

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE  
THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350  
Internet Address: <http://www.dps.state.ny.us>

PUBLIC SERVICE COMMISSION

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*Secretary*

July 18, 2002

Honorable Magalie R. Salas  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Room 1-A209  
Washington, D.C. 20426

Re: Consolidated Edison Company of New York, Inc.  
Docket No. ER02-2126-000

Dear Secretary Salas:

For filing please find the Notice of Intervention and Comments of the Public Service Commission of New York in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 486-2652.

Very truly yours,

Saul A. Rigberg  
Assistant Counsel

Enclosures

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

CONSOLIDATED EDISON COMPANY                    )       Docket No. ER02-2126-000  
OF NEW YORK, INC.

***NOTICE OF INTERVENTION AND COMMENTS OF THE  
PUBLIC SERVICE COMMISSION OF NEW YORK***

Pursuant to a Notice of Filing, dated July 9, 2002, and 18 C.F.R. § 385.212 (2001) and § 385.213 (2001), the Public Service Commission of the State of New York (NYPSC) respectfully submits this Notice of Intervention and Comments regarding the Section 205 filing by Consolidated Edison Company of New York, Inc. (Con Edison) of an unexecuted Interconnection Agreement (IA) with PSEG Power In-City I, LLC (PSEG In-City). The proposed IA pertains to the interconnection of a yet-to-be certified transmission cable proposed by an affiliate of PSEG In-City (PSEG Power Cross Hudson, LLC) with the West 49<sup>th</sup> Street Substation owned by Con Edison.

Copies of all correspondence and pleadings should be addressed to:

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Inasmuch as PSEG In-City's affiliate, PSEG Power Cross Hudson, has applied for a Certificate of Environmental Compatibility and Public Need from the NYPSC to construct a transmission cable to bring power from Bergen 2 to the interconnection at West 49<sup>th</sup> Street, we urge the Commission to include in the IA, Con Edison's proposed Section 5.01(b)(2), which would condition the IA on the NYPSC's granting a Certificate for construction and operation of the cable from under the Hudson River to the interconnection slot at the substation.<sup>1</sup>

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<sup>1</sup> Inasmuch as the Commission and NYPSC share a concern that any authorization to use scarce public resources by exercised expeditiously, we would request that any time limits placed on use

Further, just as the NYPSC, in assessing whether a proposed transmission line is in the public interest, examines whether the line will benefit local ratepayers (see, Protest of the Public Service Commission of New York to Petition for a Declaratory Order, filed July 11, 2002 in Docket No. EL02-98-000), the Commission evaluates whether a proposed interconnection agreement will advance the public good. See, Standardization of Generator Interconnection Agreements and Procedures, 99 FERC ¶ 61,086 (April 24, 2002) [“ The Commission must ensure that the rates, contracts, and practices affecting jurisdictional transmission do not reflect an undue preference or advantage and are just and reasonable.”]; City of Huntingburg, Indiana v. FPA, 498 F.2d 778, 785 (D.C. Cir. 1974) [“Public interest considerations are the touchstone of the Federal Power Act.”]. We respectfully suggest that such a Commission analysis should entail consideration of, among other things, whether a party to a proposed interconnection agreement could prejudice the public interest by using the facilities to which it would interconnect to exercise vertical market power.

Respectfully submitted,

Lawrence G. Malone  
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Dated: July 18, 2002  
Albany, New York

of an interconnection agreement be ceilings, rather than floors, in order to avoid inadvertent conflicts with shorter state limits.

CERTIFICATE OF SERVICE

I, Jacquelynn R. Nash, do hereby certify that I will serve on July 19, 2002, the foregoing Notice of Intervention and Comments of the Public Service Commission of the State of New York by depositing a copy thereof, first class postage prepaid, in the United States mail, properly addressed to each of the parties of record, indicated on the official service list compiled by the Secretary in this proceeding.

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Jacquelynn R. Nash

Date: July 18, 2002  
Albany, New York