

1699

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. PARKER, BRESLIN, DIAZ, DILAN, DUANE, KRUEGER, MONTGOMERY, ONORATO, SAMPSON, SCHNEIDERMAN, SERRANO, STACHOWSKI, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the energy law, in relation to state energy planning; 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:

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

3 ARTICLE 6
4 ENERGY PLANNING

5 SECTION 6-102. STATE ENERGY PLANNING BOARD.

6 6-104. STATE ENERGY PLAN.

7 6-106. CONDUCT OF THE STATE ENERGY PLANNING PROCEEDING.

8 6-108. RELIABILITY STUDY.

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

19 2. STAFF SERVICES SHALL BE PERFORMED BY PERSONNEL OF THE DEPARTMENT OF
20 PUBLIC SERVICE, THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, THE
21 DEPARTMENT OF TRANSPORTATION, THE DEPARTMENT OF ECONOMIC DEVELOPMENT,

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

LBD02370-01-9

1 THE STATE EMERGENCY MANAGEMENT OFFICE AND THE NEW YORK STATE ENERGY
2 RESEARCH AND DEVELOPMENT AUTHORITY, AS DIRECTED BY THE BOARD. ASSISTANCE
3 SHALL ALSO BE MADE AVAILABLE, AS REQUESTED BY THE BOARD, FROM OTHER
4 AGENCIES, DEPARTMENTS AND PUBLIC AUTHORITIES OF THE STATE. THE BOARD
5 MAY PROVIDE FOR ITS OWN REPRESENTATION IN ALL ACTIONS OR PROCEEDINGS IN
6 WHICH IT IS A PARTY.

7 3. THE BOARD SHALL HAVE THE POWERS: (A) TO ADOPT A STATE ENERGY PLAN
8 IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE;

9 (B) TO ADOPT RULES AND REGULATIONS AS NECESSARY OR APPROPRIATE TO
10 IMPLEMENT THIS ARTICLE;

11 (C) TO ISSUE SUBPOENAS AND SUBPOENAS DUCES TECUM; AND

12 (D) TO AUTHORIZE ANY PERSON TO CONDUCT HEARINGS WHICH THE BOARD IS
13 AUTHORIZED TO CONDUCT, TO TAKE TESTIMONY WITH RESPECT TO THE SUBJECT OR
14 MATTER UNDER INVESTIGATION, AND TO REPORT THE TESTIMONY TO THE BOARD. IN
15 THE CONDUCT OF SUCH HEARINGS, ANY PERSON SO AUTHORIZED BY THE BOARD
16 SHALL HAVE ALL THE POWERS OF THE BOARD.

17 S 6-104. STATE ENERGY PLAN. 1. THE BOARD SHALL ADOPT A STATE ENERGY
18 PLAN IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

19 2. THE STATE ENERGY PLAN SHALL INCLUDE: (A) FORECASTS FOR PERIODS OF
20 FIVE, TEN AND TWENTY YEARS OF (I) DEMAND FOR ELECTRICITY, NATURAL GAS,
21 COAL AND PETROLEUM PRODUCTS, INCLUDING HEATING AND TRANSPORTATION FUELS,
22 FOR EACH OF THE SERVICE AREAS OF THE STATE'S MAJOR ELECTRIC AND GAS
23 UTILITIES AND THE STATE AS A WHOLE, TAKING INTO ACCOUNT ENERGY CONSERVA-
24 TION, LOAD MANAGEMENT AND OTHER DEMAND-REDUCING MEASURES WHICH CAN BE
25 ACHIEVED IN A COST-EFFECTIVE MANNER, INCLUDING THE BASIS FOR SUCH
26 PROJECTION, INCLUDING AN EXAMINATION OF POSSIBLE ALTERNATE LEVELS OF
27 DEMAND AND DISCUSSION OF THE FORECASTING METHODOLOGIES AND INPUT VARI-
28 ABLES USED IN MAKING THE FORECASTS;

29 (II) ENERGY SUPPLY REQUIREMENTS NEEDED TO SATISFY DEMAND FOR ELECTRIC-
30 ITY, NATURAL GAS, COAL AND PETROLEUM PRODUCTS, INCLUDING HEATING AND
31 TRANSPORTATION FUELS, FOR EACH OF THE SERVICE AREAS OF THE STATE'S MAJOR
32 ELECTRIC AND GAS UTILITIES AND FOR THE STATE AS A WHOLE, INCLUDING WITH
33 RESPECT TO ELECTRICITY, THE AMOUNT OF CAPACITY NEEDED TO PROVIDE
34 ADEQUATE RESERVE MARGINS AND CAPACITY NEEDED TO ENSURE COMPETITIVE
35 MARKETS IN THE VARIOUS REGIONS OF THE STATE;

36 (III) AN ASSESSMENT OF THE ABILITY OF THE EXISTING ENERGY SUPPLY
37 SOURCES AND THE EXISTING TRANSMISSION OR FUEL TRANSPORTATION SYSTEMS, TO
38 SATISFY, TOGETHER WITH THOSE SOURCES OR SYSTEMS REASONABLY CERTAIN TO BE
39 AVAILABLE, SUCH ENERGY SUPPLY REQUIREMENTS, INDICATING PLANNED ADDI-
40 TIONS, RETIREMENTS, DERATINGS, SUBSTANTIAL PLANNED OUTAGES, AND ANY
41 OTHER EXPECTED CHANGES IN LEVELS OF GENERATING AND PRODUCTION CAPACITY;

42 (IV) ADDITIONAL ELECTRIC CAPACITY AND/OR TRANSMISSION OR FUEL TRANS-
43 PORTATION SYSTEMS NEEDED TO MEET SUCH ENERGY SUPPLY REQUIREMENTS THAT
44 WILL NOT BE MET BY EXISTING SOURCES OF SUPPLY AND THOSE REASONABLY
45 CERTAIN TO BE AVAILABLE, WHERE SUCH ANALYSIS SHOULD IDENTIFY SPECIFIC
46 SYSTEM CONSTRAINTS AND SPECIFIC ALTERNATIVES AVAILABLE, BOTH SUPPLY-SIDE
47 AND DEMAND-SIDE ALTERNATIVES, TO REDRESS SUCH CONSTRAINT;

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

51 (VI) A DESCRIPTION OF THE COMPARATIVE ADVANTAGES AND DISADVANTAGES OF
52 REASONABLY AVAILABLE LOCATIONS FOR ENERGY FACILITIES, INCLUDING A STATE-
53 MENT OF THE REASONS WHY SUCH LOCATIONS ARE SUITABLE FOR ELECTRIC GENER-
54 ATING FACILITIES, INCLUDING BUT NOT LIMITED TO EXISTING LOCAL ZONING
55 STATUS, PROXIMITY TO ELECTRIC TRANSMISSION AND FUEL TRANSPORTATION
56 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 NEW YORK, 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 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"

1 SHALL INCLUDE THE COUNTIES OF DUTCHESS, ORANGE, ROCKLAND, PUTNAM, WEST-
2 CHESTER, NASSAU, SUFFOLK AND THE FIVE COUNTIES OF NEW YORK CITY; AND
3 "UPSTATE REGION" SHALL INCLUDE ALL OTHER COUNTIES IN THE STATE.

4 4. (A) THE STATE ENERGY PLAN SHALL PROVIDE GUIDANCE FOR ENERGY-RELAT-
5 ED DECISIONS TO BE MADE BY THE PUBLIC AND PRIVATE SECTORS WITHIN THE
6 STATE.

7 (B) ANY ENERGY-RELATED ACTION OR DECISION OF A STATE AGENCY, BOARD,
8 COMMISSION OR AUTHORITY SHALL BE REASONABLY CONSISTENT WITH THE FORE-
9 CASTS AND THE POLICIES AND LONG-RANGE ENERGY PLANNING OBJECTIVES AND
10 STRATEGIES CONTAINED IN THE PLAN, INCLUDING ITS MOST RECENT UPDATE;
11 PROVIDED, HOWEVER, THAT ANY SUCH ACTION OR DECISION WHICH IS NOT REASON-
12 ABLY CONSISTENT WITH THE PLAN SHALL BE DEEMED IN COMPLIANCE WITH THIS
13 SECTION, PROVIDED THAT SUCH ACTION OR DECISION INCLUDES A FINDING THAT
14 THE RELEVANT PROVISIONS OF THE PLAN ARE NO LONGER REASONABLE OR PROBABLE
15 BASED ON A MATERIAL AND SUBSTANTIAL CHANGE IN FACT OR CIRCUMSTANCE, AND
16 A STATEMENT EXPLAINING THE BASIS FOR THIS FINDING.

17 (C) NOTHING IN THIS SECTION SHALL LIMIT THE AUTHORITY OF ANY STATE
18 AGENCY, BOARD, COMMISSION OR AUTHORITY TO DENY AN APPLICATION TO
19 CONSTRUCT, OPERATE OR MODIFY AN ENERGY FACILITY ON ENVIRONMENTAL OR
20 PUBLIC HEALTH AND SAFETY GROUNDS, OR THAT ALTERNATE MEANS OF ENERGY
21 PROCUREMENT OR ALTERNATE LOCATION FOR AN ENERGY FACILITY CAN BE SECURED.

22 (D) A STATE AGENCY, BOARD, COMMISSION OR AUTHORITY MAY TAKE OFFICIAL
23 NOTICE OF THE MOST RECENT FINAL STATE ENERGY PLAN ADOPTED BY THE BOARD
24 PRIOR TO ANY FINAL ENERGY-RELATED DECISION BY SUCH AGENCY, BOARD,
25 COMMISSION OR AUTHORITY.

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

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

40 (A) THE FILING OF INFORMATION BY MAJOR ENERGY SUPPLIERS AS SPECIFIED
41 IN SUBDIVISION THREE OF THIS SECTION;

42 (B) THE PREPARATION AND ISSUANCE OF A DRAFT PLAN, SUBSEQUENT TO THE
43 FILING OF INFORMATION BY MAJOR ENERGY SUPPLIERS, WHICH SHALL ADDRESS
44 EACH ITEM IDENTIFIED IN SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTI-
45 CLE;

46 (C) PUBLIC COMMENT HEARINGS, IN AT LEAST THREE GEOGRAPHIC LOCATIONS IN
47 THE STATE, AND AN OPPORTUNITY TO SUBMIT WRITTEN COMMENTS, SUBSEQUENT TO
48 THE ISSUANCE OF A DRAFT PLAN, TO OBTAIN VIEWS AND COMMENTS OF INTERESTED
49 PERSONS ON ANY ASPECT OF, OR ISSUE ADDRESSED IN, SUCH DRAFT PLAN;

50 (D) EVIDENTIARY HEARINGS, AT THE REQUEST OF ANY INTERESTED PERSON,
51 SUBSEQUENT TO THE ISSUANCE OF A DRAFT PLAN, ON THE ISSUES IDENTIFIED IN
52 SUBDIVISION TWO OF SECTION 6-104 OF THIS ARTICLE; AND

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

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

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

8 (I) A FORECAST OF ELECTRICITY DEMANDS OVER A PERIOD OF FIVE, TEN AND
9 TWENTY YEARS, INCLUDING ANNUAL IN-STATE ELECTRIC ENERGY SALES AND SUMMER
10 AND WINTER PEAK LOADS BY UTILITY SERVICE AREA, AND TOTAL ANNUAL IN-STATE
11 ELECTRIC ENERGY SALES AND COINCIDENT PEAK LOAD, SPECIFICALLY IDENTIFYING
12 THE EXTENT TO WHICH ENERGY CONSERVATION, LOAD MANAGEMENT AND OTHER
13 DEMAND-REDUCING MEASURES, AND ELECTRIC ENERGY GENERATED BY COGENERATION,
14 SMALL HYDRO AND ALTERNATE ENERGY PRODUCTION FACILITIES, INCLUDING RENEW-
15 ABLE ENERGY TECHNOLOGIES AND FUEL CELLS, CONSUMED ON SITE, HAVE BEEN
16 INCORPORATED WITHIN SUCH FORECAST;

17 (II) A FORECAST OF ELECTRICITY SUPPLY REQUIREMENTS OVER A PERIOD OF
18 FIVE, TEN AND TWENTY YEARS, BY UTILITY SERVICE AREA, SPECIFICALLY IDEN-
19 TIFYING THE AMOUNT OF RESERVE MARGINS REQUIRED FOR RELIABLE ELECTRIC
20 SERVICE, THE AMOUNTS OF TRANSMISSION AND DISTRIBUTION LOSSES ASSUMED,
21 AND THE AMOUNT OF OUT-OF-STATE SALES COMMITMENTS;

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

27 (IV) AN INVENTORY OF: (1) ALL EXISTING ELECTRIC GENERATING AND TRANS-
28 MISSION FACILITIES INCLUDING THE POWER AUTHORITY OF THE STATE OF NEW
29 YORK AND THE LONG ISLAND POWER AUTHORITY, (2) ELECTRIC GENERATING AND
30 TRANSMISSION FACILITIES UNDER CONSTRUCTION INCLUDING THE POWER AUTHORITY
31 OF THE STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY, INCLUDING
32 THE DATES FOR COMPLETION AND OPERATION, (3) THE ANTICIPATED RETIREMENT
33 DATES FOR ANY ELECTRIC GENERATING FACILITIES CURRENTLY OPERATED INCLUD-
34 ING THE POWER AUTHORITY OF THE STATE OF NEW YORK AND THE LONG ISLAND
35 POWER AUTHORITY, (4) LAND OWNED INCLUDING THE POWER AUTHORITY OF THE
36 STATE OF NEW YORK AND THE LONG ISLAND POWER AUTHORITY AND HELD FOR
37 FUTURE USE AS SITES FOR MAJOR ELECTRIC GENERATING FACILITIES, AND (5)
38 ELECTRIC GENERATING FACILITIES OPERATED, OR PLANNED TO BE OPERATED, BY
39 OTHERS, TO THE EXTENT INFORMATION CONCERNING THE SAME IS KNOWN;

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

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

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

55 (VIII) A DESCRIPTION OF THE LOAD FORECASTING METHODOLOGY AND THE
56 ASSUMPTIONS AND DATA USED IN THE PREPARATION OF THE FORECASTS, SPECIF-

1 ICALLY INCLUDING PROJECTIONS OF DEMOGRAPHIC AND ECONOMIC ACTIVITY AND
2 SUCH OTHER FACTORS, STATEWIDE AND BY SERVICE AREA, WHICH MAY INFLUENCE
3 ELECTRICITY DEMAND, AND THE BASES FOR SUCH PROJECTIONS;

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

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

8 (B) THE MEMBERS OF THE NEW YORK GAS GROUP SHALL INDIVIDUALLY PREPARE
9 AND SUBMIT A COMPREHENSIVE LONG-RANGE PLAN FOR FUTURE OPERATIONS, WHICH
10 SHALL INCLUDE:

11 (I) A FORECAST OVER A PERIOD OF FIVE, TEN AND TWENTY YEARS, BY UTILITY
12 SERVICE AREA, OF ESTIMATED ANNUAL IN-STATE GAS SALES, WINTER SEASON
13 SALES AND PEAK DAY SALES BY APPROPRIATE END-USE CLASSIFICATIONS, SPECIF-
14 ICALLY IDENTIFYING THE EXTENT TO WHICH ENERGY CONSERVATION MEASURES AND
15 THE SALE OF GAS OWNED BY PERSONS OTHER THAN THE MEMBERS OF THE NEW YORK
16 GAS GROUP DIRECTLY TO END-USERS HAVE BEEN INCORPORATED WITHIN SUCH FORE-
17 CAST;

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

22 (III) AN ASSESSMENT OF THE ABILITY OF EXISTING GAS SUPPLY SOURCES, AND
23 THOSE REASONABLY CERTAIN TO BE AVAILABLE, TO SATISFY GAS SUPPLY REQUIRE-
24 MENTS;

25 (IV) AN INVENTORY OF: (1) ALL EXISTING SUPPLY SOURCES, STORAGE FACIL-
26 ITIES, AND TRANSMISSION FACILITIES WHICH ARE USED IN PROVIDING SERVICE
27 WITHIN THE STATE, (2) THE TRANSMISSION AND STORAGE FACILITIES UNDER
28 CONSTRUCTION WHICH WOULD BE USED IN PROVIDING SERVICE WITHIN THE STATE,
29 THEIR PROJECTED COSTS AND CAPACITIES, INCLUDING PEAKING CAPACITY, (3)
30 TRANSMISSION FACILITY ADDITIONS PROPOSED TO BE CONSTRUCTED BY MEMBERS OF
31 THE GAS GROUP, (4) TRANSMISSION FACILITIES OPERATED, OR PLANNED TO BE
32 OPERATED, BY OTHERS, TO THE EXTENT INFORMATION CONCERNING THE SAME IS
33 KNOWN;

34 (V) RECOMMENDED SUPPLY ADDITIONS AND DEMAND-REDUCING MEASURES FOR
35 SATISFYING THE GAS SUPPLY REQUIREMENTS, NOT REASONABLY CERTAIN TO BE MET
36 BY GAS SUPPLY SOURCES IDENTIFIED IN SUBPARAGRAPH (III) OF THIS PARAGRAPH
37 AND THE REASONS THEREFOR;

38 (VI) A PROJECTION OF ESTIMATED GAS PRICES TO CONSUMERS OVER THE FORE-
39 CAST PERIOD, AND A SENSITIVITY ANALYSIS OF THAT FORECAST RELATING TO A
40 NUMBER OF FACTORS INCLUDING THE LEVELS OF AVAILABLE CAPACITY AND DEMAND
41 IN THE REGIONS OF THE STATE;

42 (VII) A DESCRIPTION OF THE LOAD FORECASTING METHODOLOGY AND THE
43 ASSUMPTIONS AND DATA USED IN THE PREPARATION OF THE FORECASTS, SPECIF-
44 ICALLY INCLUDING PROJECTIONS OF DEMOGRAPHIC AND ECONOMIC ACTIVITY AND
45 SUCH OTHER FACTORS, STATEWIDE AND BY SERVICE AREA, WHICH MAY INFLUENCE
46 DEMAND FOR NATURAL GAS, AND THE BASES FOR SUCH PROJECTIONS;

47 (VIII) A STATEMENT OF RESEARCH AND DEVELOPMENT PLANS, INCLUDING OBJEC-
48 TIVES AND PROGRAMS IN THE AREAS OF ENERGY CONSERVATION AND NEW ENERGY
49 TECHNOLOGIES, RECENT RESULTS OF SUCH PROGRAMS UNDERTAKEN OR FUNDED TO
50 DATE, AND AN ASSESSMENT OF THE POTENTIAL IMPACTS OF SUCH RESULTS;

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

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

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

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

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

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

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

30 7. ANY PERSON WHO PARTICIPATED IN THE STATE ENERGY PLANNING PROCEEDING
31 OR ANY PERSON WHO SOUGHT AN AMENDMENT OF THE STATE ENERGY PLAN PURSUANT
32 TO SUBDIVISION SIX OF THIS SECTION, MAY OBTAIN, PURSUANT TO ARTICLE
33 SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, JUDICIAL REVIEW OF
34 THE BOARD'S DECISION ADOPTING A PLAN, OR ANY AMENDMENT THERETO, OR OF
35 THE BOARD'S DECISION NOT TO AMEND SUCH PLAN PURSUANT TO SUBDIVISION SIX
36 OF THIS SECTION. ANY SUCH SPECIAL PROCEEDING SHALL BE BROUGHT IN THE
37 APPELLATE DIVISION OF THE SUPREME COURT OF THE STATE OF NEW YORK FOR THE
38 THIRD JUDICIAL DEPARTMENT. SUCH PROCEEDING SHALL BE INITIATED BY THE
39 FILING OF A PETITION IN SUCH COURT WITHIN THIRTY DAYS AFTER THE ISSUANCE
40 OF A DECISION BY THE BOARD. THE PROCEEDING SHALL HAVE A LAWFUL PREFER-
41 ENCE OVER ANY OTHER MATTER, SHALL BE HEARD ON AN EXPEDITED BASIS AND
42 SHALL BE COMPLETED IN ALL RESPECTS, INCLUDING ANY SUBSEQUENT APPEAL,
43 WITHIN ONE HUNDRED EIGHTY DAYS OF THE FILING OF THE PETITION. WHERE MORE
44 THAN ONE SUCH PETITION IS FILED, THE COURT MAY PROVIDE FOR CONSOLIDATION
45 OF THE PROCEEDINGS. NOTWITHSTANDING THE PROVISIONS OF ARTICLE SEVEN OF
46 THE PUBLIC SERVICE LAW, THE PROCEDURE SET FORTH HEREIN SHALL CONSTITUTE
47 THE EXCLUSIVE MEANS FOR SEEKING JUDICIAL REVIEW OF ANY ELEMENT OF THE
48 PLAN.

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

54 S 6-108. RELIABILITY STUDY. 1. EVERY FOUR YEARS, THE BOARD SHALL
55 UNDERTAKE A STUDY OF THE OVERALL RELIABILITY OF THE STATE'S ELECTRIC
56 TRANSMISSION AND DISTRIBUTION SYSTEM. THE BOARD MAY CONTRACT WITH AN

1 INDEPENDENT AND COMPETITIVELY SELECTED CONTRACTOR TO UNDERTAKE SUCH
2 STUDY. THE BOARD SHALL PREPARE A REPORT ON ITS FINDINGS AND LEGISLATIVE
3 RECOMMENDATIONS. THE BOARD SHALL TRANSMIT SUCH REPORT TO THE GOVERNOR,
4 THE SPEAKER OF THE ASSEMBLY, THE TEMPORARY PRESIDENT OF THE SENATE, THE
5 CHAIR OF THE ASSEMBLY ENERGY COMMITTEE, AND THE CHAIR OF THE SENATE
6 ENERGY AND TELECOMMUNICATIONS COMMITTEE.

7 2. THE STUDY SHALL INCLUDE, AT MINIMUM, AN ASSESSMENT OF EACH OF THE
8 FOLLOWING:

9 (A) THE CURRENT AND PROJECTED RELIABILITY OF THE ELECTRIC POWER SYSTEM
10 OVER THE TERM OF THE PLANNING PERIOD, WITH SPECIFIC FOCUS ON TRANS-
11 MISSION SYSTEMS AND DISTRIBUTION SYSTEMS WITHIN THE STATE. THE ASSESS-
12 MENT SHALL EXAMINE: (I) INVESTMENT IN INFRASTRUCTURE, INCLUDING CAPITAL
13 IMPROVEMENTS, EXPANSIONS, AND MAINTENANCE; AND (II) WORKFORCE UTILIZA-
14 TION.

15 (B) THE POTENTIAL IMPACT OF THE FOLLOWING ON DISTRIBUTION SYSTEM RELI-
16 ABILITY AND ON EACH FACTOR ENUMERATED IN PARAGRAPH (A) OF THIS SUBDIVI-
17 SION: (I) DISTRIBUTED ELECTRIC GENERATION, ESPECIALLY GENERATION USING
18 RENEWABLE OR INNOVATIVE ENERGY RESOURCES; (II) ENERGY CONSERVATION AND
19 EFFICIENCY; (III) LOAD CONTROL AND PEAK SHAVING MEASURES; (IV) CORPORATE
20 REORGANIZATION OF ELECTRIC UTILITIES; (V) PERFORMANCE RATEMAKING,
21 MULTI-YEAR RATE AGREEMENTS, AND OTHER DEPARTURES FROM TRADITIONAL REGU-
22 LATORY MECHANISMS; AND (VI) LARGE SCALE INDUSTRIAL DEVELOPMENT.

23 (C) THE POTENTIAL IMPACT OF THE FOLLOWING ON TRANSMISSION SYSTEM RELI-
24 ABILITY: (I) EACH FACTOR ENUMERATED IN PARAGRAPH (B) OF THIS SUBDIVI-
25 SION; (II) CHANGES IN PROTOCOLS FOR ELECTRICITY DISPATCHED THROUGH THE
26 NEW YORK POWER POOL OR ITS SUCCESSOR OR SUCCESSORS; (III) ACCOMMODATION
27 OF PROPOSED NEW ELECTRIC GENERATION FACILITIES OR REPOWERING OR LIFE
28 EXTENSION OF EXISTING FACILITIES; AND (IV) THE MARKET-DRIVEN NATURE OF
29 DECISIONS TO BUILD, SIZE, AND LOCATE SUCH FACILITIES.

30 3. THE BOARD SHALL CONSULT WITH ENTITIES THAT HAVE RESOURCES AND
31 EXPERTISE TO ASSIST IN SUCH INVESTIGATION.

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

36 (B) THE LONG ISLAND POWER AUTHORITY AND THE POWER AUTHORITY OF THE
37 STATE OF NEW YORK ARE AUTHORIZED, AS DEEMED FEASIBLE AND ADVISABLE BY
38 THEIR RESPECTIVE BOARDS, TO MAKE A VOLUNTARY CONTRIBUTION TOWARD THE
39 INVESTIGATION.

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

42 16. TO COMPLETE AN ANNUAL ENERGY PLAN IN ACCORDANCE WITH THE
43 PROVISIONS OF ARTICLE SIX OF THE ENERGY LAW. IN ADDITION TO ANY REQUIRE-
44 MENTS OF ARTICLE SIX OF THE ENERGY LAW, THE AUTHORITY SHALL PROVIDE
45 COPIES OF ITS ANNUAL ENERGY PLAN TO THE GOVERNOR, THE TEMPORARY PRESI-
46 DENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE ASSEM-
47 BLY COMMITTEE ON ENERGY AND THE CHAIR OF THE SENATE COMMITTEE ON ENERGY
48 AND TELECOMMUNICATIONS. FURTHER, THE AUTHORITY SHALL COOPERATE AND
49 PARTICIPATE IN THE STATE ENERGY PLANNING PROCEDURES AS ENUMERATED IN
50 ARTICLE SIX OF THE ENERGY LAW.

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

55 S 1020-GG. ENERGY PLAN. THE AUTHORITY SHALL COMPLETE AN ANNUAL ENERGY
56 PLAN IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE SIX OF THE ENERGY LAW.

1 IN ADDITION TO ANY REQUIREMENTS OF ARTICLE SIX OF THE ENERGY LAW, THE
2 AUTHORITY SHALL PROVIDE COPIES OF ITS ANNUAL ENERGY PLAN TO THE GOVER-
3 NOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY,
4 THE CHAIR OF THE ASSEMBLY COMMITTEE ON ENERGY AND THE CHAIR OF THE
5 SENATE COMMITTEE ON ENERGY AND TELECOMMUNICATIONS. FURTHER, THE AUTHORI-
6 TY SHALL COOPERATE AND PARTICIPATE IN THE STATE ENERGY PLANNING PROCE-
7 DURES AS ENUMERATED IN ARTICLE SIX OF THE ENERGY LAW.

8 S 4. This act shall take effect immediately.