

STATE OF NEW YORK

2026--A

2025-2026 Regular Sessions

IN SENATE

January 15, 2025

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to establishing the Hudson Valley power authority, and providing for its powers and duties; to amend the public authorities law, in relation to the New York power authority; and to amend the not-for-profit corporation law, in relation to establishing energy observatory corporations

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

1 Section 1. Article 5 of the public authorities law is amended by
2 adding a new title 1-C to read as follows:

3 TITLE 1-C

4 HUDSON VALLEY POWER AUTHORITY

5 Section 1022. Short title.

6 1022-a. Definitions.

7 1022-b. Hudson Valley power authority.

8 1022-b-1. Trustees.

9 1022-c. Hudson Valley power authority service area; extension of
10 service area.

11 1022-d. Powers and duties of the authority.

12 1022-e. Powers to provide and maintain generating, transmission
13 and related facilities.

14 1022-f. Rate-setting procedures.

15 1022-g. Climate leadership and community protection act commit-
16 ment.

17 1022-h. Acquisition of property, including the exercise of the
18 power of eminent domain.

19 1022-i. Subsidiaries.

20 1022-j. Deposit and investment of moneys of the authority.

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

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1 1022-k. Conflicts of interest.

2 1022-l. Sale of surplus power.

3 1022-m. Audit and annual reports.

4 1022-n. Bonds, notes and other obligations of the authority.

5 1022-o. State and municipalities not liable on bonds or notes or
6 other obligations.

7 1022-p. Agreement of the state.

8 1022-q. Exemption of the authority from taxation.

9 1022-r. Actions against the authority.

10 1022-s. Equal employment opportunity.

11 1022-t. Limitation of liability; indemnification.

12 1022-u. Public service law generally not applicable to the
13 authority; inconsistent provisions in certain other
14 acts superseded.

15 1022-v. Authority subject to certain provisions contained in the
16 state finance law, the public service law, the social
17 services law and the general municipal law.

18 1022-w. Website.

19 1022-x. Periodic review by the legislature.

20 1022-y. Hudson Valley power authority observatory.

21 1022-z. Severability.

22 § 1022. Short title. This title shall be known and may be cited as the
23 "Hudson Valley power authority act" or the HVPA act.

24 § 1022-a. Definitions. As used or referred to in this title, unless a
25 different meaning clearly appears from the context:

26 1. "Acquire" means, with respect to any right, title or interest in or
27 to any property, either the act of taking by the exercise of the power
28 of eminent domain, or the acquisition by purchase or otherwise.

29 2. "Act" means the Hudson Valley power authority act, being this
30 title.

31 3. "Authority" means the Hudson Valley power authority established by
32 section one thousand twenty-two-b of this title.

33 4. "Commission" means the public service commission.

34 5. "Comptroller" means the state comptroller.

35 6. "Utility corporation" means any private gas corporation, electric
36 corporation, or combined gas and electric corporation, as such terms are
37 defined in section two of the public service law, that has a portion of
38 its service territory within the service area. This shall not include
39 any municipality that provides gas or electric service.

40 7. "Federal government" means the United States of America and any
41 agency or instrumentality, corporate or otherwise, of the United States
42 of America.

43 8. "Final determination" or "finally determined" means a judicial
44 decision (a) by the highest court of competent jurisdiction, or (b) by a
45 court of competent jurisdiction from which no appeal has been taken and
46 the time within which to appeal has expired.

47 9. "Municipality" means any county, city, town, village, municipal
48 corporation, school district or other political subdivision of the
49 state, including any agency, authority or public corporation of the
50 state or any of the foregoing, or any combination thereof, other than
51 the authority.

52 10. "Property" means the power distribution system or systems of the
53 authority, whether completed facilities or projects in construction,
54 whether situated within or without the territorial limits of the service
55 area, including the plants, works, structures, poles, lines, conduits,
56 mains, systems, instrumentalities or parts thereof and appurtenances

1 thereto, lands, franchises and interest in land, including lands under
2 water and riparian rights, space rights and air rights, contract rights,
3 substations, and distribution facilities, or any other property inci-
4 idental to and included in such system or part thereof, and any improve-
5 ments, extensions or betterments. The term "property" shall also include
6 any and all interests in real property less than full title, such as
7 easements, rights of way, uses, leases, licenses and all other incorpo-
8 real hereditaments and every estate, interest or right, legal or equita-
9 ble, including terms for years and liens thereon by way of judgments,
10 mortgages or otherwise, and also all claims for damages related to such
11 real estate.

12 11. "Revenues" means all rates, rents, fees, charges, payments and
13 other income and receipts derived by the authority from the operation of
14 the properties of the authority other than the proceeds of the sales of
15 its securities, including, but not limited to, investment proceeds and
16 proceeds of insurance, condemnation, and sales or other disposition of
17 assets, together with all federal, state or municipal aid.

18 12. "Security" means any bond, note or other obligation issued by the
19 authority.

20 13. "State" means the state of New York.

21 14. "State agency" means any board, authority, agency, department,
22 commission, public corporation, body politic or instrumentality of the
23 state.

24 15. "Trustees" means the board of trustees of the authority.

25 16. "Relevant sectors" refers to the sectors that the HVPA will need
26 expertise from in order to succeed. They include environmental justice,
27 consumer protection, indigenous nation rights, community renewable ener-
28 gy, electrification, energy efficiency, workplace issues and local
29 government.

30 § 1022-b. Hudson Valley power authority. 1. A corporation known as the
31 Hudson Valley power authority is hereby established and charged with the
32 duties and having the powers provided in this title. The authority shall
33 be a state authority, a body corporate and politic constituting a public
34 benefit corporation, a political subdivision of the state, exercising
35 governmental and public powers, perpetual in duration, capable of suing
36 and being sued and having a seal, and which shall have the powers and
37 duties enumerated in this title, together with such others as may be
38 conferred upon it by law. The authority is not created or organized, and
39 its operations shall not be conducted, for the purpose of making a
40 profit. No part of the revenues or assets of the authority shall inure
41 to the benefit of or be distributable to its trustees or officers or any
42 other private persons, except as herein provided for actual services
43 rendered.

44 2. (a) The trustees from time to time shall hire, without regard to
45 any personnel or civil service law, rule or regulation of the state,
46 such officers and employees, including a chief executive officer and
47 such engineering, management and legal officers, and other professional
48 employees, including but not limited to accounting, planning,
49 construction, marketing, finance, appraisal, banking and trustee
50 services, transmission and distribution, energy management, information
51 technology, cyber security, power supply, human resources, procurement,
52 treasury, energy efficiency, customer service and any other area of
53 utility operations as the trustees may require for the performance of
54 their duties and shall prescribe the duties and compensation of each
55 such officer and employee. Such compensation shall be reasonable and
56 commensurate to the duties of the position of such officer or employee.

1 (b) Any such employees hired, leased, or otherwise retained by the
2 authority or any of its subsidiaries as a consequence of an acquisition
3 of all the membership interests in, or assets of, the Central Hudson Gas
4 and Electric Corporation (hereinafter, "Central Hudson"), or any author-
5 ity subsidiary shall be hired subject to, and be entitled to, all appli-
6 cable provisions of (i) any existing contract or contracts with labor
7 unions representing Central Hudson employees, and (ii) all existing
8 pension, retirement, or other benefits provided to Central Hudson
9 employees under any existing collective bargaining agreement. Such
10 employees shall not be public employees or eligible to become members of
11 the New York state employees' retirement system on the basis of compen-
12 sation payable to them by the authority.

13 3. The authority shall not hire third-party service contractors to
14 conduct utility operations unless it has obtained written consent by the
15 labor unions representing Central Hudson workers.

16 4. In addition to all of the powers of the public service commission,
17 prior to acquiring any property and commencing operations, the authority
18 shall secure an order from the commission authorizing such acquisition
19 and commencement. The commission shall have the power to deny the
20 authority's application to acquire property and commence operations. The
21 authority shall comply with any and all requests for documents, materi-
22 als, and testimony that the commission may seek. The commission shall
23 consider, including but not limited to, the following factors before
24 issuing an order: ratepayer impacts; and system reliability. The
25 authority granted pursuant to this paragraph shall terminate upon
26 commencement of distribution of power.

27 5. The authority and its corporate existence shall continue until
28 terminated by law, provided, however, that no such law shall take effect
29 so long as the authority shall have securities outstanding, unless
30 adequate provision has been made for the payment thereof.

31 6. In the event that the authority does not commence delivering elec-
32 tric power within ten years of the effective date of this title, the
33 authority shall cease to exist and the provisions of this title shall be
34 of no further force and effect, subject to the terms of any bonds, notes
35 or other debt obligations then outstanding.

36 § 1022-b-1. Trustees. 1. The board of the authority shall consist of
37 nine trustees all of whom shall be residents of the service area, two of
38 whom shall be appointed by the governor (trustees one and two), one of
39 whom the governor shall designate as chair, two of whom shall be
40 appointed by the temporary president of the senate after consultation
41 with the state senator or senators representing the HVPA service area
42 (trustees three and four), two of whom shall be appointed by the speaker
43 of the assembly after consultation with the state assembly member or
44 members representing the HVPA service area (trustees five and six), one
45 of whom shall be the HVPA observatory governing board chair (trustee
46 seven), one of whom shall be appointed by the HVPA observatory governing
47 board (trustee eight), and one of whom shall be the business manager of
48 the International Brotherhood of Electrical Workers 320 representing the
49 frontline workers of the HVPA (trustee nine). Appointed trustees shall
50 have expertise in one of the relevant sectors mentioned in section one
51 thousand twenty-two-a of this article. Trustees shall serve staggered
52 five-year terms, except during the first term of appointments upon the
53 effective date of this title. Trustees three and five shall be
54 appointed for two years, trustees seven and nine shall be appointed for
55 three years, trustees one and eight shall be appointed for four years,
56 trustees two, four, and six shall be appointed for five years. This will

1 allow for staggered appointments of at least two members each year after
2 the first year, thus ensuring a degree of continuity of committee
3 membership.

4 2. The trustees shall serve without compensation but shall be entitled
5 to reimbursement of their actual and necessary expenses incurred in the
6 performance of their official duties, as may be authorized by the trus-
7 tees, in each case upon appropriate documentation by the submitting
8 trustee. No trustee or any entity, the majority of which is owned or
9 controlled by any trustee, shall receive any additional compensation
10 from the authority or be employed by the authority in any other capacity
11 by whatever means.

12 3. A majority of the appointed voting trustees shall constitute a
13 quorum for the transaction of business, and the affirmative vote of a
14 majority of trustees at a meeting shall be necessary to the validity of
15 any resolution, order or determination. The trustees, in by-laws or by
16 resolution, may allow for attendance at a meeting of the trustees by
17 speaker phone or any other electronic means by which all meeting partic-
18 ipants can hear one another.

19 4. The trustees shall appoint an executive committee of not less than
20 three trustees and shall delegate such duties and responsibilities of
21 the trustees to the executive committee as it may determine from time to
22 time, except that the trustees shall not delegate to the executive
23 committee the power to authorize the issuance of securities. The trus-
24 tees may appoint such additional committees with such duties and respon-
25 sibilities as they may determine from time to time.

26 § 1022-c. Hudson Valley power authority service area; extension of
27 service area. 1. The service area of the Hudson Valley power authority
28 shall embrace the service territory of Central Hudson Gas and Electric
29 as of the effective date of this title.

30 2. The service area of the Hudson Valley power authority may be
31 extended at any time to include additional territory by the trustees in
32 accordance with the following procedure, provided however, the procedure
33 does not conflict with any rule or regulation of the public service
34 commission or any other law. Whenever the trustees determine that the
35 territory included within the service area should be extended, consist-
36 ent with the provisions of this title, the trustees shall adopt a resol-
37 ution proposing the additional territory. The trustees shall fix the
38 dates, hours and places for three public hearings before such trustees
39 upon the question of such extension and cause notice thereof and of the
40 additional territory to be included within the service area to be
41 published in two newspapers of general circulation in the county not
42 less than twenty nor more than thirty days before such date. At least
43 one of such hearings shall be held within the bounds of the proposed
44 additional territory. At such time the trustees shall hear all persons,
45 taxpayers or officials who may wish to be heard and shall finally deter-
46 mine the additional territory, if any, to be included in such extension.
47 Such determination shall be made by resolution of the trustees adopted
48 by a two-thirds vote of all trustees then in office. A map of the
49 service area, as extended, shall thereupon be filed in the office of the
50 county clerk of the affected counties.

51 § 1022-d. Powers and duties of the authority. The powers conferred by
52 this title shall be exercised by the trustees, subject to the terms of
53 this title. In the exercise of those powers, either directly or through
54 its officers and employees, the trustees may do the following things,
55 among others, and the following list of powers shall not be deemed
56 complete or exclusive, or to deny the existence of other powers, whether

1 similar or different, so long as they are reasonably necessary for
2 accomplishing the purposes declared and indicated in this title;

3 1. To make and alter by-laws for the regulation of its affairs and
4 conduct of its activities, to schedule annual, regular and special meet-
5 ings of the trustees, as the conduct of the business of the authority
6 may warrant, and to adopt and amend an official seal;

7 2. To develop, acquire, construct, reconstruct, rehabilitate and
8 improve facilities for the distribution of electric and gas power or any
9 connected service;

10 3. To determine the location, type, size, construction, lease,
11 purchase, ownership, acquisition, use and operation of any facilities or
12 other structure or property, within or without the service area;

13 4. To investigate, implement and integrate, to the fullest extent
14 practicable and economically feasible, such resource conservation and
15 energy efficiency measures and equipment intended to reduce power demand
16 and usage, utilize green technologies, alternative and renewable fuels,
17 net metering, crediting mechanisms for distributed energy resources and
18 demand response programs, all as integral elements in its investments in
19 new equipment for distribution of power, and in its marketing and sale
20 of electricity and gas to consumers;

21 5. To acquire on behalf of and in the name of the authority, whether
22 by agreement with and purchase from the owner or owners, or by arbi-
23 tration, or within the service area by eminent domain, pursuant to the
24 procedures set forth in the eminent domain procedure law, or by lease,
25 the whole or any part of any existing facilities or of any other proper-
26 ty to be used in connection with power distribution by the authority as
27 set out in this title; provided, however, that the authority shall not
28 acquire real property of a municipality or a political subdivision of
29 the state unless such municipality or political subdivision shall
30 consent thereto; and provided further that the authority shall not
31 acquire by the exercise of eminent domain any facilities for distrib-
32 ution operating at a voltage in excess of twenty-two thousand volts from
33 any person, corporation or association, public or private, engaged in
34 the business of distribution and sale of electricity and gas to ultimate
35 customers unless the authority is unable to acquire by contract with the
36 owners or operators thereof, the right to use such facilities on just,
37 reasonable and non-discriminatory terms. In the exercise of the power of
38 eminent domain, as provided in this subdivision, the property being
39 acquired shall be deemed, when so determined by the authority, to be for
40 a public use;

41 6. To create or acquire one or more wholly owned subsidiaries or
42 membership interests in subsidiaries in accordance with section one
43 thousand twenty-two-i of this title to carry out all or any part of the
44 purposes of this title;

45 7. To distribute electric and gas power and any connected services
46 within the service area, to fix progressive rates and charges for the
47 furnishing or rendition of electric and gas power or of any connected
48 service, and to collect revenues. Provided however, that prior to the
49 first sale of electric and gas power or any connected service, the
50 authority shall promulgate regulations granting to customers the
51 protections afforded by article two of the public service law and
52 section one hundred thirty-one-s of the social services law;

53 8. To maintain, operate and manage, and contract for the maintenance,
54 operation and management of properties of the authority;

55 9. To apply to the appropriate agencies and officials of the federal,
56 state and local governments for such licenses, permits or approvals for

1 its plans and projects as it may deem necessary or advisable, and upon
2 such terms and conditions as it may deem appropriate to accept, in its
3 discretion, such licenses, permits or approvals as may be tendered to it
4 by such agencies and officials;

5 10. To enter upon such lands, waters or premises as in the judgment of
6 the authority shall be necessary for the purpose of making surveys,
7 soundings, borings and examinations to accomplish any purpose authorized
8 by this title, the authority being liable only for actual damages done;

9 11. To enter into cooperative agreements with other authorities, muni-
10 cipalities, utility companies, individuals, firms or corporations, and
11 the dominion of Canada and its political subdivisions, for the intercon-
12 nection of facilities and the exchange or interchange of electric and
13 gas power or connected services, upon such terms and conditions as shall
14 be determined to be reasonable;

15 12. To execute contracts, borrow money, issue bonds, notes and other
16 obligations as provided in section one thousand twenty-two-j of this
17 title, and sell the same in such amounts and at such prices, interest
18 rates and other financial terms as may be determined by the trustees;

19 13. To enter into agreements to purchase power from the power authori-
20 ty of the state of New York, the state, any state agency, any munici-
21 pality, any private entity or any other available source at such price
22 or prices as may be negotiated, including the power to enter into any
23 agreement or any negotiation for the purchase of power from the dominion
24 of Canada, or any political subdivision, public authority or private
25 corporation therein;

26 14. To make any plans, studies or investigations which it may deem
27 necessary, convenient or desirable to enable it effectually to carry out
28 the provisions of this title;

29 15. To do whatever may be necessary to give effect to the purposes of
30 this title, and in general to have and exercise all other powers neces-
31 sary or incidental to the purposes of this title;

32 16. The trustees shall hold a monthly public meeting to discuss the
33 authority's business, including but not limited to proposed rates and
34 resource plans. Special meetings may be called by the chief executive
35 officer, by a majority of trustees, observatory, or by a petition signed
36 by not less than one-tenth of all of the primary account holders.
37 Monthly and special meetings shall be held at the authority's headquar-
38 ters. At monthly and special meetings, members shall be allowed to
39 attend in person or virtually and be given the opportunity to present
40 their views through oral or written statements;

41 17. To develop and manage a public distributed renewable energy (PDRE)
42 program that will plan, fund, and build distributed renewable energy
43 owned by the HVPA. The PDRE program will include community energy stor-
44 age (CES). Similarly, the HVPA will ensure ratepayers that own their own
45 distributed renewable energy are fairly rewarded for sending energy back
46 to the grid;

47 18. In regards to hiring workers to operate the HVPA's distribution
48 assets, the authority shall enter into a memorandum of understanding
49 with bona fide labor organizations of jurisdiction that is actively
50 engaged in representing transitioning employees from non-renewable
51 generation facilities. Such memorandum shall contain but not be limited
52 to safety and training standards, disaster response measures, guaranteed
53 hours, staffing levels, pay rate protection, and retraining programs.
54 The employees eligible for these positions shall first be selected from
55 a pool of transitioning workers who have lost their employment or will
56 be losing their employment in the non-renewable energy sector. Such a

1 list of potential employees will be provided by affected labor organiza-
2 tions and provided to the department of labor. If positions cannot be
3 filled by transitioning employees, workers who live in disadvantaged
4 communities within the service territory should then be prioritized,
5 followed by any worker who lives in the service territory;

6 19. In order to ensure a prevailing wage is paid, whenever the author-
7 ity enters into any contract, subcontract, lease, grant, bond, covenant
8 or other agreement for or in connection with any construction, demoli-
9 tion, reconstruction, excavation, rehabilitation, repair, renovation,
10 alteration, or improvement project, such project shall be deemed to be a
11 public works project for the purposes of article eight of the labor law,
12 and all of the provisions of article eight of the labor law shall be
13 applicable to all the work involved in the construction, demolition,
14 reconstruction, excavation, rehabilitation, repair, renovation, alter-
15 ation, or improvement of such project. Funds, financial assistance, or
16 any other benefits provided pursuant to this title shall not be utilized
17 for or in connection with the construction, demolition, reconstruction,
18 excavation, rehabilitation, repair, renovation, alteration, or improve-
19 ment of any project to which the provisions of article eight of the
20 labor law are not applicable; and

21 20. (a) For the protection of consumer health, safety and/or privacy
22 needs, it shall be the right of every consumer of the Hudson Valley
23 power authority, at no penalty, fee or service charge, to require their
24 electric corporation or gas corporation to replace an existing digital
25 utility meter at such consumer's premises that is assigned to such
26 consumer's account with an analog utility meter.

27 (b) The Hudson Valley power authority may not install a digital utili-
28 ty meter on a consumer's premises that is assigned to such consumer's
29 account unless it first shall provide written notice to the consumer no
30 less than ninety days prior to the scheduled installation of such meter,
31 so that such consumer may decline permission for such installation. Such
32 notice shall provide that:

33 (i) the consumer shall have the right to decline permission for the
34 Hudson Valley power authority from installing a digital utility meter
35 with no fee, penalty or service charge;

36 (ii) the consumer may, at any point in time following the installation
37 of a digital utility meter, request the removal of such device and its
38 replacement with an analog utility meter; and

39 (iii) the Hudson Valley power authority shall respond to such consum-
40 er's instructions within thirty days of receipt. The Hudson Valley power
41 authority may charge such consumer the at-cost price for this service.

42 (c) The Hudson Valley power authority may offer a one-time credit to
43 customers who have a digital utility meter installed on their premises.

44 § 1022-e. Powers to provide and maintain generating, transmission and
45 related facilities. Without limiting the generality of the powers
46 conferred upon the authority by section one thousand twenty-two-d of
47 this title, the authority shall have the specific power:

48 1. Subject to the provisions of subdivision one of section one thou-
49 sand twenty-two-u of this title, to acquire, construct, improve, reha-
50 bilitate, maintain and operate such generating, transmission and related
51 facilities as the authority deems necessary or desirable to maintain an
52 adequate and dependable supply of electric and gas power within the
53 service area;

54 2. Subject to the provisions of subdivision one of section one thou-
55 sand twenty-two-u of this title, to acquire, construct, improve, reha-
56 bilitate, maintain and operate such hydroelectric or energy storage

1 projects within the state as it deems necessary or desirable to contrib-
2 ute to the adequacy, economy and reliability of the supply of electric
3 power and energy or to conserve fuel;

4 3. Subject to the provisions of subdivision one of section one thou-
5 sand twenty-two-u of this title, to determine the location, type, size,
6 construction, lease, purchase, ownership, acquisition, use and operation
7 of any generating, transmission or other related facility, provided,
8 however, that in making such determinations relating to electric power
9 facilities the authority shall give primary consideration to the
10 construction of energy efficient facilities, energy conservation, load
11 management programs, and cogeneration in the service area;

12 4. To proceed with the physical construction or completion of any
13 generating, transmission or related facility;

14 5. To apply to the appropriate agencies and officials of the federal
15 and state governments, for such licenses, permits or approval of its
16 plans or projects as it may deem necessary or advisable, and to accept
17 such licenses, permits or approvals as may be tendered to it by such
18 agencies or officials, upon such terms and conditions as it may deem
19 appropriate;

20 6. To institute suit, or to apply to any legislative body for legis-
21 lation, or to take such other action as it may deem necessary or advis-
22 able in the furtherance of the purposes of this title and for the
23 protection of its rights, if for any reason the authority shall fail to
24 secure any such license, permit or approval as it may deem necessary or
25 advisable;

26 7. To implement programs and policies designed to provide for the
27 interconnection of: (i) (A) solar electric generating equipment owned or
28 operated by residential customers, (B) farm waste electric generating
29 equipment owned or operated by customer-generators, (C) solar electric
30 generating equipment owned or operated by non-residential customers, (D)
31 micro-combined heat and power generating equipment owned, leased or
32 operated by residential customers, (E) fuel cell electric generating
33 equipment owned, leased or operated by residential customers, and (F)
34 micro-hydroelectric generating equipment owned, leased or operated by
35 customer-generators and for net energy metering consistent with section
36 sixty-six-j of the public service law, to increase the efficiency of
37 energy end use, to shift demand from periods of high demand to periods
38 of low demand and to facilitate the development of cogeneration; and

39 (ii) wind electric generating equipment owned or operated by custom-
40 er-generators and for net energy metering consistent with section
41 sixty-six-l of the public service law;

42 8. To develop, with public participation, a comprehensive least-cost
43 plan which shall consider practical and economical use of conservation,
44 renewable resources, and cogeneration for providing service to its
45 customers;

46 9. To cooperate with and to enter into contractual arrangements with
47 private utility companies or public entities:

48 (i) with respect to the construction and operation of facilities by
49 the authority and the sale of all or part of the output therefrom;

50 (ii) with respect to the construction, completion, acquisition, owner-
51 ship and/or operation of generating facilities, fuel, docks, sidings,
52 loading or unloading equipment, storage facilities and other subsidiary
53 facilities and the disposition of the output of such generating facili-
54 ties; and

55 (iii) with respect to the construction, acquisition, ownership, opera-
56 tion and/or use of transmission facilities;

1 10. To cooperate with and to enter into contractual arrangements with
2 municipalities with respect to the construction, improvement, rehabili-
3 tation, ownership and/or operation of generating facilities;

4 11. To cooperate with and to enter into contractual arrangements with
5 the New York state energy research and development authority in
6 connection with the planning, siting, development, construction, opera-
7 tion and maintenance of generating facilities of the authority utilizing
8 new energy technologies;

9 12. All renewable energy generating projects subject to this subdivi-
10 sion shall be deemed public work and subject to and performed in accord-
11 ance with articles eight and nine of the labor law. Each contract for
12 such renewable energy generating project shall contain a provision that
13 such projects may only be undertaken pursuant to a project labor agree-
14 ment. For purposes of this section, "project labor agreement" shall
15 mean a pre-hire collective bargaining agreement between the authority,
16 or a third party on behalf of the authority, and a bona fide building
17 and construction trade labor organization establishing the labor organ-
18 ization as the collective bargaining representative for all persons who
19 will perform work on a public work project, and which provides that only
20 contractors and subcontractors who sign a pre-negotiated agreement with
21 the labor organization can perform project work. All contractors and
22 subcontractors associated with this work shall be required to utilize
23 apprenticeship agreements as defined by article twenty-three of the
24 labor law;

25 13. The authority shall include requirements in any procurement or
26 development of a renewable energy generating project, as defined in this
27 subdivision, that the components and parts shall be produced or made in
28 whole or substantial part in the United States, its territories or
29 possessions. The authority's president and chief executive officer, or
30 such chief executive officer's designee may waive the procurement and
31 development requirements set forth in this paragraph if such official
32 determines that: the requirements would not be in the public interest;
33 the requirements would result in unreasonable costs; obtaining such
34 infrastructure components and parts in the United States would increase
35 the cost of a renewable energy generating project by an unreasonable
36 amount; or such components or parts cannot be produced, made, or assem-
37 bled in the United States in sufficient and reasonably available quanti-
38 ties or of satisfactory quality. Such determination must be made on an
39 annual basis no later than December thirty-first, after providing notice
40 and an opportunity for public comment, and such determination shall be
41 made publicly available, in writing, on the authority's website with a
42 detailed explanation of the findings leading to such determination. If
43 the authority's president and chief executive officer, or designee, has
44 issued determinations for three consecutive years finding that no such
45 waiver is warranted pursuant to this paragraph, then the authority shall
46 no longer be required to provide the annual determination required by
47 this paragraph;

48 14. To enter into a memorandum of understanding for the operation and
49 maintenance of a renewable energy generating project developed pursuant
50 to this subdivision with a bona fide labor organization of jurisdiction
51 that is actively engaged in representing transitioning employees from
52 non-renewable generation facilities. Such memorandum shall be entered
53 into prior to the completion date of a renewable energy generating
54 project and shall be an ongoing material condition of authorization to
55 operate and maintain a renewable energy generating project developed
56 pursuant to this subdivision. The memorandum shall only apply to the

1 employees necessary for the maintenance and operation of such renewable
2 energy generating projects. Such memorandum shall contain but not be
3 limited to safety and training standards, disaster response measures,
4 guaranteed hours, staffing levels, pay rate protection, and retraining
5 programs. The employees eligible for these positions shall first be
6 selected from a pool of transitioning workers who have lost their
7 employment or will be losing their employment in the non-renewable ener-
8 gy generation sector. Such list of potential employees will be provided
9 by affected labor organizations and provided to the department of labor.
10 The department of labor shall update and provide such list to the
11 authority ninety days prior to purchase, acquisition, and/or
12 construction of any project under this subdivision.

13 15. For the purposes of article fifteen-A of the executive law, any
14 person entering into a contract for a project authorized pursuant to
15 this section shall be deemed a state agency as that term is defined in
16 such article and such contracts shall be deemed state contracts within
17 the meaning of that term as set forth in such article.

18 16. Nothing in this subdivision, shall be construed as exempting the
19 authority, its subsidiaries, or any renewable energy generating projects
20 undertaken pursuant to this section from the requirements of article
21 eight of the public service law respecting any renewable energy system
22 developed by the authority or an authority subsidiary after the effec-
23 tive date of this subdivision that meets the definition of "major renew-
24 able energy facility" as defined in section one hundred thirty-seven of
25 the public service law, and section 11-0535-c of the environmental
26 conservation law as it relates to an endangered and threatened species
27 mitigation bank fund.

28 § 1022-f. Rate-setting procedures. In periodically establishing and
29 revising rates, the trustees shall use the following procedures:

30 1. Notice of the proposed rates shall be published in the state regis-
31 ter with a statement of the justification and reasons supporting such
32 rates. Such notice shall include a date for a hearing in accordance
33 with subdivision two of this section.

34 2. One or more hearings shall be conducted as expeditiously as practi-
35 cable by a hearing officer to develop a full and complete record and to
36 receive public comment in the form of written and oral presentation of
37 views, data, questions, and argument related to such proposed rates. In
38 any such hearing:

39 (a) any person shall be provided an adequate opportunity by the hear-
40 ing officer to offer refutation or rebuttal of any material submitted by
41 any other person or the trustees, and

42 (b) the hearing officer, in such hearing officer's discretion, shall
43 allow a reasonable opportunity for cross examination, which, as deter-
44 mined by the hearing officer, is not dilatory, in order to develop
45 information and material relevant to any such proposed rate.

46 3. In addition to the opportunity to submit oral and written material
47 at the hearings, any written views, data, questions, and arguments
48 submitted by persons prior to, or before the close of, hearings shall be
49 made a part of the administrative record.

50 4. The HVPA shall use progressive green rates. The rates shall follow
51 set parameters for energy rates and charges based on energy usage.

52 (a) The HVPA's rates shall have increasing block rates, so that as
53 electric energy and gas consumption increases, the marginal cost
54 increases as well.

55 (b) The first block of residential electric energy and gas use will be
56 priced at below market rate, as determined by the HVPA.

1 (c) Additional blocks shall be determined in the rate-making process.

2 5. After such a hearing, the trustees in coordination with the observ-
3 atory may propose revised rates, publish such proposed rates in the
4 state register, and conduct additional hearings in accordance with this
5 section.

6 6. The trustees shall, in coordination with the observatory, make a
7 final decision establishing a rate or rates based on the record which
8 shall include the hearing transcript, together with exhibits, and such
9 other materials and information as may have been submitted to, or devel-
10 oped by, the trustees. The decision shall include a full and complete
11 justification of the final rates pursuant to this section.

12 7. The final decision of the trustees shall become effective on publi-
13 cation.

14 § 1022-g. Climate leadership and community protection act commitment.

15 1. At the outset, it is critical to enshrine climate goals into the
16 enabling legislation to ensure achieving the climate leadership and
17 community protection act's goals (CLCPA). In line with the CLCPA goals,
18 the HVPA shall:

19 (a) Procure seventy percent renewable electricity by two thousand
20 thirty, and one hundred percent renewable electricity by two thousand
21 forty, provided the supply is available at reasonable rates;

22 (b) Ensure at least thirty-five percent of the benefits of clean ener-
23 gy and energy efficiency programs go to disadvantaged communities in its
24 service territory; and

25 (c) Conduct a study within two years of its creation to create a time-
26 line for the potential phaseout of its gas infrastructure.

27 2. The authority shall, to the extent it is eligible, apply for elec-
28 tive pay credit programs authorized or extended by the Inflation
29 Reduction Act of 2022, as established by Internal Revenue Service (IRS)
30 Rule 89 FR 17546. Prior to filing, the authority shall ensure that it
31 has:

32 (a) properly registered with the IRS;

33 (b) met the prevailing wage and apprenticeships set forth by the
34 Inflation Reduction Act; and

35 (c) qualified for the domestic content bonus credit amounts under
36 sections forty-five, forty-five-y, forty-eight, and forty-eight-e of the
37 Internal Revenue Code.

38 § 1022-h. Acquisition of property, including the exercise of the power
39 of eminent domain. 1. The legislature hereby expressly finds and deter-
40 mines:

41 (a) The acquisition by the authority, through purchase or the exercise
42 of the power of eminent domain, of either the securities or assets of a
43 utility corporation whichever is less expensive for the ratepayers, as
44 the authority may determine will be just to the ratepayers in the
45 service area, is the most appropriate means of dealing with the emergen-
46 cy involving the economy, health and safety of the residents and the
47 industry and commerce in the service area, notwithstanding the fact that
48 such utility corporation presently may be devoted to a public use, since
49 the public use of such property by the authority is hereby deemed to be
50 superior to the public use of such property by any other person, associ-
51 ation, or corporation.

52 (b) The authority, prior to exercising its power of eminent domain to
53 acquire the stock or assets of a utility corporation, shall enter into
54 negotiations with such utility corporation for the purpose of acquiring
55 such stock or assets upon such terms as the authority, in its sole
56 discretion, determines will result in average electric rates equal to or

1 less than the projected electric rates which would result if such utili-
2 ty corporation were to continue in operation.

3 (c) The compensation paid by the authority to a utility corporation
4 shall be just to the ratepayers in the service area who must pay such
5 compensation.

6 (d) If the authority determines that it is the stock of a utility
7 corporation that should be taken, the proper measure of damages shall be
8 the fair market value thereof as evidenced by the price of such stock on
9 the exchange on which it is traded on the valuation date since there is
10 an established market for such stock that is reflective of its value. In
11 no event, however, shall consequential or severance damages be awarded
12 if control of such utility corporation shall have been taken by the
13 authority.

14 (e) If the authority determines that it is the assets of a utility
15 corporation that should be taken, fair market value would not constitute
16 just compensation to such utility corporation since there is an insuffi-
17 cient market in the usual sense for its assets to ascertain the value
18 thereof from the market. In determining the compensation payable for
19 such assets, there shall be taken into consideration the capitalization
20 of such utility corporation's expected future earnings.

21 (f) Neither consequential nor severance damages are proper if the
22 authority condemns all the assets of a utility corporation.

23 (g) Such an acquisition by the authority of the securities or assets
24 of a utility corporation serves the public purposes of assuring the
25 provision of an adequate supply of electricity in a reliable, efficient
26 and economic manner and retaining existing commerce and industry in and
27 attracting new commerce and industry to the service area, all of which
28 are matters of state-wide concern.

29 2. In furtherance of the legislative findings and determinations set
30 forth in subdivision one of this section, the authority is hereby
31 authorized and empowered to acquire, through purchase or the exercise of
32 the power of eminent domain, all or any part of the securities or assets
33 of a utility corporation, as the authority in its sole discretion may
34 determine; provided, however, that prior to proceeding with any such
35 acquisition under this title, the board of trustees shall determine, in
36 its sole discretion based upon such engineering, financial and legal
37 data, studies and opinions as it may deem appropriate, that the average
38 electric rates projected to be charged after such acquisition and for
39 such reasonable period of time as the board of trustees may determine
40 will not be higher than the electric rates projected to be charged by
41 such utility corporation during such period if such acquisition had not
42 occurred.

43 3. The authority also is authorized and empowered, in its discretion,
44 to make a tender offer or tender offers for all or any portion of the
45 securities of a utility corporation at such price or prices as the
46 authority may determine to be appropriate; provided, however that such
47 tender offer or tender offers, in the sole judgment of the authority,
48 will result in average electric rates less than the projected electric
49 rates which would result from continued operation by such utility corpo-
50 ration.

51 (a) The authority shall make such offer or offers or any adjustment
52 thereof prior to acquiring any such securities or any assets of a utili-
53 ty corporation through the exercise of the power of eminent domain. The
54 authority may pay for such securities in cash or by exchanging therefor
55 the authority's bonds or a combination thereof.

1 (b) In the case of a tender offer in which a subsidiary of the author-
2 ity acquires at least sixty-six and two-thirds percent of a utility
3 corporation's common stock, such subsidiary may merge with such utility
4 corporation and either continue in existence or dissolve, as it may
5 determine.

6 (c) The provisions of section five hundred thirteen and article
7 sixteen of the business corporation law and any other provisions of law
8 relating to procedures in a corporate takeover, including without limi-
9 tation chapter nine hundred fifteen of the laws of nineteen hundred
10 eighty-five, shall not be applicable to the actions of the authority
11 pursuant to this title.

12 (d) In determining whether acceptance of such a tender offer by the
13 authority is in the best interests of a utility corporation, the direc-
14 tors of such utility corporation shall consider not only the dollar
15 amount of such offer but the interests of employees, suppliers, ratepay-
16 ers, creditors (including holders of such utility corporation's debt
17 securities), and the economy of the service area and the state.

18 4. The authority, should it determine, in its sole discretion, to
19 acquire the stock or assets of a utility corporation by the exercise of
20 the power of eminent domain, shall not take title to nor possession of
21 such stock or assets prior to a final determination of the amount of
22 compensation to be paid for such stock or assets nor prior to a determi-
23 nation by the authority, in its sole discretion that the taking of such
24 stock or assets will result in average electric rates less than the
25 projected electric rates which would result from continued operation by
26 such utility corporation. Notwithstanding the provisions of the eminent
27 domain procedure law, the provisions of subdivisions five and six of
28 this section shall apply to the acquisition of the stock or property of
29 such utility corporation by the power of eminent domain, provided howev-
30 er, to the extent the provisions herein do not supersede or conflict
31 with the provisions of such law the provisions of such law shall apply.

32 5. Procedure for acquisition of a utility corporation stock. (a) In
33 the event the authority determines to acquire the stock of a utility
34 corporation by the exercise of the power of eminent domain, having first
35 entered into negotiations with such utility corporation for the purchase
36 of such stock, the authority need not hold any public hearing on its
37 intention to condemn such stock or on the question of the public use of
38 such action, such finding having been made by the legislature herein.
39 The authority shall commence such acquisition by serving upon such util-
40 ity corporation and filing with the county clerk of the county in which
41 the principal office of such utility corporation is located a notice
42 describing the stock being acquired, the valuation date, as determined
43 by the authority, and such additional information as the authority may
44 reasonably deem necessary to facilitate the process of condemnation and
45 payment. The notice shall state that it is a notice of pendency of an
46 acquisition proceeding and that the authority will elect whether or not
47 to pay the amount of such award when it has been finally determined. The
48 authority also shall cause a copy of such notice: (i) to be served upon
49 the stock transfer agent or agents designated by such utility corpo-
50 ration for the transfer and registration of its stock; and (ii) to be
51 published in at least five successive issues of a daily newspaper of
52 national circulation.

53 (b) Upon receipt of such notice, the stock transfer agent or agents,
54 at the expense of the authority, shall forthwith serve upon each of the
55 registered owners of such stock a copy of such notice. Service shall be
56 deemed sufficient if mailed by certified or registered mail to the

1 address of each such owner as shown on a utility corporation's stock
2 transfer books. Service of the notice upon the stock transfer agent or
3 agents and its publication shall not be jurisdictional prerequisites to
4 the validity of the taking. Failure to notify any owner of stock to be
5 taken shall not invalidate any proceedings brought hereunder or any
6 title acquired by the authority.

7 (c) Upon filing of the notice described in paragraph (a) of this
8 subdivision, the authority shall petition a special term of the supreme
9 court in the judicial district in which such utility corporation has its
10 principal office for the acquisition of the stock. Such petition shall
11 be generally in the form prescribed by the eminent domain procedure law
12 so far as consistent herewith.

13 (d) The supreme court in the district in which such utility corpo-
14 ration has its principal office shall have exclusive jurisdiction to
15 hear and determine all claims arising from the acquisition of stock by
16 the exercise of the power of eminent domain and shall hear such claims
17 without a jury and without referral to a referee or commissioners.
18 Notwithstanding the provisions of section nine hundred one of the civil
19 practice law and rules, upon motion to the court by the authority, the
20 condemnation proceeding for the acquisition of stock shall be maintained
21 as a class action, pursuant to remaining provisions of article nine of
22 the civil practice law and rules, and the owners of the stock shall be
23 deemed a defendant class on the basis of the following express legisla-
24 tive findings:

25 (i) the class of such utility corporation stock owners is so numerous
26 that joinder of all members is impracticable;

27 (ii) the issue of valuation of such utility corporation stock is
28 common to all such utility corporation stock owners and there are ques-
29 tions of law or fact common to the members of such class which predomi-
30 nate over any questions affecting only individual members;

31 (iii) the claims or defenses, if any, of any representative owner of
32 such utility corporation stock to acquisition thereof by the authority
33 are typical of the claims or defenses of the class;

34 (iv) there are representative parties who will fairly and adequately
35 protect the interests of the class; and

36 (v) the prosecution of separate actions by or against individual
37 members of the class would create a risk of inconsistent or varying
38 adjudications with respect to the issue of valuation and other issues
39 common to the class.

40 (e) The procedure for determining just compensation shall be in the
41 manner prescribed by the eminent domain procedure law, except to the
42 extent such procedure is inconsistent with the provisions of this title,
43 in which case the provisions of this title shall control.

44 (f) Upon the entry of an award finally determining just compensation
45 for the stock, the authority shall have sixty days after receipt of
46 notice of entry of such award within which to elect to proceed with the
47 taking or to abandon such acquisition as provided in subdivision nine of
48 this section. Notice of such election shall be served by the authority
49 and by the stock transfer agent in the manner described in paragraph (a)
50 of this subdivision. If the authority elects to proceed with the acqui-
51 sition, it shall deposit with the supreme court in which the condemna-
52 tion proceeding was held an amount equal to the award within one hundred
53 eighty days after receipt by the authority of notice of entry of such
54 award. Upon the making of such deposit, the authority shall notify such
55 utility corporation's stock transfer agent in writing of such deposit.
56 The sum so deposited shall be applied as provided in the eminent domain

1 procedure law. Upon making such deposit and giving such notice to the
2 stock transfer agent, title to all stock described in the notice of
3 taking shall immediately vest in the authority and the authority shall
4 have the immediate right thereto. In the event the authority elects to
5 abandon the acquisition, the provisions of subdivision nine of this
6 section shall apply.

7 (g) It shall be a condition precedent to the payment of compensation
8 for any such securities that such securities be surrendered to the
9 supreme court or to such other entity, including the issuer's stock
10 transfer agent, as the supreme court may direct.

11 6. Procedure for acquisition of a utility corporation's assets. (a) If
12 the authority shall find it necessary or convenient to acquire any real
13 or personal property of such utility corporation, other than securities,
14 whether for immediate or future use, then the authority need not deter-
15 mine that such property is required for public use, since the legisla-
16 ture already has made such determination in this title which determi-
17 nation shall be binding for all purposes. The authority need not publish
18 any notice of its intention to acquire such property or hold any public
19 hearing with respect thereto or to the public use of such action.

20 (b) When any real property of such utility corporation within this
21 state is sought to be acquired by the exercise of the power of eminent
22 domain, and after the authority shall have entered into negotiations
23 with such utility corporation for the purchase of such property, the
24 authority shall cause a survey and map to be made thereof and shall
25 cause such survey and map to be filed in its office and in the office of
26 the county clerk in which such property is located. There shall be
27 annexed to such survey and map a certificate executed by the chief engi-
28 neer of the authority, or by such other officer or employee as may be
29 designated by the board of trustees, stating that the property or inter-
30 est therein described in such survey and map is necessary for its
31 purposes.

32 (c) Upon filing such survey and map, the authority shall petition a
33 special term of the supreme court in the judicial district in which the
34 property is located for the acquisition of such property or interest
35 therein. Such petition shall describe the property being acquired, the
36 valuation date, as determined by the authority, and such additional
37 information as the authority may reasonably deem necessary to facilitate
38 the process of condemnation and payment. The petition shall state that
39 the authority will elect whether or not to pay the amount of such award
40 when it has been finally determined. In all other respects, such peti-
41 tion shall be generally in the form prescribed by the eminent domain
42 procedure law, so far as consistent herewith. Such petition, together
43 with a notice of pendency of the proceeding, shall be filed in the
44 office of the county clerk of the county in which the property is
45 located and shall be indexed and recorded as provided by law. A copy of
46 such petition, together with a notice of the presentation thereof to
47 such special term of the supreme court, shall be served upon the owners
48 of such property as provided in the eminent domain procedure law. The
49 authority may cause a duplicate original affidavit of the service there-
50 of to be recorded in the books used for recording deeds in the office of
51 the county clerk of the county in which the property described in such
52 notice is located, and the recording of such affidavit shall be prima
53 facie evidence of due service thereof.

54 (d) Subsequent proceedings shall be conducted generally in the manner
55 prescribed by the eminent domain procedure law except to the extent the

1 provisions thereof are inconsistent with the provisions of this title,
2 in which case the provisions of this title shall control.

3 (e) Notwithstanding any provision of the eminent domain procedure law
4 to the contrary, in any proceeding brought by the authority to condemn
5 real property pursuant to such law, title shall vest in the authority
6 and compensation shall be paid only upon: (i) a decision by the supreme
7 court that compensation for the real property condemned shall be deter-
8 mined solely by the income capitalization method of valuation based on
9 the actual net income as allowed by the public service commission; and
10 (ii) such supreme court's determination that the amount of such compen-
11 sation shall be based on the income capitalization method, entry of a
12 final judgment, the filing of the final decree and the conclusion of any
13 appeal or the expiration of the time to file an appeal related to the
14 condemnation proceeding. If any court shall utilize any method of
15 compensation other than the income capitalization method, or if the
16 proposed compensation is more than the rate base of the assets taken in
17 condemnation, as utilized by the public service commission in setting
18 rates and as certified by such commission, then the authority may with-
19 draw the condemnation proceeding without prejudice or costs to any
20 party.

21 (f) Should a utility corporation's property be taken by the exercise
22 of the power of eminent domain and if such utility corporation shall
23 have agreed upon the compensation to be paid therefor in settlement of
24 the proceeding, if, such utility corporation shall be entitled to
25 payment of the agreed or awarded compensation within one hundred eighty
26 days after the date of the agreement upon the amount of the compensation
27 or of the entry of the award, together with interest upon the amount of
28 such compensation from the time of acquisition thereof by the authority
29 to the date of payment of such compensation; but such interest shall
30 cease upon the service by the authority, upon the person or corporation
31 entitled thereto, of a fifteen days' notice that the authority is ready
32 and willing to pay the amount of such compensation upon the presentation
33 of proper proofs and vouchers. Such notice shall be served personally or
34 by registered mail and publication thereof shall be made at least once a
35 week for three successive weeks in a daily newspaper of general circu-
36 lation in the county in which such property or any part thereof is
37 located.

38 (g) Upon the entry of an award finally determining just compensation
39 for the property of such utility corporation, the authority shall have
40 sixty days after receipt of notice of entry of such award within which
41 to elect to proceed with the taking or to abandon such acquisition as
42 provided in subdivision nine of this section. Notice of such election
43 shall be served by the authority on the owners of such property in the
44 manner described in paragraph (c) of this subdivision. If the authority
45 elects to proceed with the acquisition, it shall deposit with the
46 supreme court in which the condemnation proceeding was held an amount
47 equal to the award within one hundred eighty days after receipt by the
48 authority of notice of entry of such award. Upon the making of such
49 deposit, the authority shall notify such utility corporation in writing
50 of such deposit. The sum so deposited shall be applied as provided in
51 the eminent domain procedure law. Upon making such deposit and giving
52 such notice to such utility corporation, title to all property described
53 in the notice of taking shall immediately vest in the authority and the
54 authority shall have the immediate right thereto. The order setting
55 forth the award, together with evidence from the clerk of the court of
56 receipt of the amount of the award, shall be filed in the office of the

1 county clerk of the county in which the property is located and shall be
2 indexed and recorded in the same manner as a notice of pendency under
3 the eminent domain procedure law. The owner or person in possession of
4 such property shall deliver possession thereof to the authority upon
5 demand, and in case possession is not delivered when demanded or demand
6 is not convenient because of absence of the owner or inability to locate
7 or determine the owner, the authority may apply to the court without
8 notice for an order requiring the sheriff to put it into possession of
9 such real property. Such an order shall be executed as if it were an
10 execution for the delivery of the possession of the property. In the
11 event the authority elects to abandon the acquisition, the provisions of
12 subdivision nine of this section shall apply.

13 7. At any time the authority and its duly authorized agents and
14 employees may, on reasonable notice and during business hours, (a) enter
15 upon any real property proposed to be acquired for the purpose of making
16 the surveys or maps mentioned in this section, or of making such other
17 surveys, inspections or examinations of real and personal property and
18 (b) inspect and make copies of the books and records of the issuer of
19 such securities, all as the authority may deem necessary or convenient
20 for the purposes of this title.

21 8. Upon the acquisition of all the outstanding shares of stock of a
22 corporate issuer representing all the voting rights and equity thereof,
23 the authority shall as soon as reasonably practicable take all steps
24 necessary to ensure that the rights and claims of all the holders of any
25 other stock and debt securities and all other creditors thereof are as
26 secure as they were immediately prior to the acquisition by the authori-
27 ty. Nothing herein shall prohibit the authority from taking any appro-
28 priate and prudent action to renegotiate and restructure such debt or
29 from purchasing the preferred stock and debt securities issued by such
30 corporation at such prices as the authority may determine. The authority
31 may also exchange its bonds for any outstanding preferred stock or debt
32 securities with the consent of the holders of such preferred stock or
33 debt securities.

34 9. If the authority determines, in its sole discretion, that the total
35 cost of acquisition will result in average electric rates in excess of
36 the projected electric rates which would result from continued operation
37 by such utility corporation, the authority shall abandon the acquisi-
38 tion. In such event, the authority shall serve notice of such abandon-
39 ment (a) in the case of a stock acquisition, by causing to be mailed by
40 certified or registered mail a copy of such notice to each former owner
41 of stock as shown on such utility corporation's stock transfer books
42 immediately prior to such acquisition at the address shown on such stock
43 transfer books and by causing to be published a copy of such notice in
44 at least five successive issues of a daily newspaper of national circu-
45 lation or (b) in the case of an asset acquisition, in the same manner as
46 provided for the service of a petition for acquisition in paragraph (c)
47 of subdivision six of this section. In addition, in the case of an
48 asset acquisition the authority shall file a copy of the notice of aban-
49 donment with the county clerk of the county in which is located any real
50 property that was taken and with the clerk of the supreme court in which
51 the proceeding was instituted.

52 § 1022-i. Subsidiaries. 1. The authority shall have the right to exer-
53 cise and perform all or part of its powers and functions through one or
54 more wholly owned subsidiaries by operating as the sole member thereof,
55 acquiring the voting shares or membership interests thereof, or by
56 resolution of the board directing any of its trustees, officers or

1 employees to organize a subsidiary pursuant to the business corporation
2 law, the not-for-profit corporation law, the limited liability company
3 law, or the transportation corporations law. Such resolution shall
4 prescribe the purpose for which such subsidiary is to be formed.

5 2. The authority may transfer to any subsidiary any moneys, property
6 (real, personal or mixed) or facilities in order to carry out the
7 purposes of this title. Each such subsidiary shall have all the privi-
8 leges, immunities, tax exemptions and other exemptions of the authority
9 to the extent the same are not inconsistent with the statute or statutes
10 pursuant to which such subsidiary was established provided, however,
11 that in any event any such subsidiary shall be entitled to exemptions
12 from the public service law and any regulation by, or the jurisdiction
13 of, the public service commission, and the state environmental quality
14 review act to the extent provided in subdivision two of section one
15 thousand twenty-two-u of this title.

16 3. When the authority acquires either directly or through a subsidiary
17 the private entity known as Central Hudson, the authority shall maintain
18 the employment of the Central Hudson employees who are subject to the
19 terms of any existing contract or contracts with any labor union, and
20 shall assume such labor contracts. Upon acquisition of Central Hudson by
21 the authority, such employees shall:

22 (a) continue to be treated as private sector employees subject to the
23 national labor relations act and exempt from the New York state public
24 employees fair employment act;

25 (b) not acquire civil service status;

26 (c) be entitled to continue to receive such salary and benefits as
27 said employees receive as provided in the existing labor union contracts
28 as of the date of the authority's acquisition of any membership interest
29 in Central Hudson;

30 (d) be entitled to all provisions of any existing contract or
31 contracts with labor unions; and

32 (e) have pension and other benefits, including retirement benefits,
33 continued in plans that are operated and administered in compliance with
34 the employee retirement income security act of 1974, as amended (herein-
35 after "ERISA"), and the internal revenue code, to the fullest extent
36 allowed by law. After acquisition of Central Hudson by the authority,
37 the authority shall have an obligation to bargain in good faith with the
38 collective bargaining representative of such employees pursuant to the
39 national labor relations act. The authority may, in its discretion,
40 utilize the services of a professional employer organization (PEO) as
41 defined in section nine hundred sixteen of the labor law to maintain the
42 employment and working conditions of the Central Hudson employees
43 consistent with the requirements of this subdivision. Notwithstanding
44 any provision of law which may or could be deemed to the contrary, such
45 acquisition of Central Hudson by or for the authority and/or authority
46 subsidiary, and the rights, obligations and undertakings of the authori-
47 ty in connection therewith as hereinabove set forth, are hereby declared
48 to be in furtherance of the authority's proprietary, marketplace func-
49 tion of providing a safer, more efficient, reliable, and economical
50 supply of electrical and gas energy within the service area, which will
51 realize savings for the ratepayers and taxpayers in the service area and
52 further protect the interests of ratepayers and the economy in the
53 service area.

54 § 1022-j. Deposit and investment of moneys of the authority. 1. All
55 moneys of the authority, from whatever source derived, except as other-
56 wise authorized or provided in this title, shall upon receipt be depos-

1 ited forthwith in a bank or banks designated by the trustees, to be
2 selected in accordance with such standards as the trustees shall set
3 forth in the by-laws or investment guidelines of the authority, which
4 standards shall take into account the creditworthiness and capital posi-
5 tion of the depository bank or banks. The moneys in such accounts may be
6 invested in obligations of the state or the United States, or guaranteed
7 by either in accordance with practices that the trustees shall set forth
8 in the by-laws or investment guidelines of the authority. The moneys in
9 such accounts shall be withdrawn on the order of such person or persons
10 as the directors shall authorize in the by-laws of the authority and
11 shall be applied to the use of the authority as the trustees shall
12 authorize in the by-laws of the authority. All deposits of such moneys
13 shall be secured in accordance with section twenty-nine hundred twenty-
14 five of this chapter. The state comptroller and such comptroller's
15 legally authorized representatives are authorized and empowered from
16 time to time to examine the accounts and books of the authority, includ-
17 ing its receipts, disbursements, contracts, leases, sinking funds,
18 investments and any other records and papers relating to its financial
19 standing; the authority shall not be required to pay a fee for any such
20 examination.

21 2. The authority shall have power to contract with holders of any of
22 its bonds or notes or other obligations, or any trustee therefor, as to
23 the custody, collection, securing, investment and payment of any moneys
24 of the authority and of any moneys held in trust or otherwise for the
25 payment of bonds or notes or other obligations, and to carry out any
26 such contract. Moneys held in trust or otherwise for the payment of
27 bonds or notes or other obligations or in any way to secure bonds or
28 notes or obligations and deposits of such moneys shall be secured in
29 full in direct obligations of the federal government the payment of
30 which is guaranteed by the United States of America. Such investments
31 shall be held on deposit only in banks having a minimum credit rating
32 and a minimum accumulated capital, as the trustees shall specify in the
33 by-laws or investment guidelines of the authority.

34 3. Subject to agreements with noteholders and bondholders or any trustee
35 therefor, the authority shall prescribe a uniform system of accounts
36 in accordance with generally accepted accounting principles.

37 4. The trustees shall adopt investment guidelines and standards to
38 implement the foregoing provisions of this section, which guidelines and
39 standards shall be reviewed annually by the trustees and shall be made
40 available to state and municipal officials and to the public.

41 5. The Hudson Valley power authority is a public entity and the
42 management of its financial resources shall be conducted by a bank that
43 is accountable to the public in ways that are not possible with private
44 financial institutions. Subsequent to the passage of the "New York
45 public banking act" or similar legislation to allow for the creation of
46 local public banks and the chartering of a public bank in the service
47 territory, the Hudson Valley power authority shall transfer all finan-
48 cial assets into accounts held by such an institution as soon as is
49 practicable.

50 § 1022-k. Conflicts of interest. Eligibility for appointment as a
51 trustee, officer or employee of the authority shall be subject to the
52 provisions of section twenty-eight hundred twenty-five of this chapter.
53 In addition to the requirements of such section:

54 1. If any trustee, officer or employee of the authority shall have an
55 interest, either direct or indirect, in any contract to which the
56 authority is or is to be a party, such interest shall be disclosed to

1 the authority in writing and shall be set forth in the minutes of the
2 authority. The trustee, officer or employee having such interest shall
3 not participate in any action by the authority with respect to such
4 contract.

5 2. No trustee, officer or employee of the authority shall be deemed to
6 have such an interest solely by reason of the ownership of two percent
7 or less of the securities of a corporation which is or is to be a party
8 to a contract with the authority, including without limitation the hold-
9 ing company of any banking institution in which the funds of the author-
10 ity are, or are to be deposited, or which is or is to be acting as trus-
11 tee or paying agent under any bond or note resolution, trust indenture
12 or similar instrument to which the authority is a party.

13 3. Nothing in this section shall be deemed or construed to limit the
14 right of any trustee, officer or employee of the authority to acquire an
15 interest in the securities of the authority.

16 § 1022-l. Sale of surplus power. Whenever any electric power which the
17 authority may acquire creates a surplus over the amount of electric
18 power required by the residents of the service area, the authority may
19 sell such surplus in territory outside the service area to persons, or
20 public or private corporations. In acquiring any facility or property
21 which also serves any municipality or territory outside the service
22 area, the authority, if it deems it advantageous and economical so to
23 do, may, with the consent of the trustees, serve any such municipality
24 or territory or sell electric power to persons, or public or private
25 corporations in such territory or to such municipality.

26 § 1022-m. Audit and annual reports. 1. The accounts of the authority
27 shall be subject to the supervision of the comptroller and an annual
28 audit shall be performed by an independent certified public accountant
29 selected by the trustees and shall be made available to the munici-
30 palities served by the authority and to the public.

31 2. The authority shall submit a detailed annual report pursuant to and
32 as specified in section twenty-eight hundred of this chapter, and a copy
33 of such report shall be filed with the county executives of the counties
34 within the service area, and with the mayors and supervisors of the
35 municipalities within the service area and shall be made available to
36 the municipalities served by the authority and to the public. Nothing in
37 this section shall be deemed to exempt the authority from any rule or
38 regulation, including this chapter.

39 § 1022-n. Bonds, notes and other obligations of the authority. 1. The
40 authority shall have power and is hereby authorized from time to time to
41 issue its bonds, notes or other obligations for the purpose of financing
42 any capital project authorized by this title, including but not limited
43 to, the acquisition of any real or personal property or facilities
44 deemed necessary by the authority, development and professional
45 expenses, and funding any capital or other reserve funds established in
46 connection with the authority's operations or issuances, in such princi-
47 pal amount as the trustees shall determine necessary to perform its
48 corporate duties and further its purposes as authorized in this title.
49 The maximum maturity of any such bond shall not exceed thirty years from
50 its date of issuance. The maximum maturity of any such note or other
51 obligation shall not exceed five years from its date of issuance.

52 2. Except as may be otherwise expressly provided by the authority, the
53 issuance of bonds, notes or other obligations, shall be general obli-
54 gations of the authority payable out of any moneys or revenues of the
55 authority, subject only to any agreements with the holders of particular

1 bonds, notes or other obligations pledging any particular moneys or
2 revenues.

3 3. The authority shall have power from time to time, whenever it deems
4 refunding expedient, to refund any bonds, notes or other obligations by
5 the issuance of new bonds, notes or other obligations, whether the
6 bonds, notes or other obligations to be refunded have or have not
7 matured, and may issue bonds, notes or other obligations partly to
8 refund bonds, notes or other obligations then outstanding and partly for
9 any other purpose described in this section. Refunding bonds, notes or
10 other obligations may be exchanged for the bonds, notes or other obli-
11 gations to be refunded, with such cash adjustments as may be agreed, or
12 may be sold with the proceeds applied to the purchase or payment of the
13 bonds to be refunded.

14 4. Bonds may be issued either in a series with multiple discrete matu-
15 rity dates or as term bonds with a single maturity date. The bonds,
16 notes or other obligations shall be authorized by resolution of the
17 trustees and shall bear such date or dates, mature at such time or
18 times, bear interest at such rate or rates, payable annually or semi-an-
19 nually, be in such denominations, be in such form, carry such registra-
20 tion privileges, be executed in such manner, be payable in lawful money
21 of the United States of America at such place or places, and be subject
22 to such terms of redemption, as such resolution or resolutions may
23 provide. In the event that term bonds, notes or other obligations are
24 issued, the resolution authorizing the same may make such provisions for
25 the establishment and management of adequate sinking funds for the
26 payment thereof, as the authority may deem necessary.

27 5. The bonds, notes or other obligations of the authority may be sold
28 at public or private sale for such price or prices as the authority
29 shall determine. For a private sale of its securities, the authority
30 shall obtain the written approval of the terms of such sale from the
31 comptroller if such sale is to a party other than the comptroller, or
32 from the director of the budget where such sale is to the comptroller,
33 in either case prior to closing the issuance transaction.

34 6. Any resolution authorizing any issuance of bonds, notes or other
35 obligations may contain provisions, which shall be a part of the
36 contract between the authority and the holders of the issued securities,
37 as to:

38 (a) pledging all or any part of the revenues of the authority or its
39 projects or any revenue producing contract or contracts made by the
40 authority with any individual, partnership, limited liability company,
41 corporation or association to secure the payment of the bonds, notes or
42 other obligations, subject to such agreements with holders of securities
43 of the authority;

44 (b) pledging, assigning or creating a lien on all or any part of
45 assets of the authority, including mortgages and obligations security
46 mortgages, to secure the payment of the bonds, subject to such agree-
47 ments with holders of securities of the authority;

48 (c) the setting aside of reserves or sinking funds, and the regulation
49 and disposition thereof;

50 (d) establishment of special funds for deposit of moneys received from
51 the proceeds of the issuance of securities as the trustees shall deter-
52 mine, consistent with the authorizing resolution and the provisions of
53 this title;

54 (e) limitations on the purpose to which the proceeds of sale of any
55 issuance of bonds, notes or other obligations then or thereafter to be

1 issued may be applied and pledging such proceeds to secure the payment
2 of the bonds, notes or other obligations;

3 (f) limitations of the issuance of additional bonds, notes or other
4 obligations; the terms upon which additional bonds, notes or other obli-
5 gations may be issued and secured; and the refunding of outstanding
6 bonds, notes or other obligations;

7 (g) the procedure, if any, by which the terms of any contract with
8 bondholders may be amended or abrogated, the amount of bonds the holders
9 of which must consent thereto, and the manner in which such consent may
10 be given;

11 (h) providing for the appointment and powers of a trustee for holders
12 of securities, and the rights, powers and duties of such trustee as the
13 directors may determine;

14 (i) limitations on the amount of moneys derived from a project to be
15 expended for operating, administrative or other expenses of the authori-
16 ty;

17 (j) defining the acts or omissions to act which shall constitute a
18 default in the duties of the authority to holders of its obligations and
19 providing the rights and remedies of such holders in the event of a
20 default, provided, however, that such rights and remedies shall not be
21 inconsistent with the laws of the state and any other provisions of this
22 title; and provided, further, however, that nothing contained in this
23 title shall be deemed to restrict the right of the state or of any muni-
24 cipality to amend, modify or otherwise alter statutes, local laws, ordi-
25 nances, resolutions or agreements imposing or relating to taxes or fees
26 or appropriations relating thereto; and there shall not be included in
27 any resolution or contract or agreement with the holders of the bonds,
28 notes or other obligations authorized by this title any provision which
29 provides that a default shall occur as a result of the state or of a
30 municipality exercising its right to amend, modify or otherwise alter
31 laws, ordinances, resolutions or agreements imposing or relating to
32 taxes or fees or appropriations relating thereto; and

33 (k) any other provisions not inconsistent with those enumerated in
34 this subdivision and necessary to effect its issuances of bonds, notes
35 or other obligations and the rights of the holders of its securities, or
36 otherwise in furtherance of its corporate purposes.

37 7. Notwithstanding any other provision of this title, any such resol-
38 ution or resolutions shall contain a covenant by the authority that it
39 will at all times maintain rates, fees or charges sufficient to pay, and
40 that any contracts entered into by the authority for the sale or
41 distribution of power shall contain rates, fees or charges sufficient to
42 pay the costs of operation and maintenance of the project, the principal
43 of and interest on any obligations issued pursuant to such resolution as
44 the same severally become due and payable, and to maintain any debt
45 service coverage ratios and any reserves required by the terms of such
46 resolution or resolutions.

47 8. It is the intent of this title that any pledge of revenues or other
48 moneys or of a revenue producing contract or contracts made by the
49 authority shall be valid and binding from the time when the pledge is
50 made; that the revenues or other moneys or proceeds of any contract or
51 contracts so pledged and thereafter received by the authority shall
52 immediately be subject to the lien of such pledge without any physical
53 delivery thereof or further act; and that the lien of any such pledge
54 shall be valid and binding as against all parties having claims of any
55 kind in tort, contract or otherwise against the authority irrespective

1 of whether such parties have notice thereof. Neither the resolution nor
2 any other instrument by which a pledge is created need be recorded.

3 9. Neither the trustees of the authority nor any person executing the
4 bonds, notes or other obligations shall be liable personally on the
5 bonds, notes or other obligations or be subject to any personal liabil-
6 ity or accountability by reason of the issuance thereof.

7 10. The authority shall have the power out of any funds available
8 therefor to purchase bonds, notes or other obligations. The authority
9 may hold, pledge, cancel or resell such bonds, notes or other obli-
10 gations, subject to and in accordance with agreements with bondholders.

11 11. Any bonds, notes or other obligations issued by the authority are
12 hereby made securities in which all public officers and bodies of this
13 state and all municipalities and municipal subdivisions, all insurance
14 companies and associations and other persons carrying on an insurance
15 business, all banks, bankers, trust companies, savings banks and savings
16 associations, including savings and loan associations, building and loan
17 associations, investment companies and other persons carrying on a bank-
18 ing business, and all other persons whatsoever who are authorized to
19 invest in bonds, notes or other obligations of the state, may properly
20 and legally invest funds including capital in their control or belonging
21 to them; subject to the provisions of any other general or special law
22 to the contrary.

23 12. The authority is authorized to obtain from any department or agen-
24 cy of the United States of America or the state or any nongovernmental
25 insurer or financial institution any insurance, guaranty or other credit
26 support device, to the extent available, as to, or for the payment or
27 repayment of interest or principal, or both, or any part thereof, on any
28 bonds, notes or other obligations issued by the authority and to enter
29 into any agreement or contract with respect to any such insurance or
30 guaranty, except to the extent that the same would in any way impair or
31 interfere with the ability of the authority to perform and fulfill the
32 terms of any agreement made with the holders of outstanding bonds, notes
33 or other obligations of the authority.

34 13. In addition to the powers conferred in this section upon the
35 authority to secure its bonds, notes or other obligations, the authority
36 shall have the power in connection with the issuance of bonds, notes or
37 other obligations to enter into such agreements as the authority may
38 deem necessary, convenient or desirable concerning the use or disposi-
39 tion of its revenues or other moneys or property, and for the acquisi-
40 tion, alteration or disposition of its property, real and personal,
41 including the mortgaging of any of its properties and the entrusting,
42 pledging or creation of any other security interest in any such reven-
43 ues, moneys or properties and the doing of any act, including refraining
44 from doing any act, which the authority would have the right to do in
45 the absence of such agreements. The authority shall have the power to
46 enter into amendments of any such agreements within the powers granted
47 to the authority by this title and to perform such agreements. The
48 provisions of any such agreements may be made a part of the contract
49 with the holders of bonds, notes or other obligations of the authority.

50 14. All bonds, notes and other obligations issued by the authority
51 under the provisions of this title are hereby declared to have all the
52 qualities and incidents of negotiable instruments under the applicable
53 laws of the state.

54 § 1022-o. State and municipalities not liable on bonds or notes or
55 other obligations. The securities of the authority shall not be a debt
56 of the state or of any municipality, and neither the state nor any muni-

1 cipality shall be liable thereon. The authority shall not have the power
2 to pledge or restrict the credit, the revenues or the taxing power of
3 the state or of any municipality, and neither the credit, the revenues
4 nor the taxing power of the state or of any municipality shall be or
5 shall be deemed to be pledged to the payment of any securities of the
6 authority. Each evidence of indebtedness of the authority, including the
7 securities of the authority, shall contain a clear and explicit state-
8 ment of the provisions of this section. Nothing in this title shall be
9 deemed to obligate the state or any municipality to make any payments or
10 impose any taxes to satisfy the debt service obligations of the authori-
11 ty.

12 § 1022-p. Agreement of the state. The state does hereby pledge to and
13 agree with the holders of any bonds, notes or other obligations issued
14 by the authority under this title, that the state will not limit or
15 alter the rights hereby vested in the authority to establish and collect
16 the revenues and other charges referred to in this title and to fulfill
17 the terms of any agreements made with or for the benefit of the holders
18 of the securities, or in any way impair the rights and remedies of the
19 bondholders until such securities are fully met and discharged. The
20 authority is authorized to include this pledge of the state in all
21 agreements by the authority with the holders of its securities. Nothing
22 contained in this title shall be deemed to restrict any right of the
23 state or municipality to amend, modify, repeal or otherwise alter stat-
24 utes imposing or relating to taxes or fees, or appropriations relating
25 thereto. The authority shall not include within any resolution, contract
26 or agreement with holders of the bonds, notes or other obligations
27 issued under this article any provision which provides that a default
28 occurs as a result of the state or of a municipality exercising its
29 right to amend, modify, repeal or otherwise alter any statute imposing
30 or relating to taxes, fees, or appropriations relating thereto.

31 § 1022-q. Exemption of the authority from taxation. 1. It is hereby
32 found and declared that the operation of the authority is primarily for
33 the benefit of the people of the participating municipalities, counties
34 and the state, for the improvement of their health, welfare and prosper-
35 ity, and is a public purpose, and the authority shall be regarded as
36 performing an essential governmental function in carrying out the
37 provisions of this title.

38 2. The authority shall be required to pay no taxes nor assessments
39 upon any of the property acquired or controlled by it or upon its activ-
40 ities in the operation and maintenance thereof or upon income derived
41 therefrom, provided that nothing herein shall prevent the authority from
42 entering into agreements to make payments in lieu of taxes.

43 3. The authority shall make payments in lieu of taxes to munici-
44 palities and school districts equal to the taxes and assessments which
45 would have been received from year to year by such jurisdiction.

46 4. The authority shall also make payments in lieu of taxes for those
47 taxes which would otherwise be imposed upon a utility corporation pursu-
48 ant to: (a) section one hundred eighty-six-a and former section one
49 hundred eighty-six of the tax law as such sections were in effect on
50 December thirty-first, nineteen hundred ninety-nine; (b) any taxes
51 imposed by a city within the authority's service area pursuant to the
52 authorization granted by section twenty-b of the general city law; and
53 (c) any taxes imposed by a village within the authority's service area
54 pursuant to authorization granted by section 5-530 of the village law.

1 5. Notwithstanding the exemption in subdivision two of this section,
2 the authority shall also be subject to the assessments imposed pursuant
3 to section eighteen-a of the public service law.

4 6. The securities issued by the authority, and the income therefrom
5 shall, at all times, be free from taxation, except for estate and gift
6 taxes.

7 7. Nothing in this title shall relieve the authority from its obli-
8 gations to register for sales tax purposes, collect state or local sales
9 and compensating use taxes imposed by or pursuant to the authority of
10 articles twenty-eight and twenty-nine of the tax law, and otherwise
11 comply with those articles on its sale of property or services.

12 § 1022-r. Actions against the authority. 1. Any action, suit or
13 proceeding to which the authority may be a party in which any question
14 arises as to the validity of this title or the valuation of stock or
15 assets acquired by the authority by the exercise of the power of eminent
16 domain shall be preferred over all other civil causes in all courts of
17 the state, except election matters, and shall be heard and determined in
18 preference to all other civil business pending therein, except election
19 matters, irrespective of position on the calendar. The same preference
20 shall be granted upon application of counsel to the authority in any
21 action or proceeding questioning the validity of this title or the valu-
22 ation of stock or assets acquired by the authority by the exercise of
23 the power of eminent domain in which such counsel may be allowed to
24 intervene. The venue of any such action or proceeding shall be laid in
25 the supreme court pursuant to article five of the civil practice law and
26 rules.

27 2. In the event any party shall appeal an award of compensation for
28 the taking by the authority of stock or assets, such party shall post a
29 bond in such amount, if any, as the supreme court shall deem appropriate
30 to adequately protect the interests of the other party under all circum-
31 stances.

32 3. An action against the authority founded on tort shall be commenced
33 in compliance with all the requirements of section fifty-e of the gener-
34 al municipal law, except that an action against the authority for wrong-
35 ful death shall be commenced in accordance with the provisions of title
36 eleven of article nine of this chapter.

37 § 1022-s. Equal employment opportunity. All contracts entered into by
38 the authority pursuant to this title of whatever nature and all docu-
39 ments soliciting bids or proposals therefor shall contain or make refer-
40 ence to the following provision:

41 The contractor shall not discriminate against employees or applicants
42 for employment because of race, creed, color, national origin, sex, age,
43 disability or marital status, and will undertake or continue existing
44 programs of affirmative action to ensure that minority group persons and
45 women are afforded equal opportunity without discrimination. Such
46 programs shall include, but not be limited to, recruitment, employment,
47 job assignment, promotion, upgrading, demotion, transfer, layoff, termi-
48 nation, rates of pay or other forms of compensation, and selection for
49 training and retraining, including apprenticeship and on-the-job train-
50 ing.

51 The HVPA shall diligently follow article fifteen-A of the executive
52 law to promote contracting with minority- and women-owned business
53 enterprises (MWBE).

54 § 1022-t. Limitation of liability; indemnification. 1. The trustees,
55 officers and employees of the authority, while acting within the scope
56 of their authority as trustees, officers or employees, shall not be

1 subject to any personal or civil liability resulting from the exercise,
2 carrying out or advocacy of any of the authority's purposes or power
3 unless the conduct of the trustees, officers or employees is finally
4 determined by a court of competent jurisdiction to constitute inten-
5 tional wrongdoing or recklessness.

6 2. The provisions of section eighteen of the public officers law shall
7 apply to trustees, officers and employees of the authority in connection
8 with any and all claims, demands, suits, actions or proceedings which
9 may be made or brought against any of them arising out of any determi-
10 nations made or actions taken or omitted to be taken in compliance with
11 any actions taken pursuant to the powers of this title.

12 3. As used in this section, the terms "trustee", "officer" and
13 "employee" shall include a former trustee, officer or employee and such
14 trustee's, officer's or employee's estate or judicially appointed
15 personal representative.

16 4. Nothing in this section shall limit the obligations of a "trustee",
17 "officer", or "employee" of the authority or of a subsidiary of the
18 authority as a "person required to collect tax", as such term is defined
19 in article twenty-eight of the tax law, if such trustee, officer or
20 employee is, or was, under a duty to act for the authority or subsid-
21 iary, or both, as the case may be, in complying with any requirement of
22 article twenty-eight or related provision of article twenty-nine of the
23 tax law.

24 § 1022-u. Public service law generally not applicable to the authori-
25 ty; inconsistent provisions in certain other acts superseded. 1. The
26 rates, services and practices relating to the electricity generated by
27 facilities owned or operated by the authority shall not be subject to
28 the provisions of the public service law or to regulation by, or the
29 jurisdiction of, the public service commission or the office of renewa-
30 ble energy siting, except to the extent that:

31 (a) the commission has promulgated regulations to contribute to
32 achieving the statewide greenhouse gas emissions limits established in
33 article seventy-five of the environmental conservation law;

34 (b) article seven of the public service law applies to the siting and
35 operation of a major utility transmission facility as defined therein;
36 and

37 (c) section eighteen-a of the public service law provides for assess-
38 ment for certain costs, property or operations.

39 2. The issuance by the authority of its obligations to acquire securi-
40 ties or assets of a utility shall be deemed not to be "state action"
41 within the meaning of the state environmental quality review act, and
42 such act shall not be applicable in any respect to such acquisition or
43 any action of the authority to effect such acquisition.

44 3. In the event that an audit indicates a finding of fraud, abuse, or
45 mismanagement by a former service provider of the authority, and upon a
46 finding by the public service commission that reasonable cause exists
47 for the basis of such indication, the commission may order that any
48 recommendations contained in the audit be implemented. The public
49 service commission may also provide in their order, the date in which
50 any recommendation must be fully implemented. Failure to comply with any
51 such order can result in the imposition of a civil penalty by the public
52 service commission against the former service provider or revocation of
53 the former service provider's authority to operate within the state.

54 § 1022-v. Authority subject to certain provisions contained in the
55 state finance law, the public service law, the social services law and
56 the general municipal law. All contracts of the authority shall be

1 subject to the provisions of the state finance law relating to contracts
2 made by the state. The authority shall also establish rules and regu-
3 lations with respect to providing to its residential gas and electric
4 utility customers those rights and protections provided in article two
5 and sections one hundred seventeen and one hundred eighteen of the
6 public service law and section one hundred thirty-one-s of the social
7 services law. The authority shall conform to any safety standards
8 regarding manual lockable disconnect switches for solar electric gener-
9 ating equipment established by the public service commission pursuant to
10 subparagraph (ii) of paragraph (a) of subdivision five and subparagraph
11 (ii) of paragraph (a) of subdivision five-a of section sixty-six-j of
12 the public service law. The authority shall let contracts for
13 construction or purchase of supplies, materials, or equipment pursuant
14 to section one hundred three and paragraph (e) of subdivision four of
15 section one hundred twenty-w of the general municipal law.

16 § 1022-w. Website. The authority shall make accessible to the public,
17 via its official or shared internet website, documentation pertaining to
18 its mission, current activities, most recent annual financial reports,
19 current year budget and its most recent independent audit report unless
20 such information is covered by subdivision two of section eighty-seven
21 of the public officers law.

22 § 1022-x. Periodic review by the legislature. Beginning two years
23 after the effective date of this section, and not more than every ten
24 years thereafter, the legislature of the state of New York shall conduct
25 a comprehensive review, of the structure, activities and operations of
26 the authority, and the authority shall provide such records, reports and
27 testimony as the legislature may request to assist in the conduct of
28 this review.

29 § 1022-y. Hudson Valley power authority observatory. 1. A not-for-pro-
30 fit corporation known as the Hudson Valley power authority observatory
31 shall be established under section one thousand four hundred thirteen of
32 the not-for-profit corporation law by the inaugural statutory members
33 and charged with the duties and having the powers provided in this
34 title. The observatory shall be a special not-for-profit corporation as,
35 a political subdivision of the state, exercising governmental and public
36 powers, perpetual in duration, capable of suing and being sued and
37 having a seal, and which shall have the powers and duties enumerated in
38 this title, together with such others as may be conferred upon it by
39 law.

40 2. The purpose of the observatory is to operate as a quasi-governmen-
41 tal civil society organization to help the authority achieve its goals
42 by engaging in community participation, transparency, and local benefit
43 sharing. The observatory's primary functions are to monitor the utility,
44 conduct research, and support local projects.

45 3. The governing board of the observatory shall consist of fifteen
46 members all of whom shall be residents of the service area. Jointly,
47 the temporary president of the senate and the speaker of the assembly,
48 after consultation with state legislators representing the HVPA service
49 area and elected county and municipal leaders shall appoint eleven
50 members (members one through eleven). Five of these eleven members shall
51 have one of the following areas of focus or expertise: environmental
52 justice, consumer protection, electrification, energy efficiency, and
53 local governments. The remaining six members shall have expertise from
54 one of the relevant sectors as defined in section one thousand twenty-
55 two-a of this title. In selecting between similarly qualified potential
56 members, preference shall be given to potential members from counties

1 that are not yet represented on the board. Jointly, the temporary presi-
2 dent of the senate and the speaker of the assembly shall consult academ-
3 ic institutions that are partners to the observatory as well as state
4 legislators representing the HVPA service area and appoint two academic
5 members (members twelve and thirteen). If the temporary president of the
6 senate and the speaker of the assembly are unable to fill a vacancy
7 after ninety days, the existing governing board of the observatory may
8 appoint a member. IBEW Local 320 will select two labor member represen-
9 tatives (members fourteen and fifteen). Members shall serve staggered
10 four-year terms, except during the first term of appointments upon the
11 effective date of this title. Members one, five, and nine shall be
12 appointed for one year; members two, six, ten, and thirteen shall be
13 appointed for two years; members three, seven, eleven, and fourteen
14 shall be appointed for three years; and members four, eight,
15 twelve, and fifteen shall be appointed for four years. This will allow
16 for staggered appointments to ensure a degree of continuity of committee
17 membership. The chair of the observatory's governing board shall be
18 selected by a vote of the members of the governing board.

19 4. The members shall serve with compensation and shall be entitled to
20 reimbursement of their actual and necessary expenses incurred in the
21 performance of their official duties, as may be authorized by the
22 members, in each case upon appropriate documentation by the submitting
23 member. The level of compensation will be the value of two course
24 releases as determined by the academic institution of any members
25 employed by a college or university, and the members will set the cash
26 equivalent of a course release for non-academic members on an annual
27 basis. No member or any entity, the majority of which is owned or
28 controlled by any member, shall receive any additional compensation from
29 the authority or be employed by the authority in any other capacity by
30 whatever means.

31 5. A majority of the appointed voting membership shall constitute a
32 quorum for the transaction of business, and the affirmative vote of a
33 majority of members at a meeting shall be necessary to the validity of
34 any resolution, order or determination. The members, in by-laws or by
35 resolution, may allow for attendance at a meeting of the governing board
36 by speaker phone or any other electronic means by which all meeting
37 participants can hear one another.

38 6. The members shall appoint an executive committee of not less than
39 five members and shall delegate such duties and responsibilities of the
40 members to the executive committee as it may determine from time to
41 time. In addition to the executive committee, there will be a monitor-
42 ing council, research council, and local projects council. The monitor-
43 ing council shall study the utility as a traditional independent watch-
44 dog and deliver comments or make recommendations to the Hudson Valley
45 power authority's board of trustees. The research council shall review
46 the authority's operations in terms of reliability, affordability,
47 climate resilience, and environmental justice. The local projects coun-
48 cil shall support communities in their own efforts to create or imple-
49 ment energy projects and partnerships independent of the authority. Each
50 year, the authority will transfer a portion of its revenue into communi-
51 ty-controlled trust funds. The local projects council will run a parti-
52 cipatory budgeting process to democratically decide on community benefit
53 projects the fund can be spent towards. Local elected officials will
54 play a critical role in helping shape the process. The members may
55 appoint such additional committees with such duties and responsibilities
56 as they may determine from time to time.

1 7. The members from time to time shall hire, without regard to any
2 personnel or civil service law, rule or regulation of the state, such
3 officers and employees, including an executive director and such engi-
4 neering, management and legal officers, and other professional employ-
5 ees, including but not limited to accounting, planning, construction,
6 marketing, finance, appraisal, banking and trustee services, trans-
7 mission and distribution, energy management, information technology,
8 cyber security, power supply, human resources, procurement, treasury,
9 energy efficiency, customer service and any other area of utility oper-
10 ations, as the members may require for the performance of their duties
11 and shall prescribe the duties and compensation of each such officer and
12 employee. Such compensation shall be reasonable and commensurate to the
13 duties of the position of such officer or employee.

14 8. The observatory and its non-profit existence shall continue until
15 terminated by law once incorporated.

16 9. In the event that the Hudson Valley power authority does not
17 commence delivering electric power within ten years of the effective
18 date of this title, the observatory shall cease to exist and the
19 provisions of this title shall be of no further force and effect.

20 § 1022-z. Severability. The provisions of this title are severable,
21 and if any clause, sentence, paragraph, section or part of this title,
22 or the application thereof to any person or circumstance, shall be
23 adjudged by any court of competent jurisdiction to be invalid or unen-
24 forceable, such judgment shall not affect, impair or invalidate the
25 remainder of this title or the application of such provision to any
26 other person or circumstance, but shall be confined in its operation to
27 the clause, sentence, paragraph, section or part thereof or person or
28 circumstance directly involved in the controversy in which such judgment
29 shall have been rendered.

30 § 2. Subdivision 1 of section 51 of the public authorities law is
31 amended by adding a new paragraph o to read as follows:

32 o. Hudson Valley Power Authority

33 § 3. Subdivision 6 of section 1005 of the public authorities law, as
34 amended by chapter 294 of the laws of 1968, the opening paragraph as
35 amended by section 18 of part CC of chapter 60 of the laws of 2011,
36 paragraph d as amended, paragraph e as added and paragraph f as relet-
37 tered by chapter 369 of the laws of 1974, is amended to read as follows:

38 6. To develop, maintain, manage and operate its projects other than
39 the Niagara and Saint Lawrence hydroelectric projects so as (i) to
40 provide an adequate supply of energy for optimum utilization of its
41 hydroelectric projects, (ii) to attract and expand high load factor
42 industry, (iii) to [~~provide for the additional needs of its municipal~~
43 ~~electric and rural electric cooperative customers~~] operate for the bene-
44 fit of the general public and, in disposing of electric energy generated
45 at these facilities, to give preference at all times to municipalities,
46 other political subdivisions of the state, and cooperatives, (iv) to
47 provide a supply of power and energy for use in the recharge New York
48 power program as recharge New York market power, and (v) to assist in
49 maintaining an adequate, dependable electric power supply for the state.

50 An application by any municipality, other political subdivision of the
51 state, or cooperative for an allocation of electric energy shall not be
52 denied, or another application competing or in conflict therewith be
53 granted, to any private corporation, company, agency, or person, on the
54 ground that any proposed bond or other security issue of any such public
55 body or cooperative, the sale of which is necessary to enable such
56 prospective purchaser to enter into the public business of selling and

1 distributing the electric energy proposed to be purchased, has not been
2 authorized or marketed, until after a reasonable time, to be determined
3 by the administrator, has been afforded such public body or cooperative
4 to have such bond or other security issue authorized or marketed.

5 It is declared to be the policy of the legislature, as expressed in
6 this chapter, to preserve the said preferential status of municipi-
7 palities, other political subdivisions of the state, and cooperatives
8 herein referred to, and to give to the people of the state within
9 economic transmission distance of the authority's facilities reasonable
10 opportunity and time to hold any election or elections or take any
11 action necessary to create such political subdivisions of the state and
12 cooperatives as the laws of the state authorize and permit, and to
13 afford such political subdivisions of the state or cooperatives reason-
14 able time and opportunity to take any action necessary to authorize the
15 issuance of bonds or to arrange other financing necessary to construct
16 or acquire necessary and desirable electric distribution facilities, and
17 in all other respects legally to become qualified purchasers and
18 distributors of electric energy available under this chapter.

19 Contracts for the sale, transmission and distribution of power and
20 energy generated by such projects shall provide for the effectuation of
21 the policy set forth in this title relating to such projects and shall
22 provide:

23 a. Payment of all operating and maintenance expenses of the projects.

24 b. Interest on and amortization and reserve charges sufficient within
25 fifty years of the date of issuance to retire the bonds of the authority
26 issued for the projects.

27 c. For the cancellation and termination of any such contract upon
28 violation of the terms thereof by the purchasing, transmitting or
29 distributing public agency or company, or any subsidiary thereof.

30 d. That the rates, services and practices of the purchasing, transmit-
31 ting and/or distributing public agencies and rural electric cooperatives
32 in respect to the power and energy from such projects shall be governed
33 by the provisions and principles established in the contract, and not by
34 regulations of the public service commission or by general principles of
35 public service law regulating rates, services and practices and that in
36 the event any such public agencies or cooperatives which purchase power
37 from the authority shall sell any such power for resale, such sale for
38 resale shall be made at rates no higher than those at which the power
39 was purchased from the authority.

40 e. In the case of a contract with an electric corporation entered into
41 on or after May first, nineteen hundred seventy-four (i) for assurances
42 by the electric corporation of prompt and timely payment of all bills
43 rendered by the authority and that failure to make such prompt and time-
44 ly payment shall be grounds for immediate termination of the contract,
45 and (ii) that in the event the contract is so terminated, the electric
46 company will wheel to such purchasers as the authority may direct the
47 power and energy that would have been sold to the electric company had
48 the contract not been terminated.

49 f. Grant reasonable rate discounts to municipalities, other political
50 subdivisions of the state, and cooperatives in a manner not inconsistent
51 with the provisions and policy of this title.

52 g. In order to foster a close relationship between public power enti-
53 ties, specifically between the Hudson Valley power authority and the New
54 York power authority, the latter is tasked with building, owning, and
55 operating new transmission for the former under certain circumstances.
56 Specifically, if the Hudson Valley power authority requests that new

1 transmission be built by the New York power authority because it would
2 be cheaper or more efficient than building it itself, the New York power
3 authority shall not deny any reasonable request.

4 h. Such other terms not inconsistent with the provisions and policy of
5 this title as the authority may deem advisable.

6 § 4. The not-for-profit corporation law is amended by adding a new
7 section 1413 to read as follows:

8 § 1413. Energy observatory corporations.

9 (a) Definitions. An energy observatory corporation is a corporation
10 formed under or by a general or special law for studying and enabling
11 effective community governance of power authorities.

12 (b) Type of corporation. An energy observation corporation is a non-
13 charitable corporation under this chapter.

14 (c) Corporate name. An energy observatory corporation shall be called
15 the name of the authority it monitors and studies with "observatory"
16 appended to it at the end. No other corporation shall have the same
17 name.

18 (d) Governing board. An energy observatory corporation shall be
19 managed by its governing board. The number of members shall not be less
20 than five and shall not be greater than twenty. The members should have
21 a diversity of experience from the following relevant sectors: environ-
22 mental justice, consumer protection, indigenous nation rights, community
23 renewable energy, electrification, energy efficiency, workplace issues,
24 and local government.

25 (e) Funding of the observatory corporation:

26 (1) An observatory corporation shall be funded through a monthly fee
27 of each ratepayer served by the authority. The observatory shall be set
28 up with a one-time donation of not less than five hundred thousand
29 dollars from the authority.

30 (2) An observatory corporation shall not issue bonds, stocks, or other
31 security interests or incur a debt to a bank or other financial institu-
32 tion of any duration.

33 (3) An observatory corporation shall only place cash reserves or
34 surplus in a checking or savings account at a depository institution.

35 (f) Restrictions on the formation of corporations. There shall be but
36 one energy observation corporation per authority.

37 (g) Staff. An energy observatory corporation shall employ an executive
38 director, staff, and such other agents and employees, permanent or
39 temporary, as it may require, and may determine the qualifications and
40 fix the compensation and benefits of such persons.

41 (h) Public assemblies. The board and executive director shall hold
42 semi-annual assemblies to ensure public participation, transparency and
43 accountability.

44 § 5. This act shall take effect on the one hundred eightieth day after
45 it shall have become a law. Effective immediately, the addition, amend-
46 ment and/or repeal of any rule or regulation necessary for the implemen-
47 tation of this act on its effective date are authorized to be made and
48 completed on or before such effective date.