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

5952

2013-2014 Regular Sessions

I N A S S E M B L Y

March 11, 2013

Introduced by M. of A. GABRYSZAK -- read once and referred to the Committee on Energy

AN ACT to amend the public service law and the public authorities law, in relation to certain energy projects

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

Section 1. The public service law is amended by adding a new section 73 to read as follows:

S 73. COORDINATION WITH CERTAIN PROVISIONS OF THE PUBLIC AUTHORITIES LAW. THE DEPARTMENT MAY REQUEST FROM THE POWER AUTHORITY OF THE STATE OF NEW YORK A SUMMARY OF PROJECTS FOR WHICH IT HAS ISSUED BONDS PURSUANT TO SUBDIVISION TWELVE OF SECTION ONE THOUSAND TEN OF THE PUBLIC AUTHORITIES LAW. THE SUMMARY SHALL INCLUDE EACH PROJECT'S NAME, LOCATION, DESCRIPTION, BOND AMOUNT, AND DATE OF ISSUANCE. THE POWER AUTHORITY OF THE STATE OF NEW YORK SHALL REPLY PURSUANT TO PARAGRAPH (F) OF SUBDIVISION TWELVE OF SECTION ONE THOUSAND TEN OF THE PUBLIC AUTHORITIES LAW, TO SUCH A REQUEST WITHIN THIRTY DAYS OF ITS RECEIPT.

S 2. Section 1010 of the public authorities law is amended by adding a new subdivision 12 to read as follows:

12. (A) FOR THE PURPOSES OF THIS SECTION, THE PROJECTS SET FORTH IN THIS SUBDIVISION SHALL BE DEEMED TO BE PROJECTS THAT ARE AUTHORIZED BY THIS TITLE.

(B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE AUTHORITY IS HEREBY AUTHORIZED FROM TIME TO TIME, AS DEEMED FEASIBLE AND ADVISABLE BY THE TRUSTEES, TO ISSUE ITS NEGOTIABLE BONDS, UPON SELECTION OF A PROPOSAL SUBMITTED PURSUANT TO THE PROCEDURES DEVELOPED IN PARAGRAPH (D) OF THIS SUBDIVISION, IN CONFORMITY WITH APPLICABLE PROVISIONS OF THE UNIFORM COMMERCIAL CODE FOR THE PURPOSE OF FINANCING A REPOWERING PROJECT, QUALIFIED ENERGY INFRASTRUCTURE INVESTMENT PROJECT, OR QUALIFIED NEW CONSTRUCTION PROJECT AS SUCH TERMS ARE DEFINED IN THIS SUBDIVISION AND WHICH ARE THE SUBJECT OF THE AFOREMENTIONED SELECTED PROPOSAL,

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

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INCLUDING THE ACQUISITION OF ANY REAL OR PERSONAL PROPERTY OR FACILITIES DEEMED NECESSARY BY THE AUTHORITY TO EFFECTUATE THE AFOREMENTIONED SELECTED PROPOSAL.

(C) THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(I) "REPOWERING PROJECT" SHALL MEAN IMPROVEMENTS TO AN EXISTING MAJOR ELECTRIC GENERATING FACILITY THAT WILL ALLOW THE FACILITY, OR A NEW UNIT OR UNITS AT THE FACILITY, OR THE COMBINATION OF THE NEW UNIT OR UNITS AND THE FACILITY TO MEET THE RELEVANT ENVIRONMENTAL REQUIREMENTS CONTAINED IN SUBPARAGRAPHS (I), (II), (III), AND (IV) OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW.

(II) "QUALIFIED ENERGY INFRASTRUCTURE INVESTMENT PROJECT" SHALL MEAN ANY INVESTMENT NEEDED TO DELIVER A NEW FUEL SOURCE TO AN EXISTING MAJOR ELECTRIC GENERATING FACILITY, REPLACE OR RETROFIT A BURNER OR TURBINE, UTILIZE ON-SITE RENEWABLE ENERGY GENERATION OR, ANY OTHER SUBSTANTIAL INVESTMENT THAT WILL HAVE A DIRECT IMPACT ON THE FACILITY'S ABILITY TO MEET THE ENVIRONMENTAL REQUIREMENTS CONTAINED IN SUBPARAGRAPHS (I), (II), (III), AND (IV) OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW.

(III) "QUALIFIED NEW CONSTRUCTION PROJECT" SHALL MEAN THE CONSTRUCTION OF A NEW MAJOR ELECTRIC GENERATING FACILITY ON THE SAME PROPERTY AS AN EXISTING FACILITY OR ON PROPERTY DIRECTLY ADJACENT OR CONTIGUOUS TO SAID PROPERTY, WHERE THE NEW FACILITY BY ITSELF OR IN COMBINATION WITH THE EXISTING FACILITY WILL ALLOW THE SITE AS A WHOLE TO MEET THE ENVIRONMENTAL REQUIREMENTS CONTAINED IN SUBPARAGRAPHS (I), (II), (III), AND (IV) OF PARAGRAPH (B) OF SUBDIVISION FOUR OF SECTION ONE HUNDRED SIXTY-FIVE OF THE PUBLIC SERVICE LAW.

(IV) "MAJOR ELECTRIC GENERATING FACILITY" SHALL MEAN A MAJOR ELECTRIC GENERATING FACILITY AS DEFINED IN SECTION ONE HUNDRED SIXTY OF THE PUBLIC SERVICE LAW.

(D) THE AUTHORITY IS HEREBY AUTHORIZED AND DIRECTED TO EXERCISE ALL THE POWERS NECESSARY OR CONVENIENT TO CARRY OUT AND EFFECTUATE THE PURPOSES AND PROVISIONS OF THIS SUBDIVISION; AND AS INCIDENTAL THERETO AND CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (E) OF THIS SUBDIVISION TO DEVELOP AND ISSUE APPLICATION FORMS, TO ESTABLISH ELIGIBILITY CRITERIA, TO ESTABLISH A COMPETITIVE SOLICITATION PROCESS AND EVALUATION CRITERIA, TO COORDINATE WITH ANY OTHER PUBLIC ENTITY AS SUCH TERM IS DEFINED IN SECTION ONE THOUSAND FIVE OF THIS TITLE, AND GENERALLY TO DO ANY AND EVERYTHING NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF THIS SUBDIVISION.

(E) THE AUTHORITY SHALL CONDUCT COMPETITIVE SOLICITATIONS FOR PROPOSALS, SUBMITTED BY MAJOR ELECTRIC GENERATING FACILITIES UNDERTAKING ANY REPOWERING PROJECT, QUALIFIED ENERGY INFRASTRUCTURE INVESTMENT PROJECT OR QUALIFIED NEW CONSTRUCTION PROJECT AS SUCH TERMS ARE DEFINED IN THIS SUBDIVISION, FOR ASSISTANCE FROM NEGOTIABLE BONDS ISSUED BY THE AUTHORITY PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION. SUCH COMPETITIVE SOLICITATIONS SHALL BE DESIGNED IN A MANNER AND FORM TO BE DETERMINED BY THE AUTHORITY IN CONSULTATION WITH THE DEPARTMENT OF TAXATION AND FINANCE, THE COMPTROLLER, AND THE PRESIDENT OF THE EMPIRE STATE DEVELOPMENT CORPORATION. A SCHEDULE FOR SUCH COMPETITIVE SOLICITATIONS, AWARD SELECTION, AND DISTRIBUTION OF FUNDS SHALL BE ESTABLISHED BY THE AUTHORITY IN CONSULTATION WITH THE DEPARTMENT OF TAXATION AND FINANCE, THE COMPTROLLER, AND THE PRESIDENT OF THE EMPIRE STATE DEVELOPMENT CORPORATION. THE AUTHORITY SHALL RANK THE PROPOSALS IT RECEIVES IN RESPONSE TO COMPETITIVE SOLICITATIONS AND CHOOSE THE HIGHEST RANKED

PROPOSALS MEASURED ON THE FOLLOWING CRITERIA TO BE CONSIDERED IN THE AGGREGATE:

(I) THE AMOUNT OF ASSISTANCE REQUESTED IN PROPORTION TO THE TOTAL QUANTITY OF MEGAWATTS OF NEW GENERATION CAPACITY THAT WILL BE CONSTRUCTED;

(II) THE EXTENT TO WHICH AN AWARD WILL RESULT IN NEW CAPITAL INVESTMENT IN THE STATE BY THE APPLICANT;

(III) THE TYPE AND COST OF FACILITIES AND EQUIPMENT TO BE CONSTRUCTED, ENLARGED OR INSTALLED IF THE APPLICANT WERE TO RECEIVE AN AWARD;

(IV) THE APPLICANT'S PAYROLL, SALARIES, BENEFITS AND NUMBER OF JOBS AT THE FACILITY FOR WHICH AN AWARD IS REQUESTED;

(V) THE NUMBER OF JOBS THAT WILL BE CREATED OR RETAINED AS APPLICABLE WITHIN THE STATE IN RELATION TO THE REQUESTED AWARD AND THE EXTENT TO WHICH THE APPLICANT WILL AGREE TO COMMIT TO CREATING OR RETAINING AS APPLICABLE SUCH JOBS AS A CONDITION TO RECEIVING AN AWARD;

(VI) WHETHER THE APPLICANT IS AT RISK OF CLOSING OR CURTAILING FACILITIES OR OPERATIONS IN THE STATE, RELOCATING FACILITIES OR OPERATIONS OUT OF THE STATE, OR LOSING A SIGNIFICANT NUMBER OF JOBS IN THE STATE, IN THE ABSENCE OF AN AWARD;

(VII) THE SIGNIFICANCE OF THE APPLICANT'S FACILITY TO THE ECONOMY OF THE AREA IN WHICH SUCH FACILITY IS LOCATED; AND

(VIII) THE EXTENT TO WHICH AN AWARD WILL RESULT IN AN ADVANTAGE FOR AN APPLICANT IN RELATION TO THE APPLICANT'S COMPETITORS WITHIN THE STATE.

(F) THE AUTHORITY SHALL REPLY TO REQUESTS ISSUED TO IT BY THE DEPARTMENT OF PUBLIC SERVICE, PURSUANT TO SECTION SEVENTY-THREE OF THE PUBLIC SERVICE LAW, WITHIN THIRTY DAYS OF RECEIPT OF ANY SUCH REQUEST.

S 3. This act shall take effect on the ninetieth day after it shall have become a law.