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September 22, 2014

The Honorable Kathleen H. Burgess
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: CASE 14-M-0101 - Proceeding on Motion of the Commission in Regard to
Reforming the Energy Vision. DEVELOPING THE REV MARKET IN NEW
YORK: DPS STAFF STRAW PROPOSAL ON TRACK ONE ISSUES

We appreciate the opportunity to file comments on the Staff Straw Proposal issued August 22, 2014. The straw proposal has provided more detail than we had at the start of this process and that is useful. We are pleased that the PSC is articulating social and environmental goals, even though we remain concerned about the vagueness of the goals.

Unfortunately, we believe the PSC has taken the wrong path and needs to make a course correction in order to achieve the goals it is articulating. We are going to provide a General Overview of how we see REV as presented to us and then provide Recommendations.

General Overview

Even before deregulation, there were warnings from a number of knowledgeable parties that deregulation would not work for electricity markets. An orchestrated campaign was launched to convince the public of the extraordinary benefits of increased competition and deregulation which would “free the market” to deliver lower costs for consumers. The promises of lower costs for consumers were never realized---electric prices have only gone up.

Enron was the mega- energy company that advanced deregulation and created a giant Ponzi scheme that eventually collapsed costing investors, including local governments billions of dollars. The scheme cost California electric ratepayers \$10 Billion, although municipal electric customers were more protected.

The religious fervor about free markets should have been substantially tempered by the Wall Street created crisis and economic collapse in 2008, which stretched across the globe. New York State was immediately in trouble with revenues down, multi-year budget crises, and the loss of thousands of public and private sector jobs. Former Federal Reserve Chairman Alan Greenspan subsequently admitted he was wrong about deregulation. Reports document that deregulation has been a failure in every industry where it has been tried.

What has been the outcome of deregulation in NY?

- Increased Costs for Consumers
- Reduced investments in transmission and distribution infrastructure with the result that Billions of dollars are now needed for T & D improvements today
- Special reduced rates for Industrial entities
- No Special reduced cost Program for Fixed and Low Income consumers, or for small businesses
- Despite goals for Energy Efficiency and Renewable Energy, and SBC ratepayer charges to fund the goals, we have failed to meet established goals.

In NY major utilities joined together to operate the grid, and to design and run the wholesale system. The system they designed means higher costs for consumers because the last & highest bid determines the price paid for all the electricity produces for that day. So even the generator of the lowest bid—gets paid the top prices. Would consumers ever design such a system for themselves?

In addition, ratepayers represent a ready cash cow, providing funds from which extraordinary subsidies could be provided to uneconomic electric generators. In the 1990s, during deregulation utility commissioners bailed out construction debts for nuclear reactors --- enabling utilities to transfer their nuclear reactors debt-free to new merchant power companies at below their original costs. Nationwide ratepayers were not as lucky as this trick cost them \$110 billion. The public was promised lower overall costs from the deregulation plan--- a promise not kept.

In August 2014, the NY Times ran a story, “Traders Profit as Power Grid is Overworked.” This story describes how sophisticated traders are bidding on congestion

contracts and causing the wholesale price of electricity to spike nearly 550%. Over the last decade, total profits in congestion markets in NY amounted to \$639 million with DC Energy getting about ¼ of those profits. The Times examined 150,000 congestion contracts that the NYISO has auctioned off since 2003. A Stanford economics professor, Frank A. Wolak noted, “If traders are making money, then consumers are paying more.”

The Mayor of Port Jefferson on LI asked, “Why aren’t we getting that money?” WHY, INDEED? Gambling on electric markets is clearly stealing from the pockets of New Yorkers.

The REV proposal articulates a vision for a portion of the energy system—the retail side only-- without facts about how the entire system operates now, including its problems.

The Public Service Commission is the state’s regulator. As the chief regulator in New York the Commission is best positioned to fully describe the system that has been created over the decades, its current operation and its problems. The PSC should have begun REV with a fact-based document, rather than free market advocacy.

The Wholesale system is where we have a backlog of enormous problems created by deregulation as well as new ones. The Wholesale system is where we have both large utilities and large generators—major market players. It is these major market players who are in control of the Wholesale market and they will not easily give ground to small businesses that want to offer consumers energy efficiency and renewables. Government plays a key role in controlling and regulating excessive market power. This role goes back to the days of President Theodore Roosevelt.

The PSC vision is to give these major market players even more market power than they have now—as the DSP- the institutional entity that creates and operates the distributed system platform.

It was the NYISO that proposed and obtained a new capacity zone, combining NYC and the Hudson Valley, which will cost consumers 10-18% more on average, according to the PSC. This new capacity zone also provides a substantial subsidy, about \$70 million per year to the Indian Point nuclear facility.

Indian Point poses an enormous catastrophic risk to 20 million people. At the same time seventy-million dollars would buy an incredible amount of energy efficiency and renewable energy. While we appreciate that PSC is suing FERC over their decision in

this case, we have to ask why the PSC did not begin the REV process with a fact-based document that discusses our current energy system and its problems. The public needs to understand the entire system and what is working and what is not.

The nuclear industry is another major market player that is already directly challenging our ability to advance energy efficiency, renewables, energy storage and demand side management. Even after receiving enormous subsidies related to construction and stranded cost bailouts, the nuclear industry is now seeking above market rate contracts for itself while attacking renewable energy programs and energy efficiency. In some states the industry has challenged Renewable Portfolio Standards, argued for preferences for baseload generation and in NY, Exelon is arguing for above market rate contracts and threatening to close down Ginna, a merchant generator, without one.

Recommendations:

- The PSC should start with a detailed analysis of the current system and the improvements that need to be made, one that is fact-based and does not shrink from delineating existing problems. A vision for the future should be grounded in facts.
- The electric system must work for consumers, especially fixed and low income consumers.
- REV should enable municipal and other local government entities to function as the operator of the distributed system platform including in conjunction with other non-profit entities. Consumers have been more consistently protected from high prices, exploitation and market abuses by municipally owned and operated systems. We don't believe that only utilities should be performing this function---
"The DSP is an intelligent network platform that will provide safe, reliable and efficient electric services by integrating diverse resources to meet customers' and society's evolving needs. The DSP fosters broad market activity that monetizes system and social values, by enabling active customer and third party engagement that is aligned with the wholesale market and bulk power system."
- Community Choice Aggregation should be supported by the PSC.
- NY government including the PSC, must act to overcome the many market barriers to rapid deployment of energy efficiency, renewables and other

sustainable energy options and not leave it to small businesses, that occupy this field, to overcome the market power of major generators and utilities.

- Public information that is vague provides no assurance to the public. Social and environmental goals also need to be translated to milestones and requirements that must be met by specific dates. Fuel diversity is too vague to be useful as a goal. Are we planning to encourage more fossil fuels, more nuclear, or only renewables? Clean air goals need to consider criteria and toxic air pollutants as well.
- Erroneous goals should be eliminated. For example, there is only one legitimate NY climate goal that was established by Executive Order – not the phony substitution that was mentioned in the Draft Energy Plan. The State’s established climate policy goal is an 80% reduction in total greenhouse gas emissions by 2050. Total greenhouse gas emissions means all GHGs, not just carbon emissions, and not just carbon emissions per unit of economic activity.
- Maximizing public participation via a mechanism for supporting technical assistance for consumers and the public is essential for a democratic proceeding as the process moves forward.

Thank you for your attention. We expect to continue to be engaged in the REV proceeding.

Respectfully,



Barbara J. Warren
Executive Director
Citizens’ Environmental Coalition

