

3164

2011-2012 Regular Sessions

I N S E N A T E

February 10, 2011

Introduced by Sen. MAZIARZ -- (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 recharge 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 power authority of the state of New York 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; to amend chapter 477 of the laws of 2009, amending the public authorities law relating to energy efficiency and clean energy initiatives of the power authority of the state of New York, in relation to making such provisions permanent 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 "recharge 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. RECHARGE 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.

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

LBD12006-02-1

(2) "AUTHORITY" SHALL MEAN THE POWER AUTHORITY OF THE STATE OF NEW YORK.

(3) "RECHARGE NEW YORK POWER ALLOCATION" OR "ALLOCATION" SHALL MEAN AN ALLOCATION OF RECHARGE NEW YORK POWER BY THE POWER AUTHORITY OF THE STATE OF NEW YORK PURSUANT TO SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW TO AN ELIGIBLE APPLICANT RECOMMENDED BY THE NEW YORK STATE ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD IN ACCORDANCE WITH THIS SECTION.

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

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

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

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

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FIFTY-FIVE MEGAWATTS OF FIRM HYDROELECTRIC POWER FROM THE NIAGARA AND SAINT LAWRENCE HYDROELECTRIC PROJECTS TO BE WITHDRAWN FROM UTILITY CORPORATIONS THAT, PRIOR TO THE EFFECTIVE DATE OF THIS SECTION, PURCHASED SUCH POWER FOR THE BENEFIT OF THEIR DOMESTIC AND RURAL CONSUMERS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

(B) APPLICATIONS FOR RECHARGE NEW YORK POWER ALLOCATIONS. (1) THE BOARD MAY SOLICIT APPLICATIONS FOR RECHARGE NEW YORK POWER ALLOCATIONS UNDER THE PROGRAM CREATED BY THIS SECTION BY PUBLIC NOTICE BEGINNING NO LATER THAN FEBRUARY FIRST, TWO THOUSAND TWELVE. SUCH NOTICE MAY INCLUDE NEWSPAPER ADVERTISEMENTS, PRESS RELEASES, WEBSITE POSTINGS, PAPER OR ELECTRONIC MAILING, AND/OR SUCH OTHER FORM OF NOTICE AS THE BOARD FINDS APPROPRIATE IN CONSULTATION WITH THE AUTHORITY.

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

(3) AN APPLICANT WHO IS A RECIPIENT OF A HYDROELECTRIC POWER ALLOCATION OR BENEFITS SUPPORTED BY THE SALE OF HYDROELECTRIC POWER UNDER ANOTHER PROGRAM ADMINISTERED IN WHOLE OR PART BY THE AUTHORITY SHALL BE ELIGIBLE TO APPLY FOR AN ALLOCATION UNDER THE RECHARGE NEW YORK POWER PROGRAM ONLY IF IT IS IN SUBSTANTIAL COMPLIANCE WITH ITS CONTRACTUAL COMMITMENTS MADE IN CONNECTION WITH SUCH OTHER PROGRAM, PROVIDED HOWEVER THAT AN APPLICANT SHALL NOT RECEIVE A RECHARGE NEW YORK POWER ALLOCATION AND ANY OTHER AUTHORITY POWER PROGRAM BENEFITS WITH RESPECT TO THE SAME QUANTITY OF ELECTRICITY CONSUMED AT A FACILITY.

(4) SUBJECT TO CONFIDENTIALITY REQUIREMENTS, UPON RECEIPT OF EACH APPLICATION FROM THE BOARD, THE AUTHORITY SHALL PROMPTLY NOTIFY BY ELECTRONIC MEANS, INCLUDING WEBSITE POSTINGS AND SUCH OTHER METHODS THE

1 BOARD DEEMS APPROPRIATE IN CONSULTATION WITH THE AUTHORITY, THE GOVER-
2 NOR, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE ASSEMBLY,
3 THE TEMPORARY PRESIDENT OF THE SENATE, THE MINORITY LEADER OF THE
4 SENATE, AND EACH MEMBER OF THE STATE LEGISLATURE IN WHOSE DISTRICT ANY
5 PORTION OF THE FACILITY FOR WHICH AN ALLOCATION IS REQUESTED IS LOCATED.
6 SUCH NOTICE SHALL PROVIDE THE NAME AND A DESCRIPTION OF THE APPLICANT,
7 AND THE ADDRESS OF THE FACILITY FOR WHICH THE ALLOCATION IS REQUESTED.
8 THE AUTHORITY SHALL ALSO DEVELOP A LISTING WHICH CONTAINS THE NAME AND A
9 DESCRIPTION OF EACH APPLICANT, THE RECHARGE NEW YORK POWER PROGRAM ALLO-
10 CATION SOUGHT BY EACH APPLICANT, AND THE ADDRESS OF THE FACILITY FOR
11 WHICH THE APPLICANT REQUESTS THE ALLOCATION, AND SHALL MAKE THE LISTING
12 AVAILABLE FOR PUBLIC REVIEW ON THE AUTHORITY'S WEBSITE.

13 (C) REVIEW APPLICABLE CRITERIA AND RECOMMENDATIONS. (1) THE BOARD
14 SHALL REVIEW APPLICATIONS SUBMITTED UNDER THE RECHARGE NEW YORK POWER
15 PROGRAM. THE BOARD SHALL MAKE AN INITIAL DETERMINATION OF WHETHER THE
16 APPLICANT IS AN ELIGIBLE APPLICANT. IN THE CASE OF AN ELIGIBLE APPLI-
17 CANT, THE BOARD MAY RECOMMEND TO THE AUTHORITY THAT AN ALLOCATION OF
18 RECHARGE NEW YORK POWER BE AWARDED TO AN APPLICANT FOR A FACILITY
19 LOCATED IN THE STATE OF NEW YORK BASED ON CONSIDERATION OF THE FOLLOWING
20 CRITERIA WHICH SHALL BE CONSIDERED IN THE AGGREGATE AND NO ONE OF WHICH
21 SHALL BE PRESUMPTIVELY DETERMINATIVE:

22 (I) THE SIGNIFICANCE OF THE COST OF ELECTRICITY TO THE APPLICANT'S
23 OVERALL COST OF DOING BUSINESS, AND THE IMPACT THAT A RECHARGE NEW YORK
24 POWER ALLOCATION WILL HAVE ON THE APPLICANT'S OPERATING COSTS;

25 (II) THE EXTENT TO WHICH A RECHARGE NEW YORK POWER ALLOCATION WILL
26 RESULT IN NEW CAPITAL INVESTMENT IN THE STATE BY THE APPLICANT;

27 (III) THE EXTENT TO WHICH A RECHARGE NEW YORK POWER ALLOCATION IS
28 CONSISTENT WITH ANY REGIONAL ECONOMIC DEVELOPMENT COUNCIL STRATEGIES AND
29 PRIORITIES;

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

33 (V) THE APPLICANT'S PAYROLL, SALARIES, BENEFITS AND NUMBER OF JOBS AT
34 THE FACILITY FOR WHICH A RECHARGE NEW YORK POWER ALLOCATION IS
35 REQUESTED;

36 (VI) THE NUMBER OF JOBS THAT WILL BE CREATED OR RETAINED WITHIN THE
37 STATE IN RELATION TO THE REQUESTED RECHARGE NEW YORK POWER ALLOCATION,
38 AND THE EXTENT TO WHICH THE APPLICANT WILL AGREE TO COMMIT TO CREATING
39 OR RETAINING SUCH JOBS AS A CONDITION TO RECEIVING A RECHARGE NEW YORK
40 POWER ALLOCATION;

41 (VII) WHETHER THE APPLICANT, DUE TO THE COST OF ELECTRICITY, IS AT
42 RISK OF CLOSING OR CURTAILING FACILITIES OR OPERATIONS IN THE STATE,
43 RELOCATING FACILITIES OR OPERATIONS OUT OF THE STATE, OR LOSING A
44 SIGNIFICANT NUMBER OF JOBS IN THE STATE, IN THE ABSENCE OF A RECHARGE
45 NEW YORK POWER ALLOCATION;

46 (VIII) THE SIGNIFICANCE OF THE APPLICANT'S FACILITY THAT WOULD RECEIVE
47 THE RECHARGE NEW YORK POWER ALLOCATION TO THE ECONOMY OF THE AREA IN
48 WHICH SUCH FACILITY IS LOCATED;

49 (IX) THE EXTENT TO WHICH THE APPLICANT HAS INVESTED IN ENERGY EFFI-
50 CIENCY MEASURES, WILL AGREE TO PARTICIPATE IN OR PERFORM ENERGY AUDITS
51 OF ITS FACILITIES, WILL AGREE TO PARTICIPATE IN ENERGY EFFICIENCY
52 PROGRAMS OF THE AUTHORITY, OR WILL COMMIT TO IMPLEMENT OR OTHERWISE MAKE
53 TANGIBLE INVESTMENTS IN ENERGY EFFICIENCY MEASURES AS A CONDITION TO
54 RECEIVING A RECHARGE NEW YORK POWER ALLOCATION;

1 (X) WHETHER THE APPLICANT RECEIVES A HYDROELECTRIC POWER ALLOCATION OR
2 BENEFITS SUPPORTED BY THE SALE OF HYDROELECTRIC POWER UNDER ANOTHER
3 PROGRAM ADMINISTERED IN WHOLE OR IN PART BY THE AUTHORITY;

4 (XI) THE EXTENT TO WHICH A RECHARGE NEW YORK POWER ALLOCATION WILL
5 RESULT IN AN ADVANTAGE FOR AN APPLICANT IN RELATION TO THE APPLICANT'S
6 COMPETITORS WITHIN THE STATE; AND

7 (XII) IN ADDITION TO THE FOREGOING CRITERIA, IN THE CASE OF A
8 NOT-FOR-PROFIT CORPORATION, WHETHER THE APPLICANT PROVIDES CRITICAL
9 SERVICES OR SUBSTANTIAL BENEFITS TO THE LOCAL COMMUNITY IN WHICH THE
10 FACILITY FOR WHICH THE ALLOCATION IS REQUESTED IS LOCATED.

11 (2) A RECOMMENDATION BY THE BOARD THAT THE AUTHORITY PROVIDE A
12 RECHARGE NEW YORK POWER ALLOCATION TO AN ELIGIBLE APPLICANT SHALL
13 INCLUDE, BUT NEED NOT BE LIMITED TO:

14 (I) THE AMOUNT OF THE RECHARGE NEW YORK POWER ALLOCATION THE BOARD HAS
15 DETERMINED SHOULD BE AWARDED TO SUCH ELIGIBLE APPLICANT, PROVIDED HOWEV-
16 ER, THAT THE BOARD MAY RECOMMEND A RECHARGE NEW YORK POWER ALLOCATION IN
17 AN AMOUNT THAT IS LESS THAN THE AMOUNT REQUESTED BY SUCH APPLICANT;

18 (II) AN EFFECTIVE INITIAL TERM OF THE ALLOCATION AND CONTRACT BETWEEN
19 THE ELIGIBLE APPLICANT AND THE AUTHORITY WHICH SHALL NOT EXCEED SEVEN
20 YEARS, PROVIDED HOWEVER THAT THE TERM OF ANY SUCH ALLOCATION AND
21 CONTRACT SHALL NOT BECOME EFFECTIVE BEFORE JULY FIRST, TWO THOUSAND
22 TWELVE;

23 (III) PROVISIONS FOR EFFECTIVE PERIODIC AUDITS OF THE RECIPIENT OF AN
24 ALLOCATION FOR THE PURPOSE OF DETERMINING CONTRACT AND PROGRAM COMPLI-
25 ANCE, AND FOR THE PARTIAL OR COMPLETE WITHDRAWAL OF AN ALLOCATION IF THE
26 RECIPIENT FAILS TO MAINTAIN MUTUALLY AGREED UPON COMMITMENTS, RELATING
27 TO, AMONG OTHER THINGS, EMPLOYMENT LEVELS, POWER UTILIZATION, CAPITAL
28 INVESTMENTS, AND/OR ENERGY EFFICIENCY MEASURES;

29 (IV) A REQUIREMENT FOR AN AGREEMENT BY THE RECIPIENT OF AN ALLOCATION
30 TO (A) UNDERTAKE AT ITS OWN EXPENSE AN ENERGY AUDIT OF ITS FACILITIES AT
31 WHICH THE ALLOCATION IS CONSUMED AT LEAST ONCE DURING THE TERM OF THE
32 ALLOCATION BUT IN ANY EVENT NOT LESS THAN ONCE EVERY FIVE YEARS,
33 PROVIDED, HOWEVER, THAT SUCH REQUIREMENT MAY BE WAIVED OR MODIFIED BY
34 THE AUTHORITY ON A SHOWING OF GOOD CAUSE BY THE RECIPIENT, AND (B)
35 PROVIDE THE AUTHORITY WITH A COPY OF ANY SUCH AUDIT OR, AT THE AUTHORI-
36 TY'S OPTION, A REPORT DESCRIBING THE RESULTS OF SUCH AUDIT, AND PROVIDE
37 DOCUMENTATION REQUESTED BY THE AUTHORITY RELATING TO THE IMPLEMENTATION
38 OF ANY EFFICIENCY MEASURES AT THE FACILITIES; AND

39 (V) A REQUIREMENT FOR AN AGREEMENT BY THE RECIPIENT OF AN ALLOCATION
40 TO (A) MAKE ITS FACILITIES AVAILABLE AT REASONABLE TIMES AND INTERVALS
41 FOR ENERGY AUDITS AND RELATED ASSESSMENTS THAT THE AUTHORITY DESIRES TO
42 PERFORM, IF ANY, AT THE AUTHORITY'S OWN EXPENSE, AND (B) PROVIDE INFOR-
43 MATION REQUESTED BY THE AUTHORITY OR ITS DESIGNEE IN SURVEYS, QUESTION-
44 NAIRES AND OTHER INFORMATION REQUESTS RELATING TO ENERGY EFFICIENCY AND
45 ENERGY-RELATED PROJECTS, PROGRAMS AND SERVICES.

46 (3) THE BOARD'S RECOMMENDATION SHALL REQUIRE THAT IF THE ACTUAL
47 METERED LOAD AT THE FACILITY WHERE THE ALLOCATION IS UTILIZED IS LESS
48 THAN THE ALLOCATION, SUCH ALLOCATION WILL BE REDUCED ACCORDINGLY,
49 PROVIDED THAT, UNDER ITS CONTRACT WITH THE AUTHORITY, THE RECIPIENT
50 SHALL BE AFFORDED A REASONABLE PERIOD WITHIN WHICH TO FULLY UTILIZE THE
51 ALLOCATION, TAKING INTO ACCOUNT CONSTRUCTION SCHEDULES AND ECONOMIC
52 CONDITIONS. THE AUTHORITY SHALL REALLOCATE ANY WITHDRAWN OR RELINQUISHED
53 POWER FOR THE RECHARGE NEW YORK POWER PROGRAM CONSISTENT WITH PARAGRAPH
54 FOUR OF THIS SUBDIVISION.

55 (4) THE BOARD MAY BASE ITS RECOMMENDATION ON WHICH ELIGIBLE APPLICANTS
56 IT DETERMINES BEST MEET THE APPLICABLE CRITERIA; PROVIDED, HOWEVER, THAT

1 THE BOARD SHALL DEDICATE RECHARGE NEW YORK POWER AS FOLLOWS: (I) AT
2 LEAST THREE HUNDRED FIFTY MEGAWATTS FOR USE AT FACILITIES LOCATED WITHIN
3 THE SERVICE TERRITORIES OF THE UTILITY CORPORATIONS THAT, PRIOR TO THE
4 EFFECTIVE DATE OF THIS SECTION, PURCHASED NIAGARA AND SAINT LAWRENCE
5 HYDROELECTRIC POWER FOR THE BENEFIT OF THEIR DOMESTIC AND RURAL CONSUM-
6 ERS; (II) AT LEAST TWO HUNDRED MEGAWATTS FOR THE PURPOSES OF ATTRACTING
7 NEW BUSINESS TO THE STATE, CREATING NEW BUSINESS WITHIN THE STATE, OR
8 ENCOURAGING THE EXPANSION OF EXISTING BUSINESSES WITHIN THE STATE, THAT
9 CREATE NEW JOBS OR LEVERAGE NEW CAPITAL INVESTMENT; AND (III) AN AMOUNT
10 NOT TO EXCEED ONE HUNDRED MEGAWATTS FOR ELIGIBLE SMALL BUSINESSES AND
11 ELIGIBLE NOT-FOR-PROFIT CORPORATIONS.

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

15 (6) A RECOMMENDATION FOR A RECHARGE NEW YORK POWER ALLOCATION SHALL
16 QUALIFY AN APPLICANT TO ENTER INTO A CONTRACT WITH THE AUTHORITY PURSU-
17 ANT TO THE TERMS AND CONDITIONS OF THE RECOMMENDATION BY THE BOARD AND
18 ON SUCH OTHER TERMS AS THE AUTHORITY DETERMINES TO BE APPROPRIATE.

19 (7) THE BOARD SHALL NOT RECOMMEND A TOTAL OF RECHARGE NEW YORK POWER
20 ALLOCATIONS IN EXCESS OF NINE HUNDRED TEN MEGAWATTS.

21 (D) THE AUTHORITY SHALL WORK COOPERATIVELY WITH THE DEPARTMENT OF
22 PUBLIC SERVICE TO RECOMMEND TO THE PUBLIC SERVICE COMMISSION REDUCED
23 RATES OR AN EQUIVALENT MECHANISM FOR THE DELIVERY BY UTILITY CORPO-
24 RATIONS OF RECHARGE NEW YORK POWER PROGRAM ALLOCATIONS. ANY SUCH RECOM-
25 MENDATION FOR REDUCED DELIVERY RATES SHALL BE AT SUCH LEVEL AS TO ALLOW
26 THE UTILITY TO (I) RECOVER THE INCREMENTAL COST OF PROVIDING DELIVERY
27 SERVICE TO SUCH CUSTOMERS, AND (II) CONTRIBUTE TO THE COMMON DELIVERY
28 AND RELATED COSTS WHICH OTHERWISE WOULD BE BORNE BY OTHER CUSTOMERS.

29 (E) THE AUTHORITY SHALL, AT A MINIMUM, REPORT QUARTERLY TO THE BOARD
30 ON THE AVAILABILITY OF RECHARGE NEW YORK POWER FOR THE SUBSEQUENT
31 TWELVE-MONTH PERIOD, THE AMOUNT OF SUCH POWER ALLOCATED AND OTHER RELE-
32 VANT INFORMATION.

33 (F) AFTER AN AWARD OF A RECHARGE NEW YORK POWER ALLOCATION, THE BOARD
34 SHALL ACCEPT REQUESTS FROM RECIPIENTS WHO AT THE TIME OF SUCH REQUEST
35 ARE ELIGIBLE APPLICANTS WHO ARE IN SUBSTANTIAL COMPLIANCE WITH CONTRAC-
36 TUAL COMMITMENTS MADE IN CONNECTION WITH THE RECHARGE NEW YORK POWER
37 PROGRAM FOR AN EXTENSION OF AN EXISTING ALLOCATION (I) DURING THE TWEN-
38 TY-FOUR MONTH PERIOD IMMEDIATELY PRECEDING THE EXPIRATION OF THE TERM OF
39 THE ALLOCATION, OR (II) AT SUCH EARLIER TIME WITH THE CONSENT OF THE
40 AUTHORITY IN WRITING. REQUESTS FOR EXTENSIONS SHALL BE REVIEWED USING
41 THE CRITERIA SET FORTH IN PARAGRAPH ONE OF SUBDIVISION (C) OF THIS
42 SECTION.

43 (G) TRANSFERS OF RECHARGE NEW YORK POWER. NOTWITHSTANDING ANY OTHER
44 APPROVAL REQUIRED BY STATUTE, REGULATION OR CONTRACT, THE TRANSFER OF A
45 RECHARGE NEW YORK POWER ALLOCATION TO A DIFFERENT RECIPIENT, TO A
46 DIFFERENT OWNER OR OPERATOR OF A FACILITY, OR TO A DIFFERENT FACILITY IS
47 PROHIBITED UNLESS SPECIFICALLY APPROVED BY THE BOARD AS CONSISTENT WITH
48 THE CRITERIA AND REQUIREMENTS OF THIS SECTION. ANY TRANSFER THAT OCCURS
49 WITHOUT THE BOARD'S APPROVAL SHALL BE INVALID AND SUCH TRANSFER MAY
50 SUBJECT THE TRANSFEROR TO REVOCATION OR MODIFICATION OF ITS ALLOCATION
51 AND CONTRACT.

52 (H) (1) THE BOARD, IN CONSULTATION WITH THE AUTHORITY, SHALL SUBMIT TO
53 THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEM-
54 BLY, MINORITY LEADER OF THE SENATE AND MINORITY LEADER OF THE ASSEMBLY
55 AN EVALUATION OF THE EFFECTIVENESS OF THE RECHARGE NEW YORK POWER
56 PROGRAM. SUCH EVALUATION SHALL FOCUS ON HOW THE PROGRAM HAS AIDED

1 RECIPIENTS OF POWER ALLOCATIONS, AND MAY INCLUDE RECOMMENDATIONS FOR HOW
2 THE PROGRAM CAN BE MADE MORE EFFECTIVE, AND SHALL BE BASED, IN PART, ON
3 THE RELATIVE COSTS OF POWER FOR RECIPIENTS IN COMPARISON TO THE COST OF
4 POWER FOR NON-RECIPIENTS. SUCH EVALUATION SHALL BE SUBMITTED BY DECEM-
5 BER THIRTY-FIRST, TWO THOUSAND FIFTEEN AND BY DECEMBER THIRTY-FIRST
6 EVERY FIVE YEARS THEREAFTER.

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

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

13 13-A. RECHARGE NEW YORK POWER PROGRAM. (A) NOTWITHSTANDING ANY OTHER
14 PROVISION OF LAW TO THE CONTRARY, BUT SUBJECT TO THE TERMS AND CONDI-
15 TIONS OF FEDERAL ENERGY REGULATORY COMMISSION LICENSES, TO ALLOCATE,
16 REALLOCATE OR EXTEND, DIRECTLY OR BY SALE FOR RESALE, UP TO NINE HUNDRED
17 TEN MEGAWATTS OF RECHARGE NEW YORK POWER TO ELIGIBLE APPLICANTS LOCATED
18 WITHIN THE STATE OF NEW YORK UPON THE RECOMMENDATION OF THE NEW YORK
19 STATE ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD PURSUANT TO SECTION
20 ONE HUNDRED EIGHTY-EIGHT-A OF THE ECONOMIC DEVELOPMENT LAW.

21 (B) RECHARGE NEW YORK POWER SHALL MEAN AND CONSIST OF EQUAL AMOUNTS OF
22 (1) UP TO FOUR HUNDRED FIFTY-FIVE MEGAWATTS OF FIRM HYDROELECTRIC POWER
23 FROM THE NIAGARA AND SAINT LAWRENCE HYDROELECTRIC PROJECTS TO BE WITH-
24 DRAWN, AS OF THE EARLIEST DATE SUCH POWER MAY BE WITHDRAWN CONSISTENT
25 WITH CONTRACTUAL REQUIREMENTS, FROM UTILITY CORPORATIONS THAT, PRIOR TO
26 THE EFFECTIVE DATE OF THIS SUBDIVISION, PURCHASED SUCH POWER FOR THE
27 BENEFIT OF THEIR DOMESTIC AND RURAL CONSUMERS ("RECHARGE NEW YORK HYDRO-
28 POWER"), AND (2) POWER PROCURED BY THE AUTHORITY THROUGH MARKET SOURCES,
29 A COMPETITIVE PROCUREMENT PROCESS, OR AUTHORITY SOURCES (OTHER THAN THE
30 NIAGARA AND SAINT LAWRENCE PROJECTS) (COLLECTIVELY OR INDIVIDUALLY,
31 "RECHARGE NEW YORK MARKET POWER"); PROVIDED, HOWEVER, THAT IF SUCH
32 RECHARGE NEW YORK MARKET POWER COMES FROM AUTHORITY SOURCES, THE USE OF
33 THAT POWER SHALL NOT REDUCE THE AVAILABILITY OF, OR CAUSE AN INCREASE IN
34 THE PRICE OF, POWER PROVIDED BY THE AUTHORITY FOR ANY OTHER PROGRAM
35 AUTHORIZED IN THIS ARTICLE OR PURSUANT TO ANY OTHER STATUTE.

36 (C) NOTWITHSTANDING SECTION ONE THOUSAND NINE OF THIS TITLE OR ANY
37 OTHER PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS AUTHORIZED,
38 BEGINNING JULY FIRST, TWO THOUSAND TWELVE, TO MAKE AVAILABLE, CONTRACT
39 WITH AND SELL TO SUCH ELIGIBLE APPLICANTS AS ARE RECOMMENDED BY THE
40 ECONOMIC DEVELOPMENT POWER ALLOCATION BOARD UP TO NINE HUNDRED TEN MEGA-
41 WATTS OF RECHARGE NEW YORK POWER FOR RECHARGE NEW YORK POWER ALLO-
42 CATIONS. A RECHARGE NEW YORK POWER ALLOCATION SHALL CONSIST OF EQUAL
43 PARTS OF RECHARGE NEW YORK HYDROPOWER AND RECHARGE NEW YORK MARKET POWER
44 AS SUCH TERMS ARE DEFINED IN PARAGRAPH (B) OF THIS SUBDIVISION;
45 PROVIDED, HOWEVER, THAT PRIOR TO ENTERING INTO A CONTRACT WITH AN ELIGI-
46 BLE APPLICANT FOR THE SALE OF RECHARGE NEW YORK POWER, AND PRIOR TO THE
47 PROVISION OF ELECTRIC SERVICE RELATING TO THE RECHARGE NEW YORK POWER
48 ALLOCATION, THE AUTHORITY SHALL OFFER EACH ELIGIBLE APPLICANT THE OPTION
49 TO DECLINE TO PURCHASE THE RECHARGE NEW YORK MARKET POWER COMPONENT OF
50 SUCH ALLOCATION. IF AN ELIGIBLE APPLICANT DECLINES TO PURCHASE SUCH
51 MARKET POWER FROM THE AUTHORITY, THE AUTHORITY SHALL HAVE NO RESPONSI-
52 BILITY FOR SUPPLYING SUCH MARKET POWER TO THE ELIGIBLE APPLICANT.

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

55 13-B. RESIDENTIAL CONSUMER DISCOUNT PROGRAMS. (A) RESIDENTIAL CONSUM-
56 ER ELECTRICITY COST DISCOUNT. NOTWITHSTANDING ANY PROVISION OF THIS

1 TITLE OR ARTICLE SIX OF THE ECONOMIC DEVELOPMENT LAW TO THE CONTRARY,
2 THE AUTHORITY IS AUTHORIZED, AS DEEMED FEASIBLE AND ADVISABLE BY THE
3 TRUSTEES, TO USE REVENUES FROM THE SALE OF HYDROELECTRIC POWER, AND SUCH
4 OTHER FUNDS OF THE AUTHORITY AS DEEMED FEASIBLE AND ADVISABLE BY THE
5 TRUSTEES, TO FUND MONTHLY PAYMENTS TO BE MADE FOR THE BENEFIT OF SUCH
6 CLASSES OF ELECTRICITY CONSUMERS AS ENJOYED THE BENEFITS OF AUTHORITY
7 HYDROELECTRIC POWER WITHDRAWN PURSUANT TO SUBDIVISION THIRTEEN-A OF THIS
8 SECTION, FOR THE PURPOSE OF MITIGATING PRICE IMPACTS ASSOCIATED WITH THE
9 REALLOCATION OF SUCH POWER IN THE MANNER DESCRIBED IN THIS SUBDIVISION.
10 SUCH MONTHLY PAYMENTS SHALL COMMENCE AFTER SUCH HYDROELECTRIC POWER IS
11 WITHDRAWN. THE TOTAL ANNUAL AMOUNT OF MONTHLY PAYMENTS FOR EACH OF THE
12 THREE TWELVE MONTH PERIODS FOLLOWING WITHDRAWAL OF SUCH HYRDOELECTRIC
13 POWER SHALL BE ONE HUNDRED MILLION DOLLARS. THE TOTAL ANNUAL AMOUNT OF
14 MONTHLY PAYMENTS FOR EACH OF THE TWO SUBSEQUENT TWELVE MONTH PERIODS
15 SHALL BE SEVENTY MILLION DOLLARS AND FIFTY MILLION DOLLARS, RESPECTIVE-
16 LY. THEREAFTER, THE TOTAL ANNUAL AMOUNT OF MONTHLY PAYMENTS FOR EACH
17 TWELVE MONTH PERIOD SHALL BE THIRTY MILLION DOLLARS. THE TOTAL AMOUNT
18 OF MONTHLY PAYMENTS SHALL BE APPORTIONED BY THE AUTHORITY AMONG THE
19 UTILITY CORPORATIONS THAT, PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVI-
20 SION, PURCHASED SUCH HYDROELECTRIC POWER FOR THE BENEFIT OF THEIR DOMES-
21 TIC AND RURAL CONSUMERS ACCORDING TO THE RELATIVE AMOUNTS OF SUCH POWER
22 PURCHASED BY SUCH CORPORATIONS. THE MONTHLY PAYMENTS SHALL BE CREDITED
23 TO THE ELECTRICITY BILLS OF SUCH CORPORATIONS' DOMESTIC AND RURAL
24 CONSUMERS IN A MANNER TO BE DETERMINED BY THE PUBLIC SERVICE COMMISSION
25 OF THE STATE OF NEW YORK. THE MONTHLY CREDIT PROVIDED BY ANY SUCH
26 CORPORATION TO ANY ONE CONSUMER SHALL NOT EXCEED THE TOTAL MONTHLY ELEC-
27 TRIC UTILITY COST INCURRED BY SUCH CONSUMER.

28 (B) AGRICULTURAL CONSUMER ELECTRICITY COST DISCOUNT. (1) BEGINNING
29 WITH THE SECOND TWELVE MONTH PERIOD AFTER SUCH HYDROELECTRIC POWER IS
30 WITHDRAWN, UP TO EIGHT MILLION DOLLARS OF THE RESIDENTIAL CONSUMER ELEC-
31 TRICITY COST DISCOUNT ESTABLISHED BY PARAGRAPH (A) OF THIS SUBDIVISION
32 SHALL BE DEDICATED FOR MONTHLY PAYMENTS TO AGRICULTURAL PRODUCERS WHO
33 RECEIVE ELECTRIC SERVICE AT THE RESIDENTIAL RATE. THE TOTAL AMOUNT OF
34 MONTHLY PAYMENTS SHALL BE APPORTIONED BY THE AUTHORITY AMONG THE UTILITY
35 CORPORATIONS IN THE SAME MANNER AS THEY ARE APPORTIONED IN PARAGRAPH (A)
36 OF THIS SUBDIVISION. MONTHLY PAYMENTS SHALL BE CREDITED TO THE ELECTRIC-
37 ITY BILLS OF SUCH CORPORATIONS' AGRICULTURAL CONSUMERS IN A MANNER TO BE
38 DETERMINED BY THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK.
39 THE COMBINED MONTHLY CREDIT, UNDER THIS PARAGRAPH AND PARAGRAPH (A) OF
40 THIS SUBDIVISION, PROVIDED BY ANY SUCH CORPORATION TO ANY ONE CONSUMER
41 SHALL NOT EXCEED THE TOTAL MONTHLY ELECTRIC UTILITY COST INCURRED BY
42 SUCH CONSUMER.

43 (2) THE AUTHORITY SHALL WORK COOPERATIVELY WITH THE DEPARTMENT OF
44 PUBLIC SERVICE TO EVALUATE THE AGRICULTURAL CONSUMER ELECTRICITY COST
45 DISCOUNT, WHICH SHALL INCLUDE AN ASSESSMENT OF THE BENEFITS TO RECIPI-
46 ENTS COMPARED TO THE BENEFITS THE RECIPIENTS RECEIVED FROM THE AUTHORI-
47 TY'S HYDROELECTRIC POWER, WITHDRAWN PURSUANT TO SUBDIVISION THIRTEEN-A
48 OF THIS SECTION, DURING THE TWELVE MONTH PERIOD ENDING DECEMBER THIRTY-
49 FIRST, TWO THOUSAND TEN, AND COMPARED TO OTHER AGRICULTURAL CONSUMERS
50 THAT DID NOT CHOOSE TO RECEIVE THE DISCOUNT.

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

53 18. FOR THE PURPOSE OF FURNISHING THE STATE WITH SYSTEMATIC INFORMA-
54 TION REGARDING THE STATUS AND THE ACTIVITIES OF THE AUTHORITY, THE
55 AUTHORITY SHALL SUBMIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
56 SENATE, SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND

THE MINORITY LEADER OF THE ASSEMBLY, WITHIN NINETY DAYS AFTER THE END OF ITS FISCAL YEAR, A COMPLETE AND DETAILED ANNUAL REPORT ON EACH ECONOMIC DEVELOPMENT POWER PROGRAM IT ADMINISTERS. SUCH ANNUAL REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING INFORMATION:

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

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

S 6. Transitional electricity discount. Notwithstanding any provision of title 1 of article 5 of the public authorities law or article 6 of the economic development law to the contrary, with respect to applicants who are in substantial compliance with all contractual commitments and receiving benefits under the power for jobs, energy cost savings benefit, economic development, high load factor or municipal distribution agency programs, but do not receive a recommendation from the New York state economic development power allocation board for a recharge New York power allocation pursuant to section 188-a of the economic development law, such board shall recommend that the power authority of the state of New York provide for a transitional electricity discount to such applicants. The power authority of the state of New York is authorized, as deemed feasible and advisable by the trustees, to provide such transitional electricity discounts as recommended by the New York state economic development power allocation board. The power authority of the state of New York shall identify and advise such board whether sufficient funds are available for the funding of such transitional electricity discounts through June 30, 2016. The amount of the transitional electricity discount for the period July 1, 2012 through June 30, 2014 shall be equivalent to 66 percent of the unit (per kilowatt-hour) value of the savings received by the applicant under the power for jobs or energy cost savings benefit programs during the 12 months ending on December 31, 2010. The amount of the transitional electricity discount for the period July 1, 2014 through June 30, 2016 shall be equivalent to 33 percent of the unit (per kilowatt-hour) value of the savings received by the applicant under the power for jobs or energy cost savings benefit programs during the 12 months ending on December 31, 2010.

S 7. Section 9 of 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, as amended by chapter 311 of the laws of 2010, is amended to read as follows:

S 9. This act shall take effect immediately and shall expire and be deemed repealed [May 15, 2011] JUNE 30, 2012.

S 8. Section 11 of 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, as amended by chapter 311 of the laws of 2010, is amended to read as follows:

S 11. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2006; provided, however, that the amendments to section 183 of the economic development law and subparagraph 2 of paragraph g of the ninth undesignated paragraph of section 1005 of the public authorities law made by sections two

1 and six of this act shall not affect the expiration of such section and
2 subparagraph, respectively, and shall be deemed to expire therewith;
3 provided further, however, that the amendments to section 189 of the
4 economic development law and subdivision 9 of section 186-a of the tax
5 law made by sections three, four, five and ten of this act shall not
6 affect the repeal of such section and subdivision, respectively, and
7 shall be deemed to be repealed therewith; provided further, however,
8 that section seven of this act shall expire and be deemed repealed [May
9 15, 2011] JUNE 30, 2012.

10 S 9. Paragraphs 2 and 4 of subdivision (h) of section 183 of the
11 economic development law, as amended by chapter 311 of the laws of 2010,
12 are amended to read as follows:

13 2. During the period commencing on November first, two thousand five
14 and ending on [May fifteenth, two thousand eleven] JUNE THIRTIETH, TWO
15 THOUSAND TWELVE eligible businesses shall only include customers served
16 under the power authority of the state of New York's high load factor,
17 economic development power and other business customers served by poli-
18 tical subdivisions of the state authorized by law to engage in the
19 distribution of electric power that were authorized to be served by the
20 authority from the authority's former James A. Fitzpatrick nuclear power
21 plant as of the effective date of this subdivision whose power prices
22 may be subject to increase before [May fifteenth, two thousand eleven]
23 JUNE THIRTIETH, TWO THOUSAND TWELVE. Provided, however, that the total
24 amount of megawatts of replacement and preservation power which, due to
25 the extension of the energy cost savings benefits, are not relinquished
26 by or withdrawn from a recipient shall be deemed to be relinquished or
27 withdrawn for purposes of offering such megawatts by the authority for
28 reallocation pursuant to subdivision thirteen of section one thousand
29 five of the public authorities law. Provided, further, that for any such
30 reallocation, the authority shall maintain the same energy cost savings
31 benefit level for all eligible businesses using any available authority
32 resources as deemed feasible and advisable by the trustees pursuant to
33 section seven of part U of chapter fifty-nine of the laws of two thou-
34 sand six.

35 4. Applications for an energy cost savings benefit shall be in the
36 form and contain such information, exhibits and supporting data as the
37 board may prescribe. The board shall review the applications received
38 and shall determine the applications which best meet the criteria estab-
39 lished for the benefits pursuant to this subdivision and it shall recom-
40 mend such applications to the power authority of the state of New York
41 with such terms and conditions as it deems appropriate; provided, howev-
42 er, that for energy cost savings benefits granted on or after [June
43 thirtieth, two thousand nine] MAY FIFTEENTH, TWO THOUSAND ELEVEN through
44 [May fifteenth, two thousand eleven] JUNE THIRTIETH, TWO THOUSAND
45 TWELVE, the board shall expedite the awarding of such benefits and shall
46 defer the review of compliance with such criteria until after the appli-
47 cant has been awarded an energy cost savings benefit. Such terms and
48 conditions shall include reasonable provisions providing for the partial
49 or complete withdrawal of the energy cost savings benefit in the event
50 the recipient fails to maintain mutually agreed upon commitments that
51 may include, but are not limited to, levels of employment, capital
52 investment and power utilization. Recommendation for approval of an
53 energy cost savings benefit shall qualify an applicant to receive an
54 energy cost savings benefit from the power authority of the state of New
55 York pursuant to the terms and conditions of the recommendation.

1 S 10. The opening paragraph of paragraph 5 of subdivision (a) of
2 section 189 of the economic development law, as amended by chapter 311
3 of the laws of 2010, is amended to read as follows:

4 "Power for jobs electricity savings reimbursements" shall mean
5 payments made by the power authority of the state of New York as recom-
6 mended by the board to recipients of allocations of power under phases
7 four and five of the power for jobs program for a period of time until
8 November thirtieth, two thousand four, subsequent to the expiration of
9 their phase four or five power for jobs contract provided however that
10 any power for jobs recipient may choose to receive an electricity
11 savings reimbursement as a substitute for a contract extension for the
12 period from the date the recipient's contract expires through [May
13 fifteenth] JUNE THIRTIETH, two thousand [eleven] TWELVE. The "basic
14 reimbursement" is an amount that when credited against the recipient's
15 actual "unit cost of electricity" during a quarter (meaning the cost for
16 commodity and delivery per kilowatt-hour for the quantity of electricity
17 purchased and delivered under the power for jobs program during a simi-
18 lar period in the final year of the recipient's contract), results in an
19 effective unit cost of electricity during the quarter equal to the aver-
20 age unit cost of electricity such recipient paid during the final year
21 of the contract for power allocated under phase four or five of the
22 power for jobs program, PROVIDED HOWEVER THAT NOTWITHSTANDING THE FORE-
23 GOING, FOR THE PERIOD JULY FIRST, TWO THOUSAND ELEVEN THROUGH JUNE THIR-
24 TIETH, TWO THOUSAND TWELVE, THE BASIC REIMBURSEMENT SHALL BE AN AMOUNT
25 SUCH THAT THE RECIPIENT RECEIVES UNIT (PER KILOWATT-HOUR) ELECTRICITY
26 SAVINGS EQUIVALENT TO THE AVERAGE UNIT ELECTRICITY SAVINGS RECEIVED
27 DURING THE TWELVE MONTHS ENDING ON DECEMBER THIRTY-FIRST, TWO THOUSAND
28 TEN.

29 S 11. Subdivisions (f) and (l) of section 189 of the economic develop-
30 ment law, as amended by chapter 311 of the laws of 2010, are amended to
31 read as follows:

32 (f) Eligibility. The board shall recommend applications for allo-
33 cations of power under the power for jobs program to or for the use of
34 businesses which normally utilize a minimum peak electric demand in
35 excess of four hundred kilowatts; provided, however, that up to one
36 hundred megawatts of power available for allocation during the initial
37 three phases of the power for jobs program may be recommended for allo-
38 cations to not-for-profit corporations and to small businesses; and,
39 provided, further that up to seventy-five megawatts of power available
40 for allocation during the fourth phase of the program may be recommended
41 for allocations to not-for-profit corporations and to small businesses.
42 The board may require small businesses that normally utilize a minimum
43 peak electric demand of less than one hundred kilowatts to aggregate
44 their electric demand in amounts of no less than one hundred kilowatts,
45 for the purposes of applying to the board for an allocation of power.
46 The board shall recommend allocations of the additional three hundred
47 megawatts available during the fourth phase of the program to any such
48 eligible applicant, including any recipient of power allocated during
49 the first phase of the program. The board shall recommend allocations of
50 the additional one hundred eighty-three megawatts available during the
51 fifth phase of the program to any eligible applicant, including any
52 recipient of power allocated during the second and third phases of the
53 program; provided, however, that the term of contracts for allocations
54 under the fifth phase of the program shall in no case extend beyond [May
55 fifteenth, two thousand eleven] JUNE THIRTIETH, TWO THOUSAND TWELVE.
56 Notwithstanding any provision of law to the contrary, and, in partic-

ular, the provisions of this chapter concerning the terms of contracts for allocations under the power for jobs program, the terms of any contract with a recipient of power allocated under phase two of the power for jobs program that has expired or will expire on or before the thirty-first day of August, two thousand two, may be extended by the power authority of the state of New York for an additional period of three months effective on the date of such expiration, pending the filing and approval of an application by such recipient for an allocation under the fifth phase of the program. The term of any new contract with such recipient under the fifth phase of the program shall be deemed to include any three month contract extension made pursuant to this subdivision and the termination date of any such new contract under phase five shall be no later than if such new contract had commenced upon the expiration of the recipient's original phase two contract. The terms of any contract with a recipient of power allocated under phase four and/or phase five of the power for jobs program that has expired or will expire on or before the thirty-first day of December, two thousand five, may be extended by the power authority of the state of New York from a date beginning no earlier than the first day of December, two thousand four and extending through [May fifteenth, two thousand eleven] JUNE THIRTIETH, TWO THOUSAND TWELVE.

(1) The board shall solicit and review applications for the power for jobs electricity savings reimbursements and contract extensions from recipients of power for jobs allocations under phases four and five of the program for the award of such reimbursements and/or contract extensions. The board may prescribe a simplified form and content for an application for such reimbursements or extensions. An applicant shall be eligible for such reimbursements and/or extensions only if it is in compliance with and agrees to continue to meet the job retention and creation commitments set forth in its prior power for jobs contract, or such other commitments as the board deems reasonable; provided, however, that for the power for jobs electricity savings reimbursements and contract extensions granted on or after [June thirtieth, two thousand nine] MAY FIFTEENTH, TWO THOUSAND ELEVEN through [May fifteenth, two thousand eleven] JUNE THIRTIETH, TWO THOUSAND TWELVE, the board shall expedite the awarding of such reimbursements and/or extensions and shall defer the review of compliance with such commitments until after the applicant has been awarded a power for jobs electricity savings reimbursement and/or contract extension. The board shall review such applications and make recommendations for the award: 1. of such reimbursements through the power authority of the state of New York for a period of time up to November thirtieth, two thousand four, and 2. of such contract extensions or reimbursements as applied for by the recipient for a period of time beginning December first, two thousand four and ending [May fifteenth, two thousand eleven] JUNE THIRTIETH, TWO THOUSAND TWELVE. At no time shall a recipient receive both a reimbursement and extension after December first, two thousand four. The power authority of the state of New York shall receive notification from the board regarding the award of power for jobs electricity savings reimbursements and/or contract extensions.

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

9. Notwithstanding any other provision of this chapter or any other law to the contrary, for taxable periods nineteen hundred ninety-seven through and including two thousand [ten] TWELVE, any utility which delivers power under the power for jobs program, as established by

1 section one hundred eighty-nine of the economic development law, shall
2 be allowed a credit, subject to the limitations thereon contained in
3 this subdivision, against the tax imposed under this section equal to
4 net lost revenues from the delivery of power under such power for jobs
5 program. Net lost revenues means the "net receipts" less "net utility
6 revenue" from such delivery of power. For purposes of this subdivision,
7 "net receipts" shall mean the amount that the utility would have other-
8 wise received from customers receiving power pursuant to allocations by
9 the New York state economic development power allocation board in
10 accordance with section one hundred eighty-nine of the economic develop-
11 ment law, or from customers whose allocation has been transferred to an
12 energy service company, or from energy service companies to which such
13 allocation has been transferred, pursuant to its tariff supervised by
14 the public service commission for substantially comparable service
15 otherwise applicable to such customers or energy service companies in
16 the absence of such designation, less the utility's annual average
17 incremental short-term variable and capacity costs of providing such
18 power in the absence of such purchase. For the purposes of this subdivi-
19 sion, "net utility revenue" shall mean the revenues the utility actually
20 receives in accordance with such section one hundred eighty-nine from
21 such customers so designated by the New York state economic development
22 power allocation board or from customers whose allocation has been
23 transferred to an energy service company, or from the energy service
24 companies to which a power for jobs allocation has been transferred,
25 less the utility's cost of such power under such program. Provided,
26 however, that any credit under this section shall be used only with
27 respect to the same taxable year during which such credit arose and
28 shall not be capable of being carried forward or backward to any other
29 taxable period. Nor shall any credit be allowed to any utility for the
30 total amount of power, expressed in kilowatt hours, purchased by the
31 customers of such utility under such program during the taxable period
32 that exceeds the prorated "baseline energy use" by all customers of that
33 utility purchasing power under such program during the taxable period.
34 "Baseline energy use" with respect to each customer shall mean the larg-
35 est amount of kilowatt hours of energy used by such customer during any
36 twelve consecutive month period occurring during the preceding thirty
37 months immediately preceding the New York state economic development
38 power allocation board's recommendation of such customer's application,
39 prorated to reflect the length of time of the customer's participation
40 in such program during the taxable period. Provided further, however,
41 that in accordance with subdivision (k) of section one hundred eighty-
42 nine of the economic development law no tax credit shall be available
43 for any revenue losses when a utility has declined to purchase power
44 allocated for sale under such program. No electric corporation shall be
45 allowed the tax credit authorized by this subdivision until it shall
46 file a certificate from the department of public service for the period
47 covered by the return verifying that the calculation of such tax credit
48 complies with this subdivision and the department of public service has
49 approved such certificate and forwarded a copy of such approved certif-
50 icate to the commissioner or any amended certificate resulting from the
51 need for correction. The credit allowed by this subdivision shall not be
52 applicable in calculating any other tax imposed or authorized to be
53 imposed by this chapter or any other law, and the amount of the tax
54 surcharge imposed under section one hundred eighty-six-c of this article
55 shall be calculated and payable as if the credit provided for by this
56 subdivision were not allowed.

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

4 2. The authority, as deemed feasible and advisable by the trustees, is
5 authorized to make payments to recipients of the power for jobs elec-
6 tricity savings reimbursements and additional annual voluntary contrib-
7 utions into the state treasury to the credit of the general fund. The
8 authority shall make such contributions to the state treasury no later
9 than ninety days after the end of the calendar year in which a credit
10 under subdivision nine of section one hundred eighty-six-a of the tax
11 law is available: (a) for the additional three hundred megawatts of
12 power under the fourth phase of the program provided under chapter
13 sixty-three of the laws of two thousand and under the fifth phase for
14 the additional one hundred eighty-three megawatts provided under chapter
15 two hundred twenty-six of the laws of two thousand two; and (b) for any
16 extension of any contract for allocations under the fourth phase of the
17 program and under the fifth phase of the program. Payments for any elec-
18 tricity savings reimbursement under section one hundred eighty-nine of
19 the economic development law shall be made pursuant to such section.
20 Such annual contributions shall be equal to fifty percent of the total
21 amount of such credits available each year to all local distributors of
22 electricity. In addition, such authorization for contribution in state
23 fiscal year two thousand two--two thousand three shall be equal to the
24 total amount of credit available in two thousand one and two thousand
25 two; and such authorization for contribution in state fiscal year two
26 thousand three--two thousand four shall be equal to the total amount of
27 credit available in two thousand three; under subdivision nine of
28 section one hundred eighty-six-a of the tax law under the fourth phase
29 of the program for the additional three hundred megawatts provided under
30 chapter sixty-three of the laws of two thousand and under the fifth
31 phase for the additional one hundred eighty-three megawatts provided
32 under chapter two hundred twenty-six of the laws of two thousand two. In
33 state fiscal year two thousand four--two thousand five, such authorized
34 annual contribution shall be equal to one hundred percent of the total
35 amount of such credits available each year to all local distributors of
36 electricity. Such authorization for contribution in state fiscal years
37 two thousand four and two thousand five shall be equal to the total
38 amount of credit available in two thousand four and two thousand five;
39 under subdivision nine of section one hundred eighty-six-a of the tax
40 law under the fourth phase of the program for the additional three
41 hundred megawatts provided under chapter sixty-three of the laws of two
42 thousand and under the fifth phase for the additional one hundred eight-
43 y-three megawatts provided under chapter two hundred twenty-six of the
44 laws of two thousand two. In addition, such authorization for contrib-
45 ution for any extension of any contract for allocations under the fourth
46 phase of the program and under the fifth phase of the program in each
47 state fiscal year shall be equal to the total amount of credit or
48 reimbursement available in state fiscal year two thousand four--two
49 thousand five, state fiscal year two thousand five--two thousand six and
50 two thousand six--two thousand seven. Additionally, notwithstanding any
51 other section of law, the authority is authorized to make a contribution
52 in an amount related to total amounts of credit received under phases
53 one, two, three, four and five of the program. In no case shall the
54 contribution for state fiscal year two thousand five--two thousand six
55 be less than seventy-five million dollars. The contribution for state
56 fiscal year two thousand six--two thousand seven shall be one hundred

1 million dollars. The contribution for state fiscal year two thousand
2 seven--two thousand eight shall be thirty million dollars. The contrib-
3 ution for state fiscal year two thousand eight--two thousand nine shall
4 be twenty-five million dollars. The contribution for state fiscal year
5 two thousand nine--two thousand ten shall be twelve million five hundred
6 thousand dollars. THE CONTRIBUTION FOR STATE FISCAL YEAR TWO THOUSAND
7 TEN--TWO THOUSAND ELEVEN SHALL BE SEVEN AND ONE-HALF MILLION DOLLARS.
8 THE CONTRIBUTION FOR STATE FISCAL YEAR TWO THOUSAND ELEVEN--TWO THOUSAND
9 TWELVE SHALL BE SIX MILLION DOLLARS. The department of public service
10 shall estimate the payment due by the end of the calendar year in which
11 the credit is available. In no case shall the amount of the total annual
12 contributions for the years during which delivery and sale of power
13 associated with all power for jobs phases and any extensions thereof
14 takes place exceed the aggregate total of four hundred [sixty-one]
15 SEVENTY-FIVE million [five hundred thousand] dollars.

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

19 To develop, maintain, manage and operate those parts of the Niagara
20 and Saint Lawrence hydroelectric projects owned or controlled by it in
21 such manner as to give effect to the policy hereby declared (and all
22 plans and acts, and all contracts for the use, sale, transmission and
23 distribution of the power generated by such projects, shall be made in
24 the light of, consistent with and subject to this policy), namely, that
25 such projects shall be in all respects for the aid, improvement, and
26 benefit of commerce and navigation in, through, along and past the
27 Niagara river, the Saint Lawrence river and the international rapids
28 section thereof, and that in the development of hydro-electric power
29 therefrom such projects shall be considered primarily as for the benefit
30 of the people of the state as a whole [and particularly the domestic and
31 rural consumers to whom the power can economically be made available,
32 and accordingly that sale to and use by industry shall be a secondary
33 purpose, to be utilized principally to secure a sufficiently high load
34 factor and revenue returns to permit domestic and rural use at the
35 lowest possible rates and in such manner as to encourage increased
36 domestic and rural use of electricity]. In furtherance of this policy
37 and to secure a wider distribution of such power and use of the greatest
38 value to the general public of the state, the authority shall in addi-
39 tion to other methods which it may find advantageous make provision so
40 that municipalities and other political sub-divisions of the state now
41 or hereafter authorized by law to engage in the distribution of electric
42 power may secure a reasonable share of the power generated by such
43 projects, and shall sell the same or cause the same to be sold to such
44 municipalities and political subdivisions at prices representing cost of
45 generation, plus capital and operating charges, plus a fair cost of
46 transmission, all as determined by the trustees, and subject to condi-
47 tions which shall assure the resale of such power [to domestic and rural
48 consumers] at the lowest possible price, provided, however, that in
49 disposing of hydro-electric power pursuant to and in furtherance of the
50 aforementioned policy and purposes, appropriate provision may also be
51 made to allocate a reasonable share of project power to agencies created
52 or designated by other states and authorized to resell the power to
53 users under the same terms and conditions as power is disposed of in New
54 York state. To that end, the authority may provide in any contract or
55 contracts which it may make for the sale, transmission and distribution
56 of the power that the purchaser, transmitter or distributor shall

1 construct, maintain and operate, on such terms as the authority may deem
2 proper, such connecting lines as may be necessary for transmission of
3 the power from main transmission lines to such municipalities or poli-
4 tical subdivisions.

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

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

10 (a) As deemed feasible and advisable by the trustees, to finance and
11 design, develop, construct, implement, provide and administer energy-re-
12 lated projects, programs and services for any public entity and any
13 recipient of the economic development power, expansion power, replace-
14 ment power, preservation power, high load factor power, municipal
15 distribution agency power, [and the] power for jobs, AND RECHARGE NEW
16 YORK POWER programs administered by the authority. In establishing and
17 providing high performance and sustainable building programs and
18 services authorized by this subdivision, the authority is authorized to
19 consult standards, guidelines, rating systems, and/or criteria estab-
20 lished or adopted by other organizations, including but not limited to
21 the United States green building council under its leadership in energy
22 and environmental design (LEED) programs, the green building initi-
23 ative's green globes rating system, and the American National Standards
24 Institute. The source of any financing and/or loans provided by the
25 authority for the purposes of this subdivision may be the proceeds of
26 notes issued pursuant to section one thousand nine-a of this title, the
27 proceeds of bonds issued pursuant to section one thousand ten of this
28 title, or any other available authority funds.

29 S 17. Section 2 of chapter 477 of the laws of 2009, amending the
30 public authorities law relating to energy efficiency and clean energy
31 initiatives of the power authority of the state of New York, is amended
32 to read as follows:

33 S 2. This act shall take effect immediately [and shall expire three
34 years after it shall have become a law; provided that such expiration
35 shall not affect the validity of any energy services contract authorized
36 by this act and entered into prior to its expiration].

37 S 18. The opening paragraph of subdivision 6 of section 1005 of the
38 public authorities law, as amended by chapter 294 of the laws of 1968,
39 is amended to read as follows:

40 To develop, maintain, manage and operate its projects other than the
41 Niagara and Saint Lawrence hydroelectric projects so as (i) to provide
42 an adequate supply of energy for optimum utilization of its hydroelec-
43 tric projects, (ii) to attract and expand high load factor industry,
44 (iii) to provide for the additional needs of its municipal electric and
45 rural electric cooperative customers, (IV) TO PROVIDE A SUPPLY OF POWER
46 AND ENERGY FOR USE IN THE RECHARGE NEW YORK POWER PROGRAM AS RECHARGE
47 NEW YORK MARKET POWER, and [(iv)] (V) to assist in maintaining an
48 adequate, dependable electric power supply for the state.

49 S 19. Severability clause. If any clause, sentence, paragraph, subdi-
50 vision, section or part of this act shall be adjudged by any court of
51 competent jurisdiction to be invalid, such judgment shall not affect,
52 impair, or invalidate the remainder thereof, but shall be confined in
53 its operation to the clause, sentence, paragraph, subdivision, section
54 or part thereof directly involved in the controversy in which such judg-
55 ment shall have been rendered. It is hereby declared to be the intent of

1 the legislature that this act would have been enacted even if such
2 invalid provisions had not been included therewith.

3 S 20. This act shall take effect immediately; provided that:

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

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

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

13 d. the amendments to subparagraph 2 of paragraph g of the 9th undesig-
14 nated paragraph of section 1005 of the public authorities law made by
15 section thirteen of this act shall not affect the expiration of such
16 subparagraph and shall be deemed to expire therewith.