

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE
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September 5, 2002

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

Re: Neptune Regional Transmission System, LLC
Docket No. ER01-2099-002

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) 486-3669.

Very truly yours,

Brian P. Ossias
Assistant Counsel

Enclosure

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

**NEPTUNE REGIONAL TRANSMISSION
SYSTEM, LLC**

DOCKET NO. ER01-2099-002

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

Pursuant to Rule 214 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure and Notice of Filing (Notice) dated August 22, 2002, the Public Service Commission of the State of New York (PSCNY) hereby files this Notice of Intervention and Comments in the above-captioned proceeding. Copies of all documents and correspondence should be sent to:

Lawrence G. Malone
General Counsel
Public Service Commission
of the State of New York
3 Empire State Plaza, 18th Fl.
Albany, New York 12223

Ronald Liberty
Director Fed. En. Interv.
Public Service Commission
of the State of New York
3 Empire State Plaza
Albany, New York 12223

BACKGROUND

On May 23, 2001, Neptune Regional Transmission System, LLC (Neptune) filed a market-based rate application for its proposed merchant transmission system, which will link capacity rich regions in Maine and Eastern Canada to capacity deficient regions in the Northeast United States. On July 27, 2001, the Commission issued an order approving Neptune's application, subject to certain conditions. The Commission, however, rejected Neptune's proposed tariff and held that service must be provided under the tariff of the Regional Transmission Organization (RTO) or Independent System Operator (ISO) responsible for exercising authority over Neptune's system. The Commission also denied Neptune's request to negotiate sales of Transmission Scheduling Rights (TSRs) and it ordered Neptune to conduct

negotiations under the structure of an open season process. On August 13, 2002, Neptune filed a Motion to Modify Prior Order so that it can now sell long-term TSRs outside of an open season process and its affiliates can participate in the initial allocation or sale of TSRs as well as in the secondary market for TSRs.

In light of the significant changes to the electricity markets and the need to increase capacity to New York, the PSCNY supports Neptune's Motion to modify certain provisions of the Commission's Orders.¹

DISCUSSION

September 11 and the financial fall-out of the energy markets have weakened a number of independent power companies, which are a source of both customers and investment revenue for Neptune. If Neptune is also required to provide service under a Northeast RTO tariff, which does not currently exist, its financing problems will be further exacerbated.

Under these circumstances, the PSCNY supports Neptune's request to sell long-term TSRs outside the open season process. Further, Neptune's affiliates should be permitted to participate in the initial allocation or sale of TSRs.

There are major benefits to adding new capacity to New York City and Long Island, as proposed by Neptune. With additional capacity, competitive markets and greater reliability will flourish. Potential concerns about Neptune favoring affiliates is unlikely under the current situation. If, however, conditions change, the Commission may wish to revisit the elimination of the conditions.

¹ Docket No. ER01-2099-000, Neptune Regional Transmission System, LLC, 96 FERC ¶ 61,147 (2001), order on reh'g, 96 FERC ¶ 61,326 (2001), order on clarification, 98 ¶ 61,140 (2002). In addition, Neptune seeks clarification that the deadline for recalling TSRs lost in the "use it or lose it" process can be identical to the deadline under the Standard Market Design (SMD) tariff for changing transmission schedules.

CONCLUSION

Neptune's transmission line will provide much needed capacity to the Northeast region and particularly to New York City and Long Island. The relief sought by Neptune's Motion is warranted by dramatic events since Neptune's application was approved and the public benefits that the line will bring.

Respectfully submitted,

Lawrence G. Malone
General Counsel
Brian P. Ossias
Assistant Counsel
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, New York 12223-1350

Dated: September 5, 2002
Albany, New York

CERTIFICATE OF SERVICE

I, Jacquelynn R. Nash, do hereby certify that I will serve on September 5, 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.

Jacquelynn R. Nash

Date: September 5, 2002
Albany, New York