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I N S E N A T E

June 4, 2010

Introduced by Sens. AUBERTINE, MAZIARZ, BRESLIN, FOLEY, GRIFFO, C. JOHNSON, VALESKY -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the economic development law and the public authorities law, in relation to the creation of the energize New York power program; and to amend the economic development law, the public authorities law, the tax law, chapter 316 of the laws of 1997 amending the public authorities law and other laws relating to the provision of low cost power to foster statewide economic development, and chapter 645 of the laws of 2006 amending the economic development law and other laws relating to reauthorizing the New York power authority to make contributions to the general fund, in relation to extending the expiration of the power for jobs program and the energy cost savings benefit program; and to repeal subdivision 16 of section 1005 of the public authorities law relating to energy audits

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "energize New York power program act."
3 S 2. The economic development law is amended by adding a new section
4 188-a to read as follows:
5 S 188-A. ENERGIZE NEW YORK POWER PROGRAM. (A) DEFINITIONS. FOR THE
6 PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING
7 MEANINGS:
8 (1) "APPLICABLE CRITERIA" SHALL MEAN THE CRITERIA SPECIFIED IN SUBDI-
9 VISION (C) OF THIS SECTION.
10 (2). "AUTHORITY" SHALL MEAN THE POWER AUTHORITY OF THE STATE OF NEW
11 YORK.
12 (3) "ENERGIZE NEW YORK POWER ALLOCATION" OR "ALLOCATION" SHALL MEAN AN
13 ALLOCATION OF ENERGIZE NEW YORK POWER BY THE POWER AUTHORITY OF THE
14 STATE OF NEW YORK PURSUANT TO SECTION ONE THOUSAND FIVE OF THE PUBLIC
15 AUTHORITIES LAW TO AN ELIGIBLE APPLICANT RECOMMENDED BY THE NEW YORK

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

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1 STATE ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD IN ACCORDANCE WITH
2 THIS SECTION.

3 (4) "ELIGIBLE APPLICANT" SHALL MEAN AN ELIGIBLE BUSINESS, ELIGIBLE
4 SMALL BUSINESS, OR ELIGIBLE NOT-FOR-PROFIT CORPORATION AS DEFINED IN
5 THIS SECTION, PROVIDED HOWEVER, THAT AN ELIGIBLE APPLICANT SHALL NOT
6 INCLUDE RETAIL BUSINESSES AS DEFINED BY THE BOARD, INCLUDING, WITHOUT
7 LIMITATION, SPORTS VENUES, GAMING OR ENTERTAINMENT-RELATED ESTABLISH-
8 MENTS OR PLACES OF OVERNIGHT ACCOMMODATION.

9 (5) "ELIGIBLE BUSINESS" SHALL MEAN A BUSINESS OTHER THAN A
10 NOT-FOR-PROFIT CORPORATION WHICH NORMALLY UTILIZES A MINIMUM PEAK ELEC-
11 TRIC DEMAND IN EXCESS OF FOUR HUNDRED KILOWATTS.

12 (6) "ELIGIBLE NOT-FOR-PROFIT CORPORATION" SHALL MEAN A CORPORATION
13 DEFINED IN SUBDIVISION FIVE OF SECTION ONE HUNDRED TWO OF THE
14 NOT-FOR-PROFIT CORPORATION LAW.

15 (7) "ELIGIBLE SMALL BUSINESS" SHALL MEAN A BUSINESS OTHER THAN A NOT-
16 FOR-PROFIT CORPORATION WHICH NORMALLY UTILIZES A MINIMUM PEAK ELECTRIC
17 DEMAND EQUAL TO OR LESS THAN FOUR HUNDRED KILOWATTS.

18 (8) "ENERGIZE NEW YORK POWER" SHALL MEAN AND CONSIST OF EQUAL AMOUNTS
19 OF (I) UP TO FOUR HUNDRED FIFTY-FIVE MEGAWATTS OF FIRM HYDROELECTRIC
20 POWER FROM THE NIAGARA AND SAINT LAWRENCE HYDROELECTRIC PROJECTS TO BE
21 WITHDRAWN FROM UTILITY CORPORATIONS THAT, PRIOR TO THE EFFECTIVE DATE OF
22 THIS SECTION, PURCHASED SUCH POWER FOR THE BENEFIT OF THEIR DOMESTIC AND
23 RURAL CONSUMERS ("ENERGIZE NEW YORK HYDROPOWER"), AND (II) POWER
24 PROCURED BY THE AUTHORITY THROUGH A COMPETITIVE PROCUREMENT PROCESS,
25 AUTHORITY SOURCES (OTHER THAN THE NIAGARA AND SAINT LAWRENCE PROJECTS)
26 OR THROUGH AN ALTERNATE METHOD ("ENERGIZE NEW YORK MARKET POWER").

27 (B) APPLICATIONS FOR ENERGIZE NEW YORK POWER ALLOCATIONS. (1) THE
28 BOARD MAY SOLICIT APPLICATIONS FOR ENERGIZE NEW YORK POWER ALLOCATIONS
29 UNDER THE PROGRAM CREATED BY THIS SECTION BY PUBLIC NOTICE BEGINNING NO
30 LATER THAN JANUARY THIRTY-FIRST, TWO THOUSAND ELEVEN. SUCH NOTICE MAY
31 INCLUDE NEWSPAPER ADVERTISEMENTS, PRESS RELEASES, WEBSITE POSTINGS,
32 PAPER OR ELECTRONIC MAILING, AND/OR SUCH OTHER FORM OF NOTICE AS THE
33 BOARD FINDS APPROPRIATE IN CONSULTATION WITH THE AUTHORITY.

34 (2) APPLICATIONS FOR ENERGIZE NEW YORK POWER ALLOCATIONS SHALL BE IN
35 THE FORM AND CONTAIN SUCH INFORMATION, EXHIBITS AND SUPPORTING DATA AS
36 THE BOARD PRESCRIBES IN CONSULTATION WITH THE AUTHORITY. A COPY OF EACH
37 APPLICATION RECEIVED SHALL BE MADE AVAILABLE FOR REVIEW BY EACH BOARD
38 MEMBER, AND A COPY SHALL BE PROVIDED TO THE AUTHORITY.

39 (3) AN APPLICANT WHO IS ALSO A RECIPIENT OF BENEFITS UNDER ANOTHER
40 POWER PROGRAM OF THE AUTHORITY SHALL BE ELIGIBLE TO APPLY FOR AN ALLO-
41 CATION UNDER THE ENERGIZE NEW YORK POWER PROGRAM ONLY IF IT IS IN
42 SUBSTANTIAL COMPLIANCE WITH ITS CONTRACTUAL COMMITMENTS MADE IN
43 CONNECTION WITH SUCH OTHER PROGRAM, PROVIDED HOWEVER THAT AN APPLICANT
44 SHALL NOT RECEIVE AN ENERGIZE NEW YORK POWER ALLOCATION AND ANY OTHER
45 AUTHORITY POWER PROGRAM BENEFITS WITH RESPECT TO THE SAME QUANTITY OF
46 ELECTRICITY CONSUMED AT A FACILITY.

47 (4) SUBJECT TO CONFIDENTIALITY REQUIREMENTS, UPON RECEIPT OF EACH
48 APPLICATION FROM THE BOARD, THE AUTHORITY SHALL PROMPTLY NOTIFY BY ELEC-
49 TRONIC MEANS, INCLUDING WEBSITE POSTINGS AND SUCH OTHER METHODS THE
50 BOARD DEEMS APPROPRIATE IN CONSULTATION WITH THE AUTHORITY, THE GOVER-
51 NOR, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEMBLY,
52 THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE
53 SENATE, AND EACH MEMBER OF THE STATE LEGISLATURE IN WHOSE DISTRICT ANY
54 PORTION OF THE FACILITY FOR WHICH AN ALLOCATION IS REQUESTED IS LOCATED.
55 SUCH NOTICE SHALL PROVIDE THE NAME AND A DESCRIPTION OF THE APPLICANT,
56 AND THE ADDRESS OF THE FACILITY FOR WHICH THE ALLOCATION IS REQUESTED.

1 THE AUTHORITY SHALL ALSO DEVELOP A LISTING WHICH CONTAINS THE NAME AND A
2 DESCRIPTION OF EACH APPLICANT, THE ENERGIZE NEW YORK POWER PROGRAM ALLO-
3 CATION SOUGHT BY EACH APPLICANT, AND THE ADDRESS OF THE FACILITY FOR
4 WHICH THE APPLICANT REQUESTS THE ALLOCATION, AND SHALL MAKE THE LISTING
5 AVAILABLE FOR PUBLIC REVIEW ON THE AUTHORITY'S WEBSITE.

6 (C) REVIEW, APPLICABLE CRITERIA AND RECOMMENDATIONS. (1) THE BOARD
7 SHALL REVIEW APPLICATIONS SUBMITTED UNDER THE ENERGIZE NEW YORK POWER
8 PROGRAM. THE BOARD SHALL MAKE AN INITIAL DETERMINATION OF WHETHER THE
9 APPLICANT IS AN ELIGIBLE APPLICANT. IN THE CASE OF AN ELIGIBLE APPLI-
10 CANT, THE BOARD MAY RECOMMEND TO THE AUTHORITY THAT AN ALLOCATION OF
11 ENERGIZE NEW YORK POWER BE AWARDED TO AN APPLICANT FOR A FACILITY
12 LOCATED IN THE STATE OF NEW YORK BASED ON CONSIDERATION OF THE FOLLOWING
13 CRITERIA WHICH SHALL BE CONSIDERED IN THE AGGREGATE AND NO ONE OF WHICH
14 SHALL BE PRESUMPTIVELY DETERMINATIVE:

15 (I) THE SIGNIFICANCE OF THE COST OF ELECTRICITY TO THE APPLICANT'S
16 OVERALL COST OF DOING BUSINESS, AND THE IMPACT THAT AN ENERGIZE NEW YORK
17 POWER ALLOCATION WILL HAVE ON THE APPLICANT'S OPERATING COSTS;

18 (II) THE EXTENT TO WHICH AN ENERGIZE NEW YORK POWER ALLOCATION WILL
19 RESULT IN NEW CAPITAL INVESTMENT IN THE STATE BY THE APPLICANT;

20 (III) THE EXTENT TO WHICH AN ENERGIZE NEW YORK POWER ALLOCATION IS
21 CONSISTENT WITH STATE, REGIONAL AND LOCAL ECONOMIC DEVELOPMENT STRATE-
22 GIES AND PRIORITIES;

23 (IV) THE TYPE AND COST OF BUILDINGS, EQUIPMENT AND FACILITIES TO BE
24 CONSTRUCTED, ENLARGED OR INSTALLED IF THE APPLICANT WERE TO RECEIVE AN
25 ALLOCATION;

26 (V) THE APPLICANT'S PAYROLL, SALARIES, BENEFITS AND NUMBER OF JOBS AT
27 THE FACILITY FOR WHICH AN ENERGIZE NEW YORK POWER ALLOCATION IS
28 REQUESTED;

29 (VI) THE NUMBER OF JOBS THAT WILL BE CREATED OR RETAINED WITHIN THE
30 STATE IN RELATION TO THE REQUESTED ENERGIZE NEW YORK POWER ALLOCATION,
31 AND THE EXTENT TO WHICH THE APPLICANT WILL AGREE TO COMMIT TO CREATING
32 OR RETAINING SUCH JOBS AS A CONDITION TO RECEIVING AN ENERGIZE NEW YORK
33 POWER ALLOCATION;

34 (VII) WHETHER THE APPLICANT, DUE TO THE COST OF ELECTRICITY, IS AT
35 RISK OF CLOSING OR CURTAILING FACILITIES OR OPERATIONS IN THE STATE,
36 RELOCATING FACILITIES OR OPERATIONS OUT OF THE STATE, OR LOSING A
37 SIGNIFICANT NUMBER OF JOBS IN THE STATE, IN THE ABSENCE OF AN ENERGIZE
38 NEW YORK POWER ALLOCATION;

39 (VIII) THE SIGNIFICANCE OF THE APPLICANT'S FACILITY THAT WOULD RECEIVE
40 THE ENERGIZE NEW YORK POWER ALLOCATION TO THE ECONOMY OF THE AREA IN
41 WHICH SUCH FACILITY IS LOCATED;

42 (IX) THE EXTENT TO WHICH THE APPLICANT HAS INVESTED IN ENERGY EFFI-
43 CIENCY MEASURES, WILL AGREE TO PARTICIPATE IN OR PERFORM ENERGY AUDITS
44 OF ITS FACILITIES, WILL AGREE TO PARTICIPATE IN ENERGY EFFICIENCY
45 PROGRAMS OF THE AUTHORITY, OR WILL COMMIT TO IMPLEMENT OR OTHERWISE MAKE
46 TANGIBLE INVESTMENTS IN ENERGY EFFICIENCY MEASURES AS A CONDITION TO
47 RECEIVING AN ENERGIZE NEW YORK POWER ALLOCATION;

48 (X) THE EXTENT TO WHICH THE APPLICANT'S OPERATIONS ARE CONSISTENT WITH
49 THE POLICIES AND GOALS OF THE STATE ENERGY PLAN;

50 (XI) WHETHER THE APPLICANT RECEIVES BENEFITS UNDER ANY OTHER POWER-RE-
51 LATED PROGRAMS OF THE AUTHORITY;

52 (XII) THE EXTENT TO WHICH AN ENERGIZE NEW YORK POWER ALLOCATION WILL
53 RESULT IN AN ADVANTAGE FOR AN APPLICANT IN RELATION TO THE APPLICANT'S
54 COMPETITORS WITHIN THE STATE; AND

55 (XIII) IN ADDITION TO THE FOREGOING CRITERIA, IN THE CASE OF A
56 NOT-FOR-PROFIT CORPORATION, WHETHER THE APPLICANT PROVIDES CRITICAL

1 SERVICES OR SUBSTANTIAL BENEFITS TO THE LOCAL COMMUNITY IN WHICH THE
2 FACILITY FOR WHICH THE ALLOCATION IS REQUESTED IS LOCATED.

3 (2) A RECOMMENDATION BY THE BOARD THAT THE AUTHORITY PROVIDE AN ENER-
4 GIZE NEW YORK POWER ALLOCATION TO AN ELIGIBLE APPLICANT SHALL INCLUDE,
5 BUT NEED NOT BE LIMITED TO:

6 (I) THE AMOUNT OF THE ENERGIZE NEW YORK POWER ALLOCATION THE BOARD HAS
7 DETERMINED SHOULD BE AWARDED TO SUCH ELIGIBLE APPLICANT, PROVIDED HOWEV-
8 ER, THAT THE BOARD MAY RECOMMEND AN ENERGIZE NEW YORK POWER ALLOCATION
9 IN AN AMOUNT THAT IS LESS THAN THE AMOUNT REQUESTED BY SUCH APPLICANT;

10 (II) AN EFFECTIVE INITIAL TERM OF THE ALLOCATION AND CONTRACT BETWEEN
11 THE ELIGIBLE APPLICANT AND THE AUTHORITY WHICH SHALL NOT EXCEED SEVEN
12 YEARS, PROVIDED HOWEVER THAT THE TERM OF ANY SUCH ALLOCATION AND
13 CONTRACT SHALL NOT BECOME EFFECTIVE BEFORE JULY FIRST, TWO THOUSAND
14 ELEVEN; AND

15 (III) PROVISIONS FOR EFFECTIVE PERIODIC AUDITS OF ELIGIBLE APPLICANTS
16 AWARDED AN ENERGIZE NEW YORK POWER ALLOCATION FOR THE PURPOSE OF DETER-
17 MINING CONTRACT AND PROGRAM COMPLIANCE, AND FOR THE PARTIAL OR COMPLETE
18 WITHDRAWAL OF AN ENERGIZE NEW YORK POWER ALLOCATION IF THE ELIGIBLE
19 APPLICANT FAILS TO MAINTAIN MUTUALLY AGREED UPON COMMITMENTS, RELATING
20 TO, AMONG OTHER THINGS, EMPLOYMENT LEVELS, POWER UTILIZATION, CAPITAL
21 INVESTMENTS, AND/OR ENERGY EFFICIENCY MEASURES.

22 (3) THE BOARD'S RECOMMENDATION SHALL REQUIRE THAT IF THE ACTUAL
23 METERED LOAD AT THE FACILITY WHERE THE ALLOCATION IS UTILIZED IS LESS
24 THAN THE ALLOCATION, SUCH ALLOCATION WILL BE REDUCED ACCORDINGLY,
25 PROVIDED THAT, UNDER THEIR CONTRACTS WITH THE AUTHORITY, ELIGIBLE APPLI-
26 CANTS SHALL BE AFFORDED A REASONABLE PERIOD WITHIN WHICH TO FULLY
27 UTILIZE THE ALLOCATIONS, TAKING INTO ACCOUNT CONSTRUCTION SCHEDULES AND
28 ECONOMIC CONDITIONS. THE AUTHORITY SHALL REALLOCATE ANY WITHDRAWN OR
29 RELINQUISHED POWER FOR THE ENERGIZE NEW YORK POWER PROGRAM CONSISTENT
30 WITH PARAGRAPH FOUR OF THIS SUBDIVISION.

31 (4) THE BOARD MAY BASE ITS RECOMMENDATION ON WHICH ELIGIBLE APPLICANTS
32 IT DETERMINES BEST MEET THE APPLICABLE CRITERIA; PROVIDED, HOWEVER, THAT
33 THE BOARD SHALL DEDICATE ENERGIZE NEW YORK POWER AS FOLLOWS: (I) AT
34 LEAST THREE HUNDRED TWENTY MEGAWATTS FOR USE AT FACILITIES LOCATED WITH-
35 IN THE SERVICE TERRITORIES OF THE UTILITY CORPORATIONS THAT, PRIOR TO
36 THE EFFECTIVE DATE OF THIS SECTION, PURCHASED NIAGARA AND SAINT LAWRENCE
37 HYDROELECTRIC POWER FOR THE BENEFIT OF THEIR DOMESTIC AND RURAL CONSUM-
38 ERS; (II) AT LEAST TWO HUNDRED MEGAWATTS FOR THE PURPOSES OF ATTRACTING
39 NEW BUSINESS TO THE STATE AND ENCOURAGING THE CREATION OF NEW BUSINESS
40 WITHIN THE STATE, FOR ELIGIBLE APPLICANTS THAT WILL COMMIT TO MAKE NEW
41 CAPITAL INVESTMENTS OR CREATE NEW JOBS WITHIN THE STATE; AND (III) AN
42 AMOUNT NOT TO EXCEED ONE HUNDRED MEGAWATTS FOR ELIGIBLE SMALL BUSINESSES
43 AND ELIGIBLE NOT-FOR-PROFIT CORPORATIONS.

44 (5) THE BOARD SHALL ISSUE A WRITTEN STATEMENT OF ITS FINDINGS AND
45 CONCLUSIONS WITH RESPECT TO EVERY APPLICATION AND THE REASONS FOR ITS
46 RECOMMENDATION TO THE AUTHORITY.

47 (6) A RECOMMENDATION FOR AN ENERGIZE NEW YORK POWER ALLOCATION SHALL
48 QUALIFY AN APPLICANT TO ENTER INTO A CONTRACT WITH THE AUTHORITY PURSU-
49 ANT TO THE TERMS AND CONDITIONS OF THE RECOMMENDATION BY THE BOARD AND
50 ON SUCH OTHER TERMS AS THE AUTHORITY DETERMINES TO BE APPROPRIATE.

51 (7) THE BOARD SHALL NOT RECOMMEND A TOTAL OF ENERGIZE NEW YORK POWER
52 ALLOCATIONS IN EXCESS OF NINE HUNDRED TEN MEGAWATTS.

53 (D) THE AUTHORITY SHALL WORK COOPERATIVELY WITH THE DEPARTMENT OF
54 PUBLIC SERVICE TO RECOMMEND TO THE PUBLIC SERVICE COMMISSION REDUCED
55 RATES OR AN EQUIVALENT MECHANISM FOR THE DELIVERY BY UTILITY CORPO-
56 RATIONS OF ENERGIZE NEW YORK POWER PROGRAM ALLOCATIONS. ANY SUCH RECOM-

1 MENDATION FOR REDUCED DELIVERY RATES SHALL BE AT SUCH LEVEL AS TO ALLOW
2 THE UTILITY TO (I) RECOVER THE INCREMENTAL COST OF PROVIDING DELIVERY
3 SERVICE TO SUCH CUSTOMERS, AND (II) CONTRIBUTE TO THE COMMON DELIVERY
4 AND RELATED COSTS WHICH OTHERWISE WOULD BE BORNE BY OTHER CUSTOMERS.

5 (E) THE AUTHORITY SHALL, AT A MINIMUM, REPORT QUARTERLY TO THE BOARD
6 ON THE AVAILABILITY OF ENERGIZE NEW YORK POWER FOR THE SUBSEQUENT
7 TWELVE-MONTH PERIOD, THE AMOUNT OF SUCH POWER ALLOCATED AND OTHER RELE-
8 VANT INFORMATION.

9 (F) AFTER AN AWARD OF AN ENERGIZE NEW YORK POWER ALLOCATION, THE BOARD
10 SHALL ACCEPT REQUESTS FROM ELIGIBLE APPLICANTS WHO ARE IN SUBSTANTIAL
11 COMPLIANCE WITH CONTRACTUAL COMMITMENTS MADE IN CONNECTION WITH THE
12 ENERGIZE NEW YORK POWER PROGRAM FOR AN EXTENSION OF AN EXISTING ALLO-
13 CATION (I) DURING THE TWENTY-FOUR MONTH PERIOD IMMEDIATELY PRECEDING THE
14 EXPIRATION OF THE TERM OF THE ALLOCATION, OR (II) AT SUCH EARLIER TIME
15 WITH THE CONSENT OF THE AUTHORITY IN WRITING. REQUESTS FOR EXTENSIONS
16 SHALL BE REVIEWED USING THE CRITERIA SET FORTH IN PARAGRAPH ONE OF
17 SUBDIVISION (C) OF THIS SECTION.

18 (G) TRANSFERS OF ENERGIZE NEW YORK POWER. NOTWITHSTANDING ANY OTHER
19 APPROVAL REQUIRED BY STATUTE, REGULATION OR CONTRACT, THE TRANSFER OF AN
20 ENERGIZE NEW YORK POWER ALLOCATION TO A DIFFERENT RECIPIENT, TO A
21 DIFFERENT OWNER OR OPERATOR OF A FACILITY, OR TO A DIFFERENT FACILITY IS
22 PROHIBITED UNLESS SPECIFICALLY APPROVED BY THE BOARD AS CONSISTENT WITH
23 THE CRITERIA AND REQUIREMENTS OF THIS SECTION. ANY TRANSFER THAT OCCURS
24 WITHOUT THE BOARD'S APPROVAL SHALL BE INVALID AND SUCH TRANSFER MAY
25 SUBJECT THE RECIPIENT TO REVOCATION OR MODIFICATION OF ITS ALLOCATION
26 AND CONTRACT.

27 (H) (1) THE BOARD, IN CONSULTATION WITH THE AUTHORITY, SHALL SUBMIT TO
28 THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEM-
29 BLY, MINORITY LEADER OF THE SENATE AND MINORITY LEADER OF THE ASSEMBLY
30 AN EVALUATION OF THE EFFECTIVENESS OF THE ENERGIZE NEW YORK POWER
31 PROGRAM. SUCH EVALUATION SHALL FOCUS ON HOW THE PROGRAM HAS AIDED
32 RECIPIENTS OF POWER ALLOCATIONS, AND MAY INCLUDE RECOMMENDATIONS FOR HOW
33 THE PROGRAM CAN BE MADE MORE EFFECTIVE, AND SHALL BE BASED, IN PART, ON
34 THE RELATIVE COSTS OF POWER FOR RECIPIENTS IN COMPARISON TO THE COST OF
35 POWER FOR NON-RECIPIENTS. SUCH EVALUATION SHALL BE SUBMITTED BY DECEM-
36 BER THIRTY-FIRST, TWO THOUSAND FOURTEEN AND BY DECEMBER THIRTY-FIRST
37 EVERY FIVE YEARS THEREAFTER.

38 (2) THE BOARD, WITH ASSISTANCE FROM THE AUTHORITY, SHALL MAINTAIN THE
39 NECESSARY RECORDS AND DATA REQUIRED TO PERFORM SUCH EVALUATION AND
40 RESPOND TO REQUESTS FOR INFORMATION PURSUANT TO ARTICLE SIX OF THE
41 PUBLIC OFFICERS LAW.

42 S 3. Section 1005 of the public authorities law is amended by adding a
43 new subdivision 13-a to read as follows:

44 13-A. ENERGIZE NEW YORK POWER PROGRAM. (A) NOTWITHSTANDING ANY OTHER
45 PROVISION OF LAW TO THE CONTRARY, BUT SUBJECT TO THE TERMS AND CONDI-
46 TIONS OF FEDERAL ENERGY REGULATORY COMMISSION LICENSES, TO ALLOCATE,
47 REALLOCATE OR EXTEND, DIRECTLY OR BY SALE FOR RESALE, UP TO NINE HUNDRED
48 TEN MEGAWATTS OF ENERGIZE NEW YORK POWER TO ELIGIBLE APPLICANTS LOCATED
49 WITHIN THE STATE OF NEW YORK UPON THE RECOMMENDATION OF THE NEW YORK
50 STATE ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD PURSUANT TO SECTION
51 ONE HUNDRED EIGHTY-EIGHT-A OF THE ECONOMIC DEVELOPMENT LAW.

52 (B) ENERGIZE NEW YORK POWER SHALL MEAN AND CONSIST OF EQUAL AMOUNTS OF
53 (1) UP TO FOUR HUNDRED FIFTY-FIVE MEGAWATTS OF FIRM HYDROELECTRIC POWER
54 FROM THE NIAGARA AND SAINT LAWRENCE HYDROELECTRIC PROJECTS TO BE WITH-
55 DRAWN, AS OF THE EARLIEST DATE SUCH POWER MAY BE WITHDRAWN CONSISTENT
56 WITH CONTRACTUAL REQUIREMENTS, FROM UTILITY CORPORATIONS THAT, PRIOR TO

1 THE EFFECTIVE DATE OF THIS SUBDIVISION, PURCHASED SUCH POWER FOR THE
2 BENEFIT OF THEIR DOMESTIC AND RURAL CONSUMERS ("ENERGIZE NEW YORK HYDRO-
3 POWER"), AND (2) POWER PROCURED BY THE AUTHORITY THROUGH A COMPETITIVE
4 PROCUREMENT PROCESS, AUTHORITY SOURCES (OTHER THAN THE NIAGARA AND SAINT
5 LAWRENCE PROJECTS) OR THROUGH AN ALTERNATE METHOD ("ENERGIZE NEW YORK
6 MARKET POWER"). WITH RESPECT TO ENERGIZE NEW YORK MARKET POWER, THE
7 AUTHORITY MAY PROVIDE POWER THROUGH AN ALTERNATE METHOD IF THE COST IS
8 LOWER THAN THE COST OF POWER OBTAINED THROUGH A COMPETITIVE PROCUREMENT
9 PROCESS; PROVIDED, HOWEVER, THAT IF SUCH LOWER COST POWER COMES FROM
10 AUTHORITY SOURCES, THE USE OF THAT POWER SHALL NOT REDUCE THE AVAILABIL-
11 ITY OF, OR CAUSE AN INCREASE IN THE PRICE OF, POWER PROVIDED BY THE
12 AUTHORITY FOR ANY OTHER PROGRAM AUTHORIZED IN THIS ARTICLE OR PURSUANT
13 TO ANY OTHER STATUTE.

14 (C) NOTWITHSTANDING SECTION ONE THOUSAND NINE OF THIS TITLE OR ANY
15 OTHER PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED,
16 BEGINNING JULY FIRST, TWO THOUSAND ELEVEN, TO MAKE AVAILABLE, CONTRACT
17 WITH AND SELL TO SUCH ELIGIBLE APPLICANTS AS ARE RECOMMENDED BY THE
18 ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD UP TO NINE HUNDRED TEN MEGA-
19 WATTS OF ENERGIZE NEW YORK POWER FOR ENERGIZE NEW YORK POWER ALLO-
20 CATIONS. AN ENERGIZE NEW YORK POWER ALLOCATION SHALL CONSIST OF EQUAL
21 PARTS OF ENERGIZE NEW YORK HYDROPOWER AND ENERGIZE NEW YORK MARKET POWER
22 AS SUCH TERMS ARE DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION;
23 PROVIDED, HOWEVER, THAT PRIOR TO ENTERING INTO A CONTRACT WITH AN ELIGI-
24 BLE APPLICANT FOR THE SALE OF ENERGIZE NEW YORK POWER, AND PRIOR TO THE
25 PROVISION OF ELECTRIC SERVICE RELATING TO THE ENERGIZE NEW YORK POWER
26 ALLOCATION, THE AUTHORITY SHALL OFFER EACH ELIGIBLE APPLICANT THE OPTION
27 TO DECLINE TO PURCHASE THE ENERGIZE NEW YORK MARKET POWER COMPONENT OF
28 SUCH ALLOCATION. IF AN ELIGIBLE APPLICANT DECLINES TO PURCHASE SUCH
29 MARKET POWER FROM THE AUTHORITY, THE AUTHORITY SHALL HAVE NO RESPONSI-
30 BILITY FOR SUPPLYING SUCH MARKET POWER TO THE ELIGIBLE APPLICANT.

31 S 4. Section 1005 of the public authorities law is amended by adding a
32 new subdivision 13-b to read as follows:

33 13-B. RESIDENTIAL CONSUMER DISCOUNT PROGRAMS. (A) RESIDENTIAL CONSUM-
34 ER ELECTRICITY COST DISCOUNT. NOTWITHSTANDING ANY PROVISION OF THIS
35 TITLE OR ARTICLE SIX OF THE ECONOMIC DEVELOPMENT LAW TO THE CONTRARY,
36 THE AUTHORITY IS AUTHORIZED, AS DEEMED FEASIBLE AND ADVISABLE BY THE
37 TRUSTEES, TO USE REVENUES FROM THE SALE OF HYDROELECTRIC POWER, AND SUCH
38 OTHER FUNDS OF THE AUTHORITY AS DEEMED FEASIBLE AND ADVISABLE BY THE
39 TRUSTEES, TO FUND MONTHLY PAYMENTS TO BE MADE TO SUCH CLASSES OF ELEC-
40 TRICITY CONSUMERS, AS ENJOYED THE BENEFITS OF AUTHORITY HYDROELECTRIC
41 POWER WITHDRAWN PURSUANT TO SUBDIVISION THIRTEEN-A OF THIS SECTION, FOR
42 THE PURPOSE OF MITIGATING PRICE IMPACTS ASSOCIATED WITH THE REALLOCATION
43 OF SUCH POWER. SUCH MONTHLY PAYMENTS SHALL COMMENCE AFTER SUCH HYDRO-
44 ELECTRIC POWER IS WITHDRAWN. THE TOTAL ANNUAL AMOUNT OF MONTHLY
45 PAYMENTS FOR THE FIRST TWELVE MONTH PERIOD FOLLOWING WITHDRAWAL OF SUCH
46 HYRDOELECTRIC POWER, SHALL BE ONE HUNDRED MILLION DOLLARS. THE TOTAL
47 ANNUAL AMOUNT OF MONTHLY PAYMENTS FOR THE FIVE SUBSEQUENT TWELVE MONTH
48 PERIODS SHALL DECLINE BY FOURTEEN MILLION DOLLARS FROM EACH PRIOR YEAR.
49 THEREAFTER, THE TOTAL AMOUNT OF MONTHLY PAYMENTS FOR EACH TWELVE MONTH
50 PERIOD SHALL BE THIRTY MILLION DOLLARS. THE MONTHLY PAYMENT TO ANY ONE
51 CONSUMER SHALL NOT EXCEED THE TOTAL MONTHLY ELECTRIC UTILITY COST
52 INCURRED BY SUCH CONSUMER. THE TOTAL AMOUNT OF MONTHLY PAYMENTS SHALL
53 BE APPORTIONED BY THE AUTHORITY AMONG THE UTILITY CORPORATIONS THAT,
54 PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION, PURCHASED SUCH HYDRO-
55 ELECTRIC POWER FOR THE BENEFIT OF THEIR DOMESTIC AND RURAL CONSUMERS
56 ACCORDING TO THE RELATIVE AMOUNTS OF SUCH POWER PURCHASED BY SUCH COMPA-

1 NIES. MONTHLY PAYMENTS SHALL BE CREDITED TO THE ELECTRICITY BILLS OF
2 SUCH CORPORATIONS' DOMESTIC AND RURAL CONSUMERS IN A MANNER TO BE DETER-
3 MINED BY THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK.

4 (B) AGRICULTURAL CONSUMER ELECTRICITY COST DISCOUNT. (1) BEGINNING
5 WITH THE SECOND TWELVE MONTH PERIOD AFTER SUCH HYDROELECTRIC POWER IS
6 WITHDRAWN, UP TO EIGHT MILLION DOLLARS OF THE RESIDENTIAL CONSUMER ELEC-
7 TRICITY COST DISCOUNT ESTABLISHED BY PARAGRAPH (A) OF THIS SUBDIVISION
8 SHALL BE DEDICATED FOR MONTHLY PAYMENTS TO AGRICULTURAL PRODUCERS WHO
9 RECEIVE ELECTRIC SERVICE AT THE RESIDENTIAL RATE. THE COMBINED MONTHLY
10 PAYMENT, UNDER THIS PARAGRAPH AND PARAGRAPH (A) OF THIS SUBDIVISION, TO
11 ANY ONE CONSUMER SHALL NOT EXCEED THE TOTAL MONTHLY ELECTRIC UTILITY
12 COST INCURRED BY SUCH CONSUMER. THE TOTAL AMOUNT OF MONTHLY PAYMENTS
13 SHALL BE APPORTIONED BY THE AUTHORITY AMONG THE UTILITY CORPORATIONS IN
14 THE SAME MANNER AS THEY ARE APPORTIONED IN PARAGRAPH (A) OF THIS SUBDI-
15 VISION. MONTHLY PAYMENTS SHALL BE CREDITED TO THE ELECTRICITY BILLS OF
16 SUCH CORPORATIONS' AGRICULTURAL CONSUMERS IN A MANNER TO BE DETERMINED
17 BY THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK.

18 (2) THE AUTHORITY SHALL WORK COOPERATIVELY WITH THE DEPARTMENT OF
19 PUBLIC SERVICE TO EVALUATE THE AGRICULTURAL CONSUMER ELECTRICITY COST
20 DISCOUNT, WHICH SHALL INCLUDE AN ASSESSMENT OF THE BENEFITS TO RECIPI-
21 ENTS COMPARED TO THE BENEFITS THE RECIPIENTS RECEIVED FROM THE AUTHORI-
22 TY'S HYDROELECTRIC POWER, WITHDRAWN PURSUANT TO SUBDIVISION THIRTEEN-A
23 OF THIS SECTION, DURING THE TWELVE MONTH PERIOD ENDING DECEMBER THIRTY-
24 FIRST, TWO THOUSAND NINE, AND COMPARED TO OTHER AGRICULTURAL CONSUMERS
25 THAT DID NOT CHOOSE TO RECEIVE THE DISCOUNT.

26 S 5. Section 1005 of the public authorities law is amended by adding a
27 new subdivision 18 to read as follows:

28 18. FOR THE PURPOSE OF FURNISHING THE STATE WITH SYSTEMATIC INFORMA-
29 TION REGARDING THE STATUS AND THE ACTIVITIES OF THE AUTHORITY, THE
30 AUTHORITY SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
31 SENATE, SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND
32 THE MINORITY LEADER OF THE ASSEMBLY, WITHIN NINETY DAYS AFTER THE END OF
33 ITS FISCAL YEAR, A COMPLETE AND DETAILED ANNUAL REPORT ON EACH ECONOMIC
34 DEVELOPMENT POWER PROGRAM IT ADMINISTERS. SUCH ANNUAL REPORT SHALL
35 INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

36 A. THE NUMBER OF RECIPIENTS OF ECONOMIC POWER PROGRAM BENEFITS, THE
37 ECONOMIC REGION IN WHICH EACH RECIPIENT IS LOCATED, THE TYPE AND AMOUNT
38 OF ASSISTANCE PROVIDED, MEGAWATTS OF ELECTRICITY AWARDED, LENGTH OF
39 CURRENT CONTRACT, CURRENT CONTRACT COMPLIANCE STATUS, LAST AUDIT, NUMBER
40 OF JOBS RETAINED AND/OR ADDED IN THE FISCAL YEAR, APPROXIMATE ENERGY
41 EFFICIENCY SAVINGS AND AMOUNT OF POWER REALLOCATED FROM PREVIOUS YEARS
42 DUE TO FORFEITED BENEFITS; AND

43 B. COST TO THE AUTHORITY TO PROVIDE ECONOMIC DEVELOPMENT POWER
44 PROGRAMS DURING THE PREVIOUS FISCAL YEAR.

45 S 6. Transitional electricity discount. Notwithstanding any provision
46 of title 1 of article 5 of the public authorities law or article 6 of
47 the economic development law to the contrary, with respect to applicants
48 who are in substantial compliance with all contractual commitments and
49 receiving benefits under the power for jobs, energy cost savings bene-
50 fit, economic development, high load factor or municipal distribution
51 agency programs, but would otherwise not receive a recommendation from
52 the New York state economic development power allocation board for an
53 energize New York power allocation pursuant to section 188-a of the
54 economic development law, such board shall recommend that the power
55 authority of the state of New York provide for a transitional electric-
56 ity discount to such applicants. The power authority of the state of New

1 York is authorized, as deemed feasible and advisable by the trustees, to
2 provide such transitional electricity discounts as recommended by the
3 New York State economic development power allocation board. The power
4 authority of the state of New York shall identify and advise such board
5 whether sufficient funds are available for the funding of such transi-
6 tional electricity discounts through June 30, 2015. The amount of the
7 transitional electricity discount for the period July 1, 2011 through
8 June 30, 2013 shall be equivalent to 66 percent of the unit (per kilo-
9 watt-hour) value of the savings received by the applicant under the
10 power for jobs or energy cost savings benefit programs during the 12
11 months ending on May 15, 2010. The amount of the transitional electric-
12 ity discount for the period July 1, 2013 through June 30, 2015 shall be
13 equivalent to 33 percent of the unit (per kilowatt-hour) value of the
14 savings received by the applicant under the power for jobs or energy
15 cost savings benefit programs during the 12 months ending on May 15,
16 2010.

17 S 7. Section 9 of chapter 316 of the laws of 1997 amending the public
18 authorities law and other laws relating to the provision of low cost
19 power to foster statewide economic development, as amended by chapter 88
20 of the laws of 2010, is amended to read as follows:

21 S 9. This act shall take effect immediately and shall expire and be
22 deemed repealed June [2, 2010] 30, 2011.

23 S 8. Section 11 of chapter 645 of the laws of 2006 amending the
24 economic development law and other laws relating to reauthorizing the
25 New York power authority to make contributions to the general fund, as
26 amended by chapter 88 of the laws of 2010, is amended to read as
27 follows:

28 S 11. This act shall take effect immediately and shall be deemed to
29 have been in full force and effect on and after April 1, 2006; provided,
30 however, that the amendments to section 183 of the economic development
31 law and subparagraph 2 of paragraph g of the ninth undesignated para-
32 graph of section 1005 of the public authorities law made by sections two
33 and six of this act shall not affect the expiration of such section and
34 subparagraph, respectively, and shall be deemed to expire therewith;
35 provided further, however, that the amendments to section 189 of the
36 economic development law and subdivision 9 of section 186-a of the tax
37 law made by sections three, four, five and ten of this act shall not
38 affect the repeal of such section and subdivision, respectively, and
39 shall be deemed to be repealed therewith; provided further, however,
40 that section seven of this act shall expire and be deemed repealed June
41 [2, 2010] 30, 2011.

42 S 9. Paragraphs 2 and 4 of subdivision (h) of section 183 of the
43 economic development law, as amended by chapter 88 of the laws of 2010,
44 are amended to read as follows:

45 2. During the period commencing on November first, two thousand five
46 and ending on June [second] THIRTIETH, two thousand [ten] ELEVEN eligi-
47 ble businesses shall only include customers served under the power
48 authority of the state of New York's high load factor, economic develop-
49 ment power and other business customers served by political subdivisions
50 of the state authorized by law to engage in the distribution of electric
51 power that were authorized to be served by the authority from the
52 authority's former James A. Fitzpatrick nuclear power plant as of the
53 effective date of this subdivision whose power prices may be subject to
54 increase before June [second] THIRTIETH, two thousand [ten] ELEVEN.
55 Provided, however, that the total amount of megawatts of replacement and
56 preservation power which, due to the extension of the energy cost

savings benefits, are not relinquished by or withdrawn from a recipient shall be deemed to be relinquished or withdrawn for purposes of offering such megawatts by the authority for reallocation pursuant to subdivision thirteen of section one thousand five of the public authorities law. Provided, further, that for any such reallocation, the authority shall maintain the same energy cost savings benefit level for all eligible businesses using any available authority resources as deemed feasible and advisable by the trustees pursuant to section seven of part U of chapter fifty-nine of the laws of two thousand six.

4. Applications for an energy cost savings benefit shall be in the form and contain such information, exhibits and supporting data as the board may prescribe. The board shall review the applications received and shall determine the applications which best meet the criteria established for the benefits pursuant to this subdivision and it shall recommend such applications to the power authority of the state of New York with such terms and conditions as it deems appropriate; provided, however, that for energy cost savings benefits granted on or after [June thirtieth] MAY FIFTEENTH, two thousand [nine] TEN through June [second] THIRTIETH, two thousand [ten] ELEVEN, the board shall expedite the awarding of such benefits and shall defer the review of compliance with such criteria until after the applicant has been awarded an energy cost savings benefit. Such terms and conditions shall include reasonable provisions providing for the partial or complete withdrawal of the energy cost savings benefit in the event the recipient fails to maintain mutually agreed upon commitments that may include, but are not limited to, levels of employment, capital investment and power utilization. Recommendation for approval of an energy cost savings benefit shall qualify an applicant to receive an energy cost savings benefit from the power authority of the state of New York pursuant to the terms and conditions of the recommendation.

S 10. The opening paragraph of paragraph 5 of subdivision (a) of section 189 of the economic development law, as amended by chapter 88 of the laws of 2010, is amended to read as follows:

"Power for jobs electricity savings reimbursements" shall mean payments made by the power authority of the state of New York as recommended by the board to recipients of allocations of power under phases four and five of the power for jobs program for a period of time until November thirtieth, two thousand four, subsequent to the expiration of their phase four or five power for jobs contract provided however that any power for jobs recipient may choose to receive an electricity savings reimbursement as a substitute for a contract extension for the period from the date the recipient's contract expires through June [second] THIRTIETH, two thousand [ten] ELEVEN. The "basic reimbursement" is an amount that when credited against the recipient's actual "unit cost of electricity" during a quarter (meaning the cost for commodity and delivery per kilowatt-hour for the quantity of electricity purchased and delivered under the power for jobs program during a similar period in the final year of the recipient's contract), results in an effective unit cost of electricity during the quarter equal to the average unit cost of electricity such recipient paid during the final year of the contract for power allocated under phase four or five of the power for jobs program, PROVIDED HOWEVER THAT NOTWITHSTANDING THE FOREGOING, FOR THE PERIOD MAY SIXTEENTH, TWO THOUSAND TEN THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN, THE BASIC REIMBURSEMENT SHALL BE AN AMOUNT SUCH THAT THE RECIPIENT RECEIVES UNIT (PER KILOWATT-HOUR) ELECTRICITY SAVINGS

1 EQUIVALENT TO THE AVERAGE UNIT ELECTRICITY SAVINGS RECEIVED DURING THE
2 TWELVE MONTHS ENDING ON MAY FIFTEENTH, TWO THOUSAND TEN.

3 S 11. Subdivisions (f) and (l) of section 189 of the economic develop-
4 ment law, as amended by chapter 88 of the laws of 2010, are amended to
5 read as follows:

6 (f) Eligibility. The board shall recommend applications for allo-
7 cations of power under the power for jobs program to or for the use of
8 businesses which normally utilize a minimum peak electric demand in
9 excess of four hundred kilowatts; provided, however, that up to one
10 hundred megawatts of power available for allocation during the initial
11 three phases of the power for jobs program may be recommended for allo-
12 cations to not-for-profit corporations and to small businesses; and,
13 provided, further that up to seventy-five megawatts of power available
14 for allocation during the fourth phase of the program may be recommended
15 for allocations to not-for-profit corporations and to small businesses.
16 The board may require small businesses that normally utilize a minimum
17 peak electric demand of less than one hundred kilowatts to aggregate
18 their electric demand in amounts of no less than one hundred kilowatts,
19 for the purposes of applying to the board for an allocation of power.
20 The board shall recommend allocations of the additional three hundred
21 megawatts available during the fourth phase of the program to any such
22 eligible applicant, including any recipient of power allocated during
23 the first phase of the program. The board shall recommend allocations of
24 the additional one hundred eighty-three megawatts available during the
25 fifth phase of the program to any eligible applicant, including any
26 recipient of power allocated during the second and third phases of the
27 program; provided, however, that the term of contracts for allocations
28 under the fifth phase of the program shall in no case extend beyond June
29 [second] THIRTIETH, two thousand [ten] ELEVEN. Notwithstanding any
30 provision of law to the contrary, and, in particular, the provisions of
31 this chapter concerning the terms of contracts for allocations under the
32 power for jobs program, the terms of any contract with a recipient of
33 power allocated under phase two of the power for jobs program that has
34 expired or will expire on or before the thirty-first day of August, two
35 thousand two, may be extended by the power authority of the state of New
36 York for an additional period of three months effective on the date of
37 such expiration, pending the filing and approval of an application by
38 such recipient for an allocation under the fifth phase of the program.
39 The term of any new contract with such recipient under the fifth phase
40 of the program shall be deemed to include any three month contract
41 extension made pursuant to this subdivision and the termination date of
42 any such new contract under phase five shall be no later than if such
43 new contract had commenced upon the expiration of the recipient's
44 original phase two contract. The terms of any contract with a recipient
45 of power allocated under phase four and/or phase five of the power for
46 jobs program that has expired or will expire on or before the thirty-
47 first day of December, two thousand five, may be extended by the power
48 authority of the state of New York from a date beginning no earlier than
49 the first day of December, two thousand four and extending through June
50 [second] THIRTIETH, two thousand [ten] ELEVEN.

51 (l) The board shall solicit and review applications for the power for
52 jobs electricity savings reimbursements and contract extensions from
53 recipients of power for jobs allocations under phases four and five of
54 the program for the award of such reimbursements and/or contract exten-
55 sions. The board may prescribe a simplified form and content for an
56 application for such reimbursements or extensions. An applicant shall be

1 eligible for such reimbursements and/or extensions only if it is in
2 compliance with and agrees to continue to meet the job retention and
3 creation commitments set forth in its prior power for jobs contract, or
4 such other commitments as the board deems reasonable; provided, however,
5 that for the power for jobs electricity savings reimbursements and
6 contract extensions granted on or after June thirtieth, two thousand
7 nine through June [second] THIRTIETH, two thousand [ten] ELEVEN, the
8 board shall expedite the awarding of such reimbursements and/or exten-
9 sions and shall defer the review of compliance with such commitments
10 until after the applicant has been awarded a power for jobs electricity
11 savings reimbursement and/or contract extension. The board shall review
12 such applications and make recommendations for the award: 1. of such
13 reimbursements through the power authority of the state of New York for
14 a period of time up to November thirtieth, two thousand four, and 2. of
15 such contract extensions or reimbursements as applied for by the recipi-
16 ent for a period of time beginning December first, two thousand four and
17 ending June [second] THIRTIETH, two thousand [ten] ELEVEN. At no time
18 shall a recipient receive both a reimbursement and extension after
19 December first, two thousand four. The power authority of the state of
20 New York shall receive notification from the board regarding the award
21 of power for jobs electricity savings reimbursements and/or contract
22 extensions.

23 S 12. Subdivision 9 of section 186-a of the tax law, as amended by
24 chapter 217 of the laws of 2009, is amended to read as follows:

25 9. Notwithstanding any other provision of this chapter or any other
26 law to the contrary, for taxable periods nineteen hundred ninety-seven
27 through and including two thousand [ten] ELEVEN, any utility which
28 delivers power under the power for jobs program, as established by
29 section one hundred eighty-nine of the economic development law, shall
30 be allowed a credit, subject to the limitations thereon contained in
31 this subdivision, against the tax imposed under this section equal to
32 net lost revenues from the delivery of power under such power for jobs
33 program. Net lost revenues means the "net receipts" less "net utility
34 revenue" from such delivery of power. For purposes of this subdivision,
35 "net receipts" shall mean the amount that the utility would have other-
36 wise received from customers receiving power pursuant to allocations by
37 the New York state economic development power allocation board in
38 accordance with section one hundred eighty-nine of the economic develop-
39 ment law, or from customers whose allocation has been transferred to an
40 energy service company, or from energy service companies to which such
41 allocation has been transferred, pursuant to its tariff supervised by
42 the public service commission for substantially comparable service
43 otherwise applicable to such customers or energy service companies in
44 the absence of such designation, less the utility's annual average
45 incremental short-term variable and capacity costs of providing such
46 power in the absence of such purchase. For the purposes of this subdivi-
47 sion, "net utility revenue" shall mean the revenues the utility actually
48 receives in accordance with such section one hundred eighty-nine from
49 such customers so designated by the New York state economic development
50 power allocation board or from customers whose allocation has been
51 transferred to an energy service company, or from the energy service
52 companies to which a power for jobs allocation has been transferred,
53 less the utility's cost of such power under such program. Provided,
54 however, that any credit under this section shall be used only with
55 respect to the same taxable year during which such credit arose and
56 shall not be capable of being carried forward or backward to any other

1 taxable period. Nor shall any credit be allowed to any utility for the
2 total amount of power, expressed in kilowatt hours, purchased by the
3 customers of such utility under such program during the taxable period
4 that exceeds the prorated "baseline energy use" by all customers of that
5 utility purchasing power under such program during the taxable period.
6 "Baseline energy use" with respect to each customer shall mean the larg-
7 est amount of kilowatt hours of energy used by such customer during any
8 twelve consecutive month period occurring during the preceding thirty
9 months immediately preceding the New York state economic development
10 power allocation board's recommendation of such customer's application,
11 prorated to reflect the length of time of the customer's participation
12 in such program during the taxable period. Provided further, however,
13 that in accordance with subdivision (k) of section one hundred eighty-
14 nine of the economic development law no tax credit shall be available
15 for any revenue losses when a utility has declined to purchase power
16 allocated for sale under such program. No electric corporation shall be
17 allowed the tax credit authorized by this subdivision until it shall
18 file a certificate from the department of public service for the period
19 covered by the return verifying that the calculation of such tax credit
20 complies with this subdivision and the department of public service has
21 approved such certificate and forwarded a copy of such approved certif-
22 icate to the commissioner or any amended certificate resulting from the
23 need for correction. The credit allowed by this subdivision shall not be
24 applicable in calculating any other tax imposed or authorized to be
25 imposed by this chapter or any other law, and the amount of the tax
26 surcharge imposed under section one hundred eighty-six-c of this article
27 shall be calculated and payable as if the credit provided for by this
28 subdivision were not allowed.

29 S 13. Subparagraph 2 of paragraph g of the ninth undesignated para-
30 graph of section 1005 of the public authorities law, as amended by chap-
31 ter 217 of the laws of 2009, is amended to read as follows:

32 2. The authority, as deemed feasible and advisable by the trustees, is
33 authorized to make payments to recipients of the power for jobs elec-
34 tricity savings reimbursements and additional annual voluntary contrib-
35 utions into the state treasury to the credit of the general fund. The
36 authority shall make such contributions to the state treasury no later
37 than ninety days after the end of the calendar year in which a credit
38 under subdivision nine of section one hundred eighty-six-a of the tax
39 law is available: (a) for the additional three hundred megawatts of
40 power under the fourth phase of the program provided under chapter
41 sixty-three of the laws of two thousand and under the fifth phase for
42 the additional one hundred eighty-three megawatts provided under chapter
43 two hundred twenty-six of the laws of two thousand two; and (b) for any
44 extension of any contract for allocations under the fourth phase of the
45 program and under the fifth phase of the program. Payments for any elec-
46 tricity savings reimbursement under section one hundred eighty-nine of
47 the economic development law shall be made pursuant to such section.
48 Such annual contributions shall be equal to fifty percent of the total
49 amount of such credits available each year to all local distributors of
50 electricity. In addition, such authorization for contribution in state
51 fiscal year two thousand two--two thousand three shall be equal to the
52 total amount of credit available in two thousand one and two thousand
53 two; and such authorization for contribution in state fiscal year two
54 thousand three--two thousand four shall be equal to the total amount of
55 credit available in two thousand three; under subdivision nine of
56 section one hundred eighty-six-a of the tax law under the fourth phase

1 of the program for the additional three hundred megawatts provided under
2 chapter sixty-three of the laws of two thousand and under the fifth
3 phase for the additional one hundred eighty-three megawatts provided
4 under chapter two hundred twenty-six of the laws of two thousand two. In
5 state fiscal year two thousand four--two thousand five, such authorized
6 annual contribution shall be equal to one hundred percent of the total
7 amount of such credits available each year to all local distributors of
8 electricity. Such authorization for contribution in state fiscal years
9 two thousand four and two thousand five shall be equal to the total
10 amount of credit available in two thousand four and two thousand five;
11 under subdivision nine of section one hundred eighty-six-a of the tax
12 law under the fourth phase of the program for the additional three
13 hundred megawatts provided under chapter sixty-three of the laws of two
14 thousand and under the fifth phase for the additional one hundred eight-
15 y-three megawatts provided under chapter two hundred twenty-six of the
16 laws of two thousand two. In addition, such authorization for contrib-
17 ution for any extension of any contract for allocations under the fourth
18 phase of the program and under the fifth phase of the program in each
19 state fiscal year shall be equal to the total amount of credit or
20 reimbursement available in state fiscal year two thousand four--two
21 thousand five, state fiscal year two thousand five--two thousand six and
22 two thousand six--two thousand seven. Additionally, notwithstanding any
23 other section of law, the authority is authorized to make a contribution
24 in an amount related to total amounts of credit received under phases
25 one, two, three, four and five of the program. In no case shall the
26 contribution for state fiscal year two thousand five--two thousand six
27 be less than seventy-five million dollars. The contribution for state
28 fiscal year two thousand six--two thousand seven shall be one hundred
29 million dollars. The contribution for state fiscal year two thousand
30 seven--two thousand eight shall be thirty million dollars. The contrib-
31 ution for state fiscal year two thousand eight--two thousand nine shall
32 be twenty-five million dollars. The contribution for state fiscal year
33 two thousand nine--two thousand ten shall be twelve million five hundred
34 thousand dollars. THE CONTRIBUTION FOR STATE FISCAL YEAR TWO THOUSAND
35 TEN--TWO THOUSAND ELEVEN SHALL BE SEVEN AND ONE-HALF MILLION DOLLARS.
36 The department of public service shall estimate the payment due by the
37 end of the calendar year in which the credit is available. In no case
38 shall the amount of the total annual contributions for the years during
39 which delivery and sale of power associated with all power for jobs
40 phases and any extensions thereof takes place exceed the aggregate total
41 of four hundred [sixty-one] SIXTY-NINE million [five hundred thousand]
42 dollars.

43 S 14. The opening paragraph of subdivision 5 of section 1005 of the
44 public authorities law, as amended by chapter 294 of the laws of 1968,
45 is amended to read as follows:

46 To develop, maintain, manage and operate those parts of the Niagara
47 and Saint Lawrence hydroelectric projects owned or controlled by it in
48 such manner as to give effect to the policy hereby declared (and all
49 plans and acts, and all contracts for the use, sale, transmission and
50 distribution of the power generated by such projects, shall be made in
51 the light of, consistent with and subject to this policy), namely, that
52 such projects shall be in all respects for the aid, improvement, and
53 benefit of commerce and navigation in, through, along and past the
54 Niagara river, the Saint Lawrence river and the international rapids
55 section thereof, and that in the development of hydro-electric power
56 therefrom such projects shall be considered primarily as for the benefit

1 of the people of the state as a whole [and particularly the domestic and
2 rural consumers to whom the power can economically be made available,
3 and accordingly that sale to and use by industry shall be a secondary
4 purpose, to be utilized principally to secure a sufficiently high load
5 factor and revenue returns to permit domestic and rural use at the
6 lowest possible rates and in such manner as to encourage increased
7 domestic and rural use of electricity]. In furtherance of this policy
8 and to secure a wider distribution of such power and use of the greatest
9 value to the general public of the state, the authority shall in addi-
10 tion to other methods which it may find advantageous make provision so
11 that municipalities and other political sub-divisions of the state now
12 or hereafter authorized by law to engage in the distribution of electric
13 power may secure a reasonable share of the power generated by such
14 projects, and shall sell the same or cause the same to be sold to such
15 municipalities and political subdivisions at prices representing cost of
16 generation, plus capital and operating charges, plus a fair cost of
17 transmission, all as determined by the trustees, and subject to condi-
18 tions which shall assure the resale of such power [to domestic and rural
19 consumers] at the lowest possible price, provided, however, that in
20 disposing of hydro-electric power pursuant to and in furtherance of the
21 aforementioned policy and purposes, appropriate provision may also be
22 made to allocate a reasonable share of project power to agencies created
23 or designated by other states and authorized to resell the power to
24 users under the same terms and conditions as power is disposed of in New
25 York state. To that end, the authority may provide in any contract or
26 contracts which it may make for the sale, transmission and distribution
27 of the power that the purchaser, transmitter or distributor shall
28 construct, maintain and operate, on such terms as the authority may deem
29 proper, such connecting lines as may be necessary for transmission of
30 the power from main transmission lines to such municipalities or poli-
31 tical subdivisions.

32 S 15. Subdivision 16 of section 1005 of the public authorities law, as
33 added by chapter 217 of the laws of 2009, is REPEALED.

34 S 16. Subdivision 16 of section 1005 of the public authorities law, as
35 added by chapter 477 of the laws of 2009, is renumbered subdivision 17,
36 and paragraph (a) of such subdivision is amended to read as follows:

37 (a) As deemed feasible and advisable by the trustees, to finance and
38 design, develop, construct, implement, provide and administer energy-re-
39 lated projects, programs and services for any public entity and any
40 recipient of the economic development power, expansion power, replace-
41 ment power, preservation power, high load factor power, municipal
42 distribution agency power, [and the] power for jobs, AND ENERGIZE NEW
43 YORK POWER programs administered by the authority. In establishing and
44 providing high performance and sustainable building programs and
45 services authorized by this subdivision, the authority is authorized to
46 consult standards, guidelines, rating systems, and/or criteria estab-
47 lished or adopted by other organizations, including but not limited to
48 the United States green building council under its leadership in energy
49 and environmental design (LEED) programs, the green building initi-
50 ative's green globes rating system, and the American National Standards
51 Institute. The source of any financing and/or loans provided by the
52 authority for the purposes of this subdivision may be the proceeds of
53 notes issued pursuant to section one thousand nine-a of this title, the
54 proceeds of bonds issued pursuant to section one thousand ten of this
55 title, or any other available authority funds.

1 S 17. Severability clause. If any clause, sentence, paragraph, subdi-
2 vision, section or part of this act shall be adjudged by any court of
3 competent jurisdiction to be invalid, such judgment shall not affect,
4 impair, or invalidate the remainder thereof, but shall be confined in
5 its operation to the clause, sentence, paragraph, subdivision, section
6 or part thereof directly involved in the controversy in which such judg-
7 ment shall have been rendered. It is hereby declared to be the intent of
8 the legislature that this act would have been enacted even if such
9 invalid provisions had not been included therewith.

10 S 17-a. Notwithstanding the provisions of article 5 of the general
11 construction law, the provisions of chapter 316 of the laws of 1997 and
12 section 7 of chapter 645 of the laws of 2006 are hereby revived and
13 shall continue in full force and effect as such provisions existed on
14 May 15, 2010.

15 S 18. This act shall take effect immediately and shall be deemed to
16 have been in full force and effect on and after May 15, 2010; provided
17 that sections nine, ten and eleven of this act shall take effect on the
18 same date and in the same manner as chapter 88 of the laws of 2010,
19 takes effect; provided that:

20 a. the amendments to section 183 of the economic development law made
21 by section nine of this act shall not affect the expiration of such
22 section and shall be deemed to expire therewith;

23 b. the amendments to section 189 of the economic development law made
24 by sections ten and eleven of this act shall not affect the repeal of
25 such section and shall be deemed repealed therewith;

26 c. the amendments to subdivision 9 of section 186-a of the tax law
27 made by section twelve of this act shall not affect the repeal of such
28 subdivision and shall be deemed repealed therewith;

29 d. the amendments to subparagraph 2 of paragraph g of the 9th undesig-
30 nated paragraph of section 1005 of the public authorities law made by
31 section thirteen of this act shall not affect the expiration of such
32 subparagraph and shall be deemed to expire therewith; and

33 e. the amendments to paragraph (a) of subdivision 17 of section 1005
34 of the public authorities law, made by section sixteen of this act,
35 shall not affect the expiration of such subdivision and shall be deemed
36 to expire therewith.