

STATE OF NEW YORK

# Public Service Commission

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## **PSC ASKS FEDERAL COURT TO STOP FERC**

— State Energy Regulator Goes to Court in its Fight Against Electricity Price Increases —

Albany, NY—05/13/14— The New York State Public Service Commission (PSC) announced today that it had petitioned the U.S. Court of Appeals for the Second Circuit to force the Federal Energy Regulatory Commission (FERC) to respond to the PSC’s pending requests for rehearing of FERC’s decisions that will result in unnecessary and unreasonable electricity price increases for consumers in the lower Hudson Valley.

“The Federal Power Act — which provides FERC its regulatory authority — requires wholesale prices to be just and reasonable,” said PSC Chair Audrey Zibelman. “Under these circumstances, the imposition of a new capacity zone is not just and reasonable. We have taken this unusual action of going to court because FERC is taking an action that will result in consumers being financially harmed without any real remedy.”

In basic terms, capacity markets pay generators to help keep existing power plants in service and build new units in order to maintain system reliability. The new capacity zone in the lower Hudson Valley was created to maintain system reliability and attract investments in new and existing generation and demand response resources. There are now four capacity zones in New York State, including the new one.

Despite repeated requests for reconsideration, FERC has not released final decisions addressing the PSC’s concerns with the implementation of the new capacity zone (NCZ) auctions. To ensure FERC’s decisions can be subject to judicial scrutiny, the PSC is asking the Court of Appeals for

the Second Circuit to direct FERC to issue responses to the requests for rehearing of the FERC orders within 45 days.

Pending full judicial review of FERC's decisions, the PSC has filed an emergency motion asking the Court to issue a stay of FERC's decisions implementing the upcoming capacity auctions in the NCZ and ensure consumers are not harmed further.

FERC recently accepted the proposed tariff revisions of the New York Independent System Operator, Inc. (NYISO) establishing the NCZ for the purposes of conducting installed capacity auctions. By requiring the implementation of the NCZ through the auctions, FERC will have imposed \$158 million dollars in additional and unnecessary capacity costs on electric utility ratepayers in the lower Hudson Valley for this summer.

The price increases in capacity costs, which may total \$280 million over the next year, provide no corresponding benefits to ratepayers, and violate the federal statutory requirement that electric rates be just and reasonable. Capacity costs are a component of the supply portion on a customer's bill.

As a result of the new capacity zone, residential customers using 600 kWh/month in the lower Hudson Valley would experience increases in their total electric bill of between 6 percent to 13 percent, depending on utility. The following investor-owned utilities have customers located in the new lower Hudson Valley capacity zone: Con Edison (Westchester), Central Hudson, NYSEG and Orange & Rockland. Only customers located within the zone are affected.

Once the auctions are held it is difficult, if not impossible, to undo them. Accordingly, ratepayers in the lower Hudson Valley will be irreparably harmed by continuation of the auctions. The first of the capacity auctions in the NCZ have already been held, and they demonstrate the dramatic price increases that result from the NCZ. The monthly auctions for June are currently being held, with the June spot market auction scheduled for May 23, 2014. The Commission's filing with the court can be obtained here: <http://tinyurl.com/kgnemnc>