NRDC
THE EARTH'S BEST DEFENSE

NATURAL RESOURCES DEFENSE COUNCIL

April 11, 2008

Honorable Jaclyn Brilling, Secretary
New York State Department of Public Service
Three Empire State Plaza
Albany, New York 12223

Re: Case 07-M-0906 -- Joint Petition of IBERDROLA, S.A., 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.

Dear Secretary Brilling,

The Natural Resources Defense Council (NRDC) respectfully submits this letter in lieu of a post-hearing brief on the limited issues of renewable electricity generation in New York State, revenue decoupling and energy efficiency in the context of the Petition by Iberdrola for acquisition of Energy East Corporation.

The NRDC is a strong proponent of renewable energy and actively advocates for the development of renewable energy sources across the state and nation. Renewable energy can supply a significant share of the state's energy needs, creating significant public benefits including environmental improvement, increased fuel diversity and economic development. As New York prepares to begin participating in a regional carbon trading program to reduce its greenhouse gas emissions[1], it is crucial that the state continue vigorous development of in-state renewable energy resources to reduce its dependence on fossil fuels. Additionally, the development of renewable energy sources in New York is a critical component of the efforts to reduce global warming emissions in-state and to achieve the goals of the state's Renewable Portfolio Standard. As Governor Paterson has stated "[r]enewable energy development will not only lead us

[1] The Regional Greenhouse Gas Initiative (RGGI) is a regional carbon trading program designed to reduce carbon dioxide emission from fossil fired power plants in the Northeast region of the US. Power plants with a nameplate capacity of 25MW or higher will need to acquire enough allowances to cover their CO2 emissions in any given compliance period. For more information go to www.rggi.org .

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toward energy independence, but it will protect out planet and provide healthier environments for our children and families to live."[2]

Development of renewable power in the state of New York is primarily driven through the demand established by the Renewable Portfolio Standard. As we have seen elsewhere, other states have opted to increase the percent of load served by renewable power in order to meet state climate policy goals and reduce emissions from power generation. Iberdrola's ownership of a Transmission and Distribution utility will not change the requirements or deadlines in New York's Renewable Portfolio Standard. Potential market power concerns should be dealt with through procedural safeguards established to prevent them and not by preventing clean energy industries from moving to the state and helping the state meet its clean energy goals.

Furthermore, in an Order issued by the New York State Public Service Commission (PSC) on April 20, 2007[3], the Commission required "utilities to develop and implement mechanisms that true-up forecast and actual delivery service revenues and, as a result, significantly reduce or eliminate any disincentives caused by the recovery of utility fixed delivery costs via volumetric rates or marginal consumption blocks." NRDC has been a strong proponent for decoupling utility sales and revenues. As mandated by the Commission, we continue to believe that a revenue decoupling mechanism should be developed through a three month stakeholder and compliance filling process guided by the principles we enumerated in the testimony of NRDC's Witness Gupta.[4]

Finally, the PSC stated in its May 16, 2007 order that instituted the EEPS proceeding to determine how the 15 x '15 vision would be implemented the many benefits of energy efficiency for New York State.[5] Utilities must play a significant role

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[2] Press Release announcing the appointment of members to New York's Renewable Energy Task Force. June 24th, 2007.

[3] New York State Public Service Commission (PSC) Case No. 03-E-0640, Proceeding on Motion of the Commission to Investigate Potential Electric Delivery Rate Disincentives Against the Promotion of Energy Efficiency, Renewable Technologies and Distributed Generation and PSC Case No. 06-G-0746, In the Matter of the Investigation of Potential Gas Delivery Rate Disincentives Against the Promotion of Energy Efficiency, Renewable Technologies and Distributed Generation, Order Requiring Proposals for Revenue Decoupling Mechanisms (issued April 20, 2007).

[4] Testimony of NRDC witness Ashok Gupta filed January 11th, 2008 stating that: Decoupling must break the link between profits and sales; Allowed revenues should be adjusted for desirable or unexpected and unavoidable factors that increase or decrease costs; Adjustments to revenue, actual revenues, and true-ups should be calculated in a transparent way; Deferrals of rebates or surcharges should be avoided to the greatest extent possible.

[5] New York State Public Service Commission (PSC) Case No. 07-M-0548, Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard, Order Instituting Proceeding (issued May 16, 2007), at 2-3. "The benefits of energy efficiency include forestalling the building of new generation, reducing use of finite fossil fuels, reducing customers' energy bills, developing independent energy sources for New York State to reduce energy imports, and mitigating the environmental impacts of burning fossil fuel for energy, including greenhouse gas emissions. In addition, more efficient use of energy has the

in the administration of energy efficiency programs in order for the State to achieve its 15 by '15 goal, as their efforts and inherent advantages are critical to scale up energy efficiency to the requisite levels. Along with filing and approval of a plan, the Commission should adopt a clear and effective incentive structure to help ensure that Energy East (or the Iberdrola/Energy East) achieves its share of the 15% goal, similar to that recently adopted by the California Public Utilities Commission,[6] as well as periodic targets to ensure that the company is implementing effective energy efficiency measures and progressing towards its goals.

The Commission in this merger case should ensure that the State's goals and policies for increased renewables, reduced global warming pollution, increased investments in energy efficiency with revenue decoupling and performance-based incentive structure are fully realized.

Respectfully Submitted,

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potential to foster economic development and job growth by encouraging in-state technology advances to deliver energy efficiency programs to consumers."

[6] State of California Public Utilities Commission, Rulemaking 06-04-010, Order Instituting Rulemaking to Examine the Commission's post-2005 Energy Efficiency Policies, Programs, Evaluation, Measurement and Verification, and Related Issues, Interim Opinion on Phase 1 Issues: Shareholder Risk/Reward Incentive Mechanism for Energy Efficiency Programs, Decision 07-09-043 (issued September 25, 2007).