RETAIL COUNCIL of NEW YORK STATE

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Hon. John C. Crary
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12210

RE: Case 94-E-0952, COMPETITIVE OPPORTUNITIES

Dear Secretary Crary:

The Retail Council of New York State, on behalf of our nearly 5,000 member stores of all size and variety from every region of the state, appreciates the opportunity to respond to the above-captioned Competitive Opportunities case, and to outline in general the retail industry's views on restructuring of the electric industry in New York.

Because our individual member companies, both small and large, are negatively affected by the high commercial rates currently charged in New York for electricity, **the Retail Council strongly advocates a prompt transition to retail electric competition, without inordinate delays or phases, allowing lower electric rates for all commercial and other customers.**

New York's economy needs retailing and depends greatly on a strong and vibrant retail segment. The retail industry in New York employs more than 1 million people, nearly 15% of the state's total non-agricultural workforce, with a payroll of $18.8 billion. Nationally, retailing employs one in every five American worker.

Succeeding in retailing in today's environment is becoming increasingly difficult. The retail industry in New York and throughout the nation is ferociously competitive and operates on particularly narrow margins. And retailers must attract customers who are markedly price-sensitive.

If there ever was a time when merchants could price goods casually, or raise prices to cover operating costs without fear of loss of business, that day is past.

The cost of utility services, particularly electric energy service, is a constant concern to New York retailers. Typically, the cost of electricity, next to the cost of labor, is the highest operating expense retailers incur. Virtually every retail store has an electrically driven HVAC (hearing, ventilating and air conditioning) system, and most have heavy lighting requirements.

The cost of electricity in New York State is among the highest in the nation. Not only are electric rates too high absolutely, but for commercial customers -- such as retailers -- they are relatively too high as well in comparison to the bills paid by either residential or industrial customers of comparable size and load factor.

In an industry where profit margins are as slim as 1%-2%, the importance of reducing excessive energy costs cannot be overstated. The cost of electricity in New York compared to its cost in other areas of the country is especially important when considering expansion or relocation opportunities available to retailers. **There is no question that a close and thorough analysis of the cost of electricity is undertaken by retail companies when evaluating such expansion or relocation questions.**

Retailers support and encourage the restructuring of the electric industry in New York. Such a restructuring will ultimately lead to the creation of a truly competitive environment which would aid in the recovery and growth of the State's economy. In short, competition could be the great cost leveler for electricity.

Competition is the best way to optimize society's resources. This principle has been demonstrated dramatically during the last decade, and has been observed in every industry where competition has replaced regulation, particularly regulated monopolies. Our industry's research shows that competition offers the promise of electric cost reductions ranging as high as 20 to 60 percent if retailers could buy their electricity on a competitive basis from multiple suppliers.

The cost of electricity affects the cost of living of every family in New York and in the nation. It also influences the cost of virtually every product and service, including notably retail goods and services. Electric competition and the savings it would generate would translate into a significant improvement in the productivity of American industry.

In this regard, however, **retailers must resist efforts as proposed in the Recommended Decision to phase-in competition over an extended period of time. In the case of the Recommended Decision, this concern is exacerbated by the absence even of any reasonable timetable for the implementation of retail competition for all customers.**

A phase-in to full retail wheeling is unacceptable because it would necessarily discriminate against certain customers, usually including retailers. Typically, these plans phase-in the ability to buy power competitively according to size classifications, beginning with the largest customers first. Alternatively, the phases may be based on descending delivery voltage levels, beginning with the highest voltage customers. This, of course, deprives smaller commercial customers of the benefits of competition until the largest customers have claimed the lowest-cost resources.

As a practical matter, the actual implementation of competitive purchasing will not occur instantaneously even if it were authorized tomorrow. There are a limited number of effective competitors, and no established buying cooperatives, while the procedures for wheeling power through the transmission grids and distribution systems have yet to be worked out. These market and operational delays are unavoidable. They should not be compounded by artificial regulatory delays.

The Retail Council is unequivocal in its support of the premise that the benefits of retail electric competition should be available to all classes of customers, including small businesses, regardless of their size or useage patterns. Artificial barriers to participation by even the smallest users should not be created, encouraged or allowed to exist.

Retailers oppose any plan that seeks to limit the scope of competition because any such limitation reduces the overall benefits. To the extent that purchasing electricity from generators may require large volumes, customers should then be allowed and encouraged to aggregate their loads through workable arrangements that meet the requirements of the selling generators and the operators of the transmission grids.

As to the issue of stranded costs, our industry believes that the recovery of these costs should be a shared responsibility between utilities and their customers. The ultimate, overriding test, however, should be the public good. Fairness to the ratepaying public and to the economy as a whole should be the basis for resolving the stranded cost issue. Placing the entire burden on consumers would be unwarranted and unfair and would negate any potential savings engendered by deregulation.

Furthermore, the retail industry believes utilities claiming stranded costs should be able to demonstrate that their costs were prudently incurred in light of changing market conditions and technological advancements. Energy consumers should not be penalized for utilities' poor management decisions or their efforts to capitalize on stranded investment costs.

For retailers, the key is prudence. For utilities, the standard has always been: "was the decision prudent when it was made?" In competitive markets, the test of prudence is always: "has the decision proved to be prudent?" That is the test that retail managements face every day. It must become the standard for utility managements, as well.

The Retail Council of New York State, on behalf of its multifaceted membership, eagerly awaits the state's transition to a truly competitive electricity market. We believe that such markets are inevitable and look forward to a time -- hopefully, sooner than later -- when all classes of customers will share the resulting benefits of a more efficient and competitive energy market.

Sincerely,

James R. Sherin

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Senior Vice President and
Director of Government Relations

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