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Gavin J. Donohue, *President &
Chief Executive Officer*

February 13, 2008

Joseph L. Bruno
Majority Leader
New York State Senate
Legislative Office Building, Room 909
Albany, NY 12247

Dear Majority Leader Bruno:

IPPNY and its members appreciate your continued commitment to control energy costs faced by the state's businesses and residents. As you prepare the budget resolution for the Senate, I strongly urge you to reject the proposal in the Executive Budget to increase permit fees for facilities (including energy facilities) that are regulated under Title V of the Federal Clean Air Act.

Part EE of S.6809 / A.9809 would increase these fees from \$45 per ton of regulated emissions to as much as \$80 per ton (a 78 percent increase) and would establish a minimum fee of \$5,000 per operating facility. The bill also would delete the 6,000 ton emissions cap, allowing the fee to apply to all emissions. According to the NYS Division of the Budget (DOB), this fee increase will cost \$19 million across all business permit holders, including the electricity generation and gas pipeline communities.

The governor and DOB argue that this fee increase is needed in accordance with the Federal Clean Air Act. However, the Federal Clean Air Act specifies a minimum fee of \$25 per ton, and the NYS Department of Environmental Conservation (DEC) already receives \$45 per ton. In addition, the Federal Clean Air Act states that the fee is not required to apply to emissions in excess of 4,000 tons per year for each emissions category; however, existing NYS Environmental Conservation Law includes an emissions cap of 6,000 tons annually per emission type (which already is 2,000 tons above the amount in federal law), and DEC further proposes to remove the emissions cap entirely!

As you may recall, the governor previously had proposed to increase fees from the current \$45 per ton to up to \$67 per ton, with a minimum fee of \$1,250 per operating facility. IPPNY and its members appreciated that you led the New York State Senate in rejecting this fee increase last year. Amazingly, this year, the governor has made his fee proposal even more expensive, by proposing a fee increase that is \$13 per ton above the amount that the Legislature decided last year was too costly and that is \$3,750 above the minimum fee that DEC had hoped to receive last year, in addition to the large cost of having the fee apply to all emissions without a cap.

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At a time when New York State has committed to reducing business costs and energy prices, the governor's proposal would do the opposite. This fee increase would exacerbate competitive disadvantages, such as high property taxes, faced by the impacted companies. For example, one upstate company would be forced to pay approximately \$1.4 million per year in incremental costs above and beyond what they pay today! Furthermore, many companies own multiple affected facilities.

The financial impact especially is harmful when coupled with the large costs that will result from requirements such as the DEC's Clean Air Interstate Rules, the Regional Greenhouse Gas Initiative, the Renewable Portfolio Standard Program, and the System Benefits Charge Program (related to the New York State Public Service Commission's ongoing Energy Efficiency Portfolio Standard Proceeding). The ultimate impact of these cost increases is higher electricity bills for the state's businesses and residents, at the same time that the state is struggling to control its energy costs in order to be able to grow its economy. It is essential that the Legislative and Executive (including associated rulemakings) Branches of government continue to balance better the environmental, energy and economic needs of our state.

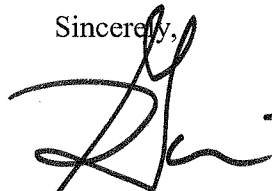
The Legislature correctly decided against the governor's proposal to increase Title V operating permit fees in the past, concluding that DEC has sufficient ability and resources to review these permits. Indeed, DEC's proposed budget includes a re-appropriation of prior funds, indicating that DEC has not used all of the monies that it already is authorized to collect.

As current permits expire, DEC should have enough resources to renew these permits, since they were able to issue them in the first place. We urge you to reject this costly fee proposal again this year, in order to avoid increasing costs for energy production and the associated bills of energy consumers.

Thank you for your continued support.

Thank you!

Sincerely,



Gavin J. Donohue
President & CEO

CC: Senator Owen Johnson
Senator Carl Marcellino
Senator George Maziarz
Jeff Lovell
Michael Avella
Bernard McGarry
Darren Suarez
Steve Taylor