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I N S E N A T E

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Introduced by Sens. PARKER, PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the energy law, the public authorities law and the public service law, in relation to refuge facilities

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

Section 1. The legislature hereby finds that there is a need to protect the public from potential disruptions to the energy transmission and distribution system, whether caused by natural or man-made occurrences. Such needs can be met through the creation of refuge facilities in every locality in the state that can assure the public of continuous provision of electric, heat and other necessary utility services in times of disruption of the delivery of such services. Such refuge facilities shall be either existing or new buildings which have energy and heat producing equipment and which provide electricity and heat through such on-site technologies and that such equipment is capable of operation independent of the receipt of power or other services from the local electric utility transmission and distribution system.

The legislature also finds that, in order to promote the development of appropriate facilities and energy production equipment, it is appropriate for state agencies to provide financial assistance in the form of low-interest or zero-interest loans, grants, performance contracts and other appropriate financing mechanisms. In addition, the legislature also finds that current technologies exist which could provide the dual purpose of reducing energy costs for such facilities, and thus also provide benefits to local taxpayers for lower public facilities costs. In addition, to ensure that such facilities do not create additional cost burdens for local taxpayers, and in consideration of the public safety and security to be provided to the localities, such facilities shall be exempt from any statutory or regulatory requirements for utili-

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

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ty standby rates, unreasonable interconnection charges, or exit fees or other similar rates or requirements.

S 2. The energy law is amended by adding a new article 22 to read as follows:

ARTICLE 22
REFUGE FACILITIES

SECTION 22-101. DEFINITIONS.
22-102. REFUGE FACILITIES, CREATION.
22-103. UTILITY RATE TREATMENT.
22-104. PERFORMANCE CONTRACTS.

S 22-101. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "REFUGE FACILITY" SHALL MEAN A FACILITY OWNED AND OPERATED BY A MUNICIPALITY, AS DEFINED IN SECTION NINE HUNDRED EIGHTY OF THE GENERAL MUNICIPAL LAW, OR A SCHOOL DISTRICT, AS PURSUANT TO TITLE TWO OF THE EDUCATION LAW, INCLUDING BUT NOT LIMITED TO SCHOOL BUILDINGS, MUNICIPAL OFFICE BUILDINGS, COMMUNITY CENTERS, OR PUBLIC UNIVERSITIES, COLLEGES OR COMMUNITY COLLEGES, AS DEFINED PURSUANT TO THE EDUCATION LAW, OR OTHER APPROPRIATE STRUCTURE OR FACILITY THAT IS CAPABLE OF PROVIDING SHELTER FOR A SIGNIFICANT PORTION OF THE LOCAL POPULATION DURING TIMES OF MAN-MADE OR NATURAL DISASTER.

2. "COGENERATION TECHNOLOGY" SHALL MEAN ANY ONE OF THE SEVERAL TECHNOLOGIES THAT CAN BE USED FOR COMBINED HEAT AND POWER APPLICATIONS, AND WHICH CONSIST OF APPLICATIONS OF TECHNOLOGIES WHEREIN WASTE HEAT FROM ON-SITE ELECTRIC GENERATION PROCESS IS RECOVERED TO PROVIDE STEAM OR HOT WATER TO MEET ON-SITE NEEDS, SUCH AS HEATING AND/OR AIR CONDITIONING. FOR PURPOSES OF THIS ARTICLE, COGENERATION TECHNOLOGIES MUST ATTAIN OVERALL SYSTEM EFFICIENCY OF SIXTY PERCENT, CONSIDERING BOTH THERMAL AND ELECTRICAL PROCESSES TOGETHER.

3. "FINANCIAL ASSISTANCE" SHALL MEAN GRANTS, LOANS, INTEREST SUBSIDIES, LOAN GUARANTEES AND OTHER APPROPRIATE FUNDING MECHANISMS, INCLUDING PERFORMANCE CONTRACTING, CONSIDERING THE CIRCUMSTANCES OF THE PROJECT. WITH THE EXCEPTION OF GRANTS, ANY FINANCIAL ASSISTANCE PROVIDED ACCORDING TO THIS SUBDIVISION SHALL BE REPAID TO THE ISSUING AUTHORITY, OVER A PERIOD NOT TO EXCEED TEN YEARS, WITH SAVINGS IN ENERGY COSTS AND RELATED COSTS WHICH ACCRUE TO THE FACILITY OWNER AS A RESULT OF INSTALLING AND OPERATING SUCH COGENERATION EQUIPMENT.

S 22-102. REFUGE FACILITIES, CREATION. 1. FOR PURPOSES OF IMPLEMENTING THE PROVISIONS OF THIS ARTICLE, EVERY COUNTY, EXCEPT THOSE CONTAINED WITHIN THE CITY OF NEW YORK, AND THE CITY OF NEW YORK SHALL INITIATE AND IMPLEMENT A PROGRAM TO IDENTIFY AND CREATE FACILITIES WHICH CAN BE UTILIZED AS REFUGE FACILITIES. SUCH REFUGE FACILITIES SHALL BE IDENTIFIED AND INCLUDED IN ANY AND ALL LOCAL DISASTER PREPAREDNESS PLANS TO BE COMPLETED AND IMPLEMENTED ACCORDING TO SECTION TWENTY-THREE OF THE EXECUTIVE LAW. COUNTY EMERGENCY MANAGEMENT OFFICIALS AND THE CITY OF NEW YORK EMERGENCY MANAGEMENT OFFICIAL SHALL COOPERATE AND COORDINATE EFFORTS TO IDENTIFY AND ESTABLISH REFUGE FACILITIES WITH THE DIRECTOR OF THE STATE EMERGENCY MANAGEMENT OFFICE AND THE DISASTER PREPAREDNESS COMMISSION. TO THE EXTENT POSSIBLE AND FEASIBLE, COUNTY EMERGENCY MANAGEMENT OFFICIALS AND THE CITY OF NEW YORK EMERGENCY MANAGEMENT OFFICIAL SHALL INTEGRATE ANY SUCH ACTIVITIES WITH THOSE OF ANY AND ALL STATE DISASTER PREPAREDNESS PLANS AS REQUIRED PURSUANT TO SECTION TWENTY-TWO OF THE EXECUTIVE LAW.

2. COUNTY EMERGENCY MANAGEMENT OFFICIALS, WORKING IN COORDINATION WITH APPROPRIATE STATE, CITY, TOWN AND VILLAGE OFFICIALS, SHALL IDENTIFY AN APPROPRIATE NUMBER OF REFUGE FACILITIES TO BE LOCATED WITHIN THE COUNTY, WITH RESPECT TO THE POPULATION AND OTHER CONSIDERATIONS NECES-

SARY TO PROVIDE ADEQUATE RELIEF IN TIMES OF AN EMERGENCY. THE CITY OF NEW YORK EMERGENCY MANAGEMENT OFFICIAL SHALL WORK IN COORDINATION WITH ALL APPROPRIATE STATE OFFICIALS TO IDENTIFY AN APPROPRIATE NUMBER OF REFUGE FACILITIES TO BE LOCATED WITHIN THAT CITY, WITH RESPECT TO THE POPULATION AND OTHER CONSIDERATIONS NECESSARY TO PROVIDE ADEQUATE RELIEF IN TIMES OF AN EMERGENCY.

3. EACH REFUGE FACILITY SHALL BE REGISTERED WITH THE COUNTY EMERGENCY MANAGEMENT OFFICE IN THE COUNTY IN WHICH SUCH FACILITY IS SITUATED, EXCEPT IN THE CITY OF NEW YORK WHEREIN THE CITY EMERGENCY MANAGEMENT OFFICE SHALL MAINTAIN SUCH REGISTRATION. THE REGISTRIES SHALL BE UPDATED ANNUALLY. SUCH REGISTRIES SHALL ALSO BE PROVIDED TO THE STATE EMERGENCY MANAGEMENT OFFICE.

S 22-103. UTILITY RATE TREATMENT. NO ELECTRIC CORPORATION, AS DEFINED BY SUBDIVISION THIRTEEN OF SECTION TWO OF THE PUBLIC SERVICE LAW, SHALL ESTABLISH OR MODIFY ANY TARIFFS WITH RESPECT TO REFUGE FACILITIES THAT INSTALL COGENERATION EQUIPMENT. ANY REFUGE FACILITY THAT IS REGISTERED WITH THE STATE EMERGENCY MANAGEMENT OFFICE SHALL FURTHER BE EXEMPT FROM PAYMENT OF ANY EXIT FEES OR ANY LOST REVENUES RESULTING FROM THE INSTALLATION AND OPERATION OF COGENERATION EQUIPMENT AT THE REFUGE FACILITY. TO THE EXTENT THAT THE REFUGE FACILITY REQUIRES INTERCONNECTION WITH THE LOCAL ELECTRIC UTILITY SYSTEM, NO ELECTRIC CORPORATION SHALL ESTABLISH OR MODIFY ANY TARIFF TO ESTABLISH A STANDBY RATE THAT DOES NOT TAKE INTO ACCOUNT THE ACTUAL COSTS AND BENEFITS OF THE DISTRIBUTED GENERATION RESOURCE. SUCH STANDBY RATE SHALL CONSIDER THE RELIABILITY OF THE ON-SITE GENERATION, AS DETERMINED BY THE FREQUENCY AND DURATION OF OUTAGES, SO THAT CUSTOMERS WITH MORE RELIABLE ON-SITE GENERATION AND THOSE THAT REDUCE PEAK DEMAND PAY A LOWER COST-BASED RATE. TO THE EXTENT THE INSTALLATION OF ANY COGENERATION EQUIPMENT RESULTS IN INTERCONNECTION FEES, AN ELECTRIC CORPORATION SHALL ONLY COLLECT INTERCONNECTION FEES THAT ARE REASONABLE.

S 22-104. PERFORMANCE CONTRACTS. FOR PURPOSES OF IMPLEMENTING THIS ARTICLE, THE PROVISIONS OF ARTICLE NINE OF THIS CHAPTER SHALL BE APPLICABLE FOR THOSE PROJECTS FOR WHICH PERFORMANCE CONTRACTING IS A PREFERABLE METHOD FOR THE FINANCING, INSTALLATION AND OPERATION OF COGENERATION TECHNOLOGY EQUIPMENT.

S 3. Section 1005 of the public authorities law is amended by adding a new subdivision 17 to read as follows:

17. TO PROVIDE FINANCIAL ASSISTANCE FOR THE INSTALLATION OF COGENERATION TECHNOLOGIES FOR THE PURPOSE OF CREATING AND MAINTAINING REFUGE FACILITIES PURSUANT TO ARTICLE TWENTY-TWO OF THE ENERGY LAW.

A. THE AUTHORITY MAY MAKE AVAILABLE FINANCIAL ASSISTANCE; PROVIDED THAT NO COSTS ASSOCIATED WITH SUCH FINANCIAL ASSISTANCE SHALL BE CHARGED TO THE AUTHORITY'S CUSTOMERS. SUCH FUNDS SHALL BE USED FOR THE DEVELOPMENT OF REFUGE FACILITIES AS IDENTIFIED AMONG THE AUTHORITY'S CUSTOMERS.

B. THE AUTHORITY MAY SOLICIT APPLICATIONS FOR FINANCIAL ASSISTANCE BY PUBLIC NOTICE. SUCH NOTICE SHALL BE IN THE FORM OF ADVERTISEMENTS, PRESS RELEASES, AND BY SUCH OTHER MEANS AS THE AUTHORITY FINDS APPROPRIATE.

C. THE AUTHORITY MAY PROVIDE FINANCIAL ASSISTANCE BY ENTERING INTO A CONTRACT WITH A CONTRACTOR FOR THE COGENERATION SERVICES. THE AUTHORITY SHALL EVALUATE APPLICATIONS FOR FINANCIAL ASSISTANCE BASED UPON THE AMOUNT OF POWER SAVED AS A RESULT OF THE INSTALLATION OF THE COGENERATION EQUIPMENT AND THE SAVINGS IN ENERGY COSTS RELATIVE TO THE AMOUNT OF FINANCIAL ASSISTANCE REQUIRED.

S 4. Sections 1020-hh, 1020-ii and 1020-jj of the public authorities law, as renumbered by chapter 433 of the laws of 2009, are renumbered

sections 1020-ii, 1020-jj and 1020-kk and a new section 1020-hh is added to read as follows:

S 1020-HH. REFUGE FACILITIES; COMPLIANCE. 1. THE AUTHORITY MAY ASSIST WITH THE IMPLEMENTATION OF THE REFUGE FACILITIES, AS STATED IN ARTICLE TWENTY-TWO OF THE ENERGY LAW, WITHIN THE SERVICE TERRITORY.

2. THE AUTHORITY MAY MAKE AVAILABLE FINANCIAL ASSISTANCE; PROVIDED THAT NO COSTS ASSOCIATED WITH SUCH FINANCIAL ASSISTANCE SHALL BE CHARGED TO THE AUTHORITY'S CUSTOMERS. SUCH FUNDS SHALL BE USED FOR THE DEVELOPMENT OF REFUGE FACILITIES WITHIN THE AUTHORITY'S SERVICE TERRITORY.

3. THE AUTHORITY MAY SOLICIT APPLICATIONS FOR FINANCIAL ASSISTANCE BY PUBLIC NOTICE. SUCH NOTICE SHALL BE IN THE FORM OF ADVERTISEMENT, PRESS RELEASES, AND BY SUCH OTHER MEANS AS THE AUTHORITY FINDS APPROPRIATE.

4. THE AUTHORITY MAY PROVIDE FINANCIAL ASSISTANCE BY ENTERING INTO A CONTRACT WITH A CONTRACTOR FOR THE COGENERATION SERVICES. THE AUTHORITY SHALL EVALUATE APPLICATIONS FOR FINANCIAL ASSISTANCE BASED UPON THE AMOUNT OF POWER SAVED AS A RESULT OF THE INSTALLATION OF THE COGENERATION EQUIPMENT AND THE SAVINGS IN ENERGY COSTS RELATIVE TO THE AMOUNT OF FINANCIAL ASSISTANCE REQUIRED.

S 5. Section 1854 of the public authorities law is amended by adding a new subdivision 19 to read as follows:

19. TO PROVIDE FINANCIAL ASSISTANCE FOR THE INSTALLATION OF COGENERATION TECHNOLOGIES FOR THE PURPOSE OF CREATING AND MAINTAINING REFUGE FACILITIES PURSUANT TO ARTICLE TWENTY-TWO OF THE ENERGY LAW. THE AUTHORITY MAY SOLICIT APPLICATIONS FOR FINANCIAL ASSISTANCE BY PUBLIC NOTICE, WHICH PUBLIC NOTICE SHALL BE IN THE FORM OF ADVERTISEMENTS, PRESS RELEASES, AND BY SUCH OTHER MEANS AS THE AUTHORITY FINDS APPROPRIATE. THE AUTHORITY MAY PROVIDE FINANCIAL ASSISTANCE BY ENTERING INTO A CONTRACT WITH A CONTRACTOR FOR THE COGENERATION SERVICES. THE AUTHORITY SHALL EVALUATE APPLICATIONS FOR FINANCIAL ASSISTANCE BASED UPON THE AMOUNT OF POWER SAVED AS A RESULT OF THE INSTALLATION OF THE COGENERATION EQUIPMENT AND THE SAVINGS IN ENERGY COSTS RELATIVE TO THE AMOUNT OF FINANCIAL ASSISTANCE REQUIRED. WHERE APPROPRIATE, THE AUTHORITY MAY ACCESS FUNDS RECEIVED FROM UTILITY ASSESSMENTS FOR ENERGY EFFICIENCY AND OTHER RESEARCH AND DEVELOPMENT ACTIVITIES IN ORDER TO PROVIDE GRANTS FOR PROJECTS REQUIRING ADDITIONAL FINANCIAL ASSISTANCE, AND WHERE PERFORMANCE CONTRACTING IS NOT AVAILABLE. THE AUTHORITY MAY MAKE AVAILABLE FINANCIAL ASSISTANCE, WHICH SHALL BE MADE AVAILABLE FOR PROJECTS IN UTILITY SERVICE TERRITORIES WHEREIN THE RATEPAYERS OF SUCH UTILITIES CONTRIBUTE TO SUCH ASSESSMENT FOR ENERGY EFFICIENCY AND RESEARCH AND DEVELOPMENT.

S 6. Section 66 of the public service law is amended by adding a new subdivision 29 to read as follows:

29. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, NO REFUGE FACILITY THAT IS IDENTIFIED AND IMPLEMENTED IN ACCORDANCE WITH ARTICLE TWENTY-TWO OF THE ENERGY LAW SHALL BE SUBJECT TO ANY TRANSITION COSTS, EXIT FEES, OR ADDITIONAL PAYMENTS, SUCH AS STANDBY RATES, RELATED TO THE DISCONTINUANCE OF SERVICES FROM ITS FORMER SUPPLIER OF RETAIL DISTRIBUTION SERVICE WHEN SUCH REFUGE FACILITY RECEIVES ELECTRIC SERVICE IN WHOLE OR IN PART FROM A SOURCE OF ELECTRICITY ACCORDING TO THE PROVISIONS OF ARTICLE TWENTY-TWO OF THE ENERGY LAW AND GENERATES A SUBSTANTIAL PORTION OF ITS OWN POWER AND DISTRIBUTES THAT POWER IN A MANNER WHICH BYPASSES THE RETAIL DISTRIBUTION SYSTEM OF ITS FORMER SUPPLIER.

S 7. The New York state energy research and development authority shall assess the feasibility, costs, and benefits of installing renewable energy technologies, including cogeneration technology on the prem-

ises of refuge facilities as established under article 22 of the energy law. The authority shall report back to the legislature with its findings within 6 months of the effective date of this act.

S 8. This act shall take effect immediately.