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March 28, 2001

Janet Hand Deixler
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

RE: Case 01-E-0359 - Petition of New York State Electric & Gas Corporation for Approval of its Electric Price Protection Plan

Dear Secretary Deixler:

In response to NYSEG's letter of March 22, 2001, NEM submits the following points:

1. NEM is very concerned about the ability of New York consumers to get reasonably priced energy supplies. Indeed a bottom's up review of NYSEG's rate structure would ensure that consumers do not pay monopoly prices for competitive services. NEM is concerned that NYSEG's Price Protection Plan will effectively ensure that there will be little or no price competition in its service territory for seven years.
2. By submitting its "Price Protection Plan," NYSEG has voluntarily subjected itself to the "bottoms-up" zero rate base review requested by NEM. NEM submits that Judge Stockholm has the authority to initiate such a complete review of NYSEG's distribution services and the authority to return to NYSEG customers all amounts currently in bundled rates attributable to non-monopoly functions so that NYSEG customers may shop for competitively priced supplies of energy and energy related products, services information and technology. If deficiencies, bottlenecks or other problems in NYSEG's distribution services are identified that would increase costs to consumers, NEM would consider cost-based and performance based rate measures to address them. Indeed, NEM submits that a bottoms-up zero rate base review is the most efficient manner in which to keep energy costs to NYSEG customers at their lowest possible level over both the short and long terms.
3. NEM is concerned that NYSEG views a return of monopoly rents to NYSEG customers as a subsidy. Moreover, NEM is concerned that NYSEG is using the crisis in California to reverse the progress made in New York and establish new and significant barriers to effective competition in its service territory. NEM attaches hereto and incorporates herein a document it filed in the ConEd Phase four proceeding and testimony it recently submitted to the U.S. Senate regarding the California Energy Crisis to more fully address the points mentioned in NYSEG's letter.

4. Contrary to NYSEG's assertion, the ALJ in NYSEG's back-out rate proceeding did not have the specific cost-based data NEM is requesting be supplied, reviewed and analyzed in the instant proceeding. On this point the Order stated:

Moreover, parties participating in the pending competitive energy markets proceeding (Case 00-M-0504) are addressing issues related to unbundling utility rates and we expect them to make substantial progress in the near future. Thus, the range of additional credits that the marketers have generally suggested is overstated, at least for current purposes. Accordingly, we find that only a limited number of cost categories that the parties have identified are currently ripe for consideration and action here. In particular, only certain electricity procurement costs and retail customer care costs that marketers have begun to incur are candidates for additional retail access credits. Therefore, by adopting the approach advanced by the marketers, and by applying it to the limited number of cost categories that are ripe for current action, we find that an additional credit in the amount of 0.4 ¢/kWh for residential and small commercial customers and 0.2 ¢/kWh for large commercial and industrial customers is proper and should be added to the market-based credit NYSEG shall implement.¹

NEM respectfully requests the opportunity to participate in the March 30, 2001, prehearing conference by conference call and would offer its telecommunications bridge to facilitate this possibility.

Sincerely,

Craig G. Goodman
President

cc: ALJ Jeffrey Stockholm (via email and Federal Express)
Andrew Irving, Esq. (via email and Federal Express)
Frank J. Miller, Esq. (via email and Federal Express)

Enclosures

¹ Case 96-E-0891, Order Adopting a Market-Based Retail Access Credit, issued and effective January 26, 2001, pages 10-11.