

Executive Summary

The guaranteed rate of return for regulated generating stations, including recovery for real property tax payments, has been replaced by a marketplace where real property taxes are a cost that must be recovered through competitive sales of electricity.

NRG Energy, Inc. is an international energy company with net ownership interest in 185 facilities representing approximately 16,704 Megawatts (MW) of electric generating capacity. The company has signed acquisition agreements for projects providing the company net equity ownership in an additional 5,704 MW.

In New York, NRG owns and operates the 1,700 MW oil and gas-fired Oswego Generating Station in Oswego County, 760 MW coal-fired Huntley Generating Station in Erie County, 628 MW coal-fired Dunkirk Generating Station, and the 1,456 MW Arthur Kill Generating Station and Astoria Gas Turbine Sites located in the New York City area.

NRG reportedly paid \$355 million to Niagara Mohawk for the Huntley and Dunkirk stations (and allocated \$114 million of the total to the Dunkirk Station after deducting non-taxable property).

Electric power deregulation has resulted in decreased real property tax assessments for generating stations in New York State.

New York is unusual in that local governments determine the taxable value of property located within their jurisdictions, including complex properties such as generating stations. There are two problems with this approach. First, valuing complex properties is difficult and requires specialized knowledge. Second, the statutory language for valuing properties is bereft of guidance.

The New York State Office of Real Property Services uses three approaches to value electric generating stations: “comparable sales,” “income,” and “cost.” The ORPS evaluation of the Dunkirk Station produced the following values:

Comparable Sales	\$155,712,600 to \$161,082,000
Income	\$279,360,000
Cost (Replacement)	\$184,986,770

The ORPS produced a final reconciled value for the Dunkirk Station (for equalization rate purposes) of \$275,000,000.

The ORPS evaluation also determined:

- The Dunkirk Station has a remaining economic life of only ten years.
- The Dunkirk Station’s maximum available generating capacity, based upon peak usage in 1998, was 584 MW, which contrasts with its maximum rated capacity or “nameplate” capacity of 628 MW.
- The Dunkirk Station “has a limited economic life because of its lack of extensive air pollution control facilities.”

- Significant pollution control improvements may be cost prohibitive if the Station is required to continue generating in the future.
- The station has a limited remaining economic life and will most likely be replaced with newer technology either at the site or within the market area at the end of the ten year period.

If the City of Dunkirk Assessor were to use the ORPS's reconciled value of \$275 million for the Dunkirk Station, NRG's annual tax obligation to the City, School District, and County could total as much as \$11,795,998.61 based upon 2001 tax rates.

New York State generally encouraged the development of independent power producers (IPPs) during the earlier era of deregulation. A 1994 SUNY Albany study found that most IPP facilities are IDA projects. The facilities owned at the time by the regulated electric utilities paid significantly more in real property taxes per megawatt of generating capacity than the IPP facilities.

NRG's current "rated" or "nameplate" based tax burden is nearly \$10,000 per MW higher than a typical IPP within the Niagara Mohawk franchise territory.

Prior to divestiture of its generating facilities, Niagara Mohawk reached agreement for a PILOT for the Oswego Steam Station (1700 MW). The PILOT provided for a payment of \$28.8 million in 1998 and reduced payments of \$2 million in 2003 and 2004.

The PILOT for the Huntley Station (1148 MW) will result in a payment of \$13.3 million in 2002 and a maximum payment of \$11 million in 2005 through 2008.

The proposed PILOT for the Dunkirk Station provides for an increase in the total payment to taxing jurisdictions in 2002 (relative to taxes paid in 2001) with reductions through 2007.

NRG's increased payment in the PILOT's first year, i.e., 2002, should provide the taxing jurisdictions time to consider and adjust the expenditure side of their budgets and anticipate the PILOT's reduced payments in subsequent years. Further, the CCIDA's projections of payments indicate that the difference between NRG's 2001 payment to each taxing jurisdiction and NRG's 2007 payment under the proposed PILOT represents a relatively small percentage of each taxing jurisdiction's current or proposed budget.

The CRRDG's cost-benefit analysis of the PILOT considered five scenarios:

- (1) No change in the status of the Dunkirk Station with combined payments to the affected taxing jurisdictions continuing at the present level of \$8,167,103;
- (2) NRG receives the PILOT, makes a capital investment of \$50 million and maintains employment levels;
- (3) NRG does not receive the PILOT and sells the Dunkirk Station at 90 percent of its current value;

(4) NRG does not receive the PILOT and keeps the Dunkirk Station for six years before selling it at 50 percent of its current value; and

(5) NRG does not receive the PILOT and mothballs the Station.

The CRRDG extended the proposed payment in the 6th year of the PILOT—2007—for two additional years, i.e., 2008 and 2009, to account for NRG's proposed \$50 million investment over eight years and conservatively estimate NRG's payments in those years.

If NRG were to sell the plant immediately, the affected taxing jurisdictions could realize \$482,534 in added revenue over 8 years; if NRG maintained the Station for 6 years and then sold it, the affected taxing jurisdictions could experience a revenue reduction of \$1.15 million over 8 years; and if NRG mothballed the Station, the revenue reduction could approach \$3.7 million.

In addition to tax revenues, however, CRRDG considered the economic impact resulting from NRG's continued operation of the Station and its investment of \$50 million under the PILOT. NRG projects annual expenditures of \$15 million, of which \$11.2 million are on personnel, and \$2.66 million are on local purchases of services or materials. Considering that NRG's personnel are primarily local residents, the company's annual regional expenditures total approximately \$13,860,000. Using an economic multiplier of 2.5, the annual regional economic impact from NRG's continued operation totals approximately \$34,650,000.

NRG estimates that \$20 million of its \$50 million investment in the Station over the next eight years will be expended locally. This represents an additional regional expenditure of approximately \$2.5 million per year. Using an economic multiplier of 2.5, the added expenditure results in a regional economic impact of approximately \$6,250,000 per year for 8 years.

The annual regional expenditure stemming from NRG's continued operation and additional investment should have an indirect impact on property taxes. That is, NRG's expenditures will maintain employees and contractors and suppliers in their homes and assure purchases in the community that, in turn, produces real property tax and sales tax revenues. The CRRDG conservatively assumes that these indirect local tax revenues would equal five percent of NRG's regional economic impact.

If NRG were to sell the plant immediately, the affected taxing jurisdictions could see a total revenue reduction of nearly \$5.5 million over 8 years; if NRG maintained the Station for 6 years and then sold it, the affected taxing jurisdictions could experience a revenue reduction of \$14.5 million over 8 years; and if NRG mothballed the Station, the revenue reduction could exceed \$20 million.