

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

10717

I N A S S E M B L Y

June 13, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Schimminger)
-- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to the effect of power importation on electrical markets

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 two new
2 sections 77-a and 77-b to read as follows:
3 S 77-A. LEGISLATIVE INTENT. THE LEGISLATURE HEREBY FINDS AND DECLARES
4 THAT IT IS IN THE BEST PUBLIC POLICY INTEREST OF THE STATE AND ITS CITI-
5 ZENS TO ENSURE THAT, TO THE GREATEST EXTENT POSSIBLE, THE LETTER AND
6 SPIRIT OF ENVIRONMENTAL AND RENEWABLE ENERGY GOALS ARE ENFORCED FOR ANY
7 GENERATOR WHO DOES BUSINESS IN THE NEW YORK STATE ENERGY MARKETS.
8 IT IS NOT THE INTENT OF THIS LEGISLATURE TO ALLOW GENERATORS WHO
9 IMPORT POWER INTO THE STATE TO OBTAIN SIGNIFICANT COMPETITIVE ADVANTAGES
10 OVER IN-STATE GENERATORS. SUCH UNJUSTIFIED ADVANTAGES HURT NEW YORK
11 GENERATORS, THREATEN JOBS AND LOCAL TAX BASES, AND ENCOURAGE THE IMPOR-
12 TATION OF POLLUTION INTENSIVE POWER INTO THE STATE SIGNIFICANTLY THREAT-
13 ENING THE HEALTH OF THE RESIDENTS OF THIS STATE.
14 THE LEGISLATURE FURTHER DECLARES THAT IT IS IN THE BEST ECONOMIC AND
15 ENVIRONMENTAL INTERESTS OF THE STATE TO ADOPT CONSISTENT POLICIES THAT,
16 TO THE GREATEST EXTENT POSSIBLE, UTILIZE ELECTRICAL POWER IN AS COST
17 EFFICIENT AND ENVIRONMENTALLY FRIENDLY MEANS WHETHER SUCH POWER IS
18 GENERATED WITHIN THE STATE OR IS IMPORTED FROM ANOTHER STATE OR NATION.
19 THEREFORE, THE LEGISLATURE DIRECTS THE COMMISSION TO INITIATE A STAKE-
20 HOLDER PROCESS TO ANALYZE THE WAYS TO LEVEL THE COMPETITIVE FIELD
21 REGARDING IN STATE VERSUS IMPORTED GENERATION REGARDING BOTH COST AND
22 MITIGATING ADVERSE ENVIRONMENTAL EFFECTS.
23 S 77-B. THE EFFECT OF POWER IMPORTATION ON ELECTRICAL MARKETS. 1. THE
24 COMMISSION IS AUTHORIZED AND DIRECTED TO DETERMINE, THROUGH A COMPREHEN-
25 SIVE MONITORING AND REPORTING METHODOLOGY, THE UNDUE COMPETITIVE ADVAN-
26 TAGES IN THE STATE'S ELECTRICITY MARKETS THAT OUT-OF-STATE POWER GENERA-
27 TORS HAVE OVER IN-STATE POWER GENERATORS DUE TO THIS STATE'S IMPOSITION

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

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1 OF CHARGES, FEES, ASSESSMENTS, ENVIRONMENTAL STANDARDS AND/OR ALLOWANCE
2 AUCTIONS ON IN-STATE GENERATED POWER THAT ARE NOT IMPOSED AT COMPARABLE
3 LEVELS OR STRICTURES ON POWER IMPORTED INTO THE STATE. SUCH METHODOLOGY
4 FOR MONITORING AND REPORTING SHALL BE ESTABLISHED PURSUANT TO A STAKE-
5 HOLDER PROCESS THROUGH A PROCEEDING TO BE ESTABLISHED BY THE COMMISSION
6 WITHIN ONE MONTH OF THE EFFECTIVE DATE OF THIS SECTION. THE COMMISSION
7 SHALL CONSULT WITH THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT
8 AUTHORITY AND THE FEDERALLY DESIGNATED BULK SYSTEM OPERATOR SERVING THE
9 STATE'S ELECTRIC SYSTEM ON HOW BEST TO CREATE THE NEEDED METHODOLOGY.
10 WITHIN NINE MONTHS OF THE COMMISSION ESTABLISHING THE METHODOLOGY PURSU-
11 ANT TO THIS SECTION, THE DEPARTMENT SHALL ISSUE A REPORT TO THE GOVERNOR
12 AND THE CHAIRS OF THE ENERGY COMMITTEES OF THE ASSEMBLY AND SENATE THAT
13 DESCRIBES, IN DETAIL, THE NEGATIVE CONSEQUENCES OF IMPORTED POWER EXEMPT
14 FROM SUCH CHARGES, FEES, ASSESSMENTS AND/OR ALLOWANCE AUCTIONS, AS WELL
15 AS RECOMMENDATIONS ON HOW THESE CONSEQUENCES COULD BE MINIMIZED. SUCH
16 REPORT SHALL REFLECT STAKEHOLDER REVIEW AND COMMENT ON THE ISSUE OF
17 IMPORTED POWER'S IMPACT ON LOCAL EMPLOYMENT AND REVENUES, AND ADVERSE
18 ENVIRONMENTAL IMPACTS BOTH WITHIN AND OUTSIDE THE STATE.

19 2. FOR THE PURPOSES OF THIS SECTION AND SECTION SEVENTY-SEVEN-A OF
20 THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

21 (A) "COMPETITIVE ADVANTAGE" SHALL MEAN ANY ADVANTAGEOUS POSITION,
22 FINANCIAL OR OTHERWISE, THAT EXISTS FOR AN OUT-OF-STATE POWER GENERATOR
23 OVER AN IN-STATE POWER GENERATOR IN RELATION TO REQUIREMENTS REGARDING
24 STATE IMPOSED CHARGES, FEES, ASSESSMENTS, ENVIRONMENTAL STANDARDS AND/OR
25 ALLOWANCE AUCTIONS. A COMPETITIVE ADVANTAGE MAY INCLUDE, AMONG OTHER
26 THINGS, AVOIDED COSTS SUCH AS WITHIN NEW YORK STATE SHARED INFRASTRUC-
27 TURE IMPROVEMENTS, TAXES, PENALTIES, COSTS OF COMPLIANCE TO CLEAN ENERGY
28 OR ENVIRONMENTAL STANDARDS, AND ADMINISTRATIVE OR REPORTING COSTS.

29 (B) "IN-STATE POWER GENERATOR" SHALL MEAN A POWER GENERATION FACILITY
30 PHYSICALLY LOCATED IN THIS STATE.

31 (C) "OUT-OF-STATE POWER GENERATOR" SHALL MEAN A POWER GENERATION
32 FACILITY PHYSICALLY LOCATED IN A STATE OR PROVINCE OUTSIDE OF THIS STATE
33 THAT IS SELLING POWER IN NEW YORK STATE.

34 S 2. This act shall take effect immediately.