§ 1005. Powers and duties of authority. Forthwith upon the appointment and organization of the trustees and subject to the conditions and limitations in this title contained, the authority, in cooperation with the proper Canadian authorities and those of the United States as hereinafter directed, shall proceed with the improvement and development of the Niagara river and the international rapids section of the Saint Lawrence river (which is defined as that part of the said river from Ogdensburg to the point where it leaves the territory of this state) for the aid and benefit of commerce and navigation and for the development of the hydroelectric power inherent therein in accordance with the provisions of this title.

The authority is authorized to procure through a competitive solicitation process power and energy from the competitive market and to construct, improve and/or rehabilitate throughout its area of service (a) such hydroelectric or energy storage projects, as it deems necessary or desirable to contribute to the adequacy, economy and reliability of the supply of electric power and energy or to conserve fuel and (b) such base-load nuclear generating facilities or other facilities utilizing new energy technologies as in its judgment are necessary (i) to supply sufficient supplemental energy to make possible optimum use of the generating capacity of the authority's Saint Lawrence and Niagara hydroelectric projects, (ii) to supply low cost power and energy to high load factor manufacturers which will build new facilities in the authority's area of service or expand existing facilities provided such power and energy is made available to them, and (iii) to supply the future needs of the authority's existing municipal electric and rural electric cooperative customers.

The authority is further authorized to construct and/or acquire and complete such base load generating, transmission and related facilities as it deems necessary or desirable to assist in maintaining an adequate and dependable supply of electricity by supplying power and energy for the metropolitan transportation authority, its subsidiary corporations, the New York city transit authority, the port authority of New York and New Jersey, the city of New York, the state of New York, the United States, other public corporations and electric corporations within the

metropolitan area of the city of New York within the state of New York; provided, however, that (i) the acquisition of completed or partially completed facilities shall be after public hearing and shall be limited to facilities located in New York city or Westchester county and the energy and power generated by such facilities shall be used, to the extent feasible, for the benefit of electric consumers in that area, (ii) not more than one such generating facility shall be acquired in each of New York city and Westchester county, (iii) the price to be paid pursuant to any agreement entered into with respect to the purchase, appropriation or condemnation of any such completed or partially completed facility, as the case may be, shall be subject to the approval of the state comptroller and (iv) transmission facilities shall not be so acquired pursuant to this paragraph unless such acquisition is necessary to assure delivery of power and energy produced by any acquired generating facility. The authority is further authorized, to the extent it deems it necessary or desirable, to provide power and energy, as it may determine it to be available, for the use by the Niagara frontier transportation authority or its subsidiary corporation. The authority is authorized to make energy efficiency services, clean energy technologies and, in the event that supplies of power and energy are determined to be available from the competitive market for this purpose, power and energy, available to public and nonpublic elementary and secondary schools throughout the state.

A high load factor manufacturer is one which normally utilizes a minimum electric demand of five thousand kilowatts and which will normally utilize energy at the rate of approximately five hundred forty kilowatt hours per month for each kilowatt of demand and of which the cost of electricity normally represents at least seven and one-half percent of its total product value.

The authority shall publish notice of any proposed allocation of firm power and associated energy except such allocations as are subject to the provisions of section one thousand nine of this chapter, at least thirty days prior to the delivery of any energy pursuant thereto, which notice shall, in the case of industrial allocations, document actions by the authority pertaining thereto including solicitation for competing

proposals. In addition, such notice shall be transmitted to the temporary president of the senate, the speaker of the assembly, and the respective fiscal committees of the legislature.

Notwithstanding any inconsistent provision of law, the authority is authorized to enter into contracts prior to July first, nineteen hundred eighty-five to allocate a total of not more than thirty-six megawatts of power and associated energy, available for allocation as a result of voluntary relinquishment by high load factor manufacturers, of such power and associated energy from base load nuclear generating facilities of the authority, to furnish electricity to no more than three customers which: (a) are located in the southeastern portion of the state; (b) will build new facilities and/or expand existing facilities; (c) will expand employment and investment in the state; and (d) will normally utilize a minimum peak electrical demand of one thousand kilowatts.

The authority is further authorized to construct such generating, transmission and related facilities within the service area of the Long Island power authority, as the authority, in consultation with and upon such terms and conditions as the Long Island power authority, deems necessary or desirable.

Periodically, but no less often than annually, the authority is authorized and directed to identify the net revenues produced by the sale of expansion power and further to identify an amount of the net revenues from the sale of expansion power which amount shall be used solely for industrial incentive awards. Notwithstanding other lawful purposes for which such revenues may be used, it shall be the preferred purpose of the authority to make available all such net revenues for industrial incentive awards. Provided, however, that industrial incentive awards shall be made only in conformance with an economic development plan covering all such net revenues which is submitted no less often than annually by the authority and approved pursuant to section one hundred eighty-eight of the commerce law. For purposes of this paragraph, the term net revenues shall mean any excess of revenues properly allocated to the sales of expansion power over costs and expenses properly allocated to such sales.

Notwithstanding any inconsistent provision of this title, the authority shall make available all economic development power for allocation to or for businesses whose allocation of such power is recommended by the New York state economic development power allocation board pursuant to section one hundred eighty-seven of the commerce law. If the authority declines to make power available to or for a business whose allocation has been so recommended, the authority shall decline within the period specified by the board in its recommendation and shall issue in writing a statement of reasons for such denial.

a. Economic development power shall mean any power generated at the Fitzpatrick nuclear project that is voluntarily relinquished by businesses.

b. The authority shall report quarterly to the New York state economic development power allocation board on the anticipated availability of economic development power for the subsequent twelve-month period.

c. When the authority determines that economic development power is available, the authority shall notify the New York state economic development power allocation board.

d. The authority shall provide for the sale of power from the Fitzpatrick nuclear project to its industrial, business, and economic development power customers at a uniform non-discriminatory rate.

The authority is further authorized, as deemed feasible and advisable by the trustees, to acquire, maintain, manage, operate, improve and reconstruct as a project or projects of the authority one or both of the steam generation facilities owned by the state known as the Sheridan avenue steam generating plant on Sheridan avenue in the city of Albany and used to supply steam to state facilities, together with any properties, buildings and equipment at the sites thereof or ancillary thereto, for the generation and sale of thermal energy and the cogeneration and sale of electricity for use by facilities of the state within the county of Albany. All the authority's costs, including its

acquisition, capital, operating and maintenance costs, shall be recovered fully from the customers receiving service from such project or projects. Thermal energy and electricity not required by the state may be sold by the authority to others. The authority is not authorized to use refuse or refuse-derived fuel in operating the project or projects. Any agreement for such acquisition shall insure that the authority is not liable or otherwise responsible for circumstances arising from the prior operation of such facilities. The acquisition and purchase of such land, buildings and equipment by the authority, and any actions taken to effect such acquisition and purchase, are hereby exempt from the provisions of article eight of the environmental conservation law. The application of such exemption shall be strictly limited to the acquisition and purchase of such land, buildings and equipment by the authority and such agreements with the state. Nothing herein shall exempt the authority from otherwise applicable laws respecting the expansion, conversion, operation and maintenance of such land, buildings and equipment.

The authority is authorized and directed:

1. To cooperate with the appropriate agencies and officials of the United States government to the end that any hydroelectric project on the Niagara or Saint Lawrence rivers undertaken under this title shall be consistent with and in aid of any plans of the United States for the improvement of commerce and navigation along such rivers and shall be so planned and constructed as to be adaptable to the plans of the United States therefor, so that the necessary channels, locks, canals, and other navigational facilities may be constructed and installed by the United States, in, through, and as part of such project.

2. To negotiate with the appropriate Canadian authorities and agencies respecting the improvement and development of the Niagara river, and international rapids section of the Saint Lawrence river for the aid and benefit of commerce and navigation and the development of hydro-electric power therefrom, and to plan and agree with them upon cooperative action to that end including any shifting of international boundary lines between Canada and the United States and upon the use, control and

disposition of the facilties to be created and the hydro-electric power to be developed by any project constructed in such rivers. Such negotiations and agreements shall be conducted and concluded with due regard to the position of the United States in respect to international agreements, and any such agreements as may be reached with Canadian authorities or agencies may be submitted by the authority to congress for its approval, if it be advised that such approval is necessary or desirable.

3. To apply to the appropriate agencies and officials of the United States government and/or of Canada or its provinces, including the federal power commission, the atomic energy commission, and the international joint commission, for such licenses, permits or approval of its plans or projects as it may deem necessary or advisable, and in its discretion, and upon such terms and conditions as it may deem appropriate, to accept such licenses, permits or approvals as may be tendered to it by such agencies or officials and such federal or other public or governmental assistance as is now or may hereafter become available to it; and to enter into contracts with such agencies or officials or utility companies relating to the construction or operation of any project authorized by this title. Neither the authority nor any trustee, officer or agent thereof shall have any power to waive or surrender for any purpose whatsoever any right of the state of New York, whether sovereign or proprietary in character, in and to the Niagara and Saint Lawrence rivers, their waters, power, channels, beds, or uses, or the right of the state to assert such rights at any future time; provided, however, that nothing herein contained shall be construed as limiting the power of the authority to accept licenses issued by the federal power commission pursuant to the provisions of the federal power act, as amended, or by the atomic energy commission pursuant to the provisions of the atomic energy act of 1954, as amended, and the terms and conditions therein imposed pursuant to law. If for any reason the authority shall fail to secure any such license, permit or approval as it may deem necessary or advisable, or shall decide not to make application therefor, it is authorized to institute suit, or to apply to congress for legislation, or take such other action in the premises as it may deem necessary or advisable, in the furtherance of the project

and for the protection of its rights and those of the state.

4. To study the desirability and means of attracting industry to the state of New York.

5. To develop, maintain, manage and operate those parts of the Niagara and Saint Lawrence hydroelectric projects owned or controlled by it in such manner as to give effect to the policy hereby declared (and all plans and acts, and all contracts for the use, sale, transmission and distribution of the power generated by such projects, shall be made in the light of, consistent with and subject to this policy), namely, that such projects shall be in all respects for the aid, improvement, and benefit of commerce and navigation in, through, along and past the Niagara river, the Saint Lawrence river and the international rapids section thereof, and that in the development of hydro-electric power therefrom such projects shall be considered primarily as for the benefit of the people of the state as a whole. In furtherance of this policy and to secure a wider distribution of such power and use of the greatest value to the general public of the state, the authority shall in addition to other methods which it may find advantageous make provision so that municipalities and other political sub-divisions of the state now or hereafter authorized by law to engage in the distribution of electric power may secure a reasonable share of the power generated by such projects, and shall sell the same or cause the same to be sold to such municipalities and political subdivisions at prices representing cost of generation, plus capital and operating charges, plus a fair cost of transmission, all as determined by the trustees, and subject to conditions which shall assure the resale of such power at the lowest possible price, provided, however, that in disposing of hydro-electric power pursuant to and in furtherance of the aforementioned policy and purposes, appropriate provision may also be made to allocate a reasonable share of project power to agencies created or designated by other states and authorized to resell the power to users under the same terms and conditions as power is disposed of in New York state. To that end, the authority may provide in any contract or contracts which it may make for the sale, transmission and distribution of the power that the purchaser, transmitter or distributor shall construct, maintain and

operate, on such terms as the authority may deem proper, such connecting lines as may be necessary for transmission of the power from main transmission lines to such municipalities or political subdivisions.

Contracts for the sale, transmission and distribution of power generated by such projects shall provide for the effectuation of the foregoing policy and shall provide:

a. Payment of all operating and maintenance expenses of the project.

b. Interest on and amortization and reserve charges sufficient within fifty years of the date of issuance to retire the bonds of the power authority issued for the project.

c. Continuous control and operation of the project by the authority.

d. The effectuation of the policy declared in this sub-paragraph.

e. Full and complete disclosure to the authority of all factors of cost in the transmission and distribution of power, so that rates to consumers may be fixed initially in the contract and may be adjusted from time to time on the basis of true cost data, provided that in fixing such cost of transmission and distribution no account shall be given to any franchise value, going value or good-will based upon the existence of the contract and the availability of the power for sale by the transmitting or distributing company or any company associated therewith.

f. Periodic revisions of the service and rates to consumers on the basis of accurate cost data obtained by such accounting methods and systems as shall be approved by the trustees and in furtherance and effectuation of the policy declared in this sub-paragraph.

g. That the rates, services and practices of the purchasing, transmitting and/or distributing public agencies or companies in respect to the power generated by such projects shall be governed by the provisions and principles established in the contract, and not by

regulations of the public service commission or by general principles of public service law regulating rates, services and practices and that in the event any such public agencies or companies which purchase power from the authority shall sell any such power for resale, such sale for resale shall be made at rates no higher than those at which the power was purchased from the authority.

h. The rate structures agreed upon in such contract may provide different rates for different localities, classes of consumers, and amounts of current consumed, and for changes in the rates resulting from variation in operating costs and fixed charges.

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

j. For such security for performance as the authority may deem practicable and advisable, including provisions assuring the continuance of service by the purchasing, transmitting and/or distributing public agencies or companies and/or the use of their facilities for such service and/or the continuance of an outlet and adequate market for the power generated by such projects.

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

6. To develop, maintain, manage and operate its projects other than the Niagara and Saint Lawrence hydroelectric projects so as (i) to provide an adequate supply of energy for optimum utilization of its hydroelectric projects, (ii) to attract and expand high load factor industry, (iii) to provide for the additional needs of its municipal electric and rural electric cooperative customers, (iv) to provide a supply of power and energy for use in the recharge New York power program as recharge New York market power, and (v) to assist in maintaining an adequate, dependable electric power supply for the state.

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

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

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

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

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

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

f. Such other terms not inconsistent with the provisions and policy of

this title as the authority may deem advisable.

7. To proceed with the physical construction or completion of any project authorized by this title, including the erection of the necessary dams, power houses and other facilities, instrumentalities and things necessary or convenient to that end, and including also the erection of such transmission lines as may be necessary to conduct electricity to users located at or near the site; and including also the acquisition, by contract only with the owners thereof, of transmission lines or the use of such transmission lines, available or which may be made available, to conduct electricity to such point or points at which the electricity is sold by the authority to any person, corporation or association, public or private, engaged in the business of distribution and sale of electricity to ultimate consumers or if the authority is unable to so acquire by contract the ownership or use of such transmission lines, including also the erection by the authority of transmission lines necessary for such purposes; and thereafter to maintain and operate the project in accordance with the provisions and policy of this title. The authority is specifically authorized to undertake the construction of any project in one or more steps as it may find economically desirable or advantageous, and as it may agree with the appropriate Canadian and/or United States authorities. Whenever in this title reference is made to "project", it shall be understood to refer to such part of any project authorized by this title as may from time to time be in existence or immediately projected.

8. To cooperate with and, when the trustees deem it feasible and advisable, to enter into contractual arrangements with utility companies;

a. With respect to construction and operation of pumped storage facilities by the authority and supply of all or part of the necessary pumping energy by the utilities and their purchase of all or part of the output.

b. With respect to construction, completion, acquisition, ownership and/or operation of baseload generating facilities, fuel, docks,

sidings, loading or unloading equipment, storage facilities and other subsidiary facilities and disposition of the output of such generating facilities.

c. With respect to construction, acquisition, ownership, operation and/or use of transmission facilities.

9. To cooperate with and, when the trustees deem it feasible and advisable, to enter into contractual arrangements with municipal corporations with respect to construction, improvement, rehabilitation, ownership and/or operation of hydroelectric generating facilities and subsidiary facilities and disposition of the output of such generating facilities.

9-a. As deemed feasible and advisable by the trustees, to design, finance, develop, construct, install, lease, operate and maintain electric vehicle charging stations throughout the state for use by the public. Such electric vehicle charging stations shall include at least one space that is large enough to accommodate wheelchair accessible electric vehicles, including but not limited to, vans and minivans. The authority shall annually post on their website a report on those activities undertaken pursuant to this subdivision, including but not limited to: the total number of electric vehicle charging stations in operation pursuant to such authorization, the locations of such charging stations, and the total costs to the authority associated with such activities.

10. To cooperate with and, when the trustees deem it feasible and advisable, to enter into contractual arrangements with New York state energy research and development authority in connection with the planning, siting, development, construction, operation and maintenance of generating facilities of the authority utilizing new energy technologies to the extent such action is consistent with the purposes and powers granted by law to New York state energy research and development authority.

10-a. a. To cooperate with and, when the trustees deem it feasible and

advisable, enter into contracts with an owner or operator of a "class A" multiple dwelling, as defined in subdivision eight of section four of the multiple dwelling law, to administer and finance programs for the development, design, installation and provision of financial assistance with respect to the replacement of refrigerators with more energy efficient refrigerators; provided that no costs associated with such financial assistance shall be charged to the authority's customers. Financial assistance shall be repaid to the authority, over a period not to exceed ten years, based on projected savings in energy costs and related costs which accrue to the owner as a result of installing such measures and consistent with paragraph b of this subdivision.

b. If the owner of such multiple dwelling is a customer of the authority or of an electric corporation, as defined in subdivision thirteen of section two of the public service law, and if the refrigerator is provided by the owner, and if charges for electricity are included within the rent that the tenant pays to occupy such dwelling, the owner of such dwelling shall repay the authority for such financial assistance based on projected savings in energy costs that are estimated to accrue to the owner as a result of such replacement. As a condition of participating in the program established by this subdivision, such owner shall agree to be precluded from charging any additional fee or collecting any rent increase to such tenant as a result of such replacement.

11. To exercise all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this title; and as incidental thereto to own, lease, build, operate, maintain and dispose of real and personal property of every kind and character, to acquire real property and any or every interest therein for its lawful purposes by purchase, or by condemnation as hereinafter provided, to borrow money and secure the same by bonds or liens upon revenue from any property or contracts held or to be held by it, to sell water or electric power, and generally to do any and every thing necessary or convenient to carry out the purposes of this title, provided that the authority shall have no power at any time to pledge the credit of the state nor shall any of its obligations or securities be deemed to be obligations of the state nor

shall the authority have the power to lease or sell any dam, or power house at the site.

12. Notwithstanding any limitations hereinbefore expressed, the authority is authorized and directed forthwith or from time to time as it shall deem advisable and within the limitations of the appropriations made available for it to initiate and prosecute all inquiries, investigations, surveys and studies which it may deem necessary or desirable as preliminary to the effectuation of the other powers and duties conferred upon it by this title.

13. Notwithstanding any other provision of law to the contrary but subject to the terms and conditions of federal energy regulatory commission licenses, to allocate or reallocate directly or by sale for resale, two hundred fifty megawatts of firm Niagara project hydroelectric power as "expansion power" and four hundred forty-five megawatts of firm Niagara project hydroelectric power as "replacement power" to businesses within the state located within thirty miles of the Niagara project, and four hundred ninety megawatts of firm and interruptible power from the Saint Lawrence-FDR project as "preservation power" sold to businesses located within the counties of Jefferson, Saint Lawrence and Franklin, provided that the amount of expansion power allocated to businesses in Chautauqua county on January first, nineteen hundred eighty-seven shall continue to be allocated in such county and, provided further that up to seventy megawatts of replacement power, up to thirty-eight and six-tenths megawatts of preservation power from the Saint Lawrence-FDR project which is relinquished or withdrawn after the effective date of chapter three hundred thirteen of the laws of two thousand five which amended this subdivision and, for the period ending on December thirty-first, two thousand six, up to twenty megawatts of other power from the Saint Lawrence-FDR project which is unallocated as of the effective date of chapter three hundred thirteen of the laws of two thousand five which amended this subdivision, shall be allocated by the authority together with such other funds of the authority as the trustees deem feasible and advisable for energy cost savings benefits pursuant to the twelfth undesignated paragraph of this section. Provided, however, that the amount of replacement, preservation power,

or the additional twenty megawatts of Saint Lawrence-FDR power for the period ending December thirty-first, two thousand six made available for such purpose, used for energy cost savings benefits that are relinquished by or withdrawn from a recipient thereof shall be offered by the authority proportionately for a period of six months for reallocation to applicants who qualify respectively for replacement or preservation power allocations as provided in this subdivision. If such power is not allocated within such period it shall be allocated for the purpose of energy cost savings benefits pursuant to subdivision (h) of section one hundred eighty-three of the economic development law. The authority shall negotiate contracts on reasonable terms and conditions to renew or extend every permanent contract allocation of expansion power in effect on the effective date of this subdivision and, to the extent consistent with such contracts, the authority shall negotiate contracts on reasonable terms and conditions to extend or renew all other allocations or allotments of such power in effect on such date. The authority shall negotiate contracts on reasonable terms and conditions to renew or extend for a period of at least five years every permanent contract allocation of replacement power in effect on the effective date of chapter three hundred thirteen of the laws of two thousand five which added this sentence and that would expire by its terms on or before the end of the initial federal energy regulatory commission license for the Niagara project; provided that, in negotiating the terms and conditions of such contracts, the authority may consider a business' compliance with all current contractual obligations, including employment and power usage commitments. Contracts entered into pursuant to this subdivision shall contain reasonable provisions providing for the partial or complete withdrawal of the power in the event the recipient fails to maintain mutually agreed levels of employment, investment, and power utilization. Expansion or replacement power relinquished by businesses or withdrawn by the authority shall be allocated directly or by sale for resale by the authority to businesses within the state located within thirty miles of the Niagara project provided, that the amount of power allocated to businesses in Chautauqua county on January first, nineteen hundred eighty-seven shall be allocated in such county. Preservation power that is relinquished by businesses or withdrawn by the authority shall be allocated directly or

by sale for resale by the authority within the counties of Jefferson, Saint Lawrence and Franklin. Allocations made pursuant to this paragraph shall be made in accordance with criteria established by the trustees. Such criteria shall address the expansion of industry and employment pursuant to paragraph (a) of this subdivision and the revitalization of existing industry pursuant to paragraph (b) of this subdivision.

(a) Criteria for eligibility for expansion, replacement and preservation power. Each application for an allocation for expansion, replacement or preservation power shall be evaluated by the trustees under criteria which shall include but need not be limited to:

(1) the number of jobs created as a result of a power allocation;

(2) the business' long term commitment to the region as evidenced by the current and/or planned capital investment in business' facilities in the region;

(3) the ratio of the number of jobs to be created to the amount of power requested;

(4) the types of jobs created, as measured by wage and benefit levels, security and stability of employment;

(5) the amount of capital investment, including the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed;

(6) the extent to which a power allocation will affect the overall productivity or competitiveness of the business and its existing employment;

(7) the extent to which an allocation of power may result in a competitive disadvantage for other business in the state;

(8) the growth potential of the business facility and the contribution of economic strength to the area in which the business facility is or would be located;

(9) the extent of the business' willingness to make jobs available to persons defined as eligible for services under the federal job training partnership act of nineteen hundred eighty-two and the extent of the business' willingness to satisfy affirmative action goals;

(10) the extent to which an allocation of power is consistent with state, regional and local economic development strategies and priorities and supported by local units of government in the area in which the business is located; and

(11) the impact of the allocation on the operation of any other facilities of the business, on other businesses within the region, and upon other electric ratepayers.

(b) Revitalization. In addition to the criteria provided in paragraph (a) of this subdivision the trustees shall establish special criteria for the evaluation of applications for power allocated for the revitalization of industry. Such criteria shall include, but need not be limited to:

(1) that the business is likely to close, partially close or relocate resulting in the loss of a substantial number of jobs;

(2) that the business is an important employer in the community and efforts to revitalize the business are in long-term interests of both employers and the community;

(3) that a reasonable prospect exists that the proposed allocation of power will enable the business to remain competitive and become profitable and preserve jobs for a substantial period of time;

(4) that the applicant demonstrates cooperation with the local electricity distributor and other available sources of assistance to reduce energy costs to the maximum extent practicable, through conservation and load management; and

(5) that the allocation will not unduly affect the cost of electric service to customers of the local electricity distributor.

13-a. Recharge New York power program. (a) Notwithstanding any other provision of law to the contrary, but subject to the terms and conditions of federal energy regulatory commission licenses, to allocate, reallocate or extend, directly or by sale for resale, up to nine hundred ten megawatts of recharge New York power to eligible applicants located within the state of New York upon the recommendation of the New York state economic development power allocation board pursuant to section one hundred eighty-eight-a of the economic development law.

(b) Recharge New York power shall mean and consist of equal amounts of (1) four hundred fifty-five megawatts of firm hydroelectric power from the Niagara and Saint Lawrence hydroelectric projects to be withdrawn, as of the earliest date such power may be withdrawn consistent with contractual requirements, from utility corporations that, prior to the

effective date of this subdivision, purchased such power for the benefit of their domestic and rural consumers ("recharge New York hydropower"), and (2) power procured by the authority through market sources, a competitive procurement process, or authority sources (other than the Niagara and Saint Lawrence projects) (collectively or individually, "recharge New York market power"); provided, however, that if such recharge New York market power comes from authority sources, the use of that power shall not reduce the availability of, or cause an increase in the price of, power provided by the authority for any other program authorized in this article or pursuant to any other statute.

(c) Notwithstanding section one thousand nine of this title or any other provision of law to the contrary, the authority is authorized, beginning July first, two thousand twelve, to make available, contract with and sell to such eligible applicants as are recommended by the economic development power allocation board up to nine hundred ten megawatts of recharge New York power for recharge New York power allocations. A recharge New York power allocation shall consist of equal parts of recharge New York hydropower and recharge New York market power as such terms are defined in paragraph (b) of this subdivision; provided, however, that prior to entering into a contract with an eligible applicant for the sale of recharge New York power, and prior to the provision of electric service relating to the recharge New York power allocation, the authority shall offer each eligible applicant the option to decline to purchase the recharge New York market power component of such allocation. If an eligible applicant declines to purchase such market power from the authority, the authority shall have no responsibility for supplying such market power to the eligible applicant.

13-b. Agricultural consumer electricity cost discount. (1) Notwithstanding any provision of this title or article six of the economic development law to the contrary, the authority is authorized, beginning in two thousand twenty-four, as deemed feasible and advisable by the trustees, to use revenues from the sale of hydroelectric power, and such other funds of the authority as deemed feasible and advisable by the trustees, to fund monthly payments to be made for the benefit of agricultural producers who receive electric service at the residential

rate who enjoyed the benefits of authority hydroelectric power withdrawn pursuant to subdivision thirteen-a of this section, and who were previously eligible to receive benefits under the agricultural consumer electricity cost discount created by section four of part CC of chapter sixty of the laws of two thousand eleven, for the purpose of mitigating price impacts associated with the reallocation of such power in the manner described in this subdivision. Such monthly payments shall commence September first, two thousand twenty-four. The total annual amount of monthly payments shall not exceed five million dollars.

(2) The authority shall work cooperatively with the department of public service to evaluate the agricultural consumer electricity cost discount, which shall include an assessment of the benefits to recipients compared to the benefits the recipients received from the authority's hydroelectric power, withdrawn pursuant to subdivision thirteen-a of this section, during the twelve month period ending December thirty-first, two thousand ten, and compared to other agricultural consumers that did not choose to receive the discount.

(b) Energy efficiency program. (1) Beginning with the withdrawal of such hydroelectric power, the authority or the New York state energy research and development authority, shall conduct an energy efficiency program for five years to provide energy efficiency improvements for the purpose of reducing energy consumption for domestic and rural consumers. Such energy efficiency program may be undertaken in cooperation with other energy efficiency programs offered by utility corporations, state agencies and authorities including but not limited to the New York state energy research and development authority; provided however that energy savings attributable to such other energy efficiency programs shall not be included in determining the amount of energy saved pursuant to the program established by this paragraph;

(2) The authority or the New York state energy research and development authority shall annually post on their website a report evaluating the energy efficiency program, including but not limited to, the number of domestic and rural consumers who opted to participate in the program and, if practicable, the estimated savings the domestic and rural consumers received by participating in the energy efficiency program.

14. To provide to the governor, to the speaker of the assembly, and to the temporary president of the senate, on or before April first of each year, an economic development report including projections for the next succeeding twelve months of the amount of economic development power which will be or is expected to be available with a listing of the current recipients of that power, and data on the number and types of jobs resulting from allocation of economic development power. Such report shall also include the amount of revenues collected and used in the previous calendar year pursuant to the eighth unnumbered paragraph of this section.

15. To provide low cost electricity, as well as energy efficiency and conservation services and facilities using conventional or new energy technologies, to the following military establishments within the state: Fort Drum, Fort Hamilton, United States Academy at West Point, Watervliet Arsenal, Niagara Falls Air Reserve Base, Air Force Research Laboratory at Rome, Defense Finance Accounting Services at the former Rome Air Force Base, North East Air Defense Sector, Stewart Air National Guard Base, Hancock Field Air National Guard Base, Stratton Air National Guard Base and Air National Guard Base at Francis S. Gabreski Airport. Services provided pursuant to this section shall be provided only to support United States Department of Defense activities as they are conducted at such facilities. The authority may enter into contracts with the United States, its agencies and instrumentalities, and other public and private entities to effectuate the foregoing.

16. To complete a biennial energy plan in accordance with the provisions of article six of the energy law. In addition to any requirements of article six of the energy law, the authority shall provide copies of its biennial energy plan to the governor, the temporary president of the senate, the speaker of the assembly, the chair of the assembly committee on energy and the chair of the senate committee on energy and telecommunications. Further, the authority shall cooperate and participate in the state energy planning procedures as enumerated in article six of the energy law.

17. (a) As deemed feasible and advisable by the trustees, to finance

and design, develop, construct, implement, provide and administer energy-related projects, programs and services for any public entity, any independent not-for-profit institution of higher education within the state, and any recipient of the economic development power, expansion power, replacement power, preservation power, high load factor power, municipal distribution agency power, power for jobs, and recharge New York power programs administered by the authority. In establishing and providing high performance and sustainable building programs and services authorized by this subdivision, the authority is authorized to consult standards, guidelines, rating systems, and/or criteria established or adopted by other organizations, including but not limited to the United States green building council under its leadership in energy and environmental design (LEED) programs, the green building initiative's green globes rating system, and the American National Standards Institute. The source of any financing and/or loans provided by the authority for the purposes of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(b) For the purposes of this subdivision, the following words and terms shall have the following meanings unless the context indicates another meaning or intent:

(1) "Agency" means any agency, department, or office of the state of New York.

(2) "Energy-related projects, programs and services" means energy efficiency projects and services, clean energy technology projects and services, and high performance and sustainable building programs and services, and the construction, installation and/or operation of facilities or equipment done in connection with any such projects, programs or services.

(3) "Energy services contract" or "contract" means a contract pursuant to which the authority provides energy-related projects, programs and services.

(4) "High performance and sustainable building programs and services" means programs and services related to the renovation and retrofitting of buildings through the incorporation of standards, guidelines, rating systems, and/or criteria relating to design and building techniques

established by the authority pursuant to this section, which are addressed to such issues as energy efficiency, energy conservation, the use of renewable energy, the reduction of air and other pollution, and the conservation of materials and resources such as water.

(5) "Public entity" means an agency, public authority, public benefit corporation, public corporation, municipal corporation, school district, board of cooperative educational services, public university, fire district, district corporation, or special improvement district governed by a separate board of commissioners.

(6) "Public authority" means a public authority formed by or under the laws of the state of New York to the extent its facilities are located within the state, and the port authority of New York and New Jersey to the extent that its facilities are located within the state.

(7) "Public benefit corporation" means a public benefit corporation as defined in subdivision four of section sixty-six of the general construction law.

(8) "Public university" means the city university of New York including any senior college or community college as defined in section sixty-two hundred two of the education law, and the state university of New York including four-year colleges established pursuant to section sixty-three hundred seven of the education law and community colleges as defined in section sixty-three hundred one of the education law.

(c) Any public entity is authorized to enter into an energy services contract with the authority for energy-related projects, programs and services that are authorized by this subdivision, provided that (i) the authority issues and advertises written requests for proposals from third party providers of goods and services in accordance with the authority's procurement policies, procedures and/or guidelines, and (ii) the authority shall not contract with a third party provider of goods and services if such person is listed on a debarment list maintained and published in accordance with New York law, as being ineligible to submit a bid on or be awarded any public contract or subcontract with the state, any municipal corporation or public body.

(d)(i) Notwithstanding any other provision of law to the contrary, any energy services contract entered into by the authority with any public entity: (1) may have a term of up to thirty-five years duration, provided, however, that the duration of any such contract shall not

exceed the reasonably expected useful life of any facilities or equipment constructed, installed or operated as part of such energy-related projects, programs and services subject to such contract; and (2) shall contain the following clause: "This contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the contract, and no liability on account therefor shall be incurred beyond the amount of such monies. It is understood that neither this contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available monies for the purpose of the contract." A school district or board of cooperative educational services may only enter into an energy services contract with the authority for such maximum term as is prescribed in the regulations promulgated by the commissioner of education or the useful life of the facilities or equipment being constructed, installed or operated, whichever is less.

(ii) Notwithstanding any other provision of law to the contrary, in order to provide an interest in real or other property necessary for the construction of facilities or the operation of equipment provided for in an energy services contract, a public entity may enter into a lease or other agreement with the authority concerning real or other property to which it holds title or which is under its administrative jurisdiction, as is necessary for such construction or operation, for the same length of time as the term of the energy services contract and on such terms and conditions as may be agreeable to the parties thereto and are not otherwise inconsistent with law, and notwithstanding that such real or other property may remain useful to such entity for the purpose for which such real or other property was originally acquired or devoted or for which such real or other property is being used.

(e) Nothing contained in this subdivision is intended to limit, impair or affect the authority's legal authority to provide energy efficiency and energy services programs that existed as of the effective date of this subdivision.

(f) The authority shall complete and submit a report, on or before January thirty-first, two thousand twelve, on those activities undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader

of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the assembly energy committee and the chair of the senate energy committee.

18. For the purpose of furnishing the state with systematic information regarding the status and the activities of the authority, the authority shall submit to the governor, the temporary president of the senate, speaker of the assembly, the minority leader of the senate and the minority leader of the assembly, within ninety days after the end of its fiscal year, a complete and detailed annual report on each economic development power program it administers. Such annual report shall include, but not be limited to, the following information:

a. the number of recipients of economic power program benefits, the economic region in which each recipient is located, the type and amount of assistance provided, megawatts of power awarded, length of current contract, current contract compliance status, last audit, number of jobs retained and/or added in the fiscal year, approximate energy efficiency savings and amount of power reallocated from previous years due to forfeited benefits; and

b. cost to the authority to provide economic development power programs during the previous fiscal year.

19. To cooperate with the western New York power proceeds allocation board and provide the board with such information and assistance as the board reasonably requests, including reasonable staff services, accounting, clerical and secretarial assistance, office space, and equipment reasonably requested by the western New York power proceeds allocation board to fulfill its duties.

20. To establish an account to be known as the western New York economic development fund, which shall consist of "net earnings" as defined in article six-a of the economic development law, deposited in such amounts as determined to be feasible and advisable by the trustees. Such earnings shall be deposited no less frequently than quarterly. The

first deposit into the fund shall be made ninety days after the effective date of this subdivision, and shall include all such net earnings accrued since the effective date of chapter four hundred thirty-six of the laws of two thousand ten. At least fifteen percent of such funds shall be dedicated towards eligible projects which are energy-related projects, programs and services as such term is defined in subparagraph two of paragraph (b) of subdivision seventeen of this section. In addition to funding eligible projects, as defined in article six-a of the economic development law, the authority may use western New York economic development fund monies to cover reasonable costs and expenses of the authority related to the management and administration of the western New York power proceeds allocation program created by article six-a of the economic development law.

21. The authority may, in its discretion, consult with the western New York power proceeds allocation board in the application process relating to the allocation of expansion power and replacement power.

22. The authority shall establish processes for application review and allocation of fund benefits provided for in article six-a of the economic development law.

23. The authority shall include in the annual report prepared pursuant to subdivision eighteen of this section, an accounting for the subject year that provides (a) the amount of expansion power and replacement power sold into the wholesale market by the authority, and (b) the net earnings, as such term is defined in section one hundred eighty-nine-a of the economic development law, paid into the western New York economic development fund.

24. (a) For purposes of this subdivision, the terms "authority-TMED contract", "eligible project", "net earnings", "northern New York power proceeds allocation board" and "St. Lawrence county economic development power" shall have the meanings ascribed to such terms in article seven-A of the economic development law.

(b) The authority shall be authorized to cooperate with the northern New York power proceeds allocation board, and provide such board with

such information and assistance, including reasonable staff services, accounting, clerical and secretarial assistance, office space, and equipment, as the board reasonably requests in order to fulfill its duties under article seven-A of the economic development law.

(c) The authority shall establish an account to be known as the northern New York economic development fund, which shall consist solely of net earnings. The authority, as determined to be feasible and advisable by the trustees, shall deposit net earnings into the fund no less than quarterly, provided, however, that the amount of St. Lawrence county economic development power that may be used by the authority to generate net earnings shall not exceed the lesser of twenty megawatts or the amount of St. Lawrence county economic development power that has not been allocated by the authority under the authority-TMED contract for sub-allocations, and provided further that beginning five years from the effective date of this subdivision, the amount of St. Lawrence county economic development power that may be used by the authority to generate net earnings shall not exceed the lesser of ten megawatts or the amount of St. Lawrence county economic development power that has not been allocated by the authority under the authority-TMED contract for sub-allocations. At least fifteen percent of net earnings paid into the fund shall be dedicated to eligible projects which are energy-related projects, programs and services as such term is defined in subparagraph two of paragraph (b) of subdivision seventeen of this section. In addition to funding eligible projects, the authority may use northern New York economic development fund monies to cover reasonable costs and expenses of the authority related to the management and administration of the northern New York power proceeds allocation program created by article seven-A of the economic development law.

(d) The authority is hereby authorized to establish processes for application review and allocation of fund benefits, and to promulgate such rules and regulations as it deems necessary to fulfill the purposes of this subdivision and the duties assigned to it under article seven-A of the economic development law.

(e) The authority shall include in the annual report prepared pursuant to subdivision eighteen of this section, an accounting for the subject year that provides the amount of St. Lawrence county economic development power sold into the wholesale market by the authority, and

the net earnings paid into the northern New York economic development fund.

25. Notwithstanding any other provision of law, to accept gifts, grants, loans, or contributions of funds or property in any form from the federal government or any agency or instrumentally thereof or from the state or any other source (collectively, "resources"), and enter into contracts or other transactions regarding such resources, and to use such resources for any of its corporate purposes.

26. (a) As deemed feasible and advisable by the trustees, to plan, finance, construct, acquire, operate, improve and maintain, either alone or jointly with one or more other entities, transmission facilities for the purpose of transmitting power and energy generated by renewable wind energy generation projects that are located in state territorial waters, and/or in waters under the jurisdiction or regulation of the United States, which supplies electric power and energy to the state of New York that the authority deems necessary and desirable in order to: (i) provide, support and maintain an adequate and reliable supply of electric power and energy in the state of New York, and/or (ii) assist the state in meeting state energy-related goals and standards.

(b) The source of any financing and/or loans provided by the authority for any of the actions authorized in paragraph (a) of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(c) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty, and annually thereafter, on those activities undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the senate, the minority leader of the assembly, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the assembly energy committee, and the chair of the senate energy and telecommunications committee. Such report shall be posted on the authority's website and accessible for public review.

* 27. (a) Notwithstanding any other provision of this title, as deemed

feasible and advisable by the trustees, the authority is authorized to undertake the following actions when it deems it necessary or desirable to address the energy-related needs of any (i) authority customer, (ii) public entity, or (iii) CCA community:

(1) (A) supply power and energy procured from competitive market sources to any (i) authority customer, (ii) public entity, or (iii) CCA community through the supply of such products through an energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program, provided, however, that the authority shall not supply at any point more than a total of four hundred megawatts of power and energy to authority customers and public entities pursuant to the authority of this clause;

(B) supply renewable power, energy, or related credits or attributes procured through a competitive process, from competitive market sources, or through negotiation when a competitive procurement is not reasonably feasible and such products can be procured on reasonably competitive terms to (i) any authority customer, (ii) any public entity, or (iii) any CCA community through the supply of such products through an energy services company or other entity that is authorized by the public service commission to procure and sell energy products to participants of a CCA program; and

(b) Nothing in this subdivision authorizes the authority to act as an energy supply company or administrator for CCA programs.

(c) Power and energy sold pursuant to the authority provided in paragraph (a) of this subdivision shall only be sold for use at facilities located in the state.

(d) Any public entity is hereby authorized to contract with the authority for the purchase of power, energy, or related credits or attributes which the authority is authorized to supply under paragraph (a) of this subdivision.

(e) The source of any financing and/or loans provided by the authority for any of the actions authorized in paragraph (a) of this subdivision may be the proceeds of notes issued pursuant to section one thousand nine-a of this title, the proceeds of bonds issued pursuant to section one thousand ten of this title, or any other available authority funds.

(f) The authority shall complete and submit a report, on or before

January thirty-first, two thousand twenty, and annually thereafter on those actions undertaken pursuant to this subdivision to the governor, the speaker of the assembly, the temporary president of the senate, the chair of the assembly ways and means committee, the chair of the senate finance committee, the chair of the assembly energy committee and the chair of the senate energy and telecommunications committee. Such report, at a minimum, shall include: (i) an accounting of the total amount of power, energy, and related credits and attributes procured from competitive market sources and supplied to authority customers, public entities, and CCA communities; (ii) an accounting of the total amount of renewable power, energy, and related credits and attributes procured through negotiation and supplied to authority customers, public entities, and CCA communities; (iii) a description of all renewable energy generating projects financed by the authority, including the aggregate amount of financing; (iv) an accounting of all power, energy, and related credits and attributes purchased by the authority from such projects; and (v) an identification of all public entities, authority customers, and CCA communities to which the authority supplied, allocated or sold any power, energy or related credits or attributes.

(g) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(i) "Authority customer" means an entity located in the state to which the authority sells or is under contract to sell power or energy under the authority in this title or any other law.

(ii) "CCA community" means one or more municipal corporations located within the state that have provided for the purchase of power, energy, or related credits or other attributes under a CCA program.

(iii) "CCA program" means a community choice aggregation program approved by the public service commission.

(iv) "Public entity" has the meaning ascribed to that term by subparagraph five of paragraph (b) of subdivision seventeen of this section.

(v) "Renewable energy resources" means solar power, wind power, hydroelectric, and any other generation resource authorized by any renewable energy standard adopted by the state for the purpose of implementing any state clean energy standard.

(vi) "Renewable energy generating project" means a project that generates power and energy by means of renewable energy resources, or that stores and supplies power and energy generated by means of renewable energy resources, and includes the construction, installation and/or operation of ancillary facilities or equipment done in connection with any such renewable energy generating projects, provided, however, that such term shall not include the authority's Saint Lawrence hydroelectric project or Niagara hydroelectric project.

(vii) "State" means the state of New York.

* NB Repealed June 30, 2033

27-a. (a) The authority is authorized and directed, to:

(i) plan, design, develop, finance, construct, own, operate, maintain and improve, either alone, or jointly with other entities through the use of public-private agreements established in paragraph (f) of this subdivision, renewable energy generating projects in the state, including its territorial waters, and/or on property or in waters under the jurisdiction or regulatory authority of the United States, or any component thereof, to: support the state's renewable energy goals established pursuant to the climate leadership and community protection act; provide or maintain an adequate and reliable supply of electric power and energy in the state, including but not limited to, high need areas and communities served by small natural gas power plants as defined in this section; and support the renewable energy access and community help program established pursuant to subdivision twenty-seven-b of this section; subject to the strategic plan developed and updated pursuant to paragraph (e) of this subdivision approved by the trustees of the authority, provided that the authority, or a wholly owned subsidiary thereof, shall at all times maintain majority ownership of any such project, and provided further that the authority, any subsidiary thereof, or any other entity participating in a public-private agreement established in paragraph (f) of this subdivision, shall only design, develop, finance, construct, own, operate, maintain and improve projects pursuant to this subdivision that have been identified in the strategic plan or its updates as provided in subparagraph (v) of paragraph (e) of this subdivision; and

(ii) notwithstanding any conflicting provision of title five-A of

article nine of this chapter, acquire from willing sellers, lease, or dispose of property interests related to the development or disposition of renewable energy generating projects authorized by this paragraph through a competitive selection process or by negotiation, provided that the authority and any subsidiary thereof shall receive not less than fair market value, supported by an appraisal prepared by an independent appraiser, for the disposal of any interest in any renewable energy generating project.

(b) The authority, its subsidiaries or any entity participating in a public-private agreement established in paragraph (f) of this subdivision or acting on behalf of the authority, when developing renewable energy generating projects authorized in this subdivision, or subdivision twenty-seven-b of this section, shall: (i) not develop, except when necessary for generator lead lines and other equipment needed for interconnection of projects to the electric system, on property that consists of land used in agricultural production, taking into consideration whether the land is within an agricultural district or contains mineral soil groups 1-4, as defined by the department of agriculture and markets, unless a renewable energy generation project is in furtherance of an agrivoltaics project; (ii) minimize harm to wildlife, ecosystems, public health and public safety; and (iii) not build on lands located upon any Native American territory or reservation located wholly or partly within the state, except through voluntary sale or other agreement for such use with the consent of the relevant nation and any required consent of the federal government.

(c) Renewable energy generating projects developed by the authority, or a wholly owned subsidiary, pursuant to this subdivision or subdivision twenty-seven-b of this section that meet eligibility criteria under state programs administered by the public service commission and the New York state energy research and development authority shall be eligible to receive renewable energy certificates in accordance with such programs consistent with laws and regulations.

* (d) No later than one hundred eighty days after the effective date of this subdivision, and annually thereafter, the authority shall confer with the New York state energy research and development authority, the department of public service, climate and resiliency experts, labor organizations, and environmental justice and community organizations

concerning the state's progress on meeting the renewable energy goals established by the climate leadership and community protection act. When exercising the authority provided for in paragraph (a) of this subdivision, the information developed through such conferral shall be used to identify projects to help ensure that the state meets its goals under the climate leadership and community protection act. Any conferral provided for in this paragraph shall include consideration of the timing of projects in the interconnection queue of the federally designated electric bulk system operator for New York state, taking into account both capacity factors or planned projects and the interconnection queue's historical completion rate. A report on the information developed through such conferral shall be published and made accessible on the website of the authority.

* NB Effective until December 31, 2040

* (d) No later than one hundred eighty days after the effective date of this subdivision, and annually thereafter, the authority shall confer with the New York state energy research and development authority, the office of renewable energy siting, the department of public service, climate and resiliency experts, labor organizations, and environmental justice and community organizations concerning the state's progress on meeting the renewable energy goals established by the climate leadership and community protection act. When exercising the authority provided for in paragraph (a) of this subdivision, the information developed through such conferral shall be used to identify projects to help ensure that the state meets its goals under the climate leadership and community protection act. Any conferral provided for in this paragraph shall include consideration of the timing of projects in the interconnection queue of the federally designated electric bulk system operator for New York state, taking into account both capacity factors or planned projects and the interconnection queue's historical completion rate. A report on the information developed through such conferral shall be published and made accessible on the website of the authority.

* NB Effective December 31, 2040

(e) * (i) Beginning in two thousand twenty-five, and biennially thereafter until two thousand thirty-three, the authority, in consultation with the New York state energy research and development authority, the department of public service, and the federally

designated electric bulk system operator for New York state, shall develop and publish biennially a renewable energy generation strategic plan ("strategic plan") that identifies the renewable energy generating priorities based on the provisions of paragraph (a) of this subdivision for the two-year period covered by the plan as further provided for in this paragraph.

* NB Effective until December 31, 2040

* (i) Beginning in two thousand twenty-five, and biennially thereafter until two thousand thirty-three, the authority, in consultation with the New York state energy research and development authority, the office of renewable energy siting, the department of public service, and the federally designated electric bulk system operator for New York state, shall develop and publish biennially a renewable energy generation strategic plan ("strategic plan") that identifies the renewable energy generating priorities based on the provisions of paragraph (a) of this subdivision for the two-year period covered by the plan as further provided for in this paragraph.

* NB Effective December 31, 2040

(ii) In developing, and updating, the strategic plan, the authority shall consider:

(A) information developed pursuant to paragraph (d) of this subdivision;

(B) high need areas where transmission and distribution upgrades will be necessary to interconnect new renewable energy generation projects;

(C) the feasibility of projects, based on costs, potential benefits, and other relevant considerations;

(D) the fiscal condition of the authority and the impacts of potential renewable energy generating projects on the authority and its subsidiaries;

(E) ways to minimize any negative tax revenue impacts on municipalities that host renewable energy generating projects, including but not limited to, PILOT and/or community benefit agreements;

(F) the timing, characteristics and size of the renewable energy generating projects in the interconnection queue of the federally designated electric bulk system operator for New York state;

(G) in consultation with the federally designated electric bulk system operator for New York state, the power, energy and ancillary services

provided by planned renewable energy generating projects, taking into account the historical completion rate of similar projects; and

(H) opportunities to work in partnership with private sector renewable energy developers to accelerate activity, catalyze greater scale, and spur additional market participation.

(iii) The strategic plan shall address the purposes stated in paragraph (a) of this subdivision, and prioritize projects that:

(A) actively benefit disadvantaged communities;

(B) serve publicly-owned facilities; and

(C) support the renewable energy access and community help program established pursuant to subdivision twenty-seven-b of this section.

(iv) The strategic plan shall assess and identify at a minimum:

(A) renewable energy generating high need and priority areas;

(B) priority locations for the development of renewable energy generating projects;

(C) the types and capacity of renewable energy resources to be utilized;

(D) the estimated cost of renewable energy generating projects to the extent known;

(E) a description of any delays or anticipated delays associated with completion of the renewable energy generating projects;

(F) which of the intended purposes in paragraph (a) of this subdivision each renewable energy generating project is intended to support;

(G) any prioritization given to the order of development of renewable energy generating projects;

(H) the benefits associated with the renewable energy generating projects, including any benefits to disadvantaged communities;

(I) any benefits to rate payers;

(J) the state's progress towards achieving the renewable energy goals of the climate leadership and community protection act; and

(K) any other information the authority determines to be appropriate.

(v) The plan shall include a list of proposed renewable energy generating projects. Such list shall include projects that are planned to be commenced prior to the next update or version of the plan, and at the authority's discretion need not include any projects in the planning stage. Each proposed project listed shall include, without limitation:

(A) location of the project, to the extent that property associated with such location has been secured for the proposed project;

(B) the type, or types, of renewable energy resources utilized;

(C) the potential generating capacity of each project;

(D) the estimated project cost;

(E) the timeline for completion; and

(F) the entity undertaking the proposed project and any public partnership agreements the authority or its subsidiaries enter into for such project.

(vi) In developing the strategic plan, the authority shall consult with stakeholders including, without limitation, climate and resiliency experts, labor organizations, environmental justice communities, disadvantaged community members, residential and small business ratepayer advocates, and community organizations. The authority shall also seek, where possible, community input through the regional clean energy hubs program administered by the energy research and development authority.

(vii) The authority shall post a draft of the strategic plan on its website for public comment for a period of at least sixty days, and shall hold at least three public hearings on the draft strategic plan in regionally diverse parts of the state. Consideration should be given to the availability of public transit when selecting locations for in-person hearings.

(viii) The authority shall after considering the stakeholder input publish the first final strategic plan on its website no later than January thirty-first, two thousand twenty-five.

(ix) The authority, until two thousand thirty-five, shall update each biennial strategic plan annually, after a public comment period of at least thirty days and at least one public hearing. Such updated strategic plan shall include a review of the implementation of the projects previously included in the strategic plan with necessary updates, including status in the interconnection queue. The authority may update the plan more often than annually provided that it follows the public comment and public hearing process for updated plans prescribed by this paragraph.

(x) The strategic plan and any update thereof shall not be deemed final until it is approved by the authority's trustees.

(xi) During at least three board of trustees' meetings per year, there shall be a public report delivered and published on the development and implementation of the authority's renewable energy generation strategic plan. A statement explaining that there is no update shall be acceptable.

(xii) The authority shall maintain a public dashboard on their website demonstrating their progress in implementing the authority's renewable energy generation strategic plan.

(f) The authority shall have the right to exercise and perform all or part of its powers and functions pursuant to this subdivision or subdivision twenty-seven-b of this section, through one or more wholly owned subsidiaries. The authority may form such subsidiary by acquiring the voting shares thereof or by resolution of the board directing any of its trustees, officers or employees to organize a subsidiary pursuant to the business corporation law, or the not-for-profit corporation law, or as otherwise authorized by law. Such resolution shall prescribe the purpose for which such subsidiary is to be formed, which shall not be inconsistent with the provisions of this subdivision. Each such subsidiary pursuant to this subdivision shall be subject to any provision of this chapter pertaining to subsidiaries of public authorities, except that subdivision three of section twenty-eight hundred twenty-seven-a of this chapter shall not apply to any subsidiary organized pursuant to this section. The authority may transfer to any such subsidiary any moneys, property (real, personal or mixed) or facilities in order to carry out the purposes of this subdivision. Each such subsidiary shall have all the privileges, immunities, tax exemptions and other exemptions of the authority to the extent the same are not inconsistent with the statute or statutes pursuant to which such subsidiary was incorporated; provided, however, that in any event any such subsidiary shall be entitled to exemptions from the public service law and any regulation by, or the jurisdiction of, the public service commission, except as otherwise provided in this subdivision or subdivision twenty-seven-b of this section. In exercising the authority provided for in paragraph (a) of this subdivision, the authority or any subsidiary thereof, may enter into public-private partnership agreements, to the extent the authority determines that such collaborations are in the best interest of the state, and necessary to

mitigate financial risks to the authority to manageable levels as determined by the trustees. Nothing in this subdivision shall be construed as authorizing any private entity that enters into a public-private partnership or a similar agreement, or any contract authorized herein, with the authority or a subsidiary thereof, to receive, exercise or claim entitlement to any of the privileges, immunities, tax exemptions or other exemptions of the authority or any subsidiary thereof.

(g) The source of any financing and/or loans for any of the actions authorized in this subdivision may include: (i) the proceeds of notes issued pursuant to section one thousand nine-a of this title; (ii) the proceeds of bonds issued pursuant to section one thousand ten of this title; (iii) other funds made available by the authority for such purposes; or (iv) any other funds made available to the authority from non-authority sources including but not limited to state or federal monies.

(h) For any renewable energy generating project authorized by this subdivision, identified in the strategic plan and developed after its effective date, the authority is authorized, pursuant to law and regulation, to:

(i) sell renewable energy credits or attributes to, the New York state energy research and development authority, including for the purpose of supporting the greenhouse gas emission reduction goals in the climate leadership and community protection act;

(ii) sell renewable power and energy and ancillary services to, or into, markets operated by the federally designated electric bulk system operator for New York state;

(iii) sell renewable power and energy and renewable energy credits or attributes to: (A) any load serving entity in the state, including the Long Island power authority (directly, or through its service provider, as appropriate), including but not limited to the purpose of providing bill credits to low-income or moderate-income end-use electricity consumers in disadvantaged communities for renewable energy produced by renewable energy systems as provided for in subdivision twenty-seven-b of this section;

(B) manufacturers of green hydrogen produced through electrolysis or other zero-emission technology to displace fossil fuel use in the state

for use at facilities located in the state;

(C) any public entity or authority customer;

(D) community distributed generation providers, energy aggregators and similar entities for the benefit of subscribers to community distributed generation projects in the state, including low-income or moderate-income end-use electricity consumers located in disadvantaged communities; and

(E) any CCA community.

(i) For purposes of this subdivision, the following terms shall have the meanings indicated in this paragraph unless the context indicates another meaning or intent:

(i) "Authority customer" means an entity located in the state to which the authority sells or is under contract to sell power or energy under the authority in this title or any other law.

(ii) "CCA community" means one or more municipal corporations located within the state that have provided for the purchase of power, energy, or renewable energy credits or other attributes under a CCA program.

(iii) "CCA program" means a community choice aggregation program approved by the public service commission.

(iv) "Disadvantaged communities" has the meaning ascribed to that term by subdivision five of section 75-0101 of the environmental conservation law.

(v) "Public entity" has the same meaning as in subparagraph five of paragraph (b) of subdivision seventeen of this section.

(vi) "Renewable energy generating project" or "project" means:

(A) facilities that generate power and energy by means of a renewable energy system;

(B) facilities that store and discharge power and energy; and

(C) facilities, including generator lead lines, for interconnection of renewable energy generating projects to delivery points within the state of New York.

(vii) "Renewable energy system" has the same meaning as section sixty-six-p of the public service law.

(j) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty-five, and annually thereafter, to the governor, the speaker of the assembly, and the temporary president of the senate, and shall post such report on the authority's

website such that the report is accessible for public review. Such report shall include, but not be limited to:

(i) a description of the renewable energy projects the authority has planned, designed, developed, financed, or constructed and that it owns, operates, maintains or improves, alone or jointly with other entities, under the authority of this subdivision;

(ii) a description of the acquisition, lease or other disposition of interests in renewable energy generating projects by the authority under this subdivision;

(iii) a listing of all renewable power, energy, ancillary services and related credits and attributes sold or purchased by the authority from such projects;

(iv) a listing of the entities to which the authority has supplied, allocated or sold any renewable power, energy, ancillary services or related credits or attributes from such projects;

(v) a listing and description of all subsidiaries that the authority formed, public-private partnerships the authority has joined, and the subsidiaries and public-private partnerships from and to which the authority acquired or transferred any interests;

(vi) the total amount of revenues generated from the sale of renewable energy products from such projects; and

(vii) an explanation of how each renewable energy generation project supports the purposes listed in paragraph (a) of this subdivision.

(k) All renewable energy generating projects subject to this subdivision and subdivision twenty-seven-b of this section shall be deemed public work and subject to and performed in accordance with articles eight and nine of the labor law. Each contract for such renewable energy generating project shall contain a provision that such projects may only be undertaken pursuant to a project labor agreement. For purposes of this subdivision and subdivision twenty-seven-b of this section, "project labor agreement" shall mean a pre-hire collective bargaining agreement between the authority, or a third party on behalf of the authority, and a bona fide building and construction trade labor organization establishing the labor organization as the collective bargaining representative for all persons who will perform work on a public work project, and which provides that only contractors and subcontractors who sign a pre-negotiated agreement with the labor

organization can perform project work. All contractors and subcontractors associated with this work shall be required to utilize apprenticeship agreements as defined by article twenty-three of the labor law.

(l) The authority shall include requirements in any procurement or development of a renewable energy generating project, as defined in this subdivision, that the components and parts shall be produced or made in whole or substantial part in the United States, its territories or possessions. The authority's president and chief executive officer, or his or her designee may waive the procurement and development requirements set forth in this paragraph if such official determines that: the requirements would not be in the public interest; the requirements would result in unreasonable costs; obtaining such infrastructure components and parts in the United States would increase the cost of a renewable energy generating project by an unreasonable amount; or such components or parts cannot be produced, made, or assembled in the United States in sufficient and reasonably available quantities or of satisfactory quality. Such determination must be made on an annual basis no later than December thirty-first, after providing notice and an opportunity for public comment, and such determination shall be made publicly available, in writing, on the authority's website with a detailed explanation of the findings leading to such determination. If the authority's president and chief executive officer, or his or her designee, has issued determinations for three consecutive years finding that no such waiver is warranted pursuant to this paragraph, then the authority shall no longer be required to provide the annual determination required by this paragraph.

(m) (i) Nothing in this subdivision or subdivision twenty-seven-b of this section shall alter the rights or benefits, and privileges, including, but not limited to terms and conditions of employment, civil service status, and collective bargaining unit membership, of any current employees of the authority.

(ii) Nothing in this article shall result in: (A) the discharge, displacement, or loss of position, including partial displacement such as a reduction in the hours of non-overtime work, wages, or employment benefits; (B) the impairment of existing collective bargaining agreements; (C) the transfer of existing duties and functions; or (D)

the transfer of future duties and functions, of any currently employed worker of the state or any agency, public authority or the state university of New York.

(n) The authority shall enter into a memorandum of understanding for the operation and maintenance of a renewable energy generating project developed pursuant to this subdivision or subdivision twenty-seven of this section with a bona fide labor organization of jurisdiction that is actively engaged in representing transitioning employees from non-renewable generation facilities. Such memorandum shall be entered into prior to the completion date of a renewable energy generating project and shall be an ongoing material condition of authorization to operate and maintain a renewable energy generating project developed pursuant to this subdivision or subdivision twenty-seven-b of this section. The memorandum shall only apply to the employees necessary for the maintenance and operation of such renewable energy generating projects. Such memorandum shall contain but not be limited to safety and training standards, disaster response measures, guaranteed hours, staffing levels, pay rate protection, and retraining programs. The employees eligible for these positions shall first be selected from a pool of transitioning workers who have lost their employment or will be losing their employment in the non-renewable energy generation sector. Such list of potential employees will be provided by affected labor organizations and provided to the department of labor. The department of labor shall update and provide such list to the authority ninety days prior to purchase, acquisition, and/or construction of any project under this subdivision or subdivision twenty-seven-b of this section.

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

* (p) Nothing in this subdivision or subdivision twenty-seven-b of this section, shall be construed as exempting the authority, its subsidiaries, or any renewable energy generating projects undertaken pursuant to this section from the requirements of article VIII of the public service law respecting any renewable energy system developed by the authority or an authority subsidiary after the effective date of

this subdivision that meets the definition of "major renewable energy facility" as defined in article VIII of the public service law, as it relates to host community benefits, and section 11-0535-c of the environmental conservation law as it relates to an endangered and threatened species mitigation bank fund.

* NB Effective until December 31, 2040

* (p) Nothing in this subdivision or subdivision twenty-seven-b of this section, shall be construed as exempting the authority, its subsidiaries, or any renewable energy generating projects undertaken pursuant to this section from the requirements of section ninety-four-c of the executive law respecting any renewable energy system developed by the authority or an authority subsidiary after the effective date of this subdivision that meets the definition of "major renewable energy facility" as defined in section ninety-four-c of the executive law and section eight of part JJJ of chapter fifty-eight of the laws of two thousand twenty, as it relates to host community benefits, and section 11-0535-c of the environmental conservation law as it relates to an endangered and threatened species mitigation bank fund.

* NB Effective December 31, 2040

(q) All renewable energy generating projects the authority plans to undertake pursuant to the authority and directive of paragraph (a) of this subdivision, and identified in the strategic plan, shall be subject to review and approval of the authority's board of trustees.

27-b. (a) Definitions. For purposes of this subdivision, the following terms shall have the following meanings:

(i) "bill credit" means a monthly monetary credit which is funded by the authority, as further determined by the public service commission and appears on the utility bill of a low-income or moderate-income end-use electricity consumer located in a disadvantaged community, for renewable energy produced by renewable energy systems developed, constructed, owned, or contracted for by the power authority of the state of New York and injected into a distribution or transmission facility at one or more points in New York state, together with any enhanced incentive payments for a community distributed generation project serving a disadvantaged community provided for in paragraph (b) of subdivision seven of section sixty-six-p of the public service law,

together with any other funding made available by the authority for such purposes;

(ii) "disadvantaged community" means a community defined as a disadvantaged community in accordance with article seventy-five of the environmental conservation law;

(iii) "jurisdictional load serving entity" has the same meaning as defined in paragraph (a) of subdivision one of section sixty-six-p of the public service law;

(iv) "low-income or moderate-income end-use consumer" shall mean end-use customers of electric corporations and combination gas and electric corporations regulated by the public service commission whose income is found to be below the state median income based on household size;

(v) "renewable energy" means electrical energy produced by a renewable energy system;

(vi) "renewable energy systems" has the same meaning as defined in paragraph (b) of subdivision one of section sixty-six-p of the public service law; and

(vii) "qualified energy storage system" has the same meaning as defined in subdivision one of section seventy-four of the public service law.

(b) The authority is authorized and directed, as deemed feasible and advisable by its trustees, to establish a program, as soon as practicable, to be known as the "renewable energy access and community help program" or "REACH", that will enable low-income or moderate-income end-use electricity consumers in disadvantaged communities, including such end-use electricity customers who reside in buildings that have on-site net-metered generation or who participate in a community choice aggregation or community distributed generation project, unless they opt out of REACH, to receive bill credits generated by the production of renewable energy by a renewable energy system planned, designed, developed, financed, constructed, owned, operated, maintained or improved, or contracted for by the authority as a renewable energy generating project pursuant to subdivision twenty-seven-a of this section. Such bill credits shall be in addition to any other renewable energy program or any other program or benefit that end-use electricity consumers in disadvantaged communities receive. For purposes of this

subdivision, a renewable energy system developed, constructed, owned, or contracted for by the authority shall be: (i) sized up to and including five megawatts alternating current and interconnected to the distribution system or transmission system in the service territory of the electric utility that serves the end-use electricity consumers that receive bill credits; or (ii) sized above five megawatts alternating current and interconnected to the distribution or transmission system at one or more points anywhere within the state.

(c) For purposes of implementing REACH, the authority is authorized and directed, as deemed feasible and advisable by the trustees, to:

(i) pursuant to the authority provided in paragraph (a) of subdivision twenty-seven-a of this section, develop, construct, own, and/or operate renewable energy generating projects;

(ii) contract for the development, construction and/or operation of renewable energy systems;

(iii) sell, purchase, and otherwise contract regarding renewable energy, renewable energy credits or attributes and other energy products and services generated by renewable energy generating projects; and

(iv) enter into contracts for purposes of implementing REACH, including but not limited to agreements with developers, owners and operators of renewable energy systems, and agreements with jurisdictional load serving entities and the Long Island power authority, or its service provider, to provide for bill credits to end-use electricity consumers in disadvantaged communities for renewable energy produced by renewable energy systems, upon terms and conditions approved by the public service commission pursuant to subdivisions seven and eight of section sixty-six-p of the public service law.

(d) The authority shall complete and submit a report, on or before January thirty-first, two thousand twenty-five, and annually thereafter, to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, and the minority leader of the senate which shall be posted on the authority's website, and shall include, but not be limited to:

(i) contracts entered into by the authority for the development, construction and/or operation of renewable energy systems that are intended in whole or in part to support REACH, and the planned location of such projects;

(ii) renewable energy systems that are being planned and developed or that have been developed by or for the authority that are intended in whole or in part to support REACH, and the location of such projects;

(iii) an estimate of the aggregate amount of bill credits provided to end-use electricity consumers in disadvantaged communities under REACH;

(iv) an estimate of: (A) the total amount of revenues generated from the sale of renewable capacity, energy, renewable credits or attributes, and related ancillary services that are used to fund bill credits; and (B) any other authority funds, as determined to be feasible and advisable by the trustees, the authority has contributed for the purpose of funding bill credits under REACH;

(v) the amount of energy produced by each facility; and

(vi) the kilowatt-hour sales by project.

(e) The authority may request from any department, division, office, commission or other agency of the state or any state public authority, and the same are authorized to provide, such assistance, services and data as may be required by the authority in carrying out the purposes of this subdivision.

(f) Within one year of the effective date of this subdivision, the authority shall issue a report to the governor, the speaker of the assembly, the temporary president of the senate, the minority leader of the assembly, and the minority leader of the senate that addresses the feasibility and advisability of implementing a program similar to REACH for the purpose of providing bill credits to low-income or moderate-income end-use electricity consumers located in disadvantaged communities in the service territories of municipal distribution utilities and rural electric cooperatives located in New York state. The authority may confer with any municipal distribution utility or its representatives, and any rural electric cooperative or its representatives, and may request from any municipal distribution utility, rural electric cooperative, department, division, office, commission or other agency of the state or state public authority, and the same are authorized to provide, such assistance, services and data as may be required by the authority to complete the report.

(g) Nothing in this subdivision shall be construed as authorizing any private entity that enters into a public-private partnership or a similar agreement, or any contract authorized herein, with the authority

or an authority subsidiary, to receive, exercise or claim entitlement to any of the privileges, immunities, tax exemptions or other exemptions of the authority or any authority subsidiary.

27-c. (a) Within two years of the effective date of this subdivision, the authority shall publish a plan providing for the proposed phase out, by December thirty-first, two thousand thirty, of the production of electric energy from its small natural gas power plants. The plan shall include a proposed strategy to replace, where appropriate, the small natural gas power plants with renewable energy systems, as defined in section sixty-six-p of the public service law, including renewable energy generating projects authorized pursuant to subdivision twenty-seven-a of this section provided such projects shall be included in the strategic plan established pursuant to subdivision twenty-seven-a of this section. By December thirty-first, two thousand thirty, the authority shall cease production of electricity at each of its small natural gas power plants should the authority determine that such plant or plants, or the electricity production therefrom are not needed for any of the following purposes: (i) emergency power service; or (ii) electric system reliability, including but not limited to, operating facilities to maintain power system requirements for facility thermal limits, voltage limits, frequency limits, fault current duty limits, or dynamic stability limits, in accordance with the system reliability standards of the North American electric reliability corporation, criteria of the northeast power coordinating council, rules of the New York state reliability council, and as applicable, reliability rules of the utility in whose service territory a small natural gas power plant is located. Notwithstanding any other provision of this paragraph, the authority may continue to produce electric energy at any of the small natural gas power plants if existing or proposed replacement generation resources would result in more than a de minimis net increase of emissions of carbon dioxide or criteria air pollutants within a disadvantaged community as defined in subdivision five of section 75-0101 of the environmental conservation law. The authority shall file deactivation notices with the federally designated electric bulk system operator for the state of New York for the purpose of ceasing electricity production from the small natural gas power plants in a

timeframe sufficient to facilitate the cessation of electricity production pursuant to this paragraph.

(b) In determining whether to cease electricity production from any small natural gas power plant, the authority is authorized to confer with the federally designated electric bulk system operator for the state, the New York state energy research and development authority, the department of public service, and the distribution utility in whose service territory such small natural gas power plant operates, in addition to such other stakeholders as the authority determines to be appropriate. Determinations shall be on a plant by plant basis, be updated no less than every two years, and be made publicly available along with the supporting documentation on which the determination was based. In making such determinations, the authority shall provide an opportunity for public comment of not less than sixty days prior to the public hearing and shall hold at least one public hearing in the affected community.

(c) Nothing in this subdivision is intended to, nor shall be construed to, prohibit the authority in its discretion from using, or permitting the use of, including through lease, sale, or other arrangement, any small natural gas power plant or its site or associated infrastructure in whole or in part for electric system purposes that does not involve the combustion of fossil fuels, including, but not limited to providing system voltage support, energy storage, interconnection of existing or new renewable generation, or the use of the generator step up transformers and substations for transmission or distribution purposes provided that such use, lease, sale, or other arrangement shall comply with existing law.

(d) For purposes of this subdivision, the term "small natural gas power plant" or "plant" means each of the seven electric generating power plants owned and operated by the authority located at six sites in Bronx, Brooklyn, Queens and Staten Island and one site in Brentwood, Suffolk county, which each use one or more simple cycle combustion turbine units, totaling eleven units, fueled by natural gas and which typically operate during periods of peak electric system demand.

27-d. Beginning in state fiscal year two thousand twenty-four--two thousand twenty-five, the authority is authorized, as deemed feasible

and advisable by the trustees, to make available an amount up to twenty-five million dollars annually to the department of labor to fund programs established or implemented by or within the department of labor, including but not limited to the office of just transition and programs for workforce training and retraining, to prepare workers for employment for work in the renewable energy field.

28. The authority may establish a subsidiary corporation for the purpose of forming a pure captive insurance company as provided in section seven thousand two of the insurance law. The members of such subsidiary corporation of the authority shall be the same persons holding the offices of members of the authority. The employees of any such subsidiary corporation, except those who are also employees of the authority, shall not be deemed employees of the authority.

29. (a) Notwithstanding any other provision of law, the authority is authorized, as deemed feasible and advisable by the trustees, to enter into lease agreements with other state instrumentalities and municipal entities for the use of excess capacity in the authority's fiber optic communications infrastructure to provide affordable, high-speed broadband in unserved and underserved communities in the state.

(b) Any excess fiber optic communication infrastructure leased out by the authority to a state instrumentality or municipal entity pursuant to paragraph (a) of this subdivision shall be at a rate that is no greater than necessary to cover the cost of maintenance of such fiber optic communications infrastructure, provided that this paragraph shall not limit the authority from recovering other costs it incurs to make such excess capacity available in unserved and underserved communities in the state.

(c) Lease agreements authorized pursuant to paragraph (a) of this subdivision shall allow for further sublease agreements between state instrumentalities and municipal entities and internet service providers for the use of such fiber optic communications infrastructure for the purpose of providing affordable, high-speed broadband in unserved and underserved communities in the state.

(d) Lease agreements authorized pursuant to paragraph (a) of this subdivision, and sublease agreements authorized pursuant to paragraph

(c) of this subdivision, shall be subject to review and comment by the division of broadband access within the empire state development corporation in consultation with the public service commission.

(e) Nothing in this subdivision is intended to limit, impair, or affect the legal authority of the authority that existed as of the effective date of this subdivision.

30. To establish decarbonization action plans for state-owned facilities as provided for in section ninety of the public buildings law, and to consult, cooperate, and coordinate with any state entity, as required or authorized in article four-D of the public buildings law.

The authority is authorized to allocate up to seventy megawatts of unallocated power from the Niagara project sold prior to the effective date of this paragraph as replacement power, up to thirty-eight and six-tenths megawatts of preservation power from the Saint Lawrence-FDR project which is relinquished or withdrawn after the effective date of this paragraph, and for the period ending on December thirty-first, two thousand six, up to an additional twenty megawatts of power from the Saint Lawrence-FDR project which is unallocated as of the effective date of this paragraph, for sale into the wholesale market, the net earnings from which and such other funds of the authority as deemed feasible and advisable by the trustees, shall be used for energy cost savings benefits. Such energy cost savings benefits shall be made upon recommendation of the economic development power allocation board, pursuant to subdivision (h) of section one hundred eighty-three of the economic development law. For purposes of this paragraph, the term net earnings shall mean any excess of revenues earned from the sale of such power allocated to the wholesale market from the Niagara and Saint Lawrence-FDR projects over the revenues that would have been received had such firm power been allocated and sold on a firm basis by the authority prior to the effective date of this paragraph.

The governor shall establish a temporary commission on the future of New York state power programs for economic development as soon as practicable but no later than May first, two thousand six. On or before December first, two thousand six, the commission shall make

recommendations to the governor and the legislature on whether to continue, modify, expand or replace the state's economic development power programs, including but not limited to the power for jobs program and the energy cost savings benefit program, and shall recommend legislative language necessary to implement its recommendations. The commission shall consist of eleven members, comprised of five members appointed by the governor, one of whom he or she shall designate as chairperson, two members by the speaker of the assembly, two members by the temporary president of the senate, one member by the minority leader of the assembly and one member by the minority leader of the senate.