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

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I N  A S S E M B L Y

February 27, 2014

Introduced by M. of A. MOYA, BLANKENBUSH -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, the public authorities law, and the environmental conservation law, in relation to biomass-fired electric generating facilities subject to the regional greenhouse gas initiative and the CO2 budget trading program

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

Section 1. Legislative intent. The legislature hereby finds and declares that it is in the economic and environmental interests of the citizens of the state of New York to support and encourage renewable energy generation through the conversion of coal-fired electric generating facilities to biomass-fired facilities. The combustion of biomass offers a sustainable and manageable carbon lifecycle since the materials included in biomass generally absorb atmospheric carbon during their lifecycle and then return it to the atmosphere during combustion. This process mimics the natural lifecycle of plant life that can fall to the forest floor, decompose and return its carbon to the atmosphere.

The legislature further finds and declares that biomass production facilities support and sustain jobs, particularly in upstate New York, where more than four thousand people are employed directly or indirectly by the industry. In fact, many of the largest and most successful biomass facilities are located in parts of New York state that have high unemployment and are in desperate need of economic development. New York state also possesses an abundance of biomass fuel due to the large amount of untapped forest and agricultural land where biomass fuel can be collected. Biomass is the equivalent of solar energy stored in organic matter and is environmentally friendly while costing around one third of the cost of fossil fuels.

As such, to the extent that operators of electric generating facilities in New York state are willing to convert formerly coal-fired facilities (boilers, combustion turbines, or combined cycle systems) to instead be fueled by biomass, state policy should encourage and support such conversions rather than discourage them. While new biomass-fired

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

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electric generating facilities are not required to acquire CO2 allowances under the regulations implementing the Regional Greenhouse Gas Initiative (RGGI) in New York state, former coal-fired facilities that convert to combusting biomass are still subject to RGGI's requirements under existing regulations, which effectively discourages such conversions. To remedy this situation, and consistent with the intent of RGGI to encourage more renewable energy generation, the legislature declares that formerly coal-fired electric generating facilities that convert to primarily biomass-fired facilities shall be treated in the same manner as a new biomass facility under the RGGI regulations.

S 2. The public service law is amended by adding a new section 73 to read as follows:

S 73. COOPERATION WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION. THE DEPARTMENT SHALL COOPERATE WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN THE IMPLEMENTATION OF SUBDIVISION FOUR OF SECTION 19-0312 OF THE ENVIRONMENTAL CONSERVATION LAW RELATING TO ELECTRIC GENERATING FACILITIES THAT ARE SUBJECT TO THE CO2 BUDGET TRADING PROGRAM (6 NYCRR PART 242) ESTABLISHED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN CONNECTION WITH THE REGIONAL GREENHOUSE GAS INITIATIVE.

S 3. Section 1854 of the public authorities law is amended by adding a new subdivision 22 to read as follows:

22. COOPERATION WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE DEPARTMENT OF PUBLIC SERVICE. THE AUTHORITY SHALL COOPERATE WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND THE DEPARTMENT OF PUBLIC SERVICE IN THE IMPLEMENTATION OF SUBDIVISION FOUR OF SECTION 19-0312 OF THE ENVIRONMENTAL CONSERVATION LAW RELATING TO ELECTRIC GENERATING FACILITIES THAT ARE SUBJECT TO THE CO2 BUDGET TRADING PROGRAM (6 NYCRR PART 242) ESTABLISHED BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN CONNECTION WITH THE REGIONAL GREENHOUSE GAS INITIATIVE.

S 4. Section 19-0312 of the environmental conservation law is amended by adding a new subdivision 4 to read as follows:

4. NOTWITHSTANDING ANY LAW, RULE, REGULATION OR POLICY TO THE CONTRARY, AN ELECTRIC GENERATING FACILITY INCLUDING ANY BOILER, COMBUSTION TURBINE OR COMBINATION CYCLE SYSTEM, THAT A. WAS FORMERLY FOSSIL FUEL-FIRED DUE TO THE USE OF COAL AS ITS PRIMARY FUEL,

B. IS NO LONGER AUTHORIZED TO COMBUST COAL UNDER ITS AIR TITLE V FACILITY PERMIT ISSUED BY THE DEPARTMENT PURSUANT TO 6 NYCRR SUBPART 201-6,

C. USES ELIGIBLE BIOMASS FOR MORE THAN FIFTY PERCENT OF ITS ANNUAL HEAT INPUT, AND

D. USES FOSSIL FUEL FOR LESS THAN FIVE PERCENT OF ITS ANNUAL HEAT INPUT, SHALL NOT BE DEFINED AS FOSSIL FUEL-FIRED UNDER THE CO2 BUDGET TRADING PROGRAM (6 NYCRR PART 242). FOR THE PURPOSES OF THIS SUBDIVISION:

"BOILER", "COMBUSTION TURBINE", "COMBINED CYCLE SYSTEM", "ELIGIBLE BIOMASS" AND "FOSSIL FUEL" SHALL HAVE THE SAME MEANINGS AS ASCRIBED TO SUCH TERMS IN 6 NYCRR S 242-1.2.

S 5. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to all control periods commencing on or after January 1, 2012; provided however, that effective immediately the department of environmental conservation is authorized and directed to amend, revise and/or repeal any rule, regulation or policy necessary for the implementation of this act on or before such effective date.