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ELLEN BERMAN  
PRESIDENT

September 23, 2002

The Honorable James M. McGuire  
Counsel to the Governor  
Office of the Counsel to the Governor  
State Capital Building  
Albany, NY 12224-0341

**Re: “The Energy Protection Act of 2002,” (S.6778B)**

Dear Mr. McGuire:

The Consumer Energy Council of America (CECA) is the senior public interest organization in the United States focusing on the energy, telecommunications and other networked industries that provide essential services to consumers. CECA has three decades of experience working with stakeholders and policymakers to build consensus on the development of energy policies that are in the best interest of residential and small business consumers.

It is in this capacity that CECA is writing to request that Governor Pataki sign the “Energy Protection Act of 2002” to strengthen the essential protections of New York State’s consumers. While CECA acknowledges that retail competition in the electricity industry has the potential to offer benefits to consumers, CECA strongly believes that the precondition must be a determination that consumers be made no worse off in the process. This “Do No Harm” principle was confirmed and adopted by a broad group of industry and public policy stakeholders during the 1998 CECA Electricity Restructuring Forum, and should be the minimum benchmark for pursuing retail competition. Without it, restructuring the market makes little sense.

CECA is concerned that in an effort to invigorate the retail electricity market in New York, this precondition is not being met. The Energy Protection Act of 2002 will address this discrepancy by granting all consumers – including those who receive service from energy service companies (ESCOs) – the same protections as mandated by the Home Energy Fair Practice Act of 1981 (HEFPA).

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With retail electricity competition still at an early stage, consumers are still learning the complexities of the restructured marketplace. In some cases, consumers may be unaware that they are being offered services from ESCOs that do not contain the same level of mandated protections as similar services from public utilities. With all retail providers offering the same protections and rights as mandated under HEFPA, consumers will be able to make sound comparisons and choices. This is essential not only for protecting consumers, but also for improving consumer confidence in the new restructured marketplace.

The Consumer Energy Council of America strongly recommends that the Energy Consumer Protection Act of 2002 be approved and signed into law by the Governor.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ellen Berman", followed by a horizontal line extending to the right.

Ellen Berman  
President