

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION

NEW HAMPSHIRE GAS CORPORATION,  
IBERDROLA USA ENTERPRISES, INC.,  
IBERDROLA USA NETWORKS,  
IBERDROLA USA, INC.,  
AND  
IBERDROLA FINANCE UK LIMITED

PETITION

for

APPROVAL OF INTERNAL REORGANIZATION

February 23, 2012

**STATE OF NEW HAMPSHIRE**  
*Before the*  
**NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION**

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**In Re New Hampshire Gas Corporation, )  
Iberdrola USA Enterprises, Inc., )  
Iberdrola USA Networks, Iberdrola )  
USA, Inc., and Iberdrola Finance UK )  
Limited )**

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**Docket No. \_\_ - \_\_**

**PETITION OF NEW HAMPSHIRE GAS CORPORATION, IBERDROLA USA  
ENTERPRISES, INC., IBERDROLA USA NETWORKS, IBERDROLA USA, INC., AND  
IBERDROLA FINANCE UK LIMITED TO APPROVE AN INTERNAL  
REORGANIZATION**

**I. INTRODUCTION**

By this Petition, New Hampshire Gas Corporation (“NHGC”), Iberdrola USA Enterprises, Inc. (“Enterprises”), Iberdrola USA Networks (“Networks”),<sup>1</sup> Iberdrola USA, Inc. (“IBUSA”), and Iberdrola Finance UK Limited (“IBLF”) (collectively, the “Petitioners”), respectfully request approval, pursuant to RSA 369:8, II(a) and RSA 374:33, without modification or condition, for the insertion of two intermediate holding companies indirectly upstream from NHGC as part of an internal corporate reorganization (the “Internal Reorganization”).

The Internal Reorganization is a purely intra-corporate reorganization and will not change the ultimate indirect owner of NHGC, which is, and will remain, Iberdrola, S.A. (“Iberdrola”). The Internal Reorganization will not change (i) the management or operation of

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<sup>1</sup> Networks will be formed following the receipt of all necessary regulatory approvals for the internal corporate reorganization described herein.

NHGC, including the composition of its Board of Directors; (ii) the services that customers receive from NHGC; (iii) NHGC's rates, terms, or conditions of gas services; or (iv) the property or facilities owned or controlled by NHGC.

Rather, the Internal Reorganization will result in the insertion of two intermediate holding companies indirectly upstream from NHGC. The first intermediate holding company will be the newly created Iberdrola USA Networks (i.e., Networks), which will own 100% of the stock of Enterprises, which, in turn owns 100% of NHGC. Networks will be a direct, wholly owned subsidiary of IBUSA and will be responsible for holding all of Iberdrola's regulated electric and gas utilities in the United States (i.e., NHGC, Central Maine Power Company ("CMP"), Maine Natural Gas Corporation ("MNG"), New York State Gas & Electric Corporation ("NYSEG"), and Rochester Gas and Electric Corporation ("RG&E")). The second intermediate holding company will be Iberdrola Finance UK Limited (i.e., IBFL), a direct, wholly owned subsidiary of Iberdrola that will own 100% of the stock of IBUSA.

The Internal Reorganization is part of a global effort by Iberdrola to reorganize its operating companies on a country-specific basis, which will centralize Iberdrola's presence in each country within one intermediate holding company. In the United States, this reorganization will allow for the consolidation of the subsidiaries currently owned by IBUSA and its affiliate, Iberdrola Renewables Holdings, Inc. ("IRHI"), into a unified country-specific holding company structure, thus creating a more centralized presence in the United States. At the same time, the creation of Networks and the inclusion of all of Iberdrola's regulated electric and gas utilities within Networks will maintain the complete separation of Iberdrola's regulated businesses from its ownership and operation of renewable generation facilities. Furthermore, no costs associated

with the Internal Reorganization will be passed through to NHGC's ratepayers, and NHGC commits not to seek recovery of any of those costs from New Hampshire ratepayers.

The Internal Reorganization will occur following the receipt of the necessary consents and regulatory approvals. To the extent the Commission finds that it has jurisdiction over the Internal Reorganization, the Petitioners respectfully request that the Commission issue any required approval for the Internal Reorganization within sixty (60) days of the date of this filing so that the various steps necessary to complete the Internal Reorganization may begin to occur as soon as possible thereafter.<sup>2</sup>

## **II. THE PETITIONERS**

1. NHGC provides propane air services to approximately 1,150 customers in Keene, New Hampshire as of the end of 2011. NHGC is a public utility regulated by the Commission. NHGC is a direct, wholly owned subsidiary of Enterprises.
2. Enterprises (f/k/a Energy East Enterprises, Inc.) owns gas interests in Maine and, through its 100% ownership interest in NHGC, in New Hampshire.
3. Networks will be a newly formed holding company that will own 100% of the stock of Enterprises. IBUSA will own 100% of the stock of Networks, and Networks will assume IBUSA's existing Board of Directors. Networks is expected to have no employees.
4. IBUSA (f/k/a Energy East Corporation) is a public utility holding company organized under the laws of the State of New York, with headquarters in both Maine and New York. IBUSA's subsidiaries have operations in New York, Maine and New Hampshire,

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<sup>2</sup> RSA 369:8, II(a) states that the Commission's approval for corporate restructurings involving parent companies of public utilities "shall not be required if the public utility files with the commission a detailed representation in writing no less than 60 days prior to the anticipated completion of the transaction that the transaction will not adversely affect rates, terms, service, or operation of the public utility within the state."

and their principal business is the regulated transmission, distribution and delivery service of electricity and natural gas to customers in New York, Maine and New Hampshire. IBUSA currently owns 100% of the stock of Enterprises, which owns 100% of NHGC. IBUSA also has a service company subsidiary, Iberdrola USA Management Corporation (“IUMC”), which provides certain corporate and back office services to IBUSA subsidiaries. IBUSA currently has no employees. The Commission authorized Iberdrola’s acquisition of IBUSA and its indirect acquisition of Enterprises and NHGC in Order No. 24,812, issued on December 28, 2007 in Docket No. DG 07-083.

5. IBFL is a holding company registered in the United Kingdom. Its principal place of business is 4th Floor, One Tudor Street, London EC4Y OAH, England. IBFL is a direct, wholly owned subsidiary of Iberdrola<sup>3</sup> and currently owns 100% of the stock of IRHI. IBFL also owns 100% of the stock of Iberdrola Renewables Canada Limited, which holds Iberdrola’s renewable generation and other energy-related businesses in Canada. IBFL currently has no employees.

### **III. COMMUNICATIONS**

6. All communications and correspondence with respect to this Petition should be addressed or directed to the following:

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<sup>3</sup> IBFL was previously owned by Iberdrola Renovables, S.A. (“Renovables”). Renovables was merged with and into Iberdrola in July 2011.

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#### **IV. DESCRIPTION OF THE INTERNAL REORGANIZATION**

7. The Internal Reorganization involves the insertion of two additional intermediate holding companies indirectly upstream from NHGC, with no change to the ultimate ownership of NHGC by Iberdrola. First, IBFL, a direct, wholly-owned subsidiary of Iberdrola, will be inserted as a new indirect intermediate holding company of NHGC that will directly own 100% of the stock of IBUSA.<sup>4</sup> Second, a new indirect intermediate holding company of NHGC, Networks, will be created to own indirectly all of Iberdrola's regulated electric and gas utility subsidiaries in the United States (*i.e.*, NHGC, NYSEG, RG&E, CMP, and MNG). Networks will be a direct, wholly owned subsidiary of IBUSA, and Networks will directly own 100% of the stock of Enterprises. These steps constitute the aspects of the Internal Reorganization for which the Petitioners seek approval from the Commission.

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<sup>4</sup> Iberdrola has historically held the majority of its U.S. businesses through a U.K. holding company, and used this structure for its initial acquisition of U.S. businesses through ScottishPower. IBFL is currently the parent company of IRHI and its renewable and thermal generation subsidiaries and gas storage and gas marketing subsidiaries.

8. The Internal Reorganization is part of a global effort by Iberdrola to reorganize its operating companies on a country-specific basis, which will centralize Iberdrola's presence in each country. In the United States, this will allow for the consolidation of the subsidiaries currently owned by IBUSA and its affiliate, IRHI, into a unified country-specific holding company structure. As part of this process, IRHI, which indirectly owns renewable and thermal generation businesses in the United States, will become a direct, wholly-owned subsidiary of IBUSA.<sup>5</sup> Additionally, a new U.S. gas holding company, Iberdrola Energy Holdings, LLC ("IEH"), will be created as a wholly owned subsidiary of IRHI and will hold Iberdrola's gas storage and gas marketing businesses in the United States.<sup>6</sup> Also in connection with the Internal Reorganization, IUMC will be transferred to Networks, so that it may continue to provide the same corporate and back office services for NHGC that it currently provides. With this transfer, there will be no change to either the corporate relationship of IUMC to NHGC or the nature of the support services that IUMC currently provides to NHGC.
9. After the completion of the Internal Reorganization, all of Iberdrola's U.S. subsidiaries will be directly or indirectly held by IBUSA. IBUSA, in turn, will directly own two intermediate holding companies: (1) Networks, which will hold Iberdrola's U.S. regulated electric and gas utility subsidiaries; and (2) IRHI, which will hold Iberdrola's U.S. unregulated renewable and thermal generation businesses, as well as IEH, which will hold Iberdrola's U.S. gas storage and gas marketing businesses. The current organizational chart for Iberdrola is attached hereto as Exhibit 1; the chart depicting the

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<sup>5</sup> IRHI holds an "A3" credit rating from Moody's and an "A-" credit rating from S&P.

<sup>6</sup> These merchant gas businesses include Enstor Inc.'s gas storage and Iberdrola Renewables Inc.'s gas marketing businesses.

corporate organization of Iberdrola’s U.S. subsidiaries after the Internal Reorganization is attached hereto as Exhibit 2. The creation of Networks and the inclusion of all of Iberdrola’s regulated electric and gas utilities within Networks will ensure that the Internal Reorganization maintains the separation of Iberdrola’s electric and gas distribution businesses from IRHI’s ownership and operation of renewable and thermal generation.

10. Again, there will be no change in the ultimate ownership of NHGC as a result of the Internal Reorganization. Iberdrola will remain the ultimate parent company. The reorganization will simply add two intermediate holding companies indirectly upstream from NHGC, with the effect of having a unified country-specific holding company structure and providing a more centralized presence in the United States, while still maintaining the separation between Iberdrola’s regulated and unregulated businesses.

## **V. JURISDICTION AND STANDARD OF REVIEW**

11. Pursuant to RSA 374:33, Commission approval is required for any transaction under which a public utility or public utility holding company, as defined by the statute, acquires more than 10% of a public utility or public utility holding company incorporated in or doing business in New Hampshire.<sup>7</sup> The Commission should approve such a transaction so long as it is “lawful, proper and in the public interest.” RSA 374:33.

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<sup>7</sup> RSA 374:33 defines “public utility holding company” by referencing the definition in Section 2(a)(7)(A) of the Public Utility Holding Company Act of 1935 (“PUHCA 1935”), which was repealed in 2005. The Commission has stated, however, that “the repeal of PUHCA does not affect the operative provisions of state law referencing PUHCA for convenience.” *Re National Grid, plc, et al.*, Order No. 24,777 at FN25 (issued July 12, 2007). Neither of the two intermediate holding companies being inserted indirectly upstream from NHGC (i.e., Networks and IBFL) fall within the definitions of public utility or public utility holding company under PUHCA 1935. Networks does not and will not own any assets prior to the Internal Reorganization, and IBFL does not and will have any direct or indirect interests in regulated electric or gas utilities prior to the Internal Reorganization. Because neither of the entities

12. To the extent the Commission finds that the Internal Reorganization requires its approval under another statute, RSA 369:8, II(a) provides an alternative procedure for the approval of corporate restructurings involving parent companies of public utilities regulated by the commission.<sup>8</sup> Specifically, RSA 369:8, II(a) states that the Commission’s approval “shall not be required if the public utility files with the commission a detailed representation in writing no less than 60 days prior to the anticipated completion of the transaction that the transaction will not adversely affect rates, terms, service, or operation of the public utility within the state.”
13. Under the “public interest” standard of RSA 374:33 and the “no adverse effect” standard of RSA 369:8, the Commission “must determine that the proposed transaction will not harm ratepayers.” *Re EnergyNorth Natural Gas, Inc.*, Order No. 23,786 (issued Sept. 26, 2001) (approving the elimination of an intermediate holding company); *see also New England Electric System*, Order No. 23,308 (issued Oct. 4, 1999) (referring to the standards of review under RSA 369:8 and RSA 374:33 as a “no net harm” test).

## VI. REASONS FOR GRANTING THE PETITION

14. To the extent that the Commission does not disclaim jurisdiction over this Petition, the Commission should approve the Internal Reorganization and find that it satisfies the

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acquiring the shares of upstream holding companies fall under the definition of public utility or public utility holding company, RSA 374:33 should not apply to the Internal Reorganization.

<sup>8</sup> RSA 369:8 does not independently grant the Commission authority over corporate restructurings or any of the other transactions listed in the statute. *See Re Northeast Utilities, Inc.*, Order No. 25,211 at 13 (issued Apr. 5, 2011). The Commission has stated that “[t]he jurisdictional basis for Commission review under [RSA 369:8], however, is only in cases in which there is a separate statute requiring Commission approval.” *Id.* Furthermore, while RSA 374:3 provides the Commission with general supervisory authority over all public utilities in the state, the Commission has clarified that “it does not confer jurisdiction over transactions the Commission may wish to adjudicate but for which there is no statute that expressly addresses the transaction.” *Id.* at FN1. To the extent then that the Commission finds that the Internal Reorganization does not require approval pursuant to 374:33 or any other statute, Petitioners respectfully request that the Commission disclaim jurisdiction over the Internal Reorganization.

standards necessary for Commission approval under either RSA 374:33 or RSA 369:8, II(a). The Internal Reorganization will have no adverse impact on the customers of NHGC. Iberdrola will remain the ultimate upstream owner of NHGC such that the Internal Reorganization will have no effect on market concentration or vertical market power in New Hampshire or any other market, nor will it change the rates, terms, service, or operation of NHGC's customers in New Hampshire. Instead, the Internal Reorganization will create a more centralized presence for Iberdrola in the United States.

**A. No Changes to Rates, Terms, Service, or Operation of NHGC**

15. The Internal Reorganization creates no risk of increased rates to ratepayers. The Petitioners are not seeking to modify NHGC's existing rate plans or any currently pending new rate proposals, and the Internal Reorganization will not result in any changes to the rates, terms or conditions of service provided to NHGC customers.
16. No costs associated with the Internal Reorganization will be passed through to NHGC's ratepayers, and NHGC commits not to seek recovery of those costs from New Hampshire ratepayers.
17. The Internal Reorganization will not create any risks to the operation of NHGC or the services it provides to ratepayers. Customers will experience no change in their interactions with NHGC. Its customers will continue to be able to interact with their utility at their respective corporate headquarters and operations centers, the locations of which will not change in connection with the Internal Reorganization. No utility company operations, plant, equipment, franchises, permits or other assets of NHGC will change or be transferred in connection with the Internal Reorganization.

## **B. Centralized Presence in the United States**

18. As discussed above, Iberdrola is seeking to implement the Internal Reorganization as part of a global effort to consolidate each of its subsidiaries within a given country into a single country-specific unified holding company structure. Under Iberdrola's current organization, its operating subsidiaries in different countries are often organized within multiple intermediate holding companies that span numerous geographic areas. Iberdrola has determined that consolidating all of its operations in a given country under a unified holding company structure will create a more centralized presence for Iberdrola in each country where it operates.
19. Collecting Iberdrola's U.S. subsidiaries under a single holding company – IBUSA – will create a unified corporate presence for the Iberdrola brand in the United States. At the same time, because the regulated electric and gas utilities will be owned by Networks, while Iberdrola's competitive renewable businesses in the United States will be held by IRHI (*i.e.*, outside of Networks), the Internal Reorganization will maintain a separation of Iberdrola's regulated utilities from its competitive wind generation businesses.

## **VII. COMPLIANCE WITH STATUTORY STANDARDS**

### **A. RSA 369:8, II(a): No Adverse Effect on Rates, Terms, Service, or Operation**

20. To the extent that the Commission does not disclaim jurisdiction over the Internal Reorganization, RSA 369:8, II(a) requires NHGC to demonstrate with detailed written representations that the transaction will not have an adverse effect on rates, terms, service, or operation of the public utility in the state. The demonstration is as follows:
21. The Internal Reorganization will have no adverse effect on the terms of contracts with NHGC's customers, suppliers, lenders, employees, or vendors. NHGC will continue to honor all of its existing commitments following consummation of the Internal

Reorganization. The Petitioners are not seeking any changes to NHGC's tariffs, terms and conditions for service in connection with the Internal Reorganization. In addition, as described above, no costs associated with the Internal Reorganization will be passed through to NHGC's ratepayers, and NHGC commits not to seek recovery of those costs from New Hampshire ratepayers. There will also be no changes to NHGC's existing regulatory accounting and cost allocation methods in connection with the Internal Reorganization. As a result, the Internal Reorganization will have no adverse effect on NHGC's rates, terms, service or operation.

22. NHGC is a well-run propane utility that provides excellent service to its customers through its plant, equipment and methods of operation. The Internal Reorganization will not create any risks to the services provided to NHGC's ratepayers, and the utility's ability to provide safe, adequate and reliable propane service to its New Hampshire customers will not be adversely affected.
23. The Internal Reorganization is not intended to result in changes to the operations or regulatory policies applicable to NHGC. NHGC will continue to be regulated as it is currently by the Commission pursuant to RSA 362 *et seq.*, and the Internal Reorganization will not affect any Commission orders, regulations or rulings currently in effect and applicable to NHGC. There will be no change to NHGC's operating headquarters and service center from its present location in Keene. Thus, the Commission's access to the management of NHGC will not be affected by the Internal Reorganization.

24. Based on the representations in this Petition, the Commission should conclude that Internal Reorganization complies with the standards set forth in RSA 369:8, II(a) and approve the Internal Reorganization on that basis.

**B. RSA 374:33: The Internal Reorganization is Lawful, Proper and in the Public Interest**

25. As required by RSA 374.33, the Internal Reorganization is both lawful and proper. The Internal Reorganization is subject to regulatory approvals from several other agencies including the Federal Energy Regulatory Commission, the Federal Communications Commission and the public utilities commissions of Maine and New York. Those applications are pending. These actions and the Commission's review in this proceeding will demonstrate that the Internal Reorganization is lawful and proper.

## VIII. REQUEST FOR APPROVALS

WHEREFORE, if the Commission does not disclaim jurisdiction over this Petition, the Petitioners respectfully request that the Commission:

1. Issue any required approval for the insertion of Networks and IBFL as intermediate holding companies indirectly upstream from NHGC pursuant to RSA 369:8, II(a) and RSA 374:33 within 60 days;
2. Issue all other approvals, authorization or clearances, if any, in order that the Petitioners can effect the Internal Reorganization; and
3. Grant such other and further relief as may be just and proper.

Respectfully submitted,

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