

Memorandum in Strong Opposition of S.6825 (Stewart-Cousins) / A.10003 (Brodsky)

May 24, 2010

S.6825 (Stewart-Cousins) / A.10003 (Brodsky) - AN ACT to amend the public service law, in relation to directing the public service commission to require any utility company involved in a vegetation management plan to give prior notification and to hold a public hearing in affected communities

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.6825 (Stewart-Cousins) / A.10003 (Brodsky). These bills would require the New York State Public Service Commission (PSC) to require any utility company, involved in a vegetation management plan that includes the trimming or cutting of trees and / or the elimination of overgrown vegetation, to notify residents of an affected community about those actions 60 days prior to their implementation. The legislation provides that, in the event of an emergency, the utility company would not be required to give such notice or to hold a public hearing, prior to the implementation of a vegetation management plan.

Neither the legislation, nor existing law, provides a definition of a vegetative management plan; as a result, the applicability of the bills is unclear. Also, the bills do not specify what circumstances constitute an emergency. Furthermore, the potential scope of the legislation is too broad. The bills should be amended to apply only to utilities that are subject to the PSCs oversight and should include an exemption for interstate natural gas pipeline companies that are subject to oversight by the Federal Energy Regulatory Commission and the Federal Department of Transportation.

To the extent that the bills requirements affect routine pipeline mowing or spraying, the legislation will impact extensively a pipeline companys ability to maintain its rights-of-ways. The time, cost, and delays, as well as subjective opinions on what should or should not be cleared, would restrict severely a pipeline companys efforts to keep its pipeline easements clear from woody vegetation, both trees and shrubs. The removal of vegetation allows unimpaired visibility for aerial patrol and identification of markers, prevents any potential damage from roots, allows unrestricted access for maintenance and emergency repairs, and keeps pipeline corridors identifiable as utility corridors.

For the reasons stated above, IPPNY respectfully opposes the passage of S.6825 (Stewart-Cousins) / A.10003 (Brodsky).