

9149--A

I N A S S E M B L Y

January 30, 2012

Introduced by M. of A. ENGLEBRIGHT, CAHILL, LENTOL, TITONE, STEVENSON, BRINDISI, CRESPO, CASTRO, MAGNARELLI, ZEBROWSKI, SIMOTAS, RABBITT, GRAF, CASTELLI, CALHOUN, ROSENTHAL, LIFTON, GUNTHER, DINOWITZ, BRENNAN, COLTON, WEISENBERG, MAISEL, MOYA, LUPARDO, P. RIVERA, SCHIMEL, ABINANTI, JAFFEE, RUSSELL, KAVANAGH, THIELE, MARKEY, BRONSON, LATIMER, ROBERTS, LINARES, GALEF, BENEDETTO, LAVINE, PAULIN, GOLDFEDER -- Multi-Sponsored by -- M. of A. ABBATE, BLANKENBUSH, BOYLE, BURLING, CERETTO, CONTE, CROUCH, CURRAN, CYMBROWITZ, DUPREY, GIBSON, GLICK, GOTTFRIED, HAWLEY, HEASTIE, JACOBS, JORDAN, P. LOPEZ, MAGEE, McDOUGH, McENENY, McKEVITT, MILLMAN, MONTESANO, MURRAY, NOLAN, O'DONNELL, ORTIZ, RAIA, REILLY, SALADINO, SAYWARD, SIMANOWITZ, SMARDZ, SWEENEY, TENNEY, WRIGHT -- read once and referred to the Committee on Ways and Means -- reference changed to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law and the public authorities law, in relation to the creation of the New York solar industry development and jobs act of 2012

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

1 Section 1. Legislative intent and purpose. It is the intent of the
2 legislature to enable the rapid and sustainable development of a robust
3 solar power industry in New York by creating a scalable, diverse and
4 competitive solar energy market. By tapping into the state's abundant
5 solar energy resources, it is the further intent of the legislature to
6 harness the multiple benefits associated with the generation of such
7 clean power, including the significant creation of much needed jobs, a
8 reduction of the long-term costs of electricity generation for New
9 York's energy consumers, including transmission and distribution costs
10 that continue to accelerate in proportion to overall electricity supply
11 costs for the residents of this state, increased reliability of the
12 state's electric grid, reduced peak demand, development of capacity
13 resources in capacity-constrained areas, alleviation of local trans-
14 mission and distribution constraints, and a decrease in the emission of
15 harmful air pollution, including localized and other emissions. By
16 establishing a flexible and responsive program, New York will create a
17 predictable investment environment that avoids price volatility allowing

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

1 for a solar energy enterprise that will elevate the state to be among
2 the world's cutting edge clean energy industry leaders, while helping to
3 secure increased economic development for New Yorkers.

4 S 2. Short title. This act shall be known and may be cited as the
5 "New York solar industry development and jobs act of 2012".

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

8 S 66-N. ESTABLISHMENT OF SOLAR INCENTIVE PROGRAM. 1. AS USED IN THIS
9 SECTION:

10 (A) "ELECTRIC DISTRIBUTION COMPANY" MEANS AN INVESTOR-OWNED UTILITY
11 THAT DISTRIBUTES ELECTRICITY WITHIN THIS STATE;

12 (B) "PREVAILING RATE OF WAGES" SHALL HAVE THE SAME MEANING AS SUCH
13 TERM IS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO
14 HUNDRED TWENTY OF THE LABOR LAW; AND

15 (C) "QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEM" MEANS (I) A
16 SYSTEM OF COMPONENTS THAT GENERATES ELECTRICITY FROM INCIDENTAL SUNLIGHT
17 BY MEANS OF THE PHOTOVOLTAIC EFFECT, WHETHER OR NOT THE DEVICE IS
18 COUPLED WITH A DEVICE CAPABLE OF STORING THE ENERGY PRODUCED FOR LATER
19 USE; (II) CONNECTED TO THE DISTRIBUTION SYSTEM OR AREA SUBSTATIONS AND
20 ASSOCIATED FACILITIES THAT COMPRISE THE LOCAL AREA NETWORK OF AN ELEC-
21 TRIC DISTRIBUTION COMPANY SERVING THE STATE AFTER JANUARY FIRST, TWO
22 THOUSAND ELEVEN.

23 2. NO LATER THAN JANUARY FIRST, TWO THOUSAND THIRTEEN, THE COMMISSION
24 SHALL ESTABLISH AN INCENTIVE PROGRAM FOR THE DEVELOPMENT OF QUALIFIED
25 SOLAR PHOTOVOLTAIC GENERATING SYSTEMS.

26 (A) THE PROGRAM SHALL ACHIEVE THE FOLLOWING MINIMUM CAPACITY LEVELS OF
27 QUALIFIED SOLAR PHOTOVOLTAIC GENERATION WITHIN THE AREAS SERVED BY THE
28 ELECTRIC DISTRIBUTION COMPANIES REGULATED BY THE COMMISSION:

29 (I) 400 MEGAWATTS BY 2015; AND

30 (II) 2,100 MEGAWATTS BY 2021.

31 (B) THE MINIMUM CAPACITY LEVELS ESTABLISHED IN PARAGRAPH (A) OF THIS
32 SUBDIVISION SHALL BE ACHIEVED THROUGH ANNUAL PROPORTIONAL OBLIGATIONS ON
33 EACH ELECTRIC DISTRIBUTION COMPANY BASED ON TOTAL ANNUAL KILOWATT-HOURS
34 DISTRIBUTED.

35 (C) THE PROGRAM ESTABLISHED BY THE COMMISSION SHALL INCLUDE INCRE-
36 MENTAL ANNUAL CAPACITY TARGETS PURSUANT TO PARAGRAPH (A) OF THIS SUBDI-
37 VISION AND SHALL ADDRESS (I) PROGRAM ADMINISTRATION AND DELIVERY; (II)
38 TARGET MARKETS AND ALLOCATION; (III) INCENTIVE STRUCTURES THAT SHALL
39 TAKE INTO CONSIDERATION THE VALUE SOLAR PHOTOVOLTAIC GENERATING SYSTEM
40 COMPONENTS PRODUCED WITHIN THE STATE; AND (IV) ANY OTHER ISSUES DEEMED
41 APPROPRIATE BY THE COMMISSION.

42 (D) THE COMMISSION SHALL ORDER EACH ELECTRIC DISTRIBUTION COMPANY TO
43 FILE A PROGRAM PLAN BY JUNE FIRST, TWO THOUSAND THIRTEEN, FOR THE
44 PURPOSE OF FULFILLING ITS OBLIGATIONS ESTABLISHED PURSUANT TO THIS
45 SUBDIVISION. THE COMMISSION SHALL APPROVE EACH SUCH PLAN, OR MAY MODIFY
46 IT AS IT DEEMS APPROPRIATE, IF THE COMMISSION FINDS THAT THE PLAN WOULD
47 RESULT IN ACHIEVEMENT OF THE COMPANY'S OBLIGATIONS, PROMOTES THE
48 SUSTAINED AND ORDERLY DEVELOPMENT OF THE STATEWIDE SOLAR INDUSTRY,
49 ENHANCES PROGRAM EFFICIENCY, AND MAXIMIZES RATEPAYER VALUE. NOTHING IN
50 THIS SECTION SHALL BE CONSTRUED AS LIMITING THE ELECTRIC DISTRIBUTION
51 COMPANIES' ABILITY TO PROPOSE, OR THE COMMISSION'S ABILITY TO APPROVE, A
52 JOINT PROGRAM PLAN FOR ONE OR MORE ELECTRIC DISTRIBUTION COMPANIES.

53 (E) THE PROGRAM ADOPTED BY THE COMMISSION AND THE PROGRAM PLANS
54 SUBMITTED BY THE ELECTRIC DISTRIBUTION COMPANIES PURSUANT TO THIS SUBDI-
55 VISION SHALL BE DESIGNED TO ADDRESS BOTH WHOLESALE AND RETAIL MARKET
56 OPPORTUNITIES, FOSTER A DIVERSITY OF PROJECT SIZES, GEOGRAPHIC DISTRIB-

1 UTION, AND PARTICIPATION AMONG ALL ELIGIBLE CUSTOMER CLASSES, SUBJECT TO
2 COST-EFFECTIVENESS CONSIDERATIONS; AVOID LONG-TERM COSTS TO THE TRANS-
3 MISSION AND DISTRIBUTION SYSTEM; MINIMIZE PEAK LOAD IN CONSTRAINED
4 AREAS; RECOVER THE COSTS IN A COMPETITIVELY NEUTRAL MANNER; AND ACHIEVE
5 ANY OTHER OBJECTIVES THE COMMISSION MAY ESTABLISH. PREFERENCE SHALL BE
6 GIVEN TO AN INCENTIVE STRUCTURE THAT: (I) COMPENSATES OWNERS OR DEVELOP-
7 ERS OF QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEMS ON THE BASIS OF
8 ACTUAL PRODUCTION FROM SUCH SYSTEMS; AND (II) AWARDS INCENTIVES ON THE
9 BASIS OF REGULAR AND COMPETITIVE PROCUREMENTS UNLESS THE COMMISSION
10 DETERMINES THAT AN ALTERNATIVE METHODOLOGY IS IN THE BEST INTERESTS OF
11 THE ELECTRIC DISTRIBUTION COMPANIES' CUSTOMERS AND THE DEVELOPMENT OF A
12 COMPETITIVE AND SELF-SUSTAINING MARKET.

13 (F) THE COMBINED TOTAL ANNUAL EXPENDITURES BY ELECTRIC DISTRIBUTION
14 COMPANIES FOR SOLAR PROCUREMENT UNDERTAKEN PURSUANT TO THIS SECTION
15 SHALL NOT EXCEED ONE AND ONE-HALF PERCENT OF TOTAL STATEWIDE REVENUES
16 COLLECTED BY ALL LOAD SERVING ENTITIES FOR THE SALE AND DELIVERY OF
17 ELECTRICITY AT RETAIL. IN THE EVENT THAT SUCH CAP WOULD BE EXCEEDED, THE
18 COMMISSION MAY LIMIT THE ANNUAL INCREASE IN REQUIRED SOLAR CAPACITY AS
19 ESTABLISHED PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION TO SUCH NEW
20 CAPACITY AS CAN BE PROCURED WITH TOTAL COSTS OF LESS THAN THE ONE AND
21 ONE-HALF PERCENT CAP. NOTHING IN THIS PARAGRAPH SHALL BE CONSTRUED AS
22 AUTHORIZING THE ABROGATION OF EXISTING CONTRACTS OR TARIFF RATES, AS
23 APPLICABLE, PRIOR TO THEIR TERMINATION DATE BY VIRTUE OF THE CAP BEING
24 TRIGGERED.

25 3. NO LATER THAN JULY FIRST, TWO THOUSAND FOURTEEN, AND EVERY TWO
26 YEARS THEREAFTER, THE COMMISSION SHALL, AFTER NOTICE AND PROVISION FOR
27 THE OPPORTUNITY TO COMMENT, ISSUE A COMPREHENSIVE REVIEW OF THE PROGRAM
28 ESTABLISHED PURSUANT TO THIS SECTION. THE COMMISSION SHALL DETERMINE,
29 AMONG OTHER MATTERS: (A) PROGRESS OF EACH ELECTRIC DISTRIBUTION COMPANY
30 IN MEETING ITS OBLIGATIONS ESTABLISHED PURSUANT TO SUBDIVISION TWO OF
31 THIS SECTION AND PROGRESS IN MEETING THE OVERALL ANNUAL TARGETS FOR
32 DEPLOYMENT OF QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEMS; (B)
33 DISTRIBUTION OF INSTALLATIONS BY CUSTOMER CLASS, SYSTEM SIZE AND LOAD
34 ZONE; AND (C) ANNUAL INCENTIVE COMMITMENTS AND EXPENDITURES. THE COMMIS-
35 SION SHALL EVALUATE THE REASONABLENESS OF THE FUTURE ANNUAL TARGETS
36 ESTABLISHED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION
37 AND DETERMINE WHETHER THE ANNUAL TARGETS SHOULD BE ACCELERATED,
38 INCREASED OR EXTENDED. THE COMMISSION SHALL ALSO REVIEW THE INCENTIVE
39 STRUCTURES AND ELECTRIC DISTRIBUTION COMPANIES' PROGRAM PLANS AND MAKE
40 ADJUSTMENTS AS NECESSARY TO COST-EFFECTIVELY ACHIEVE FUTURE ANNUAL
41 TARGETS.

42 4. EVERY CONTRACTOR EMPLOYED PURSUANT TO THIS SECTION, NOT OTHERWISE
43 REQUIRED TO PAY LABORERS, WORKERS OR MECHANICS THE PREVAILING RATE OF
44 WAGES PURSUANT TO ARTICLE EIGHT OF THE LABOR LAW, SHALL PAY EMPLOYEES
45 UNDER CONTRACT FOR THE INSTALLATION OF QUALIFIED SOLAR PHOTOVOLTAIC
46 GENERATING SYSTEMS RATED AT TWO HUNDRED FIFTY KILOWATTS OR MORE A WAGE
47 OF NOT LESS THAN THE PREVAILING RATE OF WAGES FOR SUCH WORK IN THE
48 LOCALITY WHERE SUCH INSTALLATION OCCURS. THIS REQUIREMENT SHALL BE IN
49 EFFECT FOR THE DURATION OF THE AVAILABILITY OF THE INCENTIVE STREAMS
50 ESTABLISHED PURSUANT TO THIS SECTION AND IN NO EVENT SHALL SUCH REQUIRE-
51 MENT EXTEND BEYOND THE AVAILABILITY OF SUCH INCENTIVE STREAMS. EVERY
52 CONTRACTOR SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION SHALL MAINTAIN
53 PAYROLL RECORDS IN ACCORDANCE WITH SECTION TWO HUNDRED TWENTY OF THE
54 LABOR LAW.

55 S 4. Section 1005 of the public authorities law is amended by adding a
56 new subdivision 24 to read as follows:

1 24. A. FOR THE PURPOSES OF THIS SUBDIVISION, THE FOLLOWING TERMS SHALL
2 HAVE THE FOLLOWING MEANINGS:

3 (1) "PREVAILING RATE OF WAGES" SHALL HAVE THE SAME MEANING AS SUCH
4 TERM IS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO
5 HUNDRED TWENTY OF THE LABOR LAW; AND

6 (2) "QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEM" MEANS (I) A
7 SYSTEM OF COMPONENTS THAT GENERATES ELECTRICITY FROM INCIDENTAL SUNLIGHT
8 BY MEANS OF THE PHOTOVOLTAIC EFFECT, WHETHER OR NOT THE DEVICE IS
9 COUPLED WITH A DEVICE CAPABLE OF STORING THE ENERGY PRODUCED FOR LATER
10 USE; (II) CONNECTED TO THE DISTRIBUTION SYSTEM OR AREA SUBSTATIONS AND
11 ASSOCIATED FACILITIES THAT COMPRISE THE LOCAL AREA NETWORK OF AN ELEC-
12 TRIC DISTRIBUTION COMPANY SERVING THE STATE AFTER JANUARY FIRST, TWO
13 THOUSAND ELEVEN.

14 B. NO LATER THAN JANUARY FIRST, TWO THOUSAND THIRTEEN, THE AUTHORITY
15 SHALL ESTABLISH AN INCENTIVE PROGRAM FOR THE DEVELOPMENT OF QUALIFIED
16 SOLAR PHOTOVOLTAIC GENERATING SYSTEMS. THE PROPOSED INCENTIVE PROGRAM
17 SHALL FIRST BE MADE AVAILABLE TO THE PUBLIC, WITH NOTICE AND OPPORTUNITY
18 FOR COMMENT, BEFORE FINAL ADOPTION BY THE AUTHORITY'S BOARD OF TRUSTEES.

19 (1) THE PROGRAM SHALL ACHIEVE THE FOLLOWING MINIMUM CAPACITY LEVELS OF
20 QUALIFIED SOLAR PHOTOVOLTAIC GENERATION AND SHALL INCLUDE ANNUAL INCRE-
21 MENTAL CAPACITY TARGETS TO ACHIEVE SUCH LEVELS:

22 (I) 120 MEGAWATTS BY 2015; AND

23 (II) 400 MEGAWATTS BY 2021.

24 (2) THE PROGRAM ESTABLISHED BY THE AUTHORITY PURSUANT TO THIS PARA-
25 GRAPH SHALL ADDRESS (I) PROGRAM ADMINISTRATION AND DELIVERY; (II) TARGET
26 MARKETS AND ALLOCATION; (III) INCENTIVE STRUCTURES; AND (IV) ANY OTHER
27 ISSUES DEEMED APPROPRIATE BY THE AUTHORITY. THE PROGRAM SHALL BE
28 DESIGNED TO ADDRESS BOTH WHOLESALE AND RETAIL MARKET OPPORTUNITIES,
29 FOSTER A DIVERSITY OF PROJECT SIZES, GEOGRAPHIC DISTRIBUTION, AND
30 PARTICIPATION AMONG ALL ELIGIBLE CUSTOMER CLASSES, SUBJECT TO COST-EF-
31 FECTIVENESS CONSIDERATIONS; AVOID LONG-TERM COSTS TO THE TRANSMISSION
32 AND DISTRIBUTION SYSTEM; MINIMIZE PEAK LOAD IN CONSTRAINED AREAS; AND,
33 ACHIEVE ANY OTHER OBJECTIVES THE AUTHORITY MAY ESTABLISH. PREFERENCE
34 SHALL BE GIVEN TO AN INCENTIVE STRUCTURE THAT: (A) COMPENSATES OWNERS OR
35 DEVELOPERS OF QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEMS ON THE
36 BASIS OF ACTUAL PRODUCTION FROM SUCH SYSTEMS; AND (B) AWARDS INCENTIVES
37 ON THE BASIS OF REGULAR AND COMPETITIVE PROCUREMENTS UNLESS THE AUTHORI-
38 TY DETERMINES THAT AN ALTERNATIVE METHODOLOGY IS IN THE BEST INTERESTS
39 OF ITS CUSTOMERS AND THE DEVELOPMENT OF A COMPETITIVE AND SELF-SUSTAIN-
40 ING MARKET.

41 (4) THE AUTHORITY'S ANNUAL EXPENDITURE FOR SOLAR PROCUREMENT UNDERTAK-
42 EN PURSUANT TO THIS PARAGRAPH SHALL NOT EXCEED ONE AND ONE-HALF PERCENT
43 OF ITS ANNUAL ELECTRICITY SALES REVENUES. IN THE EVENT THAT SUCH CAP
44 WOULD BE EXCEEDED, THE AUTHORITY MAY LIMIT THE ANNUAL INCREASE IN
45 REQUIRED SOLAR CAPACITY AS ESTABLISHED PURSUANT TO SUBPARAGRAPH ONE OF
46 THIS PARAGRAPH TO SUCH NEW CAPACITY AS CAN BE PROCURED WITH TOTAL COSTS
47 OF LESS THAN THE ONE AND ONE-HALF PERCENT CAP. NOTHING IN THIS SUBPARA-
48 GRAPH SHALL BE CONSTRUED AS AUTHORIZING THE ABROGATION OF EXISTING
49 CONTRACTS OR TARIFF RATES, AS APPLICABLE, PRIOR TO THEIR TERMINATION
50 DATE BY VIRTUE OF THE CAP BEING TRIGGERED.

51 C. NO LATER THAN JULY FIRST, TWO THOUSAND FOURTEEN, AND EVERY TWO
52 YEARS THEREAFTER, THE AUTHORITY SHALL, AFTER NOTICE AND PROVISION FOR
53 THE OPPORTUNITY TO COMMENT, ISSUE A COMPREHENSIVE REVIEW OF THE PROGRAM
54 ESTABLISHED PURSUANT TO THIS SUBDIVISION. THE AUTHORITY SHALL DETERMINE,
55 AMONG OTHER MATTERS: (1) PROGRESS IN MEETING ITS ANNUAL TARGETS FOR
56 DEPLOYMENT OF QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEMS; (2)

1 DISTRIBUTION OF INSTALLATIONS BY CUSTOMER CLASS, SYSTEM SIZE, AND LOAD
2 ZONE; AND (3) ANNUAL INCENTIVE COMMITMENTS AND EXPENDITURES. THE AUTHOR-
3 ITY SHALL EVALUATE THE REASONABLENESS OF THE FUTURE ANNUAL TARGETS
4 ESTABLISHED PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH B OF THIS SUBDIVI-
5 SION AND DETERMINE WHETHER THE ANNUAL TARGETS SHOULD BE ACCELERATED,
6 INCREASED OR EXTENDED. THE AUTHORITY SHALL ALSO REVIEW THE INCENTIVE
7 STRUCTURES AND MAKE ADJUSTMENTS AS NECESSARY TO COST-EFFECTIVELY ACHIEVE
8 FUTURE ANNUAL TARGETS.

9 D. EVERY CONTRACTOR EMPLOYED PURSUANT TO THIS SUBDIVISION, NOT OTHER-
10 WISE REQUIRED TO PAY LABORERS, WORKERS OR MECHANICS THE PREVAILING RATE
11 OF WAGES PURSUANT TO ARTICLE EIGHT OF THE LABOR LAW, SHALL PAY EMPLOYEES
12 UNDER CONTRACT FOR THE INSTALLATION OF QUALIFIED SOLAR PHOTOVOLTAIC
13 GENERATING SYSTEMS RATED AT TWO HUNDRED FIFTY KILOWATTS OR MORE A WAGE
14 OF NOT LESS THAN THE PREVAILING RATE OF WAGES FOR SUCH WORK IN THE
15 LOCALITY WHERE SUCH INSTALLATION OCCURS. THIS REQUIREMENT SHALL BE IN
16 EFFECT FOR THE DURATION OF THE AVAILABILITY OF THE INCENTIVE STREAMS
17 ESTABLISHED PURSUANT TO THIS SUBDIVISION AND IN NO EVENT SHALL SUCH
18 REQUIREMENT EXTEND BEYOND THE AVAILABILITY OF SUCH INCENTIVE STREAMS.
19 EVERY CONTRACTOR SUBJECT TO THE PROVISIONS OF THIS PARAGRAPH SHALL MAIN-
20 TAIN PAYROLL RECORDS IN ACCORDANCE WITH SECTION TWO HUNDRED TWENTY OF
21 THE LABOR LAW.

22 S 5. Sections 1020-ii, 1020-jj and 1020-kk of the public authorities
23 law, as renumbered by chapter 388 of the laws of 2011, are renumbered
24 sections 1020-jj, 1020-kk and 1020-ll and a new section 1020-ii is added
25 to read as follows:

26 S 1020-II. ESTABLISHMENT OF SOLAR INCENTIVE PROGRAM. 1. AS USED IN
27 THIS SECTION:

28 (A) "PREVAILING RATE OF WAGES" SHALL HAVE THE SAME MEANING AS SUCH
29 TERM IS DEFINED IN PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION TWO
30 HUNDRED TWENTY OF THE LABOR LAW; AND

31 (B) "QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEM" MEANS A SYSTEM OF
32 COMPONENTS (I) THAT GENERATES ELECTRICITY FROM INCIDENTAL SUNLIGHT BY
33 MEANS OF THE PHOTOVOLTAIC EFFECT, WHETHER OR NOT THE DEVICE IS COUPLED
34 WITH A DEVICE CAPABLE OF STORING THE ENERGY PRODUCED FOR LATER USE; (II)
35 CONNECTED TO THE DISTRIBUTION SYSTEM OR AREA SUBSTATIONS AND ASSOCIATED
36 FACILITIES THAT COMPRISE THE LOCAL AREA NETWORK OF AN ELECTRIC DISTRIB-
37 UTION COMPANY SERVING THE STATE AFTER JANUARY FIRST, TWO THOUSAND ELEV-
38 EN.

39 2. NO LATER THAN JANUARY FIRST, TWO THOUSAND THIRTEEN, THE AUTHORITY
40 SHALL ESTABLISH AN INCENTIVE PROGRAM FOR THE DEVELOPMENT OF QUALIFIED
41 SOLAR PHOTOVOLTAIC GENERATING SYSTEMS. THE PROPOSED INCENTIVE PROGRAM
42 SHALL FIRST BE MADE AVAILABLE TO THE PUBLIC, WITH NOTICE AND OPPORTUNITY
43 FOR COMMENT, BEFORE FINAL ADOPTION BY THE BOARD.

44 (A) THE PROGRAM SHALL ACHIEVE THE FOLLOWING MINIMUM CAPACITY LEVELS OF
45 QUALIFIED SOLAR PHOTOVOLTAIC GENERATION AND SHALL INCLUDE ANNUAL INCRE-
46 MENTAL TARGETS TO ACHIEVE SUCH LEVELS:

47 (I) 150 MEGAWATTS BY 2015; AND

48 (II) 500 MEGAWATTS BY 2021.

49 (B) THE PROGRAM ESTABLISHED BY THE AUTHORITY PURSUANT TO THIS SUBDIVI-
50 SION SHALL ADDRESS (I) PROGRAM ADMINISTRATION AND DELIVERY; (II) TARGET
51 MARKETS AND ALLOCATION; (III) INCENTIVE STRUCTURES; AND (IV) ANY OTHER
52 ISSUES DEEMED APPROPRIATE BY THE AUTHORITY. THE PROGRAM SHALL BE
53 DESIGNED TO ADDRESS BOTH WHOLESALE AND RETAIL MARKET OPPORTUNITIES,
54 FOSTER A DIVERSITY OF PROJECT SIZES, GEOGRAPHIC DISTRIBUTION, AND
55 PARTICIPATION AMONG ALL ELIGIBLE CUSTOMER CLASSES, SUBJECT TO COST-EF-
56 FECTIVENESS CONSIDERATIONS; AVOID LONG-TERM COSTS TO THE TRANSMISSION

1 AND DISTRIBUTION SYSTEM; MINIMIZE PEAK LOAD IN CONSTRAINED AREAS; AND
2 ACHIEVE ANY OTHER OBJECTIVES THE AUTHORITY MAY ESTABLISH. PREFERENCE
3 SHALL BE GIVEN TO AN INCENTIVE STRUCTURE THAT: (1) COMPENSATES OWNERS OR
4 DEVELOPERS OF QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEMS ON THE
5 BASIS OF ACTUAL PRODUCTION FROM SUCH SYSTEMS; AND (2) AWARDS INCENTIVES
6 ON THE BASIS OF REGULAR AND COMPETITIVE PROCUREMENTS UNLESS THE AUTHORI-
7 TY DETERMINES THAT AN ALTERNATIVE METHODOLOGY IS IN THE BEST INTERESTS
8 OF ITS CUSTOMERS AND THE DEVELOPMENT OF A COMPETITIVE AND SELF-SUSTAIN-
9 ING MARKET.

10 (C) THE AUTHORITY'S ANNUAL EXPENDITURE FOR SOLAR PROCUREMENT UNDERTAK-
11 EN PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED ONE AND ONE-HALF
12 PERCENT OF ITS ANNUAL ELECTRICITY SALES REVENUES. IN THE EVENT THAT SUCH
13 CAP WOULD BE EXCEEDED, THE AUTHORITY MAY LIMIT THE ANNUAL INCREASE IN
14 REQUIRED SOLAR CAPACITY AS ESTABLISHED PURSUANT TO PARAGRAPH (A) OF THIS
15 SUBDIVISION TO SUCH NEW CAPACITY AS CAN BE PROCURED WITH TOTAL COSTS OF
16 LESS THAN THE ONE AND ONE-HALF PERCENT CAP. NOTHING IN THIS PARAGRAPH
17 SHALL BE CONSTRUED AS AUTHORIZING THE ABROGATION OF EXISTING CONTRACTS
18 OR TARIFF RATES, AS APPLICABLE, PRIOR TO THEIR TERMINATION DATE BY
19 VIRTUE OF THE CAP BEING TRIGGERED.

20 3. NO LATER THAN JULY FIRST, TWO THOUSAND FOURTEEN, AND EVERY TWO
21 YEARS THEREAFTER, THE AUTHORITY SHALL, AFTER NOTICE AND PROVISION FOR
22 THE OPPORTUNITY TO COMMENT, ISSUE A COMPREHENSIVE REVIEW OF THE PROGRAM
23 ESTABLISHED PURSUANT TO THIS SECTION. THE AUTHORITY SHALL DETERMINE,
24 AMONG OTHER MATTERS: (1) PROGRESS IN MEETING ITS ANNUAL TARGETS FOR
25 DEPLOYMENT OF QUALIFIED SOLAR PHOTOVOLTAIC GENERATING SYSTEMS; (2)
26 DISTRIBUTION OF INSTALLATIONS BY CUSTOMER CLASS, SYSTEM SIZE, AND LOAD
27 ZONE; AND (3) ANNUAL INCENTIVE COMMITMENTS AND EXPENDITURES. THE AUTHOR-
28 ITY SHALL EVALUATE THE REASONABLENESS OF THE FUTURE ANNUAL TARGETS
29 ESTABLISHED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION
30 AND DETERMINE WHETHER THE ANNUAL TARGETS SHOULD BE ACCELERATED,
31 INCREASED OR EXTENDED. THE AUTHORITY SHALL ALSO REVIEW THE INCENTIVE
32 STRUCTURES AND MAKE ADJUSTMENTS AS NECESSARY TO COST-EFFECTIVELY ACHIEVE
33 FUTURE ANNUAL TARGETS.

34 4. EVERY CONTRACTOR EMPLOYED PURSUANT TO THIS SECTION, NOT OTHERWISE
35 REQUIRED TO PAY LABORERS, WORKERS OR MECHANICS THE PREVAILING RATE OF
36 WAGES PURSUANT TO ARTICLE EIGHT OF THE LABOR LAW, SHALL PAY EMPLOYEES
37 UNDER CONTRACT FOR THE INSTALLATION OF QUALIFIED SOLAR PHOTOVOLTAIC
38 GENERATING SYSTEMS RATED AT TWO HUNDRED FIFTY KILOWATTS OR MORE A WAGE
39 OF NOT LESS THAN THE PREVAILING RATE OF WAGES FOR SUCH WORK IN THE
40 LOCALITY WHERE SUCH INSTALLATION OCCURS. THIS REQUIREMENT SHALL BE IN
41 EFFECT FOR THE DURATION OF THE AVAILABILITY OF THE INCENTIVE STREAMS
42 ESTABLISHED PURSUANT TO THIS SECTION AND IN NO EVENT SHALL SUCH REQUIRE-
43 MENT EXTEND BEYOND THE AVAILABILITY OF SUCH INCENTIVE STREAMS. EVERY
44 CONTRACTOR SUBJECT TO THE PROVISIONS OF THIS SUBDIVISION SHALL MAINTAIN
45 PAYROLL RECORDS IN ACCORDANCE WITH SECTION TWO HUNDRED TWENTY OF THE
46 LABOR LAW.

47 S 6. If any provision of this act is, for any reason, declared uncon-
48 stitutional or invalid, in whole or in part, by any court of competent
49 jurisdiction, such portion shall be deemed severable, and such unconsti-
50 tutionality or invalidity shall not affect the validity of the remaining
51 provisions of this act, which remaining provisions shall continue in
52 full force and effect.

53 S 7. This act shall take effect immediately.