

# STATE OF NEW YORK

3793

2021-2022 Regular Sessions

## IN ASSEMBLY

January 28, 2021

Introduced by M. of A. CUSICK, WALKER -- 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 establishing a fuel cell incentive program

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 section  
2 66-q to read as follows:

3 § 66-q. Fuel cell incentive program. 1. As used in this section:

4 (a) "Electric distribution company" means an investor-owned electric  
5 corporation that distributes and delivers electricity within this state  
6 and has annual revenues in excess of two hundred million dollars; and

7 (b) "Qualified fuel cell electric generating system" means: a system  
8 based on a solid oxide, molten carbonate, proton exchange membrane or  
9 phosphoric acid fuel cell that is manufactured, installed and operated  
10 in accordance with applicable government and industry standards, and  
11 that is operated in compliance with any standards and requirements  
12 established in this chapter or by order of the public service commis-  
13 sion.

14 2. Within forty-five days of the effective date of this section, the  
15 commission shall commence the consideration of modifications to its  
16 existing programs that encourage the development of qualified fuel cell  
17 electric generating systems and, no later than January first, two thou-  
18 sand twenty-two, the commission shall make a determination establishing  
19 modifications to its existing programs that encourage the development of  
20 qualified fuel cell generating systems in conformance with this section.  
21 The department shall consult with the New York state energy research and  
22 development authority in the preparation of its recommendations to the  
23 commission for such determination. The program modifications shall  
24 require:

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

LBD05852-01-1

1 (a) administration by the New York state energy research and develop-  
2 ment authority;

3 (b) planned annual expenditures including all costs of a minimum of  
4 fifty million dollars commencing in calendar year two thousand twenty-  
5 two and sustained each year through calendar year two thousand thirty-  
6 two;

7 (c) a diversity of project sizes, geographic distribution, and partic-  
8 ipation among customer classes, subject to cost-effectiveness consider-  
9 ations;

10 (d) incentive structures that maximize cost-effectiveness and practi-  
11 cality through competitive procurements, standing-offers, production  
12 incentives or capacity incentives at the wholesale or retail level as in  
13 the judgment of the commission, in consultation with the New York inde-  
14 pendent system operator, provide for the most effective program;

15 (e) incentive structures that take into consideration the economic  
16 benefits to the state of New York;

17 (f) program designs that take into consideration the avoidance of  
18 long-term costs to the transmission and distribution system and minimi-  
19 zation of peak load in constrained areas;

20 (g) annual reports on the achievements and effectiveness of the  
21 program; and

22 (h) such other issues deemed appropriate by the commission.

23 § 2. Section 1020-ll of the public authorities law, as renumbered by  
24 chapter 520 of the laws of 2018, is renumbered section 1020-zz.

25 § 3. Sections 1020-jj, 1020-kk and 1020-ll of the public authorities  
26 law, sections 1020-jj and 1020-kk as renumbered by chapter 520 of the  
27 laws of 2018 and section 1020-ll as renumbered by chapter 415 of the  
28 laws of 2017, are renumbered sections 1020-ww, 1020-xx, and 1020-yy and  
29 a new section 1020-jj is added to read as follows:

30 § 1020-jj. Establishment of fuel cell incentive program. 1. As used in  
31 this section the term "qualified fuel cell electric generating system"  
32 means: a system based on a solid oxide, molten carbonate, proton  
33 exchange membrane or phosphoric acid fuel cell that is manufactured,  
34 installed and operated in accordance with applicable government and  
35 industry standards, and that is installed in the authority's service  
36 territory after January first, two thousand twenty-two.

37 2. The authority shall continue to encourage the development of quali-  
38 fied fuel cell electric generating systems in its service territory  
39 through implementation of the fuel cell incentive program. The program  
40 shall require:

41 (a) planned annual expenditures including all costs of at minimum  
42 fifteen million dollars commencing in calendar year two thousand twen-  
43 ty-two and sustained each year through calendar year two thousand thir-  
44 ty-two;

45 (b) a diversity of project types;

46 (c) program administration and delivery;

47 (d) incentive structures that take into consideration the economic  
48 benefits to the state of New York;

49 (e) program designs that take into consideration the avoidance of  
50 long-term costs to the transmission and distribution system and minimi-  
51 zation of peak load in constrained areas and that maximizes cost-effec-  
52 tiveness through competitive procurements;

53 (f) annual reports on the achievements and effectiveness of the  
54 program; and

55 (g) any other objectives the authority may establish.

56 § 4. This act shall take effect immediately.