

# 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

MAUREEN O. HELMER

*Chairman*

THOMAS J. DUNLEAVY

JAMES D. BENNETT

LEONARD A. WEISS

NEAL N. GALVIN

LAWRENCE G. MALONE

*General Counsel*

JANET HAND DEIXLER

*Secretary*

November 29, 2001

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

Re: Docket No. RM01-11-000 - Electronic  
Service of Documents

Dear Secretary Boergers:

For filing, please find the Comments of the New York State Public Service Commission in the above-entitled docket number. Thank you for the opportunity to submit these Comments beyond November 2, 2001. Should you have any questions, please feel free to contact me at (518) 473-8178.

Very truly yours,

David G. Drexler  
Assistant Counsel

Enclosures

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

ELECTRONIC SERVICE OF DOCUMENTS ) Docket No. RM01-11-000

**MOTION TO FILE LATE COMMENTS AND  
COMMENTS OF THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF NEW YORK**

Pursuant to the Notice of Inquiry (Notice) issued September 27, 2001, and Rule 212 of the Federal Energy Regulatory Commission's (FERC or Commission) rules of practice and procedure, the New York Public Service Commission (NYPSC) hereby submits its Motion to File Late Comments and Comments on: 1) the proposal to allow the Commission to serve official documents on parties in electronic form (eService); 2) the proposed subscription service for distribution to entities interested in receiving documents issued by the Commission (eDistribution); and 3) the role of the Commission in encouraging electronic service of documents between parties in a proceeding (e-service).<sup>1</sup> Although the Notice requested comments by November 2, 2001, we did not become aware of the Notice until the Secretary to the Commission invited our late comments on November 7, 2001.

---

<sup>1</sup> Although the Notice invited comments on a range of questions, we only address those of primary concern to the NYPSC.

Because no party will be harmed by accepting these comments, we respectfully request that FERC grant the Motion and make our comments part of the record upon which it will make its decision.

#### **EXECUTIVE SUMMARY**

The NYPSC strongly supports FERC's proposals to extend the use of electronic service and distribution. Our ability to thoroughly address critical issues raised at the Commission is routinely affected by impediments to obtaining relevant documents in real time. The delays occur because there is a lag between the time a document is served on the Commission or released by the Commission and the time it is received in the mail or posted on the Commission's website. Providing electronic filings will significantly reduce such delays and increase the ability of the NYPSC and other stakeholders to thoroughly present issues to FERC.

For example, the eService initiative will provide increased time for stakeholders to respond to the Commission's issuances by distributing them electronically at the same time they are served. The Commission can also minimize or prevent delays by implementing provisions to encourage electronic service among parties. In particular, FERC could change its rules to require parties to choose between traditional mail service or electronic service. These initiatives will permit stakeholders to engage

issues more thoroughly and thereby enhance the quality of the record upon which FERC must base its decisions.

## DISCUSSION

### I. The Commission Should Adopt eService

Q: Would adopting eService of Commission issuances via e-mail be easier for recipients of the documents than receiving paper service?

A: Currently, the Commission utilizes first class mail for service of its official documents, such as notice and orders. This method takes several days for the documents to reach the recipients. Likewise, the Commission often issues official documents by posting them on the Commission Issuance Posting System (CIPS) and the Records and Information Management System (RIMS) on the Commission's website.<sup>2</sup> We have found that it also takes several days for documents to be posted on the RIMS or CIPS after they are issued. These methods of service curtail

---

<sup>2</sup> While we recognize the extremely useful value of the RIMS and CIPS databases, our experience has shown that occasional errors do occur. At times, documents that are downloaded will be improperly formatted or difficult to read due to a translation to a smaller font size. In addition, we have found several links to be inaccurate, causing a portion of a document to be unavailable. We anticipate that these problems could be eliminated through eService.

the time within which parties may respond to the Commission's issuances.<sup>3</sup>

Because the Commission's deadlines are effectively shortened by service via first class mail and posting on the internet, a practical solution is to serve parties through electronic means at the same time FERC serves documents, as envisioned in the eService proposal. The eService initiative would allow for instantaneous distribution contemporaneously with the Commission's issuances and provide the maximum time available for parties to prepare responses to pleadings. Thus, stakeholders will be capable of more effectively participating in Commission proceedings, thereby enhancing the quality of the record upon which FERC can base its decision(s).

Q: Would recipients of eService of Commission issuances want to receive an eService e-mail as soon as the Commission issues a document? Would grouping items into a relatively few e-mails sent every two or three hours throughout the day or even grouping all items into a single e-mail at the end of the day be preferable?

---

<sup>3</sup> The Commission's rules of practice and procedure already contain tight timelines for filing pleadings. For example, Rule 206 provides that "answers, interventions, and comments to a complaint must be filed within 20 days after the complaint is filed." Similarly, Rule 213 requires filing answers to motions within 15 days after the motion is filed, and Rule 713 mandates a Request for Rehearing within 30 days after the Commission issues its final decision or order.

A: Given the short timeframes in which to respond to FERC issuances, the NYPSC would best be able to respond to such documents with notification in real-time. Such notice could either be given simultaneous with the Commission's issuance or within a few hours of issuance. However, leaving distribution for a single e-mail at the end of the day would not allow us to utilize precious time during the workday and would thus be less efficient.

## **II. The Commission Should Develop Rules to Encourage e-service Between Parties**

Q: What has been the experience of parties providing electronic service to one another?

A: We have found that parties do not ordinarily serve one another electronically and have only done so as a courtesy.

Q: Is it easy for parties to identify others who are interested in electronic service? Would designating those parties on the Service List who have expressed a willingness to participate in electronic service expedite the parties efforts to arrange electronic service?

A: As this question suggests, it has been difficult, if not impossible, for the NYPSC to identify "participants who have agreed to receive service" electronically.<sup>4</sup> Identifying the e-mail address of parties that would like to participate in e-

service on the Commission's official service lists would certainly assist this effort.

Q: In what ways could the Commission encourage the more widespread adoption of e-service between parties? For example, should the Commission be a central repository for e-mail addresses of parties who wish to serve or be served electronically?

A: There are several ways in which the Commission may encourage parties to use e-service. Creating a list of e-mail addresses on the official service lists would be one way that the Commission could facilitate e-service. Such designations would indicate a party's desire to receive service electronically. In conjunction, the Commission's rules could also be amended to require parties to choose between service by mail or electronically. The FERC's rules would then allow e-

---

<sup>4</sup> 18 CFR 385.2010 (2001).

service to satisfy service on those parties opting for  
electronic service.<sup>5</sup>

Respectfully submitted,

Lawrence G. Malone  
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: November 29, 2001  
Albany, New York

---

<sup>5</sup> See id.

CERTIFICATE OF SERVICE

I, Naomi Tague, do hereby certify that I will serve on November 29, 2001, the foregoing Motion to File Late Comments 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.

Date: November 29, 2001  
Albany, New York

\_\_\_\_\_  
Naomi Tague