AN ACT to amend the energy law and the public authorities law, in relation to establishing the state energy planning board

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

Section 1. The energy law is amended by adding a new article 6 to read as follows:

ARTICLE 6
ENERGY PLANNING

SECTION 6-102. STATE ENERGY PLANNING BOARD.
6-104. STATE ENERGY PLAN.
6-106. CONDUCT OF THE STATE ENERGY PLANNING PROCEEDING.
6-108. SUPPLEMENTAL STUDIES FOR FUTURE ENERGY PLANNING.

TATIVE TO SERVE ON THE BOARD. THE PRESIDING OFFICER OF THE FEDERALLY
DESIGNATED ELECTRIC BULK SYSTEM OPERATOR (BSO) SHALL SERVE AS A NON-VOT-
ING MEMBER OF THE BOARD. ANY DECISION OR ACTION BY THE BOARD SHALL BE BY
MAJORITY VOTE. THE PRESIDENT OF THE NEW YORK STATE ENERGY RESEARCH AND
DEVELOPMENT AUTHORITY SHALL SERVE AS CHAIR OF THE BOARD. MEMBERS OF THE
BOARD MAY DESIGNATE AN EXECUTIVE STAFF REPRESENTATIVE TO PARTICIPATE ON
THE BOARD ON THEIR BEHALF.

2. REGIONAL PLANNING COUNCILS SHALL BE ESTABLISHED, WHOSE MEMBERS
SHALL WORK WITH THE STATE ENERGY PLANNING BOARD. REGIONAL PLANNING
COUNCIL MEMBERS SHALL NOT BE CONSIDERED TO BE MEMBERS OF THE STATE ENER-
GY PLANNING BOARD FOR PURPOSES OF PARTICIPATION IN BOARD MEETINGS,
EXCEPT COUNCIL MEMBERS MAY PARTICIPATE AS NON-VOTING MEMBERS WHEN ITEMS
RELATING SPECIFICALLY TO THAT MEMBER'S REGION, AS DETERMINED BY THE
BOARD, ARE ON THE AGENDA OF A BOARD MEETING. TWO REGIONS SHALL BE
ESTABLISHED AS FOLLOWS:

   (A) DOWNSTATE REGION - NEW YORK CITY AND DUTCHESS, NASSAU, ORANGE,
       PUTNAM, ROCKLAND, SUFFOLK, ULSTER AND WESTCHESTER COUNTIES;
   (B) UPSTATE REGION - ALBANY, ALLEGANY, BROOME, CATTARAUGUS, CAYUGA,
       CHAUTAUQUA, CHEMUNG, CHENANGO, CLINTON, COLUMBIA, CORTLAND, DELAWARE,
       ERIE, ESSEX, FRANKLIN, FULTON, GENESSEE, GREENE, HAMILTON, HERKIMER,
       JEFFERSON, LEWIS, LIVINGSTON, MADISON, MONROE, MONTGOMERY, NIAGARA,
       ONEIDA, ONONDAGA, ONTARIO, ORLEANS, OSWEGO, OTSEGO, RENSSELAER, SARATO-
       GA, SCHENECTADY, SCHENECTADY, SCHUYLER, SENEC, ST. LAWRENCE, STEUBEN,
       SULLIVAN, TIOGA, TOMPKINS, WARREN, WASHINGTON, WAYNE, WYOMING AND YATES
       COUNTIES.

   THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
ASSEMBLY SHALL EACH APPOINT THREE REGIONAL PLANNING COUNCIL MEMBERS PER
REGION. REGIONAL PLANNING COUNCIL MEMBERS SHALL SERVE WITHOUT COMPEN-
SATION, AND SHALL HAVE THEIR PRINCIPAL RESIDENCE WITHIN THE REGION FOR
WHICH THEY ARE APPOINTED. SUCH REGIONAL COUNCIL MEMBERS MAY SOLICIT
INPUT FROM STAKEHOLDER INTERESTS WITHIN THEIR REGION, INCLUDING BUT NOT
LIMITED TO LOCAL GOVERNMENTS, MUNICIPAL UTILITIES, RURAL ELECTRIC COO-
PERATIVES, UTILITIES, LABOR UNIONS, RATEPAYERS, BUSINESSES, TRADE ASSOCI-
ATIONS, GENERATORS, AND COMMUNITY ORGANIZATIONS, AND SHALL TRANSMIT TO
THE BOARD A REPORT CONTAINING ANY RECOMMENDATIONS SPECIFIC TO THEIR
REGION ON A SCHEDULE CONCURRENT WITH THE RELEASE OF THE DRAFT ENERGY
PLAN.

3. STAFF SERVICES SHALL BE PERFORMED BY PERSONNEL OF THE DEPARTMENT OF
PUBLIC SERVICE, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE
DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF ECONOMIC DEVELOPMENT,
THE STATE EMERGENCY MANAGEMENT OFFICE AND THE NEW YORK STATE ENERGY
RESEARCH AND DEVELOPMENT AUTHORITY, AS DIRECTED BY THE BOARD. ASSIST-
ANCE SHALL ALSO BE MADE AVAILABLE, AS REQUESTED BY THE BOARD, FROM OTHER
AGENCIES, DEPARTMENTS AND PUBLIC AUTHORITIES OF THE STATE. THE BOARD MAY
PROVIDE FOR ITS OWN REPRESENTATION IN ALL ACTIONS OR PROCEEDINGS IN
WHICH IT IS A PARTY.

4. THE BOARD SHALL HAVE THE POWERS: (A) TO ADOPT A STATE ENERGY PLAN
IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE;
   (B) TO ADOPT RULES AND REGULATIONS AS NECESSARY OR APPROPRIATE TO
   IMPLEMENT THIS ARTICLE;
   (C) TO ISSUE SUBPOENAS AND SUBPOENAS DUCES TECUM; AND
   (D) TO AUTHORIZE ANY PERSON TO CONDUCT HEARINGS WHICH THE BOARD IS
AUTHORIZED TO CONDUCT, TO TAKE TESTIMONY WITH RESPECT TO THE SUBJECT OR
MATTER UNDER INVESTIGATION, AND TO REPORT THE TESTIMONY TO THE BOARD. IN
THE CONDUCT OF SUCH HEARINGS, ANY PERSON SO AUTHORIZED BY THE BOARD
SHALL HAVE ALL THE POWERS OF THE BOARD.
5. The Board shall in the consideration and development of policies, programs, and other actions, be guided by the goals of: improving the reliability of the state's energy systems; insulating consumers from volatility in market prices; reducing the overall cost of energy in the state; and minimizing public health and environmental impacts, in particular, environmental impacts related to climate change. Each energy plan shall also identify policies and programs designed to maximize cost-effective energy efficiency and conservation activities to meet projected demand growth.

(A) The Board shall identify the most appropriate state agency or authority with the responsibility for implementing or overseeing such prioritized policies and programs.

(B) Each agency or authority charged with implementing a specific policy or program in the energy plan shall report to the Board annually regarding the original goal of such policy or program, steps that have been taken to implement such policy or program, progress in attaining goals, adjustments to the program or goals and reasons why adjustments are needed, and anticipated date of completion.

(C) The Board shall use such progress reports in the completion of each subsequent energy plan and in each of the required biennial reports as stated in section 6-106 of this article.

6. The Board shall require any contractor or subcontractor awarded a contract pursuant to the provisions of this article to comply, and otherwise exercise all of its responsibilities and conduct all of its activities consistent with the provisions of Article Fifteen-A of the Executive Law with regards to the utilization and participation of certified minority and women-owned business enterprises.

S 6-104. State Energy Plan. 1. The Board shall adopt a State Energy Plan in accordance with the provisions of this article.

2. The State Energy Plan shall include: (A) forecasts for periods of five, ten and fifteen years of: (I) demand for electricity, natural gas, coal, petroleum products, including heating and transportation fuels, and alternate fuels, including ethanol and other biofuels, to the extent possible, for each region of the state, as well as the state as a whole, taking into account energy conservation, load management and other demand-reducing measures which can be achieved in a cost-effective manner, including the basis for such projection, including an examination of possible alternate levels of demand and discussion of the forecasting methodologies and input variables used in making the forecasts;

(II) energy supply requirements needed to satisfy demand for electricity, natural gas, coal, petroleum products, including heating and transportation fuels, and alternate energy sources and fuels, for each region of the state, and for the state as a whole, including with respect to electricity, the amount of capacity needed to provide adequate reserve margins and capacity needed to ensure reliability and competitive markets in the various regions of the state;

(III) an assessment of the ability of the existing energy supply sources and the existing transmission or fuel transportation systems, to satisfy, together with those sources or systems reasonably certain to be available, such energy supply requirements, indicating planned additions, retirements, deratings, substantial planned outages, and any other expected changes in levels of generating and production capacity;

(IV) additional electric capacity and/or transmission or fuel transportation systems needed to meet such energy supply requirements that will not be met by existing sources of supply and those reasonably certain to be available, where such analysis should identify system
CONSTRAINTS AND POSSIBLE ALTERNATIVES AVAILABLE, BOTH SUPPLY-SIDE AND
DEMAND-SIDE ALTERNATIVES, INCLUDING BUT NOT LIMITED TO DISTRIBUTED
GENERATION, ENERGY EFFICIENCY AND CONSERVATION MEASURES, TO REDRESS SUCH
CONSTRAINT; AND
(V) AN INVENTORY OF PROJECTED GREENHOUSE EMISSIONS OVER THE FIVE, TEN
AND FIFTEEN YEAR PERIODS, AND STRATEGIES FOR FACILITATING AND ACCELERAT-
ING THE USE OF LOW CARBON ENERGY SOURCES AND/OR CARBON MITIGATION MEAS-
URES.
(B) IDENTIFICATION AND ASSESSMENT OF THE COSTS, RISKS, BENEFITS,
UNCERTAINTIES AND MARKET POTENTIAL OF ENERGY SUPPLY SOURCE ALTERNATIVES,
INCLUDING DEMAND-REDUCING MEASURES, RENEWABLE ENERGY RESOURCES OF ELEC-
TRIC GENERATION, DISTRIBUTED GENERATION TECHNOLOGIES, COGENERATION TECH-
NOLOGIES, BIOFUELS AND OTHER METHODS AND TECHNOLOGIES REASONABLY AVAIL-
ABLE FOR SATISFYING ENERGY SUPPLY REQUIREMENTS WHICH ARE NOT REASONABLY
CERTAIN TO BE MET BY THE ENERGY SUPPLY SOURCES IDENTIFIED IN PARAGRAPH
(A) OF THIS SUBDIVISION, PROVIDED THAT SUCH ANALYSIS SHALL INCLUDE THE
FACTORS IDENTIFIED IN PARAGRAPH (D) OF THIS SUBDIVISION;
(C) IDENTIFICATION AND ANALYSIS OF EMERGING TRENDS RELATED TO ENERGY
SUPPLY, PRICE AND DEMAND, INCLUDING TRENDS RELATED TO THE TRANSPORTATION
SECTOR;
(D) AN ASSESSMENT OF CURRENT ENERGY POLICIES AND PROGRAMS, AND THEIR
CONTRIBUTIONS TO ACHIEVING LONG-RANGE ENERGY PLANNING OBJECTIVES INCLUD-
ing, BUT NOT LIMITED TO, THE LEAST COST INTEGRATION OF ENERGY SUPPLY
SOURCES, ENERGY TRANSPORTATION AND DISTRIBUTION SYSTEM AND DEMAND-REDUc-
ing MEASURES FOR SATISFYING ENERGY SUPPLY REQUIREMENTS, GIVING DUE
REGARD TO SUCH FACTORS AS REQUIRED CAPITAL INVESTMENTS, COST, RATEPAYER
IMPACTS, SECURITY AND DIVERSITY OF FUEL SUPPLIES AND GENERATING MODES,
PROTECTION OF PUBLIC HEALTH AND SAFETY, ADVERSE AND BENEFICIAL ENVIRON-
MENTAL IMPACTS, CONSERVATION OF ENERGY AND ENERGY RESOURCES, THE ABILITY
OF THE STATE TO COMPETE ECONOMICALLY, AND ANY OTHER POLICY OBJECTIVES
DEEMED APPROPRIATE;
(E) IN ORDER TO ASSIST THE BOARD IN SUCH EVALUATION, THE POWER AUTHOR-
ITY OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY SHALL
INDIVIDUALLY SUBMIT TO THE PLANNING BOARD: (I) A STRATEGIC PLAN SPECIFY-
ING THE MISSION AND GOALS OF THE AUTHORITY, THE POLICIES AND PROGRAMS
UTILIZED TO FULFILL SUCH MISSION AND GOALS, AND AN EXPLANATION OF HOW
SUCH POLICIES AND PROGRAMS RELATE TO THE STATE ENERGY PLAN, (II) AN
ANNUAL FIVE-YEAR OPERATING PLAN, AND (III) A TEN-YEAR PROJECTED CAPITAL
BUDGET FOR THEIR RESPECTIVE OPERATIONS. SUCH PLANS SHALL INCLUDE MAJOR
NEW CAPITAL AND PROGRAMMATIC INITIATIVES, AS WELL AS DESCRIPTIONS AND
ACHIEVEMENTS OF EXISTING PROGRAMS, INCLUDING PROGRAM OBJECTIVES AND THE
NUMBERS OF CLIENTS AND/OR CUSTOMERS SERVED FOR EACH SERVICE OR PROGRAM;
(F) AN ANALYSIS OF SECURITY ISSUES, CONSIDERING BOTH NATURAL AND HUMAN
THREATS TO THE STATE'S ENERGY SYSTEMS;
(G) AN ENVIRONMENTAL JUSTICE ANALYSIS;
(H) AN ASSESSMENT OF THE ABILITY OF URBAN PLANNING ALTERNATIVE,
INCLUDING BUT NOT LIMITED TO SMART GROWTH AND MASS TRANSPORTATION
IMPROVEMENTS TO REDUCE ENERGY AND TRANSPORTATION FUEL DEMAND;
(I) AN INVENTORY OF GREENHOUSE GAS EMISSIONS, AND STRATEGIES FOR
FACILITATING AND ACCELERATING THE USE OF LOW CARBON ENERGY SOURCES
AND/OR CARBON MITIGATION MEASURES;
(J) RECOMMENDATIONS, AS APPROPRIATE AND DESIRABLE, FOR ADMINISTRATIVE
AND LEGISLATIVE ACTIONS TO IMPLEMENT SUCH POLICIES, OBJECTIVES AND STRA-
TEGIES;
(K) ASSESSMENT OF THE IMPACTS OF IMPLEMENTATION OF THE PLAN UPON ECONOMIC DEVELOPMENT, HEALTH, SAFETY AND WELFARE, ENVIRONMENTAL QUALITY, AND ENERGY COSTS FOR CONSUMERS, SPECIFICALLY LOW-INCOME CONSUMERS; AND (L) SUCH ADDITIONAL INFORMATION AS THE BOARD DEEMS APPROPRIATE, SUCH AS BUT NOT LIMITED TO, INFORMATION DEVELOPED FROM CONSULTATION WITH THE BSO.

3. TO THE EXTENT PRACTICABLE, AND WHERE NOT OTHERWISE SPECIFIED, THE ELEMENTS OF THE STATE ENERGY PLAN AS ENUMERATED IN SUBDIVISION TWO OF THIS SECTION SHALL BE PROVIDED ON A STATEWIDE BASIS AS WELL AS FOR THE TWO REGIONS DESCRIBED IN SUBDIVISION TWO OF SECTION 6-102 OF THIS ARTICLE.

4. IN THE DEVELOPMENT OF THE STATE ENERGY PLAN THE BOARD SHALL, TO THE EXTENT PRACTICABLE, TAKE COGNIZANCE OF ANY COMPREHENSIVE RELIABILITY PLANNING PROCESS UNDERTAKEN BY THE BSO.

5. (A) THE STATE ENERGY PLAN SHALL PROVIDE GUIDANCE FOR ENERGY-RELATED DECISIONS TO BE MADE BY THE PUBLIC AND PRIVATE SECTORS WITHIN THE STATE. (B) ANY ENERGY-RELATED ACTION OR DECISION OF A STATE AGENCY, BOARD, COMMISSION OR AUTHORITY SHALL BE REASONABLY CONSISTENT WITH THE FORECASTS AND THE POLICIES AND LONG-RANGE ENERGY PLANNING OBJECTIVES AND STRATEGIES CONTAINED IN THE PLAN, INCLUDING ITS MOST RECENT UPDATE; PROVIDED, HOWEVER, THAT ANY SUCH ACTION OR DECISION WHICH IS NOT REASONABLY CONSISTENT WITH THE PLAN SHALL BE DEEMED IN COMPLIANCE WITH THIS SECTION, PROVIDED THAT SUCH ACTION OR DECISION INCLUDES A FINDING THAT THE RELEVANT PROVISIONS OF THE PLAN ARE NO LONGER REASONABLE OR PROBABLY BASED ON A MATERIAL AND SUBSTANTIAL CHANGE IN FACT OR CIRCUMSTANCE, AND A STATEMENT EXPLAINING THE BASIS FOR THIS FINDING. (C) NOTHING IN THIS SECTION SHALL LIMIT THE AUTHORITY OF ANY STATE AGENCY, BOARD, COMMISSION OR AUTHORITY TO DENY AN APPLICATION TO CONSTRUCT, OPERATE OR MODIFY AN ENERGY FACILITY ON ENVIRONMENTAL OR PUBLIC HEALTH AND SAFETY GROUNDS, OR THAT ALTERNATE MEANS OF ENERGY PROCUREMENT OR ALTERNATE LOCATION FOR AN ENERGY FACILITY CAN BE SECURED. (D) A STATE AGENCY, BOARD, COMMISSION OR AUTHORITY MAY TAKE OFFICIAL NOTICE OF THE MOST RECENT FINAL STATE ENERGY PLAN ADOPTED BY THE BOARD PRIOR TO ANY FINAL ENERGY-RELATED DECISION BY SUCH AGENCY, BOARD, COMMISSION OR AUTHORITY.


2. THE BOARD SHALL CONDUCT A STATE ENERGY PLANNING PROCEEDING, CONSISTENT WITH THE NEED TO DEVELOP THE PLAN IN A TIMELY MANNER, WHICH SHALL PROVIDE FOR THE FOLLOWING AT A MINIMUM:

(A) THE FILING OF INFORMATION BY ENERGY SUPPLIERS AS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION; (B) THE PREPARATION AND ISSUANCE OF A DRAFT PLAN, SUBSEQUENT TO THE FILING OF INFORMATION AS SPECIFIED IN SUBDIVISION THREE OF THIS SECTION, WHICH SHALL ADDRESS EACH ITEM IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE;
A. PUBLIC COMMENT HEARINGS, IN AT LEAST EACH REGION DESCRIBED IN
SUBDIVISION TWO OF SECTION 6-102 OF THIS ARTICLE AND PROVIDE AN OPPORTU-
UNITY TO SUBMIT WRITTEN COMMENTS, SUBSEQUENT TO THE ISSUANCE OF A DRAFT
PLAN, TO OBTAIN VIEWS AND COMMENTS OF INTERESTED PERSONS ON ANY ASPECT
OF, OR ISSUE ADDRESSED IN, SUCH DRAFT PLAN;

(D) EVIDENTIARY HEARINGS MAY BE HELD, AT THE DISCRETION OF THE BOARD,
IN RESPONSE TO A WRITTEN REQUEST BY AN INTERESTED PERSON OR PERSONS
SEEKING TO PROVIDE EVIDENTIARY MATERIAL OR DATA SUBSEQUENT TO THE ISSU-
ANCE OF A DRAFT PLAN, ON ISSUES IDENTIFIED IN SUBDIVISION TWO OF SECTION
6-104 OF THIS ARTICLE; AND

(E) SUBMISSION OF A NOTICE FOR ANY HEARING OR OPPORTUNITY FOR COMMENT
PROVIDED FOR PURSUANT TO THIS SUBDIVISION FOR PUBLICATION WITHIN THE
STATE REGISTER.

AS DETERMINED BY THE BOARD IN EACH INSTANCE TO BE APPROPRIATE WITH
RESPECT TO THE PARTICULAR ENTITY OR ENTITIES FROM WHICH INFORMATION, IF
ANY, SHALL BE REQUIRED, THE INFORMATION TO BE PROVIDED TO THE BOARD BY
ENERGY TRANSMISSION AND DISTRIBUTION COMPANIES, ELECTRIC, GAS, OR STEAM
CORPORATIONS, MAJOR ENERGY SUPPLIERS INCLUDING OWNERS OR OPERATORS OF
ELECTRIC GENERATION FACILITIES, COMMODITY AND/OR END-USE ENERGY SERVICE
PROVIDERS, STATE AGENCIES OR AUTHORITIES, INCLUDING THE POWER AUTHORITY
OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY, AND/OR
OTHERS, SHALL INCLUDE THE FOLLOWING:

(A) INDIVIDUALLY PREPARED COMPREHENSIVE LONG-RANGE PLANS FOR FUTU
OPERATIONS:

(I) A FORECAST OF ELECTRICITY DEMANDS OVER A PERIOD OF FIVE, TEN AND
FIFTEEN YEARS, INCLUDING ANNUAL IN-STATE ELECTRIC ENERGY SALES AND
SUMMER AND WINTER PEAK LOADS BY UTILITY SERVICE AREA WHERE APPLICABLE,
AND TOTAL ANY ANNUAL IN-STATE ELECTRIC ENERGY SALES AND COINCIDENT PEAK
LOAD, SPECIFICALLY IDENTIFYING THE EXTENT TO WHICH ENERGY CONSERVATION,
LOAD MANAGEMENT AND OTHER DEMAND-REDUCING MEASURES, AND ELECTRIC ENERGY
GENERATED BY COGENERATION, SMALL HYDRO AND ALTERNATE ENERGY PRODUCTION
FACILITIES, INCLUDING RENEWABLE ENERGY TECHNOLOGIES AND FUEL CELLS,
CONSUMED ON SITE, HAVE BEEN INCORPORATED WITHIN SUCH FORECAST;

(II) A FORECAST OF ELECTRICITY SUPPLY REQUIREMENTS OVER A PERIOD OF
FIVE, TEN AND FIFTEEN YEARS, BY UTILITY SERVICE AREA WHERE APPLICABLE,
SPECIFICALLY IDENTIFYING THE RESERVE MARGINS REQUIRED FOR RELIABLE ELEC-
TRIC SERVICE, THE TRANSMISSION AND DISTRIBUTION LOSSES ASSUMED, AND THE
AMOUNT OF OUT-OF-STATE SALES COMMITMENTS;

(III) AN ASSESSMENT OF THE ABILITY OF EXISTING ELECTRICITY SUPPLY
SOURCES, AND THOSE REASONABLY CERTAIN TO BE AVAILABLE, TO SATISFY ELEC-
TRICITY SUPPLY REQUIREMENTS, INCLUDING ELECTRIC GENERATING FACILITIES
WHICH CAN BE RETAINED IN SERVICE BEYOND THEIR ORIGINAL DESIGN LIFE
THROUGH ROUTINE MAINTENANCE AND REPAIRS;

(IV) AN INVENTORY OF: (A) ALL EXISTING ELECTRIC GENERATING AND TRANS-
MISSION FACILITIES INCLUDING THOSE OWNED OR OPERATED BY THE POWER
AUTHORITY OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY;
(B) ELECTRIC GENERATING AND TRANSMISSION FACILITIES PLANNED OR UNDER
CONSTRUCTION INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK AND
THE LONG ISLAND POWER AUTHORITY, INCLUDING THE DATES FOR COMPLETION AND
OPERATION; (C) THE ANTICIPATED RETIREMENT DATES FOR ANY ELECTRIC GENER-
ATING FACILITIES CURRENTLY OPERATED INCLUDING THOSE OWNED OR OPERATED BY
THE POWER AUTHORITY OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER
AUTHORITY; (D) LAND OWNED OR LEASED INCLUDING THAT OWNED OR LEASED BY
THE POWER AUTHORITY OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER
AUTHORITY AND HELD FOR FUTURE USE AS SITES FOR MAJOR ELECTRIC GENERATING
FACILITIES; AND (E) ELECTRIC GENERATING, TRANSMISSION, AND RELATED
FACILITIES OPERATED, OR PLANNED TO BE OPERATED, BY OTHERS, TO THE EXTENT INFORMATION CONCERNING THE SAME IS KNOWN;

(V) RECOMMENDED SUPPLY ADDITIONS AND DEMAND-REDUCING MEASURES FOR SATISFYING THE ELECTRICITY SUPPLY REQUIREMENTS, NOT REASONABLY CERTAIN TO BE MET BY ELECTRICITY SUPPLY SOURCES IDENTIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH, INCLUDING THE LIFE EXTENSION OF EXISTING ELECTRIC GENERATING FACILITIES, AND REASONS THEREFOR;

(VI) A STATEMENT OF RESEARCH AND DEVELOPMENT PLANS, INCLUDING OBJECTIVES AND PROGRAMS IN THE AREAS OF ENERGY CONSERVATION, LOAD MANAGEMENT, ELECTRIC GENERATION AND TRANSMISSION, NEW ENERGY TECHNOLOGIES AND POLLUTION ABATEMENT AND CONTROL, WHICH ARE NOT FUNDED THROUGH REGULATORY REQUIRED PROGRAMS, RECENT RESULTS OF SUCH PROGRAMS UNDERTAKEN OR FUNDED TO DATE, AND AN ASSESSMENT OF THE POTENTIAL IMPACTS OF SUCH RESULTS;

(VII) A PROJECTION OF ESTIMATED ELECTRICITY PRICES TO CONSUMERS OVER THE FORECAST PERIOD, AND A SENSITIVITY ANALYSIS OF THAT FORECAST RELATING TO A NUMBER OF FACTORS INCLUDING FUEL PRICES AND THE LEVELS OF AVAILABLE CAPACITY AND DEMAND IN THE REGIONS OF THE STATE;

(VIII) A DESCRIPTION OF THE LOAD FORECASTING METHODOLOGY AND THE ASSUMPTIONS AND DATA USED IN THE PREPARATION OF THE FORECASTS, SPECIFICALLY INCLUDING PROJECTIONS OF DEMOGRAPHIC AND ECONOMIC ACTIVITY AND SUCH OTHER FACTORS, STATEWIDE AND BY SERVICE AREA, WHICH MAY INFLUENCE ELECTRICITY DEMAND, AND THE BASES FOR SUCH PROJECTIONS;

(IX) PROPOSED POLICIES, OBJECTIVES AND STRATEGIES FOR MEETING THE STATE'S FUTURE ELECTRICITY NEEDS; AND

(X) SUCH ADDITIONAL INFORMATION AS THE BOARD MAY, BY REGULATION, REQUIRE TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(B) ALL PROVIDERS OF NATURAL GAS TRANSMISSION, DISTRIBUTION AND/OR MARKETING SERVICES TO CUSTOMERS SHALL INDIVIDUALLY PREPARE AND SUBMIT A COMPREHENSIVE LONG-RANGE PLAN FOR FUTURE OPERATIONS, WHICH SHALL INCLUDE, AS APPROPRIATE:

(I) A FORECAST OVER A PERIOD OF FIVE, TEN AND FIFTEEN YEARS, BY UTILITY SERVICE AREA, OF ESTIMATED ANNUAL IN-STATE GAS SALES, WINTER SEASON SALES AND PEAK DAY SALES BY APPROPRIATE END-USE CLASSIFICATIONS, SPECIFICALLY IDENTIFYING THE EXTENT TO WHICH ENERGY CONSERVATION MEASURES AND THE SALE OF GAS OWNED BY PERSONS OTHER THAN NATURAL GAS TRANSMISSION AND DISTRIBUTION UTILITIES HAVE BEEN INCORPORATED WITHIN SUCH FORECAST;

(II) A FORECAST OF GAS SUPPLY REQUIREMENTS OVER A PERIOD OF FIVE, TEN AND FIFTEEN YEARS, BY UTILITY SERVICE AREA, SPECIFICALLY IDENTIFYING THE AMOUNTS OF GAS NEEDED TO MEET SEVERE WEATHER CONDITIONS, LOST AND UNACCOUNTED FOR GAS, OUT-OF-STATE SALES COMMITMENTS AND INTERNAL USE;

(III) AN ASSESSMENT OF THE ABILITY OF EXISTING GAS SUPPLY SOURCES, AND THOSE REASONABLY CERTAIN TO BE AVAILABLE, TO SATISFY GAS SUPPLY REQUIREMENTS;

(IV) AN INVENTORY OF: (A) ALL EXISTING SUPPLY SOURCES, STORAGE FACILITIES, AND TRANSMISSION FACILITIES WHICH ARE USED IN PROVIDING SERVICE WITHIN THE STATE, (B) THE TRANSMISSION AND STORAGE FACILITIES UNDER CONSTRUCTION WHICH WOULD BE USED IN PROVIDING SERVICE WITHIN THE STATE, THEIR PROJECTED COSTS AND CAPACITIES, INCLUDING PEAKING CAPACITY, (C) TRANSMISSION FACILITY ADDITIONS PROPOSED TO BE CONSTRUCTED BY NATURAL GAS TRANSMISSION AND DISTRIBUTION UTILITIES, (D) TRANSMISSION FACILITIES OPERATED, OR PLANNED TO BE OPERATED, BY OTHERS, TO THE EXTENT INFORMATION CONCERNING THE SAME IS KNOWN;

(V) RECOMMENDED SUPPLY ADDITIONS AND DEMAND-REDUCING MEASURES FOR SATISFYING THE GAS SUPPLY REQUIREMENTS, NOT REASONABLY CERTAIN TO BE MET BY GAS SUPPLY SOURCES IDENTIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH AND THE REASONS THEREFOR;
(VI) A PROJECTION OF ESTIMATED GAS PRICES TO CONSUMERS OVER THE FORECAST PERIOD, AND A SENSITIVITY ANALYSIS OF THAT FORECAST RELATING TO A NUMBER OF FACTORS INCLUDING THE LEVELS OF COMMODITY SUPPLY AVAILABILITY, OF AVAILABLE PIPELINE AND STORAGE CAPACITY, AND OF DEMAND IN THE REGIONS OF THE STATE;

(VII) A DESCRIPTION OF THE LOAD FORECASTING METHODOLOGY AND THE ASSUMPTIONS AND DATA USED IN THE PREPARATION OF THE FORECASTS, SPECIFICALLY INCLUDING PROJECTIONS OF DEMOGRAPHIC AND ECONOMIC ACTIVITY AND SUCH OTHER FACTORS, STATEWIDE AND BY SERVICE AREA WHERE APPLICABLE, WHICH MAY INFLUENCE DEMAND FOR NATURAL GAS, AND THE BASES FOR SUCH PROJECTIONS;

(VIII) A STATEMENT OF RESEARCH AND DEVELOPMENT PLANS, INCLUDING OBJECTIVES AND PROGRAMS IN THE AREAS OF ENERGY CONSERVATION AND NEW ENERGY TECHNOLOGIES, RECENT RESULTS OF SUCH PROGRAMS UNDERTaken OR FUNDED TO DATE, AND AN ASSESSMENT OF THE POTENTIAL IMPACTS OF SUCH RESULTS;

(IX) PROPOSED POLICIES, OBJECTIVES AND STRATEGIES FOR MEETING THE STATE'S FUTURE GAS NEEDS; AND

(X) SUCH ADDITIONAL INFORMATION AS THE BOARD MAY, BY REGULATION, REQUIRE TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(C) SUCH INFORMATION FROM MAJOR PETROLEUM SUPPLIERS AND MAJOR COAL SUPPLIERS AS THE BOARD MAY, BY REGULATION, REQUIRE TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

(D) SUCH OTHER INFORMATION FROM OWNERS AND OPERATORS OF ELECTRIC GENERATING POWER PLANTS AS THE BOARD MAY, BY REGULATION, REQUIRE TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

4. ANY INFORMATION FILED UNDER THIS SECTION THAT IS CLAIMED TO BE CONFIDENTIAL SHALL BE TREATED IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE BOARD PERTAINING TO THE DETERMINATION OF CONFIDENTIAL STATUS AND THE RETENTION OF CONFIDENTIAL RECORDS.

5. COPIES OF THE DRAFT PLAN, AND ALL NON-CONFIDENTIAL INFORMATION AND COMMENTS FILED PURSUANT TO THIS SECTION SHALL BE MADE AVAILABLE TO THE PUBLIC FOR INSPECTION.

6. THE BOARD MAY AMEND THE STATE ENERGY PLAN, OR ASPECTS THEREOF, UPON ITS OWN INITIATIVE OR UPON THE WRITTEN APPLICATION OF ANY INTERESTED PERSON. IN CONNECTION WITH ANY SUCH AMENDMENT, THE BOARD MAY REQUIRE THE FILING OF SUCH INFORMATION AS MAY BE REQUIRED, CONSISTENT WITH REGULATION. PRIOR TO ADOPTING ANY PROPOSED AMENDMENT TO AN ELEMENT OF THE PLAN IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE, THE BOARD SHALL HOLD EVIDENTIARY HEARINGS, UPON THE WRITTEN APPLICATION OF AN INTERESTED PARTY. PRIOR TO ADOPTING A PROPOSED AMENDMENT TO ANY ELEMENT OF THE PLAN, THE BOARD SHALL PREPARE AND PUBLISH IN THE STATE REGISTER NOTICE OF ANY DRAFT AMENDMENT AND REASONS THEREFOR AND SHALL SOLICIT PUBLIC COMMENTS THEREON. THE BOARD SHALL ADOPT AN AMENDMENT TO THE STATE ENERGY PLAN, OR ASPECTS THEREOF, UPON A FINDING BY THE BOARD THAT THERE HAS BEEN A MATERIAL AND SUBSTANTIAL CHANGE IN FACT OR CIRCUMSTANCE SINCE THE MOST RECENT PLAN WAS ADOPTED. A DECISION OF THE BOARD THAT NO AMENDMENT IS NECESSARY, TOGETHER WITH THE REASONS SUPPORTING SUCH DETERMINATION, SHALL BE FINAL.

7. ANY PERSON WHO PARTICIPATED IN THE STATE ENERGY PLANNING PROCEEDING OR ANY PERSON WHO SOUGHT AN AMENDMENT OF THE STATE ENERGY PLAN PURSUANT TO SUBDIVISION SIX OF THIS SECTION, MAY OBTAIN, PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, JUDICIAL REVIEW OF THE BOARD'S DECISION ADOPTING A PLAN, OR ANY AMENDMENT THERETO, OR OF THE BOARD'S DECISION NOT TO AMEND SUCH PLAN PURSUANT TO SUBDIVISION SIX OF THIS SECTION. ANY SUCH SPECIAL PROCEEDING SHALL BE BROUGHT IN THE APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK FOR THE

8. PROCEEDINGS CONDUCTED PURSUANT TO THIS SECTION SHALL NOT BE CONSIDERED PART OF AN ADJUDICATORY PROCEEDING AS DEFINED IN SUBDIVISION THREE OF SECTION ONE HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT, OR PART OF A RULE MAKING PROCEEDING HELD UNDER SUBDIVISION ONE OF SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

S 6-108. SUPPLEMENTAL STUDIES FOR FUTURE ENERGY PLANNING. THE BOARD SHALL UNDERTAKE THE FOLLOWING STUDIES TO SUPPLEMENT INFORMATION FOR FUTURE ENERGY PLANNING:


2. SUCH STUDY SHALL INCLUDE, AT A MINIMUM, AN ASSESSMENT OF EACH OF THE FOLLOWING:

(A) THE CURRENT AND PROJECTED RELIABILITY OF THE ELECTRIC POWER SYSTEM OVER THE TERM OF THE PLANNING PERIOD, WITH SPECIFIC FOCUS ON TRANSMISSION SYSTEMS AND DISTRIBUTION SYSTEMS WITHIN THE STATE. THE ASSESSMENT SHALL EXAMINE: (I) INVESTMENT IN INFRASTRUCTURE, INCLUDING CAPITAL IMPROVEMENTS, EXPANSIONS, AND MAINTENANCE; AND (II) WORKFORCE UTILIZATION.

(B) THE POTENTIAL IMPACT OF THE FOLLOWING ON DISTRIBUTION SYSTEM RELIABILITY AND ON EACH FACTOR ENUMERATED IN PARAGRAPH (A) OF THIS SUBDIVISION: (I) DISTRIBUTED ELECTRIC GENERATION, ESPECIALLY GENERATION USING RENEWABLE OR INNOVATIVE ENERGY RESOURCES; (II) ENERGY CONSERVATION AND EFFICIENCY; (III) LOAD CONTROL AND PEAK SAVING MEASURES; (IV) CORPORATE REORGANIZATION OF ELECTRIC UTILITIES; (V) PERFORMANCE RATEMAKING, MULTI-YEAR RATE AGREEMENTS, AND OTHER DEPARTURES FROM TRADITIONAL REGULATORY MECHANISMS; AND (VI) LARGE SCALE INDUSTRIAL DEVELOPMENT.

(C) THE POTENTIAL IMPACT OF THE FOLLOWING ON TRANSMISSION SYSTEM RELIABILITY: (I) EACH FACTOR ENUMERATED IN PARAGRAPH (B) OF THIS SUBDIVISION; (II) CHANGES IN PROTOCOLS FOR ELECTRICITY DISPATCHED THROUGH THE BSO OR ITS SUCCESSOR OR SUCCESSORS; (III) ACCOMMODATION OF PROPOSED NEW ELECTRIC GENERATION FACILITIES OR REPOWERING OR LIFE EXTENSION OF EXISTING FACILITIES; AND (IV) THE MARKET-DRIVEN NATURE OF DECISIONS TO BUILD, SIZE, AND LOCATE SUCH FACILITIES.

3. THE BOARD AND ANY CONTRACTORS IT MAY RETAIN FOR SUCH PURPOSES SHALL CONSULT WITH ENTITIES THAT HAVE RESOURCES AND EXPERTISE TO ASSIST IN SUCH STUDY, INCLUDING, BUT NOT LIMITED TO, THE BSO, PUBLIC UTILITIES, AND ANY OTHER ELECTRIC COMPANY OR TRADE ORGANIZATIONS.
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(B) THE LONG ISLAND POWER AUTHORITY AND THE POWER AUTHORITY OF THE STATE OF NEW YORK ARE AUTHORIZED, AS DEEMED FEASIBLE AND ADVISABLE BY THEIR RESPECTIVE BOARDS, TO MAKE A VOLUNTARY CONTRIBUTION TOWARD THE STUDY.

S 2. Section 1005 of the public authorities law is amended by adding a new subdivision 16 to read as follows:


S 3. Sections 1020-gg, 1020-hh and 1020-ii of the public authorities law, as renumbered by chapter 234 of the laws of 2004, are renumbered sections 1020-hh, 1020-ii and 1020-jj and a new section 1020-gg is added to read as follows:


S 4. The first draft copy of the state energy plan pursuant to section 6-104 of the energy law shall be presented for public comment on or before September 1, 2012 and the final draft of such plan shall be issued on or before March 15, 2013.

S 5. This act shall take effect immediately.