

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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July 3, 2014

SENT VIA E-MAIL

Acting Chairman Cheryl A. LaFleur
Federal Energy Regulatory Commission
888 First Street, NW
Washington, DC 20426

Re: Electric Power Supply Association v. Federal Energy
Regulatory Commission

Dear Acting Chairman LaFleur,

As Chair of the New York State Public Service Commission (NYPSC), I am writing to seek the Federal Energy Regulatory Commission's (FERC) assistance in helping to preserve the continued role of demand response resources within competitive wholesale markets. These demand response resources are extremely important in ensuring just and reasonable rates and preserving the reliability of electric service.

The NYPSC has commenced an initiative, referred to as "Reforming the Energy Vision" or REV, which seeks to promote the more efficient use of demand management resources, including the wider deployment of "distributed" energy resources, such as micro grids, on-site power supplies, storage, and demand shifting.¹ The New York Independent System Operator, Inc. may serve as an important vehicle to ensure the system efficiencies associated with these resources are properly reflected in the wholesale price for energy in New York.

The D.C. Circuit Court of Appeals' recent decision in EPSA v. FERC,² however, could create questions with respect to the

¹ See, <http://www3.dps.ny.gov/W/PSCWeb.nsf/All/26BE8A93967E604785257CC40066B91A?OpenDocument>

² Electric Power Supply Association v. Federal Energy Regulatory Commission, No. 11-1486 (D.C. Cir. 2014) (EPSA v. FERC).

continued participation of demand response resources in wholesale markets. As the Court in EPSA v. FERC held, demand response resources are related to retail markets, which are regulated exclusively by the states.

In light of the Court's determination, it is essential that the states be allowed to work with FERC and their respective Independent System Operators (ISOs) and Regional Transmission Organizations (RTOs) to develop an acceptable framework that respects jurisdictional boundaries, while allowing demand response resources to continue to provide significant benefits through participation in the wholesale markets. As an initial step, I urge FERC to seek clarification upon its petition for rehearing that the Court's decision does not abridge states' rights to work with FERC and the respective ISOs and RTOS in this regard.

My Staff and I are available to work with FERC to develop an approach that respects state and federal jurisdictional boundaries, while providing for the continued participation of demand response resources within wholesale markets. We are committed to working with FERC to achieve this outcome, regardless of the ultimate outcome in court. Please do not hesitate to contact me if you would like to discuss this matter further.

Sincerely,



Audrey Zibelman
Chair

cc: Commissioner Philip D. Moeller
Commissioner John R. Norris
Commissioner Tony Clark
Michael C. McLaughlin, Director, Office of Energy Market
Regulation
Jignasa P. Gadani, Director, Division of Electric Power
Regulation-East