

## **CLEAN ENERGY FOR JAMESTOWN**

**American Lung Association in New York \* Campus Climate Challenge, SUNY Fredonia \*  
Citizens Campaign for the Environment \* Concerned Citizens of the Jamestown Area \*  
Earthjustice \* Environmental Advocates of New York \* Global Warming Action Network,  
Syracuse \* Great Lakes United \* Natural Resources Defense Council (NRDC) \* New York  
Public Interest Research Group (NYPIRG) \* Northeast Sustainable Energy Association  
(NESEA) \* Pace Energy and Climate Center \* Physicians for Social Responsibility –  
Washington, D.C. \* Sierra Club Atlantic Chapter \* Sierra Club Niagara Group \* Western  
New York Climate Action \* Western New York Sustainable Energy Association**

Clean Energy for Jamestown  
c/o 4 Meadowstream CT  
Amherst, NY 14226  
June 29, 2010

Via E-mail and U.S. Mail

**Garry A. Brown, Chairman** (Garry\_Brown@dps.state.ny.us)  
**Patricia L. Acampora, Commissioner** (Patricia\_Acampora@dps.state.ny.us)  
**Maureen F. Harris, Commissioner** (Maureen\_Harris@dps.state.ny.us)  
**Robert E. Curry, Jr., Commissioner** (Robert\_Curry@dps.state.ny.us)  
**James L. Larocca, Commissioner** (James\_Larocca@dps.state.ny.us)  
**Jaclyn A. Brilling, Secretary** (Jaclyn\_Brilling@dps.state.ny.us)  
**New York State Public Service Commission**  
**Three Empire State Plaza**  
**Albany, New York 12223-1350**

**Re: Case 09-E-0862**  
**Opposition to Proposed Jamestown Board of Public Utilities Rate Increase**

**Dear Chairman Brown, Commissioners and Secretary Brilling:**

Clean Energy for Jamestown is a coalition of twenty regional, statewide, and national organizations that has filed three sets of comments in the above proceeding. In our comments, we (1) oppose the rate increase requested by the Jamestown Board of Public Utilities (“JBPU”), (2) request an early prudence review of the JBPU’s proposed new coal-fired power plant, and (3) request an audit of the JBPU’s finances.<sup>1</sup> Because this rate case may come before the Commission as soon as its July meeting, we take this opportunity to provide our reasons for becoming involved in this case.

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<sup>1</sup> Our comments on 09-E-0862 were submitted on February 22, 2010; May 14, 2010; and June 9, 2010.

This case has significant policy implications with respect to New York's reliance on coal to generate electric power. Given concerns about climate change, New York State should *not* be continuing or increasing reliance on coal burning power plants, such as the one currently operated by the JBPU and the one it proposes to build, especially when cleaner and cheaper options are readily available. Moreover, stopping existing coal-burning and preventing future coal-burning in Jamestown would substantially reduce the electric rates paid by JBPU retail electric ratepayers now and in the future.

Our analysis of JBPU energy costs, pricing, and spending practices, based on JBPU data, reveals a consistent pattern of wasteful spending and unfair practices that damage the JBPU's retail electric ratepayers. These findings form the basis of our objections to the proposed JBPU rate increase:

1. While the vast majority of the electricity purchased and consumed by JBPU retail electric ratepayers is low cost New York Power Authority ("NYPA") hydro power, there is a gross disparity between the delivered cost JBPU pays for its NYPA allocation (estimated at approximately \$0.02/kWh) and the price it charges its retail electric ratepayers for power (\$0.05 – 0.06/kWh).
2. JBPU continues to spend over \$11 million a year to operate its 60 year old polluting Carlson coal-fired power plant when its own data show that its retail electric ratepayers do not need or use the relatively expensive power this plant produces. Instead of closing this unneeded, inefficient, and dirty plant, the JBPU is planning to spend over \$900,000 on repairs in 2010 so that it can continue to operate it.
3. The JBPU's own data show that the primary purpose of its existing Carlson power plant is to provide steam for JBPU district heating system customers and to generate electricity that the JBPU sells to off-system power brokers. Yet, the lion's share of the Carlson plant's operating costs is borne by JBPU's retail electric ratepayers, thus unfairly increasing the rates for these customers. District heating system customers (whose thermal needs could be met by other means) and off-system sales pay only a fraction of the Carlson plant's costs when they should pay all of these costs.
4. There is ample evidence to suggest that JBPU has been reselling and continues to resell a portion of its low cost NYPA allocation through its off-system sales, thereby depriving JBPU retail ratepayers of the benefit of this low-cost power. If true, this practice would also violate JBPU's NYPA contract.
5. Since 2005, JBPU -- a small public utility with fewer than 20,000 ratepayers -- has spent approximately \$10 million and plans to spend at least an additional \$650,000 in 2010 developing and promoting a new \$500 million 50 MW coal-fired power plant. This plant will probably never be built. The federal government has repeatedly denied JBPU a critical funding component: the requested funding for the carbon capture and storage ("CCS") demonstration feature of this project. State enabling legislation to create CCS regulations and address CCS liability issues does not exist. And, most importantly, JBPU's own data show that there is no demonstrated retail electric ratepayer need for this

plant. Earlier data provided by JBPU showed that only about 10% of current JBPU retail customer electric needs were not met by the JBPU's NYPA power contract. More recent JBPU data suggests that the gap could be considerably smaller.<sup>2</sup> But, even if JBPU retail electric ratepayers needed more power than the current NYPA allocation provides, there are cheaper and cleaner means of obtaining that power than building a new \$500 million coal-fired power plant – alternatives the JBPU has not explored. Our December 2009 "Green Energy Plan for Jamestown," which we have shared with both the JBPU and Department of Public Service (DPS) staff, demonstrates how easily and cost-effectively it would be to meet all current and likely future JBPU retail electric ratepayer power needs with NYPA power, energy efficiency, and occasional purchases from the New York Independent System Operator ("NYISO"). Following this Plan would eliminate costly and dirty local self-generation of power altogether, to the extent it is "needed" at all, significantly lowering electric rates rather than significantly raising them. A March 2009 NYPA-funded study by Optimal Energy, Inc., entitled "Achievable Electric Energy Efficiency Potential for Jamestown, NY, Board of Public Utilities Service Territory,"<sup>3</sup> supports our position by demonstrating that through energy efficiency alone JBPU should be able to reduce its retail ratepayer electric needs by over 15% within 5 years and thus meet *almost* 100% of its ratepayer electric load with NYPA power.<sup>4</sup> Some of the JBPU's \$10 million new power plant project expenses have been capitalized, a funding mechanism which only postpones the day when unsuspecting retail electric ratepayers will have to pay these massive bills.

6. Additionally, our examination of JBPU data reveals that during 2007 and 2008, JBPU sold large volumes of electricity for less than \$0.01/kWh to off-system power brokers which, in turn, resold this deeply discounted JBPU-generated power to other non-ratepayers. JBPU's retail electric ratepayers appear to be the group which, effectively, subsidized these highly uneconomic sales as well.

For the reasons set forth above, we ask the PSC to take the following actions:

- Deny the proposed rate increase;
- Conduct a fully transparent early prudence review of JBPU's proposed new \$500 million 50 MW coal plant while freezing expenditures on this project pending the results of that review; and
- Initiate a thorough and complete audit of JBPU, examining among other things:
  - The prudence of operating and repairing JBPU's aged, polluting Carlson plant;
  - Electric ratepayer subsidies to district heating customers and off-system sales;

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<sup>2</sup> According to the JBPU's 2009 Report to the PSC, in 2009 the JBPU purchased 11,099,709 *more* kilowatt hours of low cost NYPA power than its retail electric ratepayers consumed.

<sup>3</sup> The Optimal Report is also in the possession of the JBPU and DPS staff.

<sup>4</sup> As previously stated, 2009 JBPU data shows that low cost NYPA power now provides more kilowatt hours of electricity to the JBPU over the course of a year than its ratepayers consume. Nonetheless, we say "the JBPU should be able to meet *almost* 100% of its ratepayer electric load with NYPA power" because even with a heavy dose of energy efficiency there are likely to be occasions when NYPA power would not be sufficient to meet peak demand and then NYISO purchases would be necessary. Addressing peak load in this manner would be much more cost-effective than through JBPU self-generation.

- The possibility that JBPU is re-selling low cost NYPA power which by contract belongs solely to its retail electric ratepayers; and,
- The incredibly low priced sales of power to off-system power brokers which occurred in 2007 and 2008.

All of our arguments are substantiated and our requests more completely set forth in our three detailed sets of comments, which have been filed with the Commission and are available from Ms. Brillings' office or from the 09-E-0862 page of the Commission's website. Please let us know if you have any questions. We will be contacting your offices in the hope of setting up meetings by telephone or in person next week to discuss this case. Thank you.

Sincerely,

## **Clean Energy for Jamestown**

Walter Simpson  
[enconser@buffalo.edu](mailto:enconser@buffalo.edu); (716) 839-0062

Alice Kryzan  
[akryzan@msn.com](mailto:akryzan@msn.com); (716) 832-4617

Bob Berger  
[berger@buffalo.edu](mailto:berger@buffalo.edu); (716) 832-4617

cc: Jeffrey Cohen, Deputy for Policy and Legal Affairs, NYS Public Service Commission  
 Guy R. Mazza, Assistant Counsel, NYS Public Service Commission  
 Peter Iwanowicz, NYS Deputy Secretary for the Environment  
 Jared Snyder, Asst. Commissioner for Air Resources, Climate Change, & Energy, NYS DEC  
 Anne Reynolds, Director, Commissioner's Policy Office, NYS DEC  
 Michael Seilback, American Lung Association in New York  
 Alex Staunch, Campus Climate Challenge, SUNY Fredonia  
 Brian Smith, Citizens Campaign for the Environment  
 Ron Melquist, Concerned Citizens of the Jamestown Area  
 Abigail Dillen, Earthjustice  
 Ross Gould, Environmental Advocates of New York  
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 Walter Simpson, WNY Climate Action Coalition  
 Elizabeth Nichols, WNY Sustainable Energy Association