

Memorandum in Opposition of A. 7400 (Sweeney)

May 16, 2011

A.7400 (Sweeney) - AN ACT to suspend hydraulic fracturing; and providing for the repeal of such provisions upon expiration thereof

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 A.7400. The legislation is the same as the bill that was vetoed by the governor last year (except for the moratorium date). The bill would suspend, until June 1, 2012, the issuance of new permits for natural gas drilling using hydraulic fracturing from reservoirs such as the Marcellus and Utica shale formations.

A.7400 has not been amended to address the reasons for the veto of nearly identical legislation in 2010. The 2010 Veto Message states that permits for high-volume, unconventional hydraulic fracturing, which would be issued by the Department of Environmental Conservation (DEC), cannot be issued in any case until DEC completes a Supplemental Generic Environmental Impact Statement (SGEIS). As a result, there is already in place a de-facto moratorium on such permits, making this legislation as unnecessary this year as it was last year. Indeed, the DEC still is working on the SGEIS.

Furthermore, the 2010 Veto Message stated that the expansive definition of hydraulic fracturing in the bill will prevent numerous individuals who have been drilling for oil and gas from obtaining a permit for doing so, costing the state hundreds or perhaps thousands of jobs. That is because - for reasons not entirely clear - the language of the bill goes well beyond its original purpose and would effectively result in a moratorium on all oil and gas well drilling in this State. As a result of this broad definition, the legislation would reduce potential supply of and increase the price of natural gas, impacting the diversity of fuels with which power producers generate electricity.

Notably, the 2009 New York State Energy Plan supports the development of in-state energy resources, including natural gas, to achieve the Plan's multiple public policy objectives. The production of electricity from natural gas, among other energy resources, contributes to the states fuel diversity and electric system reliability. The Plan notes that the Marcellus Shale area could develop into a major natural gas production area. The Plan also indicates that horizontal well completions, combined with hydraulic fracturing, could provide the best means for producing economic volumes of natural gas from the Marcellus Shale area.

For the reasons stated above, IPPNY respectfully opposes the passage of A.7400.