

2715--A

2009-2010 Regular Sessions

I N S E N A T E

February 27, 2009

Introduced by Sen. THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to requiring certain providers of electric service to purchase electricity from eligible electric generators; establishing a rate schedule for certain renewable energy projects; prescribing the powers and duties of certain state agencies and officials; and requiring a report to the governor and the legislature concerning the effect of the purchase by providers of electric service of electricity generated from renewable energy sources

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

1 Section 1. Legislative intent and purpose. It is the intent of the
2 legislature to enable the rapid and sustainable development of the
3 state's abundant renewable energy resources for the clean generation of
4 electricity and to allow all New York citizens to participate in renewable
5 electricity generation. It is the further intent of the legislature
6 to ensure that such rapid development of renewable energy shall promote
7 the growth and development of a diverse renewable energy industry within
8 the state of New York, that it shall maximize the creation of clean
9 energy jobs within the state, and that it shall encourage the direct
10 participation of a diverse set of owners of generation, including home-
11 owners, large and small business, public entities, and non-profit enti-
12 ties.
13 Doing so will reduce the volatility of future electricity prices and
14 the long-term costs of electricity, and it will have the effect of
15 protecting the state's natural resources, including protecting its
16 atmosphere from air pollution and its climate from global warming.

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

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Further, such measures shall place New York at the forefront of North America's renewable energy revolution, stimulating the development of new jobs, technologies, and industry within the state and creating a New York marketplace for the development of renewable energy.

S 2. This act shall be known and may be cited as the "New York renewable energy sources act".

S 3. The public service law is amended by adding a new section 66-m to read as follows:

S 66-M. RENEWABLE ENERGY RESOURCES TARIFF. 1. AS USED IN THIS SECTION: (A) "ADEQUATE RENEWABLE ENERGY DEVELOPMENT" MEANS A RATE OF DEVELOPMENT NECESSARY TO ACCOMPLISH THE RENEWABLE ENERGY OBJECTIVES AND STANDARDS AS DETERMINED BY THE COMMISSION;

(B) "AVERAGE SPECIFIC YIELD" MEANS THE AVERAGE NUMBER OF KILOWATT HOURS PRODUCED DURING THE INITIAL FIVE YEARS OF PRODUCT OF A WIND ENERGY CONVERSION SYSTEM, EXCLUDING THE MAXIMUM AND MINIMUM YEARS OF PRODUCTION, DIVIDED BY THE ROTOR-SWEPT AREA IN SQUARE METERS;

(C) "CAPACITY" MEANS THE NAMEPLATE CAPACITY OF A RENEWABLE ELECTRICITY GENERATOR FOR PHOTOVOLTAIC MODULES AT STANDARD TEST CONDITIONS;

(D) "ELECTRIC UTILITY" MEANS A PUBLIC UTILITY PROVIDING ELECTRIC SERVICE, A GENERATION AND TRANSMISSION COOPERATIVE ELECTRIC ASSOCIATION, A MUNICIPAL POWER AGENCY, OR A POWER DISTRICT PROVIDING ELECTRICITY TO STATE RESIDENTS;

(E) "ELECTRICAL DISTRIBUTION SYSTEM" MEANS THAT PORTION OF THE ELECTRIC POWER SYSTEM OVER WHICH THE FEDERAL ENERGY REGULATORY COMMISSION DOES NOT HAVE AUTHORITY TO INTERCONNECT ELECTRIC GENERATORS THAT SELL ELECTRICITY IN INTRASTATE COMMERCE ONLY;

(F) "ELIGIBLE ENERGY TECHNOLOGY" MEANS AN ENERGY TECHNOLOGY THAT GENERATES ELECTRICITY FROM THE FOLLOWING RENEWABLE ENERGY SOURCES:

(1) SOLAR;

(2) WIND;

(3) HYDROELECTRIC WITH A CAPACITY OF LESS THAN ONE HUNDRED MEGAWATTS;

(4) BIOMASS, WHICH INCLUDES LANDFILL GAS, OR AN ANAEROBIC DIGESTER SYSTEM;

(5) RIVER HYDRO-KINETIC ELECTRIC GENERATION; OR

(6) TIDAL HYDRO-KINETIC ELECTRIC GENERATION, EXCEPT THOSE CONSTRUCTED AS DAMS OR AS PART OF A BARGE STRUCTURE;

(G) "FACADE OR INTEGRATED ROOFTOP CLADDING PROJECT" MEANS A PROJECT IN WHICH A PHOTOVOLTAIC DEVICE IS ATTACHED TO THE WALL OR ROOF OF A BUILDING IN SUCH A WAY AS TO SERVE THE NORMAL FUNCTION OF AN EQUIVALENT BUILDING CLADDING SYSTEM;

(H) "LARGE WIND ENERGY CONVERSION SYSTEM" MEANS A SINGLE WIND TURBINE WITH A ROTOR-SWEPT AREA OF MORE THAN TWO THOUSAND SQUARE METERS;

(I) "MEDIUM WIND ENERGY CONVERSION SYSTEM" MEANS A SINGLE WIND TURBINE WITH A ROTOR-SWEPT AREA OF BETWEEN ONE AND TWO THOUSAND SQUARE METERS;

(J) "LEVELIZED RATE" MEANS A RATE ESTABLISHED FOR A PARTICULAR POWER PURCHASE AGREEMENT THAT IS HELD UNCHANGED DURING THE ENTIRE TERM OF THAT AGREEMENT;

(K) "NET METERED PHOTOVOLTAIC GENERATOR" MEANS A PHOTOVOLTAIC SYSTEM CONNECTED ON THE CUSTOMER SIDE OF THE ELECTRIC METER AND OPERATING IN PARALLEL WITH THE ELECTRIC GRID ACCORDING TO THE REQUIREMENTS OF SECTION SIXTY-SIX-J OF THIS ARTICLE;

(L) "PHOTOVOLTAIC DEVICE" MEANS A SYSTEM OF COMPONENTS THAT GENERATES ELECTRICITY FROM INCIDENT SUNLIGHT BY MEANS OF THE PHOTOVOLTAIC EFFECT, WHETHER OR NOT THE DEVICE IS ABLE TO STORE THE ENERGY PRODUCED FOR LATER USE;

(M) "REASONABLE PROFIT" MEANS A RATE OF PROFIT THAT IS JUST AND REASONABLE, BUT NOT LESS THAN TEN PERCENT PER YEAR;

(N) "RENEWABLE ELECTRICITY GENERATOR" MEANS A PROJECT THAT GENERATES ELECTRICAL ENERGY, WITHIN THE BORDERS OF NEW YORK STATE BY MEANS OF AN ELIGIBLE ENERGY TECHNOLOGY, BUT DOES NOT INCLUDE AN ENERGY RECOVERY FACILITY USED TO CAPTURE THE HEAT VALUE OF MIXED MUNICIPAL SOLID WASTE OR REFUSE-DERIVED FUEL FROM MIXED MUNICIPAL SOLID WASTE AS A PRIMARY FUEL;

(O) "ROOFTOP PROJECT" MEANS A PROJECT IN WHICH A PHOTOVOLTAIC DEVICE IS PHYSICALLY ATTACHED TO THE ROOF OF A BUILDING;

(P) "ROTOR-SWEPT AREA" MEANS AN AREA EQUAL TO 3.1416 MULTIPLIED BY THE SQUARE OF THE LENGTH OF THE ROTOR OF A WIND ENERGY CONVERSION SYSTEM;

(Q) "SMALL WIND ENERGY CONVERSION SYSTEM" MEANS A SINGLE WIND TURBINE WITH A ROTOR-SWEPT AREA OF NO MORE THAN ONE THOUSAND SQUARE METERS; AND

(R) "WIND ENERGY CONVERSION SYSTEM" MEANS ANY DEVICE, SUCH AS A WIND CHARGER, WINDMILL, OR WIND TURBINE, WHICH CONVERTS WIND ENERGY TO A FORM OF USABLE ENERGY;

(S) "POWER PURCHASE AGREEMENT" MEANS A LONG TERM AGREEMENT BETWEEN AN ENERGY PROVIDER AND A CUSTOMER TO PURCHASE POWER AT PREDETERMINED RATES; AND

(T) FOR THE PURPOSES OF THIS SUBDIVISION, "EFFICIENCY" MEANS THE SUM OF THE NET USEFUL POWER OUTPUT PLUS THE NET USEFUL THERMAL OUTPUT OF AN ELECTRICITY GENERATING SYSTEM, WHICH SUM IS THEN DIVIDED BY THE TOTAL FUEL INPUT.

2. A POLICY IS ESTABLISHED TO PROVIDE OPPORTUNITIES FOR STATE RESIDENTS TO OWN AND INVEST IN RENEWABLE ELECTRICITY GENERATION AND REQUIRING UTILITIES TO PURCHASE ELECTRICAL ENERGY AT A JUST AND REASONABLE PRICE FROM STATE-OWNED RENEWABLE ELECTRICITY GENERATION PROJECTS CONNECTED TO THE ELECTRICAL DISTRIBUTION SYSTEM IN ACCORDANCE WITH THE STANDARD TERMS AND RATES PROVIDED IN THIS SECTION.

3. ON OR BEFORE DECEMBER FIRST, TWO THOUSAND NINE, EACH ELECTRIC UTILITY PROVIDING ELECTRIC SERVICE WITHIN THE STATE AT RETAIL COST SHALL FILE FOR COMMISSION APPROVAL A TARIFF CONSISTENT WITH THE PROVISIONS OF THIS SECTION. THE COMMISSION SHALL RENDER A DECISION WITHIN THREE MONTHS FROM THE DATE ON WHICH THE SCHEDULE IS FILED.

4. EACH ELECTRIC UTILITY SHALL ENTER INTO A POWER PURCHASE AGREEMENT WITH THE OWNERS OF A RENEWABLE ELECTRICITY GENERATOR CONNECTED TO THE NEW YORK ELECTRICAL DISTRIBUTION SYSTEM OR A NET METERED PHOTOVOLTAIC GENERATOR TO PURCHASE ALL OF THE ELECTRICITY PRODUCED BY THE RENEWABLE ELECTRICITY GENERATOR. THE TERM OF THE POWER PURCHASE AGREEMENT MUST NOT BE LESS THAN TWENTY YEARS FROM THE DATE OF COMMISSIONING OF THE RENEWABLE ELECTRICITY GENERATOR. THE RATES OF THE POWER PURCHASE AGREEMENT MUST BE THE RATES ESTABLISHED BY THE COMMISSION UNDER SUBDIVISION FIVE OF THIS SECTION.

5. THE TARIFF DESCRIBED IN SUBDIVISION THREE OF THIS SECTION SHALL HAVE A LEVELIZED RATE SCHEDULE AS FOLLOWS:

(A) THE RATE FOR ELECTRICITY GENERATED BY A WIND ENERGY CONVERSION SYSTEM SHALL BE THE RATE NEEDED TO ENSURE ADEQUATE RENEWABLE ENERGY DEVELOPMENT, PLUS A REASONABLE PROFIT, INITIALLY SET AS FOLLOWS:

(1) FOR A LARGE WIND ENERGY CONVERSION SYSTEM FOR YEARS ONE THROUGH FIVE FOLLOWING THE COMMISSIONING OF THE PROJECT, \$0.105 PER KILOWATT HOUR;

(2) FOR A LARGE WIND ENERGY CONVERSION SYSTEM FOR YEARS SIX THROUGH TWENTY FOLLOWING COMMISSIONING OF THE PROJECT:

1 (I) \$0.105 PER KILOWATT HOUR FOR PROJECTS WITH AN AVERAGE SPECIFIC
2 YIELD LESS THAN SEVEN HUNDRED KILOWATT HOURS PER SQUARE METER OF SWEEP
3 ROTOR AREA PER YEAR;
4 (II) \$0.06 PER KILOWATT HOUR FOR PROJECTS WITH AN AVERAGE SPECIFIC
5 YIELD GREATER THAN ELEVEN HUNDRED KILOWATT HOURS PER SQUARE METER OF
6 SWEEP ROTOR AREA PER YEAR; AND
7 (III) A LINEAR EXTRAPOLATION BETWEEN THE RATES IN CLAUSES (I) AND (II)
8 OF THIS SUBPARAGRAPH FOR A PROJECT WITH AN AVERAGE SPECIFIC YIELD GREAT-
9 ER THAN SEVEN HUNDRED KILOWATT HOURS PER SQUARE METER OF SWEEP ROTOR
10 AREA PER YEAR BUT LESS THAN ELEVEN HUNDRED KILOWATT HOURS PER SQUARE
11 METER OF SWEEP ROTOR AREA PER YEAR;
12 (3) FOR A SMALL WIND ENERGY CONVERSION SYSTEM, \$0.23 PER KILOWATT
13 HOUR;
14 (4) FOR A MEDIUM WIND ENERGY CONVERSION SYSTEM, \$0.13 PER KILOWATT
15 HOUR;
16 (5) FOR OFFSHORE WIND TURBINE PROJECTS IN WATERS WITH A DEPTH OF
17 BETWEEN ONE TO TWENTY METERS, \$0.12 PER KILOWATT HOUR;
18 (6) FOR OFFSHORE WIND TURBINE PROJECTS LOCATED IN DEPTHS OF MORE THAN
19 ONE HUNDRED METERS, \$0.14 PER KILOWATT HOUR;
20 (7) FOR OFFSHORE WIND TURBINE PROJECTS LOCATED IN WATER DEPTHS BETWEEN
21 TWENTY TO ONE HUNDRED METERS, A RATE OF BETWEEN \$0.12 TO \$0.14 PER KILO-
22 WATT HOUR INCREASING FROM \$0.12 AT A RATE OF \$.00025 PER KILOWATT HOUR
23 FOR EVERY METER OF WATER DEPTH GREATER THAN TWENTY METERS; AND
24 (8) THE RATES ESTABLISHED BY SUBPARAGRAPHS ONE THROUGH SEVEN OF THIS
25 PARAGRAPH, ACCORDING TO SIZE, PLUS AN ADDED \$0.02 PER KILOWATT HOUR FOR
26 A PROJECT WHOSE OWNER IS NOT LEGALLY ABLE TO ACCESS THE FEDERAL
27 PRODUCTION TAX CREDIT OR RENEWABLE INVESTMENT TAX CREDIT.
28 (B) THE RATE FOR ELECTRICITY GENERATED FROM HYDROELECTRIC POWER MUST
29 BE THE LOWEST RATE NEEDED TO ENSURE ADEQUATE RENEWABLE ENERGY DEVELOP-
30 MENT, PLUS A REASONABLE PROFIT, INITIALLY SET AS FOLLOWS:
31 (1) \$0.09 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY BELOW FIVE
32 HUNDRED KILOWATTS;
33 (2) \$0.075 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY OF FIVE
34 HUNDRED KILOWATTS BUT LESS THAN TEN MEGAWATTS; AND
35 (3) \$0.055 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY OF AT LEAST
36 TEN MEGAWATTS BUT LESS THAN TWENTY MEGAWATTS.
37 (C) THE RATE FOR ELECTRICITY GENERATED BY AN ANAEROBIC DIGESTER SYSTEM
38 OR OTHER BIOMASS SYSTEM THAT OPERATES AT AN EFFICIENCY OF SIXTY PERCENT
39 OR GREATER, MUST BE THE RATE NEEDED TO ENSURE ADEQUATE RENEWABLE ENERGY
40 DEVELOPMENT, PLUS A REASONABLE PROFIT, INITIALLY SET AS FOLLOWS:
41 (1) \$0.135 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY BELOW ONE
42 HUNDRED FIFTY KILOWATTS;
43 (2) \$0.115 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY OF AT LEAST
44 ONE HUNDRED FIFTY KILOWATTS BUT LESS THAN FIVE HUNDRED KILOWATTS;
45 (3) \$0.105 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY GREATER
46 THAN FIVE HUNDRED KILOWATTS BUT LESS THAN FIVE MEGAWATTS; AND
47 (4) \$0.095 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY OF AT LEAST
48 FIVE MEGAWATTS BUT LESS THAN TWENTY MEGAWATTS.
49 (D) THE RATE FOR ELECTRICITY GENERATED BY LANDFILL GAS THAT OPERATES
50 AT AN EFFICIENCY OF SIXTY PERCENT OR GREATER MUST BE THE RATE NEEDED TO
51 ENSURE ADEQUATE RENEWABLE ENERGY DEVELOPMENT, PLUS A REASONABLE PROFIT,
52 INITIALLY SET AS FOLLOWS:
53 (1) \$0.09 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY UNDER FIVE
54 HUNDRED KILOWATTS; AND
55 (2) \$0.075 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY OF FIVE
56 HUNDRED KILOWATTS OR MORE.

(E) THE RATE FOR ELECTRICITY GENERATED BY A PHOTOVOLTAIC DEVICE MUST BE THE RATE NEEDED TO ENSURE ADEQUATE RENEWABLE ENERGY DEVELOPMENT PLUS A REASONABLE PROFIT, INITIALLY SET AS FOLLOWS:

(1) \$0.33 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY GREATER THAN TWO THOUSAND KILOWATTS CONNECTED TO THE NEW YORK DISTRIBUTION SYSTEM (NOT NET METERED);

(2) \$0.31 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY BELOW THIRTY KILOWATTS;

(3) \$0.27 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY OF AT LEAST THIRTY KILOWATTS BUT LESS THAN ONE HUNDRED KILOWATTS;

(4) \$0.24 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY OF AT LEAST ONE HUNDRED KILOWATTS BUT LESS THAN FIVE HUNDRED KILOWATTS;

(5) \$0.22 PER KILOWATT HOUR FOR A PROJECT WITH A CAPACITY OF AT LEAST FIVE HUNDRED KILOWATTS BUT LESS THAN TWO THOUSAND KILOWATTS;

(6) THE RATES ESTABLISHED BY SUBPARAGRAPHS ONE THROUGH FIVE OF THIS PARAGRAPH, ACCORDING TO SIZE PLUS AN ADDED \$0.05 KILOWATT HOUR FOR A FACADE OR INTEGRATED ROOF CLADDING PROJECT;

(7) THE RATES ESTABLISHED BY SUBPARAGRAPHS ONE THROUGH FIVE OF THIS PARAGRAPH, ACCORDING TO SIZE, PLUS AN ADDED \$0.05 PER KILOWATT HOUR FOR A PROJECT LOCATED IN A NON-ATTAINMENT AREA AS DEFINED BY THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION;

(8) THE RATES ESTABLISHED BY SUBPARAGRAPHS ONE THROUGH FIVE OF THIS PARAGRAPH, ACCORDING TO SIZE, PLUS AN ADDED \$0.05 PER KILOWATT HOUR FOR A PROJECT LOCATED IN A NYISO LOAD POCKET AS DEFINED BY THE PUBLIC UTILITY COMMISSION;

(9) THE RATES ESTABLISHED BY SUBPARAGRAPHS ONE THROUGH FIVE OF THIS PARAGRAPH, ACCORDING TO SIZE, PLUS AN ADDED \$0.05 PER KILOWATT HOUR FOR A PROJECT LOCATED ON A BROWNFIELD AS DEFINED IN THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION BROWNFIELD PROGRAM;

(10) THE RATES ESTABLISHED BY SUBPARAGRAPHS ONE THROUGH FIVE OF THIS PARAGRAPH, ACCORDING TO SIZE, PLUS AN ADDED \$0.05 PER KILOWATT HOUR FOR A PROJECT FOR WHICH SEVENTY-FIVE PERCENT OF THE COSTS OF LABOR AND MATERIALS IN THE PROJECT ARE SOURCED IN NEW YORK STATE; AND

(11) THE RATES ESTABLISHED BY SUBPARAGRAPHS ONE THROUGH FIVE OF THIS PARAGRAPH, ACCORDING TO SIZE, PLUS AN ADDED \$0.10 PER KILOWATT HOUR FOR A PROJECT WHOSE OWNER IS A NOT-FOR-PROFIT ENTITY OR PUBLICLY-OWNED ENTITY.

(12) NO PROJECT SHALL BE ENTITLED TO ADD MORE THAN TWO OF THE ADDED RATES ESTABLISHED IN SUBPARAGRAPHS SIX THROUGH ELEVEN OF THIS PARAGRAPH.

(F) THE RATE FOR ELECTRICITY GENERATED BY A HYDROKINETIC DEVICE MUST BE THE RATE NEEDED TO ENSURE ADEQUATE RENEWABLE ENERGY DEVELOPMENT PLUS A REASONABLE PROFIT, INITIALLY SET AS FOLLOWS:

(1) \$0.11 PER KILOWATT HOUR FOR RUN-OF-RIVER HYDROKINETIC DEVICES WITH A CAPACITY OF LESS THAN FIVE HUNDRED KILOWATTS (TOTAL FOR PROJECT);

(2) \$0.09 PER KILOWATT HOUR FOR RUN-OF-RIVER HYDROKINETIC DEVICES WITH A CAPACITY OF MORE THAN FIVE HUNDRED KILOWATTS BUT LESS THAN FIVE MEGAWATTS (TOTAL FOR PROJECT);

(3) \$0.08 PER KILOWATT HOUR FOR RUN-OF-RIVER HYDROKINETIC DEVICES WITH A CAPACITY OF MORE THAN FIVE MEGAWATTS (TOTAL FOR PROJECT);

(4) \$0.12 PER KILOWATT HOUR FOR TIDAL ENERGY BASED HYDROKINETIC DEVICES WITH A CAPACITY OF LESS THAN FIVE HUNDRED KILOWATTS (TOTAL FOR PROJECT), NO DAMS ARE ALLOWED;

(5) \$0.10 PER KILOWATT HOUR FOR TIDAL ENERGY BASED HYDROKINETIC DEVICES WITH A CAPACITY OF BETWEEN FIVE HUNDRED KILOWATTS AND FIVE MEGAWATTS (TOTAL), NO DAMS ARE ALLOWED; AND

(6) \$0.09 PER KILOWATT HOUR FOR TIDAL ENERGY BASED HYDROKINETIC DEVICES WITH A CAPACITY OF MORE THAN FIVE MEGAWATTS (TOTAL FOR PROJECT), NO DAMS ARE ALLOWED.

6. (A) THE NEW POWER PURCHASE AGREEMENTS OFFERED BY UTILITIES TO PHOTOVOLTAIC GENERATORS IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION SHALL BE LIMITED BY STATEWIDE CAPACITY CAPS FOR DELIVERY IN EACH YEAR ACCORDING TO THE FOLLOWING TABLE:

FOR THE YEAR... NOT MORE THAN...

2010	94 MEGAWATTS
2011	113 MEGAWATTS
2012	135 MEGAWATTS
2013	161 MEGAWATTS
2014	193 MEGAWATTS
2015	231 MEGAWATTS
2016	277 MEGAWATTS
2017	331 MEGAWATTS
2018	397 MEGAWATTS
2019	475 MEGAWATTS
2020	569 MEGAWATTS.

(B) EACH UTILITY SHALL OFFER POWER PURCHASE AGREEMENTS DURING EACH CALENDAR QUARTER UNTIL THE TOTAL CAPACITY UNDER CONTRACT IS EQUAL TO THE STATEWIDE CAPACITY FOR THE YEAR SHOWN IN THE TABLE ESTABLISHED BY PARAGRAPH (A) OF THIS SUBDIVISION, DIVIDED BY FOUR, AND MULTIPLIED BY THE FRACTION OF STATEWIDE LOAD SERVED BY THAT UTILITY. IF, DURING ANY YEAR, THE STATEWIDE TOTAL OF NEW POWER PURCHASE AGREEMENTS EXECUTED IS LESS THAN THE AMOUNT SHOWN IN THE TABLE ABOVE, THE SHORTFALL SHALL BE ADDED TO THE AMOUNT FOR THE FOLLOWING YEAR.

(C) NO SINGLE DEVELOPER, INCLUDING ITS SUBSIDIARIES AND AFFILIATES, SHALL BE OFFERED POWER PURCHASE AGREEMENTS TOTALING MORE THAN TWENTY PERCENT OF THE STATEWIDE TOTAL FOR ANY YEAR AS SHOWN IN THE TABLE ABOVE.

(D) TWENTY-FIVE PERCENT OF THE STATEWIDE CAPACITY FOR EACH YEAR ESTABLISHED IN PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE RESERVED FOR RESIDENTIAL PHOTOVOLTAIC SYSTEMS. HOWEVER, IF DURING ANY CALENDAR QUARTER, THE STATEWIDE TOTAL OF POWER PURCHASE AGREEMENTS FOR RESIDENTIAL PHOTOVOLTAIC SYSTEMS IS LESS THAN TWENTY PERCENT OF THE TOTAL SHOWN IN THE TABLE ABOVE DIVIDED BY FOUR, THE COMMISSION MAY CONSIDER LOWERING THE CAPACITY RESERVED FOR RESIDENTIAL SYSTEMS FOR THE FOLLOWING CALENDAR QUARTER. ONCE THE REDUCED PERCENTAGE AS DETERMINED BY THE COMMISSION IS REACHED IN ANY SUBSEQUENT QUARTER THE RESERVATION SHALL BE RESTORED TO TWENTY-FIVE PERCENT FOR THE NEXT FOLLOWING QUARTER.

(E) NO MORE THAN TWENTY-FIVE PERCENT OF THE STATEWIDE CAPACITY FOR EACH YEAR ESTABLISHED IN PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE OFFERED TO PHOTOVOLTAIC SYSTEMS WITH A CAPACITY GREATER THAN TWO THOUSAND KILOWATTS.

7. (A) DURING THE TERM OF A POWER PURCHASE AGREEMENT ENTERED INTO UNDER THE TARIFF ESTABLISHED IN THIS SECTION, NEITHER THE RENEWABLE ENERGY GENERATOR RECEIVING PAYMENTS UNDER SUCH A CONTRACT, NOR THE UTILITY MAKING SUCH PAYMENTS, SHALL EARN OR RECEIVE RENEWABLE ENERGY CERTIFICATES (RECS). THE RENEWABLE ENERGY GENERATION FOR WHICH SUCH PAYMENTS ARE MADE SHALL BE SUBTRACTED FROM THE STATEWIDE OBLIGATIONS UNDER THE NEW YORK STATE RENEWABLE PORTFOLIO STANDARD (RPS), AND THUS REDUCE EACH OBLIGOR'S SHARE OF RESPONSIBILITY UNDER THE RPS.

(B) THE RENEWABLE ENERGY GENERATOR RECEIVING PAYMENTS UNDER A POWER PURCHASE AGREEMENT ESTABLISHED IN THIS SECTION SHALL NOT BE PREVENTED BY THIS SECTION FROM RECEIVING CREDITS OTHER THAN THOSE ESTABLISHED BY THE NEW YORK STATE RPS, SUCH AS CREDITS UNDER THE REGIONAL GREENHOUSE GAS

INITIATIVE OR OTHER CARBON CREDITS. SUCH OTHER CREDITS SHALL BECOME THE PROPERTY OF THE UTILITY MAKING PAYMENTS UNDER THE POWER PURCHASE AGREEMENT. PROCEEDS FROM THE SALE OF ANY SUCH CREDITS BY A UTILITY SHALL BE APPLIED AGAINST ANY RECOVERY OF COSTS SOUGHT BY THAT UTILITY UNDER THIS SECTION.

(C) THE RENEWABLE ENERGY GENERATOR RECEIVING PAYMENTS UNDER A POWER PURCHASE AGREEMENT ESTABLISHED IN THIS SECTION SHALL NOT BE PREVENTED BY THIS ARTICLE FROM RECEIVING ANY AVAILABLE FEDERAL OR STATE TAX CREDITS, HOWEVER GENERATORS RECEIVING REBATES FOR RENEWABLE SYSTEMS FUNDED UNDER THE NEW YORK STATE SYSTEM BENEFIT CHARGE WILL HAVE THE AMOUNT FUNDED BY THEIR POWER PURCHASE AGREEMENT DIMINISHED BY THE AMOUNT OF THAT REBATE.

8. (A) BEGINNING FEBRUARY FIRST, TWO THOUSAND ELEVEN, AND EVERY YEAR THEREAFTER, THE COMMISSION SHALL REVIEW AND ADJUST RATES ADOPTED UNDER THE TARIFF IN THIS SECTION AS NECESSARY TO ACHIEVE ADEQUATE RENEWABLE ENERGY DEVELOPMENT; ACCOUNT FOR INFLATION; PROVIDE FOR A REASONABLE, BUT NOT EXCESSIVE, PROFIT TO OWNERS OF RENEWABLE ELECTRICITY GENERATORS; PROMOTE DEVELOPMENT OF COMMUNITY-BASED ENERGY DEVELOPMENT PROJECTS; AND MINIMIZE COSTS TO RATEPAYERS OF A UTILITY'S COMPLIANCE WITH APPLICABLE STATE OR FEDERAL RENEWABLE ENERGY STANDARDS. IT IS THE INTENT OF THIS SECTION THAT THE RATES SHALL BE REDUCED AT A MINIMUM BY FIVE PERCENT PER YEAR, SO LONG AS THE REQUIREMENTS OF THIS SUBDIVISION ARE MET. ONCE ADOPTED, THE ADJUSTED RATES SHALL APPLY TO ALL TWENTY YEAR POWER PURCHASE AGREEMENTS SUBSEQUENTLY ENTERED INTO UNTIL THE NEXT ANNUAL ADJUSTMENT GOES INTO EFFECT.

(B) THE COMMISSION MAY, AFTER NOTICE AND HEARING, REQUIRE ELECTRIC UTILITIES TO ENTER INTO POWER PURCHASE AGREEMENTS WITH RENEWABLE PROJECT OWNERS AT RATES IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION AS ARE NECESSARY TO ACHIEVE ADEQUATE RENEWABLE ENERGY DEVELOPMENT UPON SUCH TERMS NEEDED TO ENSURE ACCOMPLISHMENT OF COMMUNITY-BASED ENERGY DEVELOPMENT PROJECT PROCUREMENT GOALS AND ADEQUATE LOCAL BENEFITS.

9. THE TARIFF IN THIS SECTION MUST PROVIDE THAT ELECTRIC UTILITIES WILL INTERCONNECT RENEWABLE ENERGY GENERATORS TO THE ELECTRICAL DISTRIBUTION SYSTEM UNDER THE JURISDICTION OF THE COMMISSION TO THE MAXIMUM EXTENT OF STATE JURISDICTION ALLOWED UNDER FEDERAL LAW. THE COMMISSION SHALL CONSULT WITH THE FEDERAL ENERGY REGULATORY COMMISSION AND OTHER APPROPRIATE ENTITIES TO ESTABLISH AN INTERCONNECTION REQUEST REVIEW PROCEDURE TO PROMPTLY AND EFFICIENTLY DETERMINE WHETHER OR NOT THE COMMISSION MAY INTERCONNECT A RENEWABLE ENERGY GENERATOR THAT REQUESTS INTERCONNECTION UNDER STATE AUTHORITY. THE COMMISSION SHALL ISSUE ORDERS NECESSARY TO ESTABLISH INTERCONNECTION TARIFFS FOR THE STANDARDIZED, COST-EFFECTIVE, TIMELY, RELIABLE, AND SAFE INTERCONNECTION OF RENEWABLE ELECTRICITY GENERATORS UNDER STATE AUTHORITY. THE COMMISSION SHALL ESTABLISH STANDARD INTERCONNECTION CONTRACTS AND INTERCONNECTION SCHEDULES. THE COSTS ASSOCIATED WITH THE INTERCONNECTION OF RENEWABLE ELECTRICITY GENERATORS, INCLUDING DIRECT INTERCONNECTION COSTS, DISTRIBUTION SYSTEM ENHANCEMENTS, AND ELECTRIC UTILITY COMPLIANCE COSTS, ARE RECOVERABLE AS PROVIDED IN SUBDIVISION ELEVEN OF THIS SECTION.

10. THE COMMISSION SHALL APPROVE A STANDARD CONTRACT TO BE USED IN ALL POWER PURCHASE AGREEMENTS UNDER THE TARIFF ESTABLISHED UNDER THIS SECTION. THE CONTRACT SHALL (A) INCLUDE THE LEVELIZED PRICE PAID FOR EACH KILOWATT HOUR GENERATED, AND THE DURATION OF THE CONTRACT; (B) SHALL NOT INCLUDE PENALTIES FOR FAILURE TO DELIVER A SPECIFIC QUANTITY OF RENEWABLE ENERGY, BUT SHALL PAY FOR ENERGY AS DELIVERED; AND (C) CONTRACTS FOR PHOTOVOLTAIC GENERATORS MAY BE CANCELLED IF THE RENEWABLE GENERATING SYSTEM IS NOT COMPLETED AND OPERATING WITHIN A REASONABLE

1 PERIOD OF TIME AFTER CONTRACT EXECUTION, AS DETERMINED BY THE PUBLIC
2 SERVICE COMMISSION.

3 11. THE COMMISSION SHALL REQUIRE AN ELECTRIC UTILITY TO FILE RATE
4 SCHEDULES CONTAINING PROVISIONS FOR THE AUTOMATIC ADJUSTMENT OF CHARGES
5 FOR ELECTRIC UTILITY SERVICE IN DIRECT RELATION TO THE COST OF ELECTRIC-
6 ITY PURCHASED FROM RENEWABLE ELECTRICITY GENERATORS UNDER THE TARIFF
7 ESTABLISHED UNDER SUBDIVISION FIVE OF THIS SECTION AND ALL OTHER COSTS
8 REQUIRED TO COMPLY WITH THE TARIFF. THE ELECTRIC UTILITY SHALL BE ENTI-
9 TLED TO RECOVER COSTS ASSOCIATED WITH PAYMENTS MADE TO RENEWABLE ELEC-
10 TRICITY GENERATORS PURSUANT TO THIS SECTION, AND REASONABLE ADMINISTRA-
11 TIVE COSTS. THE COMMISSION SHALL BE AUTHORIZED TO PROVIDE INCENTIVES TO
12 UTILITIES THAT FAITHFULLY PERFORM THE REQUIREMENTS SET FORTH IN THIS
13 ACT. SUCH INCENTIVES SHALL TAKE INTO ACCOUNT THE POTENTIAL FOR POWER
14 PURCHASE AGREEMENTS ENTERED INTO BY UTILITIES PURSUANT TO THIS ACT TO BE
15 IMPUTED AS DEBT.

16 12. RENEWABLE ENERGY GENERATORS, QUALIFYING OWNERS THAT OWN ALL OR
17 PART OF A RENEWABLE ENERGY GENERATOR, AND ELECTRIC UTILITIES SHALL, UPON
18 REQUEST, PROVIDE THE COMMISSION ANY INFORMATION THAT MAY BE RELEVANT TO
19 THE COMMISSION PERFORMING ITS DUTIES UNDER THIS SECTION, INCLUDING BUT
20 NOT LIMITED TO ASSESSMENT OF PROJECT DEVELOPMENT COSTS, EQUIPMENT COSTS,
21 ELECTRICITY PRODUCTION COSTS, INTERCONNECTION COSTS, AUTOMATIC RATE
22 ADJUSTMENTS, AND COMPLIANCE COSTS.

23 13. BY JANUARY FIRST OF TWO THOUSAND ELEVEN AND TWO THOUSAND TWELVE,
24 AND EVERY FOUR YEARS THEREAFTER, THE COMMISSION SHALL SUBMIT A REPORT TO
25 THE GOVERNOR AND LEGISLATURE THAT SHALL INCLUDE THE FOLLOWING:

26 (A) THE NUMBER OF NEW RENEWABLE ELECTRICITY GENERATORS IN THIS STATE
27 AND THE ENVIRONMENTAL EFFECTS OF THE ADDITION OF THOSE GENERATORS;

28 (B) RECOMMENDATIONS FOR LEGISLATION AND CHANGES TO THE RATES IN SUBDI-
29 VISION FOUR OF THIS SECTION, IF ANY; AND

30 (C) ACTIONS TAKEN BY THE COMMISSION TO IMPLEMENT THE PROVISIONS OF
31 THIS SECTION AND TO USE THE TARIFF TO ACHIEVE THE RENEWABLE ENERGY
32 OBJECTIVES AND STANDARDS.

33 S 4. This act shall take effect immediately.