



STATE OF NEW YORK  
EXECUTIVE DEPARTMENT  
**STATE CONSUMER PROTECTION BOARD**

**George E. Pataki**  
Governor

**Teresa A. Santiago**  
Chairperson and Executive Director

July 14, 2006

Mr. Mark S. Lynch  
President & CEO  
New York Independent System Operator  
3890 Carman Road  
Schenectady, New York 12303

Dear Mr. Lynch:

The New York State Consumer Protection Board ("CPB") has been concerned for several months about the apparent exercise of market power in capacity markets in New York State, particularly in Zone J. As the designated "Statewide Consumer Advocate" at the New York Independent System Operator ("NYISO"), we have worked diligently in the NYISO's Committee processes to determine whether that market is operating competitively, identify the extent of any problem and assist in developing corrective solutions. However, we are disappointed that this issue has not received the attention it deserves from the NYISO Staff. I respectfully request that you immediately direct the ISO's Market Monitoring Unit to conduct an expedited, formal investigation of this issue, and that you inform me no later than July 21, 2006, of the scope of that investigation, when it will be completed and when its final results will be reported to the CPB and other market participants.

The CPB, through its representative Mr. Tariq Niazi, has been active in the NYISO since its inception. We participate actively on each of the NYISO's decision-making committees and have been instrumental in the development of many important measures to protect consumers from unjust and unreasonable wholesale prices. Those safeguards include market monitoring and mitigation measures which are generally regarded as the most comprehensive in the country. We have also worked diligently with NYISO staff and market participants to develop policies which are in the long term interest of New York's consumers. Of particular significance is our work as one of the few representatives of end users in support of the demand curve, to address defects in the installed capacity market.

It is that same capacity market in which there appears to be evidence of the exercise of market power by at least one industry participant. It appears that withholding of approximately 800 MW from the New York City capacity market has led to higher prices than had generators sold all their capacity, to the detriment of consumers. Moreover, it is acknowledged that market monitoring and mitigation measures of the type that help protect consumers from the exercise of market power in energy markets, do not exist for capacity markets.

The CPB has patiently addressed our concern in accordance with standard NYISO procedures. Since this issue became apparent in early June, we have participated actively in every meeting of the NYISO's Installed Capacity Working Group, Business Issues Committee and Management Committee, and have pressed for additional attention to this matter at every opportunity. However, NYISO staff, particularly the Market Monitoring Unit, has apparently not recognized the importance of this issue to consumers and has not committed to conducting a timely investigation of this issue.

It is for this reason that I request your assistance directly. New Yorkers must not pay higher electricity prices than are necessary, and they must have the confidence that wholesale markets are operating in a competitive manner. The first step in achieving this is to have the NYISO's experts conduct an immediate, expedited and formal investigation of whether market power has been exercised in New York's capacity markets. I await your reply by July 21, 2006.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Teresa A. Santiago". The signature is fluid and cursive, written over a horizontal line.

Teresa A. Santiago  
Chairperson and Executive Director

cc: Mr. Tariq N. Niazi, CPB Representative to NYISO