

Memorandum in Strong Opposition to A.11601

June 16, 2008

A.11601 Rules (Brodsky) AN ACT to amend the public service law, in relation to abolishing the market clearing price

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.11601. This bill attacks New York's highly successful competitive electricity market. Specifically, A.11601 includes the following problematic provisions: (1) requires the New York State Public Service Commission (PSC) to regulate the reliability, quality, maintenance, and price of power from generators; (2) prohibits a market clearing price mechanism for the purchase of power through the wholesale market via a bid procurement or auction process held by the New York Independent System Operator (NYISO); (3) requires the PSC to exercise full jurisdiction over the NYISO and its auction or bid procurement process, and (4) prohibits the PSC from requiring utilities to divest any generation, transmission or distribution assets, without prior specific legislative approval.

This attack on New York's competitive markets is unwarranted because, in fact, these markets often are heralded as a national leader. Nearly fifteen years have passed since the transition from vertically integrated or controlled monopolistic utilities to a system in which private generators compete to supply and numerous companies vie to provide electricity to New Yorkers. The market has evolved tremendously, and results have left little doubt that competition has led to real, tangible benefits for both electricity consumers and employers in New York. Undoubtedly, electricity competition has contributed to New York's economic growth and provides the best route toward energy independence. Independent power producers play a vital role in New York's energy system.

Furthermore, the clear price signals and non-discriminatory rules of New York's electricity markets are helping lead the way in developing alternative ways of meeting the state's electricity needs. For example, the entry of renewable generation is spurred by those rules. 350 megawatts (MW) of wind powered resources are in commercial operation, with proposals for another 50 projects totaling over 6,000 MW (equivalent to about eight large power plants). Also, the availability of accurate, real-time price signals enables wholesale customers to decide when, and even if, they should consume electricity.

In addition, wholesale and retail electric markets bring about and sustain the most competitive prices for consumers. Competition leads to better products and services. In the case of electricity, that translates to improved efficiency, greater reliability, an enhanced environment, and savings to the consumer. Study after study has shown that all of these benefits have resulted from New York's competitive electricity markets.

In fact, the New York State Department of Public Services (DPS) Staff Report on the State of Competitive Energy Markets: Progress to Date and Future Opportunities outlined the successful implementation of competition in both the wholesale and retail electricity markets in New York State. The DPS found that New York's wholesale markets are among the most advanced in the nation and have achieved noteworthy efficiencies. In particular, DPS staff noted that generator availability has reached an all time high in New York under the competitive market design. Impressively, the availability of generators during the summer months increased to over 90 percent, and average annual availability exceeds 95 percent. Increased unit availability benefits consumers in the form of enhanced reliability and reduced costs. Also, the total cost of electricity for the typical residential consumer dropped by almost 16 percent between 1996 and 2004, when adjusted for inflation, according to the DPS. Similar reductions were experienced by industrial and commercial ratepayers.

For the reasons stated above, IPPNY opposes A.11601.