



NEW YORK STATE ASSEMBLY • SHELDON SILVER, SPEAKER

2007
Annual Report

COMMITTEE ON
ENERGY
PAUL D. TONKO, CHAIRMAN

**2007
Annual Report**

**New York State Assembly
Standing Committee on Energy**

**Paul D. Tonko
Chairman**

Committee Members

Majority

Susan John
Steven Englebright
Sam Hoyt
William Scarborough
Francine DelMonte
Darrel Aubertine
Andrew Hevesi
Marc Alessi
Linda Rosenthal
Dennis Gabryszak
Tim Gordon
Michelle Schimel

Minority

Michael O'Mara
Gary D. Finch
Rob Walker
Greg Ball

Staff

Brian Snowdon, Legislative Analyst
Andrea Miller, Legislative Coordinator
Julia Mallalieu, Associate Counsel
Matthew Beebe, Committee Clerk
Jacqueline M. Canabush, Program & Counsel Executive Secretary

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I. INTRODUCTION

The Assembly Energy Committee, now in its 26th year, has jurisdiction over legislation relating to energy availability and sources, policy and planning, conservation of energy, and electric and gas rate-making in New York State. The Committee considers legislation that amends the Energy Law, the Public Service Law, Public Authorities Law, and the Economic Development Law. The Committee works closely with the Assembly Committee on Corporations, Authorities and Commissions, which considers legislation concerning the structure and operations of the Power Authority of the State of New York (PASNY), the Public Service Commission (PSC), the Energy Research and Development Authority (ERDA), and the Long Island Power Authority (LIPA). The Committee also works with other State agencies including the Department of Economic Development (DED), the Department of Environmental Conservation (DEC), and the Department of Transportation (DOT).

In 2007, 72 bills were referenced to the Committee and 21 bills were reported from Committee. The Committee monitored the passage of 12 of these bills in the Assembly. Four became law. This report outlines the legislation which incorporated many of the Assembly's proposals developed by the Committee to address the challenges facing the State regarding the State's energy policy during the 2007 session.

II. MAJOR ISSUES FOR 2007

POWER FOR JOBS

(Chapter 89 and 91 of the Laws of 2007)

The Assembly majority proposed the Power for Jobs program in May of 1996. In 1997, after a joint conference committee, the Power for Jobs program was enacted into law as Chapter 316 of the Laws of 1997. The original legislation provided 400 megawatts of low-cost power to businesses and to not-for-profit corporations for the creation and retention of jobs in this State.

The program was amended in July 1998 (Chapter 317 of the Laws of 1998) in order to provide an additional 50 megawatts of power for a total of 450 megawatts of power under the program, and in order to accelerate the timetable for the allocation of power. In May 2000, the program was amended (Chapter 63 of the Laws of 2000) in order to provide an allocation of 300 megawatts of power to be available through 2005 for companies' contracts under Phase One, which were due to expire in March of 2001. On July 30, 2002, Phases Two and Three allocations of 183 megawatts of power were extended to 2005 (Chapter 226 of the Laws of 2002). The program was extended for one year (Chapter 313 of the Laws of 2005) at the end of the 2005 session.

In 2006, after a Governor's veto of an extension in the 2006 Enacted Budget, Chapter 645 of the Laws of 2006 was enacted to extend the Power for Jobs program until June 30, 2007.

At the end of the 2007 session, the Power for Jobs and Energy Cost Savings Benefits/Economic Development Power Programs were extended one year, until June 30, 2008. Chapter 89 of the Laws of 2007 pushed back the programs' expiration dates, while Chapter 91 provided for a \$30 million PASNY contribution to the General Fund to reimburse the State for lost tax revenue due to the program.

ENERGY EFFICIENT REFRIGERATOR REPLACEMENT

(Chapter 395 of the Laws of 2007: A5177, Perry)

Refrigerators, as they use electricity constantly, are generally the most energy intensive appliances. This legislation authorizes PASNY to provide assistance to finance the replacement of refrigerators with more energy efficient ones. The financial assistance would be repaid to PASNY over a 10 year period, with savings that accrue to the owner, as a result of installing the more efficient refrigerator.

LONG ISLAND POWER AUTHORITY TERMINATION FEE PROHIBITION

(Chapter 153 of the Laws of 2007: A8304, Englebright)

Voluntarily terminating residential electric service to utilize an alternative source of electric generation has a positive impact on our environment and the State of New York's natural resources. This legislation amends Chapter 589 of the Laws of 2000, extending the sunset date

to September 1, 2014, prohibiting the Long Island power authority from imposing any additional fee for such voluntary termination of residential electric service.

REAUTHORIZING POWER PLANT SITING, STATE ENERGY PLANNING, AND UTILITY PORTFOLIO MANAGEMENT

(A.8697 Tonko: Passed Assembly)

1. Article X of the Public Service Law

Article X of the New York State Public Service Law expired on January 1, 2003. That law set forth a consolidated and expedited review process of applications to construct and operate major electric generating facilities with a generating capacity of 80 megawatts or more. Article X approval resulted in the issuance of a Certificate of Environmental Compatibility and Public Need (Certificate), which was required before the construction of such a facility.

The Assembly Power Plant Siting reform legislation would continue to designate the Department of Environmental Conservation as the entity responsible for issuing required environmental permits consistent with the designation by the United States Environmental Protection Agency.

This legislation would provide for more community input in siting decisions, additional protections for health, and require State agencies to conduct environmental and health related studies. Such changes are designed to collect more information while maintaining the streamlined 12-month application review period of existing law. Other provisions included would:

- improve local community representation on each siting board by requiring that local appointees be named by locally elected officials;
- require analyses of health impacts, cumulative impacts of emissions in the affected area and review of such studies by the siting board to protect the health of the local community;
- strengthen the community outreach process by requiring the use of multiple languages, as is appropriate, as well as the use of community newspapers for notice requirements;
- increase the amount of intervenor funding from a maximum of \$400,000 to \$625,000; make 25% of the funding available for the pre-application process and allow intervenor funds to be available for legal fees;
- lower the threshold for the size of power plants subject to Article X requirements to 30 megawatts from 80 megawatts and include multiple plants that are separately sited but located within the same community;
- require the applicant to provide a profile of air and water emissions including micro particulates (2.5 microns or smaller);
- require the Energy Research and Development Authority to examine how a proposed facility fits into the current energy plan and conduct a cost analysis of the proposed facility in comparison to alternative sources of energy including renewable and energy efficiency measures;

- require the Department of State to conduct an analysis of the proposal in light of State coastal zone management laws and policies and require the Office of Parks, Recreation and Historic Preservation to conduct an analysis of impacts on parks and open lands;
- require the submission of a security plan to be prepared in consultation with the State Emergency Management Office;
- prohibit the Power Authority of the State of New York and the Long Island Power Authority from assuming the lead role in assessing the environmental and health impacts of facilities that they build themselves or cause to be built;
- require enhanced emission reduction requirements for acid rain pollutants, and regulate power plant emissions of nitrogen oxide, sulfur dioxide, carbon dioxide, and mercury; and,
- extend the law until December 31, 2017.

2. State Energy Planning

Article Six of the Energy Law, requiring the creation of a State Energy Plan, expired on January 1, 2003. The State Energy Plan was used to provide a 20 year outlook for long-term planning of both projected energy demand as well as recommendations for the provision of the State's energy needs through investments in conservation, transmission, new generation, and new technology.

This legislation would reauthorize Article Six of the Energy Law, which would require comprehensive studies of the State's energy needs, analyses of the emerging regional energy markets in the State and establish the State Energy Planning Board. The Board would consist of: the chair of the Public Service Commission; commissioners of the Department of Environment Conservation, the Department of Economic Development, and the Department of Transportation; the director of the State Emergency Management Office; and the chair of the New York Energy Research and Development Authority.

The Board would be directed to adopt and update a State Energy Plan and, at least every four years, conduct a reliability study of the State's electrical transmission and distribution system. The State Energy Plan would:

- examine electricity and natural gas markets to identify, on a statewide basis, where additional supply needs are most critical while examining the downstate and upstate regions separately;
- examine the least-cost means of meeting the State's energy needs, avoiding reliance on construction of large, central-station power plants and emphasizing replacing old, inefficient polluting facilities;
- analyze the security of the State's energy systems, and the fairness of the locations of facilities; and,
- examine and identify alternative locations for the siting of new power plants.

Finally, the bill would require the Power Authority of the State of New York and the Long Island Power Authority to participate in the planning process by completing annual energy plans, which would examine the authorities' strategic, operating and capital plans.

3. Utility Portfolio Management

This legislation would reauthorize and amend section 66-i of the Public Service Law with respect to energy portfolio management services for utility customers and place new requirements on utility companies to protect their customers from increasing volatility in energy prices.

It would require electric utilities to consider all reasonably available resources to provide “portfolio management” services to their customers. Such portfolio management services would include mechanisms such as long and short-term energy contracts, energy efficiency, distributed generation and renewable energy technology, which would reduce the volatility of wholesale electrical prices and minimize customer bills.

Utility companies would, within six months of the passage of this law, be required to submit drafts outlining proposed portfolio service management plans to the Public Service Commission. After public comment and participation to determine if the plans met the requirements described in this legislation, the Commission would approve the plan if it met the established requirements. The Commission would then establish a set of performance-based rewards and penalties to be applied to utility companies in response to the efficacy of their plans.

FACILITIES OF REFUGE

(A.2282 Tonko; Passed Assembly)

This legislation would establish guidelines for the creation of facilities of refuge throughout the State in order to provide adequate protection and relief in times of emergency. Every county and the City of New York would be directed to coordinate and cooperate with the State Emergency Management Office and the Disaster Preparedness Commission to establish facilities of refuge, which would be included in all local disaster preparedness plans. Such facilities of refuge would be required to install cogeneration technology on their premises in order to have the ability to generate on-site electricity and thermal energy.

The legislation would direct the Power Authority of the State of New York and the Long Island Power Authority to each provide at least \$10 million annually in financial assistance for a five year period for the installation of cogeneration technologies.

Facilities of refuge would be exempt from tariffs, exit fees or payment of lost revenues related to the installation and operation of cogeneration equipment. Furthermore, to the extent such facilities would require interconnection with the local electric utility system, any standby rates established by an electric corporation would be required to take into account the actual costs and benefits of the distributed generation resource. Any interconnection rates collected by the electric corporations would be required to be reasonable.

EXPANSION OF NET METERING OPPORTUNITIES

(A.8690 Englebright: Passed Assembly)

Net metering measures the difference between what electricity is produced on-site and the amount of electricity drawn from the electric grid. Most users cannot meet their total individual energy demand through on-site generation and need to continue to receive power from the electric grid through their utility.

This legislation would expand New York's net metering law by adding fuel cells to the list of currently eligible renewable technologies, which includes wind, solar, and farm waste electric generating equipment. Further, it would raise the size of eligible technology systems to 2 megawatts, allow all customer classes to engage in net metering and remove the cap on the amount of on-site generation eligible for net metering within each utility territory including the Long Island Power Authority service territory.

INTERVENOR FUNDING FOR ELECTRIC TRANSMISSION PROJECTS

(A.6616 Tonko: Passed Assembly)

This legislation would make funds available to help municipalities, citizens and community groups intervene in proposed electric transmission projects. For every proposed electric transmission project in New York State that applies for a Certificate of Public Need via the process outlined in Article VII of the Public Service Law, intervenor funds would be required to be available to affected and interested parties. Each application would be accompanied by a fee, which would be based upon the size and length of the proposed project, up to \$450,000. Such expenses would include costs associated with expert witnesses, consultants, administrative and legal fees.

The fund would be established in the joint custody of the State Comptroller and the Commissioner of Taxation and Finance as an account to be known as the intervenor account. Such account would consist of all revenues received from siting application fees for electric major utility transmission facilities pursuant to section 122 of the Public Service Law. Monies of the account, following appropriation by the legislature, would be expended in accordance with the provisions of section 122 of the Public Service Law. Monies would be paid out of the account on the audit and warrant of the State Comptroller on vouchers certified or approved by the Chair of the Public Service Commission.

RURAL CO-OP SWITCH

(A.5058, Parment: Passed Assembly)

New York rural electric cooperatives were created in 1941 to provide electric service in areas not served by private power companies. Each cooperative is a non-profit electric utility owned by the customers it serves and governed by a board of directors elected by the cooperative membership.

The rural electric cooperatives have successfully demonstrated that they can efficiently provide low cost electricity in rural areas. Cooperatives are able to respond to price, quality, and capacity concerns quickly because they are customer owned. The cooperative structure offers highly attractive rates to business customers as well.

This legislation would authorize a rural electric cooperative to provide electrical service within the service territory where it holds a franchise by mutual agreement with the existing electric service supplier. This would allow rural residents currently served by other high cost utilities to obtain the benefit of lower cost power provided by rural electric cooperatives.

ELIMINATING WASTEFUL LIGHTING *(A.7430, Rosenthal: Passed Assembly)*

It is estimated that poorly designed and inefficient outdoor lighting wastes between \$3.5 to \$4 billion annually. This legislation would direct that existing state lighting efficiency standards for existing public buildings include the conservation of energy by measures such as the elimination of wasteful artificial night lighting. The resulting efficiency standards would help the State reduce energy consumption and pollution.

GREEN BUILDING CONSTRUCTION ACT *(A.2005, Lupardo: Passed Assembly)*

Green buildings use resources -- including energy, water, materials, and land -- more efficiently and effectively and provide healthier environments for working, learning and living. By building "green," the State would save money and foster development of green technologies. Washington, Arizona, California, Pennsylvania, and the United States Department of Environmental Protection Agency already have policies that require green building practices for public buildings.

This legislation would require State buildings to comply with the United States Green Building Council Leadership in Energy and Environmental Design Silver Rating Level, and incorporate the use of life cycle cost analysis for the improvement of green building construction practices.

UTILITY EMERGENCY ACTION PLANS *(A.4600, Espailat: Passed Assembly)*

This legislation would direct the Public Service Commission to adopt regulations requiring utilities to design and implement emergency action plans for potential gas or electric service interruptions. The plans would be designed to minimize, to the greatest extent possible, damages from any interruption.

III. PUBLIC HEARINGS

The Committee held four public hearings in 2007. A summary of those hearings follows.

A. PUBLIC SERVICE COMMISSION/CONSOLIDATED EDISON PRUDENCE HEARING

Customers of Consolidated Edison experienced major interruptions in their power service during July, 2006, in Queens and during September, 2006, in Westchester County. A report issued by the staff of the Department of Public Service, dated February 9, 2007, was critical of the maintenance practices of Consolidated Edison and suggested that poor maintenance caused or contributed to the power failures.

On February 26, 2007, in Albany, the Committee, in conjunction with the Standing Committee on Corporation, Authorities and Commissions, held a hearing in Albany to examine the intentions of the Public Service Commission (PSC) regarding convening a prudence hearing on Consolidated Edison's actions, or failures to act, with respect to the Queens and Westchester power outages. The Committees also examined the role of the PSC in the regulation of the maintenance practices of electric utilities such as Consolidated Edison.

B. CONSOLIDATED EDISON RATE PLAN

On May 4, 2007, Consolidated Edison submitted to the PSC a rate plan proposal. The proposal included a 17% rate increase for residential customers and a 12% rate increase for commercial customers. On May 23, 2007, in New York City, the Committee held a hearing to examine the details of the proposed rate plan, the company's justification for the rate increase, the potential impact to customers, and the PSC's rate plan review procedure.

C. PLANYC SUSTAINABILITY HEARING

In April 2007, New York City Mayor Michael Bloomberg presented New York City's Sustainability Proposal. This proposal contained 127 separate policy initiatives, some of which required legislative action in order to be implemented.

On June 8 and 15, 2007, in New York City, the Committee, along with the Standing Committees on Ways and Means, Transportation, Corporations, Authorities and Commission, Environmental Conservation and Cities, held hearings to examine the numerous proposals contained in the PlaNYC program bill submitted by the City of New York. These hearings examined the congestion pricing proposal, reviewed the environmental and energy conservation and efficiency provisions, such as the creation of a new "Expedited Brownfield Cleanup Program" and a new "New York City Energy Efficiency Authority," and reviewed the impacts that these proposals would have on the downstate region.

IV. OUTLOOK FOR 2008

As the Committee develops an agenda for 2008, it will continue its in-depth review of State energy policy and encourage State agencies to develop an integrated approach in planning for the State's energy needs.

The Committee will continue to promote ways the State can diversify its energy portfolio in a manner that will ensure that energy remains both safe and available for residents and businesses at reasonable rates, while maintaining the highest levels of reliability.

APPENDIX A

2007 SUMMARY SHEET

Summary of Action on All Bills Referred to the Committee on
ENERGY

<u>Final Disposition</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total</u>
TOTAL Bills Referred to Committee	70	2	72
<u>Bills Reported With or Without Amendment</u>	21	0	21
To Floor	4	0	4
To Ways and Means	16	0	16
To Codes	1	0	1
To Rules	0	0	0
Bills Having Enacting Clause Stricken	0	0	0
Bills Never Reported, Remained in Committee	49	2	51
TOTAL NUMBER OF COMMITTEE MEETINGS HELD		3	

APPENDIX B

Bills Passed by Both Houses

<u>Governor's Action</u>	<u>Bill Number</u>	<u>Description</u>
Chapter 395	A.5177 (Perry)	Relates to the installation of energy refrigerators in certain multiple dwellings.
Chapter 153	A.8304 (Englebright)	Extends provisions prohibiting the Long Island Power Authority from imposing any additional fee for certain voluntary termination of residential electric service.
Chapter 89	A.9254 (Tonko)	Extends the expiration of the Power For Jobs program until June 30, 2008.
Chapter 91	A.9255 (Tonko)	Provides that the voluntary contribution of the Power Authority of the State of New York under the power for jobs program shall be \$30,000,000 for 2007-2008.

APPENDIX C

Bills Passed by the Assembly

<u>Bill Number</u>	<u>Sponsor</u>	<u>Description</u>
A.2005-C	Lupardo	Proposes to enact the State Green Building Construction act.
A.2282	Tonko	Relates to facilities of refuge.
A.4600	Espaillet	Requires gas and electric corporations to prepare emergency response plans.
A.5049	Espaillet	Requires gas and electric utilities to make available to landlords upon request information concerning gas and electric charges incurred for residential premises.
A.5058	Parment	Provides that a customer may switch electric service from a person, corporation or municipality to a rural electric cooperative in certain instances.
A.5177	Perry	Relates to the installation of energy efficient refrigerators in certain multiple dwellings
A.6616	Tonko	Relates to intervenor funds for proceedings relating to siting of major utility transmission facilities.
A.7430	Rosenthal	Relates to state lighting efficiency standards for existing public buildings.
A.8304	Englebright	Extends provisions prohibiting the Long Island Power Authority from imposing any additional fee for certain voluntary termination of residential electric service.
A.8697	Tonko	Provides for the siting of major generating facilities.
A.9254	Tonko	Extends the expiration of the Power For Jobs program until June 30, 2008.
A.9255	Tonko	Provides that the voluntary contribution of the Power Authority of the State of New York under the Power For Jobs program shall be \$30,000,000 for 2007-2008.