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STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

September 6, 2007 - 1:06 p.m.
Concord, New Hampshire

RE: DG 07-083
Iberdrola, S.A. AND ENERGY EAST CORPORATION:
Joint Petition of Iberdrola, S.A. and
Energy East Corporation for Approval of the
Indirect Acquisition of New Hampshire Gas
Corporation by Way of the Acquisition of
Energy East Corporation by Iberdrola, S.A.
(Prehearing conference)

PRESENT: Donald M. Kreis, General Counsel
(Presiding as Hearings Examiner)

Sandy Deno, Clerk

APPEARANCES: Reptg. New Hampshire Gas Corporation and
Energy East Corporation:
Scott J. Mueller, Esq. (LeBoeuf, Lamb...)

Reptg. Iberdrola, S.A.:
James M. Avery, Esq. (Brown, Rudnick...)
Paul G. Afonso, Esq. (Brown, Rudnick...)

Reptg. PUC Staff:
Edward N. Damon, Esq.

Court Reporter: Steven E. Patnaude, CCR

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Mr. Mueller	5
Mr. Damon	6

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P R O C E E D I N G S

MR. KREIS: Good afternoon, everybody.

3 Please have a seat. We are here today for the
4 Commission's prehearing conference in its Docket Number DG
5 07-083. My name is Donald Kreis. I'm the General Counsel
6 of the Commission. And, the Commission has asked me,
7 pursuant to RSA 363:17, to conduct today's prehearing
8 conference, and thereafter make findings and
9 recommendations to the Commission as necessary.

10 The Commission opened this docket to
11 consider a petition filed on August 2nd of 2007 by
12 Iberdrola, S.A. -- am I pronouncing the name of that
13 company correctly? Good. -- Iberdrola, S.A., Energy East
14 Corporation and New Hampshire Gas Corporation. This
15 Petition seeks the Commission's approval pursuant to RSA
16 369:8 and RSA 374:33 of a merger transaction that would
17 result in New Hampshire Gas Corporation becoming a wholly
18 owned but indirect subsidiary of Iberdrola.

19 With that, let's start with appearances.

20 MS. MUELLER: Good morning, Mr. Hearing
21 Examiner. On behalf of New Hampshire Gas Corporation and
22 Energy East Corporation, my name is Scott Mueller, of
23 LeBoeuf, Lamb, Greene & MacRae, Boston, Massachusetts.

24 MR. AVERY: Good afternoon. On behalf

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1 of Iberdrola, SA, James Avery, of Brown, Rudnick, Berlack,
2 Isreals, Boston, Massachusetts.

3 MR. AFONSO: Good afternoon, Mr. Hearing
4 Examiner. For Iberdrola, SA, Paul G. Afonso, with Brown,

5 Rudnick, Berlack, Isreals, in Boston, Massachusetts.

6 MR. DAMON: Good afternoon. My name is
7 Ed Damon, and I'm a Staff attorney representing the Staff
8 today. And, with me is Steve Frink and Robert Wyatt.

9 MR. KREIS: Good afternoon, everybody.
10 Merely the Petitioners and Staff. Let me start by
11 verifying that the Commission's order of notice was duly
12 published in some newspaper of general circulation in
13 greater metropolitan Keene, which is the service territory
14 of New Hampshire Gas?

15 MS. MUELLER: Yes, it was. And, I have
16 return and proof of service to submit.

17 MR. KREIS: Great. You can hand that to
18 the Clerk.

19 MS. MUELLER: Sure.

20 MR. KREIS: And, let me also note the
21 absence of any intervenors. And, so, we'll proceed on the
22 assumption that, in this case, the participants will be
23 limited to the Petitioners and Staff.

24 Now, it is next in order to take

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1 preliminary positions of the parties. And, I would invite
2 the Petitioners to do that, subject to the understanding
3 that I've read your petition. And, so, to the extent you
4 want to offer up a florid recapitulation of your petition,
5 you may, but it's not necessary.

6 MS. MUELLER: Thank you, Mr. Hearing
7 Examiner. Just let me make a short statement. The
8 Petitioners are requesting, in the first instance, that
9 the Commission authorize the proposed merger between
10 Energy East and Iberdrola by independently verifying the
11 Petitioners' assertion that the transaction will have no
12 adverse effect on the rates, terms, service or operations
13 of New Hampshire Gas Corporation, pursuant to RSA 369:8.
14 We believe it's appropriate for review under -- this
15 transaction is appropriate for review under the expedited
16 procedures of RSA 369:8, II, because the merger involves a
17 parent company transaction that will not change the rate,
18 terms, or operations of New Hampshire Gas Corporation,
19 because the Petitioners have committed that they will not
20 seek recovery in rates if New Hampshire Gas of the
21 acquisition premium or transaction costs, and because the
22 Petitioners have pledged no change in rates, terms or
23 services for customers here in New Hampshire.

24 Alternatively, the Petitioners are
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1 seeking approval of the transaction by the Commission
2 under RSA 374:33, because the transaction is consistent
3 with the public interest, lawful and proper, and will not
4 result in a net harm to customers in New Hampshire.

5 I would note that we have had some
6 preliminary discussions with Staff on a procedural
7 schedule. We have exchanged drafts, and intend to

8 continue those discussions after this prehearing
9 conference and report back to the Commission following the
10 technical session.

11 MR. KREIS: Super. Let's here from
12 Staff, and then maybe we can have some discussion.

13 MR. DAMON: Thank you. The Commission's
14 long-standing policy is to independently verify assertions
15 of "no net harm" in merger petitions. Staff expects to
16 conduct a thorough review of the assertions made in the
17 Petition and accompanying testimony, although Staff's
18 positions on the merits are not fully developed at this
19 time.

20 The Petition states that New Hampshire
21 Gas's customers will experience no adverse effect, because
22 it there will be no recovery of acquisition premium, no
23 recovery of transaction costs in rates, and no change of
24 services to customers. Such steps, provided they are

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1 independently examined and verified, would help to ensure
2 that customers will not be impacted by the merger.

3 Nonetheless, it should be kept in mind
4 that customers could be harmed from changes to existing
5 programs, such as the plan of action filed with the Staff
6 and implemented in 2006 to address unaccounted for gas.
7 The Company has seen a noticeable decrease in unaccounted
8 for gas as a result of the positive steps already taken,

9 and further improvements are expected. If the program
10 were to be slowed or terminated following the merger, the
11 system reliability and safety could potentially be
12 compromised.

13 The Petition further states that the
14 merger will provide positive benefits to New Hampshire,
15 such as a significant focus on clean technology and
16 environmental issues, as well as a commitment to
17 excellence in customers service and reliability. While an
18 increased focus on environmental issues and improved
19 service and reliability is, of course, to be welcomed. As
20 to whether there are positive benefits will depend on the
21 concrete steps the Company takes to address those issues,
22 particularly in light of the Company's fairly limited
23 customer base.

24 Now, as a preliminary matter, Staff
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1 believes that the Petition itself falls short of
2 unequivocally demonstrating on its face that the proposed
3 merger will not adversely effect rates, terms or service
4 by the Company. Accordingly, Staff believes that further
5 proceedings are appropriate pursuant to RSA 369:8, II(b).
6 And, in order to promote the efficient and orderly
7 resolution of this docket, Staff suggests that the issue
8 of adverse impact, within the meaning of RSA 369:8, II(b),
9 to be deferred pending the Commission's ultimate
10 resolution of all the issues in the docket.

11 Notwithstanding certain of the extremely tight deadlines
12 set forth in the statute. And, I would note that this is
13 a procedure that seemed to work well in the recently
14 concluded merger docket involving KeySpan and National
15 Grid.

16 Certainly, Staff is sensitive to the
17 Petitioners' need for a timely resolution of this docket,
18 and will work with them to develop a suitable procedural
19 schedule, consistent with the need to comply with the
20 obligation to carefully review the assertions made in the
21 Petition.

22 MR. KREIS: Thank you, Mr. Damon. You
23 could help me, since I am not as steeped in the lore of
24 gas utilities as I perhaps ought to be. When you say

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1 "unaccounted for gas", presumably you're referring to gas
2 that was pumped into the system, but then wasn't metered
3 at customer locations?

4 MR. DAMON: Yes. Yes.

5 MR. KREIS: So that there's a concern
6 that maybe that gas is leaking into the environment
7 somewhere or something like that?

8 MR. DAMON: Yes. The Company, in the
9 last several years, has reported percentages of
10 unaccounted gas that the Staff deemed to be high by
11 standards that we would consider fully appropriate, and

12 have brought that to the Company's attention, and the
13 Company has been quite proactive in working with the Staff
14 on devising a plan to address that problem.

15 MR. KREIS: That's good. Okay. Based
16 on what I've heard, the big issue in this case is the
17 schedule, because the Company filed its Petition on
18 August 2nd. And, if I understand the Petition correctly,
19 it has invoked the statutory timeline in RSA 369:8. And,
20 the way that timeline works is that there's sort of a
21 deemed approval mechanism, whereby the merger becomes
22 automatically approved 60 days after August 2nd, unless
23 the Commission acts to subject this case to further
24 proceedings. That really would involve scrutinizing the

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1 assertions of "no adverse impacts" in the Petition. And,
2 so, I guess I'm turning to the Petitioners to ask what
3 their position is about how -- their position about the
4 timeline that the Commission ought to use in this case and
5 the applicability of that 60 day deadline.

6 MS. MUELLER: Well, first of all, let me
7 note that the Staff and Petitioners have already engaged
8 in conversations regarding a procedural schedule that
9 would have the Commission reviewing this transaction and
10 issuing an order. The Company was looking for five
11 months, I think we're talking -- Staff's proposing
12 something in the nature of six months. I'm having a high
13 level of confidence that we will be able to work out a

14 schedule, and thus to agree with Staff, in their
15 recommendations, the Commission defer the issue of an
16 adverse finding pending a full review by the Commission.

17 MR. KREIS: I agree with Mr. Damon that
18 that approach to these kinds of cases has tended to work
19 out in the past. But it does require the Petitioners, I
20 think, to affirmatively waive certain rights that they
21 might otherwise enjoy under that statute. I just want to
22 make sure you understand.

23 MS. MUELLER: We understand that. And,
24 our plan would be to report back to the Commission

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1 following the technical session, after this prehearing
2 conference.

3 MR. KREIS: Okay. Do you need any
4 active involvement from me or assistance in doing that or
5 are you all fairly confident that you can reach an
6 amicable agreement about how to proceed in as timely a
7 fashion as we can?

8 MS. MUELLER: I would suggest that we go
9 it on our own. If we need your assistance, we will let
10 you know.

11 MR. KREIS: Okay. I'm willing to handle
12 it that way. Is there anything else that anybody needs to
13 raise on the record in today's prehearing conference?

14 MR. AVERY: Iberdrola has no additional

15 matters.

16 MR. KREIS: Anything from Staff?

17 MR. DAMON: Nothing. Thank you.

18 MR. KREIS: Well, then, we can declare
19 this a highly uneventful prehearing conference, and
20 conclude our proceedings and invite the party -- invite
21 the Petitioners and Staff to confer on a procedural
22 schedule that you all are comfortable with. And, we'll
23 await a written recommendation with respect to that issue.

24 MS. MUELLER: Thank you.

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1 MR. KREIS: Thank you.

2 (Whereupon the prehearing conference
3 ended at 1:18 p.m.)

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