

Assemblyman fights generator owners for disclosure



Brennan. (New York State Assembly)



By David Giambusso 5:01 a.m. | Aug. 12, 2014

Assemblyman James Brennan says companies that own private power generators are overcharging consumers, potentially by billions of dollars.

But in his quest to get unredacted financial information from the companies, the Brooklyn legislator has run into a regulatory roadblock: Power generator officials say that if the information was made public it would put them at a competitive disadvantage and create market volatility. So far, the state has sided with the generator companies.

"The concern is whether deregulation of wholesale electricity is hurting consumers," Brennan told Capital. "My belief is that electricity is seriously overpriced as a result of the structure of the wholesale markets in New York."

Each year, generator companies submit financial reports to the Public Service Commission in order to give the state a picture of the power market's overall health. Parts of those reports are withheld from the public because generator operators say they would be put at a disadvantage if the information was shared with their competitors.

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In March, Brennan, chair of the Assembly Committee on Corporations, Authorities and Commissions, filed a Freedom of Information request for unredacted reports. The P.S.C. records officer declined. Brennan appealed and a decision from the P.S.C. secretary is expected

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The conflict stems from the late 1990s, when the state's power market was largely deregulated. Utilities were forced to sell off their generators and the New York Independent System Operators was formed to run the marketplace for power generation.

The idea was to stimulate competition and keep prices low. Instead, Brennan says power generators are overcharging consumers.

He cited [a report](#) commissioned by his predecessor on the committee, then-Assemblyman Richard Brodsky, which alleged in 2009 that power generators overcharged customers by \$2.2 billion. The report was prepared by energy expert Robert McCullough.

It was [criticized at the time](#) for using incomplete financial data to arrive at its conclusions. Brennan is now looking for complete data.

"The public should see it," he said, adding that otherwise, "How could the public make any determinations?"

State industry leaders say the details about contract timing, contract pricing and specific costs for individual power plants could potentially lead to unfair price manipulation as generators compete to sell power to various parts of the state.

"Assemblyman Brennan doesn't have the expertise and knowledge base to make these determinations," said Gavin Donohue, president of the Independent Power Producers of New York, a consortium of state power generators. "We are very serious about protecting the markets in New York and protecting against unnecessary volatility in the marketplace and that's why we're fighting this wrong-headed request."

Last week IPPNY filed formal opposition to Brennan's appeal saying that release of the information would do little to help the public better understand the electricity market and would jeopardize proprietary information.

"Assemblyman Brennan's understanding of the competitive electricity markets in New York is deeply flawed and provides no basis to upset the (records access officer's) June 30 Determination," IPPNY lawyers wrote in papers filed with the P.S.C.

Brennan, a 30-year state legislator, said he and the public were sophisticated enough to make up their own minds.

"That's a judgment for the public to make," he said. "There are plenty of people who can understand it."

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