

1 Section 1. This act shall be known as the "accelerated renewable ener-
2 gy growth and community benefit act".

3 § 2. Legislative findings and statement of purpose. The legislature
4 hereby finds, determines and declares:

5 1. Chapter 106 of the laws of 2019 enacted the New York state climate
6 leadership and community protection act (the "CLCPA") that among other
7 things:

8 (a) directed the department of environmental conservation to establish
9 a statewide greenhouse gas emissions limit as a percentage of 1990 emis-
10 sions as follows: (i) 2030: 60% of 1990 emissions; and (ii) 2050: 15% of
11 1990 emissions;

12 (b) directed the public service commission ("commission") to establish
13 programs to require that a minimum of 70% statewide electric generation
14 be produced by renewable energy systems by 2030, and that by the year
15 2040 the statewide electrical demand system will generate zero emis-
16 sions; and

17 (c) directed the commission to require the procurement by the state's
18 jurisdictional load serving entities of at least 9 gigawatts of offshore
19 wind electricity generation by 2035 and six gigawatts of photovoltaic
20 solar generation by 2025, and to support three gigawatts of statewide
21 energy storage capacity by 2030 (collectively, the "CLCPA targets").

22 2. In order to achieve the CLCPA targets, the state shall take appro-
23 priate action to ensure that:

24 (a) new renewable energy generation projects can be sited in a timely
25 and cost-effective manner that includes consideration of local laws
26 concerning zoning, the environment or public health and safety and
27 avoids or minimizes, to the maximum extent practicable, adverse environ-
28 mental impacts; and

29 (b) renewable energy can be efficiently and cost effectively injected
30 into the state's distribution and transmission system for delivery to
31 regions of the state where it is needed. In particular, the state shall
32 provide for timely and cost effective construction of new, expanded and
33 upgraded distribution and transmission infrastructure as may be needed
34 to access and deliver renewable energy resources, which may include
35 alternating current transmission facilities, high voltage direct current
36 transmission infrastructure facilities, and submarine transmission
37 facilities needed to interconnect off-shore renewable generation
38 resources to the state's transmission system.

39 3. A public policy purpose would be served and the interests of the
40 people of the state would be advanced by directing the public service
41 commission to make a comprehensive study of the state's power grid to
42 identify distribution and transmission infrastructure needed to enable
43 the state to meet the CLCPA targets, and based on such study, develop
44 definitive plans that: (a) provide for the timely development of local
45 transmission and distribution system upgrades by the state's regulated
46 utilities and the Long Island power authority; (b) identify bulk trans-
47 mission investments that should be undertaken, including projects that
48 should be undertaken immediately and on an expedited basis in cooper-
49 ation with the power authority of the state of New York; and (c) other-
50 wise advance the policies of this act.

51 4. A public policy purpose would be served and the interests of the
52 people of the state would be advanced by:

53 (a) expediting the regulatory review for the siting of major renewable
54 energy facilities and transmission infrastructure necessary to meet the
55 CLCPA targets, in recognition of the importance of these facilities and
56 their ability to lower carbon emissions;

1 (b) making available to developers of clean generation resources
2 build-ready sites for the construction and operation of such renewable

3 energy facilities;

4 (c) developing uniform permit standards and conditions that are appli-
5 cable to classes and categories of renewable energy facilities, that
6 reflect the environmental benefits of such facilities and address common
7 conditions necessary to minimize impacts to the surrounding community
8 and environment;

9 (d) providing for workforce training, especially in disadvantaged
10 communities;

11 (e) implementing one or more programs to provide benefits to owners of
12 land and communities where renewable energy facilities and transmission
13 infrastructure would be sited;

14 (f) incentivizing the re-use or adaptation of sites with existing or
15 abandoned commercial or industrial uses, such as brownfields, landfills,
16 dormant electric generating sites and former commercial or industrial
17 sites, for the development of major renewable energy facilities and to
18 restore and protect the value of taxable land and leverage existing
19 resources; and

20 (g) implementing the state's policy to protect, conserve and recover
21 endangered and threatened species while establishing additional mech-
22 anisms to facilitate the achievement of a net conservation benefit to
23 endangered or threatened species which may be impacted by the
24 construction or operation of major renewable energy facilities.

25 § 3. Paragraphs (c) and (d) of subdivision 4 of section 162 of the
26 public service law, as added by chapter 388 of the laws of 2011, are
27 amended and a new subdivision (e) is added to read as follows:

28 (c) To a major electric generating facility (i) constructed on lands
29 dedicated to industrial uses, (ii) the output of which shall be used
30 solely for industrial purposes, on the premises, and (iii) the generat-
31 ing capacity of which does not exceed two hundred thousand kilowatts;
32 ~~[or]~~

33 (d) To a major electric generating facility if, on or before the
34 effective date of the rules and regulations promulgated pursuant to this
35 article and section 19-0312 of the environmental conservation law, an
36 application has been made for a license, permit, certificate, consent or
37 approval from any federal, state or local commission, agency, board or
38 regulatory body, in which application the location of the major electric
39 generating facility has been designated by the applicant; or if the
40 facility is under construction at such time~~[-];~~ or

41 (e) To a major renewable energy facility as such term is defined in
42 section ninety-four-c of the executive law; provided, however, that any
43 person intending to construct a major renewable energy facility, that
44 has a draft pre-application public involvement program plan pursuant to
45 section one hundred sixty-three of this article and the regulations
46 implementing this article, which is pending with the siting board as of
47 the effective date of this paragraph may remain subject to the
48 provisions of this article or, may, by written notice to the secretary
49 of the commission, elect to become subject to the provisions of section
50 ninety-four-c of the executive law.

51 § 4. The executive law is amended by adding a new section 94-c to read
52 as follows:

53 § 94-c. Major renewable energy development program. 1. Purpose. It is
54 the purpose of this section to consolidate the environmental review and
55 permitting of major renewable energy facilities in this state and to
56 provide a single forum in which the office of renewable energy siting

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1 created by this section may undertake a coordinated and timely review of
2 proposed major renewable energy facilities to meet the state's renewable
3 energy goals while ensuring the protection of the environment and
4 consideration of all pertinent social, economic and environmental
5 factors in the decision to permit such facilities as more specifically
6 provided in this section.

7 2. Definitions. (a) "Executive director" or "director" shall mean the

8 executive director of the office of renewable energy siting.

9 (b) "CLCPA targets" shall mean the public policies established in the
10 climate leadership and community protection act enacted in chapter one
11 hundred six of the laws of two thousand nineteen, including the require-
12 ment that a minimum of seventy percent of the statewide electric gener-
13 ation be produced by renewable energy systems by two thousand thirty,
14 that by the year two thousand forty the statewide electrical demand
15 system will generate zero emissions and the procurement of at least nine
16 gigawatts of offshore wind electricity generation by two thousand thir-
17 ty-five, six gigawatts of photovoltaic solar generation by two thousand
18 twenty-five and to support three gigawatts of statewide energy storage
19 capacity by two thousand thirty.

20 (c) "Local agency account" or "account" shall mean the account estab-
21 lished by the office pursuant to subdivision seven of this section.

22 (d) "Local agency" means any local agency, board, district, commission
23 or governing body, including any city, county, and other political
24 subdivision of the state.

25 (e) "Municipality" shall mean a county, city, town, or village.

26 (f) "Office" shall mean the office of renewable energy siting estab-
27 lished pursuant to this section.

28 (g) "Department" shall mean the department of state.

29 (h) "Major renewable energy facility" means any renewable energy
30 system, as such term is defined in section sixty-six-p of the public
31 service law as added by chapter one hundred six of the laws of two thou-
32 sand nineteen, with a nameplate generating capacity of twenty-five thou-
33 sand kilowatts or more, and any co-located system storing energy gener-
34 ated from such a renewable energy system prior to delivering it to the
35 bulk transmission system, including all associated appurtenances to
36 electric plants as defined under section two of the public service law,
37 including electric transmission facilities less than ten miles in length
38 in order to provide access to load and to integrate such facilities into
39 the state's bulk electric transmission system.

40 (i) "Siting permit" shall mean the major renewable energy facility
41 siting permit established pursuant to this section and the rules and
42 regulations promulgated by the office.

43 (j) "Dormant electric generating site" shall mean a site at which one
44 or more electric generating facilities produced electricity but has
45 permanently ceased operating.

46 3. Office of renewable energy siting; responsibilities. (a) There is
47 hereby established within the department an office of renewable energy
48 siting which is charged with accepting applications and evaluating,
49 issuing, amending, approving the assignment and/or transfer of siting
50 permits. The office shall exercise its authority by and through the
51 executive director.

52 (b) The office shall within one year of the effective date of this
53 section establish a set of uniform standards and conditions for the
54 siting, design, construction and operation of each type of major renew-
55 able energy facility relevant to issues that are common for particular
56 classes and categories of major renewable energy facilities, in consul-

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1 tation with the New York state energy research and development authori-
2 ty, the department of environmental conservation, the department of
3 public service, the department of agriculture and markets, and other
4 relevant state agencies and authorities with subject matter expertise.
5 Prior to adoption of uniform standards and conditions, the office shall
6 hold four public hearings in different regions of the state to solicit
7 comment from municipal, or political subdivisions, and the public on
8 proposed uniform standards and conditions to avoid, minimize or mitigate
9 potential adverse environmental impacts from the siting, design,
10 construction and operation of a major renewable energy facility.

11 (c) The uniform standards and conditions established pursuant to this
12 section shall be designed to avoid or minimize, to the maximum extent

13 practicable, any potential significant adverse environmental impacts
14 related to the siting, design, construction and operation of a major
15 renewable energy facility. Such uniform standards and conditions shall
16 apply to those environmental impacts the office determines are common to
17 each type of major renewable energy facility.

18 (d) In its review of an application for a permit to develop a major
19 renewable energy facility, the office, in consultation with the depart-
20 ment of environmental conservation, shall identify those site-specific
21 environmental impacts, if any, that may be caused or contributed to by a
22 specific proposed major renewable energy facility and are unable to be
23 addressed by the uniform standards and conditions. The office shall
24 draft in consultation with the department of environmental conservation
25 site specific permit terms and conditions for such impacts, including
26 provisions for the avoidance or mitigation thereof, taking into account
27 the CLCPA targets and the environmental benefits of the proposed major
28 renewable energy facility, provided, however, that the office shall
29 require that the application of uniform standards and conditions and
30 site-specific conditions shall achieve a net conservation benefit to any
31 impacted endangered and threatened species.

32 (e) To the extent that environmental impacts are not completely
33 addressed by uniform standards and conditions and site-specific permit
34 conditions proposed by the office, and the office determines that miti-
35 gation of such impacts may be achieved by off-site mitigation, the
36 office may require payment of a fee by the applicant to achieve such
37 off-site mitigation. If the office determines, in consultation with the
38 department of environmental conservation, that mitigation of impacts to
39 endangered or threatened species that achieves a net conservation bene-
40 fit can be achieved by off-site mitigation, the amount to be paid for
41 such off-site mitigation shall be set forth in the final siting permit.
42 The office may require payment of funds sufficient to implement such
43 off-site mitigation into the endangered and threatened species miti-
44 gation fund established pursuant to section ninety-nine-hh of the state
45 finance law.

46 (f) The office, by and through the executive director, shall be
47 authorized to conduct hearings and dispute resolution proceedings, issue
48 permits, and adopt such rules, regulations and procedures as may be
49 necessary, convenient, or desirable to effectuate the purposes of this
50 section.

51 (g) The office shall within one year of the effective date of this
52 section promulgate rules and regulations with respect to all necessary
53 requirements to implement the siting permit program established in this
54 section and promulgate modifications to such rules and regulations as it
55 deems necessary; provided that the office shall promulgate regulations
56 requiring the service of applications on affected municipalities and

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1 political subdivisions simultaneously with submission of the application
2 to the office.

3 (h) At the request of the office, all other state agencies and author-
4 ities are hereby authorized to provide support and render services to
5 the office within their respective functions.

6 (i) Notwithstanding any other provision of law, rule, or regulation to
7 the contrary and consistent with appropriations therefor, employees of
8 any state agency who are necessary to the functions of the office and
9 who may be substantially engaged in the performance of its functions
10 shall be transferred to the office in accordance with the provisions of
11 section seventy-eight of the civil service law. Employees transferred
12 pursuant to this section shall be transferred without further examina-
13 tion or qualification and shall retain their respective civil service
14 classifications. Nothing set forth in this subdivision shall be
15 construed to impede, infringe, or diminish the rights and benefits that
16 accrue to employees through collective bargaining agreements, impact or
17 change an employee's membership in a bargaining unit, or otherwise

18 diminish the integrity of the collective bargaining relationship.

19 4. Applicability. (a) On and after the effective date of this section,
20 no person shall commence the preparation of a site for, or begin the
21 construction of, a major renewable energy facility in the state, or
22 increase the capacity of an existing major renewable energy facility,
23 without having first obtained a siting permit pursuant to this section.
24 Any such major renewable energy facility with respect to which a siting
25 permit is issued shall not thereafter be built, maintained, or operated
26 except in conformity with such siting permit and any terms, limitations,
27 or conditions contained therein, provided that nothing in this subdivi-
28 sion shall exempt such major renewable energy facility from compliance
29 with federal laws and regulations.

30 (b) A siting permit issued by the office may be transferred or
31 assigned, subject to the prior written approval of the office, to a
32 person that agrees to comply with the terms, limitations and conditions
33 contained in such siting permit.

34 (c) The office or a permittee may initiate an amendment to a siting
35 permit under this section. An amendment initiated by the office or
36 permittee that is likely to result in any material increase in any envi-
37 ronmental impact or involves a substantial change to the terms or condi-
38 tions of a siting permit shall comply with the public notice and hearing
39 requirements of this section.

40 (d) Any hearings or dispute resolution proceedings initiated under
41 this section or pursuant to rules or regulations promulgated pursuant to
42 this section may be conducted by the executive director or any person to
43 whom the executive director shall delegate the power and authority to
44 conduct such hearings or proceedings in the name of the office at any
45 time and place.

46 (e) This section shall not apply:

47 (i) to a major renewable energy facility, or any portion thereof, over
48 which any agency or department of the federal government has exclusive
49 siting jurisdiction, or has siting jurisdiction concurrent with that of
50 the state and has exercised such jurisdiction to the exclusion of regu-
51 lation of the facility by the state; provided, however, nothing herein
52 shall be construed to expand federal jurisdiction;

53 (ii) to normal repairs, maintenance, replacements, non-material
54 modifications and improvements of a major renewable energy facility,
55 whenever built, which are performed in the ordinary course of business

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1 and which do not constitute a violation of any applicable existing
2 permit;

3 (iii) to a major renewable energy facility if, on or before the effec-
4 tive date of this section, an application has been made or granted for a
5 license, permit, certificate, consent or approval from any federal,
6 state or local commission, agency, board or regulatory body, including
7 the submission of a pre-application public involvement program plan
8 under article ten of the public service law and its implementing regu-
9 lations, in which application the location of the major renewable energy
10 facility has been designated by the applicant, except in the case of a
11 person who elects to be subject to this section as authorized by para-
12 graph e of subdivision four of section one hundred sixty-two of the
13 public service law.

14 (f) Any person intending to construct a major renewable energy facili-
15 ty excluded from this section pursuant to paragraph (ii) or (iii) of
16 paragraph (e) of this subdivision may elect to become subject to the
17 provisions of this section by filing an application for a siting permit.
18 This section shall thereafter apply to each major renewable energy
19 facility identified in such notice from the date of its receipt by the
20 office. With respect to such major renewable energy facilities, the
21 rules and regulations promulgated pursuant to this section shall set
22 forth an expedited permitting process to account for matters and issues
23 already presented and resolved in relevant alternative permitting

24 proceedings.

25 (i) With respect to a major renewable energy facility for which an
26 application was previously reviewed pursuant to article ten of the
27 public service law, and for which a completeness determination had
28 already been issued at the time an application was filed pursuant to
29 this section, such application shall be considered complete pursuant to
30 this section upon filing.

31 (ii) With respect to a major renewable energy facility for which an
32 application was previously reviewed pursuant to article ten of the
33 public service law, and for which a completeness determination had not
34 been issued at the time the application was filed pursuant to this
35 section, the sixty-day time period provided in paragraph (b) of subdivi-
36 sion five of this section shall commence upon filing.

37 (g) Any person intending to construct a facility that is a renewable
38 energy system, as such term is defined in section sixty-six-p of the
39 public service law as added by chapter one hundred six of the laws of
40 two thousand nineteen, with a nameplate capacity of at least twenty
41 thousand but less than twenty-five thousand kilowatts, may apply to
42 become subject to the provisions of this section by filing an applica-
43 tion for a siting permit. Upon submission of such application, the
44 subject renewable energy facility shall be treated as a "major renewable
45 energy facility" exclusively for purposes of permitting under this
46 section.

47 5. Application, municipal notice and review. (a) Until the office
48 establishes uniform standards and conditions required by subdivision
49 three of this section and promulgates regulations specifying the content
50 of an application for a siting permit, an application for a siting
51 permit submitted to the office shall conform substantially to the form
52 and content of an application required by section one hundred sixty-four
53 of the public service law.

54 (b) Notwithstanding any law to the contrary, the office shall, within
55 sixty days of its receipt of an application for a siting permit deter-
56 mine whether the application is complete and notify the applicant of its

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1 determination. If the office does not deem the application complete, the
2 office shall set forth in writing delivered to the applicant the reasons
3 why it has determined the application to be incomplete. If the office
4 fails to make a determination within the foregoing sixty-day time peri-
5 od, the application shall be deemed complete; provided, however, that
6 the applicant may consent to an extension of the sixty-day time period
7 for determining application completeness. Provided, further, that no
8 application may be complete without proof of consultation with the muni-
9 cipality or political subdivision where the project is proposed to be
10 located, or an agency thereof, prior to submission of an application to
11 the office, related to procedural and substantive requirements of local
12 law.

13 (c) (i) No later than sixty days following the date upon which an
14 application has been deemed complete, and following consultation with
15 any relevant state agency or authority, the office shall publish for
16 public comment draft permit conditions prepared by the office, which
17 comment period shall be for a minimum of sixty days from public notice
18 thereof. Such public notice shall include, at a minimum, written notice
19 to the municipality or political subdivision in which the major renewa-
20 ble energy facility is proposed to be located; publication in a newspa-
21 per or in electronic form, having general circulation in such muni-
22 cipality or political subdivision; and posted on the office's website.

23 (ii) For any municipality, political subdivision or an agency thereof
24 that has received notice of the filing of an application, pursuant to
25 regulations promulgated in accordance with this section, the muni-
26 cipality or political subdivision or agency thereof shall within the time-
27 frames established by this subdivision submit a statement to the office
28 indicating whether the proposed facility is designed to be sited,

29 constructed and operated in compliance with applicable local laws and
30 regulations, if any, concerning the environment, or public health and
31 safety. In the event that a municipality, political subdivision or an
32 agency thereof submits a statement to the office that the proposed
33 facility is not designed to be sited, constructed or operated in compli-
34 ance with local laws and regulations and the office determines not to
35 hold an adjudicatory hearing on the application, the department shall
36 hold non-adjudicatory public hearing in the affected municipality or
37 political subdivision.

38 (d) If public comment on a draft permit condition published by the
39 office pursuant to this subdivision, including comments provided by a
40 municipality or political subdivision or agency thereof, or members of
41 the public raises a substantive and significant issue, as defined in
42 regulations adopted pursuant to this section, that requires adjudi-
43 cation, the office shall promptly fix a date for an adjudicatory hearing
44 to hear arguments and consider evidence with respect thereto.

45 (e) Following the expiration of the public comment period set forth in
46 this subdivision, or following the conclusion of a hearing undertaken
47 pursuant to this subdivision, the office shall, in the case of a public
48 comment period, issue a written summary of public comment and an assess-
49 ment of comments received, and in the case of an adjudicatory hearing,
50 the executive officer or any person to whom the executive director has
51 delegated such authority, shall issue a final written hearing report. A
52 final siting permit may only be issued if the office makes a finding
53 that the proposed project, together with any applicable uniform and
54 site-specific standards and conditions would comply with applicable laws
55 and regulations. In making this determination, the office may elect not
56 to apply, in whole or in part, any local law or ordinance which would

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1 otherwise be applicable if it makes a finding that, as applied to the
2 proposed major renewable energy facility, it is unreasonably burdensome
3 in view of the CLCPA targets and the environmental benefits of the
4 proposed major renewable energy facility.

5 (f) Notwithstanding any other deadline made applicable by this
6 section, the office shall make a final decision on a siting permit for
7 any major renewable energy project within one year from the date the
8 application was deemed complete, or within six months from the date the
9 application was deemed complete if the major renewable energy facility
10 is proposed to be sited on an existing or abandoned commercial use,
11 including without limitation, brownfields, landfills, former commercial
12 or industrial sites, dormant electric generating sites, and abandoned or
13 otherwise underutilized sites, as further defined by the regulations
14 promulgated by this section. Unless the office and the applicant have
15 agreed to an extension, with such extension limited to thirty days, and
16 if a final siting permit decision has not been made by the office within
17 such time period, then such siting permit shall be deemed to have been
18 automatically granted for all purposes set forth in this section and all
19 uniform conditions or site specific permit conditions issued for public
20 comment shall constitute enforceable provisions of the siting permit.
21 The final siting permit shall include a provision requiring the permit-
22 tee to provide a host community benefit, which may be a host community
23 benefit as determined by the public service commission pursuant to
24 section eight of the chapter of the laws of two thousand twenty that
25 added this section or such other project as determined by the office or
26 as subsequently agreed to between the applicant and the host community.

27 (g) Any party aggrieved by the issuance or denial of a permit under
28 this section may seek judicial review of such decision as provided in
29 this paragraph. (i) A judicial proceeding shall be brought in the appel-
30 late division of the supreme court of the state of New York in the judi-
31 cial department embracing the county wherein the facility is to be
32 located or, if the application is denied, the county wherein the appli-
33 cant has proposed to locate the facility. Such proceeding shall be

34 initiated by the filing of a petition in such court within ninety days
35 after the issuance of a final decision by the office together with proof
36 of service of a demand on the office to file with said court a copy of a
37 written transcript of the record of the proceeding and a copy of the
38 office's decision and opinion. The office's copy of said transcript,
39 decision and opinion, shall be available at all reasonable times to all
40 parties for examination without cost. Upon receipt of such petition and
41 demand the office shall forthwith deliver to the court a copy of the
42 record and a copy of the office's decision and opinion. Thereupon, the
43 court shall have jurisdiction of the proceeding and shall have the power
44 to grant such relief as it deems just and proper, and to make and enter
45 an order enforcing, modifying and enforcing as so modified, remanding
46 for further specific evidence or findings or setting aside in whole or
47 in part such decision. The appeal shall be heard on the record, without
48 requirement of reproduction, and upon briefs to the court. The findings
49 of fact on which such decision is based shall be conclusive if supported
50 by substantial evidence on the record considered as a whole and matters
51 of judicial notice set forth in the opinion. The jurisdiction of the
52 appellate division of the supreme court shall be exclusive and its judg-
53 ment and order shall be final, subject to review by the court of appeals
54 in the same manner and form and with the same effect as provided for
55 appeals in a special proceeding. All such proceedings shall be heard and
56 determined by the appellate division of the supreme court and by the

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1 court of appeals as expeditiously as possible and with lawful precedence
2 over all other matters.

3 (ii) The grounds for and scope of review of the court shall be limited
4 to whether the decision and opinion of the office are:

5 (A) In conformity with the constitution, laws and regulations of the
6 state and the United States;

7 (B) Supported by substantial evidence in the record and matters of
8 judicial notice properly considered and applied in the opinion;

9 (C) Within the office's statutory jurisdiction or authority;

10 (D) Made in accordance with procedures set forth in this section or
11 established by rule or regulation pursuant to this section;

12 (E) Arbitrary, capricious or an abuse of discretion; or

13 (F) Made pursuant to a process that afforded meaningful involvement of
14 citizens affected by the facility regardless of age, race, color,
15 national origin and income.

16 (iii) Except as herein provided article seventy-eight of the civil
17 practice law and rules shall apply to appeals taken hereunder.

18 6. Powers of municipalities and state agencies and authorities; scope
19 of section. (a) Notwithstanding any other provision of law, including
20 without limitation article eight of the environmental conservation law
21 and article seven of the public service law, no other state agency,
22 department or authority, or any municipality or political subdivision or
23 any agency thereof may, except as expressly authorized under this
24 section or the rules and regulations promulgated under this section,
25 require any approval, consent, permit, certificate, contract, agreement,
26 or other condition for the development, design, construction, operation,
27 or decommissioning of a major renewable energy facility with respect to
28 which an application for a siting permit has been filed, provided in the
29 case of a municipality, political subdivision or an agency thereof, such
30 entity has received notice of the filing of the application therefor.
31 Notwithstanding the foregoing, the department of environmental conserva-
32 tion shall be the permitting agency for permits issued pursuant to
33 federally delegated or federally approved programs.

34 (b) This section shall not impair or abrogate any federal, state or
35 local labor laws or any otherwise applicable state law for the
36 protection of employees engaged in the construction and operation of a
37 major renewable energy facility.

38 (c) The department of public service or the public service commission

39 shall monitor, enforce and administer compliance with any terms and
40 conditions set forth in a permit issued pursuant to this section and in
41 doing so may use and rely on authority otherwise available under the
42 public service law.

43 7. Fees; local agency account. (a) Each application for a siting
44 permit shall be accompanied by a fee in an amount equal to one thousand
45 dollars for each thousand kilowatts of capacity of the proposed major
46 renewable energy facility, to be deposited in an account to be known as
47 the local agency account established for the benefit of local agencies
48 and community intervenors by the New York state energy research and
49 development authority and maintained in a segregated account in the
50 custody of the commissioner of taxation and finance. The office may
51 update the fee periodically solely to account for inflation. The
52 proceeds of such account shall be disbursed by the office, in accordance
53 with eligibility and procedures established by the rules and regulations
54 promulgated by the office pursuant to this section, for the partic-
55 ipation of local agencies and community intervenors in public comment
56 periods or hearing procedures established by this section, including the

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1 rules and regulations promulgated hereto; provided that fees must be
2 disbursed for municipalities, political subdivisions or an agency there-
3 of, to determine whether a proposed facility is designed to be sited,
4 constructed and operated in compliance with the applicable local laws
5 and regulations.

6 (b) All funds so held by the New York state energy research and devel-
7 opment authority shall be subject to an annual independent audit as part
8 of such authority's audited financial statements, and such authority
9 shall prepare an annual report summarizing account balances and activ-
10 ities for each fiscal year ending March thirty-first and provide such
11 report to the office no later than ninety days after commencement of
12 such fiscal year and post on the authority's website.

13 (c) With respect to a person who has filed an application for a siting
14 permit pursuant to subdivision four of this section, any amounts held in
15 an intervenor account established pursuant to articles seven and ten of
16 the public service law shall be applied to the intervenor account estab-
17 lished by this subdivision.

18 (d) In addition to the fees established pursuant to paragraph (a) of
19 this subdivision, the office, pursuant to regulations adopted pursuant
20 to this section, may assess a fee for the purpose of recovering the
21 costs the office incurs related to reviewing and processing an applica-
22 tion submitted under this section.

23 § 5. The opening paragraph of section 1854 of the public authorities
24 law, as amended by chapter 558 of the laws of 1980, is amended to read
25 as follows:

26 The purposes of the authority shall be to develop and implement new
27 energy technologies and invest in build-ready sites, as defined in
28 subdivision eight of section nineteen hundred one of this article,
29 consistent with economic, social and environmental objectives, to devel-
30 op and encourage energy conservation technologies, to promote, develop,
31 encourage and assist in the acquiring, constructing, improving, main-
32 taining, equipping and furnishing of industrial, manufacturing, ware-
33 housing, commercial, research and industrial pollution control facili-
34 ties at the Saratoga Research and Development Center, and to promote,
35 develop, encourage and assist special energy projects and thereby
36 advance job opportunities, health, general prosperity and economic
37 welfare of the people of the state of New York. In carrying out such
38 purposes, the authority shall, with respect to the activities specified,
39 have the following powers:

40 § 6. Article 8 of the public authorities law is amended by adding a
41 new title 9-B to read as follows:

42 Title 9-B

43 CLEAN ENERGY RESOURCES DEVELOPMENT AND INCENTIVES PROGRAM

44 Section 1900. Statement of legislative intent.

45 1901. Definitions.

46 1902. Powers and duties.

47 1903. Eligibility.

48 1904. Funding.

49 1905. Reporting.

50 § 1900. Statement of legislative intent. It is the intent of the
51 legislature in enacting this title to empower the New York state energy
52 research and development authority to establish effective programs and
53 other mechanisms to: (1) foster and encourage the orderly and expedient
54 siting and development of renewable energy facilities, particularly at
55 sites which are difficult to develop, consistent with applicable law for
56 the purpose of enabling the state to meet CLCPA targets as defined in
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1 subdivision two of section ninety-four-c of the executive law; (2)
2 incentivize the re-use of previously developed sites for renewable ener-
3 gy facilities to protect the value of taxable land, capitalize on exist-
4 ing infrastructure; (3) support the provision of benefits to communities
5 that host renewable energy facilities; and (4) protect environmental
6 justice areas from adverse environmental impacts.

7 § 1901. Definitions. As used in this title, the following terms shall
8 have the following meanings:

9 1. "Authority" shall have the same meaning as in subdivision two of
10 section eighteen hundred fifty-one of this article.

11 2. "Commission" shall mean the public service commission.

12 3. "Departments" shall mean the department of environmental conserva-
13 tion, the department of agriculture and markets, the department of
14 economic development and the department of public service.

15 4. "Environmental justice area" shall mean a minority or low-income
16 community that may bear a disproportionate share of the negative envi-
17 ronmental consequences resulting from industrial, municipal, and commer-
18 cial operations or the execution of federal, state, local, and tribal
19 programs and policies.

20 5. "Host community" shall mean any municipality within which a major
21 renewable energy facility, or any portion thereof, has been proposed for
22 development.

23 6. "Renewable energy facility" shall have the same meaning as renewa-
24 ble energy systems defined in section sixty-six-p of the public service
25 law.

26 7. "Municipality" shall mean a county, city, town or village or poli-
27 tical subdivision.

28 8. "Build-ready site" shall mean a site for which the authority has
29 secured permits, property interests, agreements and/or other authori-
30 zations necessary to offer such site for further development,
31 construction and operation of a renewable energy facility in accordance
32 with the other provisions of this title.

33 § 1902. Powers and duties. The authority is hereby authorized and
34 directed to undertake such actions it deems necessary or convenient to
35 foster and encourage the siting and development of build-ready sites
36 throughout the state in accordance with this title, work in collab-
37 oration with the department of public service and the New York state
38 urban development corporation and any of their affiliates, including
39 without limitation:

40 1. (a) Locate, identify and assess sites within the state that appear
41 suitable for the development of build-ready sites with a priority given
42 to previously developed sites. Such assessment may include but need not
43 be limited to the following considerations:

44 (i) natural conditions at the site that are favorable to renewable
45 energy generation;

46 (ii) current land uses at or near the site;

47 (iii) environmental conditions at or near the site;

48 (iv) the availability and characteristics of any transmission or

49 distribution facilities on or near the site that could be used to facil-
50 itate the delivery of energy from the site, including existing or poten-
51 tial constraints on such facilities;

52 (v) the potential for the development of energy storage facilities at
53 or near the site;

54 (vi) potential impacts of development on environmental justice commu-
55 nities; and

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1 (vii) expressions of commercial interest in the site or general
2 location by developers of major renewable energy facilities.

3 (b) In making such assessment the authority shall give priority to
4 previously developed sites, existing or abandoned commercial sites,
5 including without limitation brownfields, landfills, former commercial
6 or industrial sites, dormant electric generating sites, or otherwise
7 underutilized sites;

8 2. Notwithstanding any provision of law to the contrary that would
9 require the authority to locate sites through a competitive procurement,
10 negotiate and enter into agreements with persons who own or control
11 interests in favorable sites for the purpose of securing the rights and
12 interests necessary to enable the authority to establish build-ready
13 sites;

14 3. Establish procedures and protocols for the purpose of establishment
15 and transfer of build-ready sites which shall include, at a minimum: (a)
16 written notice at the earliest practicable time to a municipality in
17 which a potential build-ready site has been identified; and (b) a
18 preliminary screening process to determine, in consultation with the
19 department of environmental conservation, whether the potential build-
20 ready site is located in or near an environmental justice area and
21 whether an environmental justice area would be adversely affected by
22 development of a build-ready site;

23 4. Undertake all work and secure such permits as the authority deems
24 necessary or convenient to facilitate the process of establishing build-
25 ready sites and for the transfer of the build-ready sites to developers
26 selected pursuant to a publicly noticed, competitive bidding process
27 authorized by law;

28 5. Notwithstanding title five-A of article nine of this chapter,
29 establish a build-ready program, including eligibility and other crite-
30 ria, pursuant to which the authority would, through a competitive and
31 transparent bidding process, transfer rights and other interests in
32 build-ready sites and development rights to developers for the purpose
33 of facilitating the development of renewable energy facilities on such
34 build-ready sites. Such transactions may include the transfer of
35 rights, interests and obligations existing under agreements providing
36 for host community benefits negotiated by the authority pursuant to
37 programs established pursuant to subdivision six of this section on such
38 terms and conditions as the authority deems appropriate;

39 6. Establish one or more programs pursuant to which property owners
40 and communities would receive incentives to host major renewable energy
41 facilities developed for the purpose of advancing the state policies
42 embodied in this article. Such program may include without limitation,
43 and notwithstanding any other provision of law to the contrary,
44 provisions for the authority to negotiate and enter into agreements with
45 property owners and host communities providing for incentives, including
46 a payment in lieu of taxes, the transfer of the authority's interests in
47 such agreements to developers to whom build-ready sites are transferred,
48 and the provision of information and guidance to stakeholders concerning
49 incentives. The authority shall maintain a record of such programs and
50 incentives, and shall publish such record on the authority's website;

51 7. Procure the services of one or more service providers, including
52 without limitation environmental consultants, engineers and attorneys,
53 to support the authority's responsibilities under this section and
54 perform such other functions as the authority deems appropriate;

1 experience with job training programs, assess the need for and avail-
2 ability of workforce training in the local area of build-ready sites to
3 support green jobs development with special attention to environmental
4 justice communities and, subject to available funding, establish one or
5 more programs pursuant to which financial support can be made available
6 for the local workforce and under-employed populations in the area;

7 9. Manage, allocate and spend any monies made available to the author-
8 ity in furtherance of this title as the authority determines to be
9 appropriate for the proper administration of programs created pursuant
10 to this title. The authority shall, in identifying build-ready sites,
11 consider the ability to recoup funds allocated or spent in furtherance
12 of the programs created pursuant to this title. Any proceeds, less
13 program expenses and administration, so earned by the authority pursuant
14 to this title shall be reinvested in accordance with a plan approved by
15 the commission;

16 10. Where the authority determines that it would be beneficial to the
17 policy embodied in this title, offer financing or other incentives to
18 eligible developers through a competitive process, including without
19 limitation measures and activities undertaken by the authority in
20 conjunction with its administration of the state's clean energy standard
21 or similar program as established in commission orders, including with-
22 out limitation orders issued in commission case number 15-E-0302; and

23 11. Request and receive the assistance of, the departments or any
24 other state agency or authority, within their respective relevant
25 subject matter expertise, to support the administration of the program
26 created pursuant to this title.

27 § 1903. Eligibility. The authority may establish and revise any eligi-
28 bility and evaluation criteria it deems appropriate for the proper
29 administration of the programs created pursuant to this title.

30 § 1904. Funding. 1. The authority may seek funding from any authorized
31 or other available source to administer this program.

32 2. Without limiting the foregoing, the authority shall submit a peti-
33 tion or other appropriate filing to the commission describing the activ-
34 ities it has taken and plans to undertake in furtherance of the policy
35 embodied in this title. Such filing may include a request for funding to
36 allow such activities to proceed promptly and for a period of at least
37 five years from the date of the order responding to such petition. The
38 commission shall, in accordance with and as promptly as authorized by
39 existing law and regulation but in no event more than four months
40 following the submission of the petition, issue an order responding to
41 such petition subject to any necessary and reasonable limitations based
42 on the public service law.

43 § 1905. Reporting. 1. Effective April first, two thousand twenty-one,
44 the authority shall issue an annual report specifying:

45 (a) any proceeds, less program expenses and administration, so earned
46 by the authority pursuant to this title;

47 (b) the sites auctioned for development pursuant to subdivision 5 of
48 section nineteen hundred two of this title;

49 (c) the identity of developers to whom rights have been transferred
50 pursuant to section nineteen hundred two of this title; and,

51 (d) the resulting renewable energy production.

52 2. The authority shall submit such report to the governor, the tempo-
53 rary president of the senate, and the speaker of the assembly. A copy of
54 the report shall also be posted on the authority's website.

55 § 7. State power grid study and program to achieve CLCPA targets. 1.
56 As used in this section:

1 (a) "CLCPA targets" means the public policies established in the

2 climate leadership and community protection act enacted in chapter 106
3 of the laws of 2019, including the requirements that a minimum of 70%
4 statewide electric generation be produced by renewable energy systems by
5 2030, by the year 2040 the statewide electrical demand system will
6 generate zero emissions, and the state's jurisdictional load serving
7 entities will procure at least 9 gigawatts of offshore wind electricity
8 generation by 2035, 6 gigawatts of photovoltaic solar generation by
9 2025, and support 3 gigawatts of statewide energy storage capacity by
10 2030, as such policies may from time to time be amended.

11 (b) "Commission" means the public service commission.

12 (c) "Department" means the department of public service.

13 (d) "Distribution upgrade" means a new distribution facility or an
14 improvement, enhancement, replacement, or other modification to the
15 electric power grid at the distribution level in a utility's service
16 territory that facilitates achievement of the CLCPA targets.

17 (e) "Local transmission upgrade" means a new transmission facility
18 that is identified within a utility's local transmission capital plan,
19 an upgrade to a local transmission facility as defined in the tariff of
20 the state grid operator, or an improvement, enhancement, replacement, or
21 other modification to a transmission facility in a utility's service
22 territory that facilitates achievement of the CLCPA targets.

23 (f) "Major renewable energy facility" has the same meaning as in para-
24 graph (g) of subdivision 2 of section 94-c of the executive law.

25 (g) "Bulk transmission investment" means a new transmission facility
26 or an improvement, enhancement, replacement, or other modification to
27 the state's bulk electric transmission grid that facilitates achievement
28 of the CLCPA targets and includes without limitation alternating current
29 facilities and high voltage direct current facilities, including subma-
30 rine transmission facilities.

31 (h) "State grid operator" means the federally designated electric bulk
32 system operator for New York state.

33 (i) "Utility" means an electric transmission or delivery utility or
34 any other person owning or maintaining an electric transmission or
35 delivery system, over which the commission has jurisdiction.

36 2. The department, in consultation with the New York state energy
37 research and development authority, the power authority of the state of
38 New York, the Long Island power authority, the state grid operator, and
39 the utilities shall undertake a comprehensive study for the purpose of
40 identifying distribution upgrades, local transmission upgrades and bulk
41 transmission investments that are necessary or appropriate to facilitate
42 the timely achievement of the CLCPA targets (collectively, "power grid
43 study"). The power grid study shall identify needed distribution
44 upgrades and local transmission upgrades for each utility service terri-
45 tory and separately address needed bulk transmission system investments.
46 In performing the study, the department may consider such issues it
47 determines to be appropriate including by way of example system reli-
48 ability; safety; cost-effectiveness of upgrades and investments in
49 promoting development of major renewable energy facilities and relieving
50 or avoiding constraints; and factors considered by the office of renewa-
51 ble energy siting in issuing and enforcing renewable energy siting
52 permits pursuant to section 94-c of the executive law. In carrying out
53 the study, the department shall gather input from owners and developers
54 of competitive transmission projects, the state grid operator, and
55 providers of transmission technology and smart grid solutions and to
56 utilize information available to the department from other pertinent
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1 studies or research relating to modernization of the state's power grid.
2 To enable the state to meet the CLCPA targets in an orderly and cost-ef-
3 fective manner, the department may issue findings and recommendations as
4 part of the power grid study at reasonable intervals but shall make an
5 initial report of findings and recommendations within 270 days of the
6 effective date of this section.

7 3. The commission shall, within 60 days of the initial findings and
8 recommendations required by subdivision two of this section, or at such
9 earlier time as the commission determines to be appropriate, commence a
10 proceeding to establish a distribution and local transmission capital
11 plan for each utility in whose service territory the power grid study
12 identified distribution upgrades and local transmission upgrades that
13 the department determines are necessary or appropriate to achieve the
14 CLCPA targets (the "state distribution and local transmission upgrade
15 programs"). The state distribution and local transmission upgrade
16 programs shall establish a prioritized schedule upon which each such
17 upgrade shall be accomplished. Concurrently, the Long Island power
18 authority shall establish a capital program to address identified
19 distribution and local transmission upgrades in its service territory.

20 4. The commission shall, within 60 days of the initial findings and
21 recommendations required by subdivision two of this section, commence a
22 proceeding to establish a bulk transmission system investment program,
23 consistent with the commissions siting authority in article 7 of the
24 public service law that identifies bulk transmission investments that
25 the commission determines are necessary or appropriate to achieve the
26 CLCPA targets (the "state bulk transmission investment plan"). The
27 commission shall establish a prioritized schedule for implementation of
28 the state bulk transmission investment plan and, in particular shall
29 identify projects which shall be completed expeditiously to meet the
30 CLCPA targets. The state bulk transmission investment plan shall be
31 submitted by the commission to the state grid operator for appropriate
32 incorporation into the state grid operator's studies and plans. The
33 commission shall utilize the state grid operator's public policy trans-
34 mission planning process to select a project necessary for implementa-
35 tion of the state bulk transmission investment plan, and shall identify
36 such projects no later than eight months following a notice of the state
37 grid operator's public policy transmission planning process cycle,
38 except that for those projects for which the commission determines there
39 is a need to proceed expeditiously to promote the state's public policy
40 goals, such projects shall be designated and proceed in accordance with
41 subdivision five of this section. The commission shall periodically
42 review and update the state bulk transmission investment plan, and its
43 designation of projects in that plan which shall be completed expe-
44 ditiously.

45 5. The legislature finds and determines that timely development of the
46 bulk transmission investments identified in the state bulk transmission
47 investment plan is in the public interest of the people of the state of
48 New York. The legislature further finds and determines that the power
49 authority of the state of New York ("power authority") owns and operates
50 backbone electric transmission assets in New York, has rights-of-way
51 that can support in whole or in part bulk transmission investment
52 projects, and has the financial stability, access to capital, technical
53 expertise and experience to effectuate expeditious development of bulk
54 transmission investments needed to help the state meet the CLCPA
55 targets, and thus it is appropriate for the power authority as deemed
56 feasible and advisable by its trustees, by itself or in collaboration
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1 with other parties as it determines to be appropriate, to develop those
2 bulk transmission investments found by the commission to be needed expe-
3 ditiously to achieve CLCPA targets ("priority transmission projects").
4 The power authority shall, through a public process, solicit interest
5 from potential co-participants in each project it has agreed to develop
6 and assess whether any joint development would provide for significant
7 additional benefits in achieving the CLCPA targets. The power authority
8 may thereafter determine to undertake the development of the project on
9 its own, or undertake the project jointly with one or more other parties
10 on such terms and conditions as the power authority finds to be appro-
11 priate and, notwithstanding any other law to the contrary, enter into

12 such agreements and take such other actions the power authority deter-
13 mines to be necessary in order to undertake and complete timely develop-
14 ment of the project. The intent of this act is for the power authority
15 to develop priority transmission projects authorized in this subdivi-
16 sion. For priority projects that the authority determines to undertake
17 and that are not substantially within the power authority's existing
18 rights of way, the authority shall, as deemed feasible and advisable by
19 its board of trustees, select private sector participants through a
20 competitive bidding process, provided however that priority transmission
21 projects is not intended to include generation lead lines, or repairs
22 to, replacement of or upgrades to the power authority's own transmission
23 assets.

24 6. For the state distribution and local transmission upgrade program,
25 the commission shall address implementation of such upgrades pursuant to
26 the existing processes under the public service law. The department
27 shall also make recommendations to the Long Island power authority for
28 upgrades for purposes of assisting the state to achieve the CLCPA
29 targets.

30 7. No later than January 1, 2023, and every 4 years thereafter, the
31 commission shall, after notice and provision for the opportunity to
32 comment, issue a comprehensive review of the actions taken pursuant to
33 this section and their impacts on grid congestion and achievement of the
34 CLCPA targets, and shall institute new proceedings as the commission
35 determines to be necessary to address any deficiencies identified there-
36 with.

37 8. The power authority of the state of New York and the New York state
38 energy research and development authority, are each authorized, as
39 deemed feasible and advisable by their respective boards, to contribute
40 to the cost of the power grid study required by subdivision two of this
41 section.

42 9. Nothing in this section is intended to:

43 (a) limit, impair, or affect the legal authority of the power authori-
44 ty that existed as of the effective date of this section; or

45 (b) limit the authority of the power authority to undertake any trans-
46 mission project, including bulk transmission investments, and recover
47 costs under any other process or procedure authorized by state or feder-
48 al law as the authority determines to be appropriate.

49 § 8. Host community benefit. 1. Definitions. As used in this section,
50 the following terms shall have the following meanings:

51 (a) "Renewable host community" shall mean any municipality within
52 which a major renewable energy facility defined in paragraph (h) of
53 subdivision 2 of section 94-c of the executive law, or any portion ther-
54 eof, has been proposed for development.

55 (b) "Renewable owner" shall mean the owner of a major renewable energy
56 facility constructed after the effective date of this section that is
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1 proposed to be located in a host community, for which the New York state
2 energy research and development authority has executed an agreement for
3 the acquisition of environmental attributes related to a solicitation
4 issued by such authority after the effective date of this section.

5 (c) "Utility" means an electric distribution utility regulated pursu-
6 ant to section 66 of the public service law and serving customers within
7 a host community.

8 2. The public service commission shall, within 60 days from the effec-
9 tive date hereof, commence a proceeding to establish a program under
10 which renewable owners would fund a program to provide a discount or
11 credit on the utility bills of the utility's customers in a renewable
12 host community, or a compensatory or environmental benefit to such
13 customers. Such proceeding shall determine the amount of such discount,
14 credit, compensatory or environmental benefit based on all factors
15 deemed appropriate by the commission, including the expected average
16 electrical output of the facility, the average number of customers with-

17 in the renewable host community, and the expected aggregate annual elec-
18 tric consumption within such renewable host community, the potential
19 impact on environmental justice communities, and the role of utilities,
20 if any, in implementing any aspect of such program. The Long Island
21 power authority shall establish a program for renewable facilities in
22 its service territory to achieve the same objectives.

23 § 9. Subdivision 3 of section 123 of the public service law, as added
24 by chapter 252 of the laws of 2002, is amended to read as follows:

25 3. Unless otherwise stipulated by the applicant [~~, a final determi-~~
26 ~~nation regarding an application for a certificate to construct trans-~~
27 ~~mission facilities for interconnection with a wind energy production~~
28 ~~facility located in the county of Lewis shall be rendered within six~~
29 ~~months from the date of receipt of a compliant application.]:~~

30 (a) proceedings on an application for a major utility transmission
31 facility as defined in paragraph a of subdivision two of section one
32 hundred twenty of this article shall be completed in all respects,
33 including a final decision by the commission, within twelve months from
34 the date of a determination by the secretary of the commission that an
35 application complies with section one hundred twenty-two of this arti-
36 cle; provided, however, the commission may extend the deadline in
37 reasonable circumstances by no more than six months in order to give
38 consideration to specific issues necessary to develop an adequate
39 record, because the applicant has been unable to obtain necessary
40 approvals and/or consents related to highway crossings or for other
41 reasons deemed in the public interest. The commission shall render a
42 final decision on the application by the aforementioned deadlines unless
43 such deadlines are waived by the applicant or if the applicant notices
44 the application for settlement, in which case the timeframes established
45 in this paragraph are tolled until such time that settlement discussions
46 are suspended. If, at any time subsequent to the commencement of the
47 hearing, there is a substantive and significant amendment to the appli-
48 cation, the commission shall promptly fix a date for commencement of a
49 public hearing thereon, such public hearing to commence no later than
50 sixty days after receipt of such amendment. The commission shall issue a
51 final decision thereon no later than six months after the conclusion of
52 the public hearing, unless such deadline is waived by the applicant.

53 (b) the commission shall, for the purpose of meeting the goals of
54 chapter one hundred six of the laws of two thousand nineteen, promulgate
55 rules or regulations to establish an expedited process for proceedings
56 on applications for a major utility transmission facility as defined in

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1 paragraph a of subdivision two of section one hundred twenty of this
2 article that (i) would be constructed within existing rights-of-way,
3 (ii) the commission determines in consultation with the department of
4 environmental conservation would not result in any significant adverse
5 environmental impacts considering current uses and conditions existing
6 at the site, or (iii) would necessitate expanding the existing rights-
7 of-way but such expansion is only for the purpose of complying with law,
8 regulations, or industry practices relating to electromagnetic fields.

9 (c) for purposes of this subdivision, the following terms shall have
10 the following meanings:

11 (i) "Expedited process" shall mean a process for proceedings on appli-
12 cations for a major electric transmission facility that is completed in
13 all respects, including a final decision by the commission, within nine
14 months from the date of a determination by the secretary of the commis-
15 sion that an application complies with section one hundred twenty-two of
16 this article; provided, however, that if the applicant notices the
17 application for settlement, the timeframe established in this paragraph
18 shall be tolled until such time that settlement discussions are
19 suspended.

20 (ii) "Right-of-way" shall mean (a) real property that is used or
21 authorized to be used for electric utility purposes, or (b) real proper-

22 ty owned or controlled by or under the jurisdiction of the state, a
23 distribution utility, or a state public authority including by means of
24 ownership, lease or easement, that is used or authorized to be used for
25 transportation or canal purposes.

26 § 10. Paragraphs (c) and (d) of subdivision 1 of section 126 of the
27 public service law, paragraph (c) as amended by chapter 406 of the laws
28 of 1987 and paragraph (d) as amended by chapter 521 of the laws of 2015,
29 are amended to read as follows:

30 (c) that the facility [~~represents the minimum~~] avoids or minimizes to
31 the extent practicable any significant adverse environmental impact,
32 considering the state of available technology and the nature and econom-
33 ics of the various alternatives, and other pertinent considerations
34 including but not limited to, the effect on agricultural lands,
35 wetlands, parklands and river corridors traversed;

36 (d) that the facility [~~represents a minimum~~] avoids or minimizes to
37 the extent practicable any significant adverse impact on active farming
38 operations that produce crops, livestock and livestock products, as
39 defined in section three hundred one of the agriculture and markets law,
40 considering the state of available technology and the nature and econom-
41 ics of various alternatives, and the ownership and easement rights of
42 the impacted property;

43 § 11. Notwithstanding section 2897 of the public authorities law, the
44 power authority of the state of New York and the New York state energy
45 research and development authority may each negotiate and enter into
46 agreements with other parties providing for the conveyance of interests
47 in real property provided that in the case of any such conveyance such
48 entity determines that the conveyance will further the purposes of this
49 act or provide other benefits to the entity or the state.

50 § 12. The environmental conservation law is amended by adding a new
51 section 11-0535-c to read as follows:

52 § 11-0535-c. Endangered and threatened species mitigation bank fund.

53 1. The department is hereby authorized to utilize funds in the endan-
54 gered and threatened species mitigation bank fund, established pursuant
55 to section ninety-nine-hh of the state finance law, for the purposes of
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1 implementing an endangered and threatened species mitigation plan
2 approved by the department.

3 2. Such fund shall consist of contributions, in an amount determined
4 by the department, deposited by an applicant granted a siting permit to
5 construct a major renewable energy facility, where such applicant has
6 been ordered to mitigate harm to a threatened or endangered species or
7 its habitat.

8 3. In administering the provisions of this article, the commissioner:

9 a. May, in the name of the state, enter into contracts with not-for-
10 profit corporations, private or public universities, and private
11 contractors for services contemplated by this title. Such contracts
12 shall be subject to approval by the state comptroller and, as to form,
13 by the attorney general.

14 b. Shall approve vouchers for payments pursuant to an approved
15 contract. All such payments shall be paid on the audit and warrant of
16 the state comptroller;

17 c. May, in the name of the state, enter into contracts with a not-for-
18 profit corporation to administer grants made pursuant to this title,
19 including the approval and payment of vouchers for approved contracts;
20 and

21 d. May perform such other and further acts as may be necessary, prop-
22 er, or desirable to carry out the provisions of this article.

23 4. Nothing in this article shall be construed to limit or restrict any
24 powers of the commissioner or any other agency pursuant to any other
25 provision of law.

26 5. The commissioner is authorized and directed to promulgate any regu-
27 lations deemed necessary to implement this section.

28 § 13. The state finance law is amended by adding a new section 99-hh
29 to read as follows:

30 § 99-hh. Endangered and threatened species mitigation bank fund. 1.
31 There is hereby established in the joint custody of the comptroller and
32 the commissioner of taxation and finance a special fund to be known as
33 the "Endangered and threatened species mitigation bank fund".

34 2. Such fund shall consist of all revenues received pursuant to the
35 provisions of section 11-0535-c of the environmental conservation law
36 and all other moneys appropriated, credited, or transferred thereto from
37 any other fund or source pursuant to law.

38 3. All moneys deposited in the endangered and threatened species miti-
39 gation bank fund shall be available for projects undertaken to facili-
40 tate a net conservation benefit to endangered and threatened species
41 potentially impacted by a major renewable energy facility.

42 4. Monies shall be payable from the fund on the audit and warrant of
43 the comptroller on vouchers approved and certified by the commissioner
44 of environmental conservation.

45 § 14. Severability. If any clause, sentence, paragraph, section or
46 part of this act shall be adjudged by any court of competent jurisdic-
47 tion to be invalid, such judgment shall not affect, impair or invalidate
48 the remainder thereof, but shall be confined in its operation to the
49 clause, sentence, paragraph, section or part thereof directly involved
50 in the controversy in which such judgment shall have been rendered.

51 § 15. This act shall take effect immediately and shall expire December
52 31, 2030 when upon such date this act shall be deemed repealed; provided
53 that such repeal shall not affect or impair any act done, any applica-
54 tion filed, any right, permit or authorization awarded, accrued,
55 received or acquired, or any liability incurred, prior to the time such
56 repeal takes effect, and provided further that any project for which the
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1 New York state energy research and development authority has expended,
2 or committed to a third party to expend, funds towards the development
3 of a build-ready site prior to such repeal shall be permitted to contin-
4 ue in accordance with title 9-B of article 8 of the public authorities
5 law notwithstanding such repeal; provided further that any bulk trans-
6 mission investments the power authority of the state of New York has
7 notified the public service commission of its intent to develop individ-
8 ually or jointly prior to such repeal shall be permitted to continue
9 under this act notwithstanding such repeal, and provided further that on
10 the effective date of this act, the office of renewable energy siting
11 shall be authorized to promulgate any rules or regulations necessary to
12 implement section four of this act.