

Memorandum in Opposition to A.11527 Rules (Brennan)

June 19, 2008

A.11527 Rules (Brennan) - AN ACT to amend the environmental conservation law, in relation to environmental protection related to the drilling of oil and gas wells

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 the passage of A.11527, because the legislation is unnecessary, given the existing powers of the New York State Department of Environmental Conservation (DEC) to ensure that environmental harm does not result from the drilling of wells. Without recognition of the DEC's broad authority in this area, the bill would establish a two-year moratorium on the issuance of permits for the drilling of new wells and would require the DEC to study the need for environmental protection related to the drilling of oil and gas wells in this state.

Existing New York State Environmental Conservation Law empowers the DEC to require environmental protections in relation to leases for the production of oil and gas in this state, such as:

- no well to be permitted nearer than one-half mile from shore and two miles from public water intake areas
- if the formation test indicates the presence of appreciable liquid hydrocarbons, the well bore be permanently plugged and abandoned
- the posting by the responsible parties of a liability bond or liability insurance coverage to correct, repair or remedy any environmental damage or hazardous discharge resulting from gas exploration or recovery
- each lessee be strictly liable to the state for all reasonable expenses involved in the restoration of fresh water supplies, cleanup of beaches, piers and other similar facilities, which may be required as a result of exploration, drilling or production operations, and for related liability claims
- each lessee to immediately notify the DEC of any discharge of oil or other pollutant and to act terminate such discharge and to remove the substance discharged
- the use and regular inspection of modern anti-pollution devices
- when a well is permanently abandoned for any reason, the plugging and filling of the well bore for its total depth, with cement or other suitable material
- where damage to the environment is imminent or an emergency exists, the immediate plugging and abandonment of the wells

Furthermore, the legislation ignores the need to expand sources of fuel supplies, in light of rising prices for oil and gas. Remarkably, the price of oil reached a new record high of \$139 per barrel, and natural gas costs more than \$13 per mmBtu.

Also, the New York Independent System Operator's Power Trends report identified the need for an effective fuel diversity strategy. New York State's energy policy is to obtain and maintain safe, reliable, and diverse energy supplies, accelerate the development and use of renewable energy resources, and increase its energy independence, in order to promote the state's economic growth, to maintain the security of its energy supplies, and to protect its environmental values. In general, the electric system is less reliable if it becomes too dependent on any one fuel source. A diverse energy fuel portfolio protects the reliability of New York's energy system and provides benefits to consumers. As the majority of the Northeastern states pursue more independence from foreign fuel sources, and some, including Pennsylvania, are seeking the instate benefits of newly available shale play natural gas, it would seem frivolous for New York to disallow any instate supply of domestic energy.

For the reasons stated above, IPPNY opposes A.11527.