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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:

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

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

22 As such, to the extent that operators of electric generating facili-
23 ties in New York state are willing to convert formerly coal-fired facil-
24 ities (boilers, combustion turbines, or combined cycle systems) to
25 instead be fueled by biomass, state policy should encourage and support
26 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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1 electric generating facilities are not required to acquire CO2 allow-
2 ances under the regulations implementing the Regional Greenhouse Gas
3 Initiative (RGGI) in New York state, former coal-fired facilities that
4 convert to combusting biomass are still subject to RGGI's requirements
5 under existing regulations, which effectively discourages such conver-
6 sions. To remedy this situation, and consistent with the intent of RGGI
7 to encourage more renewable energy generation, the legislature declares
8 that formerly coal-fired electric generating facilities that convert to
9 primarily biomass-fired facilities shall be treated in the same manner
10 as a new biomass facility under the RGGI regulations.

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

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

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

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

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

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

38 B. IS NO LONGER AUTHORIZED TO COMBUST COAL UNDER ITS AIR TITLE V
39 FACILITY PERMIT ISSUED BY THE DEPARTMENT PURSUANT TO 6 NYCRR SUBPART
40 201-6,

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

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

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

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