S T A T E O F N E W Y O R K

4747

2011-2012 Regular Sessions

I N S E N A T E

April 18, 2011

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the executive law, in relation to the bulk electricity purchasing program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The executive law is amended by adding a new section 204 to read as follows:

S 204. BULK ELECTRICITY PURCHASING PROGRAM. 1. THE OFFICE OF GENERAL SERVICES, ACTING IN COOPERATION WITH SUCH OTHER GOVERNMENTAL AND NON-GOVERNMENTAL AGENCIES AS IT MAY DEEM NECESSARY, SHALL ESTABLISH AND IMPLEMENT EITHER A SINGLE STATEWIDE BULK ELECTRICITY PURCHASING PROGRAM OR, UTILIZING SUCH GOVERNMENTAL OR NON-GOVERNMENTAL AGENCIES AS MAY BE NECESSARY, ONE OR MORE REGIONAL BULK FUEL PURCHASING PROGRAMS AS MAY BE NEEDED. SUCH PROGRAM SHALL:

A. BE AVAILABLE ON A VOLUNTARY BASIS TO MUNICIPALITIES AND SCHOOL DISTRICTS;

B. PROVIDE FOR THE PURCHASE BY MAY FIRST OF EACH YEAR, AT A BULK RATE, OF SUFFICIENT QUANTITIES OF ELECTRICITY FOR THE AGENCIES AND DEPARTMENTS OF THE STATE AND FOR ALL PARTICIPATING MUNICIPALITIES AND SCHOOL DISTRICTS IN THE AMOUNT EXPECTED TO BE NECESSARY FOR THE COVERED PERIOD;

C. PROVIDE FOR MAINTENANCE RELATED SERVICE, BY THE SUPPLIER OR DISTRIBUTOR OF THE ELECTRICITY;

D. PROVIDE THAT THE SUPPLIER OR DISTRIBUTOR OF THE ELECTRICITY SHALL DELIVER SAID FUELS TO THE AGENCIES AND DEPARTMENTS OF THE STATE AND TO THE PARTICIPATING MUNICIPALITIES AND SCHOOL DISTRICTS ON A REGULAR SCHEDULE AS WELL AS ON AN EMERGENCY BASIS.

2. THE OFFICE OF GENERAL SERVICES, IN ESTABLISHING AND IMPLEMENTING A BULK ELECTRICITY PURCHASING PROGRAM, SHALL ENSURE THAT:

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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A. EACH CONTRACT WITH A SUPPLIER OR DISTRIBUTOR, CONSISTENT WITH THE REQUIREMENTS OF FEDERAL AND STATE LAW, RULES AND REGULATIONS, BE ENTERED INTO WITH THE LOWEST RESPONSIBLE BIDDER, PRICE AND OTHER FACTORS CONSIDERED. OTHER FACTORS SHALL INCLUDE, BUT NOT BE LIMITED TO, RELIABILITY, FLEXIBILITY OF SERVICE, HISTORY OF SERVICE IN THE AREA, HISTORIC LEVELS OF DEPENDENCY ON SOURCES OF SUPPLY, AND RELIABILITY AND MIX OF CURRENT SOURCES OF SUPPLY;

B. EACH CONTRACT WITH A SUPPLIER OR DISTRIBUTOR SHALL INCLUDE, AT NO ADDITIONAL COST, PROVISIONS FOR SERVICE AND MAINTENANCE;

C. EACH CONTRACT WITH A SUPPLIER OR DISTRIBUTOR SHALL PROVIDE FOR THE BULK PURCHASE AND DELIVERY BY THE OFFICE WHICH MAY UTILIZE ITS CENTRALIZED CONTRACTS FOR BULK ELECTRICITY IN ACCORDANCE WITH SECTION ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW;

D. EACH CONTRACT WITH A SUPPLIER OR DISTRIBUTOR OF ELECTRICITY SHALL PROVIDE THAT ADDITIONAL AMOUNTS OF ELECTRICITY AT THE BULK RATE SHALL BE AVAILABLE TO THE STATE AND TO ALL PARTICIPATING MUNICIPALITIES AND SCHOOL DISTRICTS IN SUFFICIENT QUANTITIES IN THE EVENT OF SEVERE EMERGENCIES.

3. THE COMMISSIONER OF GENERAL SERVICES, UPON APPLICATION BY THE OFFICE OF GENERAL SERVICES, MAY GRANT, FOR A YEAR, A WAIVER OF IMPLEMENTATION OF SUBDIVISION TWO OF THIS SECTION. SUCH APPLICATION SHALL BE GRANTED UPON A SUFFICIENT DEMONSTRATION BY THE OFFICE OF GENERAL SERVICES THAT, FOR A SPECIFIC GEOGRAPHIC AREA:

A. NO BIDS WERE RECEIVED FROM A DISTRIBUTOR OR SUPPLIER OF ELECTRICITY;

B. NO BIDS WERE RECEIVED FROM A DISTRIBUTOR OR SUPPLIER OF ELECTRICITY AT A BULK RATE;

C. INSUFFICIENT NUMBERS OF MUNICIPALITIES AND/OR SCHOOL DISTRICTS HAD AGREED TO PARTICIPATE IN A BULK PURCHASING PROGRAM, AFTER HAVING BEEN PROVIDED WITH NOTICE OF POTENTIAL SAVINGS AND AN OPPORTUNITY TO PARTICIPATE; OR

D. THE PROGRAM WOULD NOT RESULT IN ELECTRICITY COSTS TO THE STATE AND PARTICIPATING MUNICIPALITIES AND SCHOOL DISTRICTS THAT ARE LESS EXPENSIVE THAN ELECTRICITY COSTS OTHERWISE AVAILABLE. THE COMMISSIONER OF GENERAL SERVICES, UPON GRANTING A WAIVER PURSUANT TO THIS PARAGRAPH, SHALL SPECIFY, IN WRITING: (I) THE GROUND OR GROUNDS FOR THE GRANTING OF THE WAIVER AND (II) THE STEPS THAT SHALL BE TAKEN BY THE OFFICE OF GENERAL SERVICES TO MINIMIZE THE NECESSITY OF A FUTURE APPLICATION FOR A WAIVER.

4. WHERE FEASIBLE AND APPROPRIATE, EACH BULK ELECTRICITY PURCHASING PROGRAM SHALL:

A. WHERE BIDDING DEMONSTRATES ITS PRACTICABILITY, INCLUDE AT LEAST TWO POTENTIAL SUPPLIERS; AND

B. PROVIDE FOR THE BULK PURCHASE, STORAGE AND DELIVERY OF THE ELECTRICITY BY THE OFFICE OF GENERAL SERVICES.

5. THE COMMISSIONER OF GENERAL SERVICES IS HEREBY AUTHORIZED AND DIRECTED TO ADOPT RULES AND REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.