

Iberdrola S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (IPPNY-1) Independent Power Producers of NY

New York Response No.: IBER-0072

Request Date: September 19, 2007

Information Requested of: Robert E. Rude

Reply Date: October 1, 2007

Responsible Witness: Robert E. Rude

QUESTION:

In response to Information Request DPS-8 issued by the Staff of the New York State Department of Public Service (“DPS Staff”), the Petitioners have set forth the amount of wind generation currently being proposed by Iberdrola affiliates in New York State.

a) Please provide New York State Electric & Gas Corporation’s (“NYSEG”) planned amount of future investment in generation capacity by size, type and geographic location for the years 2008-2017.

b) Please specify whether NYSEG will seek to retain its interests in the generating facilities that it currently owns in New York State.

c) If NYSEG identified any planned future investment in generation capacity in response to IPPNY-1(a), please specify whether NYSEG will seek to retain its interests in these facilities after such facilities commence commercial operations.

d) Please provide Rochester Gas & Electric Corporation’s (“RG&E”) planned amount of future investment in generation capacity by size, type and geographic location for the years 2008-2017.

e) Please specify whether RG&E will seek to retain its interests in the generating facilities that it currently owns in New York State.

f) If RG&E identified any planned future investment in generation capacity in response to IPPNY-1(d), please specify whether RG&E will seek to retain its interests in these facilities after such facilities commence commercial operations.

RESPONSE:

a) None

b) Yes

c) N/A

d) Russell Station Repowering
Natural Gas Combined Cycle
Approximately \$330M
300 MW
1101 Beach Avenue
Town of Greece, Monroe County, NY
In service date 2013

RG&E Hydro Upgrades
Approximately \$23.8M
6.5 MWs
Rochester, NY
0.5 MWs in service 2008
6.0 MWs in service 2009

e) Yes

f) Yes

Iberdrola S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-51) DPS Staff

New York Response No.: IBER-0095

Request Date: September 27, 2007

Information Requested of: Pedro Azagra / Robert E. Rude

Reply Date: October 9, 2007

Responsible Witness: Pedro Azagra / Robert E. Rude

QUESTION:

Information Technology (IT)

1. Please identify all Information Technology (IT) platform(s) currently utilized by Iberdrola, Scottish Power, and Energy East.
2. In the Scottish Power/Iberdrola merger, is IT consolidation being considered and pursued? If not, explain why it is not being considered.
3. To the extent that any IT platforms are common between Energy East and Iberdrola, identify whether cost savings can be achieved after the completion of the merger.
4. To the extent the IT platforms differ identify whether the differing IT platforms can be consolidated and if so, whether any cost savings can be achieved after the completion of the merger and IT consolidation. If such cost saving strategies are not being pursued or considered, explain all barriers preventing the implementation of IT consolidation in the U.S.

RESPONSE:

1. See the attached document, which describes the IT platforms of Iberdrola and Scottish Power, which is being submitted pursuant to Trade Secret Protection.

NYSEG and RG&E's primary application platform is SAP. SAP provides an integrated applications suite that supports:

- a. Back Office operations which include accounting, HR, Payroll, and Supply Chain
- b. Work Management operations which include field job design, job scheduling, job accounting and inventory and outage management.
- c. Customer Service operations which include customer billing, call center operations, credit and collections, and service order work that extends to the field.

Energy East runs SAP on an AIX (i.e. Unix) operating system and a DB2 database.

Energy East uses the Microsoft product suite for office productivity purposes. This includes Outlook for email, Microsoft Office for document preparation and Microsoft Active Directory for maintaining user profiles.

Energy East uses a variety of miscellaneous IT platforms to support the remainder of its business (e.g. meter reading platforms, phone systems, etc).

2. Yes.
3. The transacting parties have not evaluated whether, to the extent that any IT platforms are common between Energy East and Iberdrola, any cost savings could be achieved. However, due to a variety of factors (including, among other things, language differences, geographic separation, time-zone differences, different accounting standards, and the fact that Energy East already uses SAP and has already integrated the operations of its different subsidiaries), no IT consolidated cost savings are likely.
4. Energy East has already gone through its own IT consolidation prior to the Proposed Transaction. The transacting parties have not evaluated whether, to the extent that any IT platforms are common between Energy East and Iberdrola, any cost savings could be achieved. However, due to a variety of factors (including, among other things, language differences, geographic separation, time-zone differences, different accounting standards, and the fact that Energy East already uses SAP and has already integrated the operations of its different subsidiaries), no IT consolidated cost savings are likely.

Iberdrola S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-53) DPS Staff

New York Response No.: IBER-0097

Request Date: September 27, 2007

Information Requested of: Pedro Azagra

Reply Date: October 9, 2007

Responsible Witness: Pedro Azagra

QUESTION:

The Response to IBER-0008 states that Iberdrola has “only an indirect partial ownership interest in Flat Rock Windpower LLC [Flat Rock] and Flat Rock Windpower LLC II [Flatrock II].” Exhibit J-2 to Attachment 19 to the Petition lists that interest at 50%. The other 50% interest is held by subsidiaries of Energias de Portugal, S.A. (EDP)(Case 07-E-0462, Declaratory Ruling issued 6/16/07).

1. Please describe any ownership interests that Iberdrola or its affiliates hold in EDP or its affiliates, or any other affiliations between the two.
2. Will any of the interests or affiliations described in response to Question 1 give Iberdrola majority ownership of Flatrock and Flatrock II, or enable Iberdrola to exercise financial or managerial control over the operations of Flatrock and Flatrock II?

RESPONSE:

1. Iberdrola, through its wholly-owned subsidiary Iberdrola Portugal Electricidade e Gas, S.A., holds a 9.5% interest in EDP. Iberdrola may not exercise voting rights that represent more than 5% of EDP’s share capital. Iberdrola does not have any directors on EDP’s board, and does not otherwise participate in EDP’s management.

Iberdrola, through its wholly-owned subsidiary Iberdrola Energía, S.A.U., holds a 49% interest in Distribuidora Eléctrica Centroamericana II, S.A. (DEC II). EDP also holds a 21.25% interest in DEC II. DEC II does not own or operate any facilities in the U.S.

Iberdrola, through its wholly-owned subsidiary Iberdrola Generación, S.A., holds an 11.96% interest in Elcogas, S.A. (Elcogas), which owns a power plant in Spain. EDP also holds a 4% interest in Elcogas. Elcogas does not own or operate any facilities in the U.S.

2. With respect to Flat Rock I and Flat Rock II, PPM Energy is responsible for, among other things: (i) the supervision and monitoring with respect to fiscal services providers; (ii) the maintenance of financial books and records, (iii) coordination in connection with the preparation of audited financial statements and income tax returns, and (iv) the payment of expenses and obligations of Flat Rock as approved by Horizon Wind Energy, the Operations Manager. The Operating Agreement for the Flat Rock I and II reserves certain actions to the management committee, which is made up of PPM Energy and Horizon Wind Energy personnel.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-75) DPS Staff

New York Response No.: IBER-0131S

Request Date: October 3, 2007

Information Requested of: Pedro Azagra

Reply Date: December 5, 2007 - Supplemental Response

Responsible Witness: Pedro Azagra

QUESTION:

Follow up to IBER-0060

The response to IBER-0060 provides organizational charts for Iberdrola s US operations (Scottish Power plc and Iberdrola Energias Renovables).

1. Please provide a table containing the following information for each entity listed in the two attachments to the Response to IBER-0060:

a) location

b) all products or services provided by the entity

c) if the business is energy-related business, state maximum capacity or size and actual output for latest 12 month fiscal year (e.g., 12 months ending December 31, 2006)

d) number of employees or equivalent employees

e) Non-fuel operating and maintenance expenses for latest 12 month fiscal year (e.g., 12 months ending December 31, 2006)

f) Net profit/loss before income taxes for latest 12 month fiscal year (e.g., 12 months ending December 31, 2006)

g) Amount of Iberdrola's capital investment/equity

RESPONSE:

- (a) Attached is a table that identifies all of Iberdrola's affiliated "operating companies" in the U.S. An "operating company" is defined for purposes of this response as a company that: (1) owns directly or indirectly operating wind and thermal projects; (2) owns directly or indirectly operating gas storage facilities; (3) has employees; or (4) owns contractual obligations to third-parties. Excluded from this definition of "operating company" are the remaining Iberdrola-affiliated U.S. companies, such as companies that either: (a) hold only leases, permits, etc. for wind, thermal or storage development opportunities; (b) are pure legacy companies that will be dissolved at some point in the future; or (c) own development projects that are not yet operational. The attached table is being submitted publicly, but the information on Iberdrola's employees is redacted subject to Trade Secret Protection. Also attached are current organizational charts for Iberdrola's U.S. affiliates.
- (b) See table provided in response to IBER-0131(1)(a), above.
- (c) See table provided in response to IBER-0131(1)(a), above.
- (d) See table provided in response to IBER-0131(1)(a), above.
- (e) Attached are the available audited financial statements for the most recent 12 months for the Iberdrola affiliated operating projects, as well as PPM Energy, Inc. ("PPM") and ScottishPower Holdings, Inc. ("SPHI"). This information is being submitted as "Highly Sensitive" information pursuant to Trade Secret Protection. SPHI contains the consolidated financial statements for all of the assets and companies that Iberdrola acquired from ScottishPower. PPM has all of the consolidated information for operating companies, development companies, dormant companies, and companies with projects under construction. We do not prepare audited financial statements for all of the Iberdrola-affiliated project companies in the U.S.—*e.g.*, there are no audited financial statements for any of the gas storage companies.

Note that the fiscal years for PPM and SPHI were March 31 and that the financial statements for the other project companies may be based on the Calendar Year.

Also note that not all project companies have audited financial statements available as either: (a) the project in question has not yet had a year's worth of operations; (b) the project in question is under construction; or (c) the financial statements have not yet been prepared, but will be following the year end.

Finally, note that we have not provided financial statements for the Aeolus companies. They are joint ventures with other investors, thus the analysis would

be misleading. PPM's financial statements, however, consolidate the results of PPM's investment in the Aeolus companies.

- (f) *See* the attachment provided in response to IBER-0131(1)(e), above.
- (g) *See* the attachment provided in response to IBER-0131(1)(e), above.

Company	Project	Employee	State	Size	Products
Operating Wind Project Companies and Wind Project Related Companies					
PPM Wind Energy LLC	Class A interest holder for all Aeolus limited liability companies	REDACTED	DE	NA	NA
PPM Wind Management LLC	Party to Management Agreements with each Aeolus LLC and each project company included in an Aeolus portfolio.	REDACTED	OR	NA	NA
Aeolus Wind Power I LLC	Joint venture owner of Flying Cloud, Klondike I, Mountain View III, and Moraine projects	REDACTED	DE	NA	NA
Aeolus Wind Power II LLC	Joint venture owner of Trimont, Shiloh, Elk River, and Atlantic Renewable Projects LLC (owner in part of Flat Rock Windpower LLC)	REDACTED	DE	NA	NA
Aeolus Wind Power III LLC	Joint venture owner of Twin Buttes, Big Horn, and Atlantic Renewable Projects II	REDACTED	DE	NA	NA

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	LLC (owner in part of Flat Rock Windpower II LLC)				
Aeolus Wind Power IV LLC	Joint venture owner of Klondike III and two other projects under development (Top of Iowa and MinnDakota, which projects are under construction)	REDACTED	DE	NA	NA
Big Horn Wind Project LLC	Big Horn	REDACTED	WA	199.5 MW	Power and RECs sold long-term under PPA
Colorado Green Holdings, LLC	Joint venture owner of Colorado Green	REDACTED	CO	81.0 MW (installed capacity: 162.0 MW)	Power and RECS sold long-term under PPA
Elk River Windfarm, LLC	Elk River	REDACTED	KS	150.0 MW	Power and RECs sold long-term under PPA
Flat Rock Windpower II LLC	Maple Ridge II	REDACTED	NY	45.4 MW (installed capacity: 90.8)	Power and RECs sold long-term under PPA. Portion of output sold in merchant market
Flat Rock Windpower LLC	Maple Ridge I	REDACTED	NY	99.0 MW (installed capacity: 198.0 MW)	Power sold in merchant market. RECs sold long-term to NYSERDA
Flying Cloud Power Partners, LLC	Flying Cloud	REDACTED	IA	43.5 MW	Power and RECs sold long-term under PPA
Klondike Wind Power II LLC	Klondike II	REDACTED	OR	75.0 MW	Power and RECs sold long-term under PPA
Klondike Wind Power III LLC	Klondike III	REDACTED	OR	223.6 MW	Power and RECs sold long-term under PPAs

Trade Secret
Information Redacted

Klondike Wind Power LLC	Klondike I	REDACTED	OR	24.0 MW	Power and RECs sold long-term under PPA
Moraine Wind LLC	Moraine	REDACTED	MN	51.0 MW	Power and RECs sold long-term under PPA
Mountain View Power Partners III LLC	Mountain View III	REDACTED	CA	22.4 MW	Power and RECs sold long-term under PPA
Phoenix Wind Power LLC	Phoenix	REDACTED	CA	2.1 MW	Power and RECs sold long-term under PPA
PPM Technical Services LLC		REDACTED	OR	NA	Operations and maintenance services for wind generation facilities
Shiloh I Wind Project LLC	Shiloh	REDACTED	CA	150.0 MW	Power and RECs sold long-term under PPAs
Trimont Wind I LLC	Trimont	REDACTED	MN	100.5 MW	Power and RECs sold long-term under PPA
Twin Buttes Wind LLC	Twin Buttes	REDACTED	CO	75.0 MW	Power and RECs sold long-term under PPA
Thermal Generation and Generation Related Companies					
Klamath Energy LLC	Klamath Peaker	REDACTED	OR	100 MW	Peaking capacity and energy; reactive power support
Pacific Klamath Energy, Inc.	NA	REDACTED	OR	NA	Operations and maintenance services for Klamath Cogeneration Project, located in Klamath Falls, Oregon
West Valley Leasing Company, LLC	West Valley Peaker	REDACTED	UT	200 MW	Peaking capacity and energy

Gas Storage Facilities					
Enstor, Inc.	Owner of operating storage facilities, development facilities and Enstor Operating Company, LLC	REDACTED	TX	Facilities listed below.	Storage and storage related services.
Enstor Katy Storage and Transportation, L.P.	Katy Storage Facility	REDACTED	TX	21.0 Bcf working gas	Storage and storage-related services
Enstor Grama Ridge Storage and Transportation, LLC	Grama Ridge Storage Facility	REDACTED	NM	6.0 Bcf working gas	Storage and storage-related services
Enstor Operating Company, LLC	NA	REDACTED	TX	NA	Operation and maintenance services, fiscal management, and commercial management of Katy and Grama Ridge facilities. Engineering, Development and construction support for gas storage facilities under development.
Other Operating Companies					
PPM Energy, Inc.	Owner of companies listed above as well as development opportunities and projects under construction	REDACTED	OR	In addition to facilities listed above, PPM has contractual rights to 300 MWs of wind generation and 237 MWs of thermal	Fiscal management, energy management, gas and power trading, corporate management and oversight of PPM subsidiary energy businesses.

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				generation.	
Scottish Power Holdings, Inc.	Holding company for PPM, Pacific Klamath Energy, Inc., ScottishPower Group Holdings Company, Inc. and Scottish Power Finance (US), Inc.	REDACTED	DE OR	See above, plus 10.6% interest in 380 MW Springerville Coal Plant under long-term lease with Tuscon Electric.	Fiscal management and oversight for SPHI companies
Scottish Power Group Holdings Company, Inc.	Holding Company for legacy investments from prior ownership by PacifiCorp, including Pacific Harbor Capital, Inc.'s 10.6% interest in 380 MW Springerville Coal Plant. Project is under long-term lease to TEP	REDACTED	DE	See above.	NA
Scottish Power Finance (US), Inc.	NA	REDACTED	NA	NA	Financial services to SPHI companies
Iberdrola USA and Subsidiaries					
Iberdrola Renewable Energies USA, Ltd.	Owner of companies listed below as well as development opportunities and projects under construction	REDACTED	PA	NA	Fiscal management, corporate management, and oversight of its subsidiary energy businesses

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Community Energy Inc.	NA	REDACTED	PA	NA	RECs
Locust Ridge Wind Farm, LLC	Locust Ridge wind facility	REDACTED	PA	26 MW	Power and RECs

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-77) DPS Staff

New York Response No.: IBER-0133

Request Date: October 3, 2007

Information Requested of: Pedro Azagra

Reply Date: October 15, 2007

Responsible Witness: Pedro Azagra

QUESTION:

Production Tax Credits.

1. Assuming the proposed transaction occurs and that Iberdrola's U.S. business interests have U.S. carryforward production tax credits, would Iberdrola be allowed by IRS rules, laws, or regulations to carryback and claim Production Tax Credits on Energy East's prior year's tax returns? If the answer is no, explain and support your answer with citations.

RESPONSE:

1. Iberdrola has not considered or evaluated whether such an effort would be permitted, but does not anticipate that any carry-forward production tax credits would be used to offset Energy East's prior year's tax returns.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-81) DPS Staff

New York Response No.: IBER-0141

Request Date: October 10, 2007

Information Requested of: Robert E. Rude

Reply Date: October 22, 2007

Responsible Witness: Robert E. Rude

QUESTION:

The Energy East Corporation Schedule 14A Proxy Statement filed September 26, 2007, page 22, states:

“Towards the end of the first quarter of 2007, management was approached about the possible sale of certain of the Company’s operating subsidiaries...”

1. Please identify the entity that approached the company and if that entity represented another entity, identify that entity as well.
2. Please identify all the operating subsidiaries that were the subject of the potential sale inquiry.

RESPONSE:

We cannot identify the entity that approached us or the subsidiaries that they were interested in purchasing, as we are subject to a confidentiality agreement.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-81) DPS Staff

New York Response No.: IBER-0141 - REVISED

Request Date: October 10, 2007

Information Requested of: Robert E. Rude

Reply Date: December 4, 2007

Responsible Witness: Robert E. Rude

QUESTION:

The Energy East Corporation Schedule 14A Proxy Statement filed September 26, 2007, page 22, states:

“Towards the end of the first quarter of 2007, management was approached about the possible sale of certain of the Company’s operating subsidiaries...”

1. Please identify the entity that approached the company and if that entity represented another entity, identify that entity as well.
2. Please identify all the operating subsidiaries that were the subject of the potential sale inquiry.

RESPONSE:

We cannot identify the entity that approached us or the subsidiaries that they were interested in purchasing, as we are subject to a comprehensive confidentiality agreement. We object that the information sought in this Information Request is neither relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of relevant information. Notwithstanding the foregoing and without waiving any objections, we provide the attached Trade Secret Information in further response to this request.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-83) DPS Staff

New York Response No.: IBER-0143

Request Date: October 10, 2007

Information Requested of: Robert E. Rude

Reply Date: October 22, 2007

Responsible Witness: Robert E. Rude

QUESTION:

Refer to Energy East Corporation (EAS) Schedule 14A Proxy The Energy East Corporation Schedule 14A Proxy Statement filed September 26, 2007, page 24, states:

“The Board of Directors discussed the potential benefits of the two other pending strategic transactions under consideration at the time and determined that the benefits of completing those transactions were outweighed by the benefits associated with the proposed transaction with Iberdrola.”

1. Was the Board’s “discussion of the potential benefits of the two other pending strategic transactions under consideration” or its determination “that the benefits of completing those transactions were outweighed by the benefits associated with the proposed transaction with Iberdrola” reduced to writing? If so, please provide a copy.
2. If the discussions or the determination were not reduced to writing, please provide any written summaries of or notes on the discussions or the determination.

RESPONSE:

Information about these potential transactions is subject to confidentiality agreements.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-83) DPS Staff

New York Response No.: IBER-0143 - REVISED

Request Date: October 10, 2007

Information Requested of: Robert E. Rude

Reply Date: December 4, 2007

Responsible Witness: Robert E. Rude

QUESTION:

Refer to Energy East Corporation (EAS) Schedule 14A Proxy The Energy East Corporation Schedule 14A Proxy Statement filed September 26, 2007, page 24, states:

“The Board of Directors discussed the potential benefits of the two other pending strategic transactions under consideration at the time and determined that the benefits of completing those transactions were outweighed by the benefits associated with the proposed transaction with Iberdrola.”

1. Was the Board’s “discussion of the potential benefits of the two other pending strategic transactions under consideration” or its determination “that the benefits of completing those transactions were outweighed by the benefits associated with the proposed transaction with Iberdrola” reduced to writing? If so, please provide a copy.
2. If the discussions or the determination were not reduced to writing, please provide any written summaries of or notes on the discussions or the determination.

RESPONSE:

Information about these potential transactions is subject to comprehensive confidentiality agreements. We object that the information sought in this Information Request is neither relevant to any issue in this proceeding nor reasonably calculated to lead to the discovery of relevant information. Notwithstanding the foregoing and without waiving any objections, we provide the attached Trade Secret Information in further response to this request.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-84) DPS Staff

New York Response No.: IBER-0144

Request Date: October 10, 2007

Information Requested of: Robert E. Rude

Reply Date: October 22, 2007

Responsible Witness: Robert E. Rude

QUESTION:

The Energy East Corporation Schedule 14A Proxy Statement filed September 26, 2007, page 24, states:

“After extensive discussion of the terms of the proposed transaction and the potential benefits that it could bring to the Company’s shareholders, customers, employees, among others, and the related risks, both management and the Board concluded that the public benefits of a transaction with Iberdrola had not been developed with sufficient specificity, raising concerns regarding the prospects for obtaining regulatory approvals.”

1. Please detail any and all reasons explaining why “the Board concluded that the public benefits of a transaction with Iberdrola had not been developed with sufficient specificity.”
2. Were any additional public benefits that had not been identified prior to June 8, 2007 identified by Iberdrola on or after that date? If so, please list those additional public benefits.

RESPONSE:

In response to item 1, the Board's concerns related primarily to the degree of specificity with which the benefits had been developed at that time. During the time between that meeting and announcement of the transaction, the Company and Iberdrola worked to clarify how the benefits of the transaction would be communicated to regulators, customers and other constituencies when the merger was publicly announced.

In response to item 2, no additional public benefits of the transaction were identified between June 8, 2007 and the time that the transaction was publicly announced.

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PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-87) DPS Staff

New York Response No.: IBER-0147

Request Date: October 17, 2007

Information Requested of: Pedro Azagra

Reply Date: October 29, 2007

Responsible Witness: Pedro Azagra

QUESTION:

Refer to European Union Competition Commission Case No. COMP/M.4517 - IBERDROLA/SCOTTISHPOWER - Notification of 12 January 2007, which states on page 6 (Paragraphs 39-40):

“The first aspect concerns the ability for companies purchasing shareholdings in foreign companies directly to offset up to 15% of the price paid against tax to the extent to which the purchase leads to increased export activities...it seems reasonable to consider as ‘worst case’ scenario that a one-off tax reduction of [0-10]% of the acquisition price of Scottish Power could be obtained. On the basis of a value of 17.100 million EUR this would mean a one-off tax reduction of [500-1000] million EUR.”

1. Please provide, in English translation, any complaints, answers, decisions, briefs and similar documents filed or issued in the above European Union proceeding.
2. Can Iberdrola obtain the above or a similar tax offset for the pending acquisition of Energy East assuming it closes during 2008?
3. If so, please estimate the tax reduction Iberdrola would be eligible for under the ‘worst case’ scenario referenced above.

RESPONSE:

1. See the attached “Notification of the Acquisition of Sole Control by Iberdrola, S.A. of ScottishPower plc” and related Annexes 1-11. Annexes 6, 9 and 11 are being provided pursuant to Trade Secret Protection. Note that the documents in Annex 9 are in Spanish – Iberdrola is having these documents translated, and will provide the translated copies subject to Trade Secret Protection when they are complete. See also the attached public version of the decision of the Commission of the European Communities dated March 26, 2007 (the non-public version of which is being provided pursuant to Trade Secret Protection).
2. Article 37 of the *Real Decreto Legislativo 4/2004* of 5 March 2004 (the “Spanish Corporate Income Tax Law” or the “CIT Law”), as originally enacted, allowed companies purchasing shareholdings in foreign companies directly to offset up to 15% of the price paid against tax to the extent to which the purchase leads to increased export activities. On March 22, 2006, the European Union Competition Commission declared Article 37 incompatible with the common market and requested that Spain gradually repeal it by 2010. There is a possibility that Iberdrola may be eligible to obtain a tax offset of up to 9% for the purchase price of Energy East under Article 37, assuming the Proposed Transaction closes during 2008. However, the Spanish tax authorities have interpreted Article 37 as requiring a “direct and immediate relationship” between the investment (*i.e.*, the acquisition of a foreign entity by the Spanish company) and the export activities of the Spanish company before the offset can be utilized. Thus, it is uncertain whether, if Iberdrola acquires Energy East, Iberdrola would be eligible for any tax offset pursuant to Article 37 and, if so, what the level of such tax offset would be. As such, Iberdrola did not consider any benefits under Article 37 in valuing Energy East.
3. [The first paragraph of the response to DPS-87(3) is being provided pursuant to Trade Secret Protection.]

Also, it is important to note that the provisions of Article 12(5) of the CIT Law (which is the subject of DPS-88) and of Article 37 of the CIT Law are mutually exclusive: the purchase price to which the deduction based on financial goodwill is applied under Article 12(5) is automatically ineligible for the tax credit provided under Article 37. Therefore, it would be legally impossible for Iberdrola to avail itself of both the depreciation of financial goodwill under Article 12(5) as well as of the tax credit on export activities in connection with the same amount under Article 37 with respect to the Proposed Transaction. In other words, that part of Iberdrola’s investment which is designated as goodwill and eligible for depreciation under Article 12(5) cannot be taken into account for the purpose of calculating the credit for export activities under Article 37.

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PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-88) DPS Staff

New York Response No.: IBER-0148

Request Date: October 17, 2007

Information Requested of: Pedro Azagra

Reply Date: October 29, 2007

Responsible Witness: Pedro Azagra

QUESTION:

Refer to European Union Competition Commission Case No. COMP/M.4517 - IBERDROLA/SCOTTISHPOWER - Notification of 12 January 2007, which states on page 7 (Paragraphs 41-43):

“The second aspect refers to the possibility for Spanish companies purchasing shareholdings in foreign companies to amortize the cost of financial goodwill...The Commission has asked Iberdrola to calculate the net present value of the second tax incentive. This calculation yields EUR [1.000-1.500] million.”

1. Can Iberdrola obtain the above or similar tax offset for the pending acquisition of Energy East assuming it closes during 2008?
2. If so, please estimate the nominal and net present values of this tax incentive.

RESPONSE:

1. Article 12(5) of the CIT Law provides that the financial goodwill connected with the acquisition of shares in qualifying foreign subsidiaries may be amortized for tax purposes at a maximum yearly rate of 5% over 20 years. “Financial goodwill” is defined by the CIT Law as the portion of the difference between the acquisition cost and the net book value of the acquired company that cannot be attributed to specific assets of the acquired company (as determined in accordance with Spanish rules regarding accounting consolidation).

It is important to note that the operation of Article 12(5) of the CIT Law is subject to at least three significant legal restrictions imposed by tax authorities in Spain. First, Article 12(5) may operate as a deferral, rather than a straight deduction. If and when the acquired company is sold, the amount of the financial goodwill which has been amortized pursuant to Article 12(5) may be recaptured in the taxable base of the seller. Second, in the case of an acquisition of a holding company with underlying operating subsidiaries (as is the case in the proposed acquisition of Energy East), the financial goodwill potentially attributable to the acquired holding company (*i.e.*, the difference between the price of the shareholding in the holding company and its book value) may have to be allocated to the higher value of the shareholdings in the acquired holding company's operating subsidiaries, which are themselves assets of the holding company. On this point, it is important to note that any acquisition premium paid by Iberdrola for a holding company, such as Energy East, will not be booked in the accounts of its operating subsidiaries. Recent rulings by the tax authorities in Spain have rejected the idea that the acquisition of a holding company may actually generate financial goodwill eligible for amortization pursuant to Article 12(5). Third, the CIT Law requires that - in order for financial goodwill to be amortized for tax purposes - the income that may be derived from the acquired foreign company must be compliant with the requirements provided in Article 21 of the CIT Law - the so-called, "Spanish participation exemption regime." Tax authorities in Spain have clarified that the participation exemption requirements must be achieved in each and every year in which the Spanish acquirer wishes to amortize financial goodwill for tax purposes, otherwise the benefit of the tax deduction will be lost.

Given these restrictions, it is uncertain whether, if Iberdrola acquires Energy East, some or all of its financial goodwill would be eligible for amortization pursuant to Article 12(5). As such, Iberdrola did not consider in its base evaluation case any benefits under Article 12(5) in valuing Energy East.

2. As previously described, the premium paid over the book value of assets may be allocated to goodwill, intangibles, or used to establish the fair values of the acquired assets. Iberdrola has not determined the allocation of the premium paid and such analysis will not be completed until sometime after the closing of the Proposed Transaction. Such determination will not occur immediately after closing because auditors and accountants will also need to participate in this process. Thus, Iberdrola cannot determine whether the Proposed Transaction will result in any goodwill.

If amortization is permitted under Article 12(5), Iberdrola currently estimates that the nominal value of the financial goodwill that might be eligible for amortization could be between \$416 million and \$1.585 billion. The nominal value of the tax incentive could be between \$125 million and \$476 million, which is calculated as 30% (the tax rate in Spain) of the estimated nominal value of the financial goodwill that might be available for amortization. The Net Present Value of the tax incentive could be between \$67 and \$257 million (between €50-190 million using the exchange rate as of the announcement of the Proposed Transaction - *i.e.*, \$1.3519 per €).

As described above, if Iberdrola acquires Energy East, it is questionable whether some or all of its financial goodwill would be eligible for amortization pursuant to Article 12(5).

The estimates provided herein have been calculated assuming that not all of the total financial goodwill embedded in Energy East will be eligible for amortization under Article 12(5). Iberdrola continues to analyze whether any or all of the financial goodwill embedded in Energy East is eligible for such amortization.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-92) DPS Staff

New York Response No.: IBER-0152

Request Date: October 17, 2007

Information Requested of:

Reply Date:

Responsible Witness:

QUESTION:

1. Please provide any workpapers used by Energy East, Iberdrola or their subsidiaries in preparing financial presentations to Standard & Poors, Moody's and Fitch during 2006 and 2007.

RESPONSE:

1. **See the attached documents from Iberdrola, which are being provided subject to Trade Secret Protection. Energy East does not have any such workpapers.**

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-95) DPS Staff

New York Response No.: IBER-0155

Request Date: October 22, 2007

Information Requested of: Pedro Azagra

Reply Date: November 1, 2007

Responsible Witness: Pedro Azagra

QUESTION:

According to page 206 of the 2006 Iberdrola Sustainability Report, Iberdrola holds an equity investment of 24.39% in Subgrupo Gamesa Corporación (Gamesa), which, among other things, manufactures wind turbines.

1. Please list all Gamesa affiliates operating in the U.S. and describe the relationship between Gamesa and each affiliate.
2. Please describe the relationship between Iberdrola and Gamesa, and between Iberdrola and each affiliate of Gamesa operating in the U.S.
3. Please provide, for any generation project listed in the New York Independent System Operator's interconnection queue in which Gamesa or any of its U.S. affiliates holds more than a 10% ownership interest: a) a description of the interest, b) the location of the project, c) the interconnecting utility, d) the date a SEQRA process is expected to commence, and the likely lead agency; e) the date the SEQRA process will be concluded; f) the date a petition requesting §68 certification will be filed (if the project is expected to be exempt from §68 as an alternate energy production facility under PSL §2(2-b), so state); g) the date construction is expected to commence; and, h) the expected in-service date.

RESPONSE:

1. Iberdrola holds an approximate 24.4% interest in Gamesa Corporación Tecnológica, S.A. ("Gamesa"), whose shares are publicly traded on the Spanish Stock Exchanges of Madrid,

Barcelona, Bilbao, and Valencia.

In addition, Iberdrola's wholly-owned subsidiary Iberdrola Renovables, S.A.U. ("Iberdrola Renewables") and its subsidiary Iberdrola Renewable Energies USA, LLC ("Iberdrola USA") have executed a Framework Wind Farm Purchase and Sale Agreement (the "Framework Agreement") to acquire a series of wind farms under development in the U.S. by Gamesa Energía, S.A. ("Gamesa Energía"), through its wholly-owned subsidiaries Gamesa Energy USA, LLC ("Gamesa USA") and Navitas Energy, Inc. ("Navitas") (together, Gamesa USA and Navitas are the "Sellers"). Pursuant to the Framework Agreement, Gamesa Energía, Gamesa USA, and Navitas, on the one hand, and Iberdrola Renewables and Iberdrola USA on the other hand, have agreed to terms whereby Iberdrola USA may acquire from the Sellers 100% of the membership interests in certain wind farms at different stages of development located in Pennsylvania, Texas, and Illinois.

2. *See* response to 1, above.
3. There are no projects under the Framework Agreement located in New York.

Iberdrola does not have access to any information on Gamesa's holdings by virtue of its ownership interest in Gamesa, whose shares are publicly traded. Thus, except for the projects that fall within the Framework Agreement, Iberdrola does not have any information on Gamesa's projects in the U.S. other than information that Iberdrola would otherwise be able to obtain through publicly available documents. Iberdrola is therefore not aware if Gamesa is developing any generation in New York.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-102) DPS Staff

New York Response No.: IBER-0163

Request Date: October 30, 2007

Information Requested of: Pedro Azagra

Reply Date: November 9, 2007

Responsible Witness: Pedro Azagra

QUESTION:

1. For the period beginning January 1, 2000 to date, please provide any decisions, in English translation, by the Spanish Energy Regulator (CNE) or other Spanish regulatory agencies, regarding complaints against Iberdrola or its subsidiaries on interconnection, distribution network access, billing and supply of electricity to retail customers that have not exercised the right to choose, or other matters affecting the operation of competitive wholesale or retail electric markets.

RESPONSE:

1. Iberdrola has identified 26 decisions of the CNE related to access complaints with respect to Iberdrola's distribution network since January 1, 2000. In each of these decisions, the CNE either dismissed the complaint, or granted the third party's right to access – but in no case did the CNE impose any fines on Iberdrola. Given that these proceedings are similar, and given the large number of these decisions and the fact that many are rather large (up to 90 pages), Iberdrola is in the process of translating into English two of these decisions for illustrative purposes. Iberdrola is also putting together English summaries of the remaining decisions, including the relevant dates, parties, basic background, grounds for the claim, Iberdrola's position and the CNE's findings.

Iberdrola is also in the process of translating a decision of the Spanish Ministry of Industry, Trade and Tourism relating to joint offers of gas and electricity service by Iberdrola to its customers.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-103) DPS Staff

New York Response No.: IBER-0164

Request Date: October 30, 2007

Information Requested of: Pedro Azagra

Reply Date: November 9, 2007

Responsible Witness: Pedro Azagra

QUESTION:

To the extent not addressed in the response to DPS-90, for the period January 1, 1999 to date, address any merger, acquisition, or similar transaction, proposed or consummated, involving Iberdrola and Endesa, Gas Natural, E.on, Florida Power & Light, or any similar Spanish, European Union, or U.S. energy companies by providing:

1. A description of all such transactions, including a narrative of events from the date the proposed transaction became public to the date it was terminated or consummated, and, if terminated, an explanation of why the transaction failed to close.
2. In English translation, any regulatory agency decisions, rulings, complaints, inquiries or similar issuances, from either Spanish, European Union, other European or U.S. authorities, that had a material effect on the outcome of a transaction.

RESPONSE:

1. See the attached descriptions.
2. See the attached English translation of a decision relating to the Endesa transaction. Iberdrola is in the process of translating other responsive documents.

IBER-0164 (DPS-103) – Attachment 1 - Descriptions

Key items in the Iberdrola – FPL Group transaction

Description: Attempted friendly acquisition of FPL by Iberdrola. The merger agreement was not approved by the Iberdrola Board of Directors due to an internal division between board members.

- (17/04/2000): Iberdrola's board fails to approve the merger agreement negotiated with FPL, and the transaction is terminated.

Key items in the Endesa-Iberdrola transaction

Description: Attempted friendly merger agreed by the boards of the two companies. The merger was terminated because of the regulatory and anti-trust conditions imposed by the Spanish Consejo de Ministros (Council of Ministers).

- (17/10/2000): Announcement of the Endesa-Iberdrola transaction
- (28/11/2000): Approval of the transaction by the CNE (Spanish National Energy Commission)
- (10/01/2001): Report of the TDC (Spanish Competition Authority)
- (02/02/2001): Report of the Consejo the Ministros (Council of Ministers)
- (02/02/2001): Approval of the Royal Decree regarding anti-trust measures
- (05/02/2001): Endesa and Iberdrola decided to terminate the proposed transaction

Key items in the Gas Natural-Iberdrola transaction

Description: Hostile public takeover bid launched by Gas Natural on Iberdrola. The takeover was terminated because Gas Natural failed to obtain the necessary approval from the Spanish energy sector regulatory body (“Comisión Nacional de Energía” or “CNE”).

- (10/03/2003): Gas Natural launched a hostile takeover bid for 100% of Iberdrola shares
- (30/04/2003): The Spanish National Energy Commission (Comisión Nacional de Energía) did not authorize the proposed transaction due to the potential adverse effects of the proposed transaction on the Spanish electricity and gas markets
- (05/05/2003): Gas Natural abandoned its takeover bid

IBER-0164 (DPS-103) Attachment 2 - English Translation
**Full version of the resolution adopted by the Council of Ministers regarding the
Endesa-Iberdrola merger (02/02/2001)**

RESOLUTION whereby, pursuant to the provisions established in Article 17.b) of Spanish Competition Act 16/1989, of 17 July [*Ley 16/1989, de 17 de julio, de Defensa de la Competencia*], it was decided to subject the concentration operation, consisting of the merger by absorption of IBERDROLA, S.A. by ENDESA, S.A., to the fulfilment of certain conditions.

HAVING EXAMINED the notification made to the Spanish Competition Service [*Servicio de Defensa de la Competencia*] by the companies ENDESA, S.A. and IBERDROLA, S.A., further to Article 15 of Spanish Competition Act 16/1989, of 17 July, regarding the economic concentration consisting of ENDESA, S.A. and IBERDROLA, S.A.'s merger by absorption.

GIVEN THAT the General Secretariat of Economic Policy and Fair Competition (Spanish Competition Service [*Servicio de Defensa de la Competencia (SDC)*]) proceeded to formalise the resulting file N-114, presenting a proposal together with a report to the Second Vice-President of the Spanish Government for Economic Affairs and Minister of Finance.

GIVEN THAT the Minister of Finance, further to the provisions established in Article 15 bis of Act 16/1989, resolved to forward the file to the Spanish Competition Tribunal [*Tribunal de Defensa de la Competencia (TDC)*], based on his belief that the operation could entail a potential hindrance to effective competition on the Spanish markets for electricity generation and marketing to eligible clients.

GIVEN THAT the TDC, after examining the foregoing file, issued an opinion in which it stated that, taking into account the effects on competition that the operation could entail and after evaluating the possible offsetting components of the restrictions determined, the operation notified should be subordinated to the fulfilment of certain conditions.

WHEREAS pursuant to Article 17 of Act 16/1989, the Government is competent to decide on issues of this kind, further to the Minister of Finance's proposal.

HAVING EXAMINED the applicable regulations.

THE COUNCIL OF MINISTERS, further to a proposal from the Second Vice-President of the Government for Economic Affairs and Minister of the Economy, HEREBY RESOLVES to subordinate to the fulfilment of certain conditions, further to Article 17.1.b) of Act 16/1989, the economic concentration consisting of the merger of ENDESA, S.A. and IBERDROLA, S.A.

I Material conditions

1. The entity resulting from the merger (hereinafter, ENDESA-IBERDROLA) may not enjoy a supply of electricity in the Spanish peninsular system that exceeds that of the ENDESA Group at the date this Resolution is adopted. To this effect, the capacity of any plants that have been inactive for more than two years will not be taken into account. In order to fulfil this condition, the parties will dispose of their operating electricity generation assets according to the procedure established in Section II (Procedure Conditions) herein.
2. The parties will assign the rights inherent to the installation in Spain of new combined-cycle plants authorised to be constructed, for which the public information stage is completed, or for which such stage is authorised to continue, representing a power equivalent to that of the portfolio of intended new combined-cycle plants of the IBERDROLA Group, already authorised or in the process of being authorised.
3. The parties will dispose of their stakes in any electricity generation assets located in Spain that are jointly owned with one or more third parties.
4. Notwithstanding the provisions established in the foregoing conditions, in order to determine the disposable generation assets the parties will follow these criteria:
 - The technological composition of ENDESA-IBERDROLA's generation structure must follow the average structure existing prior to the merger in the Spanish peninsular system, in terms of technology shares based on the power installed. For this purpose, the pumping plants will be treated as independent technology.
 - For each technology, the average residual life of the disposable assets must be similar to the average residual life of ENDESA-IBERDROLA's assets.
5. ENDESA-IBERDROLA will be obliged to meet the limits imposed in Conditions 1 and 4 on its installed power until 25 June 2005.
6. Attached to the generation assets being transferred as a result of the foregoing conditions will be the outstanding balance of any Transitional Competition Costs [*Costes de Transición a la Competencia*] recognised in favour of said assets further to the Sixth Transitional Provision of Electricity Sector Act 54/1997, of 27 November [*Ley 54/1997, de 27 de Noviembre, del Sector Eléctrico*], implemented by Royal Decree 2017/1997, of 26 December, as amended by Article 107 of Act 50/1998, of 30 December, on Tax, Administrative and Social Measures [*Ley 50/1998, de 30 de diciembre, de Medidas Fiscales, Administrativas y de Orden Social*] and by Royal Decree-Law 2/2001, of 2 February.
7. The parties will transfer title over their transportation assets, which will be interpreted according to the definition provided in Article 5 of Royal Decree 1955/2000, of 1 December, governing the

IBER-0164 (DPS-103) Attachment 2 - English Translation
transportation, distribution, marketing, supply and authorisation procedures of electricity facilities.

8. ENDESA-IBERDROLA will transfer to third parties any shareholding owned in Red Eléctrica de España, S.A. (REE) that exceeds the one permitted by Article 34 of Act 54/1997.
9. ENDESA-IBERDROLA will transfer to third parties any shareholding owned in Compañía Operadora del Mercado Español de Electricidad S.A. (OMEL) that exceeds the one permitted by Article 33 of Act 54/1997.
10. ENDESA-IBERDROLA's share in the electricity distribution sector may not exceed 48% of the total remuneration derived from distribution in peninsular Spain. In order to meet this condition, the parties will transfer the electricity distribution assets they own, which will be interpreted, further to Royal Decree 2819/1998, as all electricity lines with a voltage lower than 220 Kv., except for those incorporated into the transportation network and any other items required for the adequate operation of the distribution networks, such as databases, qualified staff, client assistance centres, control points, as well as the rights and portfolio inherent to tariff-based clients related to such distribution assets. The composition of all the distribution assets to be divested must be balanced in terms of the urban, semi-urban and rural supply structure.
11. ENDESA-IBERDROLA may not market more than 40% of the total new power contracted by qualified consumers, including both new and renewed contracts.
12. In addition, in those areas where ENDESA-IBERDROLA distributes electricity, it may not market more than 60% of the new power contracted by qualified consumers, including both new and renewed contracts.
13. ENDESA-IBERDROLA will be obliged to meet the limits imposed in Conditions 10, 11 and 12 until 1 January 2005. Nevertheless, the fulfilment of the limits contained in Condition 12 will not be enforceable until the Action and Asset Divestment Plan referred to in Condition 20 is approved.
14. The stake held by ENDESA-IBERDROLA in the share capital of REPSOL-YPF may not exceed 3%.
15. ENDESA-IBERDROLA may not hold a stake in the capital of more than one operator that is awarded a cable telecommunications service concession in each area.
16. The disposal of generation and distribution assets, as well as the disposal of participations or rights foreseen to fulfil Conditions 1, 2, 3, 4 and 10, will be carried out through an auction.
17. In the event that, once the relevant divestments are executed in order to fulfil these material conditions, the competition terms in electricity markets suffer a significant change not derived from the provisions of this Resolution, the Service may propose to the Government the adjustment of the deadlines or limits established in these material conditions.

II Procedure Conditions

18. Within ten calendar days following the notification of this Resolution, the parties will present to the Spanish Competition Service a proposed Action and Asset Divestment Plan in order to fulfil the conditions established. This proposal will describe the assets, participations and rights that the parties intend to transfer in order to fulfil the material conditions contained in this Resolution, as well as the deadlines and manner in which they intend to do so, without prejudice to the provisions established below.
19. In no event may the fulfilment of the foregoing conditions be instrumented through an exchange of assets, participations or rights.
20. Once the proposal is received in due time, the Spanish Competition Service will have two months in which to approve the Action and Asset Divestment Plan, including any modifications necessary to ensure the fulfilment of the conditions established. The Plan will specify both the disposable assets, participations and rights and the deadlines and manner in which the disposal will be carried out, including a list of the generation and distribution assets to be auctioned further to Sections 22 ff.
21. Once the disposable generation and distribution assets are determined, a company will be incorporated to which these assets will be assigned in order to be independently managed until the sale date.
22. Within one month following notification of the approved Action and Asset Divestment Plan, the parties must present to the Spanish Competition Service their proposed division into lots of the generation and distribution assets to be auctioned, as well as the lists of specifications that will govern the auction. The Service will have two months in which to approve the proposed division into lots and lists of specifications of the auction, including any modifications it deems appropriate to ensure that the conditions established are fulfilled.
23. The auction will be designed so as to:
 - Encourage the presentation of at least two new competitors that are relevant on the electricity production market.
 - Limit the vertical integration of the generation and distribution activities of the awardee groups.
 - Be based on a number of generation asset packages and a combination of various asset technologies that provide the awardees with alternatives when designing the technological composition of their bids.

- Ensure that the transfer of both generation and distribution asset packages includes the technical and sales staff required to ensure their adequate operation, as well as the client portfolio in the case of distribution assets.
24. Within two months following notification of approval by the Service of the lots and lists of specifications, ENDESA-IBERDROLA will draw up a preliminary classification of the participants that wish to compete in the auction, who will in any case:
- Be third parties unrelated to the groups being merged.
 - Accredit their economic, financial and technical solvency, together with experience that enables them to adequately manage in Spain the assets, participations or rights acquired, as well as the maintenance of any work posts that may be connected thereto.
 - Present new projects for investment in generation capacity, quantifying the estimated power increase within a specific period.
25. Once this classification is made, the merged entity must notify it to the Spanish Competition Service, who will have one month in which to approve it with the modifications it may deem appropriate to ensure the fulfilment of the conditions established.
26. The auction will be held by the entity resulting from the merger within a term of two months following approval of the candidate classification, further to the guidelines approved by the Service and under its direct supervision. The Service will guarantee the transparency of the process.
27. The joint owners of the generation assets referred to in point 3 above may exercise a right of pre-emption over the auctioned participations of the joint assets.
28. In the event that an asset package is not awarded, ENDESA-IBERDROLA will maintain ownership over the assets, rights and participations incorporated into the lot, without this entailing any breach of the limits established in the respective material conditions.
29. In those cases where the disposal of assets, rights and participations is not foreseen in the auction procedure, ENDESA-IBERDROLA must notify the Spanish Competition Service of the identity of the potential asset purchasers prior to the signature of any agreement with the same, in order to receive the Service's approval; to this effect, the Service will take into account similar requirements to those imposed on the auction competitors as regards independence and technical, economic and financial solvency.
30. An Advisory Committee is hereby created, presided by the General Director of Energy Policy and Mines, to include the General Director of Sector Policies; the General Sub-Director of Legal Affairs and Institutional Relations; an Advisory Member of the Second Vice-President and Minister of Finance; the Technical Cabinet Manager of the Sub-Secretariat of Finance; and,

acting as the Committee Secretary, the Treasury Counsel/Head of the State Secretariat for Finance, Energy and Small and Medium-Sized Companies. The Advisory Committee may be joined by a member of the National Energy Commission, one from the Spanish Competition Tribunal and one Director from the Nuclear Security Council, further to the proposal of the Chairmen of each body. A representative of both Red Eléctrica de España and OMEL may also join, at the companies' proposal.

31. The Advisory Committee described in the foregoing section, whenever so requested by the Manager of the Spanish Competition Service, will inform of any issues related to the performance of the conditions.
32. At any time during the procedure, the Service may summon third parties whose opinion is considered relevant in relation to the performance of the conditions established.
33. Once approved, the Service will publish the Action and Asset Divestment Plan, as well as the asset division into lots, lists of specifications of the auction and the classification of the auction competitors, excluding any issues that are expressly declared to be confidential.
34. The Service, *ex officio* or further to a party's reasonable request, may modify the deadlines established in these procedure conditions. Nevertheless, in no event may any such modifications cause the auction to be held fourteen months after the adoption of this Resolution.
35. Any expenses incurred as a result of performing the conditions will be borne by the parties.

III Transitional Period

36. Within a term of one week following the adoption of this Resolution, the Minister of Finance will appoint a Surveillance Committee, consisting of independent professionals of renowned prestige, which will guarantee the independent management of the electricity generation, distribution and marketing business of each one of the parties participating in the merger, in order to ensure that their competitive behaviour on the electricity markets is not coordinated in any way.
37. The Surveillance Committee will receive from the management bodies and from the technical managements of both groups any information it deems necessary for the execution of its task.
38. The Committee will inform the Spanish Competition Service of any issues that are considered relevant regarding the parties' competitive behaviour on the markets and, in any case, whenever so requested by the Service Manager.
39. As soon as the entity resulting from the merger incorporates a company to provisionally group the assets, participations and rights to be divested until the divestment procedure is completed, the Surveillance Committee will be wound up.
40. The entity resulting from the merger, further to the Minister of Finance's acceptance, will appoint the members of the Board of Directors of the company incorporated with the assets to be divested. This Board will ensure that the company is managed independently from the entity resulting from the merger and will inform the Spanish Competition Service of any issues it deems

IBER-0164 (DPS-103) Attachment 2 - English Translation
relevant regarding the company's competitive behaviour on the markets and, in any case,
whenever so requested by the Service Manager.

41. OMEL will adopt the technical measures it deems appropriate to ensure ENDESA and IBERDROLA's independent behaviour on the electricity production market during the transitional period, i.e. the time elapsing between the adoption of this Resolution and the date the auction is held.
42. This Resolution will come into force on 3 February 2001.

The performance of these conditions will not exclude compliance with the provisions established in Article 34 of Royal Decree-Law 6/2000, of 23 June, on Urgent Measures to Intensify Competition on Assets and Services Markets [*Real Decreto-Ley 6/2000, de 23 de junio, de Medidas Urgentes de Intensificación de la Competencia en Mercados de Bienes y Servicios*] regarding the restricted stake in more than one main operator.

The provisions of this Resolution will apply notwithstanding the terms of applicable sector regulations and the exercise of the administrative powers established therein; both the parties and any potential asset purchasers must obtain any authorisations that are necessary in order to fulfil such regulations.

The Spanish Competition Service is hereby entrusted with the task of ensuring compliance with the conditions established, and may request the collaboration of the National Energy Commission for this purpose.

Any breach of the conditions established will entail the relevant sanctions as per Article 18 of Spanish Competition Act 16/1989, of 17 July.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-103) DPS Staff

New York Response No.: IBER-0164S – Supplemental Response

Request Date: October 30, 2007

Information Requested of: Pedro Azagra

Reply Date: December 19, 2007

Responsible Witness: Pedro Azagra

QUESTION:

To the extent not addressed in the response to DPS-90, for the period January 1, 1999 to date, address any merger, acquisition, or similar transaction, proposed or consummated, involving Iberdrola and Endesa, Gas Natural, E.on, Florida Power & Light, or any similar Spanish, European Union, or U.S. energy companies by providing:

1. A description of all such transactions, including a narrative of events from the date the proposed transaction became public to the date it was terminated or consummated, and, if terminated, an explanation of why the transaction failed to close.
2. In English translation, any regulatory agency decisions, rulings, complaints, inquiries or similar issuances, from either Spanish, European Union, other European or U.S. authorities, that had a material effect on the outcome of a transaction.

SUPPLEMENTAL RESPONSE:

- (1) Other responsive documents. See the attached translation of Gas Natural SDG, S.A. resolution dated May 5, 2003, and the attached translation of the CNE Decision of the National Energy Commission regarding the Request for Authorization submitted by Gas Natural SDG, S.A.

gasNatural



Mr. Mariano Martín Rosado, Secretary of the Board of Directors of GAS NATURAL SDG, S.A., in the proceedings regarding the making of a Tender Offer for the Purchase of IBERDROLA Shares being processed through this National Commission, does hereby enter an appearance and state that:

On 30 April 2003, the *Comisión Nacional de Energía* [National Energy Commission] (CNE) issued a Resolution denying the authorization requested for a party with regulated activities to obtain shares in another corporation pursuant to Function Fourteen of Additional Provision Eleven, Section Three, Line 1 of Hydrocarbons Sector Law 34/1998 of 7 October.

Therefore, the Board of Directors of GAS NATURAL SDG, S.A. has decided, at today's meeting, to charge its Legal Services Department with conducting the studies and evaluations that may be required to provide legal grounds for the legal actions that, as applicable, may be warranted, within the legal time frames.

At the same meeting and in consideration of the fact that a Tender Offer for the Acquisition of Shares, as an exceptional instrument for obtaining shares in listed companies, must not be affected by temporary, uncertain elements other than those expressly stipulated in applicable legislation and based on the impact that this administration decision of the CNE has on the ordinary course of the proceeding, based on the involuntary nature of its cause for the offering company and to protect the securities market, the Board of Directors of GAS NATURAL SDG, S.A., at the same meeting, made a decision to request authorization from the *Comisión Nacional del Mercado de Valores* [National Securities Market Commission] so that, pursuant to said resolution denying [authorization] from the CNE, GAS NATURAL SDG, S.A. may withdraw the Tender Offer for IBERDROLA, S.A. in accordance with the provisions of letter d), Article 24.1 of Royal Decree 1997/1991 of 26 July, which governs tender offers.

Therefore,

I HEREBY REQUEST that, upon considering that this document has been submitted and that the statements and request set forth herein have been made, this National Commission consider the Tender Offer for the Purchase of Shares in IBERDROLA, S.A. withdrawn, with the pertinent legal effects.

In Madrid, 5 May 2003

Signed: Mariano Martín Rosado
Secretary of the Board of Directors

GAS NATURAL SDG, S.A.
Av. Portal de l'Àngel, 22
08002 Barcelona
Tel: (93) 402 51 00
Fax: (93) 402 55 70

Place of business:

Av. Portal de l'Àngel, 22 08002 Barcelona. R. M. de Barcelona. F. 447. T. 22147. Insc. 677. N. 033172. C.I.F. A-09014607

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-111) DPS Staff

New York Response No.: IBER-0183

Request Date: November 19, 2007

Information Requested of: Robert E. Rude

Reply Date: November 29, 2007

Responsible Witness: Robert E. Rude

QUESTION:

Follow up to DPS-45(IBER-0071).

1. Please describe the effective/ineffective status of the contract submitted in response to the above.

RESPONSE:

Both Renewable Energy Marketing and Administrative Services Agreements between Community Energy, Inc. and each of NYSEG and RG&E are still in effect.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-123) DPS Staff

New York Response No.: IBER-0197

Request Date: November 30, 2007

Information Requested of: Robert E. Rude

Reply Date: December 10, 2007

Responsible Witness: Robert E. Rude

QUESTION:

Follow up to IBER 183 and IBER 71.

1. The confidential response to IBER 71 indicates that the contracts between Community Energy and NYSEG/RG&E [REDACTED – HIGHLY CONFIDENTIAL TRADE SECRET ALLEGED].

RESPONSE:

This response contains Highly Sensitive Trade Secret Information, and is being provided pursuant to a protective order.

Iberdrola, S.A. Acquisition of Energy East

PSC Case No. 07-M-0906

Information Request

Requesting Party and No.: (DPS-128) DPS Staff

New York Response No.: IBER-0202

Request Date: December 4, 2007

Information Requested of: William Hieronymus

Reply Date: December 14, 2007

Responsible Witness: William Hieronymus (1); Pedro Azagra (2-3)

QUESTION:

Please refer to the pre-filed testimony of William Hieronymus, p. 31, where it states "Iberdrola's expertise in and commitment to renewable energy development in New York State...should be more than sufficient to offset the most trivial amount of market power that hypothetically could be exercised."

1. Could renewable energy generation sufficient to meet New York's goals be developed without raising the vertical market concerns you discuss?
2. Please explain how Iberdrola's proposed acquisition of Energy East is necessary to, or will facilitate, its development of the renewable generation facilities listed at page 11 of the pre-filed testimony.
3. Please explain how Iberdrola's proposed acquisition of Energy East is necessary to, or will facilitate, its development of the renewable generation facilities beyond those listed at page 11 of the pre-filed testimony.

RESPONSE:

1. It is unclear if the question is asking whether there would be vertical market power concerns if Iberdrola were the sole developer of renewable energy generation sufficient to meet New York's goals. In any event, vertical market power concerns would be raised only if there were no protections in place to ensure that a transmission owner could not exercise vertical

market power. As explained in detail in Dr. Hieronymus' testimony, such protections are already in place.

2. Iberdrola has the leadership, knowledge, size, and financial strength needed to become the right partner to help certain States or regions in the U.S. to achieve their renewable energy goals. However, Iberdrola may not be able to dedicate resources to renewable energy development in every State, and instead will focus its resources in those States in which it will already have a serious presence (such as in New York through its acquisition of Energy East).
3. See response to DPS-128.2, above.