



# Independent Power Producers of New York, Inc. (IPPNY)

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**A.11937 / S.8366**

## **Memorandum in Strong Opposition**

June 19, 2006

**A.11937 (Canestrari) / S.8366 (Breslin) – AN ACT to amend the public authorities law, in relation to powers of the Green Island power authority to acquire property**

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 over 75 percent of the electric generating capacity in New York.

**IPPNY strongly opposes the passage of A.11937 / S.8366.** This bill allows Green Island Power Authority (GIPA) to acquire by eminent domain the Green Island Hydroelectric Project and the Cohoes Falls Hydroelectric Project. The bill adversely impacts competitive electric markets, discourages economic development investment, and conflicts with the Federal Power Act.

Allowing a public authority to condemn an electric facility for economic purposes would be inconsistent with and would severely undermine New York's competitive electric markets. These markets depend for their efficiency on competition among numerous buyers and sellers and on the ability of a private generation facility owner to invest in New York, without the threat that the value of its investment may be diminished through condemnation proceedings aimed at individual companies or facilities. In New York State, private companies have invested a total of \$5.5 billion in their facilities and over \$30 million in their communities. Additionally, they pay \$291,431,875 annually in taxes and directly employ 10,198 workers.

This bill discourages private investment and economic development in New York State, because the bill allows GIPA to compete unfairly with private companies and acquire property, in which those companies already have made significant investments. Allowing GIPA to remove this property from the tax rolls has an immense negative impact (approximately \$2.1 million annually) on State and local revenues and forgoes the benefit of about \$15 million in additional planned private investment.

Furthermore, the Federal Power Act contains a provision which allows existing licensees of federal jurisdictional hydro projects to exercise eminent domain in connection with their projects. Under the Federal Power Act, Brookfield Power is the existing licensee of a substantial majority of the property at issue in the bill. GIPA's application under the Federal Power Act to be designated the replacement licensee was rejected. The bill directly conflicts with this federal regulation, as it attempts to override this eminent domain authority in favor of GIPA.

**For the reasons stated above, IPPNY strongly opposes A.11937 / S.8366.**