

IBERDROLA and ENERGY EAST PUBLIC STATEMENT HEARING
PLATTSBURGH, NEW YORK

February 22, 2008

1:00 p.m.

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1 ALJ EPSTEIN: Okay, Ladies and
2 gentlemen, thank you for coming today. I call
3 case 07-M-0906. This is the Public Service
4 Commission proceeding to consider whether to
5 approve a petition by Iberdrola for permission
6 to take over Energy East, which is the owner of
7 NYSEG and RG&E. My name is Raphael Epstein. I
8 am the Administrative Law Judge who has been
9 assigned to hear this case by the Public
10 Service Commission, and this is a public
11 statement hearing. Sometimes -- At some of
12 these hearings we're more formal than at
13 others. We're a pretty intimate group here
14 today, so it seems, so there should be
15 opportunities for informal discussion, but if I
16 could just start out with the formalities.

17 This is a public statement hearing, as
18 I said, and the purpose of that is so that the
19 Commission can get input from members of the
20 public, customers of the utility company, or a
21 lot of times we meet shareholders of the
22 utility company, retirees at these meetings,
23 and it's one way that the Commission can get
24 some sense of what people really think around
25 the service territory. I've been doing this

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1 all week. This is the sixth in a series of
2 these hearings that we've had because we try to
3 hit all the major locations in both the RG&E
4 and NYSEG territories.

5 This is one means of communicating with
6 the Commission. Anything you say here by way
7 of a formal statement will be transcribed by
8 the court reporter. It will become part of the
9 record of the case, and I will be reporting it
10 to the Commission when it comes time for them
11 to consider the case and finally vote on it.

12 Other ways of communicating are
13 described on the back of the flier that's out
14 there. You can write a letter and the address
15 is on the flier, just make sure that -- to
16 mention that the letter is about the Iberdrola
17 case. You can call the toll free telephone
18 number and leave a recorded statement. There
19 again, you want to indicate that you're calling
20 about Iberdrola, and the recorded statements I
21 don't personally get to hear. I will see your
22 letters if you send in a letter. The recorded
23 statements are summarized and paraphrased to
24 put them into writing and that way they
25 circulate to me and others in the Department of

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1 Public Service.

2 You can also write to the Commission
3 electronically, which is a very easy way to do
4 it if you have access to a computer. And as
5 also explained on the flier, if you're going to
6 go into the Department of Public Service web
7 site there is an area called the consumer
8 assistance file, which contains a comment form
9 and you can just type in your comment and send
10 it, and of course I'll see that actually in
11 writing.

12 In addition to these types of hearings,
13 we are having evidentiary hearings, and that's
14 a trial type hearing where various parties put
15 on witnesses who will be cross-examined and
16 adopt their testimony under oath. And in this
17 particular case, if you want to read the
18 testimony, and if you want to read a ton of
19 other material, just about most -- Well, a lot
20 of the documentation that's involved in this
21 case, we have a special Iberdrola page. If you
22 go to the Department web site, almost as soon
23 as you get there you can find a link to the
24 Iberdrola page, and that's got most of the
25 documents. It's got hundreds of pages of

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1 testimony and exhibits by the various parties,
2 and it's got another link to a few other
3 documents that just may not appear on page one.

4 The parties are -- there are a few
5 dozen of them. I've got a list of -- it's six
6 pages long, you can also see that on the web
7 site, it's the active parties list, and it's,
8 of course, the companies that petitioned for
9 this acquisition, the trial staff of the
10 Department of Public Service, which is -- which
11 operates independently of the PSC in order to
12 put on a case arguing a consumer oriented point
13 of view, and various State agencies, the
14 Consumer Protection Board, Environmental --
15 Department of Environmental Conservation, and a
16 number of -- a lot of groups that represent
17 environmental interests or they represent low
18 income consumers or big consumers, industrial
19 customers. There is quite a variety.

20 So we're now scheduled to start those
21 hearings Wednesday; however, the parties met
22 yesterday to see if they could resume
23 negotiations which broke off last November.
24 And they're supposed to report to me today, if
25 they can find me, and they'll indicate whether

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1 they got anywhere yesterday in terms of

2 negotiating whether they want to keep on
3 talking, and if they do, the hearing -- the
4 evidentiary hearings will be postponed until
5 March 3rd, and I would imagine, if the parties
6 are talking, there could be some further
7 postponements.

8 I know this may be a little tedious,
9 but I get asked a lot about this, about how the
10 case is going to play out. What will happen is
11 either the parties will negotiate some new
12 proposal which is different from what the
13 companies originally came in with, you know,
14 which tries to accommodate the interests of the
15 other parties, or they will go back to
16 litigation, and the reason -- in adversarial
17 hearings. And the reason the hearings would be
18 adversarial is that -- if you care to look at
19 that testimony from the various parties, a lot
20 of it -- a lot of it is oriented toward arguing
21 that this acquisition would be good for Upstate
22 because we would bring in clean energy.
23 Iberdrola is a company that I guess specializes
24 in generation by means such as windmills and
25 other renewable resources, or they'll argue

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1 that Iberdrola will bring in a lot of

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investment in infrastructure.

And then there are opposing arguments. Some parties say that the merger should not be allowed because -- a number of reasons, but for example, that it's against New York State policy because the Commissioner, over the last ten years or so, has been trying to make sure that all of the utility companies are out of the generation business for competitive reasons, and Iberdrola is in the generating business. Some parties are skeptical about windmills, and there are a lot of arguments.

So there's a lot of opposition, and some of the opposition is framed in terms of this is not a good proposal as it stands. The Commission should not approve it unless, and then there's an unless argument, that the Commission shouldn't approve it unless Iberdrola agrees not to operate any generating plants in New York, or unless Iberdrola agrees to maintain a certain level of customer service headquarters in New York, all kinds of things like that. People have all kinds of objections and proposals.

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So either that all gets negotiated out, in which case, as I said, the parties would

3 come to the PSC with a new, different proposal,
4 and the Commission would have to decide whether
5 it likes that revised proposal, if the
6 Commission under the Public Service Law is
7 required to decide whether any acquisition like
8 this is in the public interest, that's the
9 statutory language. It says it's got to be in
10 the public interest, and that's what the
11 Commission has to figure out. So they could be
12 faced with a proposal like that, or they could
13 simply be faced with a litigated record.

14 If there's no further negotiations,
15 they'll just get a batch of testimony,
16 transcript of cross-examination and, you know,
17 everything that went on in the hearing room,
18 plus briefs from attorneys for all the parties.
19 And my job is either to make a recommendation
20 to the Commission as to whether they should
21 adopt some new proposal from the parties, if
22 any, or else how they should decide the case
23 based on my familiarity, one hopes, with the
24 record at that point.

25 So that's kind of where things stand.

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1 I've also -- as I say, this is my sixth session
2 talking about this case, and I've encountered a

3 good deal of confusion about -- that maybe this
4 is a done deal, and what that springs from is
5 that there is a deal that was executed by these
6 companies. They all agreed with one another
7 that yes, they would like -- Energy East would
8 like to be taken over by Iberdrola, and they
9 signed on the dotted line and everything, but
10 that's -- there's still a question are they
11 going to be allowed to do it, and that's what
12 this case is about, whether the PSC will allow
13 them to do it.

14 They also need a number of other
15 regulatory approvals, which I think they have.
16 Energy East operates in three New England
17 states, and I think each of those state utility
18 commissions has approved it, and I think that
19 the Federal Energy Regulatory Commission has
20 approved it, but the PSC has yet to get the
21 case.

22 It seems to me unlikely that the case
23 would get to the Commission before May for a
24 vote by the Commission, but now we're getting
25 into a lot of speculation because, as I've been

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1 saying, I don't even know whether we're going
2 to hearings or we're going to have negotiations
3 which may be long and drawn out or they may be

4 done very quickly, but under any scenario it's
5 difficult for me to see that there would be a
6 PSC decision, a decision before May.

7 Okay, now, the procedure here today is
8 I assume everybody noticed that if you want to
9 make a statement, you should fill out a card.
10 I'll take them first come first serve according
11 to who signed up first, and in view of the fact
12 that I don't see too many potential speakers at
13 this point, there's no time limit or anything.
14 If you have a written statement, it's helpful
15 primarily to the reporter, and if there's
16 another copy it's helpful to me, but it's not
17 at all necessary to provide a written copy of
18 what you're going to be saying. And if
19 everyone here has finished speaking -- When
20 everybody here is finished speaking, we will
21 stay here until 2:00 in case anybody else comes
22 or in case any other thoughts cross your mind
23 and you want to speak again, and during that
24 time we can go off the record and, as I said,
25 we can just chat about anything. If you want

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1 me to talk about stuff some more, you know, we
2 can do that, or if there are any questions I
3 can answer.

4 Since I'm going to be making a
5 recommendation about the merits of the case,
6 I'm not going to talk about the merits today,
7 even if you ask me, but I can tell you anything
8 more you want to know about what's happening in
9 the case and how it's being processed. And so
10 what do we have? Michael Morales?

11 The other thing I wanted to say, I'm
12 sorry, but this lady and gentleman with the
13 Public Service Commission medallion on their
14 outfits, as you might guess, they're with the
15 Public Service Commission, and it may be that
16 if you have individual concerns, like billing
17 problems or service problems or anything like
18 that, you're welcome to comment on that, but
19 also, if you want to talk to them about
20 possibly looking for a solution or some kind of
21 contact back at our agency, they may be able to
22 help you with that.

23 Okay, Mr. Morales, go right ahead, and
24 please start by stating your name and address,
25 please.

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1 MICHAEL MORALES: Michael Morales,
2 1689 Rand Hill Road, Altona, New York, 12910.
3 I wasn't here to make any sort of formal
4 comment. Mostly I'm here to gather

5 information, try to understand what's going on,
6 and it's nice to see that you have a web site
7 that provides a lot of information on what's
8 going on. So I'll most likely submit my
9 comments as a letter, once -- I don't want to
10 speak from a position of ignorance, but I did
11 have a question about public comments. How are
12 public comments used in the decision process,
13 and what kind of weight do they carry?

14 ALJ EPSTEIN: I can't give you a
15 real scientific answer to that. My feeling is
16 that it's worth doing, and I'm speaking from my
17 current position of presiding over these cases,
18 but also I've been a party in cases. I've
19 argued, I've been an attorney for various --
20 well, for -- formerly for the Consumer
21 Protection Board and briefly before that for
22 the trial staff of the Department of Public
23 Service, and my observation has been that it
24 does -- it does have an influence. A lot of
25 what the Commission finds out is whether

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1 anybody showed up. It makes a different
2 impression if a roomful of people turns out for
3 one of these events as compared with if nobody
4 turns out because if nobody turns out, there is

5 an inference that nobody's that upset with
6 what's going forward.

7 Now, there's a lot of problems with
8 that because it may be -- well, you name it,
9 bad weather, wrong time of day, wrong location,
10 wrong time of the year. There may be any
11 number of reasons why people don't show up, but
12 just the same, some cases do provoke manifestly
13 more public interest than other cases, and that
14 counts for something. Then there also may be
15 -- the comments made tend to identify some
16 problem or some concern that a lot of people
17 share that would not necessarily have come to
18 the Commission's attention.

19 I don't want to really give you cues
20 about what to say, so maybe I shouldn't say
21 anything about what I've heard this week, but
22 if it was, let's say, water company rate case
23 and a few people showed up and said this
24 company is looking for a rate increase and my
25 water's disgusting, well, that would -- that

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1 would make the Commission sit up and take
2 notice and ask itself maybe wait a second, what
3 are we granting this rate increase for? Is
4 this going to go into improving the system or
5 is this going to go into lining somebody's

6 pocket, that kind of thing. Depends what the
7 issues are.

8 If you want to be technical about it,
9 these statements don't have the same weight
10 from a technical, legal standpoint as testimony
11 that was offered for cross-examination, the
12 theory being that a person -- a person who
13 isn't going to be cross examined can stand up
14 and say the moon is made of cheese, or whatever
15 the heck they want to say, and for that reason
16 it doesn't have credibility, again, in a purely
17 legal sense, but that doesn't mean -- but just
18 the same, really it has credibility in a real
19 world sense. I think that's the best I can --

20 MICHAEL MORALES: Okay, you
21 mentioned something about this company would
22 need to get out of wind gen -- or I'm sorry,
23 energy generation to take on this role that
24 they'd like to take on?

25 ALJ EPSTEIN: That argument is

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1 being made by certain parties, including trial
2 staff of the Department of Public Service,
3 which is one of the most active parties.

4 MICHAEL MORALES: Yeah, yeah,
5 okay. And just a simple question, typically on

6 those e-mail forms there is a limit in terms of
7 characters or number of words. Are you aware
8 of whether or not that is true?

9 ALJ EPSTEIN: Oh, boy, I don't
10 know.

11 MICHAEL MORALES: Because clearly
12 with a letter you can go on as long as you'd
13 like, but sometimes you're limited with those.

14 ALJ EPSTEIN: Well, that's a good
15 question. It didn't even occur to me. As we
16 -- as civilization progresses, I guess these
17 questions come up for the first time; however,
18 you also could write to me, and my e-mail
19 address, which doesn't happen to appear on that
20 flier, but let me -- I'll just jot it down for
21 you and then for anybody else that wants it.

22 MICHAEL MORALES: Well, thank you.

23 ALJ EPSTEIN: Okay. Thanks, Mr.
24 Morales. Let me just give you this.

25 Okay, now should we go to Mr. -- is it

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1 Gudz?

2 GARY GUDZ: Gudz.

3 ALJ EPSTEIN: Gudz, or --

4 GARY GUDZ: Yeah, Gary Gudz.

5 ALJ EPSTEIN: We're going to have
6 time for everybody, so --

7 GARY GUDZ: The address is 40
8 Newell Avenue, Plattsburgh, New York. My
9 concern is, seeing that this is a foreign
10 entity, they come from Spain, I know they're a
11 friendly ally of ours, but has the time come
12 that we have to -- we're going to be under
13 their mercy, so to speak? They're the ones
14 that are going to own this company as far as
15 our electricity, you know. With other energy
16 things we're trying to become energy -- get off
17 their line on foreign countries, and here we've
18 got, you know, other foreign countries stepping
19 in wanting to buy our utilities and stuff.
20 It's gotten to the point that, you know, are we
21 going to own anything ourselves in this
22 country, or is it all going to be owned by
23 foreign entities?

24 You know, and the other thing is, if
25 they do take over the power plants, the hydro

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1 plants, Gina has a nuclear plant which is part
2 of Rochester power, what is their track record
3 as far as their maintenance and stuff? Do they
4 have any track record pertaining to maintaining
5 nuclear power plants? And also, you know, is
6 this just going to be a stepping stone for

7 them? Are they going to try to take over
8 National Grid, which was Niagara Mohawk?
9 There's three nuclear power plants in Oswego
10 that New York State Gas and Electric did have
11 ties to, because I worked on several of them,
12 and that is a big concern, you know, of the way
13 some of the things are handled even by the
14 companies that own them now, you know. Are
15 things going to get better or are they going to
16 get worse as to what is done with their
17 shutdowns, refuel stuff, and things like that?

18 And like I say, one of my main concerns
19 is the fact that it's a foreign country taking
20 over more of our utilities, and that gives us
21 less of a say, you know, in what goes on. I
22 mean, there are times when they're owned by an
23 American company, we have enough troubles with
24 power outages and things like that, you know.
25 Are things going to get worse or are they going

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1 to get better? I know there are other
2 companies and countries that have taken over
3 some of the utilities. I know there's a
4 British firm that owns some utilities, and some
5 of the ones that I've worked on out in Illinois
6 are now owned by foreign entities. When's it
7 going to stop? That's my view.

8 ALJ EPSTEIN: Okay, thank you very
9 much. Ms. Root, Cindy Root?

10 CINDY ROOT: Sure, I'll speak. I
11 don't really know what I'm going to say
12 exactly. My name is Cindy Root, and I live at
13 192 General Leroy Manor Road in Morrisonville,
14 New York. I'm very concerned about a lot of
15 things. I'm concerned about the
16 industrialization of the North Country that
17 seems to be happening that's happening north of
18 me. There are groups all across the state that
19 are fighting wind power, industrial wind power,
20 not private wind power but industrial wind
21 power, and I know Iberdrola is a leading
22 generator of wind farms, and that concerns me.

23 It concerns me for a lot of reasons,
24 and you know, I came here, brought up a family
25 here, and I worry that this is a place my

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1 children are never going to be able to live and
2 that I'm not going to be able to live. I think
3 we need to concentrate a lot more on reducing
4 our footprint rather than building more
5 generating -- power generating plants and I'm
6 not sure that I feel comfortable -- I know I
7 don't feel comfortable with a foreign company

8 -- I don't feel like I have much say in the way
9 it is now, and if a foreign company owns my
10 utility, I feel like I have even less of a say,
11 and that's horrifying to me. So if I say this,
12 can I also send a written comment in, because
13 I'd like to, I'd like to do that.

14 ALJ EPSTEIN: Sure. There's no --

15 CINDY ROOT: Okay, and I have a
16 question I didn't understand about the
17 hearings. The hearings haven't taken place yet
18 or there have been hearings taking place and
19 that's what's on your web site right now, or I
20 didn't really understand what you said about
21 the hearings?

22 ALJ EPSTEIN: I'm sorry, these
23 hearings like this have been taking place all
24 week at these six locations.

25 CINDY ROOT: So that's the

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1 hearings you're talking about, not the --

2 ALJ EPSTEIN: This type --

3 CINDY ROOT: Not the ones with
4 witnesses.

5 ALJ EPSTEIN: With witnesses and
6 so forth, those are --

7 CINDY ROOT: To be taken, they
8 haven't taken place yet?

9 ALJ EPSTEIN: They have not taken
10 place.

11 CINDY ROOT: Okay, I didn't
12 understand.

13 ALJ EPSTEIN: And I'll find out
14 today whether they are going to take place and
15 when. Maybe it will start this coming
16 Wednesday. If not, maybe it will start a week
17 from Monday, or maybe it will be further
18 postponed because parties want to continue
19 negotiating. And if the hearings did occur, it
20 would probably be -- according to estimates I'm
21 getting, it would be something like five or ten
22 days of courtroom type hearings.

23 CINDY ROOT: And that would be on
24 your web site at some point, or that's a
25 different thing we're talking about?

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1 ALJ EPSTEIN: Well, there is an
2 announcement -- there is a notice on the web
3 site that says the hearings have been postponed
4 until Wednesday, the 27th.

5 Another one might -- another notice
6 might go up today or Monday saying that -- if
7 they're further postponed, another notice like
8 that might go up. The hearings themselves,

9 I've heard interest from people at these
10 meetings that the transcript should go on the
11 web site, and I think it's a good idea because
12 there has been so much interest, I think people
13 might like to read that, but I've never done it
14 before, and there may be some issue about
15 capacity of the web site, that they don't want
16 to put it up. So I can't promise that, but I'm
17 going to be looking to do that.

18 CINDY ROOT: So how else would the
19 general public be able to find out about it?

20 ALJ EPSTEIN: Well, they are
21 public documents, but in the past, in the
22 pre-internet era you had to either go to a --
23 we would put them in certain libraries and you
24 could go and read them or copy them. You could
25 go to Albany, but from here I'm sure it's not

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1 worth a trip for anybody unless you're on your
2 way to Florida.

3 CINDY ROOT: That's a little
4 difficult.

5 ALJ EPSTEIN: Well, they've always
6 been publicly accessible in some way and they
7 always will, but I'm thinking that the best --
8 the best way is probably to put them on the web
9 site, but again, I'm --

10 CINDY ROOT: You don't know if
11 that's going to happen?

12 ALJ EPSTEIN: I don't physically
13 do it, so I can't promise right here and now
14 that that's going to happen.

15 CINDY ROOT: I just have one other
16 question. You talked about opposition. You've
17 had four or five of these I think you said.

18 ALJ EPSTEIN: We've had five of
19 these so far.

20 CINDY ROOT: This is almost the
21 last, isn't it?

22 ALJ EPSTEIN: This is the last,
23 and yes, some places we had a smaller turnout
24 than this and some places more. Carmel we had
25 basically -- I think it was one speaker,

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1 Binghamton we had a group that was a little
2 larger than this, Ithaca maybe a little smaller
3 than this, Lancaster, maybe a little smaller
4 than this, Rochester we had 150 people and we
5 started at 1:00 and we ended at 5:00, but only
6 because people just gave up waiting for their
7 turn. You know, I put a time limit on it, but
8 it just -- it just took up the whole afternoon
9 and we lost -- we lost quite a few people, and

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10 now we're in Plattsburgh.

11 CINDY ROOT: I don't mean to be
12 nosy, but you said something about a common
13 thread of what people are opposing, and I just
14 wondered if there had been that already.

15 ALJ EPSTEIN: Well, since I've
16 already heard some of it here today, I guess
17 there is no point in being secretive. I didn't
18 want to put ideas in anybody's head, because
19 again, I'm not here to present a particular
20 point of view myself, but there were comments
21 along the lines of what the two of you have
22 said so far about that electric infrastructure
23 is kind of homeland security type
24 consideration, you don't want to give that up
25 to foreign owners and you don't know whether as

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1 a utility customer you can get satisfaction
2 from a foreign company. Again, I'm not trying
3 to make those points myself, but you're asking
4 me what did I hear, and those were among --
5 among the things I heard.

6 CINDY ROOT: Okay, thank you.

7 ALJ EPSTEIN: Okay. I'm sorry,
8 Ted?

9 TED KLAUD: Ted Kl aud, K-L-A-U-D.
10 My address is 120 The Ninety Road,

11 Morrisonville, New York, 12962. And if you
12 don't mind, I'd like to start out with just a
13 couple simple questions. I have a few comments
14 and then I plan to follow this up with a
15 written submission. I became aware of this --
16 through no fault of yours, I became aware of
17 this this morning, and I want to take the
18 opportunity, I wasn't quite sure what the
19 format was, and I have a couple of comments to
20 make, but I'd like to elaborate on those in
21 writing --

22 ALJ EPSTEIN: Sure.

23 TED KLAUD: -- and at least know
24 that I'll be able to do that. The one --
25 Really the one question I have is you mentioned

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1 that your staff here being available to perhaps
2 comment on some other issues not necessarily
3 related to Iberdrola Energy East merger. Would
4 that be any issue we have or -- I'm not talking
5 about rates or so forth. I'm talking about
6 some other concerns that I have related to some
7 transmission lines that are in the process of
8 being built and how would I address those?

9 ALJ EPSTEIN: Well, first of all,
10 I think both these folks are from our Office of

11 Consumer Services, is that true?
12 LENNIE MICELLI: Correct.
13 ALJ EPSTEIN: But if somebody had,
14 for example, an engineering question?
15 LENNIE MICELLI: We have
16 self-addressed envelopes and we can give you
17 some information, you can write to the
18 Commission and they will get it to the proper
19 professionals to answer it.
20 TED KLAUD: The appropriate
21 person?
22 LENNIE MICELLI: Absolutely.
23 Correct.
24 ALJ EPSTEIN: But I didn't mean to
25 suggest that you can't talk about it here

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1 because a lot of -- a lot of times these issues
2 -- well, another thing that I've heard at these
3 hearings is people will say oh, I have such and
4 such a problem, I have allergies or I have
5 billing and this is why I'm very uncomfortable
6 about an Iberdrola take-over, and so the issues
7 a lot of times are pretty interrelated. And so
8 I didn't mean to, you know, foreclose you from
9 talking about it as part of your comments also.
10 TED KLAUD: And perhaps then I can
11 weave them in or try to make the point of

12 weaving them in. I certainly plan to elaborate
13 on that on submission. I think also, in all
14 fairness, I should identify myself clearly.
15 I'm here both speaking as a resident of the
16 Town of Beacontown. My mailing address is
17 Morrisonville, but I live in Beacontown, and I
18 also am the co-chair of the approximately 130
19 member neighborhood association living in a
20 residentially zoned area where a wind energy
21 generating facility developer is trying to
22 develop a project, and we have been resisting
23 this for reasons of zoning, not because we're
24 anti wind.

25 We feel that these are industrial

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1 projects and have no place in a residential
2 zone, and this is really part of our issue and
3 will also tie this into why I'm quite
4 concerned, concerned would be putting it
5 mildly, when I hear that Iberdrola is going to
6 take over Energy East.

7 So just to put that in perspective, I
8 would be very concerned that Iberdrola, which
9 is a large European firm heavily involved in
10 the development of wind energy, and I
11 understand the largest in Europe, is going to

12 be taking over Energy East or NYSEG, whatever
13 the name of the company is right now, because
14 of the -- what appears to be almost unfettered
15 wind energy development that's occurring here
16 in the North Country.

17 It is my belief and it's the belief of
18 the organization that wind energy has a role to
19 play, and like so many other things that we are
20 dependent on in our society, things that have a
21 role to play also have a place. And without
22 being crude or crass, I would like to point out
23 that most of us who are meat eaters would agree
24 that animals have to be slaughtered somewhere,
25 I'm just not sure that you would want that done

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1 on your block.

2 The point, the concern that I have is
3 that as a company like this with a lot of
4 expertise and probably desire to continue their
5 development of wind energy, getting involved in
6 NYSEG, Energy East which has a lot of wind
7 energy facilities around, that would only
8 expand, and that a company of that size would
9 certainly be very, very difficult to stop.

10 And it would be very difficult to stop,
11 I suspect, for two reasons, and I'll explain
12 that. Number one is that if they get that

13 large, it would be very difficult for a
14 community, which has zoning as ours does, to
15 say that this now utility, which also generates
16 power, doesn't constitute an essential service,
17 which is how the current wind developer that
18 we're at odds with is proposing or has, in
19 fact, been approved by our zoning board to
20 enter into our residential area.

21 The original part of that is simply a
22 matter of influence and finances, if you will.
23 Our organization will, by another month or two,
24 have spent somewhere around \$60,000 in legal
25 fees, finances an Article 78, and now a -- an

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1 appeal at the appellate division of the Supreme
2 Court in New York State to stop this, and I
3 think it would be very difficult to do. It's
4 been very difficult for us fighting this with a
5 small wind developer. I think it would be
6 essentially impossible for us to wage that kind
7 of a campaign against someone larger. And so
8 I've kind of woven a number of threads here,
9 and I hope I can bring this together without
10 sounding too disjointed.

11 Lastly, and the point I wanted to make
12 around where I might be able to address this,

13 the proposed wind facility, wind turbine
14 facility, it will be transmitting its power --
15 if approved, if this goes to head, will be
16 transmitting its power over transmission lines
17 through a residential area, and that's
18 something I'm not sure that we would be able to
19 ask the Public Service Commission to look into
20 and to comment on.

21 ALJ EPSTEIN: Are you asking me?

22 TED KLAUD: Yes.

23 ALJ EPSTEIN: It doesn't -- the
24 transmission line doesn't exist?

25 TED KLAUD: There is a

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1 distribution that runs through a residential
2 service right now, but it's a distribution
3 pole. In other words, it distributes power to
4 the various homes in the area, and this would
5 have to be converted to a transmission line.
6 And it's proposed that this transmission line
7 essentially be located where the distribution
8 line is right now and essentially be coexisting
9 if you will. Poles made taller, transmission
10 line on top, distribution line on the bottom,
11 higher voltage obviously on top.

12 ALJ EPSTEIN: But would they need
13 to -- they would actually need to put in --

14 TED KLAUD: My understanding is
15 bigger poles. I think that they proposed to
16 run this on single interrupted poles.

17 ALJ EPSTEIN: Okay, I don't really
18 know the answer to that. I know we have --
19 there is something called Article VII of the
20 Public Service Law, which it's Article VII, and
21 it requires that if somebody wants to build a
22 transmission line, that they apply for
23 permission to the Public Service Commission,
24 and then there is -- they have to make a case
25 for it, and there are various criteria listed

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1 in the statute that have to be satisfied
2 regarding the impact on the environment and in
3 this case probably the compatibility with
4 existing uses and so on. But I couldn't tell
5 you for sure if that applies to upgrading a
6 facility as opposed to putting in a new one. I
7 just don't happen to know that.

8 TED KLAUD: That's all I have, and
9 there will be more to follow in writing.

10 ALJ EPSTEIN: Okay, and I'm sorry
11 I couldn't give you a more specific answer to
12 that. Do you think that's a legal question or
13 an engineering question? Will you take that to

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Counsel's office?
LENNIE MICELLI: Yeah, I have all the information here, the web site, different groups in the Public Service Commission that you might possibly be able to write to and get a professional from the staff that would be able to answer those questions for you, so this is the information for you.

TED KLAUD: Thank you.

ALJ EPSTEIN: You might need -- The kind of person you might need to talk to might be a lawyer in the office of counsel

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there because there are -- some of them know a lot about Article VII.

LENNIE MICELLI: It would definitely be a legal question, absolutely.

ALJ EPSTEIN: As to whether it would apply or not.

TED KLAUD: And I'll be able to get to those folks very easy?

LENNIE MICELLI: You can go on the web site and the category divides into departments and there is a section that says counsel's office, just go to that web site page and you will be able to get your information to them.

15 TED KLAUD: Great. Thank you very
16 much.

17 ALJ EPSTEIN: And/or you can
18 contact me, and I guess I should probably give
19 you -- Are you kind of operating by e-mail?

20 TED KLAUD: Yes, I will.

21 ALJ EPSTEIN: And could you just
22 tell me what's the name of the project?

23 TED KLAUD: Wind Horse. Wind
24 Horse Power, LLC.

25 ALJ EPSTEIN: That's the

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1 developer, and this is their only -- the only
2 thing they have going?

3 TED KLAUD: Our understanding is
4 that they are a developer out of Vermont. They
5 have no other wind energy facilities running
6 right now. We haven't been able to find out
7 very much about them, and in their initial
8 application they consider themselves in central
9 service because they were partnered with NYSEG,
10 and NYSEG is a utility and therefore they're in
11 central service, and it gets very convoluted,
12 but -- so we are very sensitive to that whole
13 notion of when energy facilities generation
14 zoning for a whole variety of reasons.

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there's also a large body of knowledge about when does the PSC defer to local zoning authorities, that's another question that I think you're going to run into if you haven't already.

TED KLAUD: Well, we're two years into this, two years and a little bit into it, and we're learning a lot. But again, I think that as -- whatever happens in our situation, I think it's been interesting, but whatever

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happens in our situation, my concern would be that as the companies get larger, this can only get larger, this problem can only get larger. Thank you very much.

ALJ EPSTEIN: Okay, thank you.
Mr. LabBombard?

FRANK LABBOMBARD: Yes, Judge, my name is Frank LabBombard, 21 Quail Run, Peru, New York. I'm here on behalf of Local 183 of the IBEW. Our statements have already been submitted, and I really don't have anything else. I'm really only here as an observer at this time. Thank you.

ALJ EPSTEIN: Okay. Mr. Perkins?
ROBERT PERKINS: I'm just here to

16 observe, no statements. Just for the record,
17 I'm also from NYSEG.

18 ALJ EPSTEIN: Oh, okay, how do you
19 do. And Mr. Greg?

20 GREG BRIENCE: Brience, yeah, I'm
21 just here as an observer.

22 ALJ EPSTEIN: Okay. Okay, so is
23 there either anybody else that wants to put
24 something on the record or --

25 GARY GUDZ: I have one question.

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1 Is this going to pertain to their natural gas
2 lines or is it just going to pertain through
3 the electrical system?

4 ALJ EPSTEIN: The proposition is
5 that Iberdrola would own everything of --

6 GARY GUDZ: The transmission lines
7 for natural gas and everything?

8 ALJ EPSTEIN: Right.

9 GARY GUDZ: Okay. One other
10 question, seeing that somebody is here from
11 NYSEG, I know there was something stated in
12 this paper that they wouldn't be losing any
13 jobs, might not close any of the offices, but
14 I've heard that so many times before traveling
15 the country, and I'd like to see it guaranteed

16 -- if this ever did go through, some type of
17 guarantee that the local jobs in this area and
18 the other areas that they serve would not be
19 lost because they are good paying jobs, and if
20 they do try to substitute it with more
21 unskilled workers and wind up cutting wages,
22 that that's something that the Public Service
23 Commission should also look at. Thank you.

24 ALJ EPSTEIN: Okay, thank you, Mr.
25 Gudz. Okay, well, there being no more

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1 speakers, as I said, we're going to stay here
2 at least until 2:00, that's pretty soon. So
3 we're off the record, but we can stay longer if
4 anybody's inclined.

5 (Whereupon a discussion was held off
6 the record.)

7 ALJ EPSTEIN: We've been in
8 session for one hour, and there being no other
9 persons here who want to make a public
10 statement, this hearing is adjourned until the
11 resumption of evidentiary hearings in Albany on
12 February 27th or some later date to be
13 announced.

14 (Whereupon the hearing was adjourned.)
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1 C E R T I F I C A T I O N

2

3 I, KRISTIN M. ASHLEY, Registered Professional
4 Reporter and Notary Public in and for the State of New
5 York, DO HEREBY CERTIFY that I attended the foregoing
6 proceedings, took stenographic notes of the same, that
7 the foregoing, consisting of 37 pages, is a true and
8 correct copy of same and the whole thereof.

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KRISTIN M. ASHLEY, RPR

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16 Dated: February 26, 2008

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