

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 17, 2013

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman

CASE 13-M-0483 - Proceeding on Motion of the Commission as to
the Practices, Arrangements and Contracts for
the Provision of Services by Iberdrola Energy
Projects, Inc. to Public Utility Company
Affiliates.

ORDER INSTITUTING PROCEEDING

(Issued and Effective November 5, 2013)

BY THE COMMISSION:

BACKGROUND

In the Reorganization Order,¹ New York State Electric
& Gas Corporation (NYSEG) and Rochester Gas and Electric
Corporation (RG&E) were directed to implement interim relief
constraining their purchases of services from Iberdrola
Engineering Projects, Inc. (IEP), an affiliate of the two public
utility companies through the common ownership of Iberdrola USA,
Inc. and Iberdrola, S.A. As discussed in the Reorganization
Order, additional proceedings were needed to examine further the

¹ Case 12-M-0066, et al., Iberdrola USA Networks, Inc., et al.,
Order Adopting Staff Report and Approving Reorganization,
Subject to Conditions as Modified and Clarified, and Making
Findings on Management Audit Compliance (issued today
herewith).

relationships between IEP and NYSEG and RG&E, and arrive at any additional relief necessary to protect the interests of NYSEG and RG&E ratepayers. The prior decision in the IEP Code Order, permitting IEP to provide engineering services at its fully-loaded costs to NYSEG and RG&E,² is reopened for the purpose of removing a barrier to conducting that examination.

A number of questions were remanded in the Reorganization Order to this proceeding, beginning with the issue of whether the continued use of IEP services is cost-effective and of benefit to ratepayers. Depending upon the outcome of that inquiry, additional relief beyond the interim relief directed in the Reorganization Order can be required, including the restructuring of the relationships between the public utility companies and IEP or imposing constraints on those relationships. It was also directed in the Reorganization Order that revisions to the fully-loaded cost and other provisions of the Code of Conduct be considered here, to the extent revisions are needed to protect ratepayers in circumstances where an affiliate like IEP seeks to provide services at fully-loaded costs even though it is not a service company affiliate dedicated solely to serving utilities and instead participates in competitive markets.

Matters related to IEP's existing contracts with NYSEG and RG&E shall be addressed here as well. Those contracts continue in effect and, under them, the two utilities may direct more work to IEP, subject to the interim relief directed in the Reorganization Order. But PSL §110(3) authorizes the disapproval of such contracts if they are not in the public

² Case 07-M-0906, Iberdrola, S.A., Order Denying Petition (issued April 21, 2011); see also Case 07-M-0906, supra, Untitled Order (issued June 24, 2009) (setting forth the Code of Conduct governing the relationships between NYSEG and RG&E and their affiliates, including IEP).

interest. Modification, cancellation or disapproval of the contracts may be appropriate, for the reasons discussed in the Reorganization Order or arrived at as a result of the examination conducted here.

Therefore, NYSEG and RG&E shall make a filing, within 21 days of the date of this Order, addressing the above issues. They shall also explain why their contracts with IEP should not be disapproved because of the concerns raised in the Reorganization Order.

Interested parties are invited to comment on the issues raised above by e-filing through the Department's Document and Matter Management System (DMM),³ or by e-mail to the Secretary at secretary@dps.ny.gov, on or before January 6, 2014. Parties unable to file electronically may mail or deliver their comments to Hon. Kathleen H. Burgess, Secretary of the New York State Public Service Commission, Three Empire State Plaza, Albany, New York, 12223-1350. All comments must be received no later than January 6, 2014. Additional proceedings may be conducted upon additional notice after receipt of the comments.

The Commission orders:

1. The Order Denying Petition issued April 21, 2011 in Case 07-M-0906 is reopened for the purpose discussed in the body of this Order.

2. A proceeding is instituted for the purposes of conducting an examination into the relationships and contracts between Iberdrola Engineering Projects, Inc. and New York State Electric & Gas Corporation and Rochester Gas and Electric

³ See [http://www.dps.ny.gov/DMM Registration.html](http://www.dps.ny.gov/DMM%20Registration.html);
How to Register with DMM,
<http://www.dps.ny.gov/e-file/registration.html>.

Corporation, respectively, and ordering any relief necessary to protect the interests of the utilities' ratepayers.

3. New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation are directed to submit the filing described in the body of this Order within 21 days of the date of this Order.

4. Interested parties may submit comments on the issues described in the body of this Order by January 6, 2014.

5. The Secretary may extend the deadlines set forth in this Order upon good cause shown, provided the request for such extension is in writing and filed on a timely basis, which should be on at least one day's notice.

6. This proceeding is continued.

By the Commission,

KATHLEEN H. BURGESS
Secretary