

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

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| New York State Electric & Gas Corporation |) | Docket No. EL09-26-000 |
| |) | Docket No. EL09-26-001 |

**COMMENTS OF THE NRG COMPANIES IN SUPPORT OF INITIAL BRIEF OF
INDEPENDENT POWER PRODUCERS OF NEW YORK, INC. AND
CONDITIONAL MOTION TO INTERVENE OUT OF TIME**

NRG Power Marketing LLC (“NRG PML”), Arthur Kill Power LLC, Astoria Gas Turbine Power LLC, Dunkirk Power LLC, Huntley Power LLC, and Oswego Harbor Power LLC (collectively, the “NRG Companies”) hereby submit their supporting comments with respect to the Initial Brief submitted by the Independent Power Producers of New York, Inc. on November 25, 2009 in the above-captioned proceeding.

I. COMMENTS

The NRG Companies have reviewed and support the comments filed in this matter by the Independent Power Producers of New York, Inc. (“IPPNY”) regarding the single issue reserved for the Commission (“Reserved Issue”) by the Settlement Agreement and Offer of Partial Settlement (“Settlement Agreement”) filed September 21, 2009, by New York State Electric & Gas Corporation (“NYSEG”), Niagara Mohawk Power Corporation d/b/a National Grid (“Grid”), and the New York Municipal Power Agency (“NYMPA”) (collectively, the “Settling Parties”).

The NRG Companies oppose any rebilling that would restate these long-closed bills, dating back over 10 years and that would override the current NYISO tariffs which are designed to provide cost certainty for participants in the New York market.

The NRG Companies concur with the arguments raised by IPPNY in its initial briefing that:

- (a) there are no extraordinary circumstances that would justify correction of the finalized invoices, and
- (b) that the correction of supposedly final invoices reduces the certainty that market participants rely upon to conduct business, and sets a bad precedent for handling future billing mistakes.

As a party named in the NYSEG settlement, the NRG Companies will be financially impacted by any Commission order directing a re-settlement.

II. CONDITIONAL MOTION TO INTERVENE OUT-OF-TIME

The NRG Companies filed a Motion to Intervene in this proceeding on November 12, 2009, in response to the October 13, 2009 *Notice of Filing of Settlement Agreement and Establishment of Comment Dates*, and the October 21, 2009 *Notice Clarifying Prior Notice*. Upon further review, it appears that the NRG Companies should have filed a Motion to Intervene Out-of-Time. The NRG Companies request that the Judge grant the NRG Companies' November 12, 2009 Motion to Intervene, or in the alternative, grant this Motion to Intervene Out-of-Time.

The NRG Companies have a direct financial interest in the Settlement Agreement, as several of the NRG Companies would likely be subject to any correction of the final invoices. The interests of the NRG Companies cannot be adequately represented by any other party, and their intervention would be in the public interest. The NRG Companies also agree to accept the record as it currently exists. Further, the procedural posture of this proceeding is unusual, and good cause exists to allow the NRG Companies to remedy any procedural defects in their initial Motion to Intervene.

III. CONCLUSION

For all the reasons identified by IPPNY in its initial brief, the NRG Companies respectfully request that the Commission order that the finalized invoices may not be corrected as requested by NYSEG, and make the NRG Companies parties to this proceeding.

Respectfully submitted,

/s/ Bradley Kranz

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November 30, 2009

Certificate Of Service

I hereby certify that I have served a copy of the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Princeton, NJ this 30th day of November, 2009.

/s/ Kathryn B. Wig
Kathryn B. Wig

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