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**PSC to rule on Iberdrola request**

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The future of the world's fourth-largest utility in New York state could soon be at an end, or a beginning.

Iberdrola SA of Bilbao, Spain, has bid more than \$4.5 billion for Energy East Corp., the parent company of Rochester Gas and Electric Corp. and New York State Electric and Gas Corp. Fourteen months after the friendly deal was unveiled, Iberdrola is due to get a thumbs up or thumbs down Wednesday from the state Public Service Commission.

At stake are \$2 billion in upstate investment, New York's reputation as a place to do business and what might happen to the fourth-highest residential electricity rates in the nation.

The federal government and three other northeastern states have already approved the sale of Maine-based Energy East to Iberdrola.

In New York, the deal has been held up by some of the oldest and newest concerns in the energy sector and utility regulation. The old: The state needs to ensure that more than 1 million RG&E and NYSEG customers won't get hit with higher bills. The new: Could Iberdrola, the world's foremost wind power company, manipulate the price of electricity if it owns both wind turbines and transmission lines by making it difficult or impossible for another company to open a competing wind farm or generation plant?

The PSC staff has recommended that the five commissioners reject the deal on the grounds that it isn't in consumers' best interests.

Iberdrola has said the staff concerns are overblown and that the deal is good for New York because it will bring investment, jobs and renewable energy to a state that needs all three.

Business groups, such as the Rochester Business Alliance and Greater Rochester Enterprise, and powerful politicians, including both U.S. senators, support Iberdrola, with many fearful that PSC rejection would brand the state as anti-business.

U.S. Sen. Hillary Clinton, D-N.Y., said through a spokesman Friday that "Iberdrola's proposal ... has the potential to continue to build the state's reputation as a leader in the alternative energy industry, while making a considerable investment in bringing new jobs and other economic opportunities to upstate New York."

Gov. David Paterson hasn't taken a position, but he has heaped praise on the company for promising to spend \$2 billion on wind investments within five years.

Allure of wind energy

Wind energy isn't as powerful or predictable as nuclear power, coal-fired or natural-gas-fired generators, but it is not insignificant. New York has set a goal of getting 25 percent of its electricity from renewable sources such as wind by 2013.

Iberdrola already runs a wind farm in Lewis County, east of Lake Ontario, and the company has proposed 10 additional wind farms throughout upstate, including three Rochester-area facilities that could generate 258 megawatts of electricity, potentially powering more than 70,000 homes yearly.

But if Iberdrola owns RG&E and NYSEG, the company will control the distribution of electricity as well as its

generation — a dual role that the Public Service Commission has opposed for more than 10 years on the principle that such "vertical integration" is anti-competitive.

Iberdrola has said it would walk away from the Energy East deal if forced to give up ownership of the wind farms, which it claims aren't competitive generators because of the variable nature of wind power.

That same variable nature also means Iberdrola could not control market prices, the company argued. Yet the idea of price manipulation by wind farms is not far-fetched to some.

"Once you have the energy and transmission, there are any number of clever things you can do," said **Robert McCullough**, managing partner of McCullough Research of Portland, Ore. "The (PSC) staff is entirely correct."

One tactic is to withhold power when demand is high, driving up the price. But how is the price set?

Forty-five percent of electricity is sold on the day-ahead market and 5 percent is sold on the separate real-time, or instant, market, according to spokesman Kenneth Klapp of the New York Independent System Operator, which operates the state's power grid. (The other 50 percent is sold under contractual agreements.)

For the 50 percent of energy that's subject to market fluctuations, the Independent System Operator uses an industry standard known as the uniform clearing price system. The price goes up based on demand. When demand is satisfied, higher bids fail.

But final prices tend to reflect the last, highest bid, and Iberdrola would have motive to keep prices high through tactics such as withholding power, critics have said.

Iberdrola countered that wind farms aren't known to set going-rate electricity prices anywhere in the world. Sellers take what they can get, according to Pedro Azagra, the Spanish company's director of corporate development. The only reason U.S. wind farms make money is usually because of subsidies from the state, according to Azagra.

The other major concern is that Iberdrola could interfere with generation plants and wind turbine companies seeking to connect to the grid in RG&E and NYSEG territory.

Iberdrola said there were substantial penalties, including fines and forfeiture of profits, to deter such illegal behavior. But McCullough, who testified to the U.S. Senate about corrupt energy titan Enron Corp., said market surveillance by the state grid operator and U.S. Federal Energy Regulatory Commission was likely to be spotty and could not prevent all abuses.

#### Other states

Regulatory agencies in three states — Connecticut, Maine and New Hampshire — have already approved the Iberdrola acquisition of Energy East. Still, some of the same questions arose during regulatory hearings in those states.

Some agencies questioned whether the deal would help consumers.

In Connecticut, for instance, the state Office of Consumer Counsel contended that Iberdrola was, at best, vague in its claims about the benefits for customers.

"The massive size and financial wherewithal enjoyed by Iberdrola was often touted as a benefit for consumers and public policy ... but in response again to questioning by the department staff, the (Iberdrola) witnesses could not, or would not, offer anything concrete as assurance that this claimed benefit would in fact be of any benefit at all," Connecticut Consumer Counsel Mary J. Healey wrote in an October 2007 opinion about Iberdrola's answers to questions from the staff of the state's Department of Public Utility Control.

But one key and soothing condition has been local staffing and control.

The Connecticut Consumer Counsel's Office was heartened that Iberdrola planned to keep local utility management intact, said Richard Sobolewski, the office's supervisor of technical analysis, in a phone interview.

The Consumer Counsel's Office, which did not oppose the merger, wasn't fearful of foreign ownership of local utilities, Sobolewski said. Already, he said, some Connecticut water utilities are owned by foreign

corporations.

"In this global economy we have now, you can't just say, 'We don't want foreign ownership,'" Sobolewski said.

Iberdrola maintained in Connecticut, as elsewhere, that the merger would have no adverse impact upon customers, and the state's Department of Public Utility Control concurred, approving the deal in November.

In Maine, worries about foreign ownership — especially questions about whether a mammoth corporation based in Spain would care much about American-based utility consumers — did arise.

For one Maine organization, a nonprofit called Friends of the Coast, those fears were especially important: The organization tries to ensure that 700-plus tons of nuclear waste stored at a decommissioned nuclear power plant, the Maine Yankee Atomic Power Station, will stay secured and not threaten nearby waterways.

"There's an element of distance because of the size (of Iberdrola)," said Raymond Shadis, Friends of the Coast executive director.

Friends of the Coast is a small organization, Shadis said, and he worried that Iberdrola might consider it more a nuisance than a reasonable arbiter of public safety.

But, he said, he was pleasantly surprised that the company met with Friends of the Coast and quelled the organization's anxieties.

"They were easy to work with," he said.

In New York, Iberdrola similarly has sought to assure consumers and officials that its ownership wouldn't mean drastic changes.

In Rochester, for example, management of both RG&E and NYSEG would remain in place and continue to operate the utilities, Iberdrola said. The long-familiar names of the two companies also would be retained.

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What's at stake

How much we pay for electricity. Iberdrola SA and the state Public Service Commission staff disagree on how much rate relief Iberdrola should provide if it's allowed to buy the parent of RG&E and NYSEG.PSC members

The state Public Service Commission, appointed by the governor and confirmed by the state Senate, sets rates and ensures that adequate service is provided by New York's utilities. Current members:

- Garry A. Brown, chairman, ex-analyst for energy office.
- Patricia L. Acampora, ex-state assemblywoman.
- Cheryl A. Buley, former oil market analyst.
- Robert E. Curry Jr., lawyer with expertise in energy.
- Maureen F. Harris, lawyer with expertise in finance.Key issues

Issues at a glance

Iberdrola SA of Bilbao, Spain, proposes to buy Energy East Corp., the parent of Rochester Gas and Electric Corp. and New York State Electric and Gas Corp., for \$4.5 billion. The state Public Service Commission is expected to rule on the acquisition Wednesday. Here are key arguments for and against the deal:

Consumer rates

Pros

Iberdrola promises \$201 million in rate relief for RG&E and NYSEG customers and says state regulators are demanding of Iberdrola at least three times what they have required in past utility mergers.

#### Cons

Rate relief should be \$644 million, PSC administrative law judge says. Deal poses risk that Iberdrola would pass on wind power costs to ratepayers.

#### Competition

##### Pros

Ownership of both generation and distribution facilities, as Iberdrola proposes, isn't monopolistic because wind power isn't a competitive form of generation.

##### Cons

PSC operates under principle that power generation must be separate from transmission and distribution. Making an exception for Iberdrola would violate policy and raise the possibility that Iberdrola could keep out competing wind energy companies.

#### Economic development

##### Pros

Iberdrola promises to invest \$2 billion in wind energy projects in the state. Approval of deal would show that New York isn't hostile to business.

##### Cons

Company's investment promise isn't enforceable and is nothing more than arm-twisting to win approval. Other wind energy developers already are investing in New York.

#### Foreign ownership

##### Pros

International ownership of utilities has become common. Iberdrola already owns Scottish Power. National Grid of the United Kingdom owns Niagara Mohawk in New York state.

##### Cons

PSC staff says ownership by a multinational company raises management issues because Iberdrola is so large it might not know what all its subsidiaries are doing.

#### Environment

##### Pros

Iberdrola's expertise in wind power will help move New York state toward goal of generating 25 percent of electricity by renewable means such as wind and hydropower by 2013.

##### Cons

Wind power is too variable to be a reliable source of energy, poses a threat to birds and creates visual and noise pollution.

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