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October 19, 2009

**VIA EMAIL**

Hon. Thomas C.C. Congdon  
Chairman, New York State Energy Planning Board  
SEP Comments  
NYSERDA  
17 Columbia Circle  
Albany, New York 12203-6399

Re: Multiple Intervenors' Comments Regarding the Draft 2009 New York State Energy Plan

Dear Deputy Secretary Congdon:

Pursuant to the notice posted on the website of the New York State Energy Planning Board ("Board"), Multiple Intervenors hereby submits these comments in response to the 2009 Draft State Energy Plan dated August 2009 ("Draft Plan").<sup>1</sup> Multiple Intervenors previously submitted a copy of these comments, via hand-delivery, during the public hearing conducted in Albany, New York on September 15, 2009.

Multiple Intervenors supports cost-effective energy efficiency initiatives to reduce end-use consumption, as well as efforts to reduce greenhouse gas emissions. In fact, Multiple Intervenors' members have invested tens of millions of dollars and substantial other resources to increase the energy efficiency and lower the "carbon footprint" of their respective facilities. Despite these efforts, Multiple Intervenors' members have significant concerns regarding the ability of their respective operations in New York to remain competitive and viable given the multiple competitive pressures facing them both worldwide and internally. A major contributing factor to this concern is the high cost of energy in New York. While Multiple Intervenors applauds the Draft Plan's apparent recognition of the

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<sup>1</sup> Multiple Intervenors is an unincorporated association of approximately 50 large industrial, commercial and institutional energy consumers with facilities located throughout New York State, whose members, collectively, employ tens of thousands of New Yorkers. Multiple Intervenors previously submitted extensive written comments regarding the development of the statewide energy plan on July 8, 2008, May 15, 2009, July 31, 2009, and September 15, 2009. In addition, Multiple Intervenors provided oral comments at the public hearing regarding the Draft Plan in Albany, New York on September 15, 2009.

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burden that high energy prices place on the State's residents, businesses and institutions, Multiple Intervenors is concerned that the Draft Plan, taken as a whole, will further exacerbate, rather than ameliorate, this burden.

New York consumers currently pay the fifth highest electricity prices in the entire nation – nearly double the national average price for electricity.<sup>2</sup> Given the energy-intensive nature of manufacturing and other commercial, industrial and institutional operations, the State's exorbitant energy costs are a major contributing factor to the mass exodus of jobs from New York. In fact, between 1997 and 2007, New York lost nearly 200,000 manufacturing jobs.<sup>3</sup> Moreover, in the past twelve months, the manufacturing industry in the State suffered the greatest percentage job loss of any sector, resulting in a loss of nearly 50,000 more jobs.<sup>4</sup>

The high cost of energy not only negatively impacts the ability to retain and grow the State's current businesses and industries, but also its ability to attract new ones. For example, New York is currently ranked as having the second highest cost of doing business of any state in the nation.<sup>5</sup> In addition, over 500 Chief Executive Officers recently ranked New York as the second worst state in which to do business for the fourth consecutive year.<sup>6</sup> In both cases, the high cost of energy in New York was cited as a major contributing factor

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<sup>2</sup> Energy Information Administration ("EIA"), *Report No. DOE/EIA-0226: 2009/08* (August 14, 2009), available at [http://www.eia.doe.gov/cneaf/electricity/epm/table5\\_6\\_a.html](http://www.eia.doe.gov/cneaf/electricity/epm/table5_6_a.html).

<sup>3</sup> The Public Policy Institute of New York State, Inc., *Manufacturing Employment Growth, 1997-2007*, available at <http://www.ppiny.org/reports/jtf/manufacturingemployment.html>.

<sup>4</sup> The Public Policy Institute of New York State, Inc., *Monthly Economic Update – Latest Job Statistics for New York* (July 2009), available at <http://www.ppiny.org/nyecon/stats.pdf>.

<sup>5</sup> Milken Institute, *2007 Cost-of-Doing-Business-Index* (August 16, 2007), available at <http://www.milkeninstitute.org/publications/publications.taf>. New York has received this same ranking in each of the last three studies conducted by the Milken Institute.

<sup>6</sup> Chief Executive Magazine, *CEOs Select Best, Worst States for Job Growth and Business* (March 25, 2009), available at <http://www.chiefexecutive.net/ME2/dirmod.asp?sid=&nm=&type=Publishing&mod=Publications%3A%3AArticle&mid=8F3A7027421841978F18BE895F87F791&tier=4&id=D8BB1C4F12AE46EF9B7647E09E3253A6>.

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to the State's ranking. Specifically, as explained by The Dow Chemical Company's Chairman and Chief Executive, Andrew Liveris, "even more than high labor costs, runaway energy prices are pushing manufacturing jobs overseas."<sup>7</sup>

A significant contributing cause of New York's high energy costs is the consumer-cost impact associated with the State's own energy and environmental initiatives. In fact, as demonstrated in Table 1 in Appendix 1, just five of these initiatives – the Regional Greenhouse Gas Initiative ("RGGI"), Temporary State Assessment pursuant to Public Service Law § 18-a ("TSA"), Renewable Portfolio Standard ("RPS"), System Benefits Charge ("SBC"), and Energy Efficiency Portfolio Standard ("EEPS") – currently cost the State's electricity consumers nearly \$1.3 billion annually and account for approximately 12 percent of the total cost of the average consumer's electricity bill.<sup>8</sup> The impacts to the

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<sup>7</sup> Associated Press, *Dow CEO Blames Energy Costs for Job Losses* (October 30, 2006), available at <http://www.secureourenenergy.com/natural-gas-news/Dow-CEO-Blames-Energy-Costs-for-Job-Loss>.

<sup>8</sup> Based on the average cost of current vintage allowances of \$3.30 per ton and \$2.56 per ton for future vintage allowances from the four regional auctions conducted to date, RGGI is estimated to cost electricity consumers more than \$207 million per year, accounting for approximately 1-2 percent of a customer's electricity bill depending on the customer-type. (See DEC, *Regulatory Impact Statement: 6 NYCRR Part 242, CO<sub>2</sub> Budget Trading Program* at 51-52, available at [http://www.dec.ny.gov/docs/air\\_pdf/08242ris.pdf](http://www.dec.ny.gov/docs/air_pdf/08242ris.pdf).) The TSA is tax on the gross operating income of utility companies derived from intrastate utility operations, accounting for approximately 2 percent of a customer's electricity bill and resulting in an estimated annual cost of more than \$483 million for the State's electricity consumers. (See EIA, *Form EIA-826*, available at [http://www.eia.doe.gov/cneaf/electricity/page/sales\\_revenue.xls](http://www.eia.doe.gov/cneaf/electricity/page/sales_revenue.xls).) Currently, the RPS is designed to collect \$741 million from electricity consumers through 2013, or approximately \$93 million annually, accounting for approximately 2 percent of a customer's electricity bill. (See Case 03-E-0188, *Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard*, Status Report on Implementation of the Renewable Portfolio Standard Program (August 9, 2007) at 4-5.) The SBC currently costs electricity consumers \$175 million annually, accounting for approximately 2-4 percent of a customer's electricity bill depending on the customer-type. (See Case 94-E-0952, *In the Matter of Competitive Opportunities Regarding Electric Service*, Order Continuing and Expanding the System Benefits Charge for Public Benefit Programs (issued January 26, 2001) at 25.) The currently approved initial annual cost of the EEPS is \$330 million (which is collected in the same manner as the SBC) accounting for approximately 3-7 percent of a customer's electricity bill depending on the customer-type. (See Case 07-M-0548, *Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard*, Order Establishing Energy Efficiency Portfolio Standard and Approving Programs (issued June 23, 2008) at 16.)

State's businesses and industries are even more pronounced, with these initiatives accounting for approximately 16.5 percent of such consumers' electricity bills.

Rather than seeking to ameliorate the current, substantial impacts of these initiatives, the recommendations of the Draft Plan would further exacerbate these adverse impacts. Specifically, the Draft Plan recommends increasing the annual cost of electric energy efficiency program funding to more than \$1 billion through 2015 – more than double the current, cumulative annual cost of the SBC and EEPS. In addition, the Draft Plan recommends increasing the annual cost of the RPS to more than \$257 million through 2015 – more than 2.5 times greater than the current annual cost. As demonstrated in Table 2 in Appendix 1, adoption of these recommendations will have significant, negative consequences for the State's electricity consumers. Specifically, adoption of these recommendations will increase the total, cumulative cost of the five previously-examined State initiatives to nearly \$2 billion per year – an increase of more than 50 percent. Moreover, adoption of these recommendations would substantially increase the adverse impact of these initiatives. Adoption of the Draft Plan's recommendations would nearly double the electricity bill impact of these initiatives to consumers. For businesses and industries, the recommendations, if adopted as proposed, would result in these initiatives accounting for approximately 30 percent of the electricity bills of such consumers – an increase of nearly 14 percent.<sup>9</sup>

To develop the necessary climate to stimulate economic development in the State, the Draft Plan must address, arguably, the most significant factor leading to the business community's current highly negative perception of the opportunities to do business in New York – namely, the runaway cost of energy. Unfortunately, as demonstrated above, the Draft Plan would likely worsen the plight of the State's residents, businesses and institutions. Such an outcome is wholly inconsistent with the Draft Plan's expressed goals to not only retain and grow New York's current economic infrastructure, but also seek to attract new industries to the State. To accomplish these objectives, the State's Energy Plan must be designed to foster a more "business friendly" environment in the State.

While Multiple Intervenors supports the recommendations in the Draft Plan to retain, expand and develop longer-term incentives with respect to the current economic development programs administered by the New York Power Authority, such programs, alone, will not be sufficient to turn the tide in New York and return to a culture that fosters rather than thwarts economic development and business growth. Accordingly, the Board should modify the Draft Plan to include a recommendation to develop additional, new incentive programs to be deployed throughout the State that seek to lower the cost of doing

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<sup>9</sup> It is important to note that Table 2 does not account for the substantial cost impacts of the additional electric transmission infrastructure recommended by the Draft Plan, which, according to the plan, would cost electricity consumers at least an additional \$3 billion.

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business in the State. Moreover, the Draft Plan should be modified to include sound policies to ameliorate the current substantial burden placed on the State's residents, businesses and institutions by runaway energy costs – not policies that are premised on collecting billions of dollars in new, incremental program costs from the State's already overburdened energy consumers.

Multiple Intervenors implores the Board, in developing the final State Energy Plan, to ensure that the Governor's fundamental priority in establishing this process is realized – the development of a cost-effective statewide energy plan focused on ensuring energy affordability.

If you have any questions regarding this matter, please do not hesitate to contact me directly at 518-320-3437, or via email at [gbissell@couchwhite.com](mailto:gbissell@couchwhite.com).

Respectfully submitted,

MULTIPLE INTERVENORS

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**APPENDIX 1**

**Cost Impacts of State Initiatives on Electricity Consumers in New York**

Table 1. Current Cost Impacts of New York’s Energy and Environmental Initiatives

Initiative	Component of Retail Electricity Bill				
	Annual Cost	Residential	Commercial	Industrial	Average
Regional Greenhouse Gas Initiative	\$207,000,000	0.8%	1.0%	1.9%	1.2%
PSL § 18-a Temporary State Assessment	\$483,000,000	2.0%	2.0%	2.0%	2.0%
Renewable Portfolio Standard	\$93,000,000	1.7%	1.8%	2.2%	1.9%
System Benefits Charge	\$175,000,000	1.8%	1.7%	3.6%	2.4%
Energy Efficiency Portfolio Standard	\$330,000,000	3.4%	3.2%	6.8%	4.5%
<b>Total</b>	<b>\$1,288,000,000</b>	<b>9.7%</b>	<b>9.7%</b>	<b>16.5%</b>	<b>12.0%</b>

Table 2. Potential Impacts of the Draft 2009 State Energy Plan Recommendations (Depicted in Blackline Form in Comparison to the Impacts from Table 1)

Initiative	Component of Retail Electricity Bill				
	Annual Cost	Residential	Commercial	Industrial	Average
Regional Greenhouse Gas Initiative	\$207,000,000	0.8%	1.0%	1.9%	1.2%
PSL § 18-a Temporary State Assessment	\$483,000,000	2.0%	2.0%	2.0%	2.0%
Renewable Portfolio Standard	<del>\$93,000,000</del> <u>\$257,000,000</u>	<del>1.7%</del> <u>4.2%</u>	<del>1.8%</del> <u>4.5%</u>	<del>2.2%</del> <u>5.5%</u>	<del>1.9%</del> <u>4.7%</u>
System Benefits Charge	<del>\$175,000,000</del> <u>\$350,000,000</u>	<del>1.8%</del> <u>3.6%</u>	<del>1.7%</del> <u>3.4%</u>	<del>3.6%</del> <u>7.2%</u>	<del>2.4%</del> <u>4.7%</u>
Energy Efficiency Portfolio Standard	<del>\$330,000,000</del> <u>\$660,000,000</u>	<del>3.4%</del> <u>6.8%</u>	<del>3.2%</del> <u>6.3%</u>	<del>6.8%</del> <u>13.6%</u>	<del>4.5%</del> <u>8.9%</u>
<b>Total</b>	<del>\$1,288,000,000</del> <u>\$1,957,000,000</u>	<del>9.7%</del> <u>17.4%</u>	<del>9.7%</del> <u>17.2%</u>	<del>16.5%</del> <u>30.2%</u>	<del>12.0%</del> <u>21.5%</u>