

# 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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JANET HAND DEIXLER

*Secretary*

December 21, 2001

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

Re: Docket No. EC02-11-000 - Orion Power  
Holdings, Inc., et al.

Dear Secretary Boergers:

For filing please find the Notice of Intervention and Comments of the New York State Public Service Commission in the above-entitled proceedings. 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**

ORION POWER HOLDINGS, INC., )  
ASTORIA GENERATING COMPANY, L.P., )  
CARR STREET GENERATING STATION, L.P., )  
ERIE BOULEVARD HYDROPOWER, L.P., )  
ORION POWER MIDWEST, L.P., )  
TWELVEPOLE CREEK, LLC, ) Docket No. EC02-11-000  
LIBERTY ELECTRIC POWER, LLC, )  
)  
RELIANT RESOURCES, INC., AND )  
)  
RELIANT ENERGY POWER GENERATION MERGER )  
SUB, INC. )

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

Pursuant to the Notice of Filing and Errata Notice, dated October 30, 2001, and November 2, 2001, respectively, and Rule 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §385.214), the Public Service Commission of the State of New York (NYPSC) hereby submits its Notice of Intervention and Comments in the above-captioned proceeding.

Copies of all correspondence and pleadings should be addressed to:

Lawrence G. Malone, Esq.  
David G. Drexler, Esq.  
Public Service Commission  
of the State of New York  
3 Empire State Plaza  
Albany, NY 12223

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

On October 22, 2001, Orion Power Holdings, Inc. (Orion), Astoria Generating Company, L.P., Carr Street Generating

Station, L.P., Erie Boulevard Hydropower, L.P., Orion Power Midwest, L.P., Twelvepole Creek, LLC, Liberty Electric Power, LLC, Reliant Resources, Inc. (Reliant), and Reliant Energy Power Generation Merger Sub, Inc. (Merger Sub) filed a joint application with the Federal Energy Regulatory Commission (FERC) for approval of an acquisition and merger proposal and the resulting disposition of jurisdictional facilities (hereinafter "joint application"). Similarly, in a filing dated October 26, 2001, Orion, Merger Sub and Reliant, filed a joint petition with the NYPSC for approval of the acquisition merger and transactions, whereby Reliant will acquire Orion, and Merger Sub's stock will be transferred to Orion (hereinafter "joint petition").<sup>1</sup>

The NYPSC is currently analyzing the potential impacts of the proposed transactions on New York ratepayers, and expects to

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<sup>1</sup> Case 01-E-1680, Joint Petition of Reliant Resources, Inc., Reliant Energy Power Generation Merger Sub, Inc. and Orion Power Holdings, Inc. for a Declaratory Ruling that the Commission will not review or regulate the proposed merger of Reliant Energy Power Generation Merger Sub into Orion Power Holdings.

rule on the transactions upon completion of the analysis. At that time, NYPSC will inform FERC of the decision.

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: December 21, 2001  
Albany, New York

CERTIFICATE OF SERVICE

I, Naomi Tague, do hereby certify that I will serve on December 21, 2001, 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.

Date: December 21, 2001  
Albany, New York

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Naomi Tague