you would have rationale for a regulated  
9 type of solution.

10 MR. HAAKE: I think the point is that it  
11 has been well made. It is the quality of  
12 conditions, it is unlikely where the market does not  
13 respond to decongestion, unless there is some  
14 impediment that can't be overcome. I'm having  
15 difficulty envisioning it, but I fully expect it to  
16 happen.

17 MS. ROBINSON: Chairman, would you like  
18 us to take our scheduled break while we switch  
19 panels or move ahead?

20 CHAIRMAN WOOD: Keep going because we are  
21 way behind.

22 MS. ROBINSON: If this panel would take  
23 their name plates with them and panel two step  
24 forward.

25 MR. RUDENBUSCH: There is a lot of

1       disagreement that goes on in New York. We do know  
2       how to get things done in New York, even though we  
3       appreciate having FERC as a back up.

4               As mentioned earlier, the Public  
5       Power and Environmental Party's sector has three  
6       basic subsectors. There are two state power  
7       authorities that have their own subsectors. The  
8       environmental parties have a subsector and there are  
9       50 municipal utilities that have a subsector. I am  
10      here on behalf of a subgroup of those utilities  
11      known as FERC orders as the New York municipal.

12             I'm here to talk about the scope  
13      and regional configuration requirement of the  
14      wholesale market platform. I think part of the  
15      public power sector appreciated the issuance of the  
16      white paper on April 28th. We think that it made  
17      some needed adjustments to the direction of the  
18      notice of proposed ruling that was taken. We look  
19      forward to the incorporation of the white paper in  
20      the final rule.

21             The White Paper Commission states it will  
22      not require ISOs to meet the scope and regional  
23      configuration requirement of the final rule.  
24      However, that is to say all must actively pursue  
25      regional coordination of the ISOs.

1           My first point here is the New York ISO is  
2 actively pursuing inter-regional coordination in a  
3 generally satisfying manner. The number of specific  
4 topics have been alluded to already but progress is  
5 being made in reducing seams.

6           Most of the parties in the public power  
7 sector, along with the great majority of other  
8 market participants in both New England and New  
9 York, rejected the mandate of the northeast RTO.  
10 Costs simply outweigh benefits.

11           The message I think that I would like to  
12 convey is that we say "no" to RTO but "yes" to  
13 broader regional markets.

14           For example, New York ISO are working on a  
15 proposal called virtual regional dispatch, or VRD.

16  
17 That joint proposal is based on the New York  
18 website, and I'm sure the New York website was well  
19 -- but, basically, the idea is two ISOs would take  
20 it upon themselves to interchange schedules between  
21 the two control areas so that the prices, at the  
22 proxy buses' coverage, can be -- this simulates the  
23 effect of having one system dispatch for New York.

24           VRD achieves the benefits of a similar  
25 system dispatch without the cost of building the

1 infrastructure and bureaucracy that were embedded in

1 the New England RTO proposal.

2 The power authorities are supportive of  
3 VRD. MEUs are more cautious, take a wait and see  
4 attitude, but at this point, the New York municipals  
5 are not opposed to VRDs.

6 My second topic is pancake transmission  
7 rates. The white paper specifically mentions the  
8 goal of elimination of multiple access fees for  
9 transactions that cross ISO borders.

10 Page 8 mentions that rate mechanisms  
11 should be used to minimize cost shifts and the  
12 Appendix A to the white paper talks about  
13 adjustments to revenue requirements that may be  
14 necessary.

15 New York and New England are discussing  
16 the reciprocal waiver of multiple access fees as  
17 opposed to cross-border transactions, the concept,  
18 and, more particularly, there is a proposal of New  
19 York ISO and the New York transmission owners that  
20 they issued which is also available on the website.

21 The June 18th proposal of New York ISO and  
22 TOs contains a statement of support for eliminating  
23 rate pancaking.

24 But the key to the statement is each  
25 transmission owner in New York would be made whole

1 for the loss of the current export revenues.

2 I understand that the New York Public  
3 Service  
4 Commission is also in agreement with this proposal  
5 and has signaled a bit of a denial adjustment into  
6 the retail rates to cover lost revenues.

7 I presume that the loss in its text is as  
8 a result of elimination of pancake rates that energy  
9 prices will be lower; that will offset, or even more  
10 so, the increased retail rates for the wire stretch.

11 In the public power sector, two state  
12 power authorities are in favor of a proposal, which  
13 is natural since they are also transmission owners.

14 The word is that the transmission  
15 customers, while we haven't been consulted yet, New  
16 York municipals are not pleased with the proposal  
17 that makes up for loss revenues without considering  
18 impact on transmission customers.

19 It is not, in our view, the appropriate  
20 rate to make a spot adjustment for wholesale  
21 transmission rates without considering the whole  
22 issue.

23 Also, we have noticed that the municipal  
24 utilities have long-term bilateral contracts with no  
25 statement of reduced price in the energy market for

1       them with offsets in wire processes, increased costs  
2       and no benefits, and if an accommodation is not  
3       reached any rate modification proposal will be  
4       litigated at FERC.

5               Our last one is the process. One of the  
6       state power authorities would like to encourage a  
7       greater role in market participants in the  
8       production process. They suggested that you may  
9       institute time lines a little bit. Others feel that  
10      the NYISO is doing a very good job.

11              There is only one authority that can't get  
12      to negotiate within other regions and some people  
13      would think it would be a step backward to the new  
14      process where you have 100 stakeholders.

15              In conclusion, that's where we are from  
16      the public power sector and I thank you for coming  
17      to New York.

18              MS. ROBINSON: Just a brief announcement,  
19      Peter Brown who was to speak to other suppliers will  
20      not be here today. William Roberts, who is  
21      representing the generators as part of a team with  
22      Mark Younger will speak for the other suppliers and  
23      I'm going to ask him to do that now in Peter Brown's  
24      absence.

25              MR. ROBERTS: Again, my name is William

1       Roberts with Edison Mission and Marketing, Trading.  
2       I'm with the generator sectors in New York but I'm  
3       standing in for Peter Brown and the other supplier  
4       sector. We both have worked on this particular  
5       seams issue and I thought it would be good to  
6       present the entire picture to you.

7                 I would like to look at seams from a  
8       different point of view. Not so much looking at  
9       particular issues or particular resolutions to  
10      problems, but one of the things that we have seen  
11      that is a bit of a concern is that we are doing a  
12      lot of activities. We are doing a lot of good  
13      things as far as seams is concerned. We have  
14      quarterly reports. We have a lot of different  
15      working groups, ad hoc groups that have been set up  
16      to address this particular issue of seam.

17                One thing we are really looking at is  
18      really a model of how to bring these things into  
19      fruition, how to make sure we get these things  
20      accomplished that would get actual results, and I  
21      would like to respectfully present today a model for  
22      addressing that particular issue, in other words, a  
23      process. How do we actually go through, and not  
24      only in New York and New England, but actually  
25      through the other RTOs and ISOs.

1           The key is that we really need to kind of  
2           step back a little and look at what we are trying to  
3           accomplish and see is there a model that we can put  
4           on to have that so we can see results, tangible  
5           results in a defined time frame.

6           One of the things we would like to suggest  
7           or respectfully suggest is that on top of addressing  
8           these seams issues in the quarterly reports that we  
9           do, that we really set up some more formal process  
10          to drive these solutions.

11          What we would like to recommend is that we  
12          have established in order to resolve something, we  
13          have got to get both sides of the seams in a room.

14          In other words, we can't sit in New York  
15          and sit in New England separately and say, "This is  
16          how we are going to do it in New York." "This is  
17          how we are going to do in New England." Part of  
18          both steps is to get both sides in the room.

19          We have done that on many occasions but we  
20          need to have it more formalized. For example, we  
21          should be the official committee in New York sitting  
22          with the official committees of New England, thereby  
23          parties have already a mechanism for resolving the  
24          particular issue. Anything they decided will be  
25          official decisions of those particular committees.

1                   I think the other thing we need to do is  
2     set  
3     some real -- get hard-and-fast milestones as well as  
4     deadlines. That's one thing that we do and we work  
5     well on, but we don't have a deadline, we don't say  
6     we are going to resolve pancake by November 1, 2004.  
7     We need that.

8                   And more importantly, in order to make  
9     that happen, we need the participants to help  
10    develop those deadlines of working with the ISO and  
11    working with the board and the regulators. Everyone  
12    needs to kind of be in there together, looking at  
13    the issues, working out the milestones and put a  
14    deadline on it.

15                  The other component I would like to  
16    suggest that we need, as one of my New England  
17    partners would say, is some adult supervision. What  
18    that basically means is that, as you know, we  
19    sometimes get in a room as participants. We work  
20    together but there needs to be somebody overseeing  
21    that process, driving that process. We recommend  
22    that it be a joint commission, committee of the  
23    boards, of particular ISOs.

24                  For example, three members of the New York  
25    board, three members of the New England board, they

1 would oversee this entire process, and what's  
2 important about that, what's meaningful about that  
3 is we would try to work for consensus. However, if  
4 we could not work for consensus, these boards would  
5 agree up front that they would make a filing by the  
6 deadline dates or by the milestone dates.

7 So, in other words, the boards will be  
8 up front, and we are going to make a filing of this  
9 particular issue or that particular issue. We are  
10 going to try to make a consensus file. That means  
11 that both boards will try to file jointly.

12 If both boards get together and can't come  
13 to agreement, they still have agreed up front to  
14 make the filing intended. In other words, New York  
15 will make their final planning. New England will  
16 make their plan before.

17 But the important thing is they will  
18 whittle down the process, give us some solution that  
19 can be used to solve the problem, whether it is plan  
20 A or B. It won't be bogged down in the participant  
21 process. We will have our input.

22 All of us can argue our particular points.  
23 The RTOs are arguing their particular points. State  
24 regulation can advocate their points, but more  
25 importantly, we get it documented and we get it in a

1           timely manner and we get to make a filing.

2                   CHAIRMAN WOODS:  You are talking about the  
3           rate pancaking issue but is there anything else?

4                   MR. ROBERTS:  Yes, sir.  There's a  
5           document in New York we would be working on called  
6           Inter-regional Seams Coordination Agreement.

7                   Basically, it talks about some of these  
8           processes, but we are going to make some comment.  
9           This is supposed to be one that is filed for an RTO  
10          and we are going to be making comments how to take  
11          that particular document and interpose some of the  
12          issues I just discussed and put together processes,  
13          so we cannot only handle work rate pancaking, but we  
14          can also handle under the same sort of process some  
15          sort of, what we call the RAP process.  We can also  
16          handle the issues of how do we address scheduling,  
17          coordination of scheduling.

18                   So, in other words, all of these  
19          particular issues, although they have a life of  
20          their own and are going well, some of them are  
21          moving along slowly.

22                   The point is what has to happen with each  
23          one of these particular issues, they have to go back  
24          to the community process one way or another.  They  
25          have to go back to New York.  They have to go back

1 to New England, to PJM, to the members committee one  
2 way or another.

3 The point is, too, we work in a separate  
4 group and spend all this time and New York says we  
5 can't do it that way. It is not official. That's  
6 not an official action by a New York committee so,  
7 therefore, the New York board can't take a move  
8 because the official committee is not active.

9 Similar sort of thing in new England. New  
10 England, the participants there say, "We have never  
11 seen that before," and it is not an official act of  
12 that committee so they can't take a step.

13 So the idea is that we will identify these  
14 key issues and some of these key issues are  
15 identified with the document that we must look into,  
16 to supply of the subject rate pancaking, such as  
17 some of the scheduling issues.

18 Often it is how do we communicate markets  
19 among those particular RTOs. So the idea is we will  
20 look at three particular issues. In other words,  
21 why don't we try to find out what word this group  
22 will say. Here's priority number and on number two.  
23 In the next six months we will work with priority  
24 number one. We will resolve that by a certain date.

25 After we do that, excuse my language, come

1 hell and high water we are going to make a filing.  
2 The information is going to have a filing in front  
3 of them hopefully on something that is worked out  
4 with the sense of participants, plan B or plan A,  
5 and then we go forward. That's sort of the concept,  
6 and you can work, I think, with any of the  
7 particular issues you identify all the way down the  
8 road.

9 And I think what serves as a good model  
10 for resolving this, because we all talk about seams  
11 but we don't have a way of getting out of the mud.  
12 We kind of run around here. We run around here. We  
13 have a plan here and a plan here. No sort of normal  
14 structure set up here, so that would be our  
15 proposal. Thank you.

16 MS. ROBINSON: Next I will ask  
17 representing transmission owner Ray Kinney.

18 MR. KINNEY: Good afternoon. I'm Ray  
19 Kinney. I'm with New York State Electric and Gas  
20 and I'm here on behalf of the transmission owners,  
21 and many of the things I think Robert pointed to are  
22 good things, but maybe not quite as detailed as Rob  
23 has gone  
24 into.

25 What I would like to do today is touch

1       upon some of the issues we are dealing with here in  
2       New York and maybe some similar, thoughts but maybe  
3       not quite as in depth or vigorous as Robert has  
4       outlined for you or William, I should say, has  
5       outlined for you today.

6               I think to our credit the New York market  
7       participants and the ISOs have focused on identified  
8       and remediated seems issues from the earliest dates  
9       of the ISOs. I think maybe that comes from a  
10      general belief that standard market products coupled  
11      with the ability to seem transactions across  
12      boundaries are created to broaden the scope or  
13      markets, improving economic inefficiencies and  
14      enhancing the transmission to competitive markets in  
15      the electric industry.

16             We have had several successful seam  
17      initiatives implemented to date. Most notably, we  
18      have modified our market to deal with phantom  
19      transactions. We have entered into some ISOs  
20      agreements on shares, on ISO shares. We have  
21      developed prescheduling and multi-annual block  
22      transactions.

23             We have also instituted or in the process  
24      of instituting some appropriate market pricing at  
25      noncompetitive proxy buses. Yet we do have several

1 significant issues ahead of us.

2 Speaking first with regard to rate  
3 pancaking, I think we all recognize this is a  
4 barrier to entering ISO transactions. To our credit  
5 I think William Museler pointed out New York ISO  
6 working with Chairman Flynn and the PSE staff have  
7 been instrumental in bringing the parties in New  
8 York together, and we do have a general consensus  
9 here in New York to eliminate embedded cost  
10 pancaking for export realty transaction. This  
11 consensus is predicated on two key principles.

12 First, the elimination of these charges  
13 must be done in an unusual manner such that the  
14 transmission owners recover the transmission that  
15 would be lost when we recover the border issues.

16 Second, the ISOs and control issues on  
17 both sides of the borders need to meet us halfway in  
18 this process. We need to have reciprocity. Both  
19 control areas need to move forward together as we  
20 make these charges.

21 The New York TOs stand ready to move  
22 forward on this basis when negotiations for  
23 reciprocal treatment with our neighbors are  
24 complete; while important, rate pancaking, however,  
25 isn't necessarily the most important seams issue

1 before us. Two other critical issues are currently  
2 under active consideration, this being time two  
3 transactions and resource adequacy. The NYISO  
4 independent advisor, Dr. David Patton, has noted in  
5 the state of market reports that significant  
6 concerns exist for the level of counter-intuitive  
7 transactions that cover NYISO and its neighbors,  
8 particularly under high/low conditions.

9 Effectively, what's going on here is power  
10 is moving from a high-priced market to a low-priced  
11 market. It is the epitome of buy high sell low if  
12 you will.

13 These transactions tend to raise the price  
14 in the high-priced market, while lowering it in the  
15 lower-priced market. It sends bad price signals and  
16 it fails to dispatch more efficient resources when  
17 they are available. Recent estimates by Dr. Patton  
18 indicate that the potential savings from improving  
19 could be as high as several hundred million dollars  
20 of each year, as we move forward.

21 I guess the good news is there are efforts  
22 underway to address this issue.

23 The NYISO SMD project, where we are going  
24 to put in a new realtime scheduling system, is a  
25 positive step in the right direction.

1           SMD software will improve the consistency  
2 of system representation between day ahead realtime  
3 markets and provide market participants with some  
4 enhanced scheduling tools at the outset and,  
5 hopefully, some more to come as we get the system up  
6 and running.

7           Additionally, to their credit, ISO New  
8 England and the NYISO have eventually proposed a  
9 VRD. The VRD would allow the ISOs to schedule  
10 economically efficient transactions across the  
11 board.

12           What this will do is allow them to display  
13 expensive resources with more efficient resources,  
14 then, by bringing the price in the adjacent markets  
15 together and lowering costs overall.

16           While we can't really get into extensive  
17 detail, the transmission owners believe that VRD is  
18 a positive step towards formulating a single  
19 northeast coordinated dispatch and is a much needed  
20 element for correcting counter-intuitive  
21 transactions with regard to research adequacy.

22           The northeast is currently amazed t  
23 different product and market rules. The  
24 transmission owners believe with standardized  
25 resource products we may realize significant

1 benefits in resource development, market efficiency  
2 and electric system reliability.

3           Once again, some positive action is under  
4 way.

5           The three northeast ISOs have formed a  
6 resource adequacy model working group, alternative  
7 working models have been identified and a consultant  
8 is in the final stages of evaluating the benefits of  
9 these proposals.

10           So where do we move from here?

11           Taking a good point that William Roberts  
12 made, I think one of the important things to do is  
13 actually put some timelines for completing these  
14 efforts, particularly rate depancaking, VRD and RAM.  
15 Moving forward from there, it is reasonable,  
16 I think, to continue to foster some of these target  
17 efforts to resolve new issues as they come along.

18           We have got some reasonable successes in  
19 working one on one with New England. For example,  
20 for moving VRD forward I think it is also helpful to  
21 recognize that, at least initially, some of these  
22 issues are best handled by eliminating discussions  
23 with a single border, developing a pilot project,  
24 proving the concept before you go to a broader scale  
25 to implement these things and some days it may not

1       be rational or necessary to implement certain  
2       initiatives on a broad regional basis.

3                Again, taking a point from William, I  
4       think there is some effort or some opportunity to  
5       improve our market shareholders' participation in  
6       the process.

7                Currently we handle this through  
8       committees in the ISO and any other ISOs getting  
9       together with the ISOs that share, people handle  
10      this process at this point.

11              I think it would be reasonable to improve  
12      the reporting that goes on to the committee. We  
13      don't usually have enough opportunity to discuss,  
14      for example, quarterly reports in much detail within  
15      our own committee structures before the committee  
16      chairs and the ISOs. So it would be a good  
17      opportunity to make a more formal process to get  
18      these things out in the committee structure and  
19      enhance market participants' involvement in  
20      identifying and resolving these issues.

21              We brought this issue to the ISO and they  
22      are giving us some positive feedback. They are  
23      going to consider this issue on how to do that and  
24      the TOs stand ready to work with them to move  
25      forward on that process, and the three market ISOs

1 have also formed a chief information officer  
2 committee.

3 We commend them for doing this. We think  
4 this is a positive step in the right direction.

5 One constructive improvement to this  
6 process may be to also bring the independent market  
7 monitor together with the CIO committee. This will  
8 allow them to review the software in regulated  
9 market ruling text to ensure that not only is the  
10 software going to work well together, but the market  
11 rules themselves will work well together to create  
12 competitive conditions and enhance efficiency at the  
13 borders.

14 We also would recommend FERC actively  
15 participate in this process to help facilitate the  
16 discussions among the ISOs and the expeditious  
17 implementation of any issues that come out of that.

18 This process should include clearly  
19 identified milestones in the schedules against which  
20 we can measure the progress.

21 With the commission continued vigilance on  
22 integrating what are fundamentally LPM markets in  
23 the northeast, TROs are confident market equipment  
24 improvements will continue among all three U.S.  
25 markets and our Canadian neighbors as well.

1           This concludes my comments. I appreciate  
2           the opportunity to come before you today.

3           MS. ROBINSON: Mark Younger and Williams  
4           Roberts will speak for the generator owners. Mark  
5           will go first since William has already had a turn.

6           MR. YOUNGER: I'm taking 98 percent.

7           Chairman, Commissioners, thank you very  
8           much. My name is Mark Younger. I'm vice president  
9           of Slater Consulting. I've been involved in  
10          deregulation of the New York markets since the mid  
11          '90s when ISO was still the term we were all trying  
12          to learn and there was no real ISOs operating in  
13          America.

14          Since then I've been actively involved  
15          with dealing with market rules, trying to help the  
16          ISO. I'm one of those three consulting services  
17          provided to the ISO.

18          I'd like to address three specific areas  
19          related to seams. One of them is the need to  
20          eliminate through outcharges on the border.

21          Last spring when we first heard that the  
22          PSC and the TOs had worked out an arrangement to  
23          keep the TO essentially whole for eliminating the  
24          charge and to take the position of moving forward as  
25          long as there could be reciprocal treatment on the

1 other side of the border, we all cheered.

2 And last summer when we first heard that  
3 New England was not so much willing to talk about  
4 eliminations outright immediately, but phasing it  
5 down over some period of time, we cheered as well.

6 And now that I've heard that New England  
7 and New York were actually talking last month and  
8 have met, I'm still cheering, but I have to agree  
9 with my fellow panelists that I think this is a  
10 perfect example of where we need some sort of  
11 guidance and deadlines.

12 What we are essentially talking about here  
13 is redistributing money, reallocating money.

14 I agree with the idea that people should  
15 be at fault, but this is a substantial barrier to  
16 trade. I mean, there is no more obvious barrier to  
17 trying to keep the markets from coming together than  
18 the fact that when you step over the border you pay  
19 five or seven, or whatever number dollars per  
20 megawatt hour, and I would like to see some sort of  
21 deadline for something to be filed.

22 And if we can't work it out, maybe FERC  
23 can step in with a little parental guidance in  
24 hoping to come to an agreement between the different  
25 areas.

1           I'd like to see us move ahead with New  
2 England quickly. It seems that they are most ready  
3 to move ahead, but I think they are ready to move  
4 ahead with our other neighbors as well.

5           Second area I would like to address is the  
6 area of virtual regional dispatch.

7           The way the transactions are scheduled now  
8 here in New York, you have to line them up anywhere  
9 from an hour to two hours in advance in the realtime  
10 market and lock them in.

11           It is now surprising that you get a fair  
12 number of counter-intuitive transactions going  
13 because a lot can happen in one to two hours after  
14 you've lined your transaction up, virtual regional  
15 dispatch, which would essentially have the ISOs  
16 trade amongst themselves on a 15-minute basis based  
17 upon looking ahead on where they think the value of  
18 power is on the two ISOs, is one way to address the  
19 issue.

20           But in the simplest form is what VRD is  
21 the ISOs buying and selling at one proxy bus. Buy  
22 at one proxy bus, sell at another, on a 15-minute  
23 basis when it currently will not allow market  
24 participants to do the same thing.

25           The reason the market participants aren't

1       able to do the same thing is because they say we  
2       have a very long and cumbersome checkout process.

3                It seems to me that we need to be looking  
4       much more at a market participant based solution.  
5       Maybe there needs to be a way to create market  
6       participants to trade on a 15-minute basis where the  
7       market participants actually buy one of the proxy  
8       buses and deliver the other and the ISOs are  
9       constantly checking out that the power can flow  
10      reliably and schedule changes can be accommodated.

11               VRD is not the unified dispatch. It is  
12      not even necessarily a move that crosses to a  
13      unified dispatch because as we have gotten further  
14      into it. It is painfully apparent that there are  
15      delays; rather than looking ahead to the next five  
16      minutes which are very good, they are actually  
17      looking ahead, 15 or 30 minutes ahead.

18               And the other things we found is -- we  
19      looked closer at VRD -- is to make the whole thing  
20      work or redefining certain consents, there's  
21      congestion where across the interface, congestion  
22      will no longer apply. Only when the interface is  
23      constrained, can you interface with New England.

24               You've got your full six or 800 megawatts.  
25      You've been moving into New York or moving out of

1 New York; what is, instead, we are moving forward,  
2 defining the cost of congestion as any time there is  
3 a deviation in price that would be defined as the  
4 cost of congestion, whether we are moving up in  
5 megawatts, whether we are actually fully utilizing  
6 the interface. This makes it virtually impossible  
7 for any market participants to trade across the  
8 border.

9 So, as I say, I think we need to be  
10 looking much more closely at ways that we can have  
11 the market participants alter schedules or the total  
12 ISO schedule altered on a 15-minute basis based upon  
13 the market participants knowing arbitrage, buying  
14 one area, delivering another.

15 CHAIRMAN WOOD: Did you file what PJ and  
16 Michael are working on to try to accomplish this,  
17 actual gray areas of this? There is a different  
18 approach to be taken of the VRD, are you following  
19 that at all?

20 MR. YOUNGER: I have not had a chance to  
21 review that.

22 The third area I would like to address is  
23 the RAP process, the resource adequacy process, and  
24 in particular, the importance of the New York ICAP  
25 demand.

1                   Currently ICAP demand curve has been  
2 absolutely critical in providing appropriate long-  
3 term price signals to the resources in the market.

4                   It has enabled market participants to make  
5 long-term decisions and to get appropriate price  
6 signals for those long-term decisions so they don't  
7 either drop out of the market when they are going to  
8 be wanted back in the market within a year or two  
9 because normally, as a generator, when you drop out  
10 of the market, it is a fairly permanent decision,  
11 and, also, to begin providing signals to a new  
12 entrance, that they can come in and the market will  
13 be rational, and that they will not see their value  
14 immediately dropped the day they show up.

15                  When we look at the RAP process, the most  
16 important piece, which maybe hasn't been getting  
17 enough focus, is the ability to define products that  
18 can be traded across the market to eliminate  
19 barriers to trading across the markets, such as a  
20 requirement to delist an entire issue in New England  
21 to be able to sell caps to anyone in New York.

22                  That kind of thing can be very hard for  
23 capacity to come out of New England to New York  
24 where here you can sell part of your capacities in  
25 New York and part of your capacities to New England.

1                   It is much easier to go ahead and enter  
2                   into the a New England market because it is not an  
3                   all or nothing decision.

4                   Likewise, when we focus on the RAP  
5                   process, we should be not so much focusing on the  
6                   quantity that is in any giving area, New York  
7                   essentially testifying in a variable area  
8                   requirement. We will never have purely unified ICAP  
9                   market because if you look at New England, New York  
10                  and PJM, even if you had an unified ICAP market, you  
11                  would still be largely defined by the individual  
12                  areas.

13                  New York needs roughly 31,000 megawatts of  
14                  installed capacity, and you can only bring in 27  
15                  plus hundred megawatts. Even if you had one big  
16                  market, you would still have a very, very large  
17                  requirement for a consultant capacity located just  
18                  in New York, and likewise in New England and PJM .  
19                  So the biggest focus should be how can we get it so  
20                  that resources in New England want to sell in New  
21                  York, giving those limitations that exist and vice  
22                  versa and in the PJM have that arrangement set up  
23                  and there are rationale enough markets in each of  
24                  them to enable people to make those kind of  
25                  decisions.



1 to make a real quick follow-up comment in the sense  
2 of what Mark just said, I think it is important, for  
3 example, we have a large city in Pennsylvania that  
4 we sell it to New York and we would like to do the  
5 ICAP. And the idea is the consistent rules between  
6 the two, in what's important as opposed to  
7 establishing some sort of exact product, exact  
8 megawatt requirement for ICAP.

9 So that's important and what's  
10 important, in other words, being able to get it.

11 MS. ROBINSON: Tariq, if you would like to  
12 clean up here. Tariq Niazi representing the end  
13 user.

14 MR. NIAZI: Good afternoon. My name is  
15 Tariq Niazi. I'm on the committee with the New York  
16 State Consumer protection board.

17 First, I would like to thank FERC and  
18 Chairman Wood for arranging this technical  
19 conference and giving the sector an opportunity to  
20 directly address the Commission on these very  
21 important issues.

22 The New York State Election Board has been  
23 actively representing consumers on power issues.  
24 For approximately almost 30 years we have been ably  
25 active in the New York City ISO process in all the

1 committees and we're also active in determining  
2 consumers in front of the New York State Public  
3 Service Commission.

4 We strongly support those goals of  
5 eliminating rate pancaking in the export freeze  
6 which can be an impediment to otherwise economic  
7 transaction and eliminating bringing benefits to  
8 everyone by filling the regions.

9 The cost benefit study that was performed  
10 by the staff of the New York ISO and ISO New England  
11 during the process of establishing showed that the  
12 single source of savings that would come from this  
13 was from eliminating pancake transmission rates, but  
14 the region as a whole was telling us of estimated  
15 combined savings of approximately 220 million in the  
16 first five years snapshot. Out of that,  
17 approximately 65 percent or 142 million would come  
18 by the impacted risks.

19 The second snapshot, it would be another  
20 68 million or 45 percent of 50 million savings would  
21 again come from eliminating pancake rates.

22 Similarly, the same study also showed that  
23 a three way merger between New York, PJM and the  
24 lyon share of the savings would, again, come from  
25 the elimination of pancake transmission rates.

1           Both ISOs, ISOs in New England and the New  
2           York ISO have been working on a mutual agreement to  
3           eliminate pancake transmission rates, ancillary  
4           standards as was reported this morning by Bill  
5           Museler, that a lot of progress has been made.

6           I believe a plan has been to file for the  
7           elimination of these rates and we fully support that  
8           effort.

9           However, we do urge FERC to monitor the  
10          process, and if for some reason things cannot be  
11          worked out mutually by the two ISOs, that FERC take  
12          some measures to eliminate pancake transmission  
13          rates as soon as possible. As you know, everybody  
14          is aware this is the largest source of savings  
15          potentially from your regional cooperation.

16          We also agree that this New York ISO, the  
17          PSE and TOs have met and there is cooperation  
18          between the three entities and we also agree that  
19          the TOs should be made whole for any loss of  
20          revenues from the elimination of pancake  
21          transmission rates.

22          And it is also our understanding that  
23          these revenue losses will be a fraction of the  
24          potential savings from eliminating transmission  
25          rates with regard to seams, almost all the remaining

1 benefits, again the same study performed by the two  
2 ISOs, that indicated almost all the savings and many  
3 savings came from elimination of seams.

4 And even though, as I believe Tom  
5 mentioned, that even though we don't support those,  
6 in fact, it's no longer a reservation.

7 By eliminating pancake rates and by  
8 working on the seam issues, we will be able to  
9 achieve almost all of the benefits that would have  
10 come from that merger.

11 We feel we generally support all the  
12 measures that the ISOs are taking in trying to  
13 eliminate seams between the different regions.

14 With regard to the RAP process, again, as  
15 Bill mentioned, that work has been going on since  
16 early 2002, and although this is an open stakeholder  
17 process, some of the more resource restraint  
18 sectors, like the engines that I represent, will be  
19 difficult for us to fully participate in this  
20 process.

21 A lot of meetings are outside New York  
22 state and we would urge the ISOs, certainly there  
23 have been briefings, but we would urge the ISOs to  
24 bring more detail to the market participants in New  
25 York. I think that is important, especially if you

1 want to meet our goal in fighting, in moving  
2 forward, and the first planned auction in the summer  
3 of '04. And, also, the tariff development and  
4 details is a fairly tedious process, so the sooner  
5 we bring more of the details to New York State, I  
6 think, the better it is.

7           With regard to virtual regional dispatch,  
8 we  
9 support the idea of exploring that, and I think the  
10 idea of doing that will enable us to pursue that at  
11 the regional level. The ISOs hasn't work with ISO  
12 New England, the New York ISO, and they have been  
13 fairly active over the past few months. We again  
14 support that process.

15           Again, I would like to say that we would  
16 like our ISO to bring more information back to the  
17 participants. It is more important for the resource  
18 constrained sectors like ours.

19           With regard to inter-regional ancillary  
20 services, it is our understanding that integration  
21 would require extensive software and information  
22 sector development. We agree that inter-regional  
23 markets makes sense; however, it is important to  
24 show that the benefits of configuration is serious  
25 costs.

1           The ISO is pursuing a stated approach and  
2 we will support that.

3           Finally, with regard to inter-regional  
4 communication standards, Bill Museler reported this  
5 in the earlier part of this afternoon, that a lot of  
6 work is to be placed in significant coordination  
7 between the three ISOs. We support that; however,  
8 it is important to emphasize that cooperation  
9 precedes major investment because I think it is  
10 important to show that whatever system they agree  
11 upon is compatible; that will be more duplication  
12 and resources.

13           Once again, thank you for the opportunity.

14           CHAIRMAN WOOD: I don't have a lot to add.  
15 I had heard it's a good idea. I would like to talk  
16 that over with my colleagues.

17           I'm personally intrigued, Mr. Roberts,  
18 about your concept of really empowering the boards  
19 to say that's a solution instead of a process that  
20 continues to work, because I think while we  
21 certainly have seen on a lot of the technical issues  
22 associated with these time lines, and with this that  
23 goes with it each quarter, significant progress on  
24 what I would call some granular and some actually  
25 pretty revolutionary issues on policy and more

1       comprehensible issues, I suppose to the typical  
2       market participant or regulator they do become  
3       opportunities for nonsolutions.

4               I'll just drag it out.

5               I think that your solution actually has a  
6       lot of optimism, too, and I guess I would like to  
7       have, Mark, your colleagues on this panel give me  
8       feedback to such a process while we have got you up  
9       here.

10              MR. YOUNGER: From my discussions with the  
11       generators, they would strongly support it.

12              MR. KINNEY: I think there is some  
13       definite positive elements to that, particularly if  
14       we had some structured opportunities to pass to  
15       them, get them moving, multiply them, the ISOs at  
16       the same time.

17              My only fear is that we are entrapped with  
18       too much bureaucracy in trying to bring all the ISOs  
19       together.

20              I think there may be some good  
21       opportunities to bring the boards together or  
22       sections of the board to look at these issues, but  
23       then there is also the fear that you put 100 or 200,  
24       300 people in a room looking good with NERTEL and  
25       you spend a real considerable amount of time.

1           I think with the proper balance there may  
2           be a lot of good to William's suggestion. We just  
3           have to create that balance and move forward.

4           MR. NIAZI: We generally support what's  
5           said. Again, as Bill had mentioned earlier but in  
6           more detail, certainly the idea of getting market  
7           participants together for support and also the idea  
8           of deadlines.

9           Some of these processes have been taking  
10          place for a fairly long time and I think  
11          establishing some reasonable deadlines to the  
12          process, so we generally support the concept.  
13          Again, I'm not quite sure of the details.

14          I guess we have to look at what we are  
15          going to represent and respond to that.

16          MR. RUDEBUSCH: Let me repeat, one of the  
17          states support that process. I think with other  
18          people in the power sector you are going to have to  
19          be very careful to strike the right balance  
20          otherwise we are going to end up with the New York  
21          process, which was a total disaster.

22          MR. ROBERTS: Let me just add a little  
23          follow up, if I may. Two things I agree, we  
24          definitely need to put some boundaries around this,  
25          but also, as a point of information, we printed this

1 concept in New England and we got pretty good  
2 support from the market participants across the  
3 board, in New England, transmission owners,  
4 generators, suppliers, retailers, as well as we got  
5 some support from the board, ISOs on the board and  
6 regional counsel and the CDR.

7 So at least we have got one side, and I  
8 agree with Ray, I think we kind of need to start off  
9 crawling. Let's take one interface first.

10 Let's take New York or New England since  
11 we have got some momentum going there. See how it  
12 works, put some boundaries on around it, in time  
13 frames, and see how it works and model it, and with  
14 other boarders and even across other regions.

15 CHAIRMAN WOOD: Thomas Welch from LANG.

16 MR. WELCH: I appreciate that you  
17 discussed me during the pancake rate.

18 And the process that one might want to  
19 adopt there is an issue that really hasn't been  
20 discussed and I think may be important to achieve  
21 the objectives you are trying to achieve and I want  
22 to add I'm speaking on New England commissions on a  
23 whole, at least not myself, in broad outlines here.

24 We are generally very enthusiastic with  
25 the notion of the effects on the wholesale markets

1 and White Paper and, indeed, expanded markets beyond  
2 their current boundaries. But as markets expand  
3 and, in particular, as some of the relics of the  
4 older systems like pancake rates are eliminated, we  
5 see, and this is actually reflected in the cost  
6 benefit studies, that there is a strong likelihood  
7 that the benefits would be spread uneven, removing  
8 the seam between the markets page the effect of  
9 raising prices in some areas, even while lowering  
10 the overall average price so the overall objective  
11 is one to be achieved, but there is some  
12 dislocations in particular situations.

13 And, frankly, this has lead to the very  
14 real possibility that there is some jurisdiction. I  
15 know there is some jurisdiction in New England who  
16 would resist some of the seams rediscussing efforts,  
17 including things like VRD and removable of brown-out  
18 charges, simply because they would be put at a  
19 disadvantage on the energy price as a result of that  
20 removal. So we in New England have been working for  
21 about a year-and-a-half on a model that might  
22 provide a vehicle that will address that specific  
23 issue.

24 I've actually got some descriptions I  
25 would be happy to provide the Commission.

1                   But, in general, the principle of the  
2 model, it permits you to isolate the change; namely,  
3 for example, the removal of brown-charges and  
4 perhaps on a post hoc basis, the prices that are  
5 actually achieved in the area, the price that would  
6 have occurred had the seam remained in place. We  
7 are able to quantify the energy market impact of the  
8 removal of the seam.

9                   That quantification allows you both to  
10 identify the overall benefit and also identify which  
11 areas are worse off.

12                   And once those numbers are derived, the  
13 model  
14 also proposes some mechanism to achieve at least a  
15 hold harmless or a benefit sharing result so that  
16 not only would you be able to take care of the loss  
17 revenue requirement, TOs, which you recognize are  
18 important, but go beyond that and make sure areas  
19 for disadvantage on the energy side were actually  
20 also accommodated.

21                   The model views itself as transitional.  
22 Obviously, you may not want to do this forever and  
23 we also do not view this as something to try to make  
24 this kind of adjustment one zone within the market.  
25 We really see this as something you would do for

1 major markets as you combine the seams.

2 We have raised this issue both through the  
3 New York Commission and with the PJM commissioners  
4 and, frankly, here is where I very much support Mr.  
5 Roberts, who was suggesting we do need someone to  
6 sort of tell us all to sit down, because on any  
7 given day you think you are a winner. You may not  
8 have the same incentive to talk because you think  
9 they are going to be a winner.

10 So I think it would be very helpful for  
11 FERC one way or another, for the process that has  
12 already been described perhaps on the docket to  
13 provide a vehicle where we may be invited on the  
14 strongest terms to see if some vehicle of the kinds  
15 working in New England or something similar could be  
16 achieved in a relatively near time frame. So sort  
17 of giving us guidelines, giving us guidance and sort  
18 of being there to resolve differences to the extent  
19 we can achieve a consensus I think will be extremely  
20 helpful.

21 So I appreciate, I hope FERC accepts this  
22 invitation to focus on addressing this particular  
23 issue, which I think if it is not addressed, will  
24 lead to people being distracted, for lack of a  
25 better word, for political overlay on achieving

1 overall good benefit but, nevertheless, disparate  
2 providing benefits.

3 CHAIRMAN WOOD: Thanks, Tom. Any thoughts  
4 from any of the panel on what you just heard?

5 COMMISSIONER FLYNN: From New York,  
6 prospectively, I couldn't agree more with Chairman  
7 Welch. Any guidance in this area will be greatly  
8 appreciated. Commissioner Hughes had to  
9 unexpectedly leave but I'm sure she feels the same  
10 way.

11 I know that Mr. Roberts expressed the  
12 possibility of doing this in New England and New  
13 York. I think at first blush we should also get PJM  
14 involved in these discussions and to have FERC move  
15 the process along with some sort of deadline would  
16 be very much appreciated.

17 COMMISSIONER FLYNN: I'm sorry we don't  
18 have the time today to discuss all the issues. We  
19 would be here until the cows come home.

20 CHAIRMAN WOOD: We will get back with you  
21 real, real soon. That's helpful. It is nice to  
22 know people who welcome our participation. It is  
23 not true everywhere.

24 COMMISSIONER FLYNN: At least for today we  
25 love you.

1                   CHAIRMAN WOOD: Any other questions for  
2 our panel here? Thank you for coming.

3                   MS. ROBINSON: Panel number three come  
4 forward and pick up your name tags. We have got  
5 another panel.

6                   The final panel is the regional decision  
7 making New York City ISO governance regional state  
8 committee, and I'm going to ask Bob Hiney from the  
9 New York Power Authority to lead off.

10                  MR. HINEY: Thank you. My name is Bob  
11 Hiney. I'm from the New York Power Authority. I  
12 would like my statements to reflect the done deals  
13 of the members of the public sector, the ISO, and I  
14 want to thank you for the opportunity to have this  
15 session here today.

16                  I was elected vice chairman of the  
17 committee in 2001 and became chairman last year in  
18 2002. It is basically a two-year term and my  
19 comments reflect that experience.

20                  In the SMD water caper, FERC has suggested  
21 that the final SMD rule will add to its previous  
22 order, principles on how to structure independent  
23 governance, which we believe could lead to some  
24 changes here in the New York ISO.

25                  In forming that New York ISO in 1999,

1 market participants representing all of the sectors  
2 engaged in extensive negotiations to establish a  
3 governance process and that resulted in improvements  
4 by the Commission. It took a while. The resulted  
5 governance reflected a delicate balance of the  
6 interest and is functioning effectively since the  
7 ISO started up in late 1999.

8 As Chair of the ISO, I saw firsthand the  
9 governance and followed that. While there were  
10 bumpy roads at times, in the end decisions were made  
11 that have consistently improved the function of the  
12 ISO market.

13 I believe that the debates of this  
14 agreement and the collaboration that occurred among  
15 the varied New York market participants are an  
16 integral and necessary part of a healthy government  
17 process in the New York ISO. So there were times  
18 during the lunch break where people were getting  
19 together to try to work out differences, the  
20 disagreements and tried consensus.

21 By sharing some of the decision-making  
22 power, the market participants have an incentive to  
23 narrow the differences and to resolve issues rather  
24 than merely advocate the positions to the ISO board.

25 That's very important to the process, in

1 my view.

2 To the extent we are successful in  
3 narrowing those views and resolving the issues, that  
4 process involves less work for the FERC Commission.  
5 We were able I believe to resolve these issues.

6 By recent points, my experience has been  
7 the New York governance process, to impress upon the  
8 Commission the value of not being overly  
9 prescriptive; with respect to the way governance is  
10 set up in terms of the SMD paper is that the  
11 Commission may have mandated consideration of the  
12 existing ISO governance structure. We would urge  
13 the Commission to reconsider this position if,  
14 indeed, it is their goal to standardize the  
15 governance structure.

16 In the final rule, regional differences  
17 should go out if it persists. A mandated governing  
18 structure would once again raise difficultly and  
19 contentious issues that have been settled once in  
20 New York.

21 I'm not here to say that New York is  
22 perfect in terms of its structure, but the resources  
23 and time that would be necessary to reopen the  
24 debate on a governance structure, that has  
25 functioned effectively since 1999 would take away

1 attention from important issues that are facing the  
2 national market.

3 In its order, the Commission should  
4 acknowledge that there is not a one sided structure  
5 and we respectfully request for the Commission to  
6 give latitude to areas where approved governance  
7 structures are in place already, as you have in New  
8 York.

9 Finally, the governance is not a static  
10 thing. The exiting governance structure provides a  
11 forum for market participants to pursue. If the  
12 changes are deemed necessary by the market  
13 participants, changes allowed to come from within  
14 the RTO or ISO are not mandated changes in the final  
15 rule.

16 That concludes my comments. Thank you.

17 MS. ROBINSON: Dan Allegretti speaking for  
18 the other suppliers.

19 MR. ALLEGRETTI: I'm here to speak on  
20 behalf of the other supplier sector. I serve on the  
21 New York ISO management committee as well as the NPC  
22 and I'm currently chairman of the New England  
23 participating committee.

24 I have three goals in making remarks  
25 today. One is to try my best to represent the broad

1 views of the other supplier sector and not just an  
2 individual's views or individual company's views.

3 The second is to do it so it will not put  
4 everyone to sleep and the third is to minimize the  
5 time in which I stand in this room full of people  
6 and the cocktail hour.

7 It is with great trepidation that I'm able  
8 to  
9 use a phrase that almost makes me cringe because it  
10 has been much misused and abused, but I have to say  
11 "regional differences."

12 It actually is the one area or one of the  
13 few areas where it really does make sense to think  
14 about regional differences because unlike market  
15 design, governance differences do not create or  
16 exacerbate difference, and when market principles do  
17 not vary from region to region, the organizations,  
18 institutions and constituencies that make up a  
19 stakeholder process do, and governance has to  
20 recognize those different groups, organizations and  
21 constituencies. There's really a perfect template  
22 that can be put out there.

23 That brings me to New York's governance  
24 and I guess I would use the phrase a workable piece  
25 to describe we have got, section 205, final

1 authority that is a shared responsibility between  
2 the 50 percent majority and the management committee  
3 and the independent board of the ISO.

4 The board is always free to make a section  
5 206 filing and participants have the ability at any  
6 time to take an appeal to the board if they feel  
7 that their majority interests have been overrun.

8 We have a separate governance here,  
9 similar to PJM and New England, and the way that  
10 sectors are divided and constituted is never  
11 perfect, but I do think it is important to note that  
12 the sectors here do allow for all constituents to  
13 participate in the delivery of the stakeholder  
14 process and I think it is like a reasonable balance  
15 between the need to protect minority interests on  
16 the one hand and avoid complete grid lock on the  
17 other.

18 I absolutely agree with Bob's point, that  
19 governance is dynamic and not static. Not only does  
20 it vary from region to region, but these  
21 institutions, organizations and activities within  
22 the market are going to change over, and as interest  
23 technologies, institutions and regions change,  
24 governance arrangements have to be revisited,  
25 allowing this to be heard within the context of the

1 stakeholders' rights.

2 The Commission has got to be prepared to  
3 hear an argument on complaints in reform on the  
4 governance. They need to be ready to examine the  
5 regional organizations, institutions, see how they  
6 have dealt with their governance issues and if  
7 things really are out of balance. The region is  
8 going to need help because if it gets far enough out  
9 of balance it can't fix itself.

10 Right now the participants here in New  
11 York as part of the strategic plan process is  
12 currently addressing the issues here in New York and  
13 they should be encouraged to do so. They should be  
14 given the room to find areas of improvement and  
15 bring those to the commission.

16 Okay, Dan, it is easy to say it is  
17 regional and dynamic but that doesn't really help us  
18 much. What can you offer in terms of  
19 recommendations for FERC policy, as part of a  
20 standard market design, and I guess there are two  
21 principles that I think really ought to guide the  
22 Commission in terms of establishing the policy in  
23 governance in the standard market design and they  
24 both involve balance.

25 The first is that there needs to be a

1 balance of authority and responsibility maintained  
2 as between the independent board, the ISO on the one  
3 hand and the participants it serves on the other,  
4 and that balance has to achieve ISO independence  
5 tempered with accountability.

6 There are a number of ways to achieve it.

7 Election of the board is one way.  
8 Exercise of shared section 205 rights after some  
9 super majority is another. Some hybrid combination  
10 of both can do it but there needs to be a meaningful  
11 role for the stakeholders.

12 We can't just have a republic philosophy  
13 case of making all the decisions because the process  
14 of getting market proposals with the participants  
15 and getting their needs full and active input and  
16 participation in the decision process really makes  
17 for a better outcome, and you've seen it in New  
18 England. We have seen it the PJM. We have seen it  
19 in New York. That's something that should be  
20 maintained as principle.

21 The second one is also a balance of  
22 authority and responsibility that has to be  
23 maintained between the stakeholders' group and  
24 that's a balance that is between the buyers and the  
25 sellers.

1           And it doesn't matter whether you are  
2 talking about buyers or sellers of energy or  
3 transmission, but at the end of the day the buyers  
4 shouldn't be able to run over the sellers and the  
5 sellers shouldn't be able to run over the buyers.

6           As long as each side, buyers and sellers,  
7 has to reach across the aisle and find a compromise  
8 with the other side, you've got a balance that it  
9 works. It may not be perfect. It may not be ideal.  
10 There may be room for improvement, but at least  
11 you've got a fundamental there that works.

12           When it doesn't work, when it is out of  
13 balance that's when the commission needs to step in  
14 and do something.

15           Those are the basic things that emerge in  
16 my discussions with members, other supplier sectors  
17 and those are the points that I would like to urge  
18 on today.

19           MS. ROBINSON: Thank you, Dan. Paul Gioia  
20 next, representing the transmission owners.

21           MR. GIOIA: Thank you. My comments this  
22 afternoon are on behalf of the following  
23 transmission owners: Central Hudson Gas and  
24 Electric Corporation, Consolidated Edison of New  
25 York, New York State Electric and Gas Corporation,

1 Rochester and Rockland Utilities and Rochester Gas  
2 and Electric Corporation.

3 While I will refer to these companies as  
4 the New York Commission owners, I would note that my  
5 comments do not include the national.

6 At the outset I should say I listened to  
7 the comments of the first two speakers and I think  
8 that transmission owners are in general agreement  
9 with virtually everything that has been said.

10 The New York transmission owners recommend  
11 that the Commission find NYISO's governance  
12 structure to be satisfactory in compliance with the  
13 standard market design adopted in the final SMD  
14 rule.

15 NYISO's governance structure has been  
16 found to satisfy the basic requirements of RTO, ISO  
17 independence and fairness to all market participants  
18 in previous Commission orders. In addition, the  
19 current governance structure has functioned well  
20 over the first four years of NYISO's operation and,  
21 particularly relevant, the NYISO, operating under  
22 its current government structure, hasn't able to  
23 implement the market design that is virtually the  
24 same as the standard market designs proposed by the  
25 Commission.

1           We recognize that the NYISO governance  
2 structure differs in some respects from the specific  
3 governance model suggested by the Commission and  
4 from the governance structures and other RTOs and  
5 ISOs.

6           Those differences do not affect NYISO's  
7 ability to function independently and effectively;  
8 or to treat all market participants in market  
9 sectors fairly. Various parties, including the  
10 transmission owners, have identified aspects of the  
11 NYISO's governance that may be improved in the  
12 future.

13           Any govern changes, however, can and  
14 should be made to the existing governance process  
15 with the active involvement and collaboration of the  
16 NYISO board, the NYISO staff and all market  
17 participants.

18           As Bob pointed out, the NYISO governance  
19 structure is the result of extensive negotiations  
20 between market participants and between market  
21 participants and the NYISO, subject to guidance  
22 provided by the Commission and with direct  
23 assistance of the Commission staff. It represents a  
24 balance of various aspects of governance that was  
25 necessary to the broadest support that was achieved

1 for its initial approval by the Commission.

2 Changing selected aspects of the NYISO's  
3 governance would almost certainly upset that balance  
4 and foster unnecessary contention and litigation.

5 Our resources can be much more  
6 productively directed at the continued improvement  
7 and implementation of the standard market design  
8 supported by the Commission and the effective  
9 elimination of seams with our neighboring RTOs,  
10 ISOs.

11 The New York transmission owners agree  
12 that the state must play a significant role in the  
13 various aspects of standard market design that have  
14 been identified by the Commission. These include  
15 resource adequacy, elimination of pancake  
16 transmission rates and transmission planning and  
17 expansion.

18 We also support the proposed requirement  
19 that each RTO and ISO provide a forum for state  
20 representative participants to participate in the  
21 ISO RTO decision making process. However, the  
22 formation of a regional state committee may not be  
23 necessary for the policy input from state  
24 representatives, especially in the case of single  
25 state ISOs or NYISOs.

1                   Currently, various New York state  
2 agencies, including New York service Public  
3 Commission, the New York State Protection Board, the  
4 New York State Energy Research and Development  
5 Authority are all active participants in the NYISO  
6 and provide state policy input into the NYISO  
7 decision-making process.

8                   Coordination among New York State and the  
9 state's neighboring RTOs ISOs, including both New  
10 England and PJM on broader regional issues, such as  
11 regional transmission planning, would be beneficial  
12 and the voluntary coordination by states throughout  
13 the entire northeast should be encouraged by the  
14 Commission.

15                   MS. ROBINSON: Mike Delaney represents the  
16 City of New York in the process and he is  
17 representing end-use consumers today.

18                   MR. DELANEY: Thank you, Elaine, as my  
19 transmission planning is not that advanced in New  
20 York.

21                   We are here on behalf of the end users. I  
22 am the policy advocate for the City of New York and  
23 on behalf of your host city and also of the end use  
24 sector, we welcome you. We appreciate the  
25 opportunity to be here.

1           I think at the risk of, in the word of the  
2 previous panel, echoing prior sentiments, you are  
3 going to hear similar views expressed by me, namely  
4 the shared governance model that we have in New York  
5 ISO is, in fact, our view consistent with the FERC  
6 concerns which I think, Chairman, that you expressed  
7 a couple of months ago. In Boston, the ISO New  
8 England session, comparable to this one, he's  
9 referring, to use your words, to the tension between  
10 independence and accountability, and we recognize  
11 that there is that dynamic tension that exists  
12 between those two concepts, but we believe we have a  
13 model in this state and in this ISO that does, in  
14 fact, meet those concerns, and I think it is fair to  
15 say that's not necessarily intuitive or obvious.

16           If you look at the governance in other  
17 areas of the country -- and in preparation for my  
18 appearance today, I have looked at some of the  
19 models that exist elsewhere -- indeed, I have with  
20 me today the stakeholder process model for C trans,  
21 which suggests that perhaps I need more of a life,  
22 but I did make an effort to look at some of the  
23 comparable models and it is true that the advisory  
24 model, which, as Paul said, was referred to in your  
25 SMD document and other orders, and other directors

1 from the Commission suggest that the advisory model  
2 best comport with those two concerns, with  
3 independent and accountability.

4 And I think it was suggested also in the  
5 FDC staff reaction to the SMD and the wholesale  
6 power market platform, that there was a concern that  
7 stakeholders be removed from the process, that  
8 decision making be made by disinterested parties,  
9 and we agree with all those concepts, but we believe  
10 that we have a system here that really can  
11 effectuate those.

12 You've heard the presentation from Bill  
13 Museler in which he cited a number of statistics,  
14 and it seems to me we are not going to be ruled by  
15 statistics.

16 Obviously, you can have a case that  
17 suggests your model didn't work, even if it doesn't  
18 conform to what happened in the past, but it is true  
19 that we have the 205 authority, except in the case  
20 of exigent circumstances, that it is hard, and the  
21 206 authority that remains available to everyone.

22 I think for most stakeholders it is a  
23 whittling process only to bring a 206 action on your  
24 own or with others, given the expenses and the  
25 difficult showing required, but we have a board that

1 I think it is fair to say that history has  
2 demonstrated is truly independent.

3           Someone was here today and has done very  
4 well to use the immediate past chair, Mr. Drowsy,  
5 famously reminded us about almost every liaison  
6 meeting of what the "I" in ISO stood for, in case  
7 there was any ambiguity about that. But we really  
8 need to remind you, because I think the board has  
9 retained that independence and has exercised it more  
10 than once, sometimes to the dismay of the end user  
11 sector.

12           Some of us remain both unhappy and far  
13 less sanguine about the prospect for the demand  
14 curve results than Mark Younger, but that was an  
15 example of a closely fought battle, as you well  
16 know, both at the management committee in front of  
17 the board and ultimately in front of you. But I  
18 think it illustrates the fact that clearly, in any  
19 system of governance, no matter what forms it takes,  
20 there is going to be a pattern in which you win some  
21 and lose some, and the proverbial expression, but we  
22 have recognized there is a real value.

23           And I would really urge you, among the  
24 Commissioners, a real value it seems to us in an  
25 explicit role for participants is to actually have a

1 book. I mean, the advisory model may not be in  
2 practice very different if you look at what really  
3 happens in PJM and an advisory committee and a  
4 board.

5 Perhaps it not so very different what  
6 happens at NYISO but it seems to me if you are  
7 talking about conferring legitimacy and conferring  
8 public confidence, particularly in my sector for the  
9 end user, it is critically important that we have a  
10 vote that sometimes we affect the outcome. We are a  
11 little bit in a mid range sector in terms of our  
12 building percentage in, 20 percent, and we have it  
13 modified -- super majority of 58 percent -- but  
14 seems to me that puts us in a slightly different  
15 position from simply being an advisor, and I would  
16 suggest that to the board.

17 I could suggest it also results in fewer  
18 appeals and goodwill, less litigation in front of  
19 the Commission itself, which I presume is all so at  
20 the risk of sounding like a lawyer and invoking the  
21 name of Justice Brandies, I think there is a role  
22 for state or, in this case, ISO experimentation, and  
23 that's really what we have done here. It is a  
24 slightly different model.

25 And then I think you have suggested as the

1 paradigm, but it is one that Bill and my fellow  
2 panelists have indicated we believe works, we  
3 believe conveys, as I say, a certain legitimacy and  
4 better, perhaps meets a fiduciary responsibility for  
5 the board; we would urge its continuance, watch the  
6 expression, regional flexibility, whether it is a TV  
7 or members of the congressional committee, it is a  
8 concept we know that is very familiar to you and we  
9 think it is one that has real value here in New  
10 York.

11 CHAIRMAN WOOD: So wait until these  
12 sectors have a 20 percent vote or does it matter?

13 MR. DELANEY: It is slightly different.  
14 The generators and suppliers have 25 percent. The  
15 consumer sectors have 20 percent. 17 for the Public  
16 Power Authority and TL is 20. It is a slightly  
17 different formulation to arrive at the 80 percent.

18 CHAIRMAN WOOD: Before we leave that out  
19 there, Bob, who is in that sector? I'm pretty  
20 familiar with the definitions, from what you all  
21 said earlier.

22 MR. HINEY: The municipal electric systems  
23 throughout the state, 51 and so forth, and various  
24 environmental groups or entities that are  
25 particularly interested in the environmental pacts

1 of the action taken; it is somewhat of an eclectic  
2 group but it works.

3 CHAIRMAN WOOD: Are the interests of the  
4 environmental groups on market design issues  
5 generally in line with those of the power utilities?

6 MR. HINEY: I wouldn't say 100 percent,  
7 but we are comfortable being in the same sector.  
8 The environmental sector is throughout the sector.  
9 I wouldn't say that we are the keepers of the  
10 environmental issue by any means.

11 MS. ROBINSON: Susan Felton from, I want  
12 to make sure I get the whole name, Mirant Americas  
13 Energy Marketing LP, will represent generator  
14 sectors and is the final panelist.

15 MS. FELTON: Chairman Wood, Chairman  
16 Flynn, Commissioners, thank you for this opportunity  
17 and Justice Bruce (Ph.) Was telling New York the  
18 generator group is not in complete COOPERATION with  
19 every other panelists, IN this section at least. The  
20 generation owners are the other owners. Our assets,  
21 power plants, fuel inventories and the generation  
22 contracts are essential to ensure the reliability  
23 and the balanced expansion of the electric system to  
24 meet the needs of the consumer both today and in the  
25 future. However, unlike the transmission owners, we

1 have no presumption of a regulatory cost recovery on  
2 our assets. We rely on competition.

3 For competition and competitive markets to  
4 work and to benefit consumers, it must be  
5 sustainable over the long term and provide all  
6 owners, both the monopolists and competitive firms  
7 with an earned opportunity to continue to operate.

8 Two elements are critical to a competitive  
9 market: A healthy financial climate for both  
10 generation and transmission owners, and a regulatory  
11 environment that fosters market rules that promote  
12 and develop competitive markets.

13 The New York ISO, as operator of the New  
14 York wholesale electric market, has accomplished  
15 much in the establishing of the wholesale market  
16 platform that is close to the original vision of the  
17 Commission. All sectors working together with the  
18 ISO staff has helped in the continued process of  
19 creating and improving our markets.

20 Our accomplishments include a transparent  
21 day ahead market that co-optimizes energy and  
22 ancillary services and utilizes bid based,  
23 locational based marginal pricing for congestion  
24 management and transmission congestion contracts for  
25 financial congestion hedges.

1           Recent significant improvements include  
2 rule changes that allow pricing in a real-time  
3 market to accurately reflect scarcity conditions  
4 when they are, indeed, present on the system. In  
5 addition, with the ICAP demand curve, New York has  
6 developed a sound and effective mechanism that  
7 addresses resource adequacy requirements and aligns  
8 them with requirements of a structure for  
9 competitive energy markets.

10           The ISO is to be congratulated with these  
11 accomplishments. The New York ISO continues to  
12 learn from actual market experience and to refine  
13 its functional models in ways that others will  
14 emulate and utilize.

15           However, as with any developing market  
16 process there remains work to be done. In this  
17 case, market design and government issues are still  
18 not fully complete. Significant work remains to be  
19 filled in.

20           Some of these components, whether called  
21 RTO or ISO, the central mission of a market operator  
22 is to design, operate and administer competitive,  
23 efficient and reliable markets that are sustainable  
24 over the long term for the ultimate benefit of  
25 consumers.

1           The structure that is supplied to the  
2           system operator for its governance, its mission and  
3           its very authority must be designed to achieve that  
4           goal.

5           In developing the minimum functions of an  
6           RTO in order 2000 and in all subsequent proposed  
7           rulings, since the first principle of the Commission  
8           has always been identified as being essentially of  
9           that of independence of the grid operator, this  
10          fundamental independence is a requirement. Even in  
11          an evolved market, such as New York, independence is  
12          essential to consumer confidence and ultimately to  
13          investor confidence.

14          A task that remains for New York is that  
15          the governments today in New York, in the absence of  
16          exigent circumstances, the ISO, an impartial  
17          independent entity unhampered by any financial stake  
18          in the market, cannot alone submit a tariff filing  
19          under FPA Section 205. Instead, the current New  
20          York government structure allows a weighted vote of  
21          58 percent of the market participants in the  
22          management committee to dictate 205 changes that the  
23          ISO may submit to the Commission.

24          Moreover, more technically defined as five  
25          different sectors, the New York market participants

1 essentially fall in two categories, load interest  
2 and low density supply interest.

3 It is unacceptable in any market that one  
4 segment can unilaterally trump any other. Markets  
5 must be designed to achieve the long-term best  
6 interest of consumers and not the parochial short  
7 terms interests of any single segment.

8 The key to change will be in enhancing the  
9 ISO's independence. Generation of owners believe  
10 that a movement to an advisory role for stakeholders  
11 on market rules should be considered by the ISO and  
12 market participants through the ISO's strategic  
13 planning process. However, several provisions are  
14 vital to ensure the ISO is also accountable to the  
15 market:

16 First, a process must be developed to  
17 ensure that the ISO board routinely obtains input  
18 from all stakeholders, both market participants and  
19 State Commission, before submitting section 205  
20 filing to the Commission.

21 Moreover, an independent market monitor  
22 external to the ISO itself, in charge of reviewing  
23 the overall effectiveness and efficiency of the  
24 markets, including the operations and actions of the  
25 ISO is necessary. The functions of the independent

1 market monitor should recognize that the ISO, while  
2 independent, may not be fully unbiased with regard  
3 to the suitability or administration of the rules it  
4 designs.

5 New York comes very close to this  
6 currently; however, a more formal structure, such as  
7 that approved by the ISO, should be taken into  
8 consideration. Early this summer the ISO began to  
9 engage market participants in a strategic initiative  
10 effort designed to define the future of the New York  
11 market.

12 The generation owners strongly believe  
13 that resolution of government issues must be a focal  
14 part of that issue, and toward that goal we will  
15 give you our commitment to work through this effort,  
16 first with the ISO and other market participants, to  
17 consider refinements to New York's government  
18 structure that will bring it more firmly in line  
19 with this commission's wholesale market platform.

20 We believe strongly that a structure that  
21 provides independence of a system operator, along  
22 with an appropriate degree of accountability of the  
23 system operator to the markets, will produce the  
24 stability and certainty necessary for the continued  
25 development of effective and efficient wholesale

1 markets. Thus, these markets will produce consumer  
2 benefits that are, after all, all of our goal.

3 Thank you.

4 MR. FERNANCE: Excuse me. If I may.

5 CHAIRMAN WOOD: Hold on a second. We are  
6 contemplating if you have any questions for this  
7 last panel, and if have any questions, let's roll  
8 into this and I will consider you the first question  
9 for the panel. Go ahead.

10 MS. ROBINSON: Jerry, do you want the  
11 panel to remain?

12 MR. FERNANCE: Thank you. Just one of the  
13 things here with having sectors represented is that  
14 -- again, Steven Fernance representing responsive  
15 load coalition -- is that often people that aren't  
16 one of the sectors may not think the sectors are  
17 perfect, while people who are in the sectors sitting  
18 at the table, who are represented by each of the  
19 sectors on the table, thinks that the sectors are  
20 fine.

21 One of the proposed groups, the  
22 alternative energy projects, a lot of folks that  
23 belong to the responsive load coalition would be  
24 interested in subsectors, but once the dye is cast  
25 and the original sectors are determined, it is very

1       difficult for someone to give up part of what  
2       they've gotten through that original process.

3               So as new constituents come forward and  
4       demand response and service providers are relatively  
5       new to this competitive marketplace, it will still  
6       be at the table and where you belong. And that's  
7       been one of the challenges that we have found in the  
8       governance process.

9               CHAIRMAN WOOD: Dan, how are other  
10       suppliers defined here?

11              MR. ALLEGRETTI: Here in New York, like  
12       other places, it tends to be the left-over sector.  
13       It tends to be the place where men are out in the  
14       open.

15              Steven's comment is an interesting one,  
16       and I think I would draw the distinction between not  
17       having your own sector and not having a vote or a  
18       voice at the table. As long as you are eligible to  
19       join a sector and have a meaningful voice, then the  
20       question really comes down to can you find a place  
21       to join within the government structure that allows  
22       you to be on the right side of that balance, between  
23       buyers and sellers of energy and buyers and sellers  
24       of transmission? And I think so long as you have  
25       opened up membership rules, that price responsive

1 load can find a home, whether it is in the end user  
2 sector or whether it is more merchants and  
3 entrepreneurs in the supplier sector, that they  
4 should be able to see where their sympathy generally  
5 lies in terms of the existing sectors, and find a  
6 home.

7 And if it just can't be done and it is  
8 really an issue that they have to have their own  
9 sector, we have to come down and have help from the  
10 Commissioner because that's a tough nut for the  
11 region to find on its own, but finding a home within  
12 the industry is the rule and then the issue is you  
13 still have to be balanced.

14 MR. GIOIA: If I could comment on that.  
15 There is a subject and bylaws committee. This very  
16 issue has been raised in that subcommittee and I  
17 believe we are making a lot of progress in coming up  
18 with a proposal to provide more effective  
19 representation within the management group. It is  
20 something we are working on and I believe we are  
21 going to resolve.

22 COMMISSIONER BROWNELL: We will see that  
23 when? It is my standard question.

24 MR. GIOIA: I hope you want to see it. I  
25 think we will win this governance process between a

1 proposal to the management committee, that I hope  
2 will be adopted to the general satisfaction of the  
3 participants in the NYISO.

4 COMMISSIONER BROWNELL: When?

5 MR. GIOIA: I would say within a few  
6 months.

7 CHAIRMAN WOOD: She doesn't remind me  
8 often but I do know that it took us males 140 years  
9 to give females the vote. So we are desensitized to  
10 the rights of the nonenfranchised.

11 I would just like to -- Elaine has the  
12 microphone.

13 MS. ROBINSON: There are microphones  
14 throughout the room. You just have to turn the  
15 switch on when you are recognized, but please do use  
16 the microphones if you are asking a question.

17 CHAIRMAN WOOD: Like always, please, we  
18 have had three panelists today that are focused on  
19 the issues that we have perceived to be kind of open  
20 or working on issues between where New York is today  
21 and to a more perfect market design for the benefit  
22 of the customers and the suppliers in the state, but  
23 I think we would like to also make sure we have  
24 ascertained the right issues and we have invited  
25 people to do that. If you say who you are and just

1 add it in, particularly if you or someone from your  
2 company has not spoken before today. This is New  
3 York.

4 MR. ALLEGRETTI: I have a follow-up  
5 thought, Chairman Woods. How to handle the odds  
6 that don't seem to fit into an existing sector, and  
7 I think back to the government settlement that was  
8 reached years now back in New England, when we  
9 hammered out the five sectors there and we had one  
10 company, Unitel, which was an investor owned  
11 distribution company.

12 It wasn't municipal, didn't own any bulk  
13 transmission, didn't own any generation, and nobody  
14 could find a home for it. It didn't fit within any  
15 of the five sectors and nobody was going to give one  
16 company its own sector. It just didn't make any  
17 sense. We finally threw up our hands and the other  
18 supplier said we will take the orphan in.

19 I really do think there are ad hoc  
20 solutions, ways that we can work it out and I think  
21 Paul is absolutely right.

22 The first thing that has to happen is the  
23 region and the region institution has to find a way  
24 to address these issues. You need to find a home  
25 and governance is messy. It is ugly and it is

1 messy. It is almost as bad as Congress.

2           There are a lot of different  
3 constituencies  
4 and it isn't wrapped up neat and tight, but in the  
5 end, as long as those sides have to reach a  
6 compromise to get something done, it usually works,  
7 and I think we can find places to fit things in.

8           I think it is when things are  
9 fundamentally out of balance, that Susan was  
10 describing, where one side of that paradigm was  
11 getting run over, that's when we need your hope and  
12 we need to be ready to answer the call when you do.

13           COMMISSIONER BROWNELL: But I think it is  
14 also important -- squeezing in is great and  
15 generosity is wonderful, but you are labeled an  
16 orphan. You get treated like an orphan and you have  
17 to get beyond that paradigm.

18           Yes, governance is messy but it is also  
19 fluid and I think we need to be adaptable and I  
20 think, Paul, that's what you are referring to  
21 because sooner or later we will have other sectors  
22 to be considered, like technology sectors.

23           CHAIRMAN WOOD: Cocktails are screaming,  
24 are they? I don't want to discourage anybody. I  
25 don't know if everybody is still awake. This is not

1       what I quite call a cattle call.

2                   MR. FOXEN:   Tim Foxen, NRG Energy.  I've  
3       only been at NRG for a couple of months so I'm not  
4       that up to speed on all the technicalities within  
5       that forum.  But I came from NRG's gas strength  
6       group and I think, just one simple thing, I figure,  
7       outweighs in the marketplace, and we are all well  
8       aware that a lot of the major market players had  
9       major problems with respect to having a healthy  
10      number of buyers and sellers to make the wholesale  
11      electricity market right now, and we are also well  
12      aware that at the federal level there are a lot of  
13      investigations going on and people, for better or  
14      for worse, are moving out of the quote, unquote,  
15      trading business.

16                   And I guess we should keep our eye on what  
17      are the benefits of having a healthy secondary  
18      market and healthy forward market and healthy  
19      markets that would let people trade options and  
20      things like that.

21                   I guess I wouldn't go out and advocate we  
22      need for more power parties.  Yet I think that's the  
23      balance, what develops for the consumer, but like I  
24      said, at the same time.

25                   Right now there is a major problem in the

1 wholesale marketplace on the electricity side, and I  
2 think it is important to amend that. Tim Fox with  
3 NRG.

4 CHAIRMAN WOOD: Anybody else? Yes, sir?

5 MR. ROCKFORD: Jose Rockford, U.S. At the  
6 risk of an incendiary question, I was a little  
7 troubled by the transmission panel this morning or  
8 earlier today because it seemed to have assumed that  
9 you could have a coexistence of a robust economic  
10 plan paradigm and an entrepreneurial investment  
11 system.

12 So I personally have a very strong doubt  
13 that these two are somehow compatible.

14 So what I wanted to ask if the  
15 Commission believes that these two are reconcilable,  
16 that you could have a robust economic plan process  
17 and entrepreneurial investment, and, if so, how do  
18 we get it?

19 CHAIRMAN WOOD: Let me take a stab at that  
20 because that's exactly the road where you have  
21 started down with the PJM, RTO filing that we have  
22 approved last December, which has been updated and  
23 we will probably speak on that more soon.

24 I think what we have asked them to do, at  
25 a minimum, is identify, based on their objective

1 analysis, probably the same type of thing you as a  
2 potential merchant are doing, which is to identify  
3 the points of potential need for an economic  
4 project, duty analysis. Somebody independent.  
5 That's the minimum.

6 And then they will move forward, as I  
7 believe it was talked about conceptually here and,  
8 quite frankly, I don't know exactly where we are,  
9 but once we have identified where this source seems  
10 to be, at some maybe congestion level, but it might  
11 be other things, then we have basically a year or so  
12 that's really identified for a market solution.

13 If a market solution doesn't come to bear  
14 from your company or others, then a regulated  
15 solution is contemplated and I don't think we have  
16 gone forward to say how that will be effectuated  
17 through a federal power filing, through a  
18 requirement, through the stakeholders Commission, or  
19 what have you, because, quite frankly, I don't know  
20 that we have gotten that far in those other markets  
21 where the planning process has been more developed.  
22 I don't know.

23 What, from your perspective, what would be  
24 harmful about having an independent trusted entity  
25 identify where there might be, it might be

1 duplicative of your efforts, but is it actually  
2 harmful to your efforts?

3 MR. ROCKFORD: I respectfully think so,  
4 yes. I think once you have a central authority,  
5 whether it be an ISO or some other entity, mandate  
6 economic upgrades, I just simply do not believe that  
7 any entrepreneur will be able to secure either the  
8 financing nor the customer that it would need to go  
9 forward with the project.

10 CHAIRMAN WOOD: Mandating economic  
11 upgrades assumes that it will be regulated at the  
12 end?

13 MR. ROCKFORD: Regulated, yes, sir.

14 CHAIRMAN WOOD: I will agree with your  
15 concern if that is, in fact, the outcome, and that's  
16 why I would push that panel, quite frankly, to be  
17 clear on what would the formula be for the cost out.

18 The perfect outcome would be the same  
19 formula you would need, which would be to identify  
20 who the beneficiaries are, the people here I had  
21 identified enough for the transmission upgrade.  
22 If the regulated outcome would be the same as the  
23 negotiated outcome, chances are the negotiated  
24 outcome, because of the flexibility that is involved  
25 for the customer and the supplier, perhaps the time

1 line involved would win every time.

2 I don't know that that's necessarily the  
3 case, but I do think that's why it is so critical to  
4 really address the formula issue up front. Tell me  
5 this is plan number three, and the wholesale power  
6 market platform. Tell me what the cost allocation  
7 formula would be for the new transmission, a  
8 liability or economic.

9 Heck, it might even be the same formula,  
10 which is to identify beneficiaries as close as  
11 possible to the most relevant license plate, or I  
12 don't know if you would get more granular than the  
13 license plate if you could, and then I'd say that is  
14 the way it is going to be allocated. That's  
15 probably the same approach that you, as a  
16 nonregulated TO would pursue.

17 But if not, I think your experience should  
18 inform me what that formula looks like.

19 The whole outcome may be the same in terms  
20 of the customer, where they pay a regulated amount  
21 over merchant, but the issue is who gets to bill it  
22 once you go that regulated, and the concern that I  
23 have is the lack of, well, this is the assumption  
24 that only certain entities can provide the regulated  
25 solution.

1                   CHAIRMAN WOOD: Chairman Welch.

2                   CHAIRMAN WELCH: We have had the  
3 conversation with market participants that run very  
4 much along the same lines and the difficulty is  
5 there are two difficulties.

6                   One of them is what the geographic area of  
7 people are likely to pay, and I think that has its  
8 own dynamic, but the second is the center recovery,  
9 and if you were really going to put, I don't want to  
10 use the word "level playing field," but it seems to  
11 me we should prefer solutions that are, in fact, the  
12 most economic, the more preferred solutions. If you  
13 want to achieve that, then finding  
14 some way of either providing greater certainty to  
15 those who develop generation or demand solutions or  
16 providing less certainty to those who would provide  
17 transmission solutions, I think, would be critical.

18                   So we are working on a model that I think  
19 is practical, similar to the RAP model or New York  
20 model, but New England is working on a model that  
21 really does seek to achieve through a former  
22 capacity type auction market, provide the kind of  
23 sender to the generation sector and the demand  
24 sector to permit them to have the same kind of  
25 sender they can take to the banks, in terms of cross

1 recovery, to allow them not to have transmission.  
2 Always be a default every time you see a problem  
3 that you solve.

4 CHAIRMAN WOOD: Question? Thoughts.  
5 Comments. Yes, sir. Back here on this panel.

6 MR. DUTHIE: I'm not sure I can turn this  
7 on. Chairman Wood, you use the term fair  
8 co-allocation, that's really the gist and the  
9 concerns associated with reliability versus economic  
10 transmission expense.

11 I would ask that you lead by example on  
12 Wednesday in the PJM guide and fairly allocate the  
13 cost of running your operation to all the market  
14 participants that benefit from it.

15 CHAIRMAN WOOD: In the PJM?

16 MR. DUTHIE: My name is Dan Duthie,  
17 D-U-T-H-I-E, strategic power management.

18 CHAIRMAN WOOD: Can you repeat what you  
19 said? You are talking about the allocation of the  
20 FERC assessment?

21 MR. DUTHIE: At the risk of bringing this  
22 down to a very pedestrian level, the FERC has been  
23 legally unfairly charging RTOs and ISOs for the FERC  
24 operating budget. We do not believe as a market  
25 participant, particularly as a small market

1 participant, I'm in the service company, and we do  
2 not have the ability to pass on willy-nilly  
3 increased PERK fees.

4 As a result we would ask that you take a  
5 real hard look at how you are allocating those costs  
6 today and support the PJM request to revise that  
7 allocation in a more equitable manner.

8 CHAIRMAN WOOD: I would say this issue  
9 came up, it was actually, the PJM reference may be  
10 from a different document, from my ISO file this  
11 summer, and a request for ruling making on this  
12 issue. In fact, we rejected it at that time, but we  
13 thought of other issues that came up there and  
14 raised a concern for it, so I will just share with  
15 you the answers that I received back from the  
16 questions on that same issue because certainly we  
17 can't do anything to discuss the current RTO  
18 formation.

19 Collection historically, from the  
20 collective side of the budget, has been assessed on  
21 generation and/or balance, upon -- correct me, Alice  
22 Fernandez is the staff person in charge of this  
23 region for us. In fact, let me go ahead and  
24 introduce her at this time, so you all know Alison.  
25 Alison, stand up there in the back.

1           But, in general, one of the issues there  
2 was the old way of collecting did not reflect the  
3 current market-based usage, nor did it reflect where  
4 the Commission-used resources have been, which isn't  
5 dealing with market issues in the RTO realm.

6           One of the things that fell out of that  
7 sub-decision was are we double collecting, to which  
8 I found that the answer was no. We weren't  
9 assessing megawatt hours twice, which would  
10 certainly be the first thing you don't want to do.

11           But then are we more unfair to certain  
12 regions of the countries than to others, and I guess  
13 what I took away from that was probably not, but not  
14 certain.

15           So, in fact, when we rejected this, still,  
16 we committed in that order at the time that we would  
17 be looking at this in time, in the coming and going,  
18 which is now. I have to confess I'm trying to stay  
19 on top of things, but they are separate. We are not  
20 done with that. I think your point is fair, and we  
21 are very interested to make sure that our budget  
22 gets covered.

23           I think anybody in my position would be,  
24 but if it is being done in a way that is not in  
25 proportion to the work we perform or is not

1 proportionate fairly across the country, I think it  
2 should be fair, but I think as a practical matter  
3 the customers end up paying. And how is that  
4 collected? It is collected through a regulated TO  
5 rate.

6 I understand it is probably something  
7 where you would prefer being in a nonregulated  
8 market participant, and I think that those things  
9 were kind of teed up on the Commission prior to  
10 looking at this issue, but I'm not sure that that  
11 fundamental concern that you raised here is really  
12 one that would change. It could be fair.

13 I don't know because the firm method of  
14 collecting through assessment on each transaction  
15 one time through the central ISO that is handling  
16 that transaction is a much more efficient way to  
17 collect that charge, but I'm open.

18 Have you found some comments in regard to  
19 if that's an opinion issue before us? I should  
20 probably ask you that question first. If not, I  
21 would ask you to do so through that deal so I have  
22 the benefit of reading that.

23 CHAIRMAN WOOD: Yes, sir, in the back.

24 MR. HARDAWAY: Tim Hardaway. I'm Chairman  
25 of the Federal Standards of the Performance Review

1 Committee, and just to clarify the issue that Dan is  
2 raising, our committee has reached a conclusion  
3 current co-allocation formula that FERC is unfair to  
4 ISOs. We have a different viewpoint on it.

5 In the past when an integrated entity, for  
6 instance, a transmission owner, generator and LSE  
7 supplied power to itself, it does not pay a fee for  
8 those transactions to supply itself.

9 Once an integrated entity joins the New  
10 York ISO, by the way ISO is structured, all  
11 transactions, even those transactions that are used  
12 to supply itself energy, are not assessed a FERC  
13 fee, in essence, on a per megawatt hour basis. So  
14 prior to being part of an ISO the entity that may  
15 expend 80 percent of its own energy paid the fees  
16 only on that remaining 20 percent.

17 In the ISO, particularly the one  
18 structured like PJM or New York, now they pay 100  
19 percent of their energy supply, and that is the  
20 essence of the unfairness that Dan is trying to  
21 address.

22 CHAIRMAN WOOD: That's the clearest it has  
23 been explained to me yet and rather than embarrass  
24 myself and try to wing it, I will think about what  
25 you said.

1           But we have a plan as an agency to relook  
2           at that issue, not in the context of the specific  
3           docket, but if there is one before us that may be a  
4           good vehicle.

5           But if that's the case, then we will  
6           certainly put some ideas out there for you to react  
7           to and tell us for addressing an issue whether it is  
8           a barrier or not.

9           MS. ROBINSON: One in the back there. I'm  
10          sorry.

11          MR. NEWMAN: -- Newman, Director of the  
12          public utility around the project, and we represent  
13          residential consumers.

14          Earlier today I heard several speakers  
15          talk about the general preference to market  
16          solutions to provide transmission improvements  
17          needed for reliability, and I recognize, also, that  
18          there is often a mixture of reliability and economic  
19          benefit in many of these projects.

20          I think that the reliability is one of the  
21          most fundamental consumer protections that we have.  
22          We took it for granted and are reminded from time to  
23          time that this is essential that reliability be met,  
24          and in New York each of our utilities that serves  
25          consumers still has an obligation to provide safe

1 and adequate service on demand.

2 And, therefore, it seems to me that any  
3 process that does evolve here in prioritizing  
4 transmission projects, waiting for the market to  
5 provide it and finally coming up with a process of  
6 who will build it in the market is, perhaps, raising  
7 risks to consumers that needs to be addressed.

8 And I think that waiting for the market to  
9 build generation in the New York area didn't work,  
10 and the thing about any process that comes out here  
11 has to be very swift. To provide a utility project  
12 along those lines, that needs to be a swift way to  
13 effectuate it.

14 CHAIRMAN WOOD: Somewhere here. Anyone  
15 else? Chairman Boss, you you've been here all day.  
16 Chairman Robinson, any thoughts to wrap it up with?  
17 I don't want to put you on the spot but I know you  
18 have to do this for a living. Chairman Bill  
19 Robinson?

20 CHAIRMAN ROBINSON: I think, first of all,  
21 Pat, I would certainly like to, on behalf of the  
22 board and my fellow board members and the New York  
23 ISO in total, which of course includes all of our  
24 participants and staff, thank you and Commissioner  
25 Brownell and definitely Bill Flynn for taking the

1 time to see what New York ISO is about and what it  
2 has been doing.

3 I think with all the comments that you've  
4 heard today, I think you can see that on the whole  
5 the New York ISO in the last four years has  
6 accomplished quite a lot.

7 I think the real thing to say about it,  
8 even though we certainly all agree that we can  
9 continue to improve, continue to be more efficient,  
10 to do a number of things, I think on a whole we are  
11 pretty proud of what we have accomplished as an ISO  
12 in this market and we are certainly not going to  
13 rest on our laurels.

14 We are going to continue to advance,  
15 continue to move forward, but we do appreciate the  
16 fact that you've taken the time to come up here.

17 I think you will come over to see how we  
18 handle our six-month market participants or  
19 management committee ISO award session tomorrow. I  
20 think what you will find out is going to end up  
21 being very similar to what you see today.

22 There are going to be a few people sitting  
23 up here. My colleagues will be up here, but we do  
24 hear what the stakeholders have to say. We do feel  
25 that, as has been stated by most of the

1 participants, that the governance process starting  
2 out in its infancy at the very beginning with a lot  
3 of -- and I will just relay a little story.

4           When we first formed the board, or the  
5 board was formed by the participants, why I believe  
6 it was about the second month when we were invited  
7 up to Albany. I think the month was January.  
8 Something that made it quite interesting.

9           But the point was that we should sit down  
10 and listen to these various sectors and hear what  
11 their various problems were, but at the time we  
12 would hear one sector in a closed room, they would  
13 leave and we would hear another sector in a closed  
14 room and this was at their request.

15           I say that because we have come a long,  
16 long way since we've done that.

17           All sessions, all conferences, all the  
18 committee meetings and so on are held jointly  
19 together, and they do discuss and do work out their  
20 problems in the main and are willing to compromise,  
21 and I think that that speaks well for what has been  
22 accomplished by the stakeholders and the members of  
23 ISO.

24           I won't keep you any longer. We look  
25 forward to having you join us tomorrow and, again, I

1           thank you all for coming up here today.

2                         CHAIRMAN WOOD:   Okay.   I want to thank our  
3           host, ISO, and I want to thank our host PSE from  
4           Chairman Flynn.   I want to thank you our host for  
5           the building here, Con Ed, of course.   Thank you all  
6           for participating.

7                         Our general next step is one I will commit  
8           to do here as well.   This is our eighth White Paper  
9           road show, by the way, has been to write a letter  
10          back to the panelists and to the leadership here  
11          that, is, of course, copied to the broad market  
12          participation group saying here is what we have  
13          heard and here are some recommendations.

14                        If we need to do something in order, we  
15          will do so, but here's our thought about what we  
16          heard, and we will get that out in the next couple  
17          of weeks.   It is not any traumatic big document, but  
18          it is a way to formally document from our  
19          perspective on behalf of the Commission here what we  
20          heard and where we are going.

21                        I will say just as one who works this  
22          market firm from fairway when I was a state  
23          regulator in Texas and now I'm much closer, now that  
24          I am at FERC, we were very impressed with how this  
25          is working.

1           Our energy markets are probably as well  
2 developed as any in the world and certainly we have  
3 raised some issues today about planning some of the  
4 key infrastructure which has been certainly a  
5 concern in the market, as important as it is in the  
6 whole eastern grid, and that we will continue to  
7 support the efforts here as well as continue moving  
8 forward and buffer the efforts of my good friend  
9 Bill Flynn and his staff at the PSC in deciding the  
10 infrastructure, both generation and transmission, as  
11 well as the important demand side role.

12           Those are all issues where the state  
13 commissions are really at the front seat and we want  
14 to do what we can to support that effort, as you  
15 know.

16           I want to thank the folks from our staff  
17 who made this work so well. Sarah McKinley has  
18 really been the person in charge of that. She is by  
19 the door and she's going out, too. She's certainly  
20 away from her seat. Kevin Cadden is our Director of  
21 External Affairs and Sarah's boss and made sure that  
22 these work well.

23           I want to thank Alice again, who is the  
24 person over on our staff that does a lot of  
25 substantive work on New York ISO issue. Constance

1 Arnett and from our office, Robert Graham, who is  
2 here as well. We want to thank you all. Thank the  
3 FERC board. Our good board from the state PSC. Tom  
4 Welch, coming from Maine. Keep up the good work and  
5 the customers of this great state, have a good  
6 afternoon.

7 (Time noted: 5:28 p.m.)

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