

STATE OF NEW YORK

958

2019-2020 Regular Sessions

IN ASSEMBLY

January 14, 2019

Introduced by M. of A. QUART, ROZIC -- read once and referred to the Committee on Energy

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:

ARTICLE 12

RENEWABLE PORTFOLIO STANDARD

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 certifi-
9 cate; 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 § 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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1 adverse environmental impact from deregulation of energy generation; and
2 support the reliability of the supply of electricity in the state.

3 2. This article governs the retail electricity sales of each electric
4 corporation. This article does not govern installed capacity obli-
5 gations.

6 3. This article does not apply to a private or government aggregator
7 that contracts for electric generation service or electric related
8 services, either separately or bundled, for its own facilities or on
9 behalf of other business and residential customers in this state. This
10 article does not apply to an energy agent. An electric corporation that
11 is contractually obligated to sell electricity to an aggregator shall
12 comply with this article by including the amount sold to the aggregator
13 as part of its energy portfolio.

14 § 251. Definitions. As used in this article, unless the context other-
15 wise requires, the following terms shall have the following meanings:

16 1. "Alternative compliance payment" means a payment of a certain
17 dollar amount per megawatt hour, which an electric corporation may
18 submit to comply with the renewable energy requirement set forth in this
19 article.

20 2. "Attribute" means a characteristic associated with electricity
21 generated using a particular renewable fuel, such as its generation
22 date, facility geographic location, unit vintage, emissions output,
23 fuel, state program eligibility, or other characteristic that can be
24 identified, accounted, and tracked.

25 3. "Bioenergy crop" means plants cultivated and harvested specifically
26 for use as fuel for the purpose of generating electricity.

27 4. "Biomass" means any organic matter that is available on a renewable
28 or recurring basis (excluding old-growth timber), including dedicated
29 energy crops and trees, agricultural food and feed crop residues, aquat-
30 ic plants, wood and wood residues, animal wastes, and other waste mate-
31 rials.

32 5. "Black liquor" means a viscous liquid containing inorganic chemi-
33 cals and organic material such as lignin and aliphatic acids, which is
34 separated from wood during chemical pulping.

35 6. "Energy portfolio" means all of the electrical energy supplied by a
36 particular electric power supplier or basic generation service provider
37 to retail customers in the state.

38 7. "Energy year" means the twelve month period from April first
39 through March thirty-first and shall be numbered according to the calen-
40 dar year in which it ends.

41 8. "Fossil fuel" means natural gas, petroleum, coal, or any form, of
42 solid, liquid, or gaseous fuel derived from such material.

43 9. "Fuel cell" means an electrochemical device that converts chemical
44 energy in a hydrogen or hydrogen-rich fuel directly into electricity,
45 without combustion.

46 10. "Generation attribute tracking system" means the environmental and
47 emissions attributes tracking system for electric generation that is
48 administered by New York state energy research and development authority
49 pursuant to subdivision nineteen of section eighteen hundred fifty-four
50 of the public authorities law.

51 11. "Geothermal energy" means energy generated by a steam turbine,
52 driven by hot water or steam extracted from geothermal reservoirs in the
53 earth's crust.

54 12. "Installed capacity obligation" means the requirement for an elec-
55 tric power supplier or basic generation service provider to obtain an
56 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 § 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 twenty-one through two thousand
20 twenty-five, thirty percent;

21 (b) for energy year two thousand twenty-six, forty percent with at
22 least 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-seven 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-six. The commission, in consultation with the department of environ-
28 mental conservation, electric distribution companies, the utility inter-
29 vention unit of the department of state, the Public Utility Law Project
30 of New York, Inc., the solar energy industry and relevant stakeholders,
31 shall periodically consider increasing the renewable energy portfolio
32 standards beyond the minimum amounts set forth in this chapter, taking
33 into account the cost impacts and public benefits of such increases
34 including, 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 six.

18 8. For electricity supplied during energy year two thousand twenty-
19 six, an electric corporation shall calculate its solar obligation as two
20 percent of the total energy generated by the electric corporation.

21 9. The total statewide solar obligation shall be two percent of the
22 total electricity sold to all retail customers.

23 § 253. Energy that qualifies for a solar renewable energy certificate;
24 registration requirement. 1. To be eligible to form the basis for a
25 solar renewable energy certificate usable for compliance with this arti-
26 cle, electricity shall meet all requirements in this section, as well as
27 all other applicable requirements in this chapter. The registration
28 process required in this section for construction of new solar electric
29 generation facilities is intended to provide advance notice to the
30 public and the renewable energy markets when increases in solar electric
31 generation capacity in the state are planned. The registration process
32 shall be administered by the commission or its designee.

33 2. To be eligible for issuance of a solar renewable energy certificate
34 usable for compliance with this article, electricity shall:

35 (a) meet the definition of solar electric generation in section two
36 hundred fifty-one of this article;

37 (b) be generated at a facility that has been issued either:

38 (i) for installations with a nameplate generating capacity of twenty-
39 five thousand kilowatts or more, a certificate from the New York state
40 board on electric generation siting and the environment pursuant to
41 article ten of this chapter; or

42 (ii) for installations with a nameplate generating capacity of less
43 than twenty-five thousand kilowatts, the relevant permits or certif-
44 icates issued by the local authority.

45 (c) be generated during the generating facility's qualification life.
46 Solar electric generation produced after the end of a facility's quali-
47 fication life shall not be used as the basis for a solar renewable ener-
48 gy certificate; and

49 (d) be generated using equipment that meets either of the following
50 criteria:

51 (i) the equipment is new; or

52 (ii) the equipment was previously used in a solar facility with an
53 unexpired qualification life and all of the following criteria are met:

54 (1) the previous solar facility was located in New York;

55 (2) the previous solar facility was issued either:

1 (A) for installations with a nameplate generating capacity of twenty-
2 five thousand kilowatts or more, a certificate from the New York state
3 board on electric generation siting and the environment pursuant to
4 article ten of this chapter; or

5 (B) for installations with a nameplate generating capacity of less
6 than twenty-five thousand kilowatts, the relevant permits or certif-
7 icates issued by the local authority.

8 (3) there are at least twelve full months left in the qualification
9 life of the previous solar facility; and

10 (4) any sale or other transfer of the equipment during the qualifica-
11 tion life of the previous solar facility is recorded with the commis-
12 sion.

13 3. To comply with paragraph (b) of subdivision two of this section, a
14 solar electric generating facility:

15 (a) for installations with a nameplate generating capacity of twenty-
16 five thousand kilowatts or more, that was not issued a certificate from
17 the New York state board on electric generation siting and the environ-
18 ment pursuant to article ten of this chapter prior to the effective date
19 of this article shall obtain such a certificate through the registration
20 process established pursuant to subdivision six of this section; or

21 (b) for installations with a nameplate generating capacity of less
22 than twenty-five thousand kilowatts, that was not issued the relevant
23 permits or certificates issued by the local authority prior to the
24 effective date of this article shall obtain the relevant permits or
25 certificates issued by the local authority through the registration
26 process established pursuant to subdivision six of this section.

27 4. A solar electric generating facility, and all equipment included in
28 or appurtenant to the solar facility, shall permanently retain the qual-
29 ification life originally assigned to the solar facility, regardless of
30 any interruption in the solar facility's operation, or any relocation,
31 sale or transfer of the facility or of any of the equipment.

32 5. If the applicable submittal deadline in subdivision three of this
33 section is met, solar renewable energy certificates, based on electric-
34 ity generated by the solar facility, shall be usable for compliance with
35 this chapter immediately upon the issuance of either a certificate from
36 the New York state board on electric generation siting and the environ-
37 ment pursuant to article ten of this chapter or the relevant permits or
38 certificates issued by the local authority for the facility, subject to
39 any other applicable limits on use of solar renewable energy certif-
40 icates. If the applicable deadline is not met, any solar renewable
41 energy certificates based on electricity generated by the solar facility
42 shall not be usable for compliance with this article until twelve months
43 after the solar facility has received authorization to energize in
44 accordance with the commission's standardized interconnection rules.

45 6. The commission shall determine and publicize the process for regis-
46 tration of a solar electric generating facility within ninety days of
47 the effective date of this article; provided, however, that such regis-
48 tration process shall require:

49 (a) the submittal of an initial registration no later than:

50 (i) ten business days after execution of the contract for purchase or
51 installation of the photovoltaic panels to be used in the solar facili-
52 ty;

53 (ii) if a contract for purchase or installation of photovoltaic panels
54 for the solar facility was executed prior to the effective date of this
55 section the deadline for submittal of an initial registration package
56 shall be ninety days after the effective date of this section; or

1 (iii) in a case where a conditional registration or extension was
2 previously issued but expired before construction of the solar facility
3 was substantially completed, a new registration package shall be submit-
4 ted prior to completion of construction;

5 (b) that construction of the solar facility shall not begin until the
6 commission has issued a conditional registration for the facility; and

7 (c) that construction of the solar facility shall be completed and
8 local code approval granted prior to the expiration of the conditional
9 registration or any extension of such conditional registration.

10 § 254. Using renewable energy certificates and solar renewable energy
11 certificates for renewable portfolio standard compliance. 1. A renewable
12 energy certificate or solar renewable energy certificate shall be used
13 to meet renewable portfolio standard requirements for specific energy
14 years, based on the type of renewable energy upon which the renewable
15 energy certificate or solar renewable energy certificate is based, and
16 the energy year during which the renewable energy was generated, as
17 follows:

18 (a) A solar renewable energy certificate based on energy generated on
19 or after April first, two thousand twenty-six shall be used to comply
20 with renewable portfolio standard requirements for any one of the
21 following three energy years:

22 (i) the energy year in which the underlying energy was generated; or
23 (ii) either of the two energy years immediately following the energy
24 year in which the underlying energy was generated;

25 (b) A solar renewable energy certificate based on energy generated
26 before April first, two thousand twenty-six shall be used only to comply
27 with the requirements of this article for the energy year during which
28 the underlying energy was generated, and/or the subsequent energy year;
29 and

30 2. Once a renewable energy certificate or solar renewable energy
31 certificate has been used for compliance with this article, the renewa-
32 ble energy certificate or solar renewable energy certificate shall be
33 permanently retired and shall not be used again.

34 § 255. Issuance of renewable energy certificates and solar renewable
35 energy certificates. 1. The New York state energy and research develop-
36 ment authority shall issue renewable energy certificates and solar
37 renewable energy certificates for use in complying with this article.

38 2. The commission may issue an order discontinuing the designation of
39 the New York state energy and research development authority under
40 subdivision one of this section, and/or approving use of renewable ener-
41 gy certificates or solar renewable energy certificates issued by another
42 entity for compliance with this article. The commission shall post a
43 notice of its intent to issue such an order at least thirty days prior
44 to issuing the order, and may, in its discretion, choose to accept
45 public comment on the notice.

46 3. Beginning April first, two thousand twenty-six, in measuring gener-
47 ation to determine the number of renewable energy certificates or solar
48 renewable energy certificates to issue, the commission or its designee
49 shall accept only readings of a meter that records kilowatt-hour
50 production of electrical energy, and which meets all applicable require-
51 ments of this subdivision. The readings may be taken or submitted by any
52 person, but shall be verified by the commission or its designee in
53 accordance with the American National Standards Institute (ANSI) Stand-
54 ard C12.1-2008, Electric Meters Code for Electricity Metering, as
55 amended or supplemented.

1 4. The commission or its designee shall issue renewable energy certifi-
2 icates and solar renewable energy certificates in whole units, each
3 representing the environmental attributes of one megawatt-hour of elec-
4 tric generation.

5 5. Electric generation qualifies for issuance of renewable energy
6 certificates or solar renewable energy certificates only if:

7 (a) it is solar electric generation produced by a generating facility
8 that is interconnected with an electric distribution system that
9 supplies electricity to one or more end users located in New York; or

10 (b) it is renewable energy, other than solar electric generation, and
11 one or more of the following requirements is met:

12 (i) the generating facility reports its generation electronically to
13 the New York state energy research and development authority no less
14 frequently than monthly, and complies with any additional requirements
15 established by the New York state energy research and development
16 authority;

17 (ii) both of the following requirements are met:

18 (1) the generating facility reports its generation electronically no
19 less frequently than monthly to an electric distribution company that
20 then provides the generator's report electronically no less frequently
21 than monthly to the New York state energy research and development
22 authority; and

23 (2) the generating facility complies with any additional requirements
24 established by the New York state energy research and development
25 authority.

26 6. If a generator has accumulated a fraction of a megawatt-hour by the
27 end of an energy year, the fraction may be carried over and combined
28 with energy generated in a subsequent energy year in order to make a
29 full megawatt-hour that is eligible for a renewable energy certificate
30 or solar renewable energy certificate. In such a case, the combined
31 energy shall be eligible for issuance of a renewable energy certificate
32 or solar renewable energy certificate only during the energy year in
33 which accumulated generation reaches one full megawatt-hour. Only a
34 fraction of a megawatt-hour shall be carried over.

35 7. The commission shall require submittal of information and certifi-
36 ications needed to enable the commission or its designee to verify the
37 generation that forms the basis of the requested renewable energy
38 certificates. The commission shall require inspections, as appropriate,
39 of generation equipment, monitoring and metering equipment, and other
40 facilities relevant to verifying electric generation. The commission
41 shall impose application fees, inspection fees and other charges for any
42 work required to verify electric generation and issue renewable energy
43 certificates or solar renewable energy certificates.

44 8. The commission or its designee shall not issue a renewable energy
45 certificate or solar renewable energy certificate based on electric
46 generation that has previously been used for compliance with this arti-
47 cle, or that has been used to satisfy another state's renewable energy
48 requirements or any voluntary clean electricity market or program.

49 9. A customer-generator that is eligible for net metering owns the
50 renewable attributes of the energy it generates on or after April first,
51 two thousand twenty-six, unless there is a contract with an express
52 provision that assigns ownership of the renewable attributes. The owner
53 of a solar electric generation facility that is not eligible for net
54 metering owns the renewable attributes of the energy it generates on or
55 after April first, two thousand twenty-six, unless there is a contract

1 with an express provision that assigns ownership of the renewable attri-
2 butes.

3 § 256. Alternative compliance payments. 1. An electric corporation may
4 choose to comply with renewable portfolio standard requirements by
5 submitting one or more alternative compliance payments or solar alterna-
6 tive compliance payments. An electric corporation that wishes to use
7 alternative compliance payments or solar alternative compliance payments
8 to comply with this article shall meet the requirements of this section.

9 2. The chairman of the commission shall appoint an alternative compli-
10 ance payments advisory committee to provide recommendations to the
11 commission regarding the appropriate cost of alternative compliance
12 payments and solar alternative compliance payments, as well as other
13 characteristics of their use. The commission shall consider the advisory
14 committee's recommendation and shall, through commission order, set
15 prices for alternative compliance payments and solar alternative compli-
16 ance payments. At a minimum, the price of an alternative compliance
17 payment or a solar alternative compliance payment shall be higher than
18 the estimated competitive market cost of the following:

19 (a) the cost of meeting the requirement through purchase of a renewa-
20 ble energy certificate or solar renewable energy certificate; or

21 (b) the cost of meeting the requirement through generating the
22 required renewable energy.

23 3. The commission shall establish and maintain a fifteen year solar
24 alternative compliance payment schedule. The commission may increase the
25 solar alternative compliance payment amount for one or more energy years
26 after appropriate notice and opportunity for public comment and public
27 hearing. However, the commission shall neither reduce the previously
28 established solar alternative compliance payment amounts, nor provide
29 any type of relief from the obligation to pay a solar alternative
30 compliance payment.

31 4. The commission shall review the amount of alternative compliance
32 payments, other than solar alternative compliance payments, at least
33 once per year, in consultation with the alternative compliance payments
34 advisory committee, and shall adjust these amounts as needed to comply
35 with paragraphs (a) and (b) of subdivision two of this section and to
36 reflect changing conditions in the environment, the energy industry and
37 markets.

38 5. To comply with this article using alternative compliance payments
39 or solar alternative compliance payments, an electric corporation shall
40 submit the following to the commission, as applicable:

41 (a) one alternative compliance payment for each megawatt-hour of
42 renewable energy required; or

43 (b) one solar alternative compliance payment for each megawatt-hour of
44 solar electric generation required.

45 6. The commission shall use the alternative compliance payments monies
46 submitted to meet the requirements of this article to fund renewable
47 energy projects through the green jobs-green New York program.

48 7. For each energy year, all solar alternative compliance payment
49 monies submitted to comply with solar electric generation requirements
50 for that energy year shall be refunded to ratepayers by the electric
51 distribution companies. The commission shall divide the total statewide
52 solar alternative compliance payment monies to be refunded for a partic-
53 ular energy year among the electric distribution companies as follows:

54 (a) determine the total megawatt-hours of electricity subject to solar
55 renewable portfolio standard requirements that was delivered by all
56 electric distribution companies combined during the subject energy year;

1 (b) determine the number of megawatt-hours of electricity subject to
2 solar renewable portfolio standard requirements that was delivered by
3 the electric distribution company during the energy year;

4 (c) divide the number determined in paragraph (b) of this subdivision
5 by the number determined in paragraph (a) of this subdivision to obtain
6 a fraction that represents the electric distribution company's share of
7 the total megawatt-hours of electricity subject to solar renewable port-
8 folio standard requirements that were delivered during the energy year;
9 and

10 (d) for each electric distribution company, multiply the fraction
11 determined in paragraph (c) of this subdivision by the total statewide
12 solar alternative compliance payment monies to be refunded for the ener-
13 gy year, to obtain a dollar figure for the amount of solar alternative
14 compliance payment monies the electric distribution company shall
15 refund.

16 § 257. Demonstrating compliance, reporting and recordkeeping. 1. By
17 October first of each year, each electric corporation shall file an
18 annual report with the commission, demonstrating that the electric
19 corporation has met the requirements of this article for the preceding
20 reporting year.

21 2. If the annual report required under subdivision one of this section
22 does not demonstrate that the electric corporation has supplied the
23 renewable energy certificates or solar renewable energy certificates
24 required by section two hundred fifty-two of this article for the previ-
25 ous reporting year, the annual report shall be accompanied by alterna-
26 tive compliance payments and/or solar alternative compliance payments in
27 sufficient quantities to make up the shortfall.

28 3. The annual report shall contain the following basic information for
29 the preceding reporting year:

30 (a) the total number of megawatt-hours of electricity sold to retail
31 customers in the state;

32 (b) the total number of renewable energy certificates retired state-
33 wide for the purpose of compliance with this article;

34 (c) the percentage of the electric corporation's total statewide
35 retail sales that the amount set forth under paragraph (b) of this
36 subdivision represents;

37 (d) the total number of solar renewable energy certificates retired
38 for the purpose of compliance with this chapter;

39 (e) the percentage of the electric corporation's total retail sales
40 that the number in paragraph (d) of this subdivision represents;

41 (f) the total amount of solar electric generation and other renewable
42 energy represented by renewable energy certificates submitted with the
43 annual report;

44 (g) the total number of alternative compliance payments and solar
45 alternative compliance payments submitted with the annual report;

46 (h) a summary demonstrating how compliance with the requirements of
47 section two hundred fifty-two of this article has been achieved;

48 (i) an accounting issued by New York state energy research and devel-
49 opment authority that shows the number of renewable energy certificates
50 purchased or held by the electric corporation; and

51 (j) the price of each renewable energy certificate and solar renewable
52 energy certificate that was retired during the energy year.

53 4. The documentation required by subdivision three of this section
54 shall include the following:

1 (a) identification of each generating unit, including its location,
2 fuel and technology type, and any unique state or federal facility or
3 plant identification number;

4 (b) an affidavit from the operator of each generating unit that the
5 specified amount of megawatt-hours from each renewable energy source was
6 generated by or sold to the electric corporation and that the electric
7 corporation has sole and exclusive title to the renewable energy and has
8 not been used to meet the renewable portfolio standard energy require-
9 ments in any other state or jurisdiction;

10 (c) an affidavit from the electric corporation that the specified
11 megawatt-hours were delivered into New York and complied with the
12 commission's standard interconnection rules; and

13 (d) for each solar renewable energy certificate submitted, certif-
14 ication of compliance with the requirements of subdivision two of
15 section two hundred fifty-three of this article that the renewable ener-
16 gy certificate has not been used to satisfy another state's renewable
17 energy requirements. The certification shall be in a form required by
18 the commission and available on the commission's website.

19 5. Failure of an electric corporation to demonstrate compliance with
20 this article in accordance with this section, within the deadlines set
21 forth in this section, shall subject the electric corporation to penal-
22 ties under section two hundred fifty-eight of this article.

23 6. Each electric corporation shall keep all records pertaining to the
24 requirements in this article for a period of five years, including data
25 on megawatt-hours resulting from owned generation, contracts, purchases
26 from the wholesale market, and purchases of renewable energy certif-
27 icates. Each electric corporation shall make all pertinent records
28 available for review upon request by the commission or its designee.

29 § 258. Enforcement. 1. Failure to comply with any provision of this
30 article shall subject the violator to the following penalties in accord-
31 ance with the commission's regulatory and statutory authority:

32 (a) suspension or revocation of an electric power supplier's license
33 or any other previously issued commission approval;

34 (b) financial penalties;

35 (c) disallowance of recovery of costs in rates; and

36 (d) prohibition on accepting new customers.

37 2. In determining the appropriate sanction, the commission shall
38 consider the following criteria and any other factors deemed appropriate
39 and material to the violator's failure to comply:

40 (a) the good faith efforts, if any, of the entity charged in attempt-
41 ing to achieve compliance;

42 (b) the gravity of the violation or failure to comply with the
43 requirements in this chapter;

44 (c) the number of past violations by the entity charged regarding
45 these standards and other standards adopted by the commission; and

46 (d) the appropriateness of the sanction or fine to the size of the
47 company charged.

48 § 2. This act shall take effect immediately.