STATE OF NEW YORK

2955

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. HEVESI -- 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 the creation of renewable energy credits for retail electric providers, the New York power authority and the Long Island power authority; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "New York renewable energy development and jobs act of 2017".

§ 2. The public service law is amended by adding a new section 66-o to read as follows:

§ 66-o. Procurement of renewable energy credits. 1. As used in this section:

(a) "Alternative compliance payment" means a payment of a defined dollar amount per megawatt-hour, as established by the commission, that a retail electric supplier shall submit to the commission in order to comply with its annual obligations established in subdivision two of this section.

(b) "Distributed renewable energy resource systems" means small-scale power generation technologies in the range of one kilowatt to ten thousand kilowatts used to provide an alternative to or an enhancement of the traditional electric power system, using renewable energy resources.

(c) "Distributed renewable energy generation" means qualified renewable energy generation produced by a qualified renewable energy system that is interconnected to the customer's side or utility distribution company meter.

(d) "Electric distribution company" means an investor-owned utility that distributes electricity within New York state.

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

LBD02483-01-7

(e) "New energy technologies" means all methods used to produce, distribute, conserve and store energy by methods not in common commercial use, with emphasis on renewable energy sources including but not limited to solar, wind, bioconversion and solid waste.

(f) "Power purchase agreement" means an agreement, for a minimum of fifteen years, for the purchase of renewable energy credits from an owner of a qualified renewable energy system.

(g) "Qualifying owner" means the owner of a qualifying renewable energy system that is also a:

(i) resident of New York state;

(ii) limited liability company organized under the New York state limited liability company law and made up of a majority of members who are New York state residents; or

(iii) New York not-for-profit organization organized under the New York state not-for-profit corporation law.

(h) "Qualified renewable energy generation" means the electric energy measure in kilowatt-hours produced from a qualified renewable energy system.

(i) "Qualified renewable energy system" shall mean a distributed renewable energy resource system or technology as determined by the commission consistent with the definition provided in paragraph (b) of this subdivision that may result in the cost effective production of electricity from renewable resources that has been constructed and is owned by a qualifying owner. For the purposes of this section, they shall include:

(i) wind;

(ii) solar photovoltaic, including rooftop and stand alone systems;

(iii) solar thermal;

(iv) geothermal;

(v) fuel cell technology;

(vi) hydro-kinetic, including approved river or tidal generation systems;

(vii) hydroelectric;

(viii) biomass;

(ix) anaerobic digestion; and

(x) landfill gas to energy systems.

(j) "Renewable energy credit" or "REC" means the environmental attributes associated with one megawatt-hour of qualified renewable energy generation.

(k) The term "renewable energy resources" shall have the same meaning as set forth in subdivision twelve of section 1-103 of the energy law.

(l) "Retail electric supplier" means an entity authorized to sell electricity at retail rates and terms and conditions to end-use customers in New York, including an electric distribution company acting as a provider of last resort or an energy service company approved by the commission for such purpose.

(m) "Small retail distributed customer-sided renewable energy generation" means retail distributed renewable energy generation produced by a qualified renewable energy system that is equal to or less than one hundred kilowatts in size.

2. (a) Each retail electric supplier shall annually procure RECs by an additional annual percentage point of such supplier's total electric sales in each compliance year:

Compliance Year	Annual Requirement

2019	0.05%
2020	0.13%
2021	0.15%
2022	0.17%
2023	0.20%
2024	0.23%
2025	0.27%
2026	0.32%
2027	0.38%
2028	0.44%
2029	0.52%
2030	0.61%
2031	0.72%
2032	0.85%

(b) If by the year two thousand thirty-four New York state has not met its goal of thirty-five percent electric energy from renewable energy sources, the program established in this section shall be extended and shall grow at a rate of 0.85 percentage points until this goal is achieved.

(c) At least twenty-five percent of the annual obligation applicable to each retail electric supplier shall be met through the procurement of RECs associated with small retail customer-sided distributed renewable energy generation. In the third compliance year and each year thereafter the commission shall undertake a review concerning the retail electric supplier's ability to meet twenty-five percent of their annual obligations through small retail customer-sided distributed renewable energy generation. If the commission concludes that a retail electric supplier cannot reasonably meet this obligation, the commission may allow a retail electric supplier to apply for a waiver to procure power purchase agreements from other sources.

(d) Obligations for the procurement of RECs associated with qualified renewable energy generation shall continue until all existing power purchase agreements have expired.

(e) Retail electric suppliers may meet their obligations established by the commission pursuant to this subdivision through the procurement of RECs together with or separate from the associated qualified renewable energy generation.

(f) The New York state energy research and development authority shall establish an automated REC tracking system within one hundred eighty days of the effective date of this section. Each qualifying owner shall apply to the New York state energy research and development authority to certify the amount of qualified renewable energy generation they will be able to achieve and to receive a renewable energy credit certificate. The New York state energy research and development authority shall consult with the New York independent systems operator to verify the amount of qualified renewable energy generation produced. Once this amount is verified, the New York state energy research and development authority shall issue the qualifying owner RECs proportional to the amount of qualified renewable energy generation produced. Each REC certificate shall have an electronic identification number to assist in the tracking. Each issuance, sale, and trade of a REC shall be recorded in the tracking system.

(g) RECs shall be eligible for use in meeting the obligations established in this subdivision in the compliance year in which they are created and for the following two compliance years.

3. (a) In the event that retail electric suppliers cannot meet their obligations established in subdivision two of this section, they shall be permitted to discharge such obligations by making an alternative compliance payment in an amount established by the commission, provided, however, that the commission shall set such payment at a level that shall stimulate the development of new qualified renewable energy generation necessary to achieve the obligations established in subdivision two of this section.

(b) No later than December first, two thousand twenty, the commission shall establish an alternative compliance payment schedule through the year two thousand twenty-one. The commission shall set alternative compliance payment levels no later than January thirty-first of each year thereafter to serve as the payment level for the year in which it is set. The commission shall review such schedule to ensure that the payments are set at a level to stimulate the development of new qualified renewable energy generation in accordance with paragraph (a) of this subdivision. Once such schedule is established, the commission may adopt, after appropriate notice and opportunity for public comment, an increase in alternative compliance payments, provided that the commission shall not reduce previously established levels of payments, nor shall the commission provide relief from the obligation of payment of the alternative compliance payments by the retail electric suppliers in any form.

(c) The commission shall make available all monies from amounts collected through such alternative compliance payments for renewable programs and initiatives to be administered and funded by the New York state energy research and development authority.

4. (a) No later than December first, two thousand twenty, the commission shall establish a template for power purchase agreements to be used by retail electric suppliers for their procurement of RECs for the purpose of fulfilling their obligations established in subdivision two of this section.

(b) Each retail electric supplier shall, not later than January first, two thousand twenty-one, submit for commission review and approval a solicitation plan that shall include a timetable and methodology for soliciting proposals for RECs associated with qualified renewable energy generation other than small retail distributed renewable energy generation, for the purpose of fulfilling its obligations established in subdivision two of this section. The electric distribution company's solicitation plan shall be designed to foster a diversity of renewable project sizes and participation among all eligible customer classes subject to cost-effectiveness considerations.

(c) Each retail electric supplier shall execute its approved solicitation plan no later than thirty days after commission approval and submit for commission review and approval its preferred procurement plan comprised of any proposed power purchase agreements for RECs associated with qualified renewable energy generation other than small retail distributed renewable energy generation. The commission may approve, reject or modify an application for approval of such plan, provided that the commission shall approve such plan if the commission finds that: (i) the solicitation and evaluation conducted by the electric distribution company was the result of a fair, open, competitive and transparent process; (ii) approval of the procurement plan would result in the achievement of the distribution company's obligations pertaining to the procurement of RECs associated with qualified renewable energy generation other than small retail distributed renewable energy generation at

the lowest reasonable cost; and (iii) such procurement plan satisfies other criteria as may be established in the approved solicitation plan. If the commission does not approve, reject or modify the distribution company's application within sixty days, the procurement plan shall be deemed approved.

(d) No later than January first, two thousand twenty-one, each retail electric supplier shall submit to the commission for review and approval a plan for the achievement of its obligation pertaining to the procurement of RECs associated with small retail distributed renewable energy generation established in subdivision two of this section.

5. Each retail electric supplier shall be entitled to recover the prudently incurred costs of complying with its obligations established in subdivision two of this section, as determined by the commission.

6. No later than January first, two thousand twenty-one, the commission shall establish an incentive program for retail electric suppliers based on such companies' achievement of their obligations, and exemplary performance beyond such obligations, established in subdivision two of this section (a) in a cost-effective manner that achieves the obligations at least cost and avoids long-term costs to the transmission and distribution system; (b) provides enhanced electricity reliability within companies' service territories; and (c) minimizes peak load in constrained areas.

7. No later than January first, two thousand twenty-one, the commission shall establish the terms and conditions that shall be applicable to power purchase agreements entered into by retail electric suppliers for the procurement of RECs associated with small retail distributed renewable energy generation, for the purpose of achieving such companies' obligations pertaining to RECs associated with such generation established in subdivision two of this section. Such terms and conditions shall include a tariff, as established by the commission, for the procurement of RECs associated with small retail distributed renewable energy generation, to be paid by electric distribution companies to applicable owners of qualified renewable energy technologies. The commission shall review such tariffs every two years and adjust as necessary to achieve the obligations pertaining to RECs associated with small retail distributed renewable energy generation established in subdivision two of this section; provided, however, that such adjustments shall not go below the originally set tariff rate.

8. Retail contracts for the sale of electricity entered into before January first, two thousand twenty-one by retail electric suppliers that are not electric distribution companies shall be exempt from the obligations established in subdivision two of this section.

9. Each retail electric supplier shall be permitted to resell or otherwise dispose of RECs and any associated qualified renewable energy generation procured by such company that is in excess of its obligations established in subdivision two of this section, provided the company shall net the cost of payments made for RECs and any associated qualified renewable energy generation under power purchase agreements against the proceeds of the sale of RECs and any associated qualified renewable energy generation, and the difference shall be credited or charged to the electric distribution company's customers through a reconciling component of electric rates, as determined by the commission.

10. (a) No later than January first, two thousand twenty-three, and no later than January first of each year thereafter through the year two thousand thirty-four, the commission shall report to the governor, speaker of the assembly, the minority leader of the assembly, the tempo-

rary president of the senate, the majority leader of the senate, the minority leader of the senate, chairs of the senate and assembly energy committees, and the ranking minority members of the senate and assembly energy committees, the chair of the renewable energy subcommittee in the assembly, and shall post on its website, a report regarding the progress of each retail electric supplier in meeting its obligations established in subdivision two of this section.

(b) Each retail electric supplier shall provide to the commission the information necessary to fulfill the commission's obligations pursuant to this subdivision, in accordance with an annual reporting obligation and process to be established by the commission.

(c) Each report that shall be submitted pursuant to this subdivision shall include, but not be limited to, for each retail electric supplier for the previous calendar year and for the total of all calendar years to date: (i) the actual number of megawatt-hours of qualified renewable energy generation sold at retail to New York end-use customers and the total number of megawatt-hours sold at retail to New York end-use customers and the rate impact to end-use customers; (ii) the number of RECs associated with qualified renewable energy generation that were retired for the purposes of meeting the supplier's obligations established in subdivision two of this section; and (iii) the amount, if any, of alternative compliance payments made.

(d) Such report shall also include, for each small retail electric supplier that is an electric distribution company: (i) the number of RECs each associated with small retail distributed renewable energy generation and distributed renewable energy generation produced by equipment of any size that were procured; (ii) the number of such RECs procured through power purchase agreements and the electric distribution company's ownership of qualified renewable energy generation, respectively; and (iii) the amount paid to qualified renewable energy generators through tariffs established pursuant to subdivision seven of this section for RECs associated with small retail distributed renewable energy generation.

§ 3. Section 1005 of the public authorities law is amended by adding a new subdivision 26 to read as follows:

26. a. For purposes of this subdivision, the following terms shall have the following meanings:

(i) "Alternative compliance payment" means a payment of a defined dollar amount per megawatt-hour, as established by the public service commission, that the authority shall submit to the public service commission in order to comply with its annual obligations established in paragraph b of this subdivision.

(ii) "Distributed renewable energy resource systems" means small-scale power generation technologies in the range of one kilowatt to ten thousand kilowatts used to provide an alternative to or an enhancement of the traditional electric power system, using renewable energy resources.

(iii) "Distributed renewable energy generation" means qualified renewable energy generation produced by a qualified renewable energy system that is interconnected to the customer's side or utility distribution company meter.

(iv) "Electric distribution company" means an investor-owned utility that distributes electricity within New York state.

(v) "New energy technologies" means all methods used to produce, distribute, conserve and store energy by methods not in common commercial use, with emphasis on renewable energy sources including but not limited to solar, wind, bioconversion and solid waste.

(vi) "Power purchase agreement" means an agreement, for a minimum of fifteen years, for the purchase of renewable energy credits from an owner of a qualified renewable energy system.

(vii) "Qualifying owner" means the owner of a qualifying renewable energy system that is also a:

(A) resident of New York state;

(B) limited liability company organized under the New York state limited liability company law and made up of a majority of members who are New York state residents; or

(C) New York not-for-profit organization organized under the New York state not-for-profit corporation law.

(viii) "Qualified renewable energy generation" means the electric energy measure in kilowatt-hours produced from a qualified renewable energy system.

(ix) "Qualified renewable energy system" shall mean a distributed renewable energy resource system or technology as determined by the public service commission consistent with the definition provided in subparagraph (ii) of this paragraph that may result in the cost effective production of electricity from renewable resources that has been constructed and is owned by a qualifying owner. For the purposes of this subdivision, they shall include:

(A) wind;

(B) solar photovoltaic, including rooftop and stand alone systems;

(C) solar thermal;

(D) geothermal;

(E) fuel cell technology;

(F) hydro-kinetic, including approved river or tidal generation systems;

(G) hydroelectric;

(H) biomass;

(I) anaerobic digestion; and

(J) landfill gas to energy systems.

(x) "Renewable energy credit" or "REC" means the environmental attributes associated with one megawatt-hour of qualified renewable energy generation.

(xi) The term "renewable energy resources" shall have the same meaning as set forth in subdivision twelve of section 1-103 of the energy law.

(xii) "Retail electric supplier" means an entity authorized to sell electricity at retail rates and terms and conditions to end-use customers in New York, including an electric distribution company acting as a provider of last resort or an energy service company approved by the public service commission for such purpose.

(xiii) "Small retail distributed customer-sided renewable energy generation" means retail distributed renewable energy generation produced by a qualified renewable energy system that is equal to or less than one hundred kilowatts in size.

b. (i) The authority shall annually procure, either through long-term contracts of a minimum of fifteen years or payment to the commission for compliance, RECs associated with gigawatt-hours of qualified renewable energy generation in accordance with the following schedule:

Compliance Year	Annual Requirement
2019	0.25%
2020	0.40%
2021	0.55%
2022	0.70%

2023	0.90%
2024	1.10%
2025	1.30%
2026	1.50%
2027	1.75%
2028	2.00%
2029	2.50%
2030	3.00%
2031	3.50%
2032	4.50%

(ii) If by the year two thousand thirty-four New York state has not met its goal of thirty-five percent electric energy from renewable energy sources, the program established in section sixty-six-o of the public service law shall be extended and shall grow at a rate of 0.85 percentage points until this goal is achieved.

(iii) At least twenty-five percent of the annual obligation applicable to each retail electric supplier shall be met through the procurement of RECs associated with small retail customer-sided distributed renewable energy generation. In the third compliance year and each year thereafter, the independent authority budget office, in consultation with the commission, shall undertake a review concerning the authorities' ability to meet twenty-five percent of their annual obligations through small retail customer-sided distributed renewable energy generation. If the independent authorities budget office, in consultation with the commission, concludes that the authority cannot reasonably meet this obligation, the independent authorities budget office may allow the authority to apply for a waiver to procure power purchase agreements from other sources.

(iv) Obligations for the procurement of RECs associated with qualified renewable energy generation shall continue until all existing power purchase agreements have expired.

(v) Retail electric suppliers that are also subject to compliance with the requirements of the Renewable Portfolio Standard may use a portion of the RECs procured under this act toward their Renewable Portfolio Standard Requirements as follows: twenty percent of RECs procured under this act may be applied toward a retail electric supplier's Renewable Portfolio Standard requirement.

(vi) The authority may meet its obligations established in this paragraph through the procurement of RECs together with or separate from the associated qualified renewable energy generation.

(vii) The authority shall track RECs through the automated REC tracking system established pursuant to paragraph (f) of subdivision two of section sixty-six-o of the public service law.

(viii) RECs shall be eligible for use in meeting the obligations established in this subdivision in the compliance year in which they are created and for the following two compliance years.

(ix) In the event that retail electric suppliers cannot meet their obligations established in this paragraph, they shall be permitted to discharge such obligations by making an alternative compliance payment in an amount established by the commission, provided, however, that the commission shall set such payment at a level that shall stimulate the development of new qualified renewable energy generation necessary to achieve the obligations established in this paragraph.

c. (i) No later than December first, two thousand twenty-one, the authority shall submit to the independent authorities budget office, governor, speaker of the assembly, the minority leader of the assembly,

the temporary president of the senate, the majority leader of the senate, the minority leader of the senate, chair of the senate energy and telecommunications committee, the ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, the ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly, and shall post on its website, a solicitation plan that shall include a timetable and methodology for soliciting proposals for RECs associated with qualified renewable energy generation other than small retail distributed customer-sided renewable energy generation, for the purpose of fulfilling its obligations established in paragraph b of this subdivision.

(ii) The authority shall execute its solicitation plan no later than thirty days and shall submit to the independent authorities budget office, governor, speaker of the assembly, minority leader of the assembly, temporary president of the senate, majority leader of the senate, minority leader of the senate, chair of the senate energy and telecommunications committee, the ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, the ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly, and shall post on its website, its procurement plan comprised of any power purchase agreements for RECs associated with small retail distributed customer-sided renewable energy generation other than small retail distributed renewable energy generation. The independent authorities budget office shall review such plan to assess whether it is the result of a fair, open, competitive and transparent process and shall report to the governor, speaker of the assembly, minority leader of the assembly, temporary president of the senate, minority leader of the senate, majority leader of the senate, chair of the senate energy and telecommunications committee, the ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, the ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly regarding the results of such assessment.

(iii) No later than January first, two thousand twenty-one, the authority shall submit to the independent authorities budget office, governor, speaker of the assembly, minority leader of the assembly, temporary president of the senate, majority leader of the senate, minority leader of the senate, chair of the senate energy and telecommunications committee, the ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, the ranking minority member of the assembly energy committee and chair of the renewable energy subcommittee in the assembly, and shall post on its website, a plan for the achievement of its obligation pertaining to the procurement of RECs associated with small retail distributed customer-sided renewable energy generation established in paragraph b of this subdivision.

d. (i) No later than January first, two thousand twenty-three, and no later than January first of each year thereafter through the year two thousand thirty-four, the authority shall report to the independent authorities budget office, governor, speaker of the assembly, the minority leader of the assembly, the temporary president of the senate, majority leader of the senate, the minority leader of the senate, chair of the senate energy and telecommunications committee, the ranking minority member of the senate energy and telecommunications committee,

chair of the assembly energy committee, the ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly, and shall post on its website, a report regarding its progress in meeting its obligations established in paragraph b of this subdivision.

(ii) Each report that shall be submitted pursuant to this paragraph shall include, but not be limited to, for the previous calendar year and for the total of all calendar years to date: (A) the number of RECs associated with qualified renewable energy generation retired for the purposes of meeting the authority's obligations established in paragraph b of this subdivision; (B) the number of such RECs each associated with small retail customer-sided distributed renewable energy generation and retail distributed renewable energy generation produced by equipment of any size that were procured; (C) the number of such RECs procured through power purchase agreements and the authority's ownership of qualified renewable energy generation, respectively; and (D) the amount paid to qualified renewable energy generators through tariffs for RECs associated with small retail distributed renewable energy generation.

§ 4. Sections 1020-ii, 1020-jj and 1020-kk of the public authorities law, as renumbered by chapter 388 of the laws of 2011, are renumbered sections 1020-jj, 1020-kk and 1020-ll and a new section 1020-ii is added to read as follows:

§ 1020-ii. Procurement of renewable energy credits. 1. As used in this section:

(a) "Alternative compliance payment" means a payment of a defined dollar amount per megawatt-hour, as established by the public service commission, that the authority shall submit to the public service commission in order to comply with its annual obligations established in subdivision two of this section.

(b) "Distributed renewable energy resource systems" means small-scale power generation technologies in the range of one kilowatt to ten thousand kilowatts used to provide an alternative to or an enhancement of the traditional electric power system, using renewable energy resources.

(c) "Distributed renewable energy generation" means qualified renewable energy generation produced by a qualified renewable energy system that is interconnected to the customer's side or utility distribution company meter.

(d) "Electric distribution company" means an investor-owned utility that distributes electricity within New York state.

(e) "New energy technologies" means all methods used to produce, distribute, conserve and store energy by methods not in common commercial use, with emphasis on renewable energy sources including but not limited to solar, wind, bioconversion and solid waste.

(f) "Power purchase agreement" means an agreement, for a minimum of fifteen years, for the purchase of renewable energy credits from an owner of a qualified renewable energy system.

(g) "Qualifying owner" means the owner of a qualifying renewable energy system that is also a:

(i) resident of New York state;

(ii) limited liability company organized under the New York state limited liability company law and made up of a majority of members who are New York state residents; or

(iii) New York not-for-profit organization organized under the New York state not-for-profit corporation law.

(h) "Qualified renewable energy generation" means the electric energy measure in kilowatt-hours produced from a qualified renewable energy system.

(i) "Qualified renewable energy system" shall mean a distributed renewable energy resource system or technology as determined by the public service commission consistent with the definition provided in paragraph (b) of this subdivision that may result in the cost effective production of electricity from renewable resources that has been constructed and is owned by a qualifying owner. For the purposes of this section, they shall include:

(i) wind;

(ii) solar photovoltaic, including rooftop and stand alone systems;

(iii) solar thermal;

(iv) geothermal;

(v) fuel cell technology;

(vi) hydro-kinetic, including approved river or tidal generation systems;

(vii) hydroelectric;

(viii) biomass;

(ix) anaerobic digestion; and

(x) landfill gas to energy systems.

(j) "Renewable energy credit" or "REC" means the environmental attributes associated with one megawatt-hour of qualified renewable energy generation.

(k) The term "renewable energy resources" shall have the same meaning as set forth in subdivision twelve of section 1-103 of the energy law.

(l) "Retail electric supplier" means an entity authorized to sell electricity at retail rates and terms and conditions to end-use customers in New York, including an electric distribution company acting as a provider of last resort or an energy service company approved by the public service commission for such purpose.

(m) "Small retail distributed customer-sided renewable energy generation" means retail distributed renewable energy generation produced by a qualified renewable energy system that is equal to or less than one hundred kilowatts in size.

2. (a) The authority shall annually procure, either through long-term contracts of a minimum of fifteen years or payment to the public service commission for compliance, RECs associated with gigawatt-hours of qualified renewable energy generation in accordance with the following schedule:

Compliance Year	Annual Requirement
2019	0.25%
2020	0.40%
2021	0.55%
2022	0.70%
2023	0.90%
2024	1.10%
2025	1.30%
2026	1.50%
2027	1.75%
2028	2.00%
2029	2.50%
2030	3.00%

2031 3.50%
2032 4.50%

(b) If by the year two thousand thirty-four New York state has not met its goal of thirty-five percent electric energy from renewable energy sources, the program established in section sixty-six-o of the public service law shall be extended and shall grow at a rate of 0.85 percentage points until this goal is achieved.

(c) At least twenty-five percent of the annual obligation applicable to each retail electric supplier shall be met through the procurement of RECs associated with small retail customer-sided distributed renewable energy generation. In the third compliance year and each year thereafter, the independent authorities budget office, in consultation with the commission, shall undertake a review concerning the authorities' ability to meet twenty-five percent of their annual obligations through small retail customer-sided distributed renewable energy generation. If the independent authorities budget office, in consultation with the commission, concludes that the authority cannot reasonably meet this obligation, the independent authorities budget office may allow the authority to apply for a waiver to procure power purchase agreements from other sources.

(d) Obligations for the procurement of RECs associated with qualified renewable energy generation shall continue until all existing power purchase agreements have expired.

(e) The authority may meet its obligations established in this subdivision through the procurement of RECs together with or separate from the associated qualified renewable energy generation.

(f) Retail electric suppliers that are also subject to compliance with the requirements of the Renewable Portfolio Standard may use a portion of the RECs procured under this act toward their Renewable Portfolio Standard requirements as follows: twenty percent of RECs procured under this act may be applied toward a retail electric supplier's Renewable Portfolio Standard requirement.

(g) The authority shall track RECs through the automated REC tracking system established pursuant to paragraph (f) of subdivision two of section sixty-six-o of the public service law.

(h) RECs shall be eligible for use in meeting the obligations established in this subdivision in the compliance year in which they are created and for the following two compliance years.

(i) In the event that retail electric suppliers cannot meet their obligations established in this subdivision, they shall be permitted to discharge such obligations by making an alternative compliance payment in an amount established by the commission, provided, however, that the commission shall set such payment at a level that shall stimulate the development of new qualified renewable energy generation necessary to achieve the obligations established in this subdivision.

(j) (i) No later than December first, two thousand twenty-one, the authority shall submit to the independent authorities budget office, governor, speaker of the assembly, minority leader of the assembly, temporary president of the senate, majority leader of the senate, minority leader of the senate, chair of the senate energy and telecommunications committee, the ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, the ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly, and shall post on its website, a solicitation plan that shall include a timetable and methodology for soliciting proposals for RECs associated with qualified

renewable energy generation other than small retail distributed customer-sided renewable energy generation, for the purpose of fulfilling its obligations established in this subdivision.

(ii) The authority shall execute its solicitation plan and shall submit to the independent authorities budget office, governor, speaker of the assembly, minority leader of the assembly, temporary president of the senate, majority leader of the senate, minority leader of the senate, chair of the senate energy and telecommunications committee, ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, the ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly, and shall post on its website, its procurement plan comprised of any power purchase agreements for RECs associated with small retail distributed customer-sided renewable energy generation other than small retail distributed renewable energy generation. The independent authorities budget office shall review such plan to assess whether it is the result of a fair, open, competitive and transparent process and shall report to the governor, speaker of the assembly, minority leader of the assembly, temporary president of the senate, majority leader of the senate, the minority leader of the senate, chair of the senate energy and telecommunications committee, ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly regarding the results of such assessment.

(iii) No later than January first, two thousand twenty-one, the authority shall submit to the independent authorities budget office, governor, speaker of the assembly, minority leader of the assembly, temporary president of the senate, majority leader of the senate, minority leader of the senate, chair of the senate energy and telecommunications committee, ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly, and shall post on its website, a plan for the achievement of its obligation pertaining to the procurement of RECs associated with small retail distributed customer-sided renewable energy generation established in this subdivision.

(k) (i) No later than January first, two thousand twenty-three, and no later than January first of each year thereafter through the year two thousand thirty-four, the authority shall report to the independent authorities budget office, governor, speaker of the assembly, minority leader of the assembly, temporary president of the senate, majority leader of the senate, minority leader of the senate, chair of the senate energy and telecommunications committee, ranking minority member of the senate energy and telecommunications committee, chair of the assembly energy committee, ranking minority member of the assembly energy committee, and chair of the renewable energy subcommittee in the assembly, and shall post on its website, a report regarding its progress in meeting its obligations established in this subdivision.

(ii) Each report that shall be submitted pursuant to this paragraph shall include, but not be limited to, for the previous calendar year and for the total of all calendar years to date: (A) the number of RECs associated with qualified renewable energy generation retired for the purposes of meeting the authority's obligations established in this subdivision; (B) the number of such RECs each associated with small

retail customer-sided distributed renewable energy generation and retail distributed renewable energy generation produced by equipment of any size that were procured; (C) the number of such RECs procured through power purchase agreements and the authority's ownership of qualified renewable energy generation, respectively; and (D) the amount paid to qualified renewable energy generators through tariffs for RECs associated with small retail distributed renewable energy generation.

§ 5. If any provision of this act is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining provisions of this act, which remaining provisions shall continue in full force and effect.

§ 6. This act shall take effect immediately; provided, however, that this act shall expire and be deemed repealed on the date the commissioner of the public service commission notifies the legislative bill drafting commission of the occurrence of the implementation of a substantively similar federal program.