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

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I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. ENGLEBRIGHT, MILLMAN, COLTON, ORTIZ, GORDON -- Multi-Sponsored by -- M. of A. CAHILL, COOK, HOOPER, PERRY, SWEENEY, WEISENBERG -- read once and referred to the Committee on Energy

AN ACT to amend the public service law and the public authorities law, in relation to clean energy development

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

Section 1. The public service law is amended by adding a new section 66-m to read as follows:

S 66-M. CLEAN ENERGY DEVELOPMENT. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CLEAN ENERGY" MEANS ELECTRIC ENERGY SUPPLIED TO CONSUMERS THROUGH A TRANSMISSION OR DISTRIBUTION SYSTEM USING CLEAN ENERGY TECHNOLOGIES.

(B) "CLEAN ENERGY TECHNOLOGIES" MEANS ELECTRICITY GENERATION TECHNOLOGIES THAT PRODUCE ELECTRICITY USING SOLAR THERMAL ENERGY, PHOTOVOLTAICS, WIND, FUEL CELLS, GEOTHERMAL, METHANE WASTE AND SUSTAINABLY MANAGED BIOMASS AND THERMAL ENERGY PRODUCED BY SOLAR TECHNOLOGIES AND THERMAL ENERGY TRANSFER FROM SURFACE WATER, GROUND WATER OR THE EARTH. IF AFTER THE EFFECTIVE DATE OF THIS SECTION, NEW ENERGY TECHNOLOGIES EMERGE THAT WERE UNFORESEEABLE AT THE TIME OF SUCH EFFECTIVE DATE THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION MAY DESIGNATE SUCH TECHNOLOGIES AS CLEAN ENERGY TECHNOLOGIES BASED UPON A FINDING THAT THE AIR, WATER, ECOSYSTEM, PUBLIC HEALTH AND WASTE DISPOSAL IMPACTS OF SUCH NEW TECHNOLOGIES ARE COMPARABLE TO THOSE OF THE CLEAN ENERGY TECHNOLOGIES OTHERWISE LISTED IN THIS PARAGRAPH. ANY SUCH DESIGNATION SHALL ONLY TAKE PLACE FOLLOWING A COMPLETE OPPORTUNITY FOR PUBLIC REVIEW AND COMMENT CONSISTENT WITH THE STATE ADMINISTRATIVE PROCEDURE ACT.

(C) "LOAD SERVING ENTITY" MEANS ANY PERSON, CORPORATION, COMPANY, PARTNERSHIP, ASSOCIATION, PRIVATE, MUNICIPAL AND STATE UTILITIES, OR OTHER LEGAL ENTITY SELLING ELECTRIC POWER TO END-USE CUSTOMERS.

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

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(D) "SOLID WASTE" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM PURSUANT TO SECTION 27-0501 OF THE ENVIRONMENTAL CONSERVATION LAW.

(E) "SUSTAINABLY MANAGED BIOMASS" MEANS ANAEROBIC DIGESTION OF ANY WASTE OR COMBUSTION OF ANY OF THE FOLLOWING SUBSTANCES: CAPTURED LANDFILL METHANE, SECONDARY WOOD WASTE (WHICH SHALL INCLUDE ONLY NON-TREATED WOOD WASTE AND SHALL BE LIMITED TO SAWDUST, WOOD CHIPS AND WOOD SHAVINGS PRODUCED AS BY-PRODUCTS IN THE MILLING, PROCESSING OR MANUFACTURING OF WOOD PRODUCTS), WOODY AGRICULTURAL WASTE AND SUSTAINABLE BIO-CROPS. SUCH TERM SHALL NOT INCLUDE COMBUSTION OR PYROLYSIS OF SOLID WASTES, TIMBER, FOREST FLOOR SWEEPINGS AND HERBACEOUS CROP RESIDUES, WHETHER OR NOT ENERGY IS RECOVERED THEREFROM.

2. WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL ADOPT CLEAN ENERGY RULES AND REGULATIONS REQUIRING EACH LOAD SERVING ENTITY IN THIS STATE TO ENSURE THAT, ON OR BEFORE JULY FIRST, TWO THOUSAND ELEVEN NO LESS THAN ONE-HALF OF ONE PERCENT OF THE ELECTRIC ENERGY SUCH ENTITY HAS SUPPLIED TO EACH CUSTOMER IN THE PREVIOUS TWELVE MONTH PERIOD WAS GENERATED USING CLEAN ENERGY TECHNOLOGIES. THE COMMISSION SHALL INCREASE THE REQUIRED PERCENTAGE OF CLEAN ENERGY REQUIRED BY ONE-HALF OF ONE PERCENT EACH YEAR ON JULY FIRST, UNTIL THE AMOUNT OF CLEAN ENERGY SUPPLIED TO CUSTOMERS IN THIS STATE REACHES SIX PERCENT, AND BY ONE PERCENT EACH YEAR THEREAFTER UNTIL THE AMOUNT OF ENERGY SUPPLIED TO CUSTOMERS IN THIS STATE REACHES TEN PERCENT OR SUCH LATER DATE AS THE COMMISSION SHALL DETERMINE, PROVIDED HOWEVER THAT THE COMMISSION SHALL NOT DECREASE THE REQUIRED PERCENTAGE OF CLEAN ENERGY REQUIRED AT ANY TIME.

3. THE COMMISSION SHALL REVIEW ELECTRICITY PRODUCTS SOLD BY EACH LOAD SERVING ENTITY IN THE STATE ON A PERIODIC BASIS TO ENSURE THAT THE REQUIREMENTS SET FORTH IN THIS SECTION ARE MET. THE COMMISSION SHALL REVIEW ITS REGULATIONS AND REQUIREMENTS FOR ENVIRONMENTAL DISCLOSURE LABELS TO ENSURE THAT INFORMATION PROVIDED TO CUSTOMERS CONCERNING CLEAN ENERGY IS NOT CONFUSING AND TO CONSIDER WHETHER IT IS APPROPRIATE TO REQUIRE ALL DISCLOSURE LABELS TO INDICATE THE MINIMUM PERCENTAGE OF CLEAN ENERGY REQUIRED PURSUANT TO THIS SECTION.

4. A LOAD SERVING ENTITY MAY SATISFY THE REQUIREMENTS OF THIS SECTION BY ENTERING INTO CONVERSION TRANSACTIONS ESTABLISHED PURSUANT TO THE COMMISSION'S ENVIRONMENTAL DISCLOSURE PROGRAM OR SUCH OTHER TRADING PROGRAM THAT THE COMMISSION MAY ESTABLISH. THE COMMISSION SHALL ESTABLISH A COMPLIANCE PROTOCOL THAT PERMITS LOAD SERVING ENTITIES TO ENTER INTO CONVERSION TRANSACTIONS OR PURCHASE CREDITS FOR CLEAN ENERGY SUPPLIED BY LOAD SERVING ENTITIES ON OR BEFORE THE JULY FIRST, TWO THOUSAND ELEVEN COMPLIANCE DATE. SUCH PROGRAM SHALL ALLOW BANKING OF CREDITS FOR CLEAN ENERGY SUPPLIED IN EXCESS OF REQUIREMENTS FOR A PERIOD OF TWO YEARS, AND MAY ALLOW COMPLIANCE TO BE DEMONSTRATED WITHIN THREE MONTHS OF THE END OF THE CALENDAR YEAR IN ORDER TO ALLOW FOR COMPLIANCE VIA THE TRADING PROGRAM.

5. THE COMMISSION SHALL REQUIRE ANY LOAD SERVING ENTITY THAT FAILS TO MEET ITS OBLIGATIONS UNDER THIS SECTION TO PAY A FINE TO THE COMMISSION IN AN AMOUNT EQUAL TO THE PRODUCT OF TWO CENTS AND THE DIFFERENCE BETWEEN KILOWATT-HOURS OF CLEAN ENERGY IT IS REQUIRED TO SUPPLY TO EACH CUSTOMER IN THE PREVIOUS TWELVE MONTH PERIOD AND THE AMOUNT OF CLEAN ENERGY ACTUALLY SUPPLIED OR SECURED VIA PURCHASE OF CREDITS IN THE TRADING PROGRAM DESCRIBED IN SUBDIVISION FOUR OF THIS SECTION. THE CONTRIBUTION SHALL BE REDUCED TO ONE AND ONE-HALF CENT FOUR YEARS AFTER THE START OF THE CLEAN ENERGY REQUIREMENT AND FURTHER REDUCED TO ONE CENT AND ONE-HALF CENT EIGHT AND TWELVE YEARS AFTER THE START OF THE CLEAN ENERGY REQUIREMENT RESPECTIVELY.

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

16. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, TO COMPLY WITH THE PROVISIONS OF SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW.

S 3. Section 1020-s of the public authorities law, as added by chapter 517 of the laws of 1986, is amended by adding a new subdivision 3 to read as follows:

3. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION, THE PROVISIONS OF SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW SHALL BE APPLICABLE TO THE AUTHORITY.

S 4. This act shall take effect immediately.