



19 Dove Street, Suite 302  
Albany, NY 12210  
phone: 518-436-3749  
fax: 518-436-0369  
www.ippny.org

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

January 25, 2007

VIA ELECTRONIC MAIL

Honorable Eleanor Stein  
Honorable Rudy Stegemoeller  
Administrative Law Judges  
New York State Public Service Commission  
Empire State Plaza  
Agency Building 3  
Albany, NY 12223-1350

Re: Case 07-M-0548 – Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard

Dear Judges <sup>*Eleanor*</sup> Stein and <sup>*Rudy*</sup> Stegemoeller

On behalf of the Independent Power Producers of New York (IPPNY), I submit this letter of comment, in reply to your request for input dated January 15, 2008, in relation to a "Consensus Recommendation" filed on January 11 by a number of entities (including three environmental / energy groups, the City of New York, seven utilities, and the New York Power Authority (NYPA)) regarding a governance structure for the administration of the Energy Efficiency Portfolio Standard (EPS) Program. Part of IPPNY's mission is advocating fair and efficient competition among wholesale and retail suppliers of electricity and other potentially competitive electric resources, including renewable, fossil-fueled, nuclear, demand response providers and conservation technologies.

IPPNY urges Your Honors to reject the Consensus Recommendation, because it is inconsistent with competitive markets and instead resembles a "command and control" approach. Instead, IPPNY urges your adoption of a procurement model similar to that currently being used under the NYS Renewable Portfolio Standard (RPS) and System Benefit Charge (SBC) Programs.

Indeed, the Public Service Commission's (PSC's) decision over ten years ago to restructure New York's energy markets from vertically integrated monopolies to a competitive wholesale and

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retail market structure was based on the philosophy that competition brings forth efficiencies, technical advancements, savings, and other benefits, which are unlikely to occur absent the motivation provided by such markets. The PSC's reasoning was sound, and several examples have emerged since the market transition to validate its decision, including more efficient operation, increased power plant availability and reliability, and new investment in renewable energy and demand side programs. It would be a mistake not to have the same confidence in competitive markets as the PSC seeks to accomplish the goals set forth in Governor Spitzer's "15 by 15" Initiative.

In brief, the Consensus Recommendation involves the creation of Energy Efficiency Partnerships, with local utilities, the New York State Energy Research and Development Authority (NYSERDA), and the Long Island Power Authority (LIPA) as Program Administrators, supplemented by NYPA's efforts. This approach inappropriately would place decision-making ability within a subsection of market participants, and this subset would identify possible roles of remaining participants. Also, each partnership, which represents only a subset of the electricity and gas marketplaces, would prepare a strategic energy efficiency plan. Among other aspects, the plan would address the possible role of various funding sources, such as funds from CO<sub>2</sub> allowance auctions under the Regional Greenhouse Gas Initiative (RGGI). In effect, only a subset of market participants would be deciding what sources of funding should be used and for what purposes they should be spent, in the absence of competition.

In contrast, the RPS and SBC Programs both employ the more competitive market friendly approach of Requests for Proposals (RFPs) as issued by NYSEERDA. Under any EPS Program that Your Honors may recommend for approval by the PSC, IPPNY strongly urges you to require that EPS Program services be competitively procured via the issuance of RFPs. Under this approach, utilities, energy service companies, NYPA, LIPA, and any other providers of energy efficiency services or installers of energy efficiency measures can compete with each other on a level playing field to provide the best, innovative, and most cost-effective opportunities to reduce electricity demand.

IPPNY also urges Your Honors to clarify that only funding sources that are previously and specifically approved under the jurisdiction of the Commission may be used to provide incentives under the EPS Program. In a related communication, IPPNY filed comments as part of the report of Working Group 1 under this proceeding on December 5, 2007, underscoring that revenues from yet-to-be-established-and-conducted allowances auctions under RGGI and the Clean Air Interstate Rule (CAIR) are not as appropriate and available types of funding as other potential sources.

In addition, IPPNY urges Your Honors to ensure that the New York Independent System Operator and the NYS Reliability Council have a role in the EPS Program. Participation by these two entities will help ensure further that the EPS is administered in a manner that is consistent with the operation of the competitive markets and energy system reliability.

IPPNY urges Your Honors to address our concerns and to incorporate our recommendations into your decision-making process under this proceeding. IPPNY looks forward to continuing to work with you and the parties to this proceeding, and we appreciate your taking the time to review and act on our comments. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'G. Donohue', written over a horizontal line.

Gavin J. Donohue  
President & CEO