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

3583

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. BRENNAN, ORTIZ -- Multi-Sponsored by -- M. of A. COLTON, ENGLEBRIGHT, JACOBS, McENENY, SWEENEY -- read once and referred to the Committee on Energy

AN ACT to amend the public authorities law, in relation to providing that the power authority of the state of New York undertake and administer energy conservation, cogeneration and load management programs for public corporation customers

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

Section 1. Legislative findings and declaration. The legislature hereby finds and declares that a reduction in electric energy consumption by the public corporation electric customers of the power authority of the state of New York in the metropolitan area of the city of New York would result in savings to the public, a reduction in the consumption of fuel for electric generation and more efficient use of the power authority's generation resources. The legislature also finds that reduction in demand by such customers would help defer the need for additional generating capacity and that the public interest would be served by granting to the authority broad legislative authority to implement or expand conservation programs, such as but not limited to the authority's 1986 pilot energy conservation program, to all such customers. The legislature therefore declares that the implementation of energy conservation, cogeneration and load management programs on behalf of the public corporation electric customers in the metropolitan area of the city of New York is a matter of vital state concern, and further declares that the power authority of the state of New York is the appropriate entity to implement such programs with the cooperation of its customers.

S 2. The public authorities law is amended by adding a new section 1005-b to read as follows:

S 1005-B. ENERGY CONSERVATION, COGENERATION AND LOAD MANAGEMENT PROGRAMS; PUBLIC CORPORATION CUSTOMERS. NOTWITHSTANDING ANY OTHER

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

LBD05249-01-9

PROVISIONS OF LAW, GENERAL OR SPECIAL, TO THE CONTRARY, THE AUTHORITY SHALL, IN ACCORDANCE WITH THE FOLLOWING PROVISIONS, UNDERTAKE AND ADMINISTER ENERGY CONSERVATION, COGENERATION AND LOAD MANAGEMENT PROGRAMS FOR THE PURPOSE OF REDUCING THE DEMAND FOR AND/OR CONSUMPTION OF ENERGY IN THE BUILDINGS AND FACILITIES OF THE PUBLIC CORPORATION CUSTOMERS OF THE AUTHORITY IN THE METROPOLITAN AREA OF THE CITY OF NEW YORK.

1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CONSERVATION PLAN" MEANS A PROGRAM ESTABLISHED AND ADMINISTERED BY THE AUTHORITY PURSUANT TO THIS SECTION FOR ANY CONSUMER OR CONSUMERS.

(B) "COGENERATION" MEANS THE SIMULTANEOUS OR SEQUENTIAL PRODUCTION OF ELECTRICITY AND/OR USEFUL THERMAL ENERGY.

(C) "CONSUMER" MEANS PUBLIC CORPORATION CUSTOMER.

(D) "ENERGY AUDIT" MEANS A WRITTEN REPORT OF AN ON-SITE EVALUATION OF A BUILDING, FACILITY OR SYSTEM BY A QUALIFIED CONTRACTOR OR AUTHORITY PERSONNEL TO DETERMINE WHETHER AND TO WHAT EXTENT THE IMPLEMENTATION OF ENERGY CONSERVATION MEASURES, COGENERATION FACILITIES AND/OR LOAD MANAGEMENT MEASURES OR PRACTICES WOULD REDUCE ELECTRIC DEMAND AND/OR THE CONSUMPTION OF ENERGY IN SUCH BUILDING, FACILITY, OR SYSTEM.

(E) "FINANCIAL ASSISTANCE" MEANS THE PROVISION OF A GRANT, LOAN, REBATE AND/OR OTHER FINANCIAL INCENTIVE, ASSISTANCE OR ANY COMBINATION OF SUCH ASSISTANCE OR INCENTIVE TO A CONSUMER FOR THE IMPLEMENTATION OF AN ENERGY CONSERVATION MEASURE OR MEASURES, COGENERATION FACILITIES, A LOAD MANAGEMENT MEASURE OR MEASURES, OR THE TECHNICAL ASSISTANCE REQUIRED IN CONNECTION WITH THE SAME.

(F) "PAYBACK PERIOD" MEANS THAT PERIOD OF TIME WITHIN WHICH THE ESTIMATED INITIAL COST OF AN ENERGY CONSERVATION MEASURE, COGENERATION FACILITY OR LOAD MANAGEMENT MEASURE WILL BE RECOVERED THROUGH THE SAVINGS GENERATED BY REDUCED ENERGY DEMAND AND/OR ENERGY CONSUMPTION RESULTING FROM INSTALLATION OF SUCH MEASURE.

(G) "PUBLIC CORPORATION CUSTOMER" MEANS THE METROPOLITAN TRANSPORTATION AUTHORITY, THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, THE CITY OF NEW YORK, THE STATE OF NEW YORK, AND OTHER PUBLIC CORPORATIONS WITHIN THE METROPOLITAN AREAS OF THE CITY OF NEW YORK PURCHASING ELECTRICITY FROM THE AUTHORITY.

(H) "TECHNICAL ASSISTANCE" MEANS ASSISTANCE TO A CONSUMER (I) TO CONDUCT ENERGY AUDITS AND/OR SPECIALIZED STUDIES IDENTIFYING AND SPECIFYING ENERGY SAVINGS AND RELATED COST SAVINGS THAT ARE LIKELY TO BE REALIZED AS A RESULT OF (A) MODIFICATION OF MAINTENANCE AND OPERATING PROCEDURES IN A BUILDING, FACILITY OR SYSTEM, OR (B) THE ACQUISITION AND INSTALLATION OF ONE OR MORE SPECIFIED ENERGY CONSERVATION, COGENERATION AND/OR LOAD MANAGEMENT MEASURES IN SUCH BUILDING, FACILITY OR SYSTEM, OR (C) BOTH, (II) THE PLANNING OR ADMINISTRATION OF SPECIFIC REMODELING, RENOVATION, REPAIR, REPLACEMENT, OR INSULATION PROJECTS RELATED TO THE INSTALLATION OF ENERGY CONSERVATION, COGENERATION AND/OR LOAD MANAGEMENT MEASURES IN SUCH BUILDING, FACILITY OR SYSTEM, AND (III) THE DRAWINGS, SPECIFICATIONS AND REFINED COST ESTIMATES OF ENERGY CONSERVATION AND/OR LOCAL MANAGEMENT MEASURES RECOMMENDED IN THE AUDIT REPORT.

2. CONSERVATION PLAN. (A) AFTER CONSULTATION AND AGREEMENT WITH PUBLIC CORPORATION CUSTOMER REPRESENTATIVES AND THE STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, THE AUTHORITY SHALL ADOPT A CONSERVATION PLAN APPLICABLE, WITH SUCH VARIATIONS AS MAY BE INDIVIDUALLY WARRANTED, TO ELIGIBLE PUBLIC CORPORATION CUSTOMERS, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(B) A CONSERVATION PLAN SHALL BE COST-EFFECTIVE, TAKING INTO ACCOUNT THE ENVIRONMENTAL AND SOCIAL COSTS OF ENERGY USE, AND SHALL PROVIDE FOR

TECHNICAL ASSISTANCE AND/OR FINANCIAL ASSISTANCE TO THE EXTENT NECESSARY AND AVAILABLE FOR THE IMPLEMENTATION OF ENERGY CONSERVATION MEASURES, COGENERATION FACILITIES AND LOAD MANAGEMENT MEASURES.

(C) UPON THE REQUEST OF AN ELIGIBLE PUBLIC CORPORATION CUSTOMER OR UTILITY THE AUTHORITY MAY, IN ITS SOLE DISCRETION, GRANT AN EXCEPTION TO THE ELIGIBLE PUBLIC CORPORATION CUSTOMER FROM ANY OF THE REQUIREMENTS OF A CONSERVATION PLAN UPON A SHOWING THAT COMPLIANCE IS NOT TECHNICALLY FEASIBLE OR WOULD RESULT IN SEVERE ECONOMIC HARDSHIP.

(D) A CONSERVATION PLAN SHALL CONTAIN PROVISIONS SETTING FORTH THE EFFECTIVE DATE AND TERM OF THE PLAN, THE CLASS OF CONSUMERS ELIGIBLE TO PARTICIPATE, THE MAXIMUM ANNUAL EXPENDITURES ASSOCIATED WITH IMPLEMENTATION OF THE PLAN, THE PAYBACK PERIODS FOR THE ENERGY CONSERVATION, COGENERATION AND/OR LOAD MANAGEMENT MEASURES PROVIDED FOR IN THE PLAN, THE TYPE OF TECHNICAL AND/OR FINANCIAL ASSISTANCE TO BE OFFERED UNDER THE PLAN, THE FINANCIAL AND/OR OTHER REQUIREMENTS WHICH A CONSUMER MUST MEET TO QUALIFY FOR SUCH ASSISTANCE, THE TOTAL AMOUNT OF FUNDS AVAILABLE FOR TECHNICAL AND/OR FINANCIAL ASSISTANCE UNDER THE CONSERVATION PLAN, AND SUCH OTHER INFORMATION AND CRITERIA AS SHALL BE REQUIRED TO IMPLEMENT THE PLAN.

(E) WHERE THE AUTHORITY DEEMS IT APPROPRIATE AND ADVISABLE TO PROVIDE TECHNICAL ASSISTANCE TO A CONSUMER, THE AUTHORITY SHALL ARRANGE FOR THE APPROPRIATE AUTHORITY PERSONNEL, OR FOR ONE OR MORE QUALIFIED CONTRACTORS, TO PROVIDE SUCH ASSISTANCE TO THE CONSUMER. ALTERNATIVELY, IF THE AUTHORITY DEEMS IT PREFERABLE, THE AUTHORITY MAY PROVIDE SUCH FINANCIAL ASSISTANCE TO THE CONSUMER AS MAY BE NECESSARY FOR THE CONSUMER TO PROCURE, ON ITS OWN, SUCH ASSISTANCE FROM A QUALIFIED CONTRACTOR OR CONTRACTORS APPROVED BY THE AUTHORITY.

(F) THE AUTHORITY SHALL ESTABLISH SUCH GUIDELINES, PROCEDURES AND CRITERIA AS IT SHALL DEEM APPROPRIATE AND ADVISABLE TO IMPLEMENT A CONSERVATION PLAN IN AN EFFECTIVE AND EFFICIENT MANNER.

3. MAXIMUM PROGRAM EXPENDITURES. THE AUTHORITY SHALL SET LIMITS ON ANNUAL PROGRAM EXPENDITURES FOR TECHNICAL AND FINANCIAL ASSISTANCE TO BE AVAILABLE IN THE CONSERVATION PLAN OR PLANS ESTABLISHED PURSUANT TO THIS SECTION.

4. PROGRAM COSTS, RECOVERY. THE AUTHORITY IS AUTHORIZED TO RECOVER, AS AN ADDITIONAL COST OF SERVICE FROM PUBLIC CORPORATION CUSTOMERS ALL COSTS RELATED TO THE ADMINISTRATION AND PROMOTION OF THE RESPECTIVE PROGRAMS AND THE PROVISIONS TO CUSTOMERS OF TECHNICAL ASSISTANCE AND FINANCIAL ASSISTANCE INCLUDING THE COSTS TO THE AUTHORITY OF ADVANCING FUNDS PENDING REIMBURSEMENT.

5. RULES AND REGULATIONS. THE AUTHORITY SHALL ISSUE SUCH ORDERS, RULES AND REGULATIONS AS MAY BE NECESSARY OR APPROPRIATE FOR INTERPRETATION, IMPLEMENTATION OR ADMINISTRATION OF THIS SECTION, INCLUDING CRITERIA RELATING TO INSTALLATION OF ENERGY CONSERVATION, COGENERATION OR LOAD MANAGEMENT MEASURES, AFTER CONSULTATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, THE PUBLIC SERVICE COMMISSION AND THE NEW YORK STATE FIRE PREVENTION AND BUILDING CODE COUNCIL.

6. REPORTS. THE AUTHORITY SHALL REPORT IN ITS ANNUAL REPORT REGARDING THE PROGRESS OF THE IMPLEMENTATION OF THIS SECTION. SUCH REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE EFFECT OF THIS SECTION ON THE CONSERVATION OF ENERGY BY CONSUMERS, THE SPECIFIC TYPES OF PROGRAMS BEING CONDUCTED FOR SUCH CONSUMERS, THE COST SAVINGS TO SUCH CONSUMERS, AND ANY PROBLEMS ENCOUNTERED WITH THE IMPLEMENTATION OF THIS SECTION.

S 3. This act shall take effect immediately.