

## **Memorandum on S.6274-A/A.9233-A and S.2813-A/A.6694-B**

November 23, 2009

**S.6274-A (Aubertine) / A.9233-A (Russell) - AN ACT to amend the public authorities law, in relation to powers of the North Country power authority and repealing subdivision 7 of section 1021-d of such law relating thereto**

**S.2813-A (Aubertine) / A.6694-B (Russell) - AN ACT to amend the public authorities law, in relation to establishing the North Country power authority, and providing for its powers and duties**

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.

Following the introduction of S.6274-A / A.9233-A, IPPNY **takes no position** on either of the above referenced bills. S.6274-A / A.9233-A subjects a newly created North Country Power Authority, in all respects, to the general supervision of the New York State Public Service Commission. Furthermore, the legislation states that the Authority cannot acquire, by the exercise of eminent domain, any electric generating facilities.

Although we take no position on these bills, IPPNY cautions the Legislature and Governor in establishing a precedent that allows the North Country Power Authority to construct and generate electricity, among other powers, in a manner that is inconsistent with the competitive electricity marketplace by creating tremendous competitive disadvantages for private generating companies that do not have its tax-exempt financing ability with a state guarantee of non-impairment of its revenues. The Authority even would have a market advantage over other public power authorities, such as the New York Power Authority and the Long Island Power Authority, to the extent that those entities obtain their new power supplies primarily through competitive procurement instead of building new generation.

New York State already has decided that private generating companies in the competitive marketplace should be the main source of power for energy consumers. Under the Comprehensive Reliability Planning Process of the New York Independent System Operator (NYISO), the NYISO evaluates all proposed solutions (market-based or regulated backstop) to determine whether they will meet the identified reliability needs. However, the Authority could operate in contravention to this process, by having a primary ability to build generation itself.

As one of the reasons for creating the Authority, the legislation states that the supplanting of private corporations by the Authority will result in an improved energy system and a safer, more efficient, reliable and economical supply of electric energy. The veracity of this supposition has not been tested or proven; however, the power supplies from the competitive electricity markets that would be displaced by the Authority's operation are paramount examples of a safe, efficient, reliable and economical supply of electric energy. In the electric industry, the competitive marketplace results in economic development, efficiency and electric system reliability. Competition has encouraged the development of a diversified generation fleet, increased generator availability and efficiency (resulting in a cleaner environment), and provided savings to consumers. Additionally, competition has shifted the risk of poor investment and operational decisions from the consumer to private company shareholders, but, under the legislation, the Authority's customers would be required to bear the risk of the Authority's power generation-related decisions.

Again, IPPNY takes no position on this legislation, but we remain concerned about the potential precedent to be set by these bills.

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