
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Joint Petition of Iberdrola, SA, Energy
East Corporation, RGS Energy Group, Inc., Green
Acquisition Capital, Inc., New York State Electric
& Gas Corporation and Rochester Gas and Electric
Corporation for Approval of the Acquisition
Of Energy East Corporation by Iberdrola, S.A.

Case 07-M-0906

BRIEF ON BEHALF OF THE NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

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The New York State Department of Environmental Conservation (DEC) respectfully submits this brief pursuant to the above captioned proceeding.

I-Background

In January of 2007, the DEC submitted testimony in this proceeding (*See Exhibit 6, Testimony of J. Jared Snyder*). At that time, the Department urged the PSC not to automatically foreclose Iberdrola's development and ownership of wind energy holdings in New York State, and to seek a way to work with Iberdrola in encouraging more wind energy projects.

Our rationale was based upon these factors:

a-Iberdrola has substantial expertise and experience concerning the development of wind energy. It is the largest producer of wind energy in the world

b-Fighting climate change is the substantial environmental challenge facing New York State. Wind energy is vital to the reduction of greenhouse gases.

c-A dramatic increase in wind energy capacity is a necessary component of a strategy to reduce dependency on, and the use of, fossil fuels.

d-The expansion of wind power has multiple environmental and public health benefits by reducing the amount pollutants that lead to levels of illness and death from respiratory and heart disease, and, hopefully, reducing in the long term, displacing electric generation that relies on fossil fuels..

II-Iberdrola and a State Energy Strategy

We reinforce our previous testimony today, and suggest to the PSC that the Iberdrola application cannot be viewed in a vacuum. The DEC believes that the staff reviewing the application of Iberdrola, et al. can, and must, take into account the

myriad levels of other state initiatives—Governor Paterson’s Executive Order establishing a State Energy Planning Board and Authorizing the creation and implementation of a State Energy Plan (*See* Executive Order 2, April 9, 2008); the Regional Greenhouse Gas Initiative (RGGI), (*See* draft regulations 21 NYCRR Part 507 and 6NYCRR Part 242); the DEC’s creation of the Office of Climate Change; smart growth planning (*See* Executive Order 20, December 10, 2007); sustainability and green building (*See* DASNY press release, August 28, 2007, “The Dormitory Authority announced that beginning in 2008, all new State construction projects and major renovations managed by the Dormitory Authority will meet LEED (Leadership in Energy and Environmental Design) standards established by the United States Green Building Council”); the development of the PSC’s Long Range Energy Resource Plan (*See* Case 07-E-1507); the report of then Lieutenant Governor David Paterson, “Roadmap to Significantly Increase Renewable Energy Generation in New York State” (*See* http://www.nygov/governor/press/lt_print.html, visited April 10, 2008), and others as part of a cohesive energy strategy.

Governor Paterson’s new Executive Order notes specifically that “discrete State actions and decision-making should be based on clearly identified policies and long-range energy planning objectives and strategies” (*See* Executive Order 2, April 10, 2008).

The Order further states that the energy plan should be based, among other things, upon the following criteria: diversity of fuel supplies; protection of public health and safety; the needs of vulnerable communities; the State’s natural resources; the reduction of greenhouse gases; energy conservation and efficiency and *clean and renewable energy resources*, and existing energy policies and objectives (*id*) (emphasis added).

The Executive Order, together with the report of the Task Force urging New York to “develop a strategy to reap the benefits of New York’s wind energy potential” (See http://www.nygov/governor/press/lt_print.html, visited April 10, 2008), creates a powerful and persuasive rationale to consider the benefits of wind energy as part of the acquisition analysis. New York, the Task Force report notes, “has the most wind energy development potential in the northeast and mid-Atlantic region. The more than 5,000 MW of wind energy that has applied for interconnection to the grid shows the industry’s interest in and commitment to New York, and the State should support project development and interconnection efforts.” (id.)

Like the Executive Order, the Task Force report urges overall agency consistency and coordination in the development of a statewide strategy. (id.) The Order also emphasized the relationship between the use of cleaner, renewable energy sources and the health and economic cost impacts on vulnerable communities.

At present, the DEC is creating and supporting programs that seek to lessen the disproportionate burden of pollution from energy facilities on low-income New Yorkers. A goal of PSC in evaluating applications such as Iberdrola’s, should be to work to reduce that disparity.

For the foregoing reasons, the DEC urges the PSC to implement the goals of the Governor’s Executive Order into its decision-making process.

