

## **Memorandum in Strong Opposition to A.7434 / S.3172**

January 18, 2008

### **A.7434 (Rosenthal) / S.3172 (C. Johnson) - AN ACT to amend the environmental conservation law, in relation to restricting the operation of diesel powered electrical generation systems in areas identified as not meeting certain federal air quality standards for ozone**

The Independent Power Producers of New York, Inc. (IPPNY) is a trade association representing companies involved in the development of electric generating facilities, the generation, sale, and marketing of electric power, and the development of natural gas facilities in the State of New York. IPPNY represents almost 75 percent of the electric generating capacity in New York.

**IPPNY strongly opposes the passage of A.7434 / S.3172.** Enactment and implementation of this proposal undoubtedly would lead to problems with electric system reliability, especially in the areas of New York City and Long Island.

These bills prohibit the generation of electricity for public or private use by means of diesel combustion generation facilities in areas designated as being in non-attainment of the National Ambient Air Quality Standard for ozone. The bills only allow diesel combustion facilities that (1) have a generating capacity of less than 100 kilowatts; (2) emit no more than 0.03 pounds of particulate matter per megawatt hour and no more than 0.03 pounds of nitrogen oxides (NOx) per megawatt hour; or (3) are used as an emergency back-up system during a power outage.

New York's existing power plants are powered by a variety of fuels, including hydro, nuclear, wind, waste, coal, natural gas, oil, and biomass. This diversity of fuels helps to protect consumers from dramatic price variations resulting from an overdependence on one fuel and increases the electric system's reliability. However, these bills hinder the operation of facilities that are powered by oil, such as natural gas facilities that use oil as a back-up fuel in cases where the use of natural gas is not possible or appropriate. Also, the proposal precludes new state of the art combined cycle units from having the ability to use oil as a back-up fuel. In addition, the bills would not allow companies to run diesel-powered units for testing purposes.

Furthermore, the bills would pre-empt the outcome of the ongoing High Electric Demand Day Initiative (HEDD). The NYS Department of Environmental Conservation (DEC) is engaging in the HEDD Initiative as a result of its role with the Ozone Transport Commission (OTC). The OTC approved a Memorandum of Understanding (MOU) to incorporate high electrical demand day emission reduction strategies into State Implementation Plans (SIP) for Ozone. According to the MOU, New York has committed to including a 27 percent reduction of NOx from HEDD units in its 8-hour ozone attainment SIP. The DEC currently is working on developing strategies to meet this emission reduction commitment in a way that maintains electric system reliability and maximizes certainty and appropriate flexibility for the state and its electric generators.

Additionally, the DEC has approved its version of the Clean Air Interstate Rules that establish a cap and trade program to reduce emissions of NOx, as well as sulfur dioxide (SO2), from fossil fueled facilities. According to the DEC, NOx emissions will be reduced by 53 percent, and SO2 emissions will be reduced by 28 percent, both by 2015.

**For the reasons stated above, IPPNY opposes A.7434 / S.3172.**