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Gavin J. Donohue, *President &
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January 25, 2013

Via email at secretary@dps.ny.gov

Honorable Jeffrey Cohen
Acting Secretary to the Commission
New York State Public Service Commission
Empire State Plaza, Agency Building 3
Albany, NY 12223-1350

Re: PSC Case 12-M-0476 - Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-Residential Retail Energy Markets in New York State

Dear Acting Secretary Cohen:

In response to the New York State Public Service Commission's ("Commission") October 19, 2012 Notice Seeking Comments ("October 19 Notice"), the Independent Power Producers of New York, Inc. ("IPPNY") hereby submits its Initial Comments regarding the many realized benefits that competitive wholesale and retail markets have brought to New York over the past decade.

IPPNY is a New York State trade association representing companies involved in the development of electric generating facilities, the generation, sale and marketing of electric power, and the transmission of natural gas in the State of New York. IPPNY's Members utilize cutting-edge technologies, such as renewables (including hydro, wind, landfill gas, biomass, and energy-from-waste) and cogeneration, and fuel types such as nuclear, coal, oil, and natural gas.

IPPNY believes the fundamental foundation of competitive markets is to promote competition among multiple suppliers, which ultimately leads to the most competitive and diverse offerings available for the end-use consumer. The Commission's decade-long commitment to wholesale and retail competition successfully has created consumer choice, innovative products, new infrastructure, enhanced environmental performance, improved resource availability, and record-low commodity pricing. In addition, it has created a substantial economic development benefit as evidenced by the large number of new energy companies that elected to establish business in New York. IPPNY supports the Commission's review of the

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existing residential retail market, and we believe some of the processes to improve transparency and create new market products and services that transpired at the wholesale level can serve as useful guidance as the Commission embarks on similar enhancements to the retail residential market.

Benefits of Wholesale Competition

IPPNY Members produce over 75 percent of the State's electric power, and, over the last decade, our companies have invested more than \$10 billion worth of private energy infrastructure development in New York State to purchase, construct, and operate their facilities. They employ more than 10,000 individuals, pay annual taxes of over \$600 million, and invest more than \$50 million in their host communities.

Since 2000, through the implementation of competitive electricity markets and regulatory requirements, power producers have provided significant environmental benefits. For example, the rate of power plant emissions of sulfur dioxide ("SO₂") has dropped by more than 86 percent and that of nitrogen oxides ("NO_x") by over 76 percent. The Governor's State of the State document noted that carbon dioxide ("CO₂") emissions from power plants have been reduced by around 45 percent from 2005 levels.

The New York Independent System Operator ("NYISO") recently reported that the average annual wholesale price of electric energy in New York State was \$45.23 per megawatt-hour ("MWh") in 2012. This 2012 average was 52.5 percent lower than the 2008 average of \$95.31 per MWh. The previous record low price of \$48.63 per MWh occurred in 2009.

Benefits of Retail Competition

The introduction of retail competition has operated relatively effectively for all classes of customers, including residential, small commercial and the larger commercial and industrial users. All customers, regardless of class or size, taking service from distribution utilities have the opportunity to exercise choice in their selection of commodity suppliers. A plethora of energy service companies ("ESCOs") provide electric and gas commodity service throughout the State. Any customer has the opportunity to purchase energy from a competitive ESCO without restriction or diminution in the quality of commodity delivered. It is reasonable to conclude that the present regulatory scheme effectively has met the goal of providing consumers with meaningful competitive choice.

The retail competitive structure implemented in the State clearly has produced benefits for consumers. As of the Spring of 2012, almost 1.6 million electric customers and 1.1 million gas customers have migrated to retail access service, and, on a statewide basis, in excess of 57 percent of electric load and 48 percent of gas load are served by ESCOs. Obviously, this large group has determined that moving to an ESCO provides sufficient benefits to outweigh remaining with the utility. Stated simply, the free market actions by consumers indicate that competition and restructuring have provided consumers with material and substantial benefits.

Further, consumers in all classes now have the opportunity to choose among a variety of products and services in contrast to the static type of service previously provided by the utility. In this regard, customers can obtain variable, fixed or capped rate service, as well as the blending of commodity service with other products such as efficiency, green energy options and load management. Consumers today have many more products and services available than was the case before competition was instituted more than a decade ago.

A vibrant and healthy ESCO industry has evolved in New York in response to the present regulatory structure, which effectively has balanced the needs of consumers with the prerequisites of a competitive market. The ESCO industry, consisting of more than 80 companies in New York, has invested tens of millions of dollars in developing the infrastructure required to service its customer base in New York, thereby creating an entire industry that was non-existent a decade ago. This new industry provides customers with real choice, adds additional jobs in the State, as well as generally improves the economic climate both in the downstate and upstate areas of New York.

Conclusion

The record is very clear that New York State and New York consumers have benefited from the initial introduction of wholesale and retail energy competition. This benefit has been twofold: (1) it has resulted in multiple products and services that have been offered at competitive prices, while simultaneously improving our environment; and (2) it has provided incentives to numerous companies to dedicate capital and resources in New York and to provide jobs and tax benefits for the State and individual communities.


With respect to the future, New York State, under Governor Cuomo's leadership, has implemented a strong renewal of economic development efforts, and the energy arena is the bedrock of that development. IPPNY suggests that the Commission go further to allow competition to realize its maximum potential. The Retail Market Review is an opportunity to improve consumer price transparency, increase consumer education and awareness, and provide additional oversight, where necessary, to strengthen further consumer choice and confidence. The Retail Market Review should create an effective forward-looking price-to-compare that captures at least a 6-12 month period to allow consumers to evaluate fully their purchasing options as compared to a backward-looking mechanism.

In addition, the Commission should utilize fully the latest technology platform possible to offer consumers real-time price competition. Also, the Commission should provide up-to-date consumer education programs that offer energy procurement tips and a simplified, consumer-friendly access to the many energy-related programs that various New York agencies offer. With respect to marketing excellence, the Commission should consider a rating system, similar to those utilized in other states such as Illinois or Texas, that allows consumers to evaluate fully and in advance possible energy and value-added product suppliers. This approach ultimately rewards companies that "do it right," while providing enhanced credibility for the market in general. Furthermore, the Commission should consider accelerating competition by proposing new ways to moving existing utility customers into competitive markets through vehicles such as the Basic Generation Service ("BGS") program operated by New Jersey.

Now is the time to move forward with realizing the benefits of competition by improving the available market tools, utility processes, price transparency, and product offerings to allow more consumers to access the market better. This approach would assist the State to realize fully its energy, renewable and efficiency goals. IPPNY applauds the Commission for being forward-thinking and believes the Retail Market Review is an important step for the State to meet economic development, energy, and environmental objectives.

Thank you for the opportunity to provide these comments, and IPPNY urges you to incorporate them into your decision-making. If you have any questions or need additional information, please feel free to contact me.

Sincerely,

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

Gavin J. Donohue
President & CEO