

# 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*

September 20, 2005

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

Re: Docket No. EL05-145 - Emergency Petition and  
Complaint of District of Columbia Public Service  
Commission

Dear Secretary Salas:

For filing, please find the Motion for Late Intervention of the New York State Public Service Commission in the above-entitled proceeding. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler  
Assistant Counsel

Attachment

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

Emergency Petition and Complaint     )  
of District of Columbia Public     )     Docket No. EL05-145-000  
Service Commission                     )

**MOTION FOR LATE INTERVENTION  
OF THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NEW YORK**

**BACKGROUND**

On August 25, 2005, the District of Columbia Public Service Commission filed an emergency petition and complaint seeking to require the operation of the Potomac River Generating Station power plant owned and operated by Mirant Corporation and its public utility subsidiaries. On the same day, the Commission issued a Notice of Filing of Emergency Petition and Complaint, which sought comments and interventions by August 29, 2005.

**MOTION FOR LATE INTERVENTION**

Pursuant to Rules 212 and 214 of the Federal Energy Regulatory Commission's (FERC or Commission) Rules of Practice and Procedure, the New York State Public Service Commission (NYPSC) submits its Motion for Late Intervention. Rule 214 requires entities seeking late intervention in Commission proceedings to demonstrate good cause warranting such action. The Commission has granted motions for late intervention during

the early stage of proceedings, where there will not be undue delay, prejudice or burden to the parties.<sup>1</sup>

Good cause exists to allow our intervention in this proceeding, given the NYPSC's responsibilities in ensuring the provision of reliable electric service to retail consumers in New York State,<sup>2</sup> and the implications that this proceeding may have upon our ability to do so.<sup>3</sup> In addition, the NYPSC's interest in ensuring safe and adequate service to such consumers is not adequately represented by other parties to this proceeding, and our participation will therefore benefit the public interest. We also note the short comment period (i.e., two business days) within which to file interventions/comments as a basis for not filing a timely intervention. However, given

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<sup>1</sup> See, PJM Interconnection, LLC, 112 FERC ¶61,276 (2005) (granting late intervention because the proceedings "will not be delayed and as a result no party will be prejudiced"); see also, Southern California Edison Company, 112 FERC ¶61,014 (2005) (citing the "early stage of th[e] proceeding, and the absence of any undue delay, prejudice or burden to the parties" in granting a motion for late intervention.

<sup>2</sup> The NYPSC is currently undertaking an investigation into the implications of generator retirements upon reliability. Case 05-E-0889, Proceeding on Motion of the Commission to Establish Policies and Procedures Regarding Generation Unit Retirements, Order Instituting Proceeding and Notice Soliciting Comments (issued July 27, 2005).

<sup>3</sup> For example, the NYPSC is aware of a settlement agreement between the New York State Attorney General, the New York State Department of Environmental Conservation and Mirant regarding environmental compliance issues at some of its generating units, and the outcome of this proceeding may have a bearing upon how those issues will be resolved in New York.

the early stage of this proceeding and the fact that the Commission has not yet issued a procedural schedule or made a determination, our intervention will not prejudice or burden other parties, or result in undue delay. Based on these reasons, our Motion for Late Intervention should be granted.

Copies of all correspondence and pleadings should be addressed to:

David Drexler  
Assistant Counsel  
New York State Department  
of Public Service  
Three Empire State Plaza  
Albany, New York 12223-1350

Raj Addepalli  
Manager, Staff ISO Team  
New York State Department  
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Three Empire State Plaza  
Albany, New York 12223-1350

#### CONCLUSION

For the above reasons, the Commission should grant the Motion for Late Intervention of the NYPSC.

Respectfully submitted,

Dawn Jablonski Ryman  
General Counsel

By: David G. Drexler  
Assistant Counsel  
Public Service Commission  
of the State of New York  
3 Empire State Plaza  
Albany, NY 12223-1305  
(518) 473-8178

Dated: September 20, 2005  
Albany, New York

CERTIFICATE OF SERVICE

I, David Drexler, do hereby certify that I will serve on September 20, 2005, the foregoing Motion to File Late Intervention of the Public Service Commission of the State of New York upon each of the parties of record, indicated on the official service list compiled by the Secretary in this proceeding.

Date: September 20, 2005  
Albany, New York

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David Drexler