

NEW YORK STATE ENERGY PLANNING BOARD
Comments of the Empire State Petroleum Association, Inc.
On The
March 31, 2009 Interim Report
Presented by the Energy Coordinating Working Group

I. Introduction

The Empire State Petroleum Association, Inc. (ESPA) respectfully submits these comments in response to the March 31, 2009 Interim Report presented by the Energy Coordinating Working Group for the 2009 New York State Energy Plan. In general, ESPA agrees with the Interim Report's Preliminary Findings which recognize the importance of fuel diversity, the goal of achieving a cleaner and healthier environment through renewable fuels, and the role that liquid fuels will play in the State's Energy Plan. We are particularly supportive of the finding concerning the enhancement of the liquid fuels infrastructure. ESPA is pleased to provide the following observations concerning specific portions of the interim report.¹

II. Interest of ESPA

ESPA is a statewide not-for-profit trade association representing petroleum marketers, convenience store operators, propane dealers, and independent energy marketers selling natural gas and electricity in New York. ESPA's marketers are responsible for the storage and distribution of heating oil, gasoline, diesel, aviation, and industrial fuels that are vital to the energy infrastructure of the state. ESPA's members also provide residential and commercial

¹ ESPA has not commented on every aspect of the report but will continue to participate in the energy planning process and intends to comment on the draft plan due to be released in July of this year.

HVAC system installation, service and repair. As such, we have a significant interest in the State's energy plan and have been an active participant in past energy planning processes.

III. Comments on the Interim Report

A. **ESPA Fully Supports the Interim Report's Preliminary Finding No. 10 That Recommends Investment in the State's Liquid Fuels Infrastructure.**

The Interim Report's Preliminary Finding No. 10 states:

Near-term investment in infrastructure to support liquid fuels for heating and electricity generation will be necessary to insure supply reliability and flexibility over the short run (p. 4-17).

This finding is a welcomed recognition of the essential role that liquid fuels will play in the State's energy plan. For many years, ESPA has advocated for the enhancement of the state's petroleum infrastructure to remedy a decline in total storage capacity for liquid fuels. The Interim Report notes that statewide distillate fuel storage capacity, which includes home heating oil, kerosene and diesel fuel, has declined while demand for these fuels has increased over the same time period (p. 4-18). The consequences arising from the reduction in storage capacity for petroleum was recognized in the 2002 State Energy Plan which observed that decreased storage can result in the "degradation of the operational flexibility needed to satisfy consumer demand, greater supply uncertainty, and greater short term price volatility" (2002 State Energy Plan p. 1-31). As the Interim Report correctly observes, the costs associated with storing products and the lack of market incentive to add storage capacity are hampering marketers' efforts to add storage. Consequently, adopting the Interim Report's finding and making recommendations to enhance

the State's liquid fuels storage infrastructure would ameliorate the decline in storage infrastructure.

While increasing storage has long been a vital concern, this issue has become more critical today. The petroleum distribution industry is seeking to enhance its fuel products by introducing more environmentally beneficial products into the marketplace. These include low and ultra low sulfur products, and bio-fuels such as bio-diesel, bio-heat oil, and ethanol for gasoline blending. Indeed, to promote the expansion and use of these fuels, ESPA supported the state's existing residential bio-heat tax credit. Furthermore, ESPA has recently adopted a position seeking a statewide adoption of an ultra low sulfur No. 2 heating oil. To achieve these goals, adequate storage capacity is essential to enable the liquid fuels infrastructure to accommodate these new fuels in the marketplace. Consequently, we believe that the Report properly states:

It is critical, therefore, that the infrastructure required to store, handle, blend and dispense the wide range of petroleum fuels is adequate to meet New York's needs (p. 4-17).

The lack of storage should not be allowed to impede the development and use of products beneficial to both the environment and consumers. Instead, investment in the liquid fuels infrastructure will provide consumers and the state with supply security, price stability, and environmental benefits.

B. Electric Generating Facilities Should Be Required to Study and Plan For the Impact and Effect of the Use of Any Back-up Fuel.

The Interim Report notes that as a result of the 2002-2003 heating season and a study

conducted both by NYSERDA and the New York Public Service Commission (PSC), new regulatory requirements were implemented requiring natural gas interruptible customers to have on-site capacity and supplies to balance the demand for liquid fuels, mostly petroleum, during times of peak demand (p. 4-18). In this regard, New York has been a leader in recognizing that the sudden entrance of interruptible customers into the petroleum market during times of peak heating fuel demand can cause price volatility, supply concerns, and ultimately may even affect the reliability of the electric and natural gas infrastructures. However, the PSC requirements do not apply to large electric generating facilities.

ESPA urges that the state plan include a recommendation that any electric generating facility intending to use petroleum or any other fuel as a back-up fuel be required to consider the supply, storage, and impact upon the back-up fuel's industry when planning and seeking approval for the construction of an electric generating facility.² It is crucial for the reliability of the natural gas, electric and the petroleum industries that any electric generating facility designed to rely on a back-up fuel adequately plan for the reliance on that fuel during periods of interruption.

C. The Interim Report Emphasizes Energy Efficiency and Conservation and Should Further Promote Such Policies and Programs For Petroleum Consumers.

The Interim Report's first preliminary finding calls for the development of the state's clean energy sector by investing in energy efficiency and renewable energy. As New York increases its reliance on renewable energy such as wind and solar power, ESPA urges the state to

² This requirement would supplement the existing review of the environmental impacts of using a backup fuel for a proposed facility.

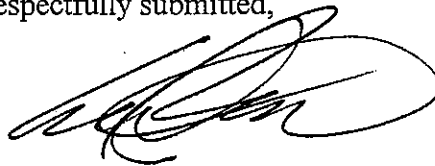
continue to include bio-fuels, including existing or future bio-fuel blends among the mix of renewable energy sources. New York State already has tax incentives for both production facilities and end users of bio-fuels. ESPA encourages the State to continue these incentives and offer other programs that would further encourage the development and use of bio-fuels.

With regard to conservation, the Interim Report explains that the two primary goals of New York's energy efficiency programs are "to save energy and to develop a self-sustaining market infrastructure for energy efficiency services and products" (p. 4-2). ESPA supports the promotion of energy conservation and the implementation of energy efficiency measures for all energy sources. We are especially interested in any policy or program that would expand the efficient use of petroleum products, and for any research, development and demonstration projects which would promote a self-sustaining market infrastructure for efficient petroleum equipment and products. ESPA recognizes and is appreciative of the existing programs administered by NYSERDA that provide energy conservation benefits to oil consumers. Nonetheless, we should expand and create new opportunities for energy savings. Therefore, ESPA recommends that the energy plan make recommendations that would promote the implementation of new petroleum energy saving measures, create incentives for the installation of energy efficient oil equipment and appliances, and encourage further research and development of energy efficient petroleum equipment and products.

III. Conclusion

ESPA respectfully requests that the comments submitted above be given due consideration as the Board and Staff continue the process of preparing the 2009 State Energy Plan.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Emilio Petroccione', written in a cursive style.

Emilio Petroccione
Colwell, Ferrentino & Petroccione, LLP
Attorneys for the Empire State Petroleum Association, Inc.
20 Corporate Woods Blvd.
Albany, New York 12211
(518) 462-4242

Dated: May 14, 2009