

# New York State Department of Environmental Conservation



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July 3, 2008

The Honorable Jaclyn A. Brilling  
Secretary  
New York State Public Service Commission  
Empire State Plaza  
Agency Building 3  
Albany, N.Y. 12223-1350

CASE 07-M-0906

Dear Secretary Brilling:

The New York State Department of Environmental Conservation (“DEC”) respectfully submits its Letter Brief Opposing Exceptions in the above-captioned proceeding.

The DEC commends the Staff of the Department of Public Service for providing possible alternatives to divestiture in its Brief on Exceptions (*See* Case No 07-M-0906, Staff Brief on Exceptions, Leonard Van Ryn, Sean Mullany, Department of Public Service, June 26, 2008.)

In doing so, Staff is furthering the short and long-term energy goals that have been set by both Governor Paterson and the PSC.<sup>1</sup>

The DEC believes that between the Staff’s helpful suggestions and the record established to date<sup>2</sup>, there is ample justification for the Commission to allow Iberdrola to proceed, without divestiture, on the basis that the importance of generating wind power in New York State outweighs whatever opportunities may exist for the

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1 (*See* Case 07-M-0906 Brief on Behalf of The New York State Department of Environmental Conservation, June 26, 2008, at page 9.)

2 (*See* for example, Case 07-M-0906, Brief on Exceptions, New York State Consumer Protection Board, Point III, June 26, 2008, 121 FERC § 61,236, Order Authorizing Merger and Disposition of Jurisdictional Facilities, Docket No. EC07-122-000, December 6, 2007, and Brief Exceptions of Multiple Intervenors, June 26, 2008, noting that “to date, no other wind developer has intervened in this proceeding, let alone raised concerns about the potential impact of Iberdrola Renewable’s plans on their own ability to develop wind generation”, at page 23.)

imposition of vertical market power. This assumption is further strengthened by the Staff's, and others, suggestions that would prevent the exercise of vertical market power.

We urge the Commission to follow the path suggested by Staff and approve the merger, allow Iberdrola to do what it does best—create energy from wind—and ensure that vertical market power cannot be exercised

Respectfully Submitted

*David S. Sampson*

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Associate Counsel

cc: E-mail list for Case No. 07-M- 0906

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