

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

**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.**

Case 07-M-0906

**TESTIMONY OF
SYSTEM COUNCIL U-7 AND LOCAL 36
INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS**

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INTRODUCTION

The New York State Public Service Commission (“PSC” or “the Commission”) commenced this proceeding to determine if the proposed acquisition between Iberdrola SA and Energy East should be approved. As part of the PSC’s effort, on July 31, 2006, Department of Public Service Staff (“Staff”) has requested that written testimony from interested parties be submitted by January 11, 2008.

DISCUSSION

1. Keyspan- National Grid Merger as the Model

System Council U-7, IBEW and Local 36, IBEW maintain that the major impasse of this acquisition stems from Iberdrola’s rejection of the notion of using the Keyspan – National Grid merger as the model for this acquisition. Iberdrola contends that the differences between the two transactions are outweighed by the similarities. Iberdrola has asked the Public Service Commission (PSC) staff to move away from that model. Iberdrola cites that there are no employee transfers, no merging of functions, and no synergies as the major differences. It should be noted that the PSC staff argues that no synergies can be realized because Iberdrola has not been forthcoming with the information necessary to make that determination. Iberdrola maintains that the PSC staff is using this model because it is the most recent case that involved a public interest component to the finality of the deal. It is clear that the public interest standard is being interpreted differently by both parties. Iberdrola contends that it means “no harm” should come to consumers as a contingency of the acquisition. The PSC staff maintains that there should be a “tangible monetary benefit” to the consumer as a contingency of the acquisition. Iberdrola maintains the benefits to consumers will be different in terms of immediate tangible

monetary benefits and that future benefits are implied because of their best practices and financial position.

System Council U-7, IBEW and Local 36, IBEW disagree with the position of the PSC staff. Any synergies that could be achieved took place in 2002 through consolidation of services. In addition, System Council U-7, IBEW and Local 36, IBEW maintain that achieving a tangible long term monetary benefit to consumers in the way of mandated infrastructure replacement, such as long service life equipment, and investment in the workforce, such as mandatory staffing ratios for service quality, would produce real savings to consumers.

2. Credit Rating, Financial Strength, and Risk Management

Iberdrola maintains that their financial strength and stability are major factors in this acquisitions. Iberdrola contends that their proposal should be taken seriously because they are a better credit rated company, “A”, than Energy East, they have a strategic three year plan, they have shared that plan with the rating agencies, they are bringing 4 billion dollars of European money to the United States in an all cash deal, and their debt ratio and financial strength are strong. Iberdrola has argued that their credit rating is currently two positions above Energy East and will improve after their IPO (Iberdrola Renovables) has concluded. Iberdrola contends that over the last ten years they have had an “A” rating and that past performance is indicative of future outlooks. Iberdrola maintains that they have met all current strategic targets in the Scottish Power transaction. Iberdrola contends that their previous models, their commitment, and their wind generation systems are key components to this acquisition. Iberdrola has argued that since they are a better rated company taking over a lesser rated company this is a significant

benefit. Iberdrola maintains that their cash flow to debt is good and is not as concerned with the equity ratio.

The PSC staff has concerns with the possibility that Iberdrola's financial strength could weaken as a consequence of the acquisition. In addition, the PSC staff is still unclear how a better credit rating translates into better service, benefits to rate payers, and monetary savings. The PSC staff contends that Iberdrola's financial strength is under review and that they could be downgraded to "BBB" which is where Energy East is now. Further, Iberdrola's credit rating has been downgraded to "A-" according to the PSC staff and can only fall under the current circumstances, with a negative watch position by rating agencies. The PSC staff contends Iberdrola is over leveraging themselves, with scheduled growth of two to three times their current size over the next several years. This rapid expansion could have serious consequences according to the PSC staff. The PSC staff feels that their affiliates, in particular Scottish Power, maybe overburdening the parent company's equity ratio with a great deal of capital expenditures. The PSC staff contends that rating agencies need to look at how Iberdrola will manage rapid growth and integration of services. As an example, Moody's rates Iberdrola's equity as low and that issues such as change in leadership and strategic planning could have significant impact on their the rating. Finally, the PSC staff sees pressing issues of risk as a controlling factor as to in why Iberdrola's credit rating may continue to fall. The PSC staff maintains that the lack of transparency of the organization, their lack of commitment to oversight, their significant investments in Scottish Power, and other major capital expenditures makes Iberdrola less financially stable than Iberdrola is representing.

System Council U-7, IBEW and Local 36, IBEW disagree with the position of the PSC staff.

The current management at Energy East has provided very little leadership or direction for the

organized workforce. System Council U-7, IBEW and Local 35, IBEW have serious concerns regarding the decline of Energy East's operations and it is reflected in employee morale and service quality. Iberdrola has a record of success which is demonstrated through past performance. System Council U-7, IBEW and Local 36, IBEW would ask the PSC to examine the current management of Energy East in contrast to Iberdrola to get a better perspective of this acquisition. System Council U-7, IBEW and Local 36, IBEW contend that Iberdrola is in a superior position to move this utility forward and it would become clear that the current trend of mismanagement could affect rate payers if not corrected.

3. Jobs Retention and Creation

Iberdrola contends that they want to bring a different approach to economic development. Iberdrola argues that their past dealings had no job losses and that they want to build jobs. Iberdrola maintains that many other deals often include job losses. Iberdrola is moving toward renewable energies job creation which can be realized through their recent IPO (Iberdrola Renovables) offering.

PSC staff puts no value on job retention in trying to measure this acquisition.

System Council U-7, IBEW and Local 36, IBEW disagree with the position of the PSC. System Council U-7, IBEW and Local 36, IBEW contend that job retention and creation plays a significant role in service quality which translates into tangible benefits to the consumers. If this acquisition was to include job loss as part of the structure it would seriously diminish the utilities ability to deliver service. System Council U-7, IBEW and Local 36, IBEW recommend mandated invest in the present workforce and an increase in the current employee levels to meet service quality standards.

4. Renewable Energy and Market Power

Multiple Intervenors (MI) contend that renewable energy is irrelevant to the acquisition because Iberdrola does not need to acquire Energy East to build renewable energy. MIs have serious concerns about market power. It should be noted that the Federal Energy Regulatory Commission (FERC) has approved the acquisition citing no vertical or horizontal market power.

Iberdrola contends that they can assist New York State in achieving its renewable energy goals through generation and distribution. Iberdrola argues that they want to do business in New York in many energy areas. Iberdrola cites Pennsylvania as their model, where Iberdrola was not asked to guarantee benefits to consumers and they claim they made significant capital expenditures in infrastructure. Iberdrola would like a similar model in New York. Iberdrola maintains that they have a history of working with governments to meet government's goals.

The PSC staff contends that Iberdrola is actually harmful to wind energy in New York and characterized their proposal as "anti-wind". The PSC staff maintains that Iberdrola might create a loose monopoly and be the only company that can meet the states wind energy goals. This scenario could lead to increased prices and discourage competition. The PSC staff has requested a complete divestiture of wind power by Iberdrola as a contingency of this acquisition.

System Council U-7, IBEW and Local 36, IBEW disagree with the position of the PSC staff.

System Council U-7, IBEW and Local 36, IBEW do not believe a complete divestiture is necessary. If the renewable energy issue is not relevant to the acquisition in terms of meeting the state's renewable energy goals it should not be relevant in market power issues. System Council

U-7, IBEW and Local 36, IBEW, argue that a mandate to build and maintain new facilities should be a contingency of the acquisition.

5. Russell Station

Iberdrola contends that if they are not committed to repower Russell Station with natural gas that the PSC staff will oppose the acquisition. Iberdrola has liability concerns with Russell Station and argues that the Rochester Transmission Project should have alleviated much of the pressure to rehabilitate Russell Station which is scheduled to close next year. Iberdrola wants to go through the licensing process and SEQRA to look at alternatives for Russell Station. Iberdrola maintains that they do not know what the ramifications are in relation to Russell Station and would like to do their due diligence before making a recommendation.

PSC staff maintains that Iberdrola should open up an action for competitive bid to other companies for the sale of Russell Station. PSC staff maintains that while there may be liability issues the Rochester Transmission Project was funded by rate payers and designed to provide time to rehabilitate Russell Station. The PSC staff contends Russell Station could be converted to gas fire quickly and add strength in a competitive market. The PSC staff argues that the future of Russell Station needs to be addressed as part of these negotiations to the benefit of consumers.

MI contend that Energy East is on record as making a commitment to sell Russell Station to a non affiliated competitor at auction and expect Iberdrola to honor that commitment.

System Council U-7, IBEW and Local 36, IBEW agree with the position of the PSC staff.

6. Performance Standards and Customer Service

The PSC staff would like an increase in performance standards of this acquisition. The PSC staff contends that a part of the settlement needs to include enhanced customer service through a strengthening of policy standards.

System Council U-7, IBEW and Local 36, IBEW agree with the position of the PSC staff. An increase in performance standards is crucial to producing quality service. System Council U-7, IBEW and Local 36, IBEW do have some concerns with the PSC position that no value is placed on job retention and creation yet at the same time mandate stricter performance standards. System Council U-7, IBEW and Local 36, IBEW would ask that mandated performance standards and customer service include a sizable increase in the current workforce to meet new requirements.

CONCLUSION

System Council U-7 and IBEW Local 36 strongly oppose any worker reduction as part of the final outcome of this litigation. In addition to the write offs offered by Iberdrola and Energy East more financial savings can be realized without workforce reductions. If the PSC staff mandates the divestiture of Iberdrola's wind generation facilities it would yield significant financial gains that could be used in providing tangible monetary benefits.

The hiring of additional workers to improve service quality and performance standards is a quantifiable tangible benefit. System Council U-7, IBEW and Local 36, IBEW support the assertion by the PSC staff that a majority of the benefits should not go to stockholders and executives but such an assertion should be tempered with the realization that benefits to the workforce, who are also rate payers, should be taken into consideration. System Council U-7, IBEW and Local 36, IBEW agree with the PSC staff commitment to protect and provide real

benefits to customers however we feel that providing a superior product is equitable to a dollar savings. System Council U-7, IBEW and Local 36, IBEW would have serious concerns about a significant give back to consumers that would have serious repercussions to the acquired companies health. This scenario has a potential for negative impact on the workforce. While the PSC staff has concerns about vertical market power used to the detriment of state wind power policy the federal government has a different of opinion. We encourage the divestiture of Russell Station, as regulatory demands dictate compliance by April 2008. The sale profits for Russell Station could be earmarked as additional revenue used to generate dollar savings for consumers.

While System Council U-7, IBEW and Local 36, IBEW were not satisfied with the answers provided to several interrogatories, we believe that a change in management would be helpful to the future success of this utility. System Council U-7, IBEW and Local 36, IBEW at this time support this acquisition with reservations.

Dated: January 10, 2008
Albany, NY

Respectfully Submitted,

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To: Honorable Jaclyn Brillling, Secretary
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