

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

CASE 07-M-0906 - Joint Petition of Iberdrola, S.A., Energy East Corporation, RGS Energy Group, Inc., Green Acquisition Capital, Inc., New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation for Approval of the Acquisition of Energy East Corporation by Iberdrola, S.A.

Direct Testimony of
Ashok Gupta
On Behalf of
Natural Resources Defense Council

January 11, 2008

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Resume of Ashok Gupta

1 **I. Identification and Qualifications**

2 **Q. Please state your name and business address.**

3 A. Ashok Gupta, 40 West 20th Street, New York, NY 10011.

4 **Q: On whose behalf are you testifying?**

5 A: I am testifying on behalf of the Natural Resources Defense Council (“NRDC”).

6 **Q. Mr. Gupta, by whom are you employed and in what capacity?**

7 A. Since September 1991, I have been employed by the NRDC, a national not-
8 for-profit environmental advocacy organization with more than 650,000
9 members. I am currently a Senior Economist and the director of NRDC’s
10 Air and Energy Program. My responsibilities include working on energy
11 policy in New York, the Northeast and nationally, as well as related issues
12 such as utility restructuring, energy efficiency, green buildings, petroleum
13 dependence and renewables.

14 **Q. Could you please summarize your educational background and professional
15 experience?**

16 A. I received my Bachelor’s degree in Physics and Math from Georgetown
17 University and a Master’s degree in Economics from American University.
18 Prior to joining NRDC, I was employed as a Senior Economist by the New
19 York City Department of Telecommunications and Energy from 1989 to

1 1991. I was also employed as an energy and telecommunications economist
2 by the Public Utility Law Project of New York from 1984 to 1989.

3 **Q. Do you serve on the boards of any energy-related organizations and do**
4 **you serve on any energy advisory boards?**

5 A. I currently serve on the Boards of Directors of the Alliance for Clean
6 Energy New York; Coalition for Environmentally Responsible Economies;
7 U.S. Green Building Council - New York; the Low Impact Hydropower
8 Institute; and Clean Air-Cool Planet. I also serve on Mayor Bloomberg's
9 Energy Task Force Advisory Committee and Sustainability Advisory Board;
10 NYSERDA's System Benefits Charge Advisory Committee; and Lieutenant
11 Governor's Renewable Energy Task Force.

12 **Q. Have you previously testified before the New York State Public Service**
13 **Commission (the "Commission")?**

14 A. Yes. I have previously testified in various cases before the Commission,
15 including Case 96-E-0987 (Con Edison electric rate/restructuring case),
16 Case No. 96-E-0134 (Niagara Mohawk electric rate case), Case 95-E-0491
17 (Orange and Rockland electric rate case) and Case 04-E-0572 (Con Edison
18 electric rate case).

19 **II. Introduction**

20 **Q: What issues will you address in your testimony?**

1 A: I will discuss a revenue decoupling mechanism (RDM), demand side
2 management (DSM) targets, and performance incentives for DSM programs for
3 a merged Iberdrola, S.A. / Energy East company or for Energy East Corporation
4 if the merger is not successful (hereafter “Iberdrola” or the “Company”), in
5 addition to the issues of renewable electricity and market power.

6 **III. Revenue Decoupling**

7 **Q: Does the organization on whose behalf you are testifying support revenue**
8 **decoupling?**

9 A: Very much so. Decoupling revenues from sales is critical to removing the
10 financial incentive created by traditional ratemaking for utilities to distribute
11 more electricity.

12 **Q: Has the Commission recognized the importance of decoupling?**

13 A: Yes. The Commission issued an Order on April 20, 2007, which requires
14 “utilities to develop and implement mechanisms that true-up forecast and actual
15 delivery service revenues and, as a result, significantly reduce or eliminate any
16 disincentives caused by the recovery of utility fixed delivery costs via
17 volumetric rates or marginal consumption blocks.”¹

¹ New York State Public Service Commission (PSC) Case No. 03-E-0640, Proceeding on Motion of the Commission to Investigate Potential Electric Delivery Rate Disincentives Against the Promotion of Energy Efficiency, Renewable Technologies and Distributed Generation and PSC Case No. 06-G-0746, In the Matter of the Investigation of Potential Gas Delivery Rate

1 **Q: Do you recommend general principles for how a good revenue decoupling**
2 **mechanism should be designed?**

3 A: Yes. A good RDM should meet the following criteria:

- 4 • Decoupling must break the link between profits and sales.
 - 5 ○ Set allowed revenue and true-up actual revenues to allowed revenues.
 - 6 ○ Incentives for reliability (or anything else) and collection of deferred
7 revenue should not be tied to sales.
- 8 • Allowed revenues should be adjusted for desirable or unexpected and
9 unavoidable factors that increase or decrease costs.
 - 10 ○ Growth in customers, jobs and businesses are all desirable factors that
11 might drive up costs.
 - 12 ▪ If these factors go down, costs should go down, as should
13 allowed revenues.
 - 14 ○ Extreme storms and terrorist attacks are factors that might
15 unexpectedly and unavoidably drive up costs.
 - 16 ○ Allowed revenues should be adjusted on a customer class basis if there
17 are significant factors unique to each class.
- 18 • Adjustments to revenue, actual revenues, and true-ups should be calculated in
19 a transparent way.

Disincentives Against the Promotion of Energy Efficiency, Renewable Technologies and Distributed Generation, Order Requiring Proposals for Revenue Decoupling Mechanisms (issued April 20, 2007).

- 1 ○ Any factors used to adjust allowed or actual revenue should be outside
- 2 of the utilities' control.
- 3 ○ Any adjustment formulas should be simple and readily replicable by
- 4 any active party.
- 5 ○ Adjustments based on number of customers and customer class should
- 6 be carefully reviewed to avoid incentives for gaming.
- 7 ○ Actual revenues can be weather normalized before being compared to
- 8 allowed revenues as long as the weather normalization does not
- 9 require overly complex calculations.
- 10 • Deferrals of rebates or surcharges should be avoided to the greatest extent
- 11 possible.
- 12 ○ Adjustments and true-ups should be done as often as practical without
- 13 creating overly complex calculations.
- 14 ○ Limits on true-ups to avoid rate volatility or rate increases during
- 15 economic down-turns may be appropriate, but the need for such limits
- 16 should be determined with consideration of the deferral costs they
- 17 impose.
- 18 ○ Frequent true-ups keep rates more in-line with average short-term
- 19 costs.

20 **Q: Has Iberdrola proposed a method of revenue decoupling?**

21 A: No, it has not.

1 **Q: What would be a good revenue decoupling approach for the Company?**

2 A: The Company should adopt a RDM that adheres to the principles laid out
3 above. Generally, we recommend that a simple approach be developed
4 through a three-month stakeholder process and compliance filing process
5 after the Commission's decision in this case.

6 One adjustment to the allowed revenues that the Commission and
7 stakeholders should consider is some sort of economic development factor
8 such as job growth in the region. One concern regularly raised regarding
9 decoupling is that the utility collects the same revenue even during an
10 economic downturn or a period of economic development. To the extent
11 that the number of customers fluctuates with the economy, using a per
12 customer approach already adjusts for economic shifts. However, the
13 economy may also drive changes in patterns of use, and it is generally
14 considered desirable to have utilities encouraging economic development.
15 Scaling allowed revenues with job growth and loss would be one way to
16 address this concern, though the scaling factor would need to be carefully
17 thought through. Allowed revenues can also be adjusted for other factors
18 such as the Consumer Price Index to capture expected growth in costs,
19 though this is usually also coupled with a productivity factor to capture the
20 idea that utilities should get better at controlling costs over time. We are
21 open to considering such adjustments, but recommend the simplest

1 approach possible be used at the outset and then evaluated after a period of
2 time.

3 **IV. Demand Side Management Targets**

4 **Q: Should Iberdrola adopt a (DSM) target?**

5 **A:** Yes. New York State's energy efficiency goal, enumerated by Governor Spitzer
6 in April of this year, is to reduce electricity consumption through efficiency 15
7 percent below forecasted levels by 2015 (hereafter "15 by '15"). The Company
8 should procure all cost-effective energy efficiency and should be required to
9 achieve a 15 percent reduction in electricity consumption below forecasted
10 levels by 2015, in accordance with New York State's energy efficiency goal.
11 The Company should be required to do the same with respect to natural gas, as
12 well. The Company should be responsible for determining how the 15% will be
13 achieved among the various energy efficiency service providers and programs in
14 its service area.

15 **Q: What level of interim targets would keep the Company on track to achieve**
16 **the 15 by '15 goal?**

17 **A:** Iberdrola should set interim electricity and natural gas consumption reduction
18 targets of 3% for the year 2010 and 9% for the year 2013, in order to ensure that
19 it is implementing effective energy efficiency measures and is progressing
20 towards the 15% goals, at a minimum. Such interim targets reflect a 1%

1 decrease in consumption per year through 2010, a 2% decrease per year for 2011
2 through 2013 and a 3% decrease per year for 2014 and 2015.

3 **Q: Should the Company's DSM targets regarding electricity be set in terms of**
4 **energy or demand reductions?**

5 A: The Company's DSM targets regarding electricity should reflect the fact that the
6 Company will implement permanent energy efficiency programs to achieve
7 such targets. Thus, these targets should be established in terms of energy
8 savings (GWh), rather than avoided capacity.

9 **Q: What should the Company's role be with respect to delivery of energy**
10 **efficiency programs?**

11 A: The Company should coordinate with government entities delivering energy
12 efficiency in its service territory and should provide for the seamless, integrated
13 delivery of gas and electric programs, but ultimately the Company should be the
14 party responsible for ensuring that its service territory achieves the 15 by '15
15 goal. The Company enjoys certain inherent advantages with respect to its
16 customer base, including, but not limited to, a local presence and customer
17 relationships, the collection and maintenance of customer usage data, and the
18 ability to facilitate customer access to attractive financing for efficiency
19 improvements. The New York State Energy Research and Development
20 Authority (NYSERDA) has other inherent advantages, such as the ability to
21 more effectively implement statewide market transformation programs. The

1 Company's coordination should ensure that the respective strengths of the
2 Company, NYSERDA and others are utilized to the maximum extent possible.

3 **V. Performance Incentives for DSM Programs**

4 **Q: How should an appropriate performance incentive for Iberdrola be**
5 **designed?**

6 A: The award of incentives should be based largely on actual verified performance
7 of achieving efficiency results and should be scaled, with higher incentives for
8 higher achievement. The target award level should be based on aggressive but
9 achievable goals, with the opportunity to earn greater incentives for exemplary
10 performance beyond these base goals, which avoids the situation where utilities
11 stop pursuing more cost-effective efficiency once they reach the base target.

12 The largest portion of incentives should be based on achieving actual
13 benefits, ideally based on total resource net benefits from kWh or therm savings.
14 For the Company, the goals should support achieving the 15 by '15 targets, as I
15 discuss above. However, additional goals tied to other criteria should exist.
16 These goals can be used as countervailing influences, to avoid the Company
17 simply focusing on savings at the potential detriment of critically important
18 considerations such as equity and comprehensiveness. Examples could include:
19 targets for low income participation; geographic or demographic equity goals;
20 comprehensive treatment goals.

1 Incentives can be annual or multi-year. Multi-year goals have the
2 advantage of allowing utilities more flexibility to modify designs over time to
3 make most efficient and effective use of resources. It also allows for goals
4 focused on things like market transformation that may take multiple years to
5 show results.

6 Finally, all incentive earnings should be subject to independent verification
7 of achievements, and not pre-specified based on simply completing certain
8 milestones.

9 A good example of an appropriate performance incentive structure for the
10 Company was included in the State of California Public Utility Commission's
11 September 25, 2007 Decision in Rulemaking 06-04-010.²

12 Building on this model, I propose that a threshold be set at 85 percent of
13 the base energy savings goal. At this threshold, the Company would start
14 earning an incentive of 9 percent of the net benefits. The incentive should be
15 stepped up to 12 percent if the Company's DSM performance level achieves 100
16 percent or more of the goals. This structure is important because if it is clear
17 prior to the end of the period that a utility will not reach the target, it should still
18 have an incentive for pursuing as much efficiency as possible.

² State of California Public Utilities Commission, Rulemaking 06-04-010, Order Instituting Rulemaking to Examine the Commission's post-2005 Energy Efficiency Policies, Programs, Evaluation, Measurement and Verification, and Related Issues, Interim Opinion on Phase 1 Issues: Shareholder Risk/Reward Incentive Mechanism for Energy Efficiency Programs, Decision 07-09-043 (issued September 25, 2007).

1 The Company should also be penalized for poor performance on its
2 savings goals. Penalties should be assessed if the Company's performance falls
3 to or below 65 percent of the base goal, at which point penalties should be
4 assessed per kWh or therm for each unit below the goal. Such a penalty would
5 ensure that the Company will have a consistent incentive to improve
6 performance.

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10 **VI. Renewable Electricity and Market Power**

11 **Q: Does the NRDC support the development of renewable energy in the state**
12 **of New York?**

13 **A:** Absolutely. Renewable energy can supply a significant share of the state's
14 energy needs, creating significant public benefits including environmental
15 improvement, increased fuel diversity and economic development. The
16 development of renewable energy sources in New York state is a critical
17 component of the efforts to reduce global warming emissions in-state and to
18 achieve the goals of the state's Renewable Portfolio Standard. The NRDC is a
19 strong proponent of renewable energy and actively advocates for the
20 development of renewable energy sources across the state and nation.

1 **Q: Do you believe Iberdrola's permanent residence in the state of New York**
2 **through the purchase of Energy East will help New York achieve its stated**
3 **goals for renewable power in the state?**

4 A: Yes. Iberdrola is a known international leader in the development of wind
5 power. The company's interest in the state, in part, stems from the opportunities
6 available for the profitable development of renewable electricity. The
7 permanent residence of an international leader in wind development will add to
8 the competitiveness of renewable markets and lead to the development of
9 additional renewable capacity within state borders.

10 **Q: Do you believe Iberdrola's purchase of transmission and distribution**
11 **facilities in the state of New York will give the company undue market**
12 **power, which it may use to stifle the development of renewable power**
13 **within the state?**

14 A: Development of renewable power in the state of New York is primarily driven
15 through the demand established by the Renewable Portfolio Standard. As we
16 have seen elsewhere, other states have opted to increase the percent of load
17 served by renewable power in order to meet state climate policy goals and
18 reduce emissions from power generation. Iberdrola's ownership of a
19 Transmission and Distribution utility will not change the requirements or
20 deadlines in New York's Renewable Portfolio Standard. Additionally,
21 appropriate safeguards can be established to ensure that any behavior perceived

1 to be uncompetitive is restrained or eliminated, as has been the case with other
2 utility-owned generation.

3 **Q: With the energy efficiency targets, revenue decoupling and performance**
4 **incentives described, would you support the merger?**

5 A: Yes.

6 **Q: Does this complete your testimony?**

7 A: Yes.

