

Memorandum in Opposition S.3637 / A.1862

March 19, 2007

S.3637 (Leibell) / A.1862 (Gianaris) - AN ACT to amend the executive law, in relation to giving the state office of homeland security the power to decide if the sale, lease, or operation of state-owned critical infrastructure would threaten public security and establishing the critical infrastructure advisory council; to amend the public service law, in relation to requiring the public service commission to consult with the office of homeland security whenever there is a proposed sale or lease of an electric generating facility; and to amend the public officers law, in relation to the definition of critical infrastructure

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 opposes S.3637 / A.1862. This bill is unnecessary and duplicates the existing jurisdiction of the New York State Public Service Commission (PSC) and the New York State Office of Homeland Security as it relates to the security of critical energy infrastructure.

The New York State Public Service Law already requires the PSC to approve the transfer, lease, and operation of energy infrastructure, to approve the reorganizations of electric and gas corporations, and to ensure that the services of these companies maintain public safety. The PSC also has an Office of Public Security within its Department of Public Service.

The New York State Executive Law currently requires the Office of Homeland Security to work with the PSC to assess the vulnerability of critical energy infrastructure to terrorist attack and to develop strategies to protect facilities, such as nuclear facilities and other power plants. The PSCs Office of Public Security and the Office of Homeland Security conduct assessments of security measures to protect these facilities and can require additional actions to maintain and improve their security.

For the reasons stated above, IPPNY respectfully opposes the passage of **S.3637 / A.1862**.