



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

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President & CEO

S.8349 / A.11977

Memorandum in Strong Opposition

June 19, 2006

S.8349 (Bonacic) / A.11977 (Lupardo) – AN ACT to amend the transportation corporation law, in relation to prohibiting transportation corporations that are gas corporations and gas electric corporations from exercising the right of eminent domain

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

IPPNY strongly opposes the passage of S.8349 / A.11977. In a manner inconsistent with the public interest, this bill removes the existing power and authority of electric or gas corporations to acquire necessary property and rights-of-way, as prescribed by the Eminent Domain Procedure Law. Electric or gas corporations currently can use these powers, when necessary for a public use or purpose and when determined by a court as essential for the public interest.

The New York State Public Service Commission is not authorized further to grant companies the use of eminent domain power, thus creating a situation where it is essential that gas and electric corporations retain that power to develop energy infrastructure necessary for the public interest. Absent this existing law, the State lacks a method to ensure that necessary infrastructure for the provision of reliable energy service can be established.

Under the Eminent Domain Procedure Law, affected landowners are given notice and the opportunity to oppose their land's condemnation. The entity seeking to condemn the property must prove that the action is necessary for a public use and purpose. Landowners are compensated for the fair market value of their property. All determinations in an eminent domain proceeding can be challenged in court. The eminent domain process has worked well in the public interest, and removing this existing authority jeopardizes the reliability of electric and gas service.

For the reasons stated above, IPPNY respectfully opposes S.8349 / A.11977.

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