Independent Power Producers Of New York

Memorandum in Strong Opposition of A.1563

June 11, 2010

A.1563 (Brodsky) - AN ACT to amend the public service law, in relation to abolishing the market clearing price

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 strongly opposes the passage of A.1563. This bill attacks New Yorks highly successful competitive electricity market. Specifically, A.1563 includes the following problematic provisions: (1) prohibits a market clearing price mechanism for the purchase of power through the wholesale market via a bid procurement or auction process held by the New York Independent System Operator (NYISO); (2) requires the New York State Public Service Commission (PSC) to regulate the reliability, quality, maintenance, and price of power from generators; (3) requires the PSC to exercise full jurisdiction over the NYISO and its auction or bid procurement process; and (4) prohibits the PSC from requiring utilities to divest any generation, transmission or distribution assets, without prior specific legislative approval.

The uniform-clearing price (UCP) market design is accepted throughout the world as the preferred method of settling competitive wholesale power markets. Fourteen years have passed since competition was implemented in New York, and, now, private generators compete to supply - and numerous companies vie to provide - electricity to New Yorkers.

In the electric industry, competition leads to economic development, efficiency and electric system reliability. Competition has encouraged the development of a diversified generation fleet, led to increased generator availability and efficiency (resulting in a cleaner environment), and provided savings to consumers. UCP-designed competitive markets have benefited New Yorkers in additional ways, such as:

The siting of new generation where it is needed most - New Yorks electricity markets are sending clear economic signals, with more than 80 percent of the generation constructed since 2000 sited near New York City (where demand is greatest).

An increase in renewable generation - The entry of renewable generation in New York State has been spurred by the competitive market rules, with 1,275 megawatts (MW) of wind-powered resources in existence.

A decrease in risk exposure for consumers - Competition has shifted the risk of poor investment and operational decisions from the consumer to company shareholders. Prior to competition, the consumer was at risk for poor investment and operational decisions; however, in todays competitive markets, the risk is born by merchant companies shareholders. Between 1996 and 2004, roughly 74 percent of electricity capacity additions nationwide were made by non-utility entities, who are not assured full cost recovery through rate-based, cost-plus contracts. A conservative estimate of the capital costs of the capacity added nationally between 2000 and 2007 is $73 billion. Thus, in the event of poor investment decisions, consumers no longer are subjected to the costs of uneconomic resources through utility rates.

New innovative demand-side programs - New Yorks competitive markets have fostered more than 2,383 MW in NYISO demand response programs, which provide incentives for electricity customers to reduce their power use during times of peak demand, and the size of these programs has grown more than ten-fold since 2000.

A decrease in wholesale electricity prices - Despite additional government regulation on the energy sector, since 2000, wholesale power prices decreased by 18 percent in New York (when adjusted for fuel costs). In 2009, the state's average wholesale electric energy price was the lowest in the ten year history of New York's marketplace for electricity.

Increased generator availability - Independent power producers play a vital role in New Yorks energy system, and generator availability has reached an all time high in New York under the competitive market design. The availability of generators during the peak summer months increased to over 90 percent, and average annual availability exceeds 95 percent. This increased availability of existing facilities is equivalent to adding 2,400 MW four medium-sized generating facilities to the grid. Increased unit availability benefits consumers in the form of enhanced reliability and reduced costs, especially during times of peak demand. In 2006, when electricity demand records were set three times in rapid succession in one summer, independent power producers continued to operate their facilities with unprecedented efficiency to meet the needs of consumers.

Independent power producers in New York clearly have been willing to take the risk of investment. Merchant companies have spent billions of dollars to acquire generating facilities from the investor-owned utilities through protocols that were designed to maximize auction proceeds for the benefit of New Yorks consumers. Independent power producers have invested over $10 billion to purchase, construct, and operate their facilities and well over $50 million in their communities located throughout New York State. Additionally, they pay annual taxes of nearly over $600 million and employ approximately 10,000 individuals across the state.

For the reasons stated above, IPPNY opposes A.1563.

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