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

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2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. ENGLEBRIGHT, HOYT, COOK, SCARBOROUGH, DINOWITZ, LENTOL, NOLAN, AUBRY, GORDON -- Multi-Sponsored by -- M. of A. BRENNAN, CAHILL, CHRISTENSEN, CLARK, COLTON, CYMBROWITZ, DESTITO, ESPAILLAT, GALEF, GOTTFRIED, GREENE, HOOPER, JACOBS, V. LOPEZ, MARKEY, MAYERSOHN, McENENY, MILLMAN, ORTIZ, PERRY, PHEFFER, SWEENEY, WEISENBERG, WEPRIN, WRIGHT -- 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 establishing the clean energy fund to improve energy efficiency and provide for the development of clean energy technologies; to amend the public service law, in relation to promoting the distribution of clean energy resources, requiring the use of clean energy technologies by electric corporations, and net energy metering for wind electric generating facilities; to amend the public authorities law, in relation to requiring the power authority of the state of New York and the Long Island power authority to establish clean energy initiatives; and to repeal certain provisions of the public service law relating to non-residential customer-generators

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

Section 1. Legislative findings. The legislature finds and declares that job creation; economic development; safe and reliable energy services at an affordable price; reduction of energy cost burden for low-income households, small businesses and farms; and the protection of the health of the state's citizens and its environment are necessary components of a sound energy policy. The legislature further finds that the creation and preservation of jobs in New York, lowering energy bills, protecting public health, and improving the conditions of our parks and rivers can all be enhanced through policies and programs that encourage energy efficiency and clean electricity generation.

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

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S 2. The section heading and subdivisions 1 and 2 of section 66-1 of the public service law, the section heading, paragraphs (a) and (f) of subdivision 1 and subdivision 2 as amended and paragraph (c-1) of subdivision 1 as added by chapter 483 of the laws of 2008, and subdivision 1 as amended by chapter 721 of the laws of 2006, are amended to read as follows:

Net energy metering for [residential, farm service and non-residential] wind electric generating systems. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Customer-generator" means a residential customer, farm service customer [or non-residential] AND/OR SMALL COMMERCIAL OR INDUSTRIAL customer of an electric corporation, who owns or operates wind electric generating equipment LOCATED AND USED AT THE CUSTOMER'S PREMISES.

(b) "Residential customer-generator" means a customer who owns or operates wind electric generating equipment located and used at his or her primary residence.

(c) "Farm service customer-generator" means a customer of an electric corporation who owns and operates wind electric generating equipment located and used on land used in agricultural production as defined in subdivision four of section three hundred one of the agriculture and markets law, and which is also the location of the customer's primary residence.

[(c-1) "Non-residential customer-generator" means a customer of an electric corporation which owns or operates wind electric generating equipment located and used at its premises.]

(d) "Net energy meter" means a meter that measures the reverse flow of electricity to register the difference between the electricity supplied by an electric corporation to the customer-generator and the electricity provided to the corporation by that customer-generator.

(e) "Net energy metering" means the use of a net energy meter to measure, during the billing period applicable to a customer-generator, the net amount of electricity supplied by an electric corporation or provided to the corporation by a customer-generator.

(f) "Wind electric generating equipment" means one or more wind generators with a combined rated capacity of not more than twenty-five kilowatts for a residential customer-generator, and not more than five hundred kilowatts for a farm service customer-generator, [and in the case of a non-residential customer-generator, the lesser of two thousand kilowatts or the customer-generator's peak load as measured over the prior twelve month period, or in the case that such twelve month period of measurement is not available, then as determined by the commission based on its analysis of comparable facilities;] that is manufactured, installed, and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in parallel with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

(G) "SMALL COMMERCIAL OR INDUSTRIAL CUSTOMER-GENERATOR" MEANS ANY BUSINESS WHICH EMPLOYS UP TO ONE HUNDRED EMPLOYEES.

2. Interconnection and net energy metering. An electric corporation shall provide for the interconnection and net energy metering of wind electric generating equipment owned or operated by a customer-generator; provided that the customer-generator enters into a net energy metering contract with the corporation or complies with the corporation's net energy metering schedule and complies with standards and requirements established under this section, AND PROVIDED FURTHER THAT THE INTERCON-

NECTION OF WIND ELECTRIC GENERATING EQUIPMENT ON PARCELS OF LAND SMALLER THAN FIVE ACRES SHALL BE CONTINGENT UPON A LOCAL ORDINANCE THAT SPECIFICALLY ADDRESSES THE SITING OF WIND ELECTRIC GENERATING EQUIPMENT, OR A VARIANCE, OR OTHER ACTION BY A LOCAL ZONING AUTHORITY. The customer-generator shall be responsible for payment of one-half of the expense of such interconnection for wind electric generating equipment with a rated capacity of more than twenty-five kilowatts.

S 3. Subparagraph (ii) of paragraph (a) of subdivision 3 of section 66-l of the public service law is REPEALED.

S 4. Subparagraph (iii) of paragraph (c) of subdivision 3 of section 66-l of the public service law is REPEALED.

S 5. Subparagraph (ii) of paragraph (c) of subdivision 3 of section 66-l of the public service law, as amended by chapter 483 of the laws of 2008, is amended to read as follows:

(ii) in the case of a customer-generator with a combined rated capacity of not more than five hundred kilowatts, up to a maximum of five thousand dollars[; and].

S 6. The public service law is amended by adding three new sections 66-m, 66-n and 66-o to read as follows:

S 66-M. CLEAN ENERGY FUND. 1. FOR PURPOSES OF THIS SECTION:

(A) "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.

(B) "ELECTRIC DISTRIBUTION COMPANY" MEANS AN ELECTRIC CORPORATION OR, IF APPLICABLE, AN AFFILIATE OF AN ELECTRIC CORPORATION, OR A MUNICIPALITY ENGAGED IN THE DISTRIBUTION OF ELECTRICITY DIRECTLY TO CONSUMERS.

(C) "ENERGY EFFICIENCY" MEANS MEASURES THAT HELP CONSUMERS OF ELECTRICITY USE LESS ENERGY (ELECTRICITY, NATURAL GAS OR OTHER FUELS) AT THEIR PREMISES WHILE OBTAINING THE SAME OR MORE BENEFITS FROM SUCH ENERGY USE.

(D) "NYSERDA" MEANS THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AS DESIGNATED PURSUANT TO SECTION EIGHTEEN HUNDRED FIFTY-TWO OF THE PUBLIC AUTHORITIES LAW.

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

(F) "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. (A) ON AND AFTER JULY FIRST, TWO THOUSAND TEN, THE COMMISSION SHALL CONTINUE THE TOTAL LEVEL OF INVESTMENT IN ENERGY EFFICIENCY AND CLEAN ENERGY TECHNOLOGIES REQUIRED OF ELECTRIC DISTRIBUTION COMPANIES IN CALENDAR YEAR TWO THOUSAND NINE. THE COMMISSION IS FURTHER DIRECTED, AS A GOAL, TO INCREASE SUCH INVESTMENTS OVER THE NEXT FIVE YEARS UNTIL SUCH INVESTMENTS REACH THE TOTAL LEVELS HAVING BEEN INVESTED BY ELECTRIC DISTRIBUTION COMPANIES IN THE CALENDAR YEAR TWO THOUSAND TWO. MERGERS, SALES OF ASSETS, REFINANCING OF DEBT AND OTHER POTENTIAL COST SAVINGS SHOULD BE UTILIZED TO ACHIEVE THIS GOAL. THE COMMISSION, IN ACHIEVING THIS GOAL, SHALL CAREFULLY TAKE INTO ACCOUNT THE BENEFITS THAT INVESTMENTS IN ENERGY EFFICIENCY AND CLEAN ENERGY TECHNOLOGIES PROVIDE CONSISTENT WITH THE PROVISIONS OF SUBDIVISION FOUR OF THIS SECTION.

(B) THE TOTAL LEVEL OF INVESTMENT ESTABLISHED PURSUANT TO THIS SECTION SHALL NOT BE REDUCED PRIOR TO JUNE THIRTIETH, TWO THOUSAND TWENTY. AFTER SUCH DATE, THE COMMISSION SHALL MAKE A DETERMINATION AS TO WHETHER THE CLEAN ENERGY INVESTMENTS SHOULD BE INCREASED, DECREASED OR KEPT AT THE SAME LEVEL. IN MAKING THIS DETERMINATION, THE COMMISSION SHALL FULLY CONSIDER WHETHER THE OBJECTIVES OF LOWERING ENERGY BILLS, INCREASING ECONOMIC DEVELOPMENT AND IMPROVING THE ENVIRONMENT CONTINUE TO JUSTIFY THE CLEAN ENERGY INVESTMENTS. THE COMMISSION SHALL PROVIDE ALL INTERESTED PARTIES AN OPPORTUNITY TO REVIEW AND COMMENT ON ANY PROPOSED ADJUSTMENT PURSUANT TO THE STATE ADMINISTRATIVE PROCEDURE ACT.

3. MONIES COLLECTED BY EACH ELECTRIC DISTRIBUTION COMPANY FOR THE PURPOSE OF SUCH INVESTMENTS SHALL BE TRANSFERRED, ON A MONTHLY BASIS, TO THE CLEAN ENERGY FUND ESTABLISHED AND ADMINISTERED BY THE NYSERDA PURSUANT TO SECTION EIGHTEEN HUNDRED FIFTY-FOUR-E OF THE PUBLIC AUTHORITIES LAW.

4. WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL ISSUE REGULATIONS GRANTING A CREDIT TO ANY RETAIL CUSTOMER ACCOUNT WITH PEAK DEMAND GREATER THAN TEN MEGAWATTS DURING THE PRIOR YEAR. THE AMOUNT OF THE CREDIT SHALL BE BASED ON QUALIFYING INVESTMENTS MADE BY THE CUSTOMER AFTER JULY FIRST, TWO THOUSAND TEN IN ENERGY EFFICIENCY AND CLEAN ENERGY TECHNOLOGIES AND SHALL BE EQUAL TO FIFTY PERCENT OF THE AMOUNT OF THE RETAIL CUSTOMER'S QUALIFYING INVESTMENTS IN ENERGY EFFICIENCY MEASURES UNDERTAKEN AND EIGHTY PERCENT OF THE AMOUNT OF THE RETAIL CUSTOMER'S QUALIFYING INVESTMENTS IN CLEAN ENERGY TECHNOLOGIES AND FOR WHICH THE CUSTOMER HAS PREVIOUSLY NOT RECEIVED A FULL CREDIT. THE TOTAL AMOUNT OF CREDIT IN ANY ONE YEAR SHALL NOT EXCEED EIGHTY PERCENT OF THE TOTAL CLEAN ENERGY CONTRIBUTION REQUIRED OF THE CUSTOMER IN THAT YEAR.

S 66-N. CLEAN DISTRIBUTED ENERGY RESOURCES. IT SHALL BE THE POLICY OF THIS STATE TO PROMOTE THE INSTALLATION OF CLEAN DISTRIBUTED ENERGY RESOURCES.

1. FOR THE PURPOSES OF THIS SECTION:

(A) "CLEAN DISTRIBUTED ENERGY RESOURCES" MEANS ENERGY EFFICIENCY MEASURES AND CLEAN ENERGY TECHNOLOGIES INSTALLED AT CUSTOMER PREMISES.

(B) "CLEAN ENERGY TECHNOLOGIES" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-M OF THIS ARTICLE.

(C) "EXIT FEES" MEANS A LUMP SUM CHARGE, A PER KILOWATT CHARGE OR PER KILOWATT-HOUR CHARGE ASSOCIATED WITH REDUCED ELECTRICITY PURCHASES OR ELECTRICITY GENERATED DUE TO CONSUMER UTILIZATION OF CLEAN ENERGY TECHNOLOGIES.

2. ALL CUSTOMERS RECEIVING DISTRIBUTION SERVICES FROM AN ELECTRIC CORPORATION IN THE STATE SHALL BE ALLOWED TO INTERCONNECT CLEAN ENERGY TECHNOLOGIES INSTALLED AT THEIR PREMISES TO THE ELECTRIC DISTRIBUTION SYSTEM. WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE

COMMISSION SHALL ISSUE REGULATIONS IMPLEMENTING SUCH REQUIREMENT, INCLUDING ADOPTION OF TECHNICAL INTERCONNECTION STANDARDS AND INTERCONNECTION CONTRACTS WHICH SHALL:

(A) PROVIDE FOR EXPEDITIOUS INTERCONNECTION BY THE ELECTRIC CORPORATION;

(B) ALLOW A MAXIMUM INTERCONNECT CHARGE OF THIRTY-FIVE DOLLARS PER KILOWATT FOR EACH KILOWATT GREATER THAN TEN KILOWATTS FOR SYSTEMS GREATER THAN TEN KILOWATTS AND LESS THAN ONE MEGAWATT IN RATED CAPACITY AND, FOR SYSTEMS THAT ARE TEN KILOWATTS OR LESS, PROHIBIT ELECTRIC CORPORATIONS FROM IMPOSING ANY CHARGE OR REQUIRING ANY PAYMENT FOR INTERCONNECTION;

(C) PROVIDE FOR UNIFORM STATEWIDE TECHNICAL INTERCONNECTION REQUIREMENTS TO ENSURE SAFETY AND RELIABILITY THAT ARE CONSISTENT WITH NATIONAL STANDARDS SUCH AS THOSE PROMULGATED BY RECOGNIZED NATIONAL ORGANIZATIONS, INCLUDING THE INSTITUTE FOR ELECTRICAL AND ELECTRONIC ENGINEERS AND THE NATIONAL ELECTRIC CODE, EXCEPT WHERE THE COMMISSION DETERMINES, AFTER A PUBLIC HEARING, THAT SPECIFIC REGIONAL OR STATEWIDE SAFETY AND RELIABILITY CONDITIONS JUSTIFY TEMPORARY DEVIATION FROM THE NATIONAL STANDARDS UNTIL CONSISTENCY CAN BE ACHIEVED; AND

(D) ENSURE THAT INTERCONNECTION CONTRACTS ARE CONSUMER FRIENDLY, BRIEF AND FOR SYSTEMS UNDER ONE HUNDRED KILOWATTS; INCLUDE NO INDEMNIFICATION REQUIREMENTS; AND REQUIRE NOT MORE THAN ONE HUNDRED THOUSAND DOLLARS OF HOMEOWNERS INSURANCE COVERAGE FOR RESIDENTIAL CUSTOMERS AND NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS OF INSURANCE COVERAGE FOR COMMERCIAL CUSTOMERS.

3. WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL ISSUE REGULATIONS FOR EACH ELECTRIC CORPORATION'S DISTRIBUTION SYSTEM THAT MINIMIZE THE LONG-TERM COSTS OF PROVIDING RELIABLE DISTRIBUTION SERVICE, REMOVE BARRIERS TO COST-EFFECTIVE INVESTMENTS IN CLEAN DISTRIBUTED ENERGY RESOURCES AS ALTERNATIVES TO DISTRIBUTION INVESTMENTS, AND REMOVE THE LINKAGE BETWEEN THE TOTAL ENERGY DISTRIBUTED AND THE RECOVERY OF DISTRIBUTION AND OTHER FIXED COSTS. WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL REQUIRE EACH ELECTRIC CORPORATION TO COMMENCE THE COLLECTION OF DISTRIBUTION COST DATA NECESSARY TO ACCURATELY EVALUATE ALTERNATIVES TO TRADITIONAL INFRASTRUCTURE INVESTMENTS.

4. THE FIRST ONE THOUSAND MEGAWATTS OF CLEAN ENERGY TECHNOLOGIES INSTALLED AT CUSTOMER PREMISES IN THE STATE, WITH A LIMIT OF ONE MEGAWATT PER CUSTOMER ACCOUNT, SHALL BE EXEMPT FROM ANY EXIT FEES OR ANY SPECIAL METER FEES CHARGED BY ELECTRIC CORPORATIONS. IN ADDITION, NO ELECTRIC CORPORATION SHALL LEVY A CHARGE FOR BACKUP OR STANDBY ENERGY OR CAPACITY TO CUSTOMERS WHO INSTALL AND USE CLEAN DISTRIBUTED ENERGY RESOURCES, RATED AT ONE MEGAWATT OR LESS, ON THEIR PREMISES UNTIL THE COMMISSION COMPLETES A STUDY ACCURATELY DETERMINING THE COST OF BACKUP SERVICE, AN EVALUATION OF THE FULL RANGE OF BENEFITS SUCH TECHNOLOGIES PROVIDE TO THE TRANSMISSION AND DISTRIBUTION SYSTEM AND CERTIFIES THAT EACH ELECTRIC CORPORATION HAS ESTABLISHED TARIFFS THAT ACCURATELY CREDIT CUSTOMERS FOR THESE BENEFITS.

S 66-O. CLEAN ENERGY DEVELOPMENT. 1. FOR THE PURPOSES OF THIS SECTION, "CLEAN ENERGY TECHNOLOGIES" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-M OF THIS ARTICLE.

2. WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE PUBLIC SERVICE COMMISSION SHALL ADOPT CLEAN ENERGY REGULATIONS REQUIRING EACH ELECTRIC CORPORATION IN THE STATE TO ENSURE THAT ON OR BEFORE JULY FIRST, TWO THOUSAND TEN, NO LESS THAN ONE-HALF OF ONE PERCENT OF THE ENERGY IT HAS SUPPLIED TO EACH CUSTOMER IN THE PREVIOUS TWELVE MONTH

PERIOD WAS GENERATED USING CLEAN ENERGY TECHNOLOGIES. THE COMMISSION SHALL INCREASE SUCH REQUIREMENT BY ONE-HALF OF ONE PERCENT ON JULY FIRST EACH YEAR THEREAFTER, UNTIL THE AMOUNT OF ENERGY REQUIRED FROM CLEAN ENERGY TECHNOLOGIES REACHES SIX PERCENT. ONCE THE AMOUNT OF ENERGY SUPPLIED TO CUSTOMERS FROM CLEAN ENERGY TECHNOLOGIES REACHES SIX PERCENT, THE REQUIREMENT SHALL BE INCREASED BY ONE PERCENT EACH YEAR THEREAFTER UNTIL THE AMOUNT OF ENERGY REQUIRED FROM CLEAN ENERGY TECHNOLOGIES REACHES TEN PERCENT OR UNTIL SUCH LATER DATE THAT THE COMMISSION SHALL DETERMINE; PROVIDED, HOWEVER, THAT THE COMMISSION SHALL NOT DECREASE THE REQUIRED PERCENTAGE AT ANY TIME.

3. THE COMMISSION SHALL REVIEW ELECTRICITY PRODUCTS SOLD BY EACH ELECTRIC CORPORATION IN THE STATE ON A PERIODIC BASIS TO ENSURE THAT THE REQUIREMENTS SET FORTH IN SUBDIVISION TWO OF 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 TECHNOLOGIES IS CLEAR AND UNDERSTANDABLE, AND CONSIDER WHETHER IT IS APPROPRIATE TO REQUIRE ALL DISCLOSURE LABELS TO INDICATE THE MINIMUM PERCENTAGE OF ENERGY REQUIRED FROM CLEAN ENERGY TECHNOLOGIES PURSUANT TO THIS SECTION.

4. AN ELECTRIC CORPORATION 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 ELECTRIC CORPORATIONS TO ENTER INTO CONVERSION TRANSACTIONS OR PURCHASE CREDITS FOR ENERGY SUPPLIED TO MEET THE CLEAN ENERGY REQUIREMENT BY ELECTRIC CORPORATIONS AFTER THE EFFECTIVE DATE OF THIS SECTION AND BEFORE JULY FIRST, TWO THOUSAND TWELVE. SUCH PROTOCOL SHALL ALLOW BANKING OF CREDITS FOR ELECTRIC ENERGY FROM CLEAN ENERGY TECHNOLOGIES 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 CONVERSION TRANSACTIONS OR A TRADING PROGRAM.

S 7. Section 1005 of the public authorities law is amended by adding a new subdivision 16 to read as follows:

16. TO ESTABLISH A CLEAN ENERGY INITIATIVE TO PROVIDE ENERGY SERVICES TO QUALIFIED PUBLIC PARTICIPANTS FOR THE INSTALLATION OF ENERGY EFFICIENCY MEASURES AND CLEAN ENERGY TECHNOLOGIES.

(A) FOR THE PURPOSES OF THIS SUBDIVISION:

(1) "CLEAN ENERGY TECHNOLOGIES" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW.

(2) "ENERGY EFFICIENCY" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW.

(3) "QUALIFIED PUBLIC PARTICIPANT" MEANS A SCHOOL DISTRICT, CITY, TOWN, VILLAGE, COUNTY, STATE AGENCY, PUBLIC BENEFIT CORPORATION OR STATE UNIVERSITY.

(B) THE AUTHORITY SHALL INVEST IN THE CLEAN ENERGY INITIATIVE NOT LESS THAN ONE HUNDRED MILLION DOLLARS, ON AVERAGE PER YEAR, OVER A TEN YEAR PERIOD STARTING JULY FIRST, TWO THOUSAND TEN.

(C) THE AUTHORITY SHALL BROADLY DISSEMINATE INFORMATION ABOUT THE CLEAN ENERGY INITIATIVE TO QUALIFIED PUBLIC PARTICIPANTS.

(D) THE AUTHORITY SHALL PROVIDE ENERGY SERVICES TO QUALIFIED PUBLIC PARTICIPANTS EITHER DIRECTLY OR THROUGH A THIRD-PARTY PROVIDER.

(E) THE AUTHORITY SHALL REQUIRE THE QUALIFIED PUBLIC PARTICIPANTS TO REIMBURSE THE FUNDS DISPERSED PURSUANT TO THIS SUBDIVISION DURING A PERIOD NOT TO EXCEED TEN YEARS WITH SAVINGS IN ENERGY COSTS.

(F) IN THE CASE OF SCHOOL DISTRICTS, ENERGY SERVICES MAY INCLUDE COSTS NOT OTHERWISE REIMBURSED PURSUANT TO SUBDIVISION SIX OF SECTION THIRTY-SIX HUNDRED TWO OF THE EDUCATION LAW.

(G) THE AUTHORITY SHALL, IN CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, TAKE ADVANTAGE OF ANY EMISSION REDUCTION CREDIT PROGRAM THAT MAY BE IN PLACE TO HELP POTENTIAL QUALIFIED PUBLIC PARTICIPANTS MAXIMIZE THE ECONOMIC AND ENVIRONMENTAL BENEFITS FROM PARTICIPATION IN THE CLEAN ENERGY INITIATIVE.

(H) THE AUTHORITY SHALL ESTABLISH AND REGULARLY CONVENE AN ADVISORY COMMITTEE COMPRISED OF THE CHAIRMAN OF THE AUTHORITY, THE CHAIRMAN OF THE PUBLIC SERVICE COMMISSION AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR THEIR DESIGNEES, SERVING AS EX OFFICIO MEMBERS; AND THE CHAIRMAN OF THE AUTHORITY SHALL APPOINT ONE REPRESENTATIVE FROM EACH OF THE FOLLOWING CUSTOMER CLASSIFICATIONS: RESIDENTIAL, LOW-INCOME RESIDENTIAL, SMALL COMMERCIAL, LARGE COMMERCIAL/INDUSTRIAL, AGRICULTURAL, AND CONSUMERS RESIDING IN LOAD POCKETS; ONE INDIVIDUAL REPRESENTING THE ELECTRIC DISTRIBUTION COMPANIES; ONE INDIVIDUAL REPRESENTING THE ENERGY SERVICE COMPANIES; AND ONE INDIVIDUAL REPRESENTING EACH OF THE FOLLOWING AREAS OF EXPERTISE: ENVIRONMENTAL PROTECTION, CLEAN ENERGY TECHNOLOGIES AND ENERGY EFFICIENCY. THE APPOINTED MEMBERS OF THE COMMITTEE SHALL HAVE NO DIRECT FINANCIAL INTEREST IN THE ALLOCATION OF THE MONIES IN THE CLEAN ENERGY FUND. THE AUTHORITY, IN CONSULTATION WITH THE ADVISORY COMMITTEE, SHALL ESTABLISH EVALUATION PROTOCOLS TO JUDGE THE SUCCESS OF THE CLEAN ENERGY FUND, AND SHALL PERIODICALLY CONTRACT FOR INDEPENDENT REVIEW OF FUND MANAGEMENT.

S 8. Section 1020-ii of the public authorities law, as renumbered by chapter 234 of the laws of 2004, is renumbered section 1020-jj and a new section 1020-ii is added to read as follows:

S 1020-II. CLEAN ENERGY INITIATIVE. THE AUTHORITY SHALL COMPLY WITH THE PROVISIONS OF THIS SECTION FOR THE PURPOSE OF LOWERING CONSUMER ENERGY BILLS, ENHANCING THE RELIABILITY OF THE SYSTEM, ENCOURAGING ENERGY EFFICIENCY, SUPPORTING THE DEVELOPMENT OF CLEAN ENERGY TECHNOLOGIES SUCH AS WIND, SOLAR AND FUEL CELLS, AND REDUCING HARMFUL IMPACTS OF ELECTRICITY GENERATION AND CONSUMPTION ON PUBLIC HEALTH AND SENSITIVE ECOSYSTEMS.

1. DEFINITIONS. FOR PURPOSES OF THIS SECTION:

(A) "CLEAN DISTRIBUTED ENERGY RESOURCES" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-N OF THE PUBLIC SERVICE LAW.

(B) "CLEAN ENERGY TECHNOLOGIES" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW.

(C) "CUSTOMER-GENERATOR" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTIONS SIXTY-SIX-J AND SIXTY-SIX-L OF THE PUBLIC SERVICE LAW.

(D) "ENERGY EFFICIENCY" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW.

(E) "EXIT FEES" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-N OF THE PUBLIC SERVICE LAW.

(F) "NET ENERGY METER" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTIONS SIXTY-SIX-J AND SIXTY-SIX-L OF THE PUBLIC SERVICE LAW.

(G) "NET ENERGY METERING" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTIONS SIXTY-SIX-J AND SIXTY-SIX-L OF THE PUBLIC SERVICE LAW.

(H) "SOLAR ELECTRIC GENERATING EQUIPMENT" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-J OF THE PUBLIC SERVICE LAW.

(I) "WIND ELECTRIC GENERATING EQUIPMENT" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-L OF THE PUBLIC SERVICE LAW.

2. LONG ISLAND CLEAN ENERGY FUND. (A) ON AND AFTER JULY FIRST, TWO THOUSAND TEN, THE AUTHORITY SHALL CONTINUE THE LEVEL OF INVESTMENT IN

ENERGY EFFICIENCY AND CLEAN TECHNOLOGIES INVESTED IN CALENDAR YEAR TWO THOUSAND EIGHT, AND SHALL ESTABLISH A LONG ISLAND CLEAN ENERGY FUND INTO WHICH SUCH INVESTMENT SHALL BE PLACED. THE INVESTMENT ESTABLISHED PURSUANT TO THIS SECTION SHALL NOT BE REDUCED PRIOR TO JUNE THIRTIETH, TWO THOUSAND TWENTY. AFTER SUCH DATE, THE AUTHORITY SHALL MAKE A DETERMINATION AS TO WHETHER THE CLEAN ENERGY INVESTMENT SHOULD BE INCREASED, DECREASED OR KEPT AT THE SAME LEVEL. IN MAKING THIS DETERMINATION, THE AUTHORITY SHALL FULLY CONSIDER WHETHER THE OBJECTIVES OF LOWERING ENERGY BILLS, INCREASING ECONOMIC DEVELOPMENT AND IMPROVING THE ENVIRONMENT CONTINUE TO JUSTIFY THE CLEAN ENERGY CONTRIBUTION. THE AUTHORITY SHALL PROVIDE ALL INTERESTED PARTIES AN OPPORTUNITY TO REVIEW AND COMMENT ON ANY PROPOSED ADJUSTMENT PURSUANT TO THE STATE ADMINISTRATIVE PROCEDURE ACT.

(B) THE AUTHORITY SHALL INVEST SUCH MONIES IN THE LONG ISLAND CLEAN ENERGY FUND IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:

(I) SEVENTY PERCENT OF SUCH MONIES SHALL BE INVESTED IN ENERGY EFFICIENCY FOR CONSUMERS IN THE FOLLOWING CATEGORIES: RESIDENTIAL, LOW-INCOME RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AGRICULTURAL, EDUCATIONAL AND HEALTH CARE. THIRTY PERCENT OF THE ENERGY EFFICIENCY INVESTMENTS REQUIRED PURSUANT TO THIS PARAGRAPH SHALL BE TARGETED FOR LOW-INCOME RESIDENTIAL AND MULTI-FAMILY ENERGY EFFICIENCY PROGRAMS AND SHALL BE DELIVERED IN CONJUNCTION WITH THE STATEWIDE LOW-INCOME WEATHERIZATION ASSISTANCE PROGRAM NETWORK OF LOCAL PROVIDERS.

(II) THIRTY PERCENT OF SUCH MONIES SHALL BE INVESTED IN CLEAN ENERGY TECHNOLOGIES. THESE FUNDS SHALL BE UTILIZED BY THE AUTHORITY, FOR AMONG OTHER THINGS, TO SUPPORT:

(A) RESEARCH, DEVELOPMENT AND DEMONSTRATION OF CLEAN ENERGY TECHNOLOGIES;

(B) THE INSTALLATION, AT CUSTOMERS' PREMISES, OF AT LEAST SIXTY MEGAWATTS OF CLEAN ENERGY TECHNOLOGIES IN ITS SERVICE TERRITORY THROUGH A BUYDOWN PROGRAM, INCLUDING INSTALLATIONS AT FARMS, AND IN LOW-INCOME RESIDENTIAL AND MULTI-FAMILY BUILDINGS. ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, THE AUTHORITY SHALL IMPLEMENT A BUYDOWN PROGRAM PURSUANT TO THE TERMS OF THIS SUBPARAGRAPH. THE INCENTIVE LEVEL OFFERED BY THIS PROGRAM, IN COMBINATION WITH ANY OTHER FEDERAL, STATE OR LOCAL INCENTIVE THAT THE CUSTOMER RECEIVES, SHALL BE SIXTY PERCENT OF THE INSTALLED COST OF EACH TECHNOLOGY FOR THE FIRST EIGHT MEGAWATTS PHASE, AND, IN EACH OF THE FOLLOWING FOUR PHASES OF TEN, TWELVE, FOURTEEN AND SIXTEEN MEGAWATTS, THE TOTAL INCENTIVE SHALL BE FIFTY, FORTY, THIRTY, AND TWENTY PERCENT OF SUCH INSTALLED COST, PROVIDED THAT AT NO TIME SHALL THE TOTAL INCENTIVE FOR ANY PROJECT EXCEED THREE DOLLARS PER WATT; AND

(C) THE DEVELOPMENT OF CLEAN ENERGY TECHNOLOGIES IN ITS SERVICE TERRITORY THROUGH A COMPETITIVE AUCTION OR SOLICITATION PROGRAM FOR THE PURPOSE OF SUPPLYING ELECTRICITY TO CONSUMERS THROUGH THE TRANSMISSION AND DISTRIBUTION SYSTEM. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY SHALL ESTABLISH A COMPETITIVE PROGRAM TO PROVIDE PER-KILOWATT-HOUR INCENTIVES TO BIDDERS THAT PROVIDE SUBSTANTIAL PROOF OF INTENT AND ABILITY TO BUILD CLEAN ENERGY TECHNOLOGY PROJECTS AND REQUIRE THE LOWEST AMOUNT OF INCENTIVE OVER A PERIOD OF FIVE YEARS. FOLLOWING THE ESTABLISHMENT OF THIS PROGRAM, THE AUTHORITY SHALL ISSUE A REQUEST FOR LETTERS OF INTENT TO BID EVERY SIX MONTHS UNTIL ALL MONIES ALLOCATED TO CLEAN ENERGY TECHNOLOGIES HAVE BEEN INVESTED. IN DETERMINING THE AMOUNT OF INCENTIVE OR GRANT AWARDED UNDER THE AUCTION OR SOLICITATION PROCESS IN THIS CLAUSE, THE AUTHORITY SHALL TAKE INTO CONSIDERATION ANY REVENUES LIKELY TO BE RECEIVED BY THE RECIPIENT UNDER THE

CLEAN ENERGY REQUIREMENT ESTABLISHED BY SUBDIVISION FOUR OF THIS SECTION.

(III) ALL MONIES COLLECTED FROM THE CLEAN ENERGY CONTRIBUTION SHALL BE FULLY INVESTED. HOWEVER, THE PERCENT ALLOCATIONS PURSUANT TO SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH MAY BE ACHIEVED ON AN AVERAGE BASIS OVER A ROLLING PERIOD OF UP TO FIVE YEARS.

3. CLEAN DISTRIBUTED ENERGY RESOURCES. (A) ALL CUSTOMERS RECEIVING DISTRIBUTION SERVICES FROM THE AUTHORITY SHALL BE ALLOWED TO INTERCONNECT CLEAN ENERGY TECHNOLOGIES INSTALLED AT THEIR PREMISES TO THE ELECTRIC DISTRIBUTION SYSTEM. WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY SHALL ISSUE REGULATIONS IMPLEMENTING THIS REQUIREMENT, INCLUDING ADOPTION OF TECHNICAL INTERCONNECTION STANDARDS AND INTERCONNECTION CONTRACTS WHICH SHALL:

(I) PROVIDE FOR EXPEDITIOUS INTERCONNECTION;

(II) ALLOW A MAXIMUM INTERCONNECT CHARGE OF THIRTY-FIVE DOLLARS PER KILOWATT FOR EACH KILOWATT GREATER THAN TEN KILOWATTS FOR SYSTEMS GREATER THAN TEN KILOWATTS AND LESS THAN ONE HUNDRED TWENTY-FIVE KILOWATTS IN RATED CAPACITY AND, FOR SYSTEMS THAT ARE TEN KILOWATTS OR LESS, PROHIBIT ANY CHARGE OR PAYMENT FOR INTERCONNECTION;

(III) PROVIDE FOR UNIFORM TECHNICAL INTERCONNECTION REQUIREMENTS TO ENSURE SAFETY AND RELIABILITY THAT ARE CONSISTENT TO THE MAXIMUM EXTENT PRACTICABLE WITH STATEWIDE STANDARDS AND NATIONAL STANDARDS SUCH AS THOSE PROMULGATED BY RECOGNIZED NATIONAL ORGANIZATIONS INCLUDING THE INSTITUTE FOR ELECTRICAL AND ELECTRONIC ENGINEERS AND THE NATIONAL ELECTRIC CODE, EXCEPT WHERE THE AUTHORITY DETERMINES, AFTER A PUBLIC HEARING, THAT SPECIFIC REGIONAL OR STATEWIDE SAFETY AND RELIABILITY CONDITIONS JUSTIFY TEMPORARY DEVIATION FROM THE NATIONAL STANDARDS UNTIL CONSISTENCY CAN BE ACHIEVED; AND

(IV) ENSURE THAT INTERCONNECTION CONTRACTS ARE CONSUMER FRIENDLY, BRIEF AND FOR SYSTEMS UNDER ONE HUNDRED TWENTY-FIVE KILOWATTS; INCLUDE NO INDEMNIFICATION REQUIREMENTS; AND REQUIRE NO MORE THAN ONE HUNDRED THOUSAND DOLLARS OF HOMEOWNERS INSURANCE COVERAGE FOR RESIDENTIAL CUSTOMERS AND NO MORE THAN FIVE HUNDRED THOUSAND DOLLARS OF INSURANCE COVERAGE FOR COMMERCIAL CUSTOMERS.

(B) WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY SHALL ISSUE REGULATIONS FOR ITS DISTRIBUTION SYSTEM THAT MINIMIZE THE LONG-TERM COSTS OF PROVIDING RELIABLE DISTRIBUTION SERVICE, REMOVE BARRIERS TO COST-EFFECTIVE INVESTMENTS IN CLEAN DISTRIBUTED ENERGY RESOURCES AS ALTERNATIVES TO DISTRIBUTION INVESTMENTS, AND REMOVE THE LINKAGE BETWEEN THE TOTAL ENERGY DISTRIBUTED AND THE RECOVERY OF DISTRIBUTION AND OTHER FIXED COSTS. WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY SHALL COMMENCE THE COLLECTION OF DISTRIBUTION COST DATA NECESSARY TO ACCURATELY EVALUATE ALTERNATIVES TO TRADITIONAL INFRASTRUCTURE INVESTMENTS.

(C) THE FIRST TWO HUNDRED MEGAWATTS OF CLEAN ENERGY TECHNOLOGIES INSTALLED AT A CUSTOMER PREMISES, WITH A LIMIT OF ONE HUNDRED TWENTY-FIVE KILOWATTS PER CUSTOMER ACCOUNT, SHALL BE EXEMPT FROM ANY EXIT FEES OR ANY SPECIAL METER FEES CHARGED BY THE AUTHORITY. IN ADDITION, THE AUTHORITY SHALL NOT LEVY A CHARGE FOR BACKUP OR STANDBY ENERGY OR CAPACITY TO CUSTOMERS WHO INSTALL AND USE CLEAN DISTRIBUTED ENERGY RESOURCES, RATED AT ONE HUNDRED TWENTY-FIVE KILOWATTS OR LESS, ON THEIR PREMISES UNTIL THE AUTHORITY COMPLETES A STUDY ACCURATELY DETERMINING THE COST OF BACKUP SERVICE, AN EVALUATION OF THE FULL RANGE OF BENEFITS SUCH TECHNOLOGIES PROVIDE TO THE TRANSMISSION AND DISTRIBUTION SYSTEM AND ACCURATELY CREDIT CUSTOMERS FOR THESE BENEFITS.

4. CLEAN ENERGY DEVELOPMENT. (A) WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY SHALL ADOPT A CLEAN ENERGY REQUIREMENT THAT ENSURES THAT, NOT LATER THAN JULY FIRST, TWO THOUSAND TWELVE, NO LESS THAN ONE-HALF OF ONE PERCENT OF THE ENERGY IT HAS SUPPLIED TO EACH CUSTOMER IN THE PREVIOUS TWELVE MONTH PERIOD WAS GENERATED USING CLEAN ENERGY TECHNOLOGIES. THE AUTHORITY SHALL INCREASE THE CLEAN ENERGY REQUIREMENT BY ONE-HALF OF ONE PERCENT ANNUALLY ON JULY FIRST EACH YEAR THEREAFTER, UNTIL THE AMOUNT OF ENERGY REQUIRED FROM CLEAN ENERGY TECHNOLOGIES REACHES SIX PERCENT. ONCE THE AMOUNT OF ENERGY SUPPLIED TO CUSTOMERS FROM CLEAN ENERGY TECHNOLOGIES REACHES SIX PERCENT, THE REQUIREMENT SHALL BE INCREASED BY ONE PERCENT EACH YEAR THEREAFTER UNTIL THE AMOUNT OF ENERGY REQUIRED FROM CLEAN ENERGY TECHNOLOGIES REACHES TEN PERCENT OR SUCH LATER DATE AS THE AUTHORITY SHALL DETERMINE; PROVIDED, HOWEVER, THAT THE AUTHORITY SHALL NOT DECREASE THE REQUIRED PERCENTAGE AT ANY TIME.

(B) NOT LATER THAN JANUARY FIRST, TWO THOUSAND TEN, THE AUTHORITY SHALL ESTABLISH AN ENVIRONMENTAL DISCLOSURE PROGRAM CONSISTENT WITH THE PUBLIC SERVICE COMMISSION'S ENVIRONMENTAL DISCLOSURE PROGRAM. IN IMPLEMENTING THE CLEAN ENERGY REQUIREMENT, THE AUTHORITY SHALL ENSURE THAT INFORMATION PROVIDED TO CUSTOMERS CONCERNING CLEAN ENERGY TECHNOLOGIES IS CLEAR AND UNDERSTANDABLE, AND SHALL CONSIDER WHETHER IT IS APPROPRIATE TO INDICATE ON ALL DISCLOSURE LABELS THE MINIMUM PERCENTAGE OF ENERGY REQUIRED FROM CLEAN ENERGY TECHNOLOGIES PURSUANT TO THIS SECTION.

(C) THE AUTHORITY MAY SATISFY THE REQUIREMENTS OF THIS SUBDIVISION BY ENTERING INTO CONVERSION TRANSACTIONS ESTABLISHED PURSUANT TO THE PUBLIC SERVICE COMMISSION'S ENVIRONMENTAL DISCLOSURE PROGRAM OR SUCH OTHER TRADING PROGRAM THAT THE AUTHORITY MAY ESTABLISH OR CHOOSE TO PARTICIPATE IN. THE AUTHORITY SHALL BE ABLE TO BANK CREDITS FOR CLEAN ENERGY SUPPLIED IN EXCESS OF REQUIREMENTS FOR A PERIOD OF TWO YEARS AND MAY DEMONSTRATE COMPLIANCE WITHIN THREE MONTHS OF THE END OF THE CALENDAR YEAR IN ORDER TO ALLOW FOR COMPLIANCE VIA CONVERSION TRANSACTIONS OR A TRADING PROGRAM.

5. ADVISORY PANEL. THE AUTHORITY SHALL ESTABLISH AND REGULARLY CONVENE AN ADVISORY COMMITTEE COMPRISED OF THE CHAIRMAN OF THE AUTHORITY SERVING AS AN EX OFFICIO MEMBER; SEVEN MEMBERS APPOINTED BY THE AUTHORITY ONE MEMBER TO BE APPOINTED TO BE REPRESENTATIVE OF EACH OF THE FOLLOWING CUSTOMER CLASSIFICATIONS: RESIDENTIAL, LOW-INCOME RESIDENTIAL, SMALL COMMERCIAL, LARGE COMMERCIAL/INDUSTRIAL, AGRICULTURAL, AND CONSUMERS RESIDING IN LOAD POCKETS; AND FOUR MEMBERS APPOINTED BY THE AUTHORITY TO REPRESENT EACH OF THE FOLLOWING AREAS OF EXPERTISE: ENVIRONMENTAL PROTECTION, CLEAN ENERGY TECHNOLOGIES, AND ENERGY EFFICIENCY. THE APPOINTED MEMBERS OF THE COMMITTEE SHALL HAVE NO DIRECT FINANCIAL INTEREST IN THE ALLOCATION OF THE MONIES FROM THE CLEAN ENERGY CONTRIBUTION. THE AUTHORITY, IN CONSULTATION WITH THE ADVISORY COMMITTEE, SHALL ESTABLISH EVALUATION PROTOCOLS TO JUDGE THE SUCCESS OF THE INITIATIVE, AND SHALL PERIODICALLY CONTRACT FOR INDEPENDENT REVIEW OF FUND MANAGEMENT.

6. REPORTING. ON OR BEFORE JULY FIRST, TWO THOUSAND ELEVEN AND ANNUALLY THEREAFTER, THE AUTHORITY SHALL ISSUE A REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY IDENTIFYING THE BUDGET BALANCE, PROJECTED REVENUES AND EXPENDITURES, PROGRAM ACHIEVEMENTS AND ALL OTHER RELEVANT INFORMATION RELATING TO THE IMPLEMENTATION OF THIS SECTION.

S 9. Section 1854 of the public authorities law is amended by adding a new subdivision 18 to read as follows:

18. TO ADMINISTER THE CLEAN ENERGY FUND ESTABLISHED PURSUANT TO SECTION EIGHTEEN HUNDRED FIFTY-FOUR-E OF THIS TITLE.

S 10. The public authorities law is amended by adding a new section 1854-e to read as follows:

S 1854-E. CLEAN ENERGY FUND. 1. FOR PURPOSES OF THIS SECTION:

(A) "CLEAN ENERGY TECHNOLOGIES" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW.

(B) "ENERGY EFFICIENCY" SHALL HAVE THE SAME DEFINITION SET FORTH IN SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW.

(C) "LOAD POCKET" MEANS A GEOGRAPHIC AREA IN WHICH ELECTRICITY DEMAND SOMETIMES EXCEEDS LOCAL GENERATION CAPABILITY AND IN WHICH THERE IS AN ELECTRICITY IMPORT LIMITATION AS A RESULT OF TRANSMISSION CONSTRAINTS.

2. THE AUTHORITY SHALL ESTABLISH A CLEAN ENERGY FUND FOR MONIES RECEIVED FROM ELECTRIC DISTRIBUTION COMPANIES PURSUANT TO SECTION SIXTY-SIX-M OF THE PUBLIC SERVICE LAW. THE AUTHORITY SHALL INVEST SUCH FUNDS IN ACCORDANCE WITH THE FOLLOWING PROVISIONS:

(A) SEVENTY PERCENT OF SUCH MONIES SHALL BE INVESTED IN ENERGY EFFICIENCY FOR CONSUMERS IN THE FOLLOWING CATEGORIES: RESIDENTIAL, LOW-INCOME, RESIDENTIAL, COMMERCIAL, INDUSTRIAL, AGRICULTURAL, EDUCATIONAL AND HEALTH CARE. THIRTY PERCENT OF THE ENERGY EFFICIENCY INVESTMENTS REQUIRED PURSUANT TO THIS PARAGRAPH SHALL BE TARGETED FOR LOW-INCOME RESIDENTIAL AND MULTI-FAMILY ENERGY EFFICIENCY PROGRAMS AND SHALL BE DELIVERED IN CONJUNCTION WITH THE STATEWIDE LOW-INCOME WEATHERIZATION ASSISTANCE PROGRAM NETWORK OF LOCAL PROVIDERS.

(B) THIRTY PERCENT OF SUCH MONIES SHALL BE INVESTED IN CLEAN ENERGY TECHNOLOGIES. THESE FUNDS SHALL BE UTILIZED BY THE AUTHORITY, FOR AMONG OTHER THINGS, TO SUPPORT:

(I) RESEARCH, DEVELOPMENT AND DEMONSTRATION OF CLEAN ENERGY TECHNOLOGIES;

(II) THE INSTALLATION, AT CUSTOMERS' PREMISES, OF AT LEAST THREE HUNDRED MEGAWATTS OF CLEAN ENERGY TECHNOLOGIES IN THE STATE THROUGH A BUYDOWN PROGRAM, INCLUDING INSTALLATIONS AT FARMS, AND IN LOW-INCOME RESIDENTIAL AND MULTI-FAMILY BUILDINGS. ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, THE AUTHORITY SHALL IMPLEMENT A PROGRAM PURSUANT TO THE TERMS OF THIS SUBPARAGRAPH. THE INCENTIVE LEVEL OFFERED BY THIS PROGRAM, IN COMBINATION WITH ANY OTHER FEDERAL, STATE OR LOCAL INCENTIVE THAT THE CUSTOMER RECEIVES, SHALL BE SIXTY PERCENT OF THE INSTALLED COST OF EACH TECHNOLOGY FOR THE FIRST FORTY MEGAWATTS PHASE, AND, IN EACH OF THE FOLLOWING FOUR PHASES OF FIFTY, SIXTY, SEVENTY, AND EIGHTY MEGAWATTS, THE TOTAL INCENTIVE SHALL BE FIFTY, FORTY, THIRTY, AND TWENTY PERCENT OF SUCH INSTALLED COST, PROVIDED THAT AT NO TIME SHALL THE TOTAL INCENTIVE FOR ANY PROJECT EXCEED THREE DOLLARS PER WATT; AND

(III) THE DEVELOPMENT OF CLEAN ENERGY TECHNOLOGIES IN THE STATE THROUGH A COMPETITIVE AUCTION OR SOLICITATION PROGRAM AT THE WHOLESALE LEVEL FOR THE PURPOSE OF SUPPLYING ELECTRICITY TO CONSUMERS THROUGH THE TRANSMISSION AND DISTRIBUTION SYSTEM. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY SHALL ESTABLISH A COMPETITIVE PROGRAM TO PROVIDE PER-KILOWATT-HOUR INCENTIVES TO BIDDERS THAT PROVIDE SUBSTANTIAL PROOF OF INTENT AND ABILITY TO BUILD CLEAN ENERGY TECHNOLOGY PROJECTS AND REQUIRE THE LOWEST AMOUNT OF INCENTIVE OVER A PERIOD OF FIVE YEARS. FOLLOWING THE ESTABLISHMENT OF THIS PROGRAM, THE AUTHORITY SHALL ISSUE A REQUEST FOR LETTERS OF INTENT TO BID EVERY SIX MONTHS UNTIL ALL MONIES ALLOCATED TO CLEAN ENERGY TECHNOLOGIES HAVE BEEN INVESTED. IN DETERMINING THE AMOUNT OF INCENTIVE OR GRANT AWARDED UNDER THE AUCTION OR SOLICITATION PROCESS IN THIS SUBPARAGRAPH, THE AUTHORITY SHALL TAKE INTO CONSIDERATION ANY REVENUES LIKELY TO BE RECEIVED BY THE RECIPIENT UNDER THE CLEAN ENERGY REQUIREMENT ESTABLISHED BY SECTION SIXTY-SIX-O OF THE PUBLIC SERVICE LAW.

(C) TWENTY-FIVE PERCENT OF THE SUM OF MONIES ALLOCATED IN PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION SHALL BE MADE AVAILABLE TO DEVELOP TARGETED PROGRAMS (UTILIZING ENERGY EFFICIENCY, LOW-INCOME ENERGY EFFICIENCY, CLEAN ENERGY TECHNOLOGIES AND AIR CONDITIONING EQUIPMENT THAT UTILIZES STEAM OR NATURAL GAS) THAT ASSIST ELECTRIC DISTRIBUTION COMPANIES AND DISTRIBUTED RESOURCE PROVIDERS TO ADDRESS THE NEEDS OF LOAD POCKETS THAT HAVE SUSTAINED OUT-OF-MERIT ORDER DISPATCH FOR RELIABILITY REASONS, PROVIDED THAT THE ELECTRIC DISTRIBUTION COMPANY FUNDS AT LEAST THIRTY PERCENT OF THE COST OF SUCH TARGETED PROGRAMS.

(D) ALL MONIES IN THE FUND SHALL BE INVESTED. HOWEVER, THE PERCENT ALLOCATIONS IN PARAGRAPHS (A), (B) AND (C) OF THIS SUBDIVISION MAY BE ACHIEVED ON AN AVERAGE BASIS OVER A ROLLING PERIOD OF UP TO FIVE YEARS.

3. THE AUTHORITY SHALL ESTABLISH AND REGULARLY CONVENE AN ADVISORY COMMITTEE COMPRISED OF THE CHAIRMAN OF THE AUTHORITY, THE CHAIRMAN OF THE PUBLIC SERVICE COMMISSION AND THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR THEIR DESIGNEES, SERVING AS EX OFFICIO MEMBERS; AND THE CHAIRMAN OF THE AUTHORITY SHALL APPOINT ONE REPRESENTATIVE FROM EACH OF THE FOLLOWING CUSTOMER CLASSIFICATIONS: RESIDENTIAL, LOW-INCOME RESIDENTIAL, SMALL COMMERCIAL, LARGE COMMERCIAL/INDUSTRIAL, AGRICULTURAL, AND CONSUMERS RESIDING IN LOAD POCKETS; ONE INDIVIDUAL REPRESENTING THE ELECTRIC DISTRIBUTION COMPANIES; ONE INDIVIDUAL REPRESENTING THE ENERGY SERVICE COMPANIES; AND ONE INDIVIDUAL REPRESENTING EACH OF THE FOLLOWING AREAS OF EXPERTISE: ENVIRONMENTAL PROTECTION, CLEAN ENERGY TECHNOLOGIES AND ENERGY EFFICIENCY. THE APPOINTED MEMBERS OF THE COMMITTEE SHALL HAVE NO DIRECT FINANCIAL INTEREST IN THE ALLOCATION OF THE MONIES IN THE CLEAN ENERGY FUND. THE AUTHORITY, IN CONSULTATION WITH THE ADVISORY COMMITTEE, SHALL ESTABLISH EVALUATION PROTOCOLS TO JUDGE THE SUCCESS OF THE CLEAN ENERGY FUND, AND SHALL PERIODICALLY CONTRACT FOR INDEPENDENT REVIEW OF FUND MANAGEMENT.

4. ON OR BEFORE JULY FIRST, TWO THOUSAND ELEVEN AND ANNUALLY THEREAFTER, THE AUTHORITY SHALL ISSUE A REPORT TO THE PUBLIC SERVICE COMMISSION, THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY IDENTIFYING THE CLEAN ENERGY FUND BALANCE, PROJECTED REVENUES AND EXPENDITURES, PROGRAM ACHIEVEMENTS, AND ALL OTHER RELEVANT INFORMATION.

S 11. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 12. This act shall take effect immediately, provided that sections two and three of this act shall apply to taxable years beginning on or after January 1, 2011.