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Gavin J. Donohue, *President &
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Via e-mail to SEPCComments@nyserda.org

Mr. Thomas C. C. Congdon
Assistant Secretary for Energy
Executive Director, New York State Energy Planning Board
Office of the Governor
Executive Chamber
State Capitol, Room 245
Albany, New York 12224

Dear Mr. ~~Congdon~~ ^{Tom}:

On behalf of the Independent Power Producers of New York (IPPNY), I appreciate the opportunity to provide feedback to the Energy Coordinating Working Group on its interim report on the State Energy Plan ("Interim Report"). As you are aware, IPPNY submitted a whitepaper (http://www.ippny.org/files/pdfs/WhitepaperFinal_Nov08.pdf) providing specific recommendations to the State Energy Planning Board on important areas that the Plan must address. Although we recognize that the Interim Report is a guide to the likely direction the Plan will take and not a vehicle to communicate the specifics surrounding potential policies, we remain strongly concerned that a number of our industry's key issues will not be addressed at all -- much less satisfactorily -- in the Final 2009 State Energy Plan that is scheduled to be published on October 15, 2009.

The most obvious and distressing omission from the Interim Report is any commitment to the ongoing development of the competitive wholesale energy market structure or recognition that policies to be proposed within Final State Energy Plan should be advanced only after full consideration is given to their impact on these markets.¹ Since they were introduced, over a decade ago, the numerous benefits competitive wholesale energy markets have brought to our

¹ Failure to do so will mark a substantial departure from the past focus on structuring public policy programs to limit their impacts on markets to the degree possible. For example, the Renewable Portfolio Standard program was structured to provide winning bidders with a supplemental payment to, not in lieu of, market clearing prices.

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state's consumers and environment are undeniable, including a more reliable and available generation fleet (thereby eliminating the need to bring additional facilities on line), lower emissions, and reduced energy costs. In April, the New York Independent System Operator (NYISO) reported that wholesale electricity prices in New York State have dropped to their lowest level since 2003. The NYISO also credited wholesale energy markets with generating facility efficiency improvements, such as a 21% reduction in system-wide heat rates for fossil-fueled generating facilities. Such improvements are one of the reasons for the sharp reduction in emissions of sulfur dioxide (down 77%), nitrogen oxides (down 61%), and carbon dioxide (down 28%) between 1999 and 2008 in New York State (a timeline that overlaps with New York's implementation of competitive markets). In fact, just this past week, the Environmental Defense Fund and the COMPETE Coalition issued a joint statement and general principles emphasizing that competitive energy markets are the most effective means of achieving greenhouse gas emission reductions and calling on Congress to recognize the role of competitive electricity markets in achieving climate change policy goals. The benefits of competitive markets are clear, and the Final State Energy Plan must acknowledge as much and work in support of, not around, the state's existing markets.

In terms of attracting new investment to New York, the importance of regulatory certainty cannot be overstated. IPPNY and its members continue to call for the enactment of a comprehensive, fuel-neutral generating facility siting statute that provides developers of facilities -- utilizing all technologies -- the ability to participate in a comprehensive process with clearly defined criteria, timelines, and costs of developing a project in New York State. The Interim Report remains silent on this issue, even though a siting statute is an important step for New York State to attract developers to build the resources needed to meet future energy demands. Remarkably, the only mention of any process to build generating facilities falls within an extensive section dedicated to environmental justice. Although an important issue itself, in the energy context, environmental justice should be connected to a siting statute. It appears that the drafters of the report not only have these issues backwards, but they also inexplicably have ignored the charge contained in the Final Scope of the 2009 New York State Energy Plan:

Siting New Energy Infrastructure

This Issue Brief will address existing siting processes, as well as the expired Article X siting law, for energy infrastructure projects and will assess the effectiveness of these processes from the perspective of developers, involved government agencies and local communities. It will clarify the roles of federal, state and local authorities in siting energy facilities in New York, with a special emphasis on areas of shared or contested jurisdiction. This paper will consider the relative complexities of siting generation and transmission facilities² in different regions across the state. The Issue Brief will examine issues related to the uses of rights-of-way associated with transportation corridors for the siting of energy facilities.

² IPPNY would note that the Interim Report discusses the development of new transmission infrastructure at great length. Earlier this month, New York City announced that it had spent \$1 million to commission a comprehensive study of available energy options, including large scale transmission projects ("NYC Comprehensive Energy Study"). IPPNY urges the State Energy Planning Board to review, and take account of, the findings of the NYC Comprehensive Energy Study in the Final State Energy Plan.

We reiterate our position that the Final State Energy Plan must support the enactment of a siting statute that meets the above criteria.

Regarding environmental issues, the governor's executive order, establishing the planning process, required an assessment of the cumulative impacts that all existing and pending environmental regulations may have on energy policy and economic development. IPPNY has been calling for such a review for years. The Interim Report acknowledges that decision makers today cannot assemble an optimal set of technical and policy options to meet long-term climate change goals, but the state can plan an intensive effort to identify and implement the best set of policies that can be launched within the planning horizon. According to the document, this effort would include a quantification of the costs of acting, and not acting, on greenhouse gas emissions and assessing those cost effects in the context of the state's overall energy, environment and economic development agenda. The framework indicates that, in the longer term, flexibility and adaptability on the part of policy makers and infrastructure systems will be central ultimately to containing greenhouse gas emissions. Likewise, while the Interim Report forthrightly acknowledges the urgency of the state's economic situation, it then summarily states that action -- presumably beyond the substantial measures already implemented -- must be taken on climate change. IPPNY continues to underscore that the Final State Energy Plan must conduct a cumulative evaluation of all environmental programs affecting the energy sector and their impacts on energy policy and economic development, not just focusing on issues associated with climate change in a vacuum as the interim report suggests.

Among the recommendations advanced by IPPNY to address environmental concerns and, at the same time, preserve and enhance fuel diversity, were for the Plan to maintain the operation of existing zero- and low-carbon generating facilities and to foster the development of carbon capture and sequestration technology to enable fossil fueled facilities to remain in the state's fuel mix. IPPNY also called for full funding of the Renewable Portfolio Standard program. The Interim Report only briefly mentions that the state is addressing greenhouse gas emissions through ongoing funding and support for renewable energy sources and the demonstration of carbon capture and sequestration.

Indeed, the Interim Report focuses on the need for expansion of renewable energy projects and upgrades to the transmission system. These infrastructure improvements are important objectives that logically are part of the portfolio of the Plan's solutions to meeting energy needs. However, the Plan needs to recognize more clearly that a certain amount of local and controllable fossil based generation will be needed in New York City, no matter how much transmission and renewable energy infrastructure the state builds. Similar to the recognition by the report commissioned by the City of New York, these options must be pursued with a full recognition of the system's needs that increased reliance on intermittent resources and greater imports from remote locations will bring. With higher concentrations of renewable resources that operate on an intermittent basis, fossil fueled resources also are needed to provide critical load following capability.³ Even today, the current local reliability rules for New York City

³ The Interim Report acknowledges that intermittent renewable resources present the technical challenge that we must ensure that they can be integrated to the bulk transmission system without adversely affecting system

require a significant amount of local generation to be online at all times for transmission security and contingency purposes. With a greater reliance on long-distance imports and intermittent resources, these requirements only will increase. As such, New York City may realize the full benefits envisioned by the State Energy Plan, if it also seeks to attract more environmentally friendly, efficient and flexible sources of local generation. Given the unique needs of New York's major load center, the State Energy Plan should consider the energy objectives of New York City's PLANYC. PLANYC recognizes the need for repowering or replacement of aging, existing power plants, in order to realize the objectives of bringing more economic sources of power, improved air quality, and enhanced reliability to that region.

Despite its acknowledgement that New York has made considerable progress in reducing environmental impacts and health risks associated with energy production and use and that this state has been a leader in addressing climate change through the Regional Greenhouse Gas Initiative (RGGI), the report calls for adopting additional carbon reduction strategies and consideration of a long-term greenhouse gas reduction plan. However, until the state helps develop and commercialize carbon capture and sequestration technology in a cost-effective manner, adverse economic and reliability impacts to New Yorkers likely will result from an additional long-term greenhouse gas reduction strategy. Indeed, as reflected by the reliability planning studies conducted by the New York Independent System Operator (NYISO), such adverse economic and reliability results will result from the currently effective regulations, depending upon the price of RGGI allowances and the spread between coal and gas prices.⁴

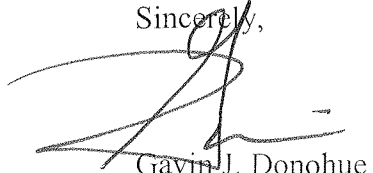
In relation to the role of the New York Power Authority (NYPA), we recommended previously that the Plan encourage NYPA to continue to use requests for proposals in lieu of self-supply to procure power competitively from the market to satisfy its energy needs. Of significant concern, the Interim Report indicates that the Final State Energy Plan likely will address challenges to more fully realizing "benefits" that NYPA can provide in the area of developing electric system infrastructure. This section of the document implies that NYPA may build additional supply, instead of continuing to purchase its power needs from the competitive market. The framework notes that power allocations made under NYPA's Power for Jobs program primarily have been supported through purchases made by the Authority in the wholesale market, which (according to the report) have diluted the economic development benefits for program participants. IPPNY is concerned that the framework seems to indicate that any fault related to pricing under these economic development programs results from the competitive market itself and not from record high fuel prices combined with NYPA's program operation and power purchasing decisions.

reliability. While the Interim Report notes that these challenges have been successfully met to date, it fails to recognize that this progress has been true, in part, because operators are able to use these load following resources to balance the intermittent operation of renewable resources. Should these resources no longer be available, system reliability may no longer be assured.

⁴ NYISO 2009 RNA

We continue to encourage you to address our concerns and to incorporate our recommendations into your decision-making process. 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,



Gavin J. Donohue
President & CEO

CC: Mr. Francis J. Murray, Jr.
President and CEO
New York State Energy Research and Development Authority

Mr. Paul DeCotis
Deputy Secretary for Energy
Chairman, Energy Planning Board
Office of the Governor

Mr. Lawrence S. Schwartz
Secretary to the Governor
Office of the Governor