

5988

2013-2014 Regular Sessions

I N S E N A T E

November 20, 2013

Introduced by Sen. MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public service law, in relation to establishing a renewable portfolio standard

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

1 Section 1. The public service law is amended by adding a new article
2 12 to read as follows:

3 ARTICLE 12

4 RENEWABLE PORTFOLIO STANDARD

5 SECTION 250. PURPOSE AND SCOPE.

6 251. DEFINITIONS.

7 252. AMOUNT OF RENEWABLE ENERGY REQUIRED.

8 253. ENERGY THAT QUALIFIES FOR A SOLAR RENEWABLE ENERGY CERTIF-
9 ICATE; REGISTRATION REQUIREMENT.

10 254. USING RENEWABLE ENERGY CERTIFICATES AND SOLAR RENEWABLE
11 ENERGY CERTIFICATES FOR RENEWABLE PORTFOLIO STANDARD
12 COMPLIANCE.

13 255. ISSUANCE OF RENEWABLE ENERGY CERTIFICATES AND SOLAR RENEWA-
14 BLE ENERGY CERTIFICATES.

15 256. ALTERNATIVE COMPLIANCE PAYMENTS.

16 257. DEMONSTRATING COMPLIANCE, REPORTING AND RECORDKEEPING.

17 258. ENFORCEMENT.

18 S 250. PURPOSE AND SCOPE. 1. EACH ELECTRIC CORPORATION THAT SELLS
19 ELECTRICITY TO RETAIL CUSTOMERS IN NEW YORK STATE, SHALL INCLUDE IN ITS
20 ELECTRIC ENERGY PORTFOLIO ELECTRICITY GENERATED FROM RENEWABLE ENERGY
21 SOURCES. THIS ARTICLE IS DESIGNED TO ENCOURAGE THE DEVELOPMENT OF RENEW-
22 ABLE SOURCES OF ELECTRICITY AND NEW, CLEANER GENERATION TECHNOLOGY;
23 MINIMIZE THE ENVIRONMENTAL IMPACT OF AIR POLLUTANT EMISSIONS FROM ELEC-
24 TRIC GENERATION; REDUCE POSSIBLE TRANSPORT OF EMISSIONS AND MINIMIZE ANY

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

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ADVERSE ENVIRONMENTAL IMPACT FROM DEREGULATION OF ENERGY GENERATION; AND SUPPORT THE RELIABILITY OF THE SUPPLY OF ELECTRICITY IN THE STATE.

2. THIS ARTICLE GOVERNS THE RETAIL ELECTRICITY SALES OF EACH ELECTRIC CORPORATION. THIS ARTICLE DOES NOT GOVERN INSTALLED CAPACITY OBLIGATIONS.

3. THIS ARTICLE DOES NOT APPLY TO A PRIVATE OR GOVERNMENT AGGREGATOR THAT CONTRACTS FOR ELECTRIC GENERATION SERVICE OR ELECTRIC RELATED SERVICES, EITHER SEPARATELY OR BUNDLED, FOR ITS OWN FACILITIES OR ON BEHALF OF OTHER BUSINESS AND RESIDENTIAL CUSTOMERS IN THIS STATE. THIS ARTICLE DOES NOT APPLY TO AN ENERGY AGENT. AN ELECTRIC CORPORATION THAT IS CONTRACTUALLY OBLIGATED TO SELL ELECTRICITY TO AN AGGREGATOR SHALL COMPLY WITH THIS ARTICLE BY INCLUDING THE AMOUNT SOLD TO THE AGGREGATOR AS PART OF ITS ENERGY PORTFOLIO.

S 251. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "ALTERNATIVE COMPLIANCE PAYMENT" MEANS A PAYMENT OF A CERTAIN DOLLAR AMOUNT PER MEGAWATT HOUR, WHICH AN ELECTRIC CORPORATION MAY SUBMIT TO COMPLY WITH THE RENEWABLE ENERGY REQUIREMENT SET FORTH IN THIS ARTICLE.

2. "ATTRIBUTE" MEANS A CHARACTERISTIC ASSOCIATED WITH ELECTRICITY GENERATED USING A PARTICULAR RENEWABLE FUEL, SUCH AS ITS GENERATION DATE, FACILITY GEOGRAPHIC LOCATION, UNIT VINTAGE, EMISSIONS OUTPUT, FUEL, STATE PROGRAM ELIGIBILITY, OR OTHER CHARACTERISTIC THAT CAN BE IDENTIFIED, ACCOUNTED, AND TRACKED.

3. "BIOENERGY CROP" MEANS PLANTS CULTIVATED AND HARVESTED SPECIFICALLY FOR USE AS FUEL FOR THE PURPOSE OF GENERATING ELECTRICITY.

4. "BIOMASS" MEANS ANY ORGANIC MATTER THAT IS AVAILABLE ON A RENEWABLE OR RECURRING BASIS (EXCLUDING OLD-GROWTH TIMBER), INCLUDING DEDICATED ENERGY CROPS AND TREES, AGRICULTURAL FOOD AND FEED CROP RESIDUES, AQUATIC PLANTS, WOOD AND WOOD RESIDUES, ANIMAL WASTES, AND OTHER WASTE MATERIALS.

5. "BLACK LIQUOR" MEANS A VISCOUS LIQUID CONTAINING INORGANIC CHEMICALS AND ORGANIC MATERIAL SUCH AS LIGNIN AND ALIPHATIC ACIDS, WHICH IS SEPARATED FROM WOOD DURING CHEMICAL PULPING.

6. "ENERGY PORTFOLIO" MEANS ALL OF THE ELECTRICAL ENERGY SUPPLIED BY A PARTICULAR ELECTRIC POWER SUPPLIER OR BASIC GENERATION SERVICE PROVIDER TO RETAIL CUSTOMERS IN THE STATE.

7. "ENERGY YEAR" MEANS THE TWELVE MONTH PERIOD FROM APRIL FIRST THROUGH MARCH THIRTY-FIRST AND SHALL BE NUMBERED ACCORDING TO THE CALENDAR YEAR IN WHICH IT ENDS.

8. "FOSSIL FUEL" MEANS NATURAL GAS, PETROLEUM, COAL, OR ANY FORM, OF SOLID, LIQUID, OR GASEOUS FUEL DERIVED FROM SUCH MATERIAL.

9. "FUEL CELL" MEANS AN ELECTROCHEMICAL DEVICE THAT CONVERTS CHEMICAL ENERGY IN A HYDROGEN OR HYDROGEN-RICH FUEL DIRECTLY INTO ELECTRICITY, WITHOUT COMBUSTION.

10. "GENERATION ATTRIBUTE TRACKING SYSTEM" MEANS THE ENVIRONMENTAL AND EMISSIONS ATTRIBUTES TRACKING SYSTEM FOR ELECTRIC GENERATION THAT IS ADMINISTERED BY NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY PURSUANT TO SUBDIVISION NINETEEN OF SECTION EIGHTEEN HUNDRED FIFTY-FOUR OF THE PUBLIC AUTHORITIES LAW.

11. "GEOTHERMAL ENERGY" MEANS ENERGY GENERATED BY A STEAM TURBINE, DRIVEN BY HOT WATER OR STEAM EXTRACTED FROM GEOTHERMAL RESERVOIRS IN THE EARTH'S CRUST.

12. "INSTALLED CAPACITY OBLIGATION" MEANS THE REQUIREMENT FOR AN ELECTRIC POWER SUPPLIER OR BASIC GENERATION SERVICE PROVIDER TO OBTAIN AN AMOUNT OF ELECTRICAL GENERATION CAPACITY TO MEET LOAD SERVICE OBLI-

1 GATIONS UNDER THE RELIABILITY RULES OF THE NEW YORK INDEPENDENT SYSTEM
2 OPERATOR. INSTALLED CAPACITY INCLUDES THE GENERATION CAPACITY WHICH A
3 COMPANY CONSIDERS PART OF ITS OWN ELECTRIC SYSTEM, INCLUDING WHOLLY
4 OWNED UNITS, JOINTLY-OWNED UNITS, NON-UTILITY GENERATION (NUGS), AND
5 PURCHASES.

6 13. "NET METERING" MEANS A SYSTEM OF METERING AND BILLING FOR ELEC-
7 TRICITY IN WHICH THE ELECTRIC CORPORATION OR THE ELECTRIC DISTRIBUTION
8 COMPANY:

9 (A) CREDITS A CUSTOMER-GENERATOR AT THE FULL RETAIL RATE FOR EACH
10 KILOWATT-HOUR PRODUCED BY A RENEWABLE ENERGY SYSTEM INSTALLED ON THE
11 CUSTOMER-GENERATOR'S SIDE OF THE ELECTRIC REVENUE METER, UP TO THE TOTAL
12 AMOUNT OF ELECTRICITY USED BY THAT CUSTOMER DURING AN ANNUALIZED PERIOD,
13 EXCEPT FOR RESIDENTIAL MICRO COMBINED HEAT AND POWER (MICRO-CHP) AND
14 FUEL CELL SYSTEMS, WHICH ARE CREDITED AT THE AVOIDED COST RATE; AND

15 (B) COMPENSATES THE CUSTOMER-GENERATOR AT THE END OF THE ANNUALIZED
16 PERIOD FOR ANY REMAINING CREDITS, AT A RATE EQUAL TO THE ELECTRIC CORPO-
17 RATION'S AVOIDED COST OF WHOLESALE POWER.

18 14. "OLD-GROWTH TIMBER" MEANS WOOD OR PLANT MATTER TAKEN FROM A FOREST
19 IN THE LATE SUCCESSIONAL STAGE OF FOREST DEVELOPMENT, INCLUDING PLANT
20 MATTER TAKEN FROM THE FOREST FLOOR. LATE SUCCESSIONAL FORESTS CONTAIN
21 LIVE AND DEAD TREES OF VARIOUS SIZES, SPECIES, COMPOSITION, AND AGE
22 CLASS STRUCTURE. THE AGE AND STRUCTURE OF OLD-GROWTH TIMBER VARIES
23 SIGNIFICANTLY BY FOREST TYPE AND FROM ONE BIOGEOCLIMATIC ZONE TO ANOTH-
24 ER.

25 15. "QUALIFICATION LIFE" MEANS, FOR ANY SOLAR ELECTRIC GENERATION
26 FACILITY, THE PERIOD BEGINNING ON THE DATE ON WHICH THE FACILITY WAS
27 AUTHORIZED TO ENERGIZE AND ENDING ON THE FIRST MARCH THIRTY-FIRST THAT
28 IS AT LEAST FIFTEEN YEARS AFTER THE DATE OF AUTHORIZATION TO ENERGIZE. A
29 SOLAR FACILITY'S QUALIFICATION LIFE APPLIES TO THE FACILITY ITSELF, AND
30 TO EACH PIECE OF EQUIPMENT INCLUDED IN THE FACILITY, REGARDLESS OF ANY
31 INTERRUPTION IN THE SOLAR FACILITY'S OPERATION; OR OF ANY DISASSEMBLY,
32 RELOCATION, SALE OR TRANSFER OF ANY PIECE OF EQUIPMENT INCLUDED IN THE
33 FACILITY.

34 16. "RENEWABLE ENERGY CERTIFICATE" MEANS A CERTIFICATE REPRESENTING
35 THE ENVIRONMENTAL BENEFITS OR ATTRIBUTES OF ONE MEGAWATT-HOUR OF GENER-
36 ATION FROM A GENERATING FACILITY THAT PRODUCES RENEWABLE ENERGY, BUT
37 SHALL NOT INCLUDE A SOLAR RENEWABLE ENERGY CERTIFICATE.

38 17. "RENEWABLE FUEL" MEANS A FUEL THAT IS NATURALLY REGENERATED OVER A
39 SHORT TIME SCALE AND IS EITHER DERIVED FROM THE SUN (SUCH AS THERMAL,
40 PHOTOCHEMICAL OR PHOTOELECTRIC), OR FROM OTHER NATURAL SOURCES SUCH AS
41 WIND, HYDROPOWER, GEOTHERMAL AND TIDAL ENERGY, OR PHOTOSYNTHETIC ENERGY
42 STORED IN BIOMASS. THIS TERM DOES NOT INCLUDE A FOSSIL FUEL, A WASTE
43 PRODUCT FROM A FOSSIL SOURCE, OR A WASTE PRODUCT FROM AN INORGANIC
44 SOURCE.

45 18. "RESOURCE RECOVERY FACILITY" MEANS A SOLID WASTE FACILITY THAT
46 INCINERATES SOLID WASTE FOR THE PURPOSES OF PRODUCING ENERGY AND RECOV-
47 ERING METALS AND OTHER MATERIALS FOR REUSE.

48 19. "SOLAR ALTERNATIVE COMPLIANCE PAYMENT" MEANS A PAYMENT OF A
49 CERTAIN DOLLAR AMOUNT PER MEGAWATT-HOUR, WHICH AN ELECTRIC CORPORATION
50 MAY SUBMIT TO THE COMMISSION TO COMPLY WITH THE SOLAR ELECTRIC GENER-
51 ATION REQUIREMENTS SET FORTH IN THIS ARTICLE.

52 20. "SOLAR ELECTRIC GENERATING FACILITY" OR "SOLAR FACILITY" MEANS
53 EQUIPMENT USED TO PRODUCE SOLAR ELECTRIC GENERATION.

54 21. "SOLAR ELECTRIC GENERATION" MEANS CREATION OF ELECTRICITY USING A
55 SYSTEM THAT EMPLOYS SOLAR RADIATION TO PRODUCE ENERGY THAT POWERS AN

1 ELECTRIC GENERATOR. SOLAR ELECTRIC GENERATION INCLUDES TECHNOLOGIES
2 THAT UTILIZE THE PHOTOVOLTAIC EFFECT.

3 22. "SOLAR RENEWABLE ENERGY CERTIFICATE" MEANS A CERTIFICATE ISSUED BY
4 THE COMMISSION OR ITS DESIGNEE, WHICH REPRESENTS ONE MEGAWATT-HOUR OF
5 SOLAR ENERGY THAT IS GENERATED BY A FACILITY CONNECTED TO THE DISTRIB-
6 UTION SYSTEM IN NEW YORK, AND HAS VALUE BASED UPON, AND DRIVEN BY, THE
7 ENERGY MARKET.

8 23. "VOLUNTARY CLEAN ELECTRICITY MARKET" OR "VOLUNTARY CLEAN ELECTRIC-
9 ITY PROGRAM" MEANS ANY PROGRAM, SYSTEM, MARKET OR PROCEDURE THROUGH
10 WHICH RETAIL ELECTRIC CUSTOMERS MAY ELECT TO PURCHASE A RENEWABLE ENERGY
11 PRODUCT ON A VOLUNTARY BASIS. NEW YORK'S POWER TO CHOOSE PROGRAM IS A
12 VOLUNTARY CLEAN ELECTRICITY PROGRAM.

13 S 252. AMOUNT OF RENEWABLE ENERGY REQUIRED. 1. EACH ELECTRIC CORPO-
14 RATION THAT SELLS ELECTRICITY TO RETAIL CUSTOMERS IN THE STATE SHALL
15 ENSURE THAT THE ELECTRICITY IT SELLS EACH ENERGY YEAR IN THE STATE
16 INCLUDES AT LEAST THE MINIMUM AMOUNT OF QUALIFIED RENEWABLE ENERGY
17 REQUIRED FOR THAT ENERGY YEAR. THE MINIMUM AMOUNT OF QUALIFIED RENEWABLE
18 ENERGY SHALL BE:

19 (A) FOR ENERGY YEARS TWO THOUSAND FIFTEEN THROUGH TWO THOUSAND NINE-
20 TEEN, THIRTY PERCENT;

21 (B) FOR ENERGY YEAR TWO THOUSAND TWENTY, FORTY PERCENT WITH AT LEAST
22 TWO PERCENT DERIVED FROM SOLAR ENERGY.

23 2. THE COMMISSION SHALL ADOPT RULES SETTING MINIMUM AMOUNTS OF RENEWA-
24 BLE ENERGY REQUIRED FOR ENERGY YEAR TWO THOUSAND TWENTY-ONE AND EACH
25 SUBSEQUENT ENERGY YEAR. THE MINIMUM AMOUNTS OF RENEWABLE ENERGY REQUIRED
26 SHALL BE NO LOWER THAN THOSE REQUIRED FOR ENERGY YEAR TWO THOUSAND TWEN-
27 TY. THE COMMISSION, IN CONSULTATION WITH THE DEPARTMENT OF ENVIRONMENTAL
28 CONSERVATION, ELECTRIC DISTRIBUTION COMPANIES, THE UTILITY INTERVENTION
29 UNIT OF THE DEPARTMENT OF STATE, THE PUBLIC UTILITY LAW PROJECT OF NEW
30 YORK, INC., THE SOLAR ENERGY INDUSTRY AND RELEVANT STAKEHOLDERS, SHALL
31 PERIODICALLY CONSIDER INCREASING THE RENEWABLE ENERGY PORTFOLIO STAND-
32 ARDS BEYOND THE MINIMUM AMOUNTS SET FORTH IN THIS CHAPTER, TAKING INTO
33 ACCOUNT THE COST IMPACTS AND PUBLIC BENEFITS OF SUCH INCREASES INCLUD-
34 ING, BUT NOT LIMITED TO:

35 (A) REDUCTIONS IN AIR POLLUTION, WATER POLLUTION, LAND DISTURBANCE AND
36 GREENHOUSE GAS EMISSIONS;

37 (B) REDUCTIONS IN PEAK DEMAND FOR ELECTRICITY AND NATURAL GAS AND THE
38 OVERALL IMPACT ON THE COSTS TO ELECTRICITY AND NATURAL GAS CUSTOMERS;

39 (C) INCREASES IN RENEWABLE ENERGY DEVELOPMENT, MANUFACTURING, INVEST-
40 MENT AND JOB CREATION OPPORTUNITIES IN NEW YORK; AND

41 (D) REDUCTIONS IN STATE AND NATIONAL DEPENDENCE ON FOSSIL FUELS.

42 3. AN ELECTRIC CORPORATION SHALL MEET THE REQUIREMENTS FOR SOLAR ELEC-
43 TRIC GENERATION THROUGH:

44 (A) RETIREMENT OF SOLAR RENEWABLE ENERGY CERTIFICATES THROUGH A RENEW-
45 ABLE ENERGY TRADING PROGRAM APPROVED BY THE COMMISSION IN CONSULTATION
46 WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION; OR

47 (B) SUBMITTAL OF ONE OR MORE SOLAR ALTERNATIVE COMPLIANCE PAYMENTS.

48 4. THE FOLLOWING SHALL APPLY TO THE TYPE OF ENERGY, AND TYPE OF
49 DOCUMENTATION, USED FOR COMPLIANCE WITH EACH OF THE REQUIREMENTS IN THIS
50 ARTICLE:

51 (A) SOLAR RENEWABLE ENERGY CERTIFICATES MAY BE USED TO MEET ANY
52 REQUIREMENT FOR SOLAR ELECTRIC GENERATION;

53 (B) RENEWABLE ENERGY CERTIFICATES MAY BE USED TO MEET RENEWABLE ENERGY
54 REQUIREMENTS, BUT SHALL NOT BE USED TO MEET SOLAR ELECTRIC GENERATION
55 REQUIREMENTS.

1 5. AN ELECTRIC CORPORATION SHALL NOT DEMONSTRATE COMPLIANCE WITH THIS
2 ARTICLE USING DIRECT SUPPLY OF ANY TYPE OF RENEWABLE ENERGY.

3 6. THE SAME RENEWABLE ENERGY SHALL NOT BE USED FOR MORE THAN ONE OF
4 THE FOLLOWING:

5 (A) CREATION OF A SOLAR RENEWABLE ENERGY CERTIFICATE; OR

6 (B) CREATION OF A RENEWABLE ENERGY CERTIFICATE; OR

7 (C) CREATION OF A RENEWABLE ENERGY CERTIFICATE, OR OF ANY OTHER TYPE
8 OF ATTRIBUTE OR CREDIT, UNDER AUTHORITY OTHER THAN THE AUTHORITY GRANTED
9 IN SECTION TWO HUNDRED FIFTY-FIVE OF THIS ARTICLE SUCH AS ANOTHER
10 STATE'S RENEWABLE ENERGY STANDARDS OR ANY VOLUNTARY CLEAN ELECTRICITY
11 MARKET OR VOLUNTARY CLEAN ELECTRICITY PROGRAM.

12 7. EACH MEGAWATT-HOUR OF RETAIL ELECTRICITY SUPPLIED IN NEW YORK BY AN
13 ELECTRIC CORPORATION SUBJECT TO THIS ARTICLE CARRIES WITH IT AN ACCOMPA-
14 NYING SOLAR OBLIGATION. ALL ELECTRIC CORPORATION SOLAR OBLIGATIONS,
15 TAKEN TOGETHER, MUST EQUAL THE STATEWIDE SOLAR OBLIGATION SET FORTH IN
16 SUBDIVISION NINE OF THIS SECTION FOR ENERGY YEAR TWO THOUSAND TWENTY.

17 8. FOR ELECTRICITY SUPPLIED DURING ENERGY YEAR TWO THOUSAND TWENTY, AN
18 ELECTRIC CORPORATION SHALL CALCULATE ITS SOLAR OBLIGATION AS TWO PERCENT
19 OF THE TOTAL ENERGY GENERATED BY THE ELECTRIC CORPORATION.

20 9. THE TOTAL STATEWIDE SOLAR OBLIGATION SHALL BE TWO PERCENT OF THE
21 TOTAL ELECTRICITY SOLD TO ALL RETAIL CUSTOMERS.

22 S 253. ENERGY THAT QUALIFIES FOR A SOLAR RENEWABLE ENERGY CERTIFICATE;
23 REGISTRATION REQUIREMENT. 1. TO BE ELIGIBLE TO FORM THE BASIS FOR A
24 SOLAR RENEWABLE ENERGY CERTIFICATE USABLE FOR COMPLIANCE WITH THIS ARTI-
25 CLE, ELECTRICITY SHALL MEET ALL REQUIREMENTS IN THIS SECTION, AS WELL AS
26 ALL OTHER APPLICABLE REQUIREMENTS IN THIS CHAPTER. THE REGISTRATION
27 PROCESS REQUIRED IN THIS SECTION FOR CONSTRUCTION OF NEW SOLAR ELECTRIC
28 GENERATION FACILITIES IS INTENDED TO PROVIDE ADVANCE NOTICE TO THE
29 PUBLIC AND THE RENEWABLE ENERGY MARKETS WHEN INCREASES IN SOLAR ELECTRIC
30 GENERATION CAPACITY IN THE STATE ARE PLANNED. THE REGISTRATION PROCESS
31 SHALL BE ADMINISTERED BY THE COMMISSION OR ITS DESIGNEE.

32 2. TO BE ELIGIBLE FOR ISSUANCE OF A SOLAR RENEWABLE ENERGY CERTIFICATE
33 USABLE FOR COMPLIANCE WITH THIS ARTICLE, ELECTRICITY SHALL:

34 (A) MEET THE DEFINITION OF SOLAR ELECTRIC GENERATION IN SECTION TWO
35 HUNDRED FIFTY-ONE OF THIS ARTICLE;

36 (B) BE GENERATED AT A FACILITY THAT HAS BEEN ISSUED EITHER:

37 (I) FOR INSTALLATIONS WITH A NAMEPLATE GENERATING CAPACITY OF TWENTY-
38 FIVE THOUSAND KILOWATTS OR MORE, A CERTIFICATE FROM THE NEW YORK STATE
39 BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT PURSUANT TO
40 ARTICLE TEN OF THIS CHAPTER; OR

41 (II) FOR INSTALLATIONS WITH A NAMEPLATE GENERATING CAPACITY OF LESS
42 THAN TWENTY-FIVE THOUSAND KILOWATTS, THE RELEVANT PERMITS OR CERTIF-
43 ICATES ISSUED BY THE LOCAL AUTHORITY.

44 (C) BE GENERATED DURING THE GENERATING FACILITY'S QUALIFICATION LIFE.
45 SOLAR ELECTRIC GENERATION PRODUCED AFTER THE END OF A FACILITY'S QUALI-
46 FICATION LIFE SHALL NOT BE USED AS THE BASIS FOR A SOLAR RENEWABLE ENER-
47 GY CERTIFICATE; AND

48 (D) BE GENERATED USING EQUIPMENT THAT MEETS EITHER OF THE FOLLOWING
49 CRITERIA:

50 (I) THE EQUIPMENT IS NEW; OR

51 (II) THE EQUIPMENT WAS PREVIOUSLY USED IN A SOLAR FACILITY WITH AN
52 UNEXPIRED QUALIFICATION LIFE AND ALL OF THE FOLLOWING CRITERIA ARE MET:

53 (1) THE PREVIOUS SOLAR FACILITY WAS LOCATED IN NEW YORK;

54 (2) THE PREVIOUS SOLAR FACILITY WAS ISSUED EITHER:

55 (A) FOR INSTALLATIONS WITH A NAMEPLATE GENERATING CAPACITY OF TWENTY-
56 FIVE THOUSAND KILOWATTS OR MORE, A CERTIFICATE FROM THE NEW YORK STATE

1 BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRONMENT PURSUANT TO
2 ARTICLE TEN OF THIS CHAPTER; OR

3 (B) FOR INSTALLATIONS WITH A NAMEPLATE GENERATING CAPACITY OF LESS
4 THAN TWENTY-FIVE THOUSAND KILOWATTS, THE RELEVANT PERMITS OR CERTIF-
5 ICATES ISSUED BY THE LOCAL AUTHORITY.

6 (3) THERE ARE AT LEAST TWELVE FULL MONTHS LEFT IN THE QUALIFICATION
7 LIFE OF THE PREVIOUS SOLAR FACILITY; AND

8 (4) ANY SALE OR OTHER TRANSFER OF THE EQUIPMENT DURING THE QUALIFICA-
9 TION LIFE OF THE PREVIOUS SOLAR FACILITY IS RECORDED WITH THE COMMIS-
10 SION.

11 3. TO COMPLY WITH PARAGRAPH (B) OF SUBDIVISION TWO OF THIS SECTION, A
12 SOLAR ELECTRIC GENERATING FACILITY:

13 (A) FOR INSTALLATIONS WITH A NAMEPLATE GENERATING CAPACITY OF TWENTY-
14 FIVE THOUSAND KILOWATTS OR MORE, THAT WAS NOT ISSUED A CERTIFICATE FROM
15 THE NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRON-
16 MENT PURSUANT TO ARTICLE TEN OF THIS CHAPTER PRIOR TO THE EFFECTIVE DATE
17 OF THIS ARTICLE SHALL OBTAIN SUCH A CERTIFICATE THROUGH THE REGISTRATION
18 PROCESS ESTABLISHED PURSUANT TO SUBDIVISION SIX OF THIS SECTION; OR

19 (B) FOR INSTALLATIONS WITH A NAMEPLATE GENERATING CAPACITY OF LESS
20 THAN TWENTY-FIVE THOUSAND KILOWATTS, THAT WAS NOT ISSUED THE RELEVANT
21 PERMITS OR CERTIFICATES ISSUED BY THE LOCAL AUTHORITY PRIOR TO THE
22 EFFECTIVE DATE OF THIS ARTICLE SHALL OBTAIN THE RELEVANT PERMITS OR
23 CERTIFICATES ISSUED BY THE LOCAL AUTHORITY THROUGH THE REGISTRATION
24 PROCESS ESTABLISHED PURSUANT TO SUBDIVISION SIX OF THIS SECTION.

25 4. A SOLAR ELECTRIC GENERATING FACILITY, AND ALL EQUIPMENT INCLUDED IN
26 OR APPURTENANT TO THE SOLAR FACILITY, SHALL PERMANENTLY RETAIN THE QUAL-
27 IFICATION LIFE ORIGINALLY ASSIGNED TO THE SOLAR FACILITY, REGARDLESS OF
28 ANY INTERRUPTION IN THE SOLAR FACILITY'S OPERATION, OR ANY RELOCATION,
29 SALE OR TRANSFER OF THE FACILITY OR OF ANY OF THE EQUIPMENT.

30 5. IF THE APPLICABLE SUBMITTAL DEADLINE IN SUBDIVISION THREE OF THIS
31 SECTION IS MET, SOLAR RENEWABLE ENERGY CERTIFICATES, BASED ON ELECTRIC-
32 ITY GENERATED BY THE SOLAR FACILITY, SHALL BE USABLE FOR COMPLIANCE WITH
33 THIS CHAPTER IMMEDIATELY UPON THE ISSUANCE OF EITHER A CERTIFICATE FROM
34 THE NEW YORK STATE BOARD ON ELECTRIC GENERATION SITING AND THE ENVIRON-
35 MENT PURSUANT TO ARTICLE TEN OF THIS CHAPTER OR THE RELEVANT PERMITS OR
36 CERTIFICATES ISSUED BY THE LOCAL AUTHORITY FOR THE FACILITY, SUBJECT TO
37 ANY OTHER APPLICABLE LIMITS ON USE OF SOLAR RENEWABLE ENERGY CERTIF-
38 ICATES. IF THE APPLICABLE DEADLINE IS NOT MET, ANY SOLAR RENEWABLE
39 ENERGY CERTIFICATES BASED ON ELECTRICITY GENERATED BY THE SOLAR FACILITY
40 SHALL NOT BE USABLE FOR COMPLIANCE WITH THIS ARTICLE UNTIL TWELVE MONTHS
41 AFTER THE SOLAR FACILITY HAS RECEIVED AUTHORIZATION TO ENERGIZE IN
42 ACCORDANCE WITH THE COMMISSION'S STANDARDIZED INTERCONNECTION RULES.

43 6. THE COMMISSION SHALL DETERMINE AND PUBLICIZE THE PROCESS FOR REGIS-
44 TRATION OF A SOLAR ELECTRIC GENERATING FACILITY WITHIN NINETY DAYS OF
45 THE EFFECTIVE DATE OF THIS ARTICLE; PROVIDED, HOWEVER, THAT SUCH REGIS-
46 TRATION PROCESS SHALL REQUIRE:

47 (A) THE SUBMITTAL OF AN INITIAL REGISTRATION NO LATER THAN:

48 (I) TEN BUSINESS DAYS AFTER EXECUTION OF THE CONTRACT FOR PURCHASE OR
49 INSTALLATION OF THE PHOTOVOLTAIC PANELS TO BE USED IN THE SOLAR FACILI-
50 TY;

51 (II) IF A CONTRACT FOR PURCHASE OR INSTALLATION OF PHOTOVOLTAIC PANELS
52 FOR THE SOLAR FACILITY WAS EXECUTED PRIOR TO THE EFFECTIVE DATE OF THIS
53 SECTION THE DEADLINE FOR SUBMITTAL OF AN INITIAL REGISTRATION PACKAGE
54 SHALL BE NINETY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION; OR

55 (III) IN A CASE WHERE A CONDITIONAL REGISTRATION OR EXTENSION WAS
56 PREVIOUSLY ISSUED BUT EXPIRED BEFORE CONSTRUCTION OF THE SOLAR FACILITY

1 WAS SUBSTANTIALLY COMPLETED, A NEW REGISTRATION PACKAGE SHALL BE SUBMIT-
2 TED PRIOR TO COMPLETION OF CONSTRUCTION;

3 (B) THAT CONSTRUCTION OF THE SOLAR FACILITY SHALL NOT BEGIN UNTIL THE
4 COMMISSION HAS ISSUED A CONDITIONAL REGISTRATION FOR THE FACILITY; AND

5 (C) THAT CONSTRUCTION OF THE SOLAR FACILITY SHALL BE COMPLETED AND
6 LOCAL CODE APPROVAL GRANTED PRIOR TO THE EXPIRATION OF THE CONDITIONAL
7 REGISTRATION OR ANY EXTENSION OF SUCH CONDITIONAL REGISTRATION.

8 S 254. USING RENEWABLE ENERGY CERTIFICATES AND SOLAR RENEWABLE ENERGY
9 CERTIFICATES FOR RENEWABLE PORTFOLIO STANDARD COMPLIANCE. 1. A RENEWABLE
10 ENERGY CERTIFICATE OR SOLAR RENEWABLE ENERGY CERTIFICATE SHALL BE USED
11 TO MEET RENEWABLE PORTFOLIO STANDARD REQUIREMENTS FOR SPECIFIC ENERGY
12 YEARS, BASED ON THE TYPE OF RENEWABLE ENERGY UPON WHICH THE RENEWABLE
13 ENERGY CERTIFICATE OR SOLAR RENEWABLE ENERGY CERTIFICATE IS BASED, AND
14 THE ENERGY YEAR DURING WHICH THE RENEWABLE ENERGY WAS GENERATED, AS
15 FOLLOWS:

16 (A) A SOLAR RENEWABLE ENERGY CERTIFICATE BASED ON ENERGY GENERATED ON
17 OR AFTER APRIL FIRST, TWO THOUSAND TWENTY SHALL BE USED TO COMPLY WITH
18 RENEWABLE PORTFOLIO STANDARD REQUIREMENTS FOR ANY ONE OF THE FOLLOWING
19 THREE ENERGY YEARS:

20 (I) THE ENERGY YEAR IN WHICH THE UNDERLYING ENERGY WAS GENERATED; OR

21 (II) EITHER OF THE TWO ENERGY YEARS IMMEDIATELY FOLLOWING THE ENERGY
22 YEAR IN WHICH THE UNDERLYING ENERGY WAS GENERATED;

23 (B) A SOLAR RENEWABLE ENERGY CERTIFICATE BASED ON ENERGY GENERATED
24 BEFORE APRIL FIRST, TWO THOUSAND TWENTY SHALL BE USED ONLY TO COMPLY
25 WITH THE REQUIREMENTS OF THIS ARTICLE FOR THE ENERGY YEAR DURING WHICH
26 THE UNDERLYING ENERGY WAS GENERATED, AND/OR THE SUBSEQUENT ENERGY YEAR;
27 AND

28 2. ONCE A RENEWABLE ENERGY CERTIFICATE OR SOLAR RENEWABLE ENERGY
29 CERTIFICATE HAS BEEN USED FOR COMPLIANCE WITH THIS ARTICLE, THE RENEWA-
30 BLE ENERGY CERTIFICATE OR SOLAR RENEWABLE ENERGY CERTIFICATE SHALL BE
31 PERMANENTLY RETIRED AND SHALL NOT BE USED AGAIN.

32 S 255. ISSUANCE OF RENEWABLE ENERGY CERTIFICATES AND SOLAR RENEWABLE
33 ENERGY CERTIFICATES. 1. THE NEW YORK STATE ENERGY AND RESEARCH DEVELOP-
34 MENT AUTHORITY SHALL ISSUE RENEWABLE ENERGY CERTIFICATES AND SOLAR
35 RENEWABLE ENERGY CERTIFICATES FOR USE IN COMPLYING WITH THIS ARTICLE.

36 2. THE COMMISSION MAY ISSUE AN ORDER DISCONTINUING THE DESIGNATION OF
37 THE NEW YORK STATE ENERGY AND RESEARCH DEVELOPMENT AUTHORITY UNDER
38 SUBDIVISION ONE OF THIS SECTION, AND/OR APPROVING USE OF RENEWABLE ENER-
39 GY CERTIFICATES OR SOLAR RENEWABLE ENERGY CERTIFICATES ISSUED BY ANOTHER
40 ENTITY FOR COMPLIANCE WITH THIS ARTICLE. THE COMMISSION SHALL POST A
41 NOTICE OF ITS INTENT TO ISSUE SUCH AN ORDER AT LEAST THIRTY DAYS PRIOR
42 TO ISSUING THE ORDER, AND MAY, IN ITS DISCRETION, CHOOSE TO ACCEPT
43 PUBLIC COMMENT ON THE NOTICE.

44 3. BEGINNING APRIL FIRST, TWO THOUSAND TWENTY, IN MEASURING GENERATION
45 TO DETERMINE THE NUMBER OF RENEWABLE ENERGY CERTIFICATES OR SOLAR RENEW-
46 ABLE ENERGY CERTIFICATES TO ISSUE, THE COMMISSION OR ITS DESIGNEE SHALL
47 ACCEPT ONLY READINGS OF A METER THAT RECORDS KILOWATT-HOUR PRODUCTION OF
48 ELECTRICAL ENERGY, AND WHICH MEETS ALL APPLICABLE REQUIREMENTS OF THIS
49 SUBDIVISION. THE READINGS MAY BE TAKEN OR SUBMITTED BY ANY PERSON, BUT
50 SHALL BE VERIFIED BY THE COMMISSION OR ITS DESIGNEE IN ACCORDANCE WITH
51 THE AMERICAN NATIONAL STANDARDS INSTITUTE (ANSI) STANDARD C12.1-2008,
52 ELECTRIC METERS CODE FOR ELECTRICITY METERING, AS AMENDED OR SUPPLE-
53 MENTED.

54 4. THE COMMISSION OR ITS DESIGNEE SHALL ISSUE RENEWABLE ENERGY CERTIF-
55 ICATES AND SOLAR RENEWABLE ENERGY CERTIFICATES IN WHOLE UNITS, EACH

1 REPRESENTING THE ENVIRONMENTAL ATTRIBUTES OF ONE MEGAWATT-HOUR OF ELEC-
2 TRIC GENERATION.

3 5. ELECTRIC GENERATION QUALIFIES FOR ISSUANCE OF RENEWABLE ENERGY
4 CERTIFICATES OR SOLAR RENEWABLE ENERGY CERTIFICATES ONLY IF:

5 (A) IT IS SOLAR ELECTRIC GENERATION PRODUCED BY A GENERATING FACILITY
6 THAT IS INTERCONNECTED WITH AN ELECTRIC DISTRIBUTION SYSTEM THAT
7 SUPPLIES ELECTRICITY TO ONE OR MORE END USERS LOCATED IN NEW YORK; OR

8 (B) IT IS RENEWABLE ENERGY, OTHER THAN SOLAR ELECTRIC GENERATION, AND
9 ONE OR MORE OF THE FOLLOWING REQUIREMENTS IS MET:

10 (I) THE GENERATING FACILITY REPORTS ITS GENERATION ELECTRONICALLY TO
11 THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY NO LESS
12 FREQUENTLY THAN MONTHLY, AND COMPLIES WITH ANY ADDITIONAL REQUIREMENTS
13 ESTABLISHED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT
14 AUTHORITY;

15 (II) BOTH OF THE FOLLOWING REQUIREMENTS ARE MET:

16 (1) THE GENERATING FACILITY REPORTS ITS GENERATION ELECTRONICALLY NO
17 LESS FREQUENTLY THAN MONTHLY TO AN ELECTRIC DISTRIBUTION COMPANY THAT
18 THEN PROVIDES THE GENERATOR'S REPORT ELECTRONICALLY NO LESS FREQUENTLY
19 THAN MONTHLY TO THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT
20 AUTHORITY; AND

21 (2) THE GENERATING FACILITY COMPLIES WITH ANY ADDITIONAL REQUIREMENTS
22 ESTABLISHED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT
23 AUTHORITY.

24 6. IF A GENERATOR HAS ACCUMULATED A FRACTION OF A MEGAWATT-HOUR BY THE
25 END OF AN ENERGY YEAR, THE FRACTION MAY BE CARRIED OVER AND COMBINED
26 WITH ENERGY GENERATED IN A SUBSEQUENT ENERGY YEAR IN ORDER TO MAKE A
27 FULL MEGAWATT-HOUR THAT IS ELIGIBLE FOR A RENEWABLE ENERGY CERTIFICATE
28 OR SOLAR RENEWABLE ENERGY CERTIFICATE. IN SUCH A CASE, THE COMBINED
29 ENERGY SHALL BE ELIGIBLE FOR ISSUANCE OF A RENEWABLE ENERGY CERTIFICATE
30 OR SOLAR RENEWABLE ENERGY CERTIFICATE ONLY DURING THE ENERGY YEAR IN
31 WHICH ACCUMULATED GENERATION REACHES ONE FULL MEGAWATT-HOUR. ONLY A
32 FRACTION OF A MEGAWATT-HOUR SHALL BE CARRIED OVER.

33 7. THE COMMISSION SHALL REQUIRE SUBMITTAL OF INFORMATION AND CERTIF-
34 ICATIONS NEEDED TO ENABLE THE COMMISSION OR ITS DESIGNEE TO VERIFY THE
35 GENERATION THAT FORMS THE BASIS OF THE REQUESTED RENEWABLE ENERGY
36 CERTIFICATES. THE COMMISSION SHALL REQUIRE INSPECTIONS, AS APPROPRIATE,
37 OF GENERATION EQUIPMENT, MONITORING AND METERING EQUIPMENT, AND OTHER
38 FACILITIES RELEVANT TO VERIFYING ELECTRIC GENERATION. THE COMMISSION
39 SHALL IMPOSE APPLICATION FEES, INSPECTION FEES AND OTHER CHARGES FOR ANY
40 WORK REQUIRED TO VERIFY ELECTRIC GENERATION AND ISSUE RENEWABLE ENERGY
41 CERTIFICATES OR SOLAR RENEWABLE ENERGY CERTIFICATES.

42 8. THE COMMISSION OR ITS DESIGNEE SHALL NOT ISSUE A RENEWABLE ENERGY
43 CERTIFICATE OR SOLAR RENEWABLE ENERGY CERTIFICATE BASED ON ELECTRIC
44 GENERATION THAT HAS PREVIOUSLY BEEN USED FOR COMPLIANCE WITH THIS ARTI-
45 CLE, OR THAT HAS BEEN USED TO SATISFY ANOTHER STATE'S RENEWABLE ENERGY
46 REQUIREMENTS OR ANY VOLUNTARY CLEAN ELECTRICITY MARKET OR PROGRAM.

47 9. A CUSTOMER-GENERATOR THAT IS ELIGIBLE FOR NET METERING OWNS THE
48 RENEWABLE ATTRIBUTES OF THE ENERGY IT GENERATES ON OR AFTER APRIL FIRST,
49 TWO THOUSAND TWENTY, UNLESS THERE IS A CONTRACT WITH AN EXPRESS
50 PROVISION THAT ASSIGNS OWNERSHIP OF THE RENEWABLE ATTRIBUTES. THE OWNER
51 OF A SOLAR ELECTRIC GENERATION FACILITY THAT IS NOT ELIGIBLE FOR NET
52 METERING OWNS THE RENEWABLE ATTRIBUTES OF THE ENERGY IT GENERATES ON OR
53 AFTER APRIL FIRST, TWO THOUSAND TWENTY, UNLESS THERE IS A CONTRACT WITH
54 AN EXPRESS PROVISION THAT ASSIGNS OWNERSHIP OF THE RENEWABLE ATTRIBUTES.

55 S 256. ALTERNATIVE COMPLIANCE PAYMENTS. 1. AN ELECTRIC CORPORATION MAY
56 CHOOSE TO COMPLY WITH RENEWABLE PORTFOLIO STANDARD REQUIREMENTS BY

1 SUBMITTING ONE OR MORE ALTERNATIVE COMPLIANCE PAYMENTS OR SOLAR ALTERNA-
2 TIVE COMPLIANCE PAYMENTS. AN ELECTRIC CORPORATION THAT WISHES TO USE
3 ALTERNATIVE COMPLIANCE PAYMENTS OR SOLAR ALTERNATIVE COMPLIANCE PAYMENTS
4 TO COMPLY WITH THIS ARTICLE SHALL MEET THE REQUIREMENTS OF THIS SECTION.

5 2. THE CHAIRMAN OF THE COMMISSION SHALL APPOINT AN ALTERNATIVE COMPLI-
6 ANCE PAYMENTS ADVISORY COMMITTEE TO PROVIDE RECOMMENDATIONS TO THE
7 COMMISSION REGARDING THE APPROPRIATE COST OF ALTERNATIVE COMPLIANCE
8 PAYMENTS AND SOLAR ALTERNATIVE COMPLIANCE PAYMENTS, AS WELL AS OTHER
9 CHARACTERISTICS OF THEIR USE. THE COMMISSION SHALL CONSIDER THE ADVISORY
10 COMMITTEE'S RECOMMENDATION AND SHALL, THROUGH COMMISSION ORDER, SET
11 PRICES FOR ALTERNATIVE COMPLIANCE PAYMENTS AND SOLAR ALTERNATIVE COMPLI-
12 ANCE PAYMENTS. AT A MINIMUM, THE PRICE OF AN ALTERNATIVE COMPLIANCE
13 PAYMENT OR A SOLAR ALTERNATIVE COMPLIANCE PAYMENT SHALL BE HIGHER THAN
14 THE ESTIMATED COMPETITIVE MARKET COST OF THE FOLLOWING:

15 (A) THE COST OF MEETING THE REQUIREMENT THROUGH PURCHASE OF A RENEWA-
16 BLE ENERGY CERTIFICATE OR SOLAR RENEWABLE ENERGY CERTIFICATE; OR

17 (B) THE COST OF MEETING THE REQUIREMENT THROUGH GENERATING THE
18 REQUIRED RENEWABLE ENERGY.

19 3. THE COMMISSION SHALL ESTABLISH AND MAINTAIN A FIFTEEN YEAR SOLAR
20 ALTERNATIVE COMPLIANCE PAYMENT SCHEDULE. THE COMMISSION MAY INCREASE THE
21 SOLAR ALTERNATIVE COMPLIANCE PAYMENT AMOUNT FOR ONE OR MORE ENERGY YEARS
22 AFTER APPROPRIATE NOTICE AND OPPORTUNITY FOR PUBLIC COMMENT AND PUBLIC
23 HEARING. HOWEVER, THE COMMISSION SHALL NEITHER REDUCE THE PREVIOUSLY
24 ESTABLISHED SOLAR ALTERNATIVE COMPLIANCE PAYMENT AMOUNTS, NOR PROVIDE
25 ANY TYPE OF RELIEF FROM THE OBLIGATION TO PAY A SOLAR ALTERNATIVE
26 COMPLIANCE PAYMENT.

27 4. THE COMMISSION SHALL REVIEW THE AMOUNT OF ALTERNATIVE COMPLIANCE
28 PAYMENTS, OTHER THAN SOLAR ALTERNATIVE COMPLIANCE PAYMENTS, AT LEAST
29 ONCE PER YEAR, IN CONSULTATION WITH THE ALTERNATIVE COMPLIANCE PAYMENTS
30 ADVISORY COMMITTEE, AND SHALL ADJUST THESE AMOUNTS AS NEEDED TO COMPLY
31 WITH PARAGRAPHS (A) AND (B) OF SUBDIVISION TWO OF THIS SECTION AND TO
32 REFLECT CHANGING CONDITIONS IN THE ENVIRONMENT, THE ENERGY INDUSTRY AND
33 MARKETS.

34 5. TO COMPLY WITH THIS ARTICLE USING ALTERNATIVE COMPLIANCE PAYMENTS
35 OR SOLAR ALTERNATIVE COMPLIANCE PAYMENTS, AN ELECTRIC CORPORATION SHALL
36 SUBMIT THE FOLLOWING TO THE COMMISSION, AS APPLICABLE:

37 (A) ONE ALTERNATIVE COMPLIANCE PAYMENT FOR EACH MEGAWATT-HOUR OF
38 RENEWABLE ENERGY REQUIRED; OR

39 (B) ONE SOLAR ALTERNATIVE COMPLIANCE PAYMENT FOR EACH MEGAWATT-HOUR OF
40 SOLAR ELECTRIC GENERATION REQUIRED.

41 6. THE COMMISSION SHALL USE THE ALTERNATIVE COMPLIANCE PAYMENTS MONIES
42 SUBMITTED TO MEET THE REQUIREMENTS OF THIS ARTICLE TO FUND RENEWABLE
43 ENERGY PROJECTS THROUGH THE GREEN JOBS-GREEN NEW YORK PROGRAM.

44 7. FOR EACH ENERGY YEAR, ALL SOLAR ALTERNATIVE COMPLIANCE PAYMENT
45 MONIES SUBMITTED TO COMPLY WITH SOLAR ELECTRIC GENERATION REQUIREMENTS
46 FOR THAT ENERGY YEAR SHALL BE REFUNDED TO RATEPAYERS BY THE ELECTRIC
47 DISTRIBUTION COMPANIES. THE COMMISSION SHALL DIVIDE THE TOTAL STATEWIDE
48 SOLAR ALTERNATIVE COMPLIANCE PAYMENT MONIES TO BE REFUNDED FOR A PARTIC-
49 ULAR ENERGY YEAR AMONG THE ELECTRIC DISTRIBUTION COMPANIES AS FOLLOWS:

50 (A) DETERMINE THE TOTAL MEGAWATT-HOURS OF ELECTRICITY SUBJECT TO SOLAR
51 RENEWABLE PORTFOLIO STANDARD REQUIREMENTS THAT WAS DELIVERED BY ALL
52 ELECTRIC DISTRIBUTION COMPANIES COMBINED DURING THE SUBJECT ENERGY YEAR;

53 (B) DETERMINE THE NUMBER OF MEGAWATT-HOURS OF ELECTRICITY SUBJECT TO
54 SOLAR RENEWABLE PORTFOLIO STANDARD REQUIREMENTS THAT WAS DELIVERED BY
55 THE ELECTRIC DISTRIBUTION COMPANY DURING THE ENERGY YEAR;

(C) DIVIDE THE NUMBER DETERMINED IN PARAGRAPH (B) OF THIS SUBDIVISION BY THE NUMBER DETERMINED IN PARAGRAPH (A) OF THIS SUBDIVISION TO OBTAIN A FRACTION THAT REPRESENTS THE ELECTRIC DISTRIBUTION COMPANY'S SHARE OF THE TOTAL MEGAWATT-HOURS OF ELECTRICITY SUBJECT TO SOLAR RENEWABLE PORTFOLIO STANDARD REQUIREMENTS THAT WERE DELIVERED DURING THE ENERGY YEAR; AND

(D) FOR EACH ELECTRIC DISTRIBUTION COMPANY, MULTIPLY THE FRACTION DETERMINED IN PARAGRAPH (C) OF THIS SUBDIVISION BY THE TOTAL STATEWIDE SOLAR ALTERNATIVE COMPLIANCE PAYMENT MONIES TO BE REFUNDED FOR THE ENERGY YEAR, TO OBTAIN A DOLLAR FIGURE FOR THE AMOUNT OF SOLAR ALTERNATIVE COMPLIANCE PAYMENT MONIES THE ELECTRIC DISTRIBUTION COMPANY SHALL REFUND.

S 257. DEMONSTRATING COMPLIANCE, REPORTING AND RECORDKEEPING. 1. BY OCTOBER FIRST OF EACH YEAR, EACH ELECTRIC CORPORATION SHALL FILE AN ANNUAL REPORT WITH THE COMMISSION, DEMONSTRATING THAT THE ELECTRIC CORPORATION HAS MET THE REQUIREMENTS OF THIS ARTICLE FOR THE PRECEDING REPORTING YEAR.

2. IF THE ANNUAL REPORT REQUIRED UNDER SUBDIVISION ONE OF THIS SECTION DOES NOT DEMONSTRATE THAT THE ELECTRIC CORPORATION HAS SUPPLIED THE RENEWABLE ENERGY CERTIFICATES OR SOLAR RENEWABLE ENERGY CERTIFICATES REQUIRED BY SECTION TWO HUNDRED FIFTY-TWO OF THIS ARTICLE FOR THE PREVIOUS REPORTING YEAR, THE ANNUAL REPORT SHALL BE ACCOMPANIED BY ALTERNATIVE COMPLIANCE PAYMENTS AND/OR SOLAR ALTERNATIVE COMPLIANCE PAYMENTS IN SUFFICIENT QUANTITIES TO MAKE UP THE SHORTFALL.

3. THE ANNUAL REPORT SHALL CONTAIN THE FOLLOWING BASIC INFORMATION FOR THE PRECEDING REPORTING YEAR:

(A) THE TOTAL NUMBER OF MEGAWATT-HOURS OF ELECTRICITY SOLD TO RETAIL CUSTOMERS IN THE STATE;

(B) THE TOTAL NUMBER OF RENEWABLE ENERGY CERTIFICATES RETIRED STATEWIDE FOR THE PURPOSE OF COMPLIANCE WITH THIS ARTICLE;

(C) THE PERCENTAGE OF THE ELECTRIC CORPORATION'S TOTAL STATEWIDE RETAIL SALES THAT THE AMOUNT SET FORTH UNDER PARAGRAPH (B) OF THIS SUBDIVISION REPRESENTS;

(D) THE TOTAL NUMBER OF SOLAR RENEWABLE ENERGY CERTIFICATES RETIRED FOR THE PURPOSE OF COMPLIANCE WITH THIS CHAPTER;

(E) THE PERCENTAGE OF THE ELECTRIC CORPORATION'S TOTAL RETAIL SALES THAT THE NUMBER IN PARAGRAPH (D) OF THIS SUBDIVISION REPRESENTS;

(F) THE TOTAL AMOUNT OF SOLAR ELECTRIC GENERATION AND OTHER RENEWABLE ENERGY REPRESENTED BY RENEWABLE ENERGY CERTIFICATES SUBMITTED WITH THE ANNUAL REPORT;

(G) THE TOTAL NUMBER OF ALTERNATIVE COMPLIANCE PAYMENTS AND SOLAR ALTERNATIVE COMPLIANCE PAYMENTS SUBMITTED WITH THE ANNUAL REPORT;

(H) A SUMMARY DEMONSTRATING HOW COMPLIANCE WITH THE REQUIREMENTS OF SECTION TWO HUNDRED FIFTY-TWO OF THIS ARTICLE HAS BEEN ACHIEVED;

(I) AN ACCOUNTING ISSUED BY NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY THAT SHOWS THE NUMBER OF RENEWABLE ENERGY CERTIFICATES PURCHASED OR HELD BY THE ELECTRIC CORPORATION; AND

(J) THE PRICE OF EACH RENEWABLE ENERGY CERTIFICATE AND SOLAR RENEWABLE ENERGY CERTIFICATE THAT WAS RETIRED DURING THE ENERGY YEAR.

4. THE DOCUMENTATION REQUIRED BY SUBDIVISION THREE OF THIS SECTION SHALL INCLUDE THE FOLLOWING:

(A) IDENTIFICATION OF EACH GENERATING UNIT, INCLUDING ITS LOCATION, FUEL AND TECHNOLOGY TYPE, AND ANY UNIQUE STATE OR FEDERAL FACILITY OR PLANT IDENTIFICATION NUMBER;

(B) AN AFFIDAVIT FROM THE OPERATOR OF EACH GENERATING UNIT THAT THE SPECIFIED AMOUNT OF MEGAWATT-HOURS FROM EACH RENEWABLE ENERGY SOURCE WAS

1 GENERATED BY OR SOLD TO THE ELECTRIC CORPORATION AND THAT THE ELECTRIC
2 CORPORATION HAS SOLE AND EXCLUSIVE TITLE TO THE RENEWABLE ENERGY AND HAS
3 NOT BEEN USED TO MEET THE RENEWABLE PORTFOLIO STANDARD ENERGY REQUIRE-
4 MENTS IN ANY OTHER STATE OR JURISDICTION;

5 (C) AN AFFIDAVIT FROM THE ELECTRIC CORPORATION THAT THE SPECIFIED
6 MEGAWATT-HOURS WERE DELIVERED INTO NEW YORK AND COMPLIED WITH THE
7 COMMISSION'S STANDARD INTERCONNECTION RULES; AND

8 (D) FOR EACH SOLAR RENEWABLE ENERGY CERTIFICATE SUBMITTED, CERTIF-
9 ICATION OF COMPLIANCE WITH THE REQUIREMENTS OF SUBDIVISION TWO OF
10 SECTION TWO HUNDRED FIFTY-THREE OF THIS ARTICLE THAT THE RENEWABLE ENER-
11 GY CERTIFICATE HAS NOT BEEN USED TO SATISFY ANOTHER STATE'S RENEWABLE
12 ENERGY REQUIREMENTS. THE CERTIFICATION SHALL BE IN A FORM REQUIRED BY
13 THE COMMISSION AND AVAILABLE ON THE COMMISSION'S WEBSITE.

14 5. FAILURE OF AN ELECTRIC CORPORATION TO DEMONSTRATE COMPLIANCE WITH
15 THIS ARTICLE IN ACCORDANCE WITH THIS SECTION, WITHIN THE DEADLINES SET
16 FORTH IN THIS SECTION, SHALL SUBJECT THE ELECTRIC CORPORATION TO PENAL-
17 TIES UNDER SECTION TWO HUNDRED FIFTY-EIGHT OF THIS ARTICLE.

18 6. EACH ELECTRIC CORPORATION SHALL KEEP ALL RECORDS PERTAINING TO THE
19 REQUIREMENTS IN THIS ARTICLE FOR A PERIOD OF FIVE YEARS, INCLUDING DATA
20 ON MEGAWATT-HOURS RESULTING FROM OWNED GENERATION, CONTRACTS, PURCHASES
21 FROM THE WHOLESALE MARKET, AND PURCHASES OF RENEWABLE ENERGY CERTIF-
22 ICATES. EACH ELECTRIC CORPORATION SHALL MAKE ALL PERTINENT RECORDS
23 AVAILABLE FOR REVIEW UPON REQUEST BY THE COMMISSION OR ITS DESIGNEE.

24 S 258. ENFORCEMENT. 1. FAILURE TO COMPLY WITH ANY PROVISION OF THIS
25 ARTICLE SHALL SUBJECT THE VIOLATOR TO THE FOLLOWING PENALTIES IN ACCORD-
26 ANCE WITH THE COMMISSION'S REGULATORY AND STATUTORY AUTHORITY:

27 (A) SUSPENSION OR REVOCATION OF AN ELECTRIC POWER SUPPLIER'S LICENSE
28 OR ANY OTHER PREVIOUSLY ISSUED COMMISSION APPROVAL;

29 (B) FINANCIAL PENALTIES;

30 (C) DISALLOWANCE OF RECOVERY OF COSTS IN RATES; AND

31 (D) PROHIBITION ON ACCEPTING NEW CUSTOMERS.

32 2. IN DETERMINING THE APPROPRIATE SANCTION, THE COMMISSION SHALL
33 CONSIDER THE FOLLOWING CRITERIA AND ANY OTHER FACTORS DEEMED APPROPRIATE
34 AND MATERIAL TO THE VIOLATOR'S FAILURE TO COMPLY:

35 (A) THE GOOD FAITH EFFORTS, IF ANY, OF THE ENTITY CHARGED IN ATTEMPT-
36 ING TO ACHIEVE COMPLIANCE;

37 (B) THE GRAVITY OF THE VIOLATION OR FAILURE TO COMPLY WITH THE
38 REQUIREMENTS IN THIS CHAPTER;

39 (C) THE NUMBER OF PAST VIOLATIONS BY THE ENTITY CHARGED REGARDING
40 THESE STANDARDS AND OTHER STANDARDS ADOPTED BY THE COMMISSION; AND

41 (D) THE APPROPRIATENESS OF THE SANCTION OR FINE TO THE SIZE OF THE
42 COMPANY CHARGED.

43 S 2. This act shall take effect immediately.