STATE OF NEW YORK

6761--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 29, 2021

Introduced by M. of A. MAMDANI, FORREST, GALLAGHER, MITAYNES, BURDICK, SIMON, ANDERSON, CARROLL, CLARK, GONZALEZ-ROJAS, O'DONNELL, GOTTFRIED, ENGLEBRIGHT, EPSTEIN, DINOWITZ, GALEF, COLTON, THIELE, WALKER, BURKE, KELLES, DAVILA, SEAWRIGHT -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law and the environmental conservation law, in relation to prohibiting the development of any new major electric generating facilities that would be powered in whole or in part by any fossil fuel

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

Section 1. Short title. This act shall be known and may be cited as the "clean futures act".

§ 2. Section 160 of the public service law is amended by adding a new subdivision 10 to read as follows:

10. "Fossil fuel" means coal, petroleum products, and fuel gases. "Coal" shall include bituminous coal, anthracite coal, and lignite. "Fuel gases" shall include but not be limited to methane, natural gas, liquefied natural gas, and manufactured fuel gases. "Petroleum products" shall include all products refined or rerefined from synthetic or crude oil or oil extracted from other sources, including natural gas liquids. Provided that nothing in this subdivision shall affect the exclusion for public utility services set forth in subdivision two of this section.

§ 3. Section 162 of the public service law is amended by adding a new subdivision 6 to read as follows:

6. (a) Notwithstanding any other provision of law, rule or regulation, beginning upon the effective date of this subdivision the board shall not issue a certificate for any major electric generating facility that would be powered in whole or in part by any fossil fuel.

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

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(b) Notwithstanding paragraph (a) of this subdivision, the board may issue a certificate for a major electric generating facility powered in whole or in part by any fossil fuel if both of the following conditions are met:

(i) The developer of such major electric generating facility shall provide to the board, the commission, and the commissioner of environmental conservation, an attestation in writing, signed by both New York independent system operator and the appropriate New York transmission owner or public authority, attesting to:

(1) the existence of a reliability need. For the purposes of this subdivision, a "reliability need" means an electricity system need, which if unmet would result in a violation of a North American Electric Reliability Corporation mandatory standard;

(2) the unavailability of either local or bulk transmission system upgrades that would address such reliability need; and

(3) such major electric generating facility would resolve such reliability need; and

(ii) The developer of such major electric generating facility shall demonstrate to the satisfaction of the board, the commission, and the commissioner of environmental conservation that the existing reliability need cannot be addressed within an appropriate time frame by any combination of transmission, energy storage, zero carbon electric generation, demand response, and/or energy efficiency.

(c) Any written communication between an applicant and the board concerning a proposed major electric generating facility shall be made publicly available on the department's website.

§ 4. Section 172 of the public service law is amended by adding two new subdivisions 3 and 4 to read as follows:

3. The department of environmental conservation shall not issue any permit otherwise authorized pursuant to subdivision one of this section, or issued pursuant to section 19-0311 of the environmental conservation law, for any major electric generating facility that would be powered in whole or in part by any fossil fuel, unless the developer of such major electric generating facility has satisfied the provisions of subparagraphs (i) and (ii) of paragraph (b) of subdivision six of section one hundred sixty-two of this article.

4. Any written communication between an applicant for a permit pursuant to subdivision one of this section and the department of environmental conservation shall be made publicly available on the department of conservation's website.

§ 5. Section 19-0311 of the environmental conservation law is amended by adding a new subdivision 6 to read as follows:

6. No permit shall be issued under this section that would be in violation of subdivision three of section one hundred seventy-two of the public service law. Any written communications between an applicant for such a permit and the department shall be made publicly available on the department's website.

§ 6. This act shall take effect immediately.