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

6801

2009-2010 Regular Sessions

I N A S S E M B L Y

March 12, 2009

Introduced by M. of A. BRENNAN -- Multi-Sponsored by -- M. of A. PHEFFER -- read once and referred to the Committee on Energy

AN ACT to amend the energy law, in relation to state energy planning; and to amend the public authorities law, in relation to completion of an annual energy plan by the power authority of the state of New York and the Long Island power authority

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. RELIABILITY STUDY.

S 6-102. STATE ENERGY PLANNING BOARD. 1. THERE SHALL BE ESTABLISHED A STATE ENERGY PLANNING BOARD, HEREINAFTER REFERRED TO AS THE "BOARD", WHICH SHALL CONSIST OF THE CHAIR OF THE PUBLIC SERVICE COMMISSION, THE COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE COMMISSIONER OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT, THE COMMISSIONER OF THE DEPARTMENT OF TRANSPORTATION, THE DIRECTOR OF THE STATE EMERGENCY MANAGEMENT OFFICE AND THE CHAIR OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY. ANY DECISION OR ACTION BY THE BOARD SHALL BE BY MAJORITY VOTE. THE CHAIR OF THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY SHALL SERVE AS CHAIR OF THE BOARD.

2. 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. ASSISTANCE

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

LBD09793-01-9

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.

3. 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.

4. THE BOARD SHALL CONSIDER AND PRESENT POLICIES AND PROGRAMS THAT ARE DESIGNED TO IMPROVE THE RELIABILITY OF THE STATE'S ENERGY SYSTEMS, INSULATE CONSUMERS FROM VOLATILITY IN MARKET PRICES, REDUCE THE OVERALL COST OF ENERGY IN THE STATE AND MINIMIZE PUBLIC HEALTH AND ENVIRONMENTAL IMPACTS. EACH ENERGY PLAN SHALL ALSO IDENTIFY POLICIES AND PROGRAMS THAT 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.

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 TWENTY YEARS OF (I) DEMAND FOR ELECTRICITY, NATURAL GAS, COAL, PETROLEUM PRODUCTS, INCLUDING HEATING AND TRANSPORTATION FUELS, AND ALTERNATE FUELS, INCLUDING ETHANOL AND OTHER BIOFUELS, FOR EACH OF THE SERVICE AREAS OF THE STATE'S MAJOR ELECTRIC AND GAS UTILITIES AND 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 FUELS, INCLUDING ETHANOL AND OTHER BIOFUELS, FOR EACH OF THE SERVICE AREAS OF THE STATE'S MAJOR ELECTRIC AND GAS UTILITIES 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 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 SPECIFIC SYSTEM CONSTRAINTS AND SPECIFIC ALTERNATIVES AVAILABLE, BOTH SUPPLY-SIDE AND DEMAND-SIDE ALTERNATIVES, TO REDRESS SUCH CONSTRAINT;

(V) ENERGY PRICES, INCLUDING A FORECAST OF THE IMPACT ON ELECTRIC WHOLESALE PRICES AND FUEL PRICES RESULTANT FROM THE ADDITION OF NEW ELECTRIC GENERATING FACILITIES;

(VI) A DESCRIPTION OF THE COMPARATIVE ADVANTAGES AND DISADVANTAGES OF REASONABLY AVAILABLE LOCATIONS FOR ENERGY FACILITIES, INCLUDING A STATEMENT OF THE REASONS WHY SUCH LOCATIONS ARE SUITABLE FOR ELECTRIC GENERATING FACILITIES, INCLUDING BUT NOT LIMITED TO EXISTING LOCAL ZONING STATUS, PROXIMITY TO ELECTRIC TRANSMISSION AND FUEL TRANSPORTATION SYSTEMS, AND PROXIMITY TO ELECTRIC LOAD CENTERS; AND

(VII) AN ASSESSMENT OF THE ECONOMIC, ENVIRONMENTAL, PUBLIC SAFETY AND PUBLIC RISK IMPLICATIONS OF ALL NUCLEAR REACTORS GENERATING ELECTRICITY IN THE STATE, INCLUDING ISSUES OF NUCLEAR WASTE GENERATION; ON-SITE WASTE TREATMENT, STORAGE, TRANSPORTATION AND LONG-TERM OPTIONS; ADEQUACY AND STATUS OF EMERGENCY AND EVACUATION PLANNING; PROJECTIONS OF PLANT LIFE; AND ECONOMIC IMPLICATIONS OF PLANT CLOSURE, DECOMMISSIONING, RELICENSING, AND LIFE EXTENSION;

(B) IDENTIFICATION AND ANALYSIS OF THE COSTS, RISKS, BENEFITS, UNCERTAINTIES AND MARKET POTENTIAL OF ENERGY SUPPLY SOURCE ALTERNATIVES, INCLUDING DEMAND-REDUCING MEASURES, RENEWABLE ENERGY RESOURCES OF ELECTRIC GENERATION, DISTRIBUTED GENERATION TECHNOLOGIES, COGENERATION TECHNOLOGIES, BIOFUELS AND OTHER METHODS AND TECHNOLOGIES REASONABLY AVAILABLE FOR SATISFYING ENERGY SUPPLY REQUIREMENTS WHICH ARE NOT REASONABLY CERTAIN TO BE MET BY THE ENERGY SUPPLY SOURCES IDENTIFIED IN SUBPARAGRAPH (III) OF 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 EVALUATION OF CURRENT ENERGY POLICIES AND PROGRAMS, AND LONG-RANGE ENERGY PLANNING OBJECTIVES AND STRATEGIES, AND AN EVALUATION OF THE SUCCESS OF SUCH PROGRAMS, POLICIES AND STRATEGIES TO ACHIEVE THE LEAST COST INTEGRATION OF ENERGY SUPPLY SOURCES AND DEMAND-REDUCING 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 ENVIRONMENTAL 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 AUTHORITY OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY SHALL INDIVIDUALLY SUBMIT TO THE PLANNING BOARD (I) A STRATEGIC PLAN SPECIFYING 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) RECOMMENDATIONS, AS APPROPRIATE AND DESIRABLE, FOR ADMINISTRATIVE AND LEGISLATIVE ACTIONS TO IMPLEMENT SUCH POLICIES, OBJECTIVES AND STRATEGIES;

(I) ANALYSIS OF THE PROBABLE IMPACT OF IMPLEMENTATION OF THE PLAN UPON ECONOMIC DEVELOPMENT, HEALTH, SAFETY AND WELFARE, ENVIRONMENTAL QUALITY, AND ENERGY COSTS FOR CONSUMERS, SPECIFICALLY LOW-INCOME CONSUMERS; AND

(J) SUCH ADDITIONAL INFORMATION AS THE BOARD DEEMS APPROPRIATE.

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 TWO IDENTIFIABLE REGIONS OF THE STATE: CONSTITUTING THE DOWNSTATE REGION AND THE UPSTATE REGION. FOR PURPOSES OF THIS SECTION, "DOWNSTATE REGION" SHALL INCLUDE THE COUNTIES OF DUTCHESS, ORANGE, ROCKLAND, PUTNAM, WESTCHESTER, NASSAU, SUFFOLK AND THE FIVE COUNTIES OF NEW YORK CITY; AND "UPSTATE REGION" SHALL INCLUDE ALL OTHER COUNTIES IN THE STATE.

4. (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 PROBABLE 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.

S 6-106. CONDUCT OF THE STATE ENERGY PLANNING PROCEEDING. 1. EVERY FOUR YEARS, THE BOARD SHALL ADOPT A STATE ENERGY PLAN, WHICH ADDRESSES EACH ITEM IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE PROVIDED, HOWEVER, THE BOARD MAY ADOPT SUCH A PLAN MORE FREQUENTLY FOR GOOD CAUSE SHOWN. THE BOARD SHALL PREPARE BIENNIAL REPORTS, EVERY SECOND YEAR FOLLOWING THE ISSUANCE OF THE FINAL STATE ENERGY PLAN, INCLUDING A DISCUSSION AND EVALUATION OF THE ABILITY OF THE STATE AND PRIVATE MARKETS TO IMPLEMENT THE POLICIES, PROGRAMS, AND OTHER RECOMMENDATIONS AS FOUND IN THE STATE ENERGY PLAN, AND RECOMMENDATIONS FOR NEW OR AMENDED POLICIES AS NEEDED TO CONTINUE SUCCESSFUL MOVEMENT TOWARDS IMPLEMENTATION AND REALIZATION OF SUCH POLICIES AND PROGRAMS.

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 MAJOR 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 BY MAJOR ENERGY SUPPLIERS, WHICH SHALL ADDRESS EACH ITEM IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE;

(C) PUBLIC COMMENT HEARINGS, IN AT LEAST THREE GEOGRAPHIC LOCATIONS IN THE STATE, AND AN OPPORTUNITY 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, AT THE REQUEST OF ANY INTERESTED PERSON, SUBSEQUENT TO THE ISSUANCE OF A DRAFT PLAN, ON THE 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.

3. INFORMATION FILED BY MAJOR ENERGY SUPPLIERS SHALL INCLUDE THE FOLLOWING:

(A) ALL PROVIDERS OF ELECTRIC TRANSMISSION AND DISTRIBUTION SERVICES TO CUSTOMERS, INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY, SHALL INDIVIDUALLY PREPARE AND SUBMIT A COMPREHENSIVE LONG-RANGE PLAN FOR FUTURE OPERATIONS, WHICH SHALL INCLUDE:

(I) A FORECAST OF ELECTRICITY DEMANDS OVER A PERIOD OF FIVE, TEN AND TWENTY YEARS, INCLUDING ANNUAL IN-STATE ELECTRIC ENERGY SALES AND SUMMER AND WINTER PEAK LOADS BY UTILITY SERVICE AREA, AND TOTAL 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 TWENTY YEARS, BY UTILITY SERVICE AREA, SPECIFICALLY IDENTIFYING THE AMOUNT OF RESERVE MARGINS REQUIRED FOR RELIABLE ELECTRIC SERVICE, THE AMOUNTS OF 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 ELECTRICITY 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: (1) ALL EXISTING ELECTRIC GENERATING AND TRANSMISSION FACILITIES INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY, (2) ELECTRIC GENERATING AND TRANSMISSION FACILITIES 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, (3) THE ANTICIPATED RETIREMENT DATES FOR ANY ELECTRIC GENERATING FACILITIES CURRENTLY OPERATED INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY, (4) LAND OWNED INCLUDING 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 (5)

ELECTRIC GENERATING 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) THE MEMBERS OF THE NEW YORK GAS GROUP SHALL INDIVIDUALLY PREPARE AND SUBMIT A COMPREHENSIVE LONG-RANGE PLAN FOR FUTURE OPERATIONS, WHICH SHALL INCLUDE:

(I) A FORECAST OVER A PERIOD OF FIVE, TEN AND TWENTY 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 THE MEMBERS OF THE NEW YORK GAS GROUP DIRECTLY TO END-USERS HAVE BEEN INCORPORATED WITHIN SUCH FORECAST;

(II) A FORECAST OF GAS SUPPLY REQUIREMENTS OVER A PERIOD OF FIVE, TEN AND TWENTY 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: (1) ALL EXISTING SUPPLY SOURCES, STORAGE FACILITIES, AND TRANSMISSION FACILITIES WHICH ARE USED IN PROVIDING SERVICE WITHIN THE STATE, (2) 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, (3) TRANSMISSION FACILITY ADDITIONS PROPOSED TO BE CONSTRUCTED BY MEMBERS OF THE GAS GROUP, (4) 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 AVAILABLE CAPACITY AND 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, 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 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 THIRD JUDICIAL DEPARTMENT. SUCH PROCEEDING SHALL BE INITIATED BY THE FILING OF A PETITION IN SUCH COURT WITHIN THIRTY DAYS AFTER THE ISSUANCE

OF A DECISION BY THE BOARD. THE PROCEEDING SHALL HAVE A LAWFUL PREFERENCE OVER ANY OTHER MATTER, SHALL BE HEARD ON AN EXPEDITED BASIS AND SHALL BE COMPLETED IN ALL RESPECTS, INCLUDING ANY SUBSEQUENT APPEAL, WITHIN ONE HUNDRED EIGHTY DAYS OF THE FILING OF THE PETITION. WHERE MORE THAN ONE SUCH PETITION IS FILED, THE COURT MAY PROVIDE FOR CONSOLIDATION OF THE PROCEEDINGS. NOTWITHSTANDING THE PROVISIONS OF ARTICLE SEVEN OF THE PUBLIC SERVICE LAW, THE PROCEDURE SET FORTH HEREIN SHALL CONSTITUTE THE EXCLUSIVE MEANS FOR SEEKING JUDICIAL REVIEW OF ANY ELEMENT OF THE PLAN.

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. RELIABILITY STUDY. 1. EVERY FOUR YEARS, THE BOARD SHALL UNDERTAKE A STUDY OF THE OVERALL RELIABILITY OF THE STATE'S ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM. THE BOARD MAY CONTRACT WITH AN INDEPENDENT AND COMPETITIVELY SELECTED CONTRACTOR TO UNDERTAKE SUCH STUDY. THE BOARD SHALL PREPARE A REPORT ON SUCH STUDY'S FINDINGS AND LEGISLATIVE RECOMMENDATIONS. THE BOARD SHALL TRANSMIT SUCH REPORT ALONG WITH THE RELIABILITY STUDY TO THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE CHAIR OF THE ASSEMBLY ENERGY COMMITTEE, AND THE CHAIR OF THE SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE.

2. THE STUDY SHALL INCLUDE, AT 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 SHAVING 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 NEW YORK POWER POOL 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 SHALL CONSULT WITH ENTITIES THAT HAVE RESOURCES AND EXPERTISE TO ASSIST IN SUCH INVESTIGATION.

(A) THE LONG ISLAND POWER AUTHORITY, THE POWER AUTHORITY OF THE STATE OF NEW YORK, THE DEPARTMENT OF PUBLIC SERVICE, AND THE MEMBERS OF THE NEW YORK POWER POOL OR ITS SUCCESSOR OR SUCCESSORS SHALL COOPERATE WITH THE BOARD AND ITS CONTRACTOR.

(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 INVESTIGATION.

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

16. TO COMPLETE AN ANNUAL ENERGY PLAN IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE SIX OF THE ENERGY LAW. IN ADDITION TO ANY REQUIREMENTS OF ARTICLE SIX OF THE ENERGY LAW, THE AUTHORITY SHALL PROVIDE COPIES OF ITS ANNUAL ENERGY PLAN TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE ASSEMBLY COMMITTEE ON ENERGY AND THE CHAIR OF THE SENATE COMMITTEE ON ENERGY AND TELECOMMUNICATIONS. FURTHER, THE AUTHORITY SHALL COOPERATE AND PARTICIPATE IN THE STATE ENERGY PLANNING PROCEDURES AS ENUMERATED IN ARTICLE SIX OF THE ENERGY LAW.

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 1020-GG. ENERGY PLAN. THE AUTHORITY SHALL COMPLETE AN ANNUAL ENERGY PLAN IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE SIX OF THE ENERGY LAW. IN ADDITION TO ANY REQUIREMENTS OF ARTICLE SIX OF THE ENERGY LAW, THE AUTHORITY SHALL PROVIDE COPIES OF ITS ANNUAL ENERGY PLAN TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE ASSEMBLY COMMITTEE ON ENERGY AND THE CHAIR OF THE SENATE COMMITTEE ON ENERGY AND TELECOMMUNICATIONS. FURTHER, THE AUTHORITY SHALL COOPERATE AND PARTICIPATE IN THE STATE ENERGY PLANNING PROCEDURES AS ENUMERATED IN ARTICLE SIX OF THE ENERGY LAW.

S 4. This act shall take effect immediately.