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Comments

intelligent energy®

05/18/2007

New York State Public Service Commission
Attn: Jaclyn Brilling, Secretary
3 Empire State Plaza
Albany, New York 12223-1350

RE: Base Number 07-G-0299 -- In the Matter of Issues Associated with the Future of the Natural Gas Industry and the Role of Local Gas Distribution Companies – Capacity Planning and Reliability

Dear Secretary Brilling:

Enclosed please find one original and ten copies on Intelligent Energy's initial comments in the above referenced matter. A copy of these comments has also been sent electronically via email to the distribution list.

Please feel free to contact me if you have any questions

Sincerely,

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

In the Matter of Issues Associated	**)**	
With the Future of the National Gas	**)**	
Industry and the Role of Local Gas	**)**	**Case 07-G-0299**
Distribution Companies –	**)**	
Capacity Planning and Reliability	**)**	

INITIAL COMMENTS OF INTELLIGENT ENERGY

Intelligent Energy herby submits it's Initial Comments in the above-referenced proceeding pursuant to the March 14, 2007 Notice of Comment Schedule; in order to present the following recommendations to ensure that utilities' capacity release programs are implemented in a way which advances the goals of retail market development, while retaining system reliability and comparative neutrality.

Intelligent Energy recommends that the Commission incorporate the following into the capacity release programs that will be implemented for New York utilities, in order to ensure the continued development of choice, in a manner which preserves the reliability of the system.

Capacity release programs should allow assets to follow the customer. As customers migrate to a competitive supplier, the capacity assigned to these customers should be made available on an impartial and non-discriminatory basis. This would ensure that these customers have equal access to the assets for which they pay. The utilities only need to retain the necessary assets to meet the needs of their remaining firm commodity customers and to assure system integrity on peak day and through the design winter period.

Likewise, utility storage assets should be made available to competitive suppliers. Certainly, the utility must retain a portion of these storage assets which are necessary to support requirement swings in cases were demand varies from the forecast.

Although it has been noted that utilities utilizing multiple storage fields with varying costs, value and delivery points may find it difficult to administer this type of program, Intelligent Energy and other marketers would gladly accept this alleged complexity, manage it effectively and reduce costs for all customers. Storage capacity releases are not without president; Atlanta Gas Light ("AGL") in Georgia has successfully implemented a workable system which has been operating effectively since 1998 with little modification. Intelligent Energy and other New York ESCO's have extensive experience in the AGL market and its effective operations.

Current rate designs would financially disadvantage utilities by releasing storage assets; however this can certainly be mitigated by Commission action. Currently, a variety of performance-based incentives allow utilities to retain additional earnings for shareholders by utilizing storage assets (utilities generally retain a percentage of profits from off-system sales). Since excess storage assets are necessary for this incentive to function, a requirement that they be released will affect utility earnings, clearly this creates a situation where the utility and marketer become rivals in the context of the release of these storage assets. Utility performance-based incentives should reflect the stated policy of promoting competitive market development; however these incentives currently inhibit competition and should be eliminated or possibly replaced other incentives which do not have this effect.

Where utilities fail to release pipeline capacity and storage sufficient to serve an ESCO customer and where gas supply performance based incentives exist, utilities use the upstream gas supply assets retained to decrease commodity pricing for their remaining customers (in some cases only their commodity customers) and to increase income for shareholders.

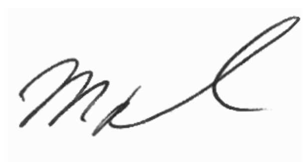
From a practical standpoint, utilities sell these assets to other parties who resell them to ESCOs serving their customers. Profits from these sales benefit the other parties involved, utility customers in some cases, and utility shareholders a total amount equal to the increase in ESCO gas supply costs and ultimately ESCO customer pricing.

Requiring release of these assets to "follow the customer" at the utility cost would eliminate profit being made by others at the expense of all gas customers thereby remove a subsidy of utility commodity customers by ESCO customers.

Finally, Delivery Point Operator/Citygate Swing Customer programs should be expanded. Marketers deliver according to forcasted weather, actual conditions may be very different. Citygate Swing Customer programs allow gas to be injected or withdrawn from the marketer's storage account, therefore reducing the need for the utility to hold as many assets. This also permits the marketer to do more of the balancing and reduces the need to do as much day-to-day buying for the purpose of balancing. This is a way in which utilities balance on a daily basis, clearly competitive suppliers should have the ability to do the same.

Intelligent Energy strongly urges the commission to incorporate the above-mentioned recommendations into the capacity release programs for the New York State utilities (Capacity release programs must allow assets to follow the customer, Utility storage assets must be made available to marketers and utility incentives must be adapted to meet this goal, and Delivery Point Operator/Citygate Swing Customer programs should be expanded).

Sincerely,



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