

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 08017/07-M-0906

The New York State Public Service Commission today announced it is seeking public comment as to whether to approve Iberdrola, S.A.'s proposal to acquire Energy East Corporation, the parent holding company of New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG7E).

PUBLIC STATEMENT HEARING

February 19, 2008

Binghamton State Office Building

Community Room

Binghamton, New York

7:00 p.m.

BEFORE: Rafael A. Epstein

Administrative Law Judge

REPORTED BY: Marilyn F. (Lyn) Wilson

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(7:00)

ADMINISTRATIVE LAW JUDGE: I call case 08017/7-M-0906. This is the matter of the proposal by Iberdrola to acquire Energy East Corporation which, in turn, owns RG&E. My name is Rafael A. Epstein. I'm the Administrative Law Judge who has been assigned by the PSC to hear this case.

The reason we're having this hearing -- and I want to thank you all for coming on out and participating -- the reason for this is that it's one way that the Commission is able to hear what members of the public think about the case.

If you would like to speak, all you need to do is fill out a card with your name and address and you will be called in the order that the cards were filled out, pretty much, except that some people have gone out temporarily and will have to wait their turn when they come back.

This type of hearing produces a transcript which the reporter here is preparing so that it can be read by the

1 Commissioners and people who assist them and
2 the substance of everything you say can be
3 reported to the Commission at the same time.

4 This is one of a series of public
5 service hearings we're hearing. As you can
6 see from the Notice, what we try to do is
7 take areas of the NYSEG-RG&E service
8 territories to the extent we could give
9 everybody a chance to speak.

10 If you would like, in addition to
11 this, in addition to speaking here, or
12 instead of speaking here, you can write to
13 the PSC by sending them an e-mail or writing
14 to the PSC on their website or just sending
15 them a plain old letter. All those things
16 are equally good.

17 You could also call the hotline and
18 leave a recording to record your remarks and
19 those also will be summarized and reported
20 to me and also to the Commission.

21 While this is going on, another
22 activity that may be taking place is
23 evidentiary hearings. That's a kind of a
24 trial-type hearing when witnesses for these

1 companies and for either parties in the case
2 have filed written testimony in the
3 evidentiary hearing taken on the witness
4 stand and they get cross-examined.

5 Their attorneys will be writing
6 briefs about what may or may not have been
7 demonstrated in those hearings.

8 Alternatively, there have been phases
9 in this case where negotiations were going
10 on in an effort to see whether all the
11 parties involved could agree upon some
12 proposal to the Commission as an alternative
13 to the Company's original proposal.

14 Right now, hearings are scheduled to
15 start February 27th, but that's subject to
16 postponement, depending on whether or not
17 the parties engage in negotiations towards
18 the end of this week.

19 That's sort of the status of the
20 case.

21 The arrangement here is that Mr.
22 Wagner here works for the Department of
23 Public Service and he's helping me out a
24 great deal with the logistics. We have the

1 reporter here who needs you to speak pretty
2 clearly and deliberately so that she can be
3 sure to get everything down.

4 An attorney is here, Mr. Gansberg,
5 who represents Iberdrola. I don't
6 ordinarily call attorneys to speak in this
7 type of forum because they have other
8 opportunities to present their case and this
9 is really a hearing being held as an
10 opportunity for the public and I haven't
11 consulted with Mr. Gansberg on whether he
12 wants to entertain questions or get into a
13 discussion with you.

14 Speaking for myself, since I am going
15 to be making a recommendation on this case
16 to the Commission, I am trying my darndest
17 to stay unbiased and with no predispositions
18 right up until the bitter end. So I'm not
19 going to talk to you about the merits of the
20 case, but I am happy to talk to you to the
21 extent that I can explain more about it,
22 what's happening in the case and what the
23 procedures are.

24 We'll hear from the speakers. If we

1 find that there are no more people waiting
2 to speak, we'll go off the record. At that
3 point, we can just play it by ear, we can
4 talk informally if you like. Mr. Gansberg
5 may want to do that or you may have
6 questions to Mr. Gansberg that would
7 appropriately be on the record.

8 I'm not sure how this will play out.
9 Every hearing is different. But we'll see
10 where it goes.

11 So our first speaker who signed up in
12 Mr. Clark. The reporter and I would like
13 you to use the podium here, if you don't
14 mind. And you'll probably have to holler
15 just a little bit, that's what I'm finding.
16 It looks like a small room to start out, but
17 after you've been talking for a while, you
18 might have to holler.

19 MR. CLARK: Well I'm a little hard of
20 hearing.

21 ADMINISTRATIVE LAW JUDGE: As long as
22 we can hear you. To tell the truth, I'm a
23 little hard of hearing myself. So we'll be
24 a good team.

1 MR. CLARK: Well I'll tell you, this
2 is the way I have to look at it is we buy
3 our power from NYSEG and I'd like to see
4 these companies stay strictly American.
5 We're giving this country away. I'm not
6 against doing business with foreign
7 countries, but I'm sure we could find people
8 that could run these companies just as
9 efficient as maybe a foreign company can.

10 That's what this country was founded
11 on was American industry. Right now we've
12 got a government that's not only giving this
13 country away, but they're handing it to
14 everybody on a platter. And I definitely
15 want to see this power company stay strictly
16 American. That's my main concern.

17 And I'm sure that the people that's
18 running these companies, I'm sure maybe they
19 could go to maybe these other countries and
20 find their ways of doing things and copy off
21 of them. But the main thing is keep it
22 American.

23 Thank you very much.

24 ADMINISTRATIVE LAW JUDGE: Thank you,

1 Mr. Clark. I neglected -- Mr. Clark, I'll
2 give your name and address to the reporter
3 -- but I neglected to mention that when you
4 come up here, you should state your name and
5 address for the reporter yourself.

6 (Henry Clark, 5442 US Highway 20,
7 East Springfield, New York.)

8 ADMINISTRATIVE LAW JUDGE: Mr. Murin,
9 I believe it is.

10 MR. MURIN: Thank you. My name is
11 Philip Murin. I live in Earlville, Chenango
12 County. And I have just two comments.

13 The first is my main issue for me,
14 personally, in this case concerns the use of
15 NYSEG rights-of-way under Iberdrola's
16 proposed ownership, and particularly in
17 relation to the New York use of the
18 interconnect project. The high voltage
19 transmission line that's been proposed is
20 now Article 7 in front of the Public Service
21 Commission.

22 The New York Regional Interconnect
23 High Voltage Transmission Line now proposes
24 to use several miles of NYSEG right-of-way

1 for some miles, and the overhead
2 transmission line. And I request the PSC to
3 carefully consider Iberdrola's proposed
4 ownership of NYSEG rights-of-way.

5 The case that is particularly
6 alarming for me is if NYSEG leases right-of-
7 way to New York Regional Interconnect and
8 thereby could be collusionary in the result
9 of raising the prices of all of us in Central
10 New York.

11 The net effect of related congestion
12 in Upper New York and allowing electricity
13 to flow to be Manhattan and Southern New
14 York area has been stated to be not an
15 increase in wholesale electric prices in
16 upstate New York. Therefore, I think it
17 does bear for the PSC to look carefully at
18 these rights-of-way perhaps being used by
19 NYRI under the ownership of Iberdrola, the
20 effect would be collective prices would be
21 higher in Central New York. And we have two
22 companies that are in the business of
23 transmitting and distributing electricity
24 contributing to that situation.

1 The second thing that I want to raise
2 a bit of caution about regarding the
3 proposal is that there's currently no
4 Article 10 law active in New York State for
5 setting new generation plans.

6 I know the Public Service Commission
7 said that one of its caveats or objections
8 to the proposal as it was submitted was that
9 Iberdrola would be barred from owning
10 generating plants in New York State. And I
11 do think that it would be important given
12 that electric generation transmission is an
13 imperfect market that any proposal by
14 Iberdrola to own a generation plant in New
15 York State should be decided with an active
16 Article 10 generation law and that any such
17 proposal could be decided on its merits
18 within the existing law.

19 Thank you very much.

20 ADMINISTRATIVE LAW JUDGE: Thank you,
21 Mr. Murin.

22 Mr. Culbertson.

23 MR. CULBERTSON: I have a printed copy
24 of my statement. Would you like a copy?

1 (HANDING DOCUMENT TO COURT AND
2 REPORTER.)

3 MR. CULBERTSON'S WRITTEN STATEMENT:

4 My name is Dave Culbertson, president of
5 National Pipe & Plastics at Vestal, New
6 York.

7 (Dave Culbertson, National Pipe and
8 Plastics, 3421 Vestal Road, Vestal, New
9 York.)

10 Thank you for allowing me to make
11 this statement regarding the
12 Iberdrola/Energy East merger. My company
13 manufactures 250 million pounds of PVC pipe
14 each year for markets in the eastern half of
15 the United States and Canada since 1970. We
16 are the largest PVC pipe producer in the
17 Northeast quadrant of the United States and
18 one of the largest is North America, with
19 two manufacturing facilities, one in
20 Greensboro, North Carolina, and the other
21 one in Vestal, New York. We have a total of
22 300 employees with 175 employees in Upstate
23 New York.

24 I am here as both a resident of

1 Upstate New York, with children and
2 grandchildren living here, and a business
3 owner faced with the challenges and
4 opportunities that go along with any
5 business.

6 I am currently spending 3 million
7 dollars on three new product lines that
8 would expand our business in New York and
9 bring new jobs into Upstate. As we analyze
10 the costs and benefits of expansion, we have
11 to compare our two locations. Among the
12 factors we have to consider are an energy
13 cost that is two and a half times higher in
14 New York than North Carolina. Where we
15 ultimately decide to grow our new markets
16 will depend on whether New York makes the
17 necessary changes to create a more
18 competitive business climate in Upstate.

19 I welcome Iberdrola's entry into New
20 York along with the significant investments
21 they promise in Upstate New York and the
22 much needed economic growth associated with
23 those investments. In addition to the
24 economic development Iberdrola offers to

1 bring to the distressed economy of Upstate
2 New York, I understand their proposal
3 includes no job reductions as part of the
4 merger. Iberdrola's investment in the
5 economic growth of Upstate New York can
6 do nothing but good for an economy
7 desperately in need of revitalization.

8 Additionally, Iberdrola is one of the
9 world's largest suppliers of renewable
10 energy. New York must do everything
11 possible to encourage Iberdrola to bring the
12 generation of renewable energy resources to
13 our state. New York has the highest cost of
14 electricity in the contiguous United States
15 with a rate that is almost double that
16 median for the country. The continued
17 viability of manufacturing in Upstate New
18 York requires an increase in power
19 generation capacity. We not only need to
20 encourage Iberdrola to bring their business
21 investment into New York, we also need to
22 make allowance for and encourage Iberdrola
23 to add electrical generation in New York
24 State.

1 In fact, we need more than an
2 increased supply of power in New York. We
3 also need to make pricing more competitive.
4 Currently, the New York ISO formula for
5 pricing at the grid is nothing more than
6 price-fixing for independent power
7 producers. Every power producer submits a
8 bid at the price for which they are willing
9 to supply power to the grid, but then all
10 producers are awarded the highest price bid.
11 This is monopolistic behavior that
12 eliminates any sense of competition from the
13 bidding process. We need more power
14 generators, including Iberdrola, and we need
15 everyone to receive only the amount bid at
16 the grid in order to finally make New York's
17 electric supply competitive.

18 In summary, the high cost of energy
19 and the lack of supply in New York is the
20 number one reason why manufacturing jobs
21 have left and will continue to leave the
22 state. I strongly believe, as an Upstate
23 New York manufacturer, that the merger of
24 Iberdrola and Energy East is necessary for

1 the economic well-being of New York.

2 Thank you.

3 ADMINISTRATIVE LAW JUDGE: Thank you,
4 Mr. Culbertson.

5 Mr. Mowry.

6 MR. MOWRY: I'm David Mowry, 54
7 Baldwin Street, Binghamton. I thank you
8 very much for this opportunity. I pretty
9 near had my neighbor to come, but his answer
10 to me was "What good does it do?"

11 This seems to be the trend today that
12 it doesn't make any sense to try to come to
13 one of these things. I still feel we should
14 say something because if we don't, we're
15 just rolling over and letting it happen.

16 I am very much against a public
17 utility being transferred to a foreign
18 country. We've already let our generation
19 plants go to a British company. I worked at
20 NYSEG for a good many years and I think they
21 product electricity as good as anybody could
22 do it, under the circumstances, with the
23 regulations. But the decision was made to
24 get out of the transmission business because

1 it was costing to much.

2 Well, since we transferred it to AES,
3 I haven't seen the price go down on
4 electricity; it just got more confusing.

5 My feeling is that if we let this go
6 to a foreign country, we will have no say
7 whatsoever. They can tell us to go fly a
8 kite and what are we going to do? At least
9 here, we can come and speak out piece on
10 something and hopefully somebody will
11 listen.

12 As the first gentleman that spoke,
13 we're losing everything. Now we're losing a
14 public utility which furnished electricity
15 and everything else to us that makes our
16 life go 'round. It's going to be an awful
17 situation. They can say we've had it.
18 Spain, as far as I know, is run by a king.
19 A king does what he wants. If the people
20 don't like it, that's tough. If I'm wrong,
21 I'm wrong. But you have no control over
22 what happens in a foreign country.

23 I was stationed in Korea after the
24 Korean War. We would do anything. We were

1 over there as a peaceful nation and yet, we
2 had to do as they said. And if we didn't
3 like it, that was tough. Go on back to
4 America.

5 What are they going to do, tell us to
6 take our electricity and go back to America?
7 I think somebody in this country better wake
8 up. The first gentleman spoke we're giving
9 everything away. Not just products, like
10 this gentleman spoke about the pipe, but
11 everything else. Somewhere, somebody better
12 put their foot down and say enough is
13 enough. We produce electricity. The
14 telephone company is gone. We have no
15 reliable telephone service any more. We've
16 had to switch to fiberoptic cable so that we
17 have reliable telephone service.

18 Now what's going to happen next?
19 What are we going to do if we don't have
20 reliable electric service? Are we going to
21 write to someone over in Spain and say hey,
22 I've got a problem at 54 Baldwin Street?
23 I'm telling you, we'd better wake up in this
24 country or we won't have anything.

1 Thank you very much.

2 ADMINISTRATIVE LAW JUDGE: Thank you,
3 Mr. Mowry.

4 Is there anybody else that would like
5 to speak at this time? If you haven't
6 filled out a card and want to do that right
7 now, that would be fine. If not, I will go
8 off the record until someone wants to be
9 back on.

10 (RECESS TAKEN.)

11 ADMINISTRATIVE LAW JUDGE: The record
12 will indicate that we've been in session for
13 one hour, until 8 p.m., and no one else has
14 appeared to make a statement. Accordingly,
15 we're adjourned until tomorrow in Ithaca at
16 1 p.m.

17 (HEARING ADJOURNED.)

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C E R T I F I C A T I O N

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the above cause and that this is a correct transcript of the same to the best of my ability.

Marilyn F. (Lyn) Wilson