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NEW YORK STATE PUBLIC SERVICE COMMISSION

PUBLIC STATEMENT HEARING in the matter of the
IBERDROLA and ENERGY EAST MERGER, held before
Amelia Moller, Notary Public, on February 20,
2008 at the Lancaster Town Hall, Lancaster, New
York at 7:00 p.m.

PRESENT: RAFAEL EPSTEIN,
Administrative Law Judge

1 JUDGE EPSTEIN: Okay ladies and gentlemen, I
2 call case 07-M-0906. This is a public
3 statement hearing in a Public Services
4 Commission proceeding to decide whether
5 Iberdrola should be allowed to acquire Energy
6 East Corporation, which is the owner of RG&E
7 and NYSEG. My name is Rafael Epstein, I'm the
8 administrative law judge who-- I work for the
9 Department of Public Services and I've been
10 assigned to hear this case.
11 This is one of a series of public statement
12 hearings that we're holding all around the
13 state. We're trying to cover the whole
14 services territory, as much as we can, of RG&E
15 and NYSEG, as you can see if you picked up the
16 flyer when you came in. There is a list of
17 where we've been and where we're going and the
18 point of the public statement hearings is that
19 if there are members of the public, could be
20 customers or not, but anyone who wants to be
21 heard on this case, this is an opportunity for
22 them to make a statement. You don't have to
23 have anything in writing. All you have to do

1 is get one of these cards up front and sign up
2 and have your say.

3 The statements, as you make them, will be
4 transcribed by a court reporter, as you can
5 see, and then they will become part of the
6 record that goes to the Public Services
7 Commission when it decides how to vote on this
8 case. As the flyer also explains there are
9 other ways you can make your opinions known.
10 You can call the Public Services Commission.
11 There is a toll-free hotline and you can record
12 your comments on the phone. These will be
13 summarized and recorded to me and to the
14 Commission or you can write a letter, and the
15 address is there, or you can send an e-mail.
16 An e-mail address is there or go to the
17 Department of Public Services website. There
18 is a customer comment area and you can type in
19 your comments there. The electronic methods
20 are pretty easy if you happen to have access to
21 a computer, but really in the end one method is
22 as good as another. All these comments will be
23 gathered and recorded to the Commission and

1 become part of the Commission's deliberations.
2 I could explain more about what's going on in
3 the case. If you go to the Department of
4 Public Services website on, almost on the first
5 page you get to, there is an entire page
6 devoted to reviewing all the case materials and
7 if you look there you can read all the
8 testimony that's been filed for and against the
9 merger. You can read some other rulings and
10 documents. That pretty much explain what's
11 been going on procedurally in the case so far.
12 And so that's a great source of information.
13 What we're going to do here tonight is we're
14 going to remain in session here at least until
15 8 o'clock in case anybody shows up who wants to
16 speak, or in case any of you who are already
17 here haven't signed up to speak, but change
18 your mind and want to make a statement.
19 Actually am I correct that nobody-- oh someone
20 has. We're on the record now and we'll stay
21 there, we'll stay on the record in order for
22 speakers to be heard. When there's no one
23 around who wants to speak we'll go off the

1 record and I would be happy to talk to you
2 informally. I can't talk to you about the
3 merits of the case, whether this acquisition
4 should be disapproved or approved, but I can
5 say, explain to you as much as I know about
6 what the procedures are and how the case can be
7 expected to play out.

8 We also have here a representative of the
9 Department of Public Services, which I work
10 for. The person who has the desk in the back
11 is Ginger Stimpson and she also works for the
12 Department of Public Services. If you have any
13 other problems with utility services or bills
14 you want to talk to Ginger and she'll try to
15 help you get it resolved. If you can explain
16 to her what the problem is she may be able to
17 take that back to our agency and get some kind
18 of resolution for you, and also here is a
19 representative of Iberdrola, an attorney for
20 Iberdrola, Mr. Widger. He is not here to speak
21 tonight because this is exclusively an
22 opportunity for people to speak who aren't
23 already parties in the case. Parties in the

1 case are being heard from like you wouldn't
2 believe. There is tons of testimony,
3 arguments, motions, all this kind of thing. So
4 this is just-- we're really here to give you an
5 opportunity to speak. If you have questions
6 that you want to put to Mr. Widger, he will not
7 be in a position to give you an immediate
8 answer, but he can go back and say here is a
9 client and see whether what they have to say
10 about it.

11 I should also explain another part of this
12 procedure, since I've been talking about
13 parties, as I said testimony has been filed and
14 if we go into evidentiary hearings that will be
15 done in Albany and it's a hearing that looks
16 like a trial. The witnesses that wrote that
17 testimony will get on the witness stand I'll be
18 presiding. They'll be cross examined. There
19 will be objections, and all that sort of thing.
20 It's essentially a trial type hearing and that
21 currently is scheduled to start Wednesday,
22 however the parties recently asked me to-- it
23 was scheduled to start this coming Monday,

1 parties asked me to reschedule it to Wednesday
2 because they would like an opportunity to meet
3 with one another tomorrow to see whether this
4 case could be resolved through negotiations.
5 If the parties have successful negotiations
6 they might come up with a proposal what they
7 want to propose to the Public Services
8 Commission which might be something different
9 from what they've already proposed. If they
10 don't do that or if they tell me Friday that
11 they don't seem to be getting anywhere in that
12 direction, then we'll go into evidentiary
13 hearings Wednesday. If they tell me that the
14 negotiations look interesting and they'd like
15 to continue then we'd schedule to go into
16 evidentiary hearings Monday the 3rd of March,
17 but that again would be subject to possible
18 further postponement if negotiations continue.
19 So that's pretty much what the process is. At
20 this point-- I've often been asked at these
21 hearings how does it end, when does it end, and
22 it kind of ends whether these negotiations are
23 going to continue or whether we're going to

1 have these hearings, eventually the case in one
2 form or another, either a negotiation proposal
3 by the parties or litigated record of all the
4 witnesses and testimony and cross examination
5 and briefs by the attorneys, in one form or
6 another the case is going to get to the
7 Commission and my guess is, and this isn't
8 carved in stone anywhere, but my guess is the
9 Commission might be able to get this case in
10 one form or another by May, and the Commission
11 consists of five members who would basically
12 review the record, review my recommendation and
13 put it to a vote, majority vote. One way or
14 another the issue being should Iberdrola be
15 allowed to take over Energy East. There also
16 has been come confusion where some people may
17 have gotten the impression that the merger is
18 already done. I've heard questions along these
19 lines and the answer is no. What was done was
20 that Iberdrola and Energy East companies did
21 um-- sign an agreement which says they would
22 like to do this deal. They agreed among
23 themselves, but whether they are allowed to do

1 it or not still depends on the New York Public
2 Services Commission. Other State Commissions
3 have signed off on, it I believe the federal
4 government, Federal Energy Regulatory
5 Commission has signed off, but whether New York
6 would approve is as it's proposed or in some
7 other form remains to be seen.
8 That's what this case is about. So enough
9 talking. I guess when there are no speakers
10 around, or as I already said we can talk more
11 when we don't have any speakers waiting to
12 speak, and we can do that off the record, or if
13 for any reason people think we ought to be on
14 the record for that type of discussion we can
15 do that, too. It's pretty much up to you, but
16 anyway we do have at least one speaker who has
17 signed up, so I'm going to call you now and I
18 would ask that you come up here and state your
19 name and address for the reporter and then you
20 can talk really for as long as you'd like.
21 Unless it turns out that there is so many
22 speakers that there is going to be an issue
23 about shutting down the building and then I

1 might have to put on some time limit. I
2 understand it's normally open until 9 o'clock,
3 whether that can be negotiated, I haven't tried
4 to find out, so the first speaker is someone
5 whose last name I can't read here, but it's
6 Doug?

7 MR. LAHNEN: Doug L-A-H-N-E-N, 54 Westwood
8 Road, Lancaster, New York.
9 I'm just curious whether the Public Services
10 Commission is going to require Iberdrola to get
11 staffing levels at a reasonable rate.
12 Currently in Lancaster, there is only 20
13 journeymen, linemen, and it's down about 65
14 percent or more since 1995, and I'm also a
15 volunteer fireman and we're constantly out, I
16 know the villages, towns have had to buy
17 portable generators to keep lights going.
18 I know that there is 20 journeymen and there is
19 four more retiring this year. That's going to
20 leave 16 journeymen to maintain 140 to 160,000
21 customers. There has been no distribution
22 maintenance done. There has been no
23 subtransmissions done in the last five years,

1 and the new company should be required to
2 commit to put some resources back into both
3 reasonable staffing to respond to emergencies
4 in a reasonable amount of time as well as
5 maintaining a system that's reliable.
6 I'm surprised there isn't people here from
7 Clarence, who are constantly out of power. I
8 know your office gets a lot of complaints about
9 power. I don't want this area to decline, the
10 infrastructure is in bad shape and I think
11 someone has to make a commitment to the
12 repairs.

13 JUDGE EPSTEIN: Okay thank you very much.
14 Mr. Gabel?

15 MR. GABEL: I'm Daniel Gabel from Gowanda,
16 New York.

17 I have had repeated problems with NYSEG and my
18 complaints to the Public Service Commission,
19 they have informed me it will take five years
20 for my complaints to be adjusted and in between
21 that time I've been harassed and intimidated by
22 NYSEG employees and I don't feel this would
23 benefit us in any way. In order to have a

1 company from Spain engaged in this, because
2 other companies, I find they're transferring
3 their telephone systems overseas and doing
4 without employees in the State of New York, and
5 I don't see where the Public Services
6 Commission-- this will just give them another
7 avenue to go to other countries let alone the
8 State of the New York. And I find that there
9 are few people that realize about this meeting
10 tonight, and I've asked repeatedly to have it
11 closer to our homes, and of course we're over
12 60 miles away, and this impacts the dairy
13 farmers in New York due to Steuben Electric
14 being in our area and their rates are 20
15 percent lower, and it effects the individual
16 farmers due to the cost of electricity and I
17 find that my bills, there is service charges on
18 the bills now that are unfair because at \$13 a
19 month service fee, which is to include postage,
20 handling meter services, and an additional 89
21 cents on each and every bill, and if there is a
22 million customers that means nearly \$89,000 a
23 month additional just for sending the bills and

1 NYSEG fails to respond to their complaints, and
2 the Public Services Commission, after hearing
3 two years ago, we've asked repeatedly, and they
4 received us at the hearings, and I find it not
5 unusual my complaints from years ago are still
6 not rectified and the only address we get is
7 contact an attorney, and I feel it's just
8 patronage and bureaucratic bumbling, costly and
9 wasteful and since we pay some of the highest
10 rates in the country and they blame it on the
11 taxes, and if we have public servants that are
12 so inadequate to these situations and turn a blind
13 eye, I don't feel this is in the best interest.
14 They're worried about conservation. We've
15 conserved as much as we can and those of us who
16 are on minimum finances, we find that we're
17 paying \$13 a month for services that are not
18 being rendered and to have the work force go
19 overseas and phone service, I don't feel it's
20 in the best interest because I've had this
21 problem with other companies, including the
22 telephone companies. You cannot address
23 anybody in the United States, and all you get

1 is we don't have access, and that's false and
2 the numerous phone numbers I have, all you do
3 is play games. I believe possibly it was you
4 that I spoke to this week, and I've tried to
5 contact Jacklyn Brillling and she's never
6 available, and I've asked repeatedly to have
7 these meetings closer to us because I'm sure
8 there are more that have concerns and there is
9 almost no one that knows this hearing is taking
10 place. The only address that's been made is a
11 little booklet in our billing that most people
12 throw away and I believe the company is aware
13 of that. And public notice, there is been none
14 except the Buffalo Evening News. And there's
15 none in the Jamestown papers that I know of and
16 that is a service area in Chautauqua County.
17 In fact the electric problems I've had, that's
18 part of the reason why I no longer have a
19 business is because of poor service. I feel I
20 have more than enough complaints for the people
21 in our area, and we find that what they give
22 you is a run around and as far as the Public
23 Services Commission, I don't feel they're doing

1 anything, absolutely nothing. I've got four
2 inches of papers in my complaint and how you
3 call this public service, I don't know how it's
4 public services, it's bureaucratic bumbling and
5 a way to make the additional jobs in public
6 service, and it's not being addressed. There's
7 appointments being made and this just gives the
8 public service more opportunities to vacation
9 overseas, more than likely.

10 If they can't handle New York State I don't
11 know how they're going to handle overseas and
12 this is one of our main problems today because
13 the use of electricity is going to continue to
14 grow. The only conserving factor that our
15 factories in our area are being put out of
16 business, because of the highest energy cost,
17 highest in the nation. NYSEG blames it on the
18 taxes. They go hand in hand and I'd like this
19 matter to be addressed in more than tonight's
20 paper because there's very few people that are
21 aware of these meetings and the only way I
22 think it's going to serve the public is of RG&E
23 and NYSEG do away with some of their employees

1 and cut down on public employees that are
2 supposedly overseas.

3 I find the same thing with National Fuel. In
4 fact their spokesman said that the reason for
5 public service is to protect the businesses and
6 the businesses that they run, not the fact that
7 they're going to protect the tax payers and the
8 rate payers. Their only protection is to
9 protect NYSEG, National Fuel and Rochester Gas
10 and Electric, not the public.

11 JUDGE EPSTEIN: Thank you very much, Mr.
12 Gabel. If we could get into the details of
13 your complaints, about the bills and the rates
14 maybe after we hear from the next speaker,
15 maybe that will be helpful. I can talk to you
16 about it. Mr. Vert?

17 MR. VERT: My big point is with New York
18 State government. Sorry, Steven Vert, 9396
19 Route 62 Dayton, New York.

20 I have talked to Mr. Fiegel many times about my
21 electric box in my house. I was being charged
22 for off peak meter for three years and my
23 landlord and I spoke to an electrician and this

1 off peak meter box wasn't even hooked up.
2 There is no off peak. Okay. Well I'm getting
3 charged for off peak meter and they're telling
4 me this and that and everything else and then
5 they come and took the meter out of my house,
6 the digital meter out of my house, and we went
7 to a meeting, and Mr. Gabel and I went to
8 another meeting in Buffalo, and they said that
9 the box, the meter was on the desk, well it
10 wasn't too much longer-- long ago this meter is
11 gone. I mean what do they do? They give you a
12 meter, digital meters? Because it's been--
13 it's happened twice so far to my recollection
14 that two people-- I had one and another person
15 had one digital meter and it's like they
16 vanish. I mean I just want to know what's up
17 with that.

18 JUDGE EPSTEIN: Okay. I don't know, and
19 that also is something maybe we can sit down
20 and talk about.
21 Is there anybody else that wants to make a
22 statement? At this point okay so we'll go off
23 the record for the time being and see whether

1 any other speakers come in.

2 (Whereupon the record remained open until 8:00
3 p.m.)

4 JUDGE EPSTEIN: The record will indicate
5 that we've been in session for one hour. There
6 are no further persons who want to speak and
7 therefore we're adjourning until the hearing in
8 Rochester at 1 p.m..

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STATE OF NEW YORK).

) ss.

COUNTY OF ERIE)

I, Amelia Moller, Notary Public, in and for the County of Erie, State of New York, do hereby certify:

That the witness whose testimony appears hereinbefore was, before the commencement of their testimony, duly sworn to testify the truth, the whole truth and nothing but the truth; that said testimony was taken pursuant to notice at the time and place as herein set forth; that said testimony was taken down by me and thereafter transcribed into typewriting, and I hereby certify the foregoing testimony is a full, true and correct transcription of my shorthand notes so taken.

I further certify that I am neither counsel for nor related to any party to said action, nor in anyway interested in the outcome thereof.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my seal this ____ day of _____, 2008.

Amelia Moller
Notary Public,
State of New York, County of Erie
My commission expires 08/10.