

STATE OF NEW YORK
DEPARTMENT OF PUBLIC SERVICE

At a session of the Public Service
Commission held in the City of
Albany on March 15, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca

CASE 11-M-0294 - In the Matter of the Filing of Annual Reports
by Electric and Gas Corporations Subject to
Lightened Ratemaking Regulation.

ORDER ON ANNUAL REPORTING UNDER LIGHTENED RATEMAKING
REGULATION AND ESTABLISHING FURTHER PROCEDURES

(Issued and Effective March 23, 2012)

BY THE COMMISSION:

BACKGROUND

As discussed in the Notice Soliciting Comments (the Notice) issued June 3, 2011 in this proceeding, wholesale generators subject to the lightened ratemaking regulation provided for in the Wallkill Ruling and Order have, under that Ruling and Order, fulfilled their Public Service Law (PSL) §66(6) obligation to file an Annual Report through reference to the filings they are required to make with the Federal Energy Regulatory Commission (FERC).¹ When the Wallkill Ruling was issued in 1991, it was thought substantial compliance with the requirements of §66(6) could be achieved through the information

¹ Case 91-E-0350, Wallkill Generating Company, L.P., Declaratory Ruling on Regulatory Policies Affecting Wallkill Generating Company and Notice Soliciting Comments (issued August 21, 1991) and Order Establishing Regulatory Regime (issued April 11, 1994).

submitted in the FERC filings. The Notice stated, however, that because of changes to the FERC requirements over time, a review is needed to determine if compliance with those requirements should be treated as also meeting the disclosure requirements underlying §66(6).

Moreover, the Annual Report requirement applicable under PSL §66(6), and its PSL §80(5) analog governing steam corporations, have also been reduced for those electric, gas and steam providers that have been granted lightened ratemaking regulation in conformance with the principles stated in the Wallkill Ruling and Order because they, like wholesale generators, operate in competitive markets and need not be regulated to the same extent as traditional monopoly utility service providers. These competitive providers include companies retailing electric service within industrial and business parks;² supplying steam service at retail;³ operating gas transportation pipelines serving retail customers;⁴ furnishing gas gathering services not restricted to transporting gas indigenous to New York,⁵ and providing the electric transmission services subject to the jurisdiction described in

² Case 06-E-0287, Griffiss Utility Services Corporation, Order Approving Economic Development and Transfer of Certificate and Providing For Lightened Regulation (issued July 20, 2006).

³ Case 08-M-1301, Lockport Energy Associates, L.P., Order Granting Certificate of Public Convenience and Necessity Pursuant to PSL §81 and Providing For Lightened Regulation (issued January 20, 2009).

⁴ Case 11-G-0361, Gateway Delmar LLC, Order Providing For Lightened Ratemaking Regulation (issued November 22, 2011).

⁵ Case 10-G-0462, DMP New York, Inc. and Laser Northeast Gathering Company LLC, Order Granting Certificate of Public Convenience and Necessity and Providing For Lightened Ratemaking Regulation (issued February 22, 2011).

the Hudson Partners Order.⁶ These providers have often been permitted to meet the PSL §66(6) and §80(5) requirements by submitting annually revenues received and volumes supplied, instead of furnishing information satisfying each element of §66(6)(a-g) or §80(5)(a-g). As a result, this inquiry was launched to re-examine the content and scope of the annual reporting requirements that wholesale generators, and other electric, gas and steam corporations subject to lightened ratemaking regulation, must meet.

The PSL also addresses several types of service providers that are not subject to annual reporting requirements. Exempted from annual reporting are companies that fall within the ambit of incidental regulation pursuant to PSL §66(13), for gas and electric corporations, and PSL §80(11), for steam corporations. As a result, those lightly regulated retail service providers that have obtained incidental regulation as well need not file annual reports.⁷ Qualifying facilities, as defined in PSL §2(2-a) through §2(4), do not file annual reports because exempted from the PSL generally, except for Article VII. Moreover, while PSL §2(2-a) limits the size of a qualifying cogeneration facility under New York law to no more than 80 MW, under the federal Public Utility Regulatory Policies Act of

⁶ Case 10-E-0339, Hudson Transmission Partners LLC, Order Providing For Lightened Ratemaking Regulation (issued April 14, 2011).

⁷ See, e.g., Case 11-S-0069, Syracuse University, Order Granting Certificate of Public Convenience and Necessity and Providing For Incidental and Lightened Ratemaking Regulation (issued July 14, 2011); Case 04-M-0388, Eastman Kodak Company, Order Granting Certificates of Public Convenience and Necessity and Providing For Lightened and Incidental Regulation (issued August 2, 2004)(Kodak Order); Case 01-G-0045, Hudson Valley Gas Corporation, Order Concerning Exemption From Jurisdiction (issued May 2, 2001).

1978, qualifying cogeneration facilities of any size can be exempt from the PSL Annual Report obligation.⁸ Because, under PSL §66-g(3), certain producers and transporters of indigenous natural gas are exempted from PSL regulation except for the purposes of safety and reliability, they do not file Annual Reports, albeit a producer that sells or transports indigenous gas to industrial or commercial users must maintain a record of the volumes of the gas sold or transported.⁹

Comments on the issues raised in the Notice were due within 45 days of its issuance, by July 18, 2011. Some commentators responding to the Notice, led by the Independent Power Producers of New York, Inc. (IPPNY), maintain that existing standards in effect for meeting the PSL §66(6) and §80(5) requirements are adequate. Other commentators argue in favor of a stricter application of the annual reporting requirements. The comments are summarized below.

POSITIONS OF THE PARTIES

IPPNY

According to IPPNY, no re-examination of the annual report filing requirement for wholesale generators is needed. IPPNY believes that adequate substitutes for the information that would be submitted in an Annual Report can be obtained from FERC or other sources.

Contrary to the analysis provided in the Notice, IPPNY protests that, at the time the Wallkill framework was adopted in

⁸ Case 90-E-0599, Cogen Technologies Linden Venture, L.P., Declaratory Ruling (issued November 15, 1990).

⁹ As discussed in the Kodak Order, water corporations cannot qualify for lightened regulation, but may obtain incidental regulation; as a result, the scope of this proceeding does not encompass annual reporting by water corporations pursuant to PSL §89(c)(5).

the early 1990's, FERC had already relaxed filing requirements for wholesale generators and that the FERC policy was reported to the Commission in filings submitted during the course of the Wallkill proceedings. As a result, IPPNY asserts, there has been no change in federal policy that would support revisiting the Wallkill analysis of the annual reporting requirements. IPPNY points out that wholesale generators must still file with FERC, on a quarterly basis, summaries of service agreements they have entered into for making market-based power sales, and that those summaries are available from FERC.

Emphasizing that the PSL §66(6) Annual Report requirement was initially enacted in 1910, long before the introduction of the competitive markets in which wholesale generators now participate, IPPNY argues that the purposes advanced by §66(6) would not be served by its robotic application to companies that did not exist and had not yet even been envisioned at the time the statute was enacted. Such an application of the statute, IPPNY argues, would be burdensome, potentially anti-competitive, and would yield no information useful to the Commission's performance of its regulatory functions.

The Annual Report requirement, IPPNY perceives, was designed to adhere to retail providers of monopoly electric service subject to cost-of-service regulation. In contrast, wholesale generators participate in markets, subject to FERC supervision, where prices are set by competition. IPPNY claims that this distinction has been recognized since the inception of lightened regulation.¹⁰ Based on that distinction, IPPNY maintains, a realistic appraisal, as authorized by New York

¹⁰ Case 98-E-1670, Carr Street Generating Station, L.P., Order Providing For Lightened Regulation (issued April 23, 1999)(Carr Street Order).

courts, may be conducted of PSL §66(6) to determine if an entity can comply with its requirements and to ascertain what, if any, public interest would be served by application of those requirements. The outcome of such a realistic appraisal, IPPNY believes, would justify continuation of the existing policy, whereby wholesale generators comply with the PSL §66(6) annual reporting requirements through their filings with FERC.

Because wholesale generators are subject to competitive market pricing and FERC regulation, instead of cost-of-service pricing and State regulation, IPPNY argues that the submission of cost-of-service information in an Annual Report is unnecessary in today's environment. IPPNY also insists that the annual reporting informational requirements are not related to protecting captive ratepayers against the exercise of market power, which was the purpose stated when other PSL requirements were applied to wholesale generators notwithstanding lightened regulation. To require the Annual Report information nonetheless, IPPNY insists, would undermine competitive markets and distort the operations of those markets to the detriment of consumers. The additional costs incurred to meet the annual reporting requirements, IPPNY warns, would surely flow through to those consumers, even though no discernable benefit would be realized.

Contending that the PSL §66(6) Annual Report requirement is structured similarly to other reporting requirements that had been waived in their entirety for wholesale generators under lightened regulation, IPPNY points to the waivers, beginning with the Wallkill Ruling, of PSL §66(4) (providing for a uniform system of accounts); §66(12) (providing for rate filings); and, §72-a, (providing for the filing of monthly fuel cost statements). IPPNY sees no reason for distinguishing between the justifications for the waiver of

those requirements and justifying the limited annual reporting requirements that have been imposed to date on wholesale generators.

IPPNY also cites the LEA Order, supra, and the BNY Order,¹¹ for the proposition that annual reporting requirements have been relaxed or eliminated for lightly regulated steam corporations. IPPNY explains that the substance of PSL §80(5), on the annual reporting requirements applicable to steam corporations, is worded exactly the same as PSL §66(6). Nonetheless, IPPNY asserts, lightly regulated steam corporations are required to report annually only the total volume of steam sold to, and the revenues received from, their steam customers for the prior calendar year, broken down by month. IPPNY believes that submission of this information is already required by PSL §18-a (which provides for the collection of cost assessments from utility companies), meaning that no additional annual reporting requirements have been imposed on lightly regulated steam companies. Since wholesale generators are not subject to the §18-a assessment, IPPNY reasons that applying the analysis in the LEA Order and the BNY Order to wholesale generators would justify exempting them from the PSL §66(6) annual reporting requirements entirely.

IPPNY argues further that the Commission is precluded from regulating any aspect of the wholesale electric rates wholesale generators charge. According to IPPNY, jurisdiction over those rates belongs exclusively to FERC under federal law. Asserting that the §66(6) annual reporting requirements are inextricably tied to the ratemaking function that is FERC's

¹¹ Case 96-M-1108, Brooklyn Navy Yard Cogeneration Partners, L.P., Order Granting Certificate of Public Convenience and Necessity and Denying Declaratory Ruling (issued March 19, 1997)(BNY Order).

exclusive province, IPPNY concludes the requirements cannot be imposed on wholesale generators because preempted by operation of the Supremacy Clause of the U.S. Constitution

ACE NY

The Alliance For Clean Energy New York (ACE NY) opposes the imposition of additional PSL §66(6) reporting requirements on wholesale generators. Voicing its support for IPPNY, ACE NY maintains that requiring additional reporting would be unnecessary, given the submissions already filed with FERC; would be extraneous to the Commission's role in the regulation of wholesale generators; and, would be inconsistent with the lightened regulation applied to entities other than wholesale generators. ACE NY is concerned that the additional costs that would attend imposition of annual reporting requirements on wholesale generators could adversely affect the investments they make in developing clean energy generation resources, and slow the job growth associated with those investments.

Assemblyman James F. Brennan

Assemblyman Brennan asserts that dispensing with the PSL §66(6) annual reporting requirements for wholesale generators operating under lightened ratemaking regulation Orders has no basis in law. He maintains that the existing Annual Report format applicable to combination electric and gas utilities is the appropriate standard that should be imposed on wholesale generators.

Brookfield

Brookfield Renewable Power, Inc. (Brookfield) explains that it operates 702 MW of hydroelectric capacity, and 105 MW of gas-fired combined cycle capacity, in New York. Brookfield believes that wholesale generators should be permitted to continue satisfying the Annual Report requirement through

meeting FERC standards. Characterizing mechanical interpretation of PSL §66(6) as imposing on wholesale generators costly requirements that are difficult to satisfy, Brookfield maintains it does not make sense to demand the Annual Report information from wholesale generators that sell their output in competitive markets where their owners bear all of the risk of loss on their operations.

Brookfield also reports that it operates generators and sells power into competitive markets in nine states other than New York, but that none of those states impose reporting requirements on its wholesale market activities. It asserts that those states recognize that annual reporting information is not relevant to State regulation of wholesale generators.

CEC

The Citizens Environmental Coalition (CEC) maintains that the Annual Report requirement should assist the Commission in reaching its decisions. Noting that New York is dependent on wholesale generators to meet its electric energy needs, CEC contends that the basic information supplied in the Annual Reports is useful when planning to meet those needs. CEC also believes that requiring this information would assist in addressing the potential for climate change. Asserting that it was a mistake to defer to FERC in implementing annual reporting requirements for wholesale generators, CEC supports what it describes as reinstatement of the PSL §66(6) informational requirements.

CEC contends that, as §66(6)(g) permits, more detailed information on plant and equipment operation, outages, maintenance, and repairs should be collected, particularly in the case of nuclear power plants. For those facilities, CEC would require information on the storage of nuclear waste and

the amount of funds that have been set aside for eventual decommissioning.

Entergy

Entergy Nuclear Indian Point II LLC, Entergy Nuclear Indian Point III LLC, Entergy Nuclear Fitzpatrick LLC and Entergy Nuclear Operations, Inc. (collectively, Entergy) begin by describing the nuclear power plants Entergy operates in Westchester County and Oswego, New York. According to Entergy, it has invested hundreds of millions of dollars in its New York nuclear facilities, and, as a result, their reliability has substantially improved and their average capability factor has increased from as little as 50% under prior ownership to more than 90% under its ownership.

Delving into the history of the development of competitive markets for electricity in New York, Entergy emphasizes that those markets were introduced because of the advantages consumers would realize as a result. Those benefits include lower prices, reduced risk, and the availability of a greater variety of service offerings. When lightened regulation was adopted, Entergy claims, the Commission decided that effectively competitive markets eliminated the need for extensive reporting requirements and that imposing those requirements would be burdensome to wholesale generators and would raise costs to the detriment of consumers. Entergy recounts that it purchased nuclear facilities in New York at substantial cost and invested in their upgrade in reliance upon the lightened regulation that accompanied the introduction of

competitive markets.¹² Consequently, Entergy supports the continuation of the existing policies and sees no need to revise the existing annual reporting requirements.

According to Entergy, many of the PSL 66(6) requirements are outdated or inapplicable in any event. While, Entergy cautions, the statute requires reporting of authorized capital stock, most wholesale generators are organized as limited liability companies (LLC) or limited liability partnerships (LLP) that are outside the scope of requirements applicable to stock corporations. Similarly, Entergy objects, wholesale generators do not hold the franchises that must be reported under PSL §66(6)(f). Turning to other statutory requirements, Entergy maintains that supplying the amount of authorized bonded indebtedness, under §66(6)(b), would duplicate the information already obtained through PSL §69 as that indebtedness is approved, and that the location of generation facilities, also required under §66(6)(f), can be obtained from the New York Independent System Operator (NYISO).

Besides these duplicative and irrelevant requirements, Entergy discerns, the remaining provisions of PSL §66(6) relate to financial information, such as debt, receipts, expenditures and salaries. Entergy can find no reason for believing that collecting such information is needed to protect the public interest, when wholesale generators are subject to competitive market forces that already prevent financial harm to the public.

Entergy believes that sufficient information on the finances and operations of wholesale generators can be obtained

¹² In support of its arguments, Entergy cites Case 00-E-1225, Entergy Nuclear Fitzpatrick LLC, et al., Declaratory Ruling on Lightened Regulation (issued August 23, 2000) and Order Providing For Lightened Regulation of Nuclear Generating Facilities (issued August 31, 2001)(2001 Entergy Light Regulation Order).

elsewhere without imposing additional PSL §66(6) annual reporting requirements, and points to FERC's quarterly reporting requirements as one source of that information. Entergy adds that the Energy Policy Act of 2005 (EPAAct 2005), at 42 U.S.C. §16453, opens an additional avenue to obtaining information, by allowing state utility regulatory commissions to compel interstate holding companies and their affiliates to open their books, accounts and records for inspection. That avenue to obtaining information, Entergy asserts, would allow the Commission to obtain needed information from wholesale generators in specific instances without imposing a burdensome industry-wide annual reporting requirement that would hamper the competitive market and detract from the benefits it provides.

Entergy also references the 2011 Transactional Order,¹³ which imposes a reporting protocol on its operations that addresses the need to obtain information on its financial strength. It argues that the protocol is also a substitute for any annual reporting requirements that could be imposed on it.

In any event, Entergy asserts, imposing an Annual Report requirement is preempted by federal law. The Federal Power Act (FPA), it argues, grants to FERC the exclusive authority over all wholesale sales of electric energy. In particular, Entergy cites FPA §204(a), which provides that FERC has jurisdiction over wholesale generator financings except where the generator is organized and operates under state law. Entergy points out that it, like most wholesale generators, is organized in states other than New York, and so it believes this exception from FERC jurisdiction is not applicable to it.

¹³ Case 10-E-0402, Entergy Corporation, Order Assessing Entergy's Transactional Notice Requirements (issued June 17, 2011).

Continuing with its preemption analysis, Entergy asserts that the federal courts have decided that FPA §204 preempts the PSL §66(6) requirement that stock dividends be reported.¹⁴ The U.S. Supreme Court, Entergy argues, has extended this FPA preemption of State authority over wholesale generator financial affairs to any reporting requirement that would attend state efforts at performing any form of financial regulation.¹⁵

Referencing PSL §69, which provides for authorization of electric corporation debt, Entergy declares that judicial interpretation of that statute bolsters its position that regulation of its finances is entirely a matter of federal law. According to Entergy, New York courts have found that the capitalization of businesses located outside of New York is beyond the scope of §69 review.¹⁶ Entergy reads that judicial interpretation as conceding to federal law regulation over the financing of utility businesses engaged in wholesale interstate operations, and justifying the conclusion that §66(6), like PSL §69, cannot be imposed on companies engaging in interstate wholesale operations.

Finally, if PSL §66(6) is not preempted, Entergy is concerned that its annual reporting requirements could be applied to upstream owners of an affiliate that operates generating facilities in New York, rather than to the affiliate alone. Entergy argues that the PSL cannot be interpreted as reaching upstream owners. Referencing PSL §69 again, Entergy

¹⁴ Northwestern Electric Company v. Federal Power Commission, 321 U.S. 119 (1944).

¹⁵ Schneidewind v. ANR Pipeline Company, 485 U.S. 293 (1988).

¹⁶ Brooklyn Union Gas Company v. Public Service Commission, 34 A.D.2d 71 (3rd Dept. 1970).

notes that statute does not reach upstream.¹⁷ Entergy would not rely upon the interpretation of PSL §70 in the Wallkill Ruling and Order, which does provide for jurisdiction over the transfer of ownership interests in parents upstream from affiliates operating New York electric plant, as precedent for imposing the Annual Report requirement on upstream owners. That interpretation of §70, it argues, is mistaken in any event.

DISCUSSION AND CONCLUSION

Applying the Annual Report Requirement

The implementation of §66(6), and its PSL §80(5) analog,¹⁸ may be reconsidered in light of the experience now accumulated with the changes to the regulatory framework that were brought about by the introduction, during the 1990's, of competition into New York markets for electric, gas and steam supply.¹⁹ Since the regulatory authority to determine that companies joining newly-opened competitive markets would not be subject to the same requirements as monopoly distribution service providers was found in the PSL, and was initially accomplished upon an appraisal that ultimately survived judicial review, conducting another appraisal now to re-evaluate the PSL

¹⁷ Case 07-E-0888, Iberdrola Energias Renovables, S.A.U., Declaratory Ruling on Review of Intra-Corporate and Stock Issuance Transaction (issued September 20, 2007).

¹⁸ Because the wording of PSL §80(5) is the same as PSL §66(6), except for referencing steam corporations instead of electric and gas corporations, references here to §66(6) are equally applicable to §80(5).

¹⁹ See Case 94-E-0952, Competitive Opportunities Regarding Electric Service, Opinion No. 96-12 (issued May 20, 1996) and Opinion No. 96-17 (issued July 17, 1996).

§66(6) requirement, as it has been implemented in the evolving competitive markets, is justified.²⁰

In undertaking that endeavor, we may rely on New York court decisions that avoid overly-restrictive and mechanistic readings of the PSL and decline to impose rigid constraints inconsistent with the evolution of improvements to the methods for providing utility services that benefit New York consumers.²¹ Instead, we may take an action in light of the facts and timing of this particular case, with the action tested by the courts on whether it reasonably accords with overall legislative judgments,²² including the authority to respond to changing circumstances.²³ Consequently, any conflicts between the regulatory authority exercised in developing competitive markets and the specific provisions of PSL §66(6) can be harmonized, and contradictory readings of the provisions of the PSL can be avoided.²⁴ In fact, we have exercised similar discretion in the application of annual reporting requirements previously, in

²⁰ Matter of Energy Association of New York State v. Public Service Commission, 169 Misc.2d 924 (Alb. Cty. Sup. Ct. 1996), aff'd on other grounds, 252 A.D.3d 55 (3rd Dept. 1998).

²¹ Public Utility Law Project of New York, Inc. v. Public Service Commission, Index No. 4509-96 (Sup. Ct. Alb. Cty. 1997), aff'd on other grounds, 273 A.D.2d 708 (3rd Dept. 2000).

²² Matter of Niagara Mohawk Power Corporation v. Public Service Commission, 69 N.Y.2d 365 (1987).

²³ Luyster Creek LLC v. Public Service Commission, 82 A.D.3d 1401 (3rd Dept. 2011); lv. granted, 17 N.Y.3d 703 (2011); New York State Electric & Gas Corporation v. Public Service Commission, 308 A.D.2d 108 (3rd Dept. 2003).

²⁴ Consolidated Edison Company of New York, Inc. v. Public Service Commission, 47 N.Y.2d 94 (1979).

contexts other than lightened regulation.²⁵ Adapting the annual reporting requirements to a landscape where lightly regulated companies participate in competitive electric markets is similarly permissible.

Nonetheless, it is appropriate to conduct another appraisal of PSL §66(6) at this time. While the annual reporting requirements of PSL §66(6) have remained substantially the same since 1910, the realities of the competitive environment have evolved since the 1990's. The conclusion, reached in the Wallkill Ruling and Order, that wholesale generators could satisfy PSL §66(6) requirements by referencing information provided in FERC filings, is growing stale. Moreover, the annual reporting requirements devised for other forms of lightly regulated companies in reliance on the Wallkill Ruling and Order have not been carefully matched to the purposes §66(6) is intended to fulfill. As a result, the principles beginning more than twenty years ago in the Wallkill Ruling and Order no longer necessarily adhere, and an inquiry into how the PSL §66(6) requirements can best be effectuated in evolving competitive market environments is justified.

That inquiry, however, need not result in the imposition of an already existing Annual Report format on lightly regulated companies. Instead, an Annual Report format relevant to their particular circumstances may be developed, collecting that information useful to the extent of regulatory supervision exercised over them. Unnecessary requirements that are burdensome need not be imposed, either because such

²⁵ See Case 96-C-0647, Development of Competition Monitoring, Order Adopting Modified Telecommunications Competitive Monitoring Reports (issued February 18, 2000); Case 95-M-0796, Revision of Annual Report Forms, Order Revising Report Forms and Requirements (issued February 2, 1996).

information is collected from fully regulated companies or otherwise.

Relying on the Wallkill Ruling and Order, the wholesale generators maintain that the quarterly reporting information they supply to FERC is sufficient to meet the PSL §66(6) requirements. The information, however, consists only of a listing of the transactions the wholesale generator has engaged in, and the price it has obtained for the electricity it has supplied. That information is insufficient to meet the requirements of PSL §66(6), as properly applied in evolving competitive markets going forward.

A careful appraisal of the PSL §66(6) Annual Report requirement under today's circumstances that balances these considerations supports the collection from wholesale generators of information under each of the elements listed at §66(a)-(g). Similarly, the annual reporting requirements that have been imposed on forms of lightly-regulated companies other than wholesale generators also no longer meet the need for obtaining information in evolving competitive markets. Instead, it is proper to conclude that all lightly regulated companies should be required to file an Annual Report in a standard format, as discussed further below.

Annual Reporting By Wholesale Generators

The application of PSL §66(6) to wholesale generators requires an examination of the purposes the statute should be expected to effectuate in a competitive market environment.²⁶ As some commentators point out, PSL regulation of the wholesale

²⁶ CEC's claim that additional information should be collected from nuclear power plant operators has already been addressed and need not be considered further here. See 2011 Transactional Order, supra; 2001 Entergy Light Regulation Order, supra.

rates that the wholesale generators are paid for their electric production is preempted because those rates are regulated by FERC under the FPA. Consequently, financial information relevant only to FERC's ratemaking functions would not be useful in performing our regulatory functions.

Financial information, however, is helpful in exercising PSL regulatory authority over wholesale generators. As discussed in the many light regulation Orders, our supervision of the competitive market extends to constraining any exercises of market power that might prevent markets from functioning for the benefit of consumers as intended. In addition, notwithstanding the introduction of competitive markets, we remain responsible for the preservation of the reliability of electric supply. Information gathering requirements tailored to meeting those two regulatory responsibilities may be obtained through the annual reporting requirements of PSL §66(6). Of course, those requirements should be properly tied to PSL regulatory functions and reasonably circumscribed to avoid imposing undue burdens on wholesale generators.

The supervisory authority over the potential for the exercise of market power justifies the collection of certain financial information, which may assist in detecting exercises of market power. This information may itself disclose an exercise of market power, or it may point the way to a further investigation that would uncover such practices. For example, financial parameters supplied in an Annual Report that stand out as unusual may be the best way to identify areas where further investigation is needed.

Analysis of financial information may also serve an electric supply reliability purpose by indicating if a wholesale

generator is financially unsound. If a wholesale generator's financial stability is at risk, it is more likely to postpone necessary maintenance or otherwise compromise the reliable operation of its equipment or even to cease operations, which could affect the reliability of electric service.

Financial information may signal an early warning that a wholesale generator is encountering economic difficulty. The advance notice obtained through review of Annual Report information of such an indication may assist in detecting and assessing the likelihood that impacts affecting reliability might occur, enhancing our ability to exercise supervision over generation unit retirements and furthering our function of ensuring that generation supply remains adequate to meet load within New York. In particular, the information may be useful in addressing instances where a single generator may be needed to preserve local reliability.

Financial information may also be cumulated to create a picture of the health of the wholesale generator sector as a whole. Such information could inform our decision-making as we pursue policies intended to ensure that markets remain effectively competitive and are meeting reliability needs.

These needs for information have grown more pressing in recent years. While a review of conditions attending the exit of a generator from service due to financial, or other, reasons is accomplished through the generator retirement process,²⁷ information on financial soundness may be useful in evaluating the impact of proposed retirements through that process. Moreover, since the generation unit retirement reporting process for ensuring that retirements do not pose a

²⁷ Case 05-E-0889, Generation Unit Retirement Procedures, Order Adopting Notice Requirements for Generation Unit Retirements (issued December 20, 2005).

threat to the reliability of generation supply, either state-wide, regionally, or locally, was instituted in 2005, the scope and volume of retirements has increased significantly. The need to inquire further into particular retirements that might pose the potential for harms to reliability has grown concomitantly. Moreover, several owners of large fossil-fueled generation facilities are currently undergoing bankruptcy proceedings,²⁸ indicating that financial circumstances attending the reliability of generator operations requires greater attention. Increased vigilance into reliability matters is therefore warranted, and annual reporting requirements may assist us in performing that role.

In addition, recent experience has indicated that exercises of market power might go undetected until after excessive prices have been charged.²⁹ Heightened regulatory vigilance is therefore justified in this area as well, and, again, the PSL §66(6) annual reporting requirements may assist in that endeavor.

Some information other than financial information may also support the exercise of PSL regulatory functions regarding wholesale generators. Centrally locating basic information on the identity of generation plant owners, personnel and a generation unit's characteristics could facilitate the surveying of the entire wholesale generator community on an issue, or in responding to emergency circumstances state-wide or locally. It

²⁸ Dynegy Holdings LLC, et al., Case No. 11-38111 (CGM)(Bank.Ct. N.D.N.Y.); AES Eastern Energy, L.P., et al., Case No. 11-14138 (KJC)(Bank.Ct. Del.).

²⁹ See United States of America v. KeySpan Corporation, Case No. 10-CIV-1415 (S.D.N.Y. 2010); New York Independent System Operator, Inc., 133 FERC ¶61,030 (2010), reh. den. 135 FERC ¶61,157 (2011); New York Independent System Operator, Inc., 122 FERC ¶61,211 (2008).

could also indicate a need to embark upon the collection of the additional information commentators concede can be obtained through means other than an Annual Report, when a more detailed analysis of an issue or a particular wholesale generator's performance is necessary. As a result, requiring wholesale generators to provide annual reporting information under PSL §66(6) is warranted.³⁰

Applying The PSL §66(6) Standards To Wholesale Generators

Applying the above principles, we conclude that wholesale generators are required to provide information satisfying PSL §66(6)(a)-(g), albeit a format that differs substantially from the more extensive and highly structured requirements imposed on fully regulated electric, gas and steam corporations. Subdivision (a) of §66(6) requires the detailing in an Annual Report of "the amount of...authorized capital stock." That requirement, however, applies only to stock corporations, and very few, if any, of the wholesale generators are organized as that form of business enterprise.³¹ Consequently, this requirement would not adhere to the vast majority of wholesale generators, whose operations as LLPs or LLCs do not fall within its ambit.³² Imposing this requirement on the few that might be organized as stock corporations would

³⁰ The electric transmission service providers described in the Hudson Partners Order can be required to file an Annual Report for reasons, as discussed in that Order, that are similar to those applicable to wholesale generators.

³¹ Pursuant to Transportation Corporations Law §4, transportation corporations are also stock corporations.

³² The requirements of PSL §111, on reporting of stock ownership, would adhere; while few wholesale generators would be affected because organized as LLPs or LLCs, collecting that information could be useful for detecting cross-affiliations that could lead to the exercise of market power.

not be burdensome and could provide useful information relevant to their financial health and continued viability.

Subdivision (b) calls for the submission of the "amount of...authorized bonded indebtedness." Since that information is already a matter of public record through the §69 approvals obtained before the indebtedness is incurred, imposing the requirement on wholesale generators is not burdensome. Moreover, the information is an indicator of their financial stability and viability.

Similarly, Subdivision (c), which requires submission of "receipts and expenditures," is useful for the same purpose of ascertaining financial stability and viability. The information can be provided through a straightforward balance sheet and income statement format showing revenues, expenses, and cash flows, which would not be unduly burdensome to provide.³³

Subdivision (d) calls for collection of information on "the amount paid as dividends upon...stock and as interest upon ...bonds." Again, few, if any, wholesale generators are organized as stock corporations, and so collecting dividend information is either no burden at all or of limited impact. Because interest paid upon bonds by corporations is an indicator of financial stability and viability, the amount of interest can be captured through the financial statement discussed above.

Subdivision (e) addresses the "names of officers," the "aggregate amount paid as salaries" to officers, and the amounts "paid as wages" to employees. Much of this information is

³³ Nothing would prevent wholesale generators from seeking to protect information from disclosure as a trade secret pursuant to 16 NYCRR §6-1.3, if the facts so warrant. In those instances, a redacted version would be filed with the Secretary, and a confidential version would be submitted to the Records Access Officer.

primarily related to ratemaking and need not be collected. Nevertheless, supervision of market power and the preservation of reliability may be more readily effectuated if the name of, and contact information for, a chief executive officer and a manager responsible for operations, who can also serve as an emergency contact, are readily available. Therefore, wholesale generators may be required to provide that information in an Annual Report.

Finally, Subdivisions (f) and (g) allow for the gathering of information on the location of "plants and system[s], for obtaining descriptions of "property and franchises," and for requiring submission of "such other facts pertaining to...operation and maintenance" as may be needed. The availability of some basic information on wholesale generation operations in a readily obtainable Annual Report would assist in performing the PSL regulatory functions of supervising competitive market operations and service reliability, so that information can be collected. More detailed information on the franchises mentioned in the statute is, however, simply not applicable, inasmuch as wholesale electric generators operate without obtaining franchises.

Implementing the PSL §66(6) requirements in this fashion properly adapts the 1910 statutory enactment to today's evolving competitive environment. It results in the submission of information useful in fulfilling our regulatory responsibilities regarding wholesale generators without unduly burdening their operations.

Annual Reporting by Other Lightly Regulated Companies

Besides obtaining Annual Report filings from wholesale generators that have been lightly regulated under New York law, the Annual Report requirement should be similarly imposed on lightly regulated electric, steam and gas companies engaged in

intra-state operations. Unlike wholesale generators, these intra-state operators are subject only to New York, and not federal, rate regulation,³⁴ albeit, under lightened ratemaking regulation, rates are set by competitive market forces instead of administratively. As IPPNY notes, some lightly regulated utility service providers are now required to report only delivery volumes and revenues received. Asking them to supply, like the wholesale generators, the amount of their capital stock, if applicable, and indebtedness; to furnish information on revenues and expenses through a straightforward balance sheet and income statement; to list a chief executive officer and a manager of operations that can also serve as an emergency contact; and, to provide some other basic information about their facilities and their operations, is not unduly burdensome.

Imposing these requirements on the other types of lightly regulated companies providing gas, electric and steam service at retail, and gas gathering and other gas transportation services, is reasonable.³⁵ The information gathered therefore could prove useful in resolving the rate or service disputes that remain subject to jurisdiction and in otherwise supervising their operations. Requirements more burdensome than those imposed on wholesale generators, however, are not necessary to advance the public interest.

³⁴ See, e.g., Case 10-M-0186, Alliance Energy Renewables LLC, Order Modifying Prior Order And Approving Transfer (issued November 22, 2010) and Order Approving Transfers Upon Conditions and Making Other Findings (issued July 23, 2010).

³⁵ The distinction between wholesale and retail for these entities is not useful; some are purely retail (e.g., selling steam to retail users); some are purely wholesale (e.g., transporting gas for resale); and, some perform mid-market functions (e.g., gathering gas from producers and transporting it to the wholesale interstate pipeline system).

Responsibility For Making the Filing

Under the PSL, the Annual Report requirement applicable to lightly regulated companies would be imposed on the operating entity that owns the electric, gas or steam plant located within New York. The reporting requirement does not extend to upstream owners of those companies, just as application of PSL §69 does not reach upstream for the reasons Entergy cites. While, in contrast, given its wording and intent, PSL §70 does reach upstream, and Entergy's contentions to the contrary have been rejected previously,³⁶ that statute's wording and intent do not justify upstream application of PSL §66(6), which restricts the annual reporting requirement to the entities actually engaged in providing the utility service. Under these circumstances, those entities are the operating companies owning the plant located in New York, and the Annual Report requirement is imposed on them, not their upstream owners.³⁷

Federal Preemption

The argument that federal preemption prevents the imposition of annual reporting requirements on wholesale generators lacks merit. For the commentators presenting this argument to succeed, they must show that FPA regulation preempts the field and precludes any State efforts to require the submission of annual reporting information. Instead of

³⁶ See Case 05-C-0237, Verizon Communications and MIC, Inc., Order Asserting Jurisdiction and Approving Merger Subject to Conditions (issued November 22, 2005); Case 96-C-0603, NYNEX Corporation and Bell Atlantic Corporation, Opinion No. 97-8 (issued May 30, 1997). While these Orders address PSL §99, applicable to telephone corporations, the analogous provisions of §70 at issue here are read the same way as §99.

³⁷ PSL §111, discussed above, details the limited information required of upstream owners that are stock corporations.

preempting the field, however, the FPA specifically carved out for States a role in the regulation of wholesale generators. Since the information that would be collected fits within the ambit of regulation left to the States, federal law does not preempt its collection.

To begin with, it was decided long ago that States may require that interstate companies subject to federal regulation nonetheless provide information on their operations. As the U.S. Supreme Court has decided, merely requiring the submission of informational reports does not materially burden companies or unduly interfere with their operations in interstate commerce.³⁸ Moreover, because the FPA is not construed as occupying the field, and leaves some aspects of regulation to the States, the States may continue to exercise jurisdiction and collect information on the particulars left to them.³⁹

Rather than occupying the entire field, the FPA instead explicitly preserves state authority over generation. The FPA specifies that FERC "shall not have jurisdiction, except as specifically provided...over facilities used for the generation of electric energy."⁴⁰ That preservation of State jurisdiction over electric generation was enhanced with the enactment of EAct 2005, supra, which provides that FERC is not authorized to order the construction or enlargement of additional generation or transmission capacity,⁴¹ or to set and enforce compliance with standards for the adequacy or safety of

³⁸ Arkansas Louisiana Gas Company v. Department of Public Utilities, 304 U.S. 61 (1938).

³⁹ Panhandle Eastern Pipeline Company v. Public Service Commission of Indiana, 332 U.S. 507 (1947).

⁴⁰ 16 U.S.C. §824(b)(1).

⁴¹ 16 U.S.C. §824o(a)(3).

electric facilities or services.⁴² EAct 2005 also enhances New York's authority over reliability; indeed, under the statute, New York may establish rules that result in greater reliability than that required nationally.⁴³

Under these provisions, we may pursue the preservation of reliability of generation services.⁴⁴ The information collected under the Annual Report requirement as discussed above will assist in performing that reliability function, which is not preempted under federal law.

Against that weight of authority, Entergy and IPPNY rely primarily on decisions such as Schneidwind v. ANR Pipeline Company, supra. But that decision addressed regulation of an interstate gas pipeline, a utility facility not in any way analogous to a wholesale generation facility. Indeed, even disregarding that distinction, the contention that the Schneidwind decision preempts all collection of financial information from transmission service providers appears overstated, as discussed in the Hudson Partners Order, supra.

Entergy adds the claim that, because FPA §204, 16 U.S.C. §824(c), preempts state regulation of interstate company financings, the FPA should be interpreted as also preempting State-imposed annual reporting requirements. The predicate for Entergy's analysis is mistaken. FPA §204 does not adhere where a State regulates the financings of a company operating in that State, regardless of where the company is organized. Because, as discussed above, both PSL §69 jurisdiction over financings

⁴² 16 U.S.C. §824o(i)(2).

⁴³ 16 U.S.C. §824o(i)(3).

⁴⁴ See Generation Retirement Order; Case 11-E-0423, Consolidated Edison Company of New York, Inc., Declaratory Ruling Regarding Blackstart Service (issued September 28, 2011).

and PSL §66(6) jurisdiction over annual reporting are applied only to the companies operating in New York, and not to their upstream parents, FPA §204 does not preempt that State authority restricted to intra-state operations.⁴⁵ Therefore, the commentators' federal preemption arguments should be rejected.

IPPNY's Arguments

As a preliminary argument, IPPNY maintains that the reductions FERC had made to its reporting requirements should have been known at the time the Wallkill Ruling and Order were issued. As a result, IPPNY believes that there has been no change to FERC requirements that would justify revisiting the Wallkill Ruling and Order. That argument is irrelevant. Whatever assumptions were made in the Wallkill Ruling and Order regarding the adequacy of FERC requirements, a review of those requirements now, as discussed above, demonstrates that FERC's existing reporting requirements for wholesale generators are insufficient to satisfy PSL §66(6) standards.

Citing PSL §66(4)(providing for a uniform system of accounts); §66(12)(providing for rate filings); and, §72-a (providing for the filing of monthly fuel cost statements), IPPNY argues the waiver of those reporting requirements in the Wallkill Ruling and Order justifies waiving the Annual Report requirement. Contrary to IPPNY's contention, PSL §72-a is not analogous to §66(6); the former requires reporting of increased fuel costs and has been imposed only on retail utilities that flow those costs through to their ratepayers via an automatic adjustment clause. Consequently, it does not pertain to wholesale generators.

⁴⁵ Jersey Central Power and Light Company v. Federal Power Commission, 319 U.S. 61 (1943); Connecticut Light and Power Company v. Federal Power Commission, 324 U.S. 515 (1945).

Moreover, PSL §66(4) and §66(12) both explicitly provide that their application is entirely discretionary. Both create "the power" to direct that specified types of filings be made, but do not require the exercise of that power or the issuance of such directives. In contrast, PSL §66(6) does not merely authorize the development of annual reporting requirements and instead imposes an obligation to submit information on specifically-detailed items.

IPPNY also maintains that some lightly regulated companies have been granted exemptions from the Annual Report requirement, and that wholesale generators should be entitled to a similar exemption. As IPPNY concedes, however, the PSL provides for exemption from the Annual Report requirement for companies that obtain incidental regulation pursuant to PSL §66(13), for gas and electric corporations, and PSL §80(11), for steam corporations. Thus, IPPNY's citation to the BNY Order as an example of a lightly regulated company that is exempted from Annual Reporting is mistaken; in fact, that Order addresses a company that is entitled to an exemption from annual reporting because it obtained incidental regulation.

In contrast, other companies that obtained lightened regulation but not incidental regulation, such as are described in the LEA Order and other similar precedents, will be subject to the Annual Report requirement adopted here, for the reasons discussed above. As a result, there is no discrimination against wholesale generators and in favor of other forms of lightly regulated companies.

CONCLUSION

Therefore, the requirement that lightly regulated companies file an Annual Report in a standard format will adhere to wholesale generators, and to lightly regulated providers of

electric, gas and steam services that have not been awarded incidental regulation and so do not qualify for an exemption from the PSL. The same Annual Report Form requirement should be imposed on all lightly regulated companies, tailored to distinguish among the types of facilities and operational detail that must be provided.

Lightly regulated companies subject to the Annual Reporting requirement would be required to file their Annual Report Form by April 1 of the year following the end of the reporting year, which is the calendar year. Setting such a deadline affords companies subject to the requirement sufficient time to prepare the Annual Report while also making it certain that the information is timely provided. In comparison, combination electric and gas companies file their Annual Reports on April 30, and gas companies file theirs on March 31, of each year.

Electronic filing of the Annual Report should be required. Verification of the Annual Report, however, is specified by statute, and that verification is submitted in hard copy. These requirements are applicable to other forms of companies filing annual reports and are neither discriminatory nor burdensome.

Pursuant to PSL §66(6) and §80(5), a company failing to file an Annual Report is liable for a penalty of \$100 for each day after the deadline that the Report is not filed. The penalty would be recovered in the same manner as under PSL §25 (providing for penalties generally). Moreover, lightly regulated companies are advised that reviews of filings for approvals of transfers, financings, and other necessary regulatory actions might be postponed if Annual Report filings have not been timely made and remain outstanding. Finally, PSL §66(6) and §80(5) provide that we may extend the time for making

an Annual Report filing, so undue hardships to companies required to make the filings can be avoided as circumstances warrant and to the extent appropriate.

Accordingly, an Annual Report Form developed for lightly regulated companies in accordance with the discussion above is attached. Interested parties are invited to submit comments on the content of the Form, and the annual reporting requirements embodied therein, to the Secretary electronically by May 29, 2012. We will then act on any comments submitted, make any changes to the Form that are appropriate, and adopt a Form on a final basis for reporting beginning with the 2012 calendar year.

The Commission orders:

1. Interested parties are invited to submit electronically comments on the attached proposed Annual Report Form applicable under lightened ratemaking regulation to secretary@dps.state.ny.us by May 29, 2012. Those who cannot file electronically may mail or deliver their comments to Hon. Jaclyn A. Brillling, Secretary, Public Service Commission, Three Empire State Plaza, Albany, NY 12223-1350.

2. This proceeding is continued.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

ATTACHMENT

ANNUAL REPORT FORM
PROPOSED IN CASE 11-M-0294

**LIGHTLY REGULATED COMPANIES
Gas, Electric and Steam
FORM PROPOSED IN CASE 11-M-0294**

ANNUAL REPORT

OF

(Address of principal business office at end of year)

**FOR THE
YEAR ENDED
TO THE
STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

Name, title, address and telephone number (including area code), of
the person to contact concerning this report:

GENERAL INSTRUCTIONS

- 1 This form of annual report is for those electric corporations, gas corporations and steam corporations that have obtained an order providing for lighened regulation from the Public Service Commission of the State of New York, as provided by statutes of the said State.
- 2 The word *respondent*, wherever used in this report, means the person, firm, association, or corporation in whose behalf the report it made.
- 3 The Annual Report should be filed electronically. If the Annual Report is filed confidentially, a redacted and unredacted report should be filed. The Excel version of the completed annual report should be e-mailed to secretary@dps.ny.gov. The verification page should be printed, signed by the authorized company representative, notarized and mailed to the Hon. Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223. Do not file the entire form in paper, only the verification page.
- 4 If it is necessary or desirable to insert additional statements for the purpose of further explanation of schedules, they should be properly identified electronically. Inserts for each schedule should be numbered and line Nos., where needed, shown on the margin of each sheet. This also applies to all special or unusual entries not provided for in this form. Where information called for herein is not given, state fully the reason for its omission.
- 5 Every annual report should in all particulars be complete in itself, and reference to returns of former years or to other reports should not be made to take the place of required entries except as otherwise specifically authorized.
- 6 This report form is designed to cover the calendar year. If the respondent makes a report for any other period, the beginning and the end of the period covered must be clearly stated on the front cover, and throughout the report the appropriate cancellations of printed dates must be made. When operations cease during the year because of the disposition of property, the balance sheet and supporting schedules should consist of balances and items immediately prior to transfer (for accounting purposes), and the income statement and supporting schedules should be to the date of such transfer (for accounting purposes). If the books are not closed as of that date, the data in this report should be supported by information set forth in, or as a part of, the respondent's books of account.
- 7 Cents are to be omitted on all schedules except where they apply to averages and figures per unit where cents are important. The amounts shown on all supporting schedules shall agree with the item in the statement they support.

OFFICERS AND MANAGEMENT

Title (a)	Name (b)	Address (c)	Telephone Number (d)
Chief Executive Officer Manager of Operations and Emergency Contact			

CONTROL OF STOCK CORPORATIONS

(if so organized)

1. Show the requested information concerning members of the respondent who at the date of the latest closing of the stock-book prior to the actual filing of this report held one per centum or more of the voting capital stock or the respondent. If the stock-book was not closed within one year, show such members as of the end of the year.

2. If voting power was not in proportion of the number of shares held, give full particulars.

Name of member (a)	Address of member (No. Street City) (b)	Number of voting shares held (date) _____				Other securities with voting power (f) (g)
		Common (c)	Preferred			
			First (d)	Second (e)		

CONTROL OF STOCK CORPORATIONS BY OTHER CORPORATIONS.

(if so organized)

1. List hereunder each holding of one per centum or more of the voting stock of the respondent by another corporation, and identify each such holding with a number in column (a), identical with the line No. of the same under the schedule ante.

regarding the stockholders thereof who hold one per centum or more of the voting stock if such information is available from the records of the respondent. If data for columns (c) to (h) are not available, state that fact separately in respect to each such corporation.

2. Show in columns (c) to (h) the requested information regarding officers and directors of the member corporation and

Ref No. (a)	Name of member corporation (b)	Name of officers, directors and stockholders (c)	Addresses of officers, directors, and stockholders (No. Street city) (d)	Title of position held (e)	Total number of shares held in member corporation		Number of voting shares held in member corporation (h)
					Common (f)	Preferred (g)	

If not Incorporated, identify each owner holding more than a 10% interest in the lightly regulated company making this Report and the size of that interest as of the end of the reporting year.

BALANCE SHEET

1. Show hereunder the requested items of respondent's balance sheet; if not organized as a stock corporation, leave stock items blank.

Line No.	Balance at beginning of year (a)	Assets and other debits (b)	Balance at end of year (c)	Net change during year (increase in black, decrease in red) (d)
1		Electric Plant in Service		
2		Gas Plant in Service		
3		Steam Plant in Service		
4		Plant Leased to Other		
5		Plant Held for Future Use		
6		Unclassified Plant		
7		Other Utility Plant		
8	-	Total Utility Plant	-	-
9		Other Physical Property		
10		Miscellaneous Investments and Special Funds		
11	-	Total Investment and Fund Accounts	-	-
12		Owing by Associated Companies		
13		Cash and Working Funds		
14		Notes Receivable		
15		Accounts Receivable		
16		Materials and Supplies		
17		Prepayments		
18		Miscellaneous Current and Accrued Assets		
19	-	Total Current and Accrued Assets	-	-
20		Unamortized Debt Discount and Expense		
21		Miscellaneous Deferred Debits		
22	-	Total Deferred Debits	-	-
23		Capital Stock Expense		
24				
25		Holdings at end of year \$ _____		
26		Reacquired Capital Stock		
27		Reacquired Long-term debt		
28	-	Total Reacquired Securities	-	-
29	\$ -	Total Assets and Other Debits	\$ -	

2. Show hereunder all contingent assets and contingent liabilities at the end of the year, exclusive of notes receivable discounted. If there were none, state that fact.

BALANCE SHEET (Concluded)

Balance at beginning of year (a)	Liabilities and other credits (b)	Book balance (c)	Securities reacquired (d)	Balance at end of year (e)	Net change during year (increase in black, decrease in red) (f)	Line No.
	Common Capital Stock				\$0	1
	Preferred Capital Stock					2
	Premis and Asses. On Capital Stock					3
	Installments Received on Capital Stock					4
-	Total Capital Stock	-	-	-		5
	Non-corporate Proprietorship					6
	Bonds					7
	Receivers' Certificates					8
	Miscellaneous Long-term Debt					9
-	Total Long-term Debt	-	-	-		10
	Debts to Associated Companies					11
	Notes Payable					12
	Notes Receivable Discounted					13
	Accounts Payable					14
	Dividends Declared or Distributions Made					15
	Matured Long-term Debt					16
	Customers' Deposits					17
	Taxes Accrued					18
	Interest Accrued					19
	Other Current and Accrued Liabilities					20
-	Total Current and Accrued Liabilities			-	0	21
	Unamortized Premium on Debt					22
	Other Deferred Credits					23
-	Total Deferred Credits			-	0	24
	Reserve for Depreciation of Plant					25
	Reserve for Amortization of Plant Acquisition					26
	Adjustments					27
	Reserve for Uncollectible Accounts					28
	Reserve for Insurance, Injuries and Damages					29
	Miscellaneous reserves					30
-	Total Reserves			-	0	31
						32
	Surplus					33
-	Total Liabilities and Other Credits			-	\$0	34

3. If a stock corporation, for each class of preferred stock outstanding, state as of the end of the year the amount of dividend thereon not charged to surplus which must be paid before common stockholders of the respondent are entitled to share in a distribution of surplus. If there were no such dividends, state that fact.

INCOME STATEMENT

1. Show here under the various items of the Income Account for the year.

Line No.	Item (a)	Electric/Gas/Steam (b)
1	OPERATING INCOME:	
2	Operating Revenues	
3	Operational Expenses	
4	Maintenance Expenses	
5	Depreciation	
6	Total Operating Expenses	
7	Amortization of Plant Acquisition Adjustment	
8	Property Loss Chargeable to Operations	
9	Operating taxes	
10	Total Operating Revenue Deductions	
11	Net Operating Revenue	
12	Income from Plant Leased to Others	
13	Operating Income	
14	Other Utility Operating Income	
15	Total Utility Operating Income	
16	OTHER INCOME	
17	Dividend Revenues	
18	Interest Revenues	
19	Miscellaneous non-operating Income	
20	Total Other Income	
21	Gross Income	
22	INCOME DEDUCTIONS:	
23	Interest on Long-term Debt	
24	Amortization of Debt Discount and Expenses	
25	Amortization of Premium on Debt-Credit	
26	Interest on Debt to Associated Companies	
27	Other Interest Charges	
28	Interest Charged to Construction - Credit	
29	Miscellaneous Income Deduction	
30	Income Taxes	
31	Total Income Deductions	
32	Net Income	
33	DISPOSITION OF NET INCOME:	
34	Miscellaneous Reservation of Net Income	
35	Balance transfer to Surplus	

*Loss in ()

Lightly Regulated Generation Facilities
Generation Unit Annual Operational Data

Name of Generation Unit:

Location of Generation Unit:

Item (a)	Amount (Annually by Reporting Year) (b)
Summer Capability (MW)	
Winter Capability (MW)	
DMNC Test (MW)	
Minimum Generation Level (MW)	
Total Available Hours	
Total Synchronous Hours	
Hours of Planned Maintenance Outage	
Hours on Forced Outage	
Hours on Partial Forced Outage	
Average Full Load Heat Rate (btu/kWh)	

Supply a separate sheet for each generation unit that is classified as a separate unit.

ELECTRIC PLANT
(Lightly Regulated Companies)

Item (a)	Description (b)
Land and Land Rights	
Structures and Improvements	
Steam Generators	
Gas Turbine Generators	
Hydraulic Generators	
Reservoirs, Dams and Waterways	
Station Equipment	
Overhead Lines	
Poles, Towers and Fixtures	
Overhead Conductors and Devices	
Underground Lines	
Underground Conduit	
Underground Conductors and Devices	
Line Transformers	
Meters	
Retail Service Connections	

GAS PLANT
(Lightly regulated Companies)

Item (a)	Description (b)
Land and Land Rights	
Structure and Improvements	
Production Equipment	
Producing Gas Wells	
Gathering Lines and Equipment	
Drilling and Cleaning Equipment	
Distribution Mains	
Pumping and Regulating Equipment	
Meters	
Equipment on Customer Premises	
Retail Service Connections	

STEAM PLANT
(Lightly regulated Companies)

Item (a)	Description (b)
Land and Land Rights Structures and Improvements Boiler Plant Equipment Accessory Plant Equipment Misc. Station Equipment Mains Meters Equipment on Customer Premises Residential Service Connections	

DIRECTIONS CONCERNING VERIFICATION OF THIS REPORT

Section 89-c, subdivision 5, of the Public Service Law, contains the following: "... it shall be the duty of every lightly regulated gas electric and steam corporation to file with the commission an annual report, verified by the oath of the president, vice-president, treasurer, secretary, manager, or receiver, if any, or by the person required to file the same. The verification shall be made by said official holding office at the time of the filing of said report."

In specifying those portions of the foregoing report concerning which the deponent does not possess actual knowledge, he must specify the Nos. of pages and schedule. If the portion excepted is only a part of a schedule, the Nos. of the lines excepted must also be shown.

The source of information are required by law to be stated in order that the Commission may, if occasion require, make proper examination and inquiry of such sources. To meet this requirement the affiant must, in specifying the sources of his information, state-

1. The full and exact names, official titles, and office addresses of persons on whose statements or reports he relies;
2. The portion of the report to which the information derived from each such person relates, specifying pages and schedules;
3. The names, volume Nos., and page Nos. of official records which are relied upon.

VERIFICATION.

State of _____

County of _____

} ss.:

_____ being duly sworn deposes and says:

I am the _____ of _____

(Here insert the official title of the deponent.)

Here insert the exact name of the respondent.)

I have carefully examined the foregoing annual report of the said company and know the contents thereof. The said report which consists of

12 printed pages, being pages 1 to 12, both inclusive and insert pages _____, is true and correct of my own knowledge except as to the following matters:

As to the foregoing matters not stated upon my knowledge, I verily believe the said report to be true. The sources of my information and grounds of my belief as to the matters not stated upon my knowledge are as follows:

Subscribe and sworn to before me,

(signature)

a _____

in and for the state and county above names, this

_____ day of _____, 20____

My commission expires _____, 20____

(Use an im-

L.S

pression seal.)

(signature of officer authorized to administer oaths.)

The foregoing oath must be executed and this report filed with the State of New York, Department of Public Service, Public Service Commission, Albany, N.Y. 12223, on or before March 31, next following the end of year.