

3. Deregulation

Wendy Harris

I think deregulation is a complete disaster. Overall I'd like to think that the State of New York might think more creatively about its energy policy and the future of the industry in the State of New York and come up with a greater vision for what the State might do in the future. I think it ought to be a state that eliminates nuclear entirely. That we don't have a solution for what to do with the waste is no reason to continue to create more.

The Manufacturers Associations of Central New York and the Greater Syracuse Chamber of Commerce

We encourage New York to continue to work toward new and efficient technologies but that should be done alongside a priority effort to get more power online. The members of the Manufacturers Associations of Central New York and the Greater Syracuse Chamber of Commerce are business people. We believe strongly in the marketplace. We believe that the market provides the best opportunities for our energy needs. New York State was right to deregulate its energy market. It is on the right path. New York must continue to assist in development of this market system, adding more capacity is the best way to accomplish that goal.

Honorable Paul D. Tonko, Chair, Assembly Energy Committee

The assumption that during this time of transition, market participants alone will provide optimal energy supplies and services renders the Energy Plan incomplete and ineffective to meet market challenges.

The State Energy Plan raises more questions than supplies answers. Furthermore, the overall thrust of the document, delegating to “the market” the decision making with respect to current and future energy policy, is an evasion of the administrative and political dynamics at stake with each new power plant, transmission line, gas pipeline, and transportation alternative.

Response: The Energy Planning Board and the 2002 Energy Plan strongly support the movement to competition in energy markets and the development of new technologies to assist in that movement. The spiraling costs and inefficiencies that resulted from regulation of energy markets have already started to move in the opposite direction, and new opportunities for consumers have begun to emerge. While the benefits of competition may not yet be obvious, thousands of stakeholders have already begun to see

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benefits. As will additional consumers as the markets mature and the infrastructure is developed.

In a competitive energy market, each supply and demand resource must compete with other supply and demand resources. If consumers choose to support one resource over another, they will have that right and the power to shape the resources available. Only those resources that prove to be cost effective and desired by consumers will survive. For example, renewable energy can become a significant contributor to the State's supply mix if consumers choose to purchase energy from such sources; similarly, other supply sources (such as nuclear and coal) and demand reduction measures, will be subject to the demands of consumers. In a free, competitive market, it is the consumers that decide which products and services survive and which ones don't. The State's role is to ensure that the market is open and fair and that the citizens are protected from conditions beyond their control. If consumers truly want safe, clean, reliable energy at steady and steadily declining prices, they will demand it through their purchases in a competitive market. The regulatory policies of the past clearly failed to meet these goals.

New York State Environmental Justice Alliance, Brooklyn

The Environmental Justice Alliance feels the Draft State Energy Plan is not actually doing planning because deregulation has occurred. Really deregulation has not worked in the energy sector.

Federated Conservationists of Westchester County, Inc., New York

I'm quoting from the 1998 energy plan, "In a properly functioning market, participants should be able to determine when and where generation or demand reduction measures are needed to meet customer needs." As the energy market has been developing, it is apparent that it is not enough to rely on market forces alone to maximize the public good. Energy does not appear to be the properly functioning market laid out in Economics 101. And even if it were, the social and environmental cost of such an energy market is proving to be unacceptable.

Response: While the State's commitment to competition in the electricity and natural gas markets remains strong, barriers remain to full competition. The State Energy Plan contains numerous recommendations that will help the State move toward full competition while protecting the interests of New Yorkers. While some fluctuations are expected in wholesale natural gas prices, they are not expected to exceed the levels reached in 2000. Retail electricity prices are expected to decline in real terms throughout the planning period (*i.e.*, through 2021).

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Robert A. Smith

I don't understand why the Draft State Energy Plan does not forcefully recommend forming several New York Power Authorities in the State and why the Federal Energy Regulatory Commission is not trying to form similar entities for both electricity and gas manufacture and distribution. We as a State and Nation have become reliant on electricity and gas and can no longer rely on the "invisible hand or complex laws and mores" to magically adjust not only the markets but to generate the technology for continued growth and environmental safety. It is about time to start building organizations whose sole purpose is to generate, distribute and explore future energy options in the most efficient and least costly manner, unencumbered by the need to make fast and large profits.

I would ask the Energy Planning Board and the Commissioners in the final draft to at least look at the idea of a federal reserve system for energy, of five regional power authorities to actually generate both electricity and gas and distribute it in New York State under uniform control.

Response: Effective competition in the natural gas and electricity markets, where practical, is the policy of the State of New York. The policies and recommendations in the State Energy Plan are based on this concept, and the State Energy Plans, since 1994, have embraced the idea that competition has the potential to reduce energy costs, increase customer choices and satisfaction, promote economic development, enhance system reliability, improve environmental quality, and promote technological growth. Introduction of regional power authorities would contravene the statewide and regional integration of competitive markets.

Tompkins County Environmental Management Council Energy Committee

The Plan should recognize that the competition promised in the 1998 Plan has not materialized for many New Yorkers.

Response: While the State's commitment to competition in the electricity and natural gas markets remains strong, barriers remain to full competition. The State Energy Plan contains numerous recommendations that will help the State move toward full competition while protecting the interests of New Yorkers. While some fluctuations are expected in wholesale natural gas prices, they are not expected to exceed the levels reached in 2000. Retail electricity prices are expected to decline in real terms throughout the planning period (*i.e.*, through 2021).

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New York State government plays an objective and active role in administering public benefits. The State studies the patterns, trends, and behaviors of energy customers lacking market influence, such as low-income households, and looks for cost effective opportunities to better serve their needs. Energy customers in New York with less market influence require government assistance largely because competitive market forces have not yet addressed their energy needs. Government interventions to assist in energy market development are necessary to align public and private interests. To this end, the State Energy Plan makes numerous recommendations to ensure fairness, equity, and consumer protections in an increasingly competitive market economy.

Consumers Union

With respect to “competition,” what does the State mean by competition? What structures do we put in place to insure that it can thrive? How do we know when we have it? What measures can we use to assess how well competition is functioning? What measures do we have to monitor anticompetitive practices? Are they adequate? How are mergers and acquisitions in the industry consistent with more competition? What are the physical constraints to competition, such as the existing transmission constraints? Is the state's idea of competition consistent with that envisioned by Congress in the Energy Policy Act of 1992?

Response: These issues are discussed in the Section 2.1, Promoting Energy Industry Competition, of the State Energy Plan.

Green Party Broome County

The State, in the Energy Plan, by giving us energy deregulation, is abandoning the power – the key power is the power to set the rate structure – is abandoning the power to give us what we all want, which is safe, clean, reliable energy at steady and steadily declining prices.

Response: The Planning Board believes that competition is the best way to allocate scarce energy resources and control prices. Regulation of generation failed as a way to hold down prices during the 1970s, 1980s, and early 1990s, and continuation of the failed policies of the past would lead only to further price increases. If consumers consider fossil fuels to be undesirable from a price volatility perspective, they will now have a mechanism to choose non-fossil-based options, including long-term contracts for renewables.

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Consumers Union

What does deregulation mean in New York? Does it mean the State will entertain no regulations to control the exercise of market power? What does consumer protection mean in New York? The Draft State Energy Plan advances no plan for consumer protection. We believe the State must adopt a stringent regulatory framework for Consumer Protection including providing for just and reasonable pricing and describe this in the final Energy Plan.

The economic impacts of electricity restructuring have not been adequately analyzed in this State Energy Plan. Neither has the Plan examined various regulatory mechanisms to protect consumers.

What is a functioning market for electricity, according to the State and how do we get one? How many losers are acceptable in this functioning market? All markets have losers. How greedy can the winners be? How much wealth will the losers have to transfer in New York to the winners? What will the State do to prevent the fleecing of consumers?

Response: To protect consumers and ensure that an orderly market is maintained, the New York Independent System Operator has established a market monitoring unit that is charged with investigating alleged incidents relating to market abuse. In addition, the Federal Energy Regulatory Commission is in the process of establishing an oversight unit for similar purposes.

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