



December 19, 2013

Hon. Kathleen H. Burgess
Secretary
State of New York Public Service Commission
Office of the Secretary
Three Empire State Plaza
Albany, NY 12223-1350

**Re: Case No. 12-E-0577 – Proceeding on Motion of the Commission to Examine
Repowering Alternatives to Utility Transmission Reinforcements:
Opposition to Request for Extension of Filing Deadline**

Dear Secretary Burgess:

Sierra Club, and Earthjustice, on behalf of the Ratepayer and Community Intervenors, Citizens Campaign for the Environment, and Environmental Advocates of New York (together, the “Opposing Parties”), submit this letter in opposition to the joint request submitted today on behalf of Cayuga Operating Company, LLC (“Cayuga”) and New York State Electric and Gas Corporation (“NYSEG”) seeking a two month extension, to February 28, 2014, of the deadline for submitting a revised repowering proposal for the Cayuga plant to the Commission. The Commission should deny this fourth extension request because no justification for the request has been provided and the extension will only further delay needed transmission upgrades.

The Commission’s direction to prepare a revised proposal was based on the conclusion of Department of Public Service (“DPS”) staff that all four repowering proposals before the Commission impermissibly shift the market risk of repowering to the NYSEG ratepayers. *Regular Meeting of the Pub. Serv. Comm’n*, Transcript of Proceedings at 35-36 (Sept. 19, 2013) (“[A]ll the four proposals that the generator filed for repowering all have one common feature, which is shift the risk of market-- both energy and capacity market risks to NYSEG rate payers”). The continued inability of Cayuga and NYSEG to submit a revised proposal demonstrates that repowering cannot be accomplished without unfairly burdening NYSEG ratepayers with shouldering the market risk.

The revised repowering proposal for the Cayuga plant was originally due on October 24, 2013. *See* State of New York Public Service Commission, Notice of Filing Deadline (Filing No. 106, Sept. 24, 2013) (“Notice”). The Commission has already granted three extensions of that deadline. Despite having had more than three months to formulate a revised proposal that does not impermissibly force ratepayers to bear the market risk of repowering, Cayuga and NYSEG have been unsuccessful in crafting such a proposal. Indeed, the joint extension request plainly acknowledges that Cayuga and NYSEG “have not been able to identify such a proposal as of today.” Letter from John T. McManus, Esq., Harris Beach, PLLC, to Hon. Kathleen Burgess, Secretary, State of New York Public Service Commission (Dec. 19, 2013) (“Cayuga Letter”).

Under the circumstances, a further extension of the deadline for filing a joint repowering proposal is not merited. First, Cayuga provides no explanation or justification for an additional extension, other than the vague and unsupported claim that it will “promote the orderly and efficient conduct of this Proceeding.” Cayuga Letter at 1. Surely, after three extensions – all of which were requested in nearly identical language – the Commission and other parties are entitled to some explanation of why additional time is needed. This is particularly true for this request, which seeks a two month extension rather than the 30 days requested in the three previous extension requests.

Second, it is clear that repowering the Cayuga plant will impose severe financial penalties on NYSEG ratepayers, and Cayuga and NYSEG’s inability to develop a mutually agreeable repowering proposal despite three months of effort is compelling evidence that there is no repowering proposal that can be devised to avoid such unfairness.

Third, the prolonged inability of Cayuga and NYSEG to devise a repowering proposal that does not unfairly burden ratepayers shows that DPS staff was in error when they speculated that “a revised repowering solution could be consistent with the best interests of the public and ratepayers,” Notice at 1, and underscores that NYSEG’s proposed transmission upgrades are in the best interest of the ratepayers.

Fourth, any further delay in implementing the transmission upgrades proposed by NYSEG – which offer a substantially cheaper and environmentally superior alternative to repowering – risks saddling ratepayers with additional RSS subsidies for avoidable continued operation of the Cayuga plant.

We therefore urge the Commission to deny the extension request and issue an order approving NYSEG’s proposed transmission upgrades.

Respectfully submitted,

/S/

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