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Gavin J. Donohue, *President &
Chief Executive Officer*

May 30, 2012

Gil C. Quiniones
Co-Chair, Energy Highway Task Force
President and Chief Executive Officer
New York Power Authority
123 Main Street, 16th Floor
White Plains, N.Y. 10601-3170

Dear Mr. Quiniones: *Gi*

On behalf of the Independent Power Producers of New York (“IPPNY”), I am in writing in response to the Energy Highway Task Force’s April 11, 2012 Request for Information (“RFI”). Although IPPNY does not have a specific project to propose pursuant to the RFI, the Energy Highway Task Force has indicated an openness to receive “ideas regarding issues and challenges faced by the industry,” and it is from that perspective that IPPNY submits the following response.

IPPNY shares the RFI’s goal of an energy policy that promotes investment in the State’s energy resources while providing the greatest value to the ratepayers of New York. Affordable, reliable energy is the backbone of an economy, and IPPNY’s members, through substantial private investment, have ensured that New York has the energy resources to meet the needs of the State for at least the next ten years. As the details of the Energy Highway Action Plan become more defined, IPPNY urges you to consider the great success that has been achieved by private companies within this State and assess the impact that State-driven investment decisions can have on current and future private investment.

As providers of approximately seventy-five percent of the State’s electricity, IPPNY members have invested billions of dollars to buy and maintain facilities that participate in, and rely on, New York’s competitive energy markets. Members are quite interested in ensuring that the next steps within the Energy Highway initiative will be designed to foster -- not stymie -- the well-functioning, competitive marketplace. We expect that our members have made submissions to the RFI on either specific projects, similar conceptual recommendations, or regulatory changes that might facilitate a proposal’s process, as indicated was welcomed at the April 19, 2012 RFI Conference.

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As the RFI is intended to inform the Task Force's Energy Highway Action Plan, we encourage you to be mindful of the important role and purpose of the competitive electricity market. Depending on what recommendations are made, this initiative seems to indicate a shift, on some level, in the State's view of its role in New York's energy markets away from competitive markets and towards centrally planned solutions. In particular, we understand that the Energy Highway Task Force considers a Request for Proposals ("RFP") process as one option subsequent to the RFI as part of the Action Plan. While individual utilities or load serving entities may use RFPs to determine their most economic supply options, a State-directed RFP would be an entirely different matter that would be outside the normal market process and could have significant adverse impacts on the functioning of the competitive markets.

In no case should the RFI process result in utilities or public authorities constructing, owning, and operating new generation. Such an outcome would be inconsistent with the foundation of the State's policy on the restructuring of the electric industry, which applies to the ownership of generation by utilities as well as by public power authorities. The State has long-standing policies on the restructuring of and competition within the electric industry and the shift of investment risks away from captive ratepayers to private investors. No evidence exists that utility or public power authority ownership of new generation resources is necessary.

Importantly, we would note that New York State already has a developed market designed to support wholesale competition, which includes a comprehensive planning process that is expressly structured to identify system needs well into the future. There is no indication that this planning process has failed or that any entity is unable to secure supply such that the State should step in with an RFP. Indeed, as the State considers these energy issues, it must first fully take into account New York State's significant excess capacity. By all accounts, New York State has more than sufficient resources both today and for at least the next 10 years.

Should the State nevertheless determine that it should proceed forward to issue an RFP to consider whether to secure any additional energy resources, notwithstanding these facts as part of this Action Plan, any such RFP must be narrowly tailored, carefully structured, transparent and non-discriminatory. Resources must not be discriminated against based on fuel type or technology; any such RFP must be open to both existing and new resources on a level playing field.

Excluding existing investments in general -- and generation resources specifically -- from participation in an RFP would unjustifiably and inexplicably deprive New York State's consumers of the opportunity to take advantage of existing, competitive and potentially lower cost resource proposals to meet energy needs in an efficient manner. Equally problematic, excluding existing resources further harms New York's consumers because new resources will know that they can be less disciplined in devising their "best" proposals. Such a discriminatory procurement process is inefficient and contrary to a well-functioning competitive marketplace.

Boxing out the State's existing resources also will have a number of other consequences. These facilities provide well-paying jobs, much-needed, substantial revenues to localities and to the State, and protection against a dependence on sources of fuel and/or energy outside of our borders. In fact, in many instances, these facilities are located in rural parts of Western and

Upstate New York where they are either the biggest, or among the biggest, employers, and taxpayers.

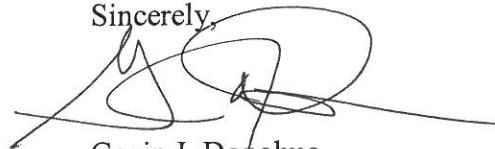
If an RFP ultimately were to result in the execution of a long-term contract, that contract will necessarily have a counterparty -- a utility or power authority -- and the result will lock a substantial portion of New York's families and businesses into a significant financial obligation for many years. This scenario is particularly problematic if the contract were to provide subsidies to a new project that is itself otherwise uneconomic. Therefore, it is incumbent upon New York State to ensure that the entire spectrum of energy resources, including both existing and new, is provided the same opportunity to submit proposals to ensure that New York's energy needs are best served.

Further, we want to emphasize that a State-mandated RFP produces a non-market solution, even if that solution is selected through a competitive bidding process. If an award is ultimately issued, the State-mandated RFP would produce a long-term contract that the bidder could not obtain in the competitive market. A new resource that is otherwise uneconomic and cannot proceed without a long-term contract obtained through the State-mandated RFP should not be considered to be merchant generation or transmission.

Therefore, if the result of the RFI process leads to an RFP, we have many concerns about the implications of any above-market activity. We urge the Task Force to consider RFI submissions that address the needs of New Yorkers while ensuring that existing resources of all types are included in the process.

It is unquestionable that sufficient and reliable supplies of energy to New York's homes and businesses are essential to supporting and growing New York's economy. New York's leaders, IPPNY and its Members share the same goal of ensuring that the State can continue to count on reliable, clean, and affordable energy. IPPNY stands ready to continue working with the Task Force to ensure New York's needs are met in an efficient, cost-effective and competitive manner.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gavin J. Donohue', with a large, stylized flourish extending to the right.

Gavin J. Donohue
President & CEO

Cc: Assembly Standing Committee on Energy
Senate Standing Committee on Energy & Telecommunications