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## **Testimony of Gavin Donohue, President & CEO**

### **Independent Power Producers of New York, Inc.**

#### **Public Hearing on the Draft State Energy Plan**

Albany, New York

September 15, 2009

On behalf of the Independent Power Producers of New York, (IPPNY), I would like to extend my gratitude to the Board for the opportunity today to provide input on the Draft State Energy Plan. IPPNY's members recognize the huge undertaking that is its development.

Overall, IPPNY supports the goals of the Energy Plan, although much work still needs to be done. As an Association, we feel that the Draft Plan appropriately addresses some of our priorities. However, it fails to recognize properly the cost impacts of certain recommendations that are included and also fails in some areas to fulfill the intent of the Plan as outlined in the governor's Executive Order #2.

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The recommendations put forth by IPPNY in this testimony will assist in meeting the state's future energy needs, and we urge the State Energy Planning Board to incorporate them into the Final State Energy Plan.

### **Competitive Markets**

IPPNY's members are exceptional at what they do, as evidenced by all of the improvements to New York's generation fleet since the advent of competitive markets. Our members have invested well over \$10 billion in acquiring and building generation in New York State, employ more than 10,000 individuals across the state, and pay over half-a-billion dollars in taxes. We are poised to continue to meet the needs of New York's residents and businesses. We look forward to remaining a partner in implementing policies to ensure a reliable and affordable energy supply.

IPPNY is pleased that the Draft Plan embraces competitive markets by stating,

"Since 2000, this market feature has provided incentives to entry of new generation resources totaling more than 7,600 MW, while putting the risk of such investments on investors rather than on ratepayers. Further, the competitive market structure

provides for the system to be operated and dispatched in the most efficient manner to minimize total production costs and in the long-term to provide electricity to customers at the lowest overall price.”

Importantly, as IPPNY has asserted in the past, the Draft Plan notes that, as long as markets are competitive, the uniform clearing price auction provides the most efficient result. The Draft Plan also indicates that electric prices are driven largely by the cost of fuel, and the Plan in no way suggests that higher prices are the result of the competitive market structure. New York’s prices when adjusted for fuel costs, are actually lower than they were before the implementation of competitive markets and recently have been falling significantly. Additionally, the Draft Plan appropriately states that New York’s competitive electricity market model provides an economic incentive to power plant operators to run as efficiently as possible.

Appropriately, the Draft Plan also indicates support for competitively issued solicitations for new capacity from private developers by utilities, the New York Power Authority (NYPA), and the Long Island Power Authority (LIPA) and does not encourage a new expanded role for these entities in the generation business.

## **Regulatory Uncertainty**

The importance of regulatory certainty cannot be overstated, in terms of attracting needed investment to New York. Regulatory certainty is an overarching concern for all businesses and industries, and, to the extent that the State Energy Plan can help provide regulatory certainty, it will be a positive step towards meeting future energy needs.

The Draft Plan recognizes that regulatory uncertainty will impact the future of the state's infrastructure, especially in areas such as the authority to site generation as well as environmental requirements and the associated cost of compliance.

However, although it states that the need to eliminate or minimize such uncertainties is an appropriate state policy objective, the Plan fails more specifically to address the requirements of the governor's Executive Order #2 for a cumulative evaluation of all environmental programs affecting the energy sector and their impacts on energy policy, including cost, reliability, fuel diversity and economic development.

IPPNY had recommended that the Draft Plan set a clear, long-range direction that balances environmental policy with energy and economic development initiatives. IPPNY continues to emphasize that the full assessment required by the governor's

Executive Order #2 is crucial for the future development of sound environmental, energy, and economic development policies. I urge the State Energy Planning Board to focus its attention on the cumulative impacts that result from the layering of these regulatory initiatives on the electricity industry and, most importantly, the increased cost of and potentially decreased reliable supply of energy for the state's businesses and residents.

### **Power Plant Siting**

The Draft Plan recommends that a power plant siting law be enacted to provide greater market certainty to developers and investors, to enhance public participation with sufficient intervenor funding made available to local communities, to include improved notice provisions, and to address environmental justice issues. The Draft Plan calls for the development of energy facility siting and permitting criteria that assess disproportionate health risks and environmental impacts on potential environmental justice areas and avoid or mitigate those potential impacts.

IPPNY is pleased that the Draft Plan indicates that the following key provisions should be included in comprehensive electric generation siting law: a one-stop siting process that combines state and local authorizations into a single approval; a time-certain framework for rendering a decision on an application; authorization to

override the application of unreasonably restrictive local laws; opportunities for extensive public input; and the availability of intervenor funding for expert witnesses and consultants.

### **Nuclear Power**

IPPNY is pleased that fuel specific policies are incorporated into the Draft Plan; however, we continue to feel that the state is failing to embrace the potential benefits of its nuclear resources.

IPPNY continues to stress that nuclear energy provides reliable, virtually emission-free baseload power, and, therefore, it is imperative that the Energy Plan supports the ongoing operation of the state's existing nuclear facilities, in addition to encouraging the development of additional nuclear resources. It is clearly our concern that the state fails tremendously to recognize the huge negative impact that the closure of nuclear facilities, such as Indian Point, would have on the state. Closing such a facility would be counter-productive to reaching the state's environmental, economic, and reliability goals.

Strangely, the Plan contradicts itself by simultaneously touting the benefits of nuclear generation while also describing the state's opposition to the license

renewals of Indian Point Units 2 and 3, an essential facility to maintaining electric reliability to downstate residents.

The Draft Plan notes that the state has begun to identify the potential impacts associated with the possible closure of Indian Point and the infrastructure needs that would be necessary to maintain system reliability standards in that event. The Plan clearly states that not extending the license of the Indian Point Energy Center would result in, “tradeoffs, including higher electricity prices and CO<sub>2</sub> emissions.”

In other words, the state is making a recommendation that will result in greater emissions, increased energy prices and less reliable service. For example, according to a major study last year prepared by the Westchester Business Alliance (representing a cross-section of business, real estate and construction organizations), closing Indian Point will result in the price of electricity in the region increasing over 150 percent. In addition, replacing Indian Point, with a fossil fuel-based power plant, likely will create a significant rise in CO<sub>2</sub> emissions, a 19 percent jump in NO<sub>x</sub> emissions, and an 11 percent hike in SO<sub>2</sub> emissions. In the New York City region, Indian Point’s 2,000 megawatts (MW) of clean electricity account for as much as 40 percent of the regional energy supply. According to the NYISO’s 2009 Reliability Needs Assessment (RNA) Report, the unexpected retirement of one of the two Indian Point nuclear power plant units

would cause an immediate violation of reliability standards, if other resources are not available to address the need. The RNA also found that, if a major nuclear unit was lost, it would compromise the ability to fulfill RGGI goals because New York would not have sufficient allowances.

### **Carbon Capture and Sequestration (CCS) / Coal**

The Draft Plan indicates that the successful demonstration of CCS technology in New York, as an operationally and economically viable means to mitigate coal generation greenhouse gas impacts, could allow New York to retain coal in its generation mix in a way that is consistent with the state's greenhouse gas reduction goals. The Draft Plan also acknowledges that various environmental control technologies have been added to the state's coal facilities to meet increasingly stringent environmental regulations.

IPPNY maintains that, due to the state's ample supply of relatively less expensive coal, existing economic and environmentally compliant coal facilities should remain part of the state's generation portfolio. Among the recommendations advanced by IPPNY to preserve and enhance fuel diversity, as CO<sub>2</sub> targeted environmental initiatives move forward, was for the Plan to foster the development of CCS technology to enable facilities, such as those powered by coal, to remain in the state's fuel mix.



The Draft Plan mentions that, in June of 2008, Governor Paterson announced \$6 million in seed funding for an advanced CCS demonstration project in Jamestown, New York. The project is being developed by the "Oxy Coal Alliance," a consortium of private companies including, just to name a few, the Jamestown Board of Public Utilities, Praxair, and the State University of New York at Buffalo. However, according to the *Buffalo News*, on August 17, 2009, Praxair Inc. changed its plan to use Jamestown as the primary site for a demonstration clean coal project. The company's decision dims the hopes for the CCS technology plant that has been on the drawing board since 2003.

As a result, the Final State Energy Plan must make a top priority enabling a private sector company to demonstrate a CCS technology project in this state, and the state should provide sufficient resources to complement private sector funding to ensure the success of this technology. The Draft Plan does note the importance of enacting legislation that addresses CO<sub>2</sub> pipeline siting and CO<sub>2</sub> injection to facilitate the demonstration of CCS, and IPPNY strongly supports this legislation, the adoption of which by the state is essential.

## **Renewable Energy**

As IPPNY had advocated in its comments to the PSC, the Draft Plan recommends that the Renewable Portfolio Standard (RPS) program continues to receive full funding going forward. Specifically, the Draft Plan affirms that the first challenge to achieving the governor's goals for renewable energy is to extend funding authorization for new Main Tier solicitations.

IPPNY has suggested that New York State Energy Research and Development Authority should offer multiple solicitations each calendar year to enhance certainty in the renewable energy market and to better reflect the decision-making cycle of the renewable energy industry. IPPNY is pleased that the Draft Plan embraces the need for enhanced certainty in the renewable energy market through the scheduling of regular solicitations for Main Tier procurements.

Since 2000, New York State has seen the addition of over 1,000 megawatts of wind power and a new, state-of-the-art wind forecasting monitoring system added to the grid.

While much progress has been made toward the existing RPS goal, additional mechanisms for attracting in-state renewable energy development can be further

utilized. For instance, purchase power agreements could be enhanced to continue progress in achieving renewable energy goals. As we move forward, reliability considerations must be addressed including the potential need for load following needs.

### **Natural Gas**

The Draft Plan recommends natural gas pipeline expansions to improve supply and deliverability of natural gas to markets in New York in an environmentally acceptable manner. Even though demand for natural gas is expected to grow, the Draft Plan notes that siting and building new incremental infrastructure will continue to be difficult. If New York is to have adequate natural gas to meet future needs, the Draft Plan underscores the need to overcome the obstacles to getting facilities sited.

IPPNY urged that the State Energy Plan recognize the need for adequate and diverse sources of natural gas supply and improved infrastructure, such as new or expanded natural gas pipelines and new sources of liquefied natural gas.

Modeling results show that most of the interstate pipelines serving New York are now operating at or near full capacity on a peak day, and it is expected that in 2018 there will be unmet peak day demand.

Natural gas infrastructure investments, as the Draft Plan notes, face several obstacles, making it clear that actions need to be taken soon to address needs on the horizon. More must be done to attract this vital investment.

## **Conclusion**

A primary focus of the State Energy Plan is maintaining the adequacy and reliability of critical systems and infrastructure and sustaining an environment capable of attracting reasonably priced capital to support necessary investments.

IPPNY is encouraged that the Draft Plan contains provisions that will support and help achieve that primary focus by: (1) acknowledging the importance of competitive markets and competitive solicitations for the acquisition of new supply, (2) supporting the re-enactment of a fuel-neutral power plant siting law, and (3) continuing the state's support of the RPS program and making strides to provide its benefits available to all renewable energy resources.

IPPNY recommends that this primary focus could be achieved by better clarifying provisions of the Draft Plan by: (1) including a more cumulative evaluation of all environmental programs affecting the energy sector and their impacts on energy

policy, including cost, reliability, fuel diversity and economic development, (2) removing contradictions about the role of nuclear power in the state's energy future by accepting all of the state's existing facilities and encouraging the prudent development of facilities in the future, (3) making a top state priority the enabling a private sector company to demonstrate a CCS technology project in this state, (4) articulating more clearly how the state will maintain and enhance fuel diversity, in concert with the state's proposed actions for addressing the impact of climate change.

Thank you again for the opportunity to provide this testimony.

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