



*New York State Assembly*  
**2011 ANNUAL REPORT**

*committee on*  
**ENERGY**

*Kevin A. Cahill*  
*Chair*



*Sheldon Silver*  
*Speaker*



THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

KEVIN A. CAHILL  
Assemblymember 101<sup>ST</sup> District  
CHAIR  
Assembly Energy Committee

COMMITTEES  
Ways and Means  
Economic Development, Job Creation,  
Commerce & Industry  
Ethics and Guidance  
Health  
Higher Education

December 15, 2011

Honorable Sheldon Silver  
Speaker of the Assembly  
Legislative Office Building, Room 932  
Albany, NY 12248

Dear Speaker Silver:

I am pleased to submit to you the 2011 Annual Report of the Assembly Standing Committee on Energy. In my fourth year as chairman of this important committee, I am proud of the aggressive legislative agenda we advanced to help New York progress in the areas of environmentally sensitive power plant siting, renewable energy, efficiency standards, ratepayer protection and economic development.

In 2011, the Committee reported several pieces of important legislation that became law, including the reauthorization and improvement of New York's long-dormant Article X power plant siting law, a measure allowing for Green Jobs-Green New York loans to be paid back through customer utility bills and a new comprehensive economic development power program to replace the moribund Power for Jobs Program. Additionally, the committee was integral in the successful passage of measures that expanded the state's net metering law to allow for remote net metering, permit customers to roll over credits earned for excess energy from year to year, and customer generation of energy through the use of solar, wind, and farm waste, and fuel cell electric generating systems.

As we look ahead, the Energy Committee will build upon this year's progress by pursuing legislation to provide new financing opportunities for energy efficiency, enhance renewable energy markets, establish a process for siting new power generation facilities and finally make permanent our economic development power programs. Most significantly, we will pursue a comprehensive plan to modernize the grid in New York State allowing for the full utilization of 21<sup>st</sup> century technology and innovation and to address the growing crises associated with severe weather conditions and other service interruptions. We look forward to a spirit of bipartisanship and cooperation to achieve these priorities.

Sincerely,

Kevin A. Cahill  
Chair of the Assembly Energy Committee

2011 ANNUAL REPORT  
OF THE NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON ENERGY

Kevin A. Cahill, Chairman

Committee Members

Marcos Crespo  
Steve Englebright  
Dennis Gabryszak  
Andrew Hevesi  
Sam Hoyt  
Guillermo Linares  
Francisco Moya  
Linda Rosenthal  
Addie Russell  
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George Amedore, Ranking Minority Member  
Gary Finch  
William Barclay  
Christopher Friend  
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Staff

Julia Mallalieu, Legislative Coordinator  
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Kristen McManus, Committee Clerk  
Judy Alfonso, Program and Counsel Executive Secretary

## I. INTRODUCTION

### 2011 Energy Report

The Assembly Energy Committee, now in its 30th year, has jurisdiction over legislation relating to energy availability and sources, policy and planning, conservation, and electric and gas and steam rate-making in New York State. The Committee considers legislation that amends the Energy Law, the Public Service Law, the Public Authorities Law, Economic Development Law and Rural Electric Cooperative Law. The Committee works closely with the Assembly Committee on Corporations, Authorities and Commissions, which considers legislation concerning the structure and operations of the New York Power Authority (NYPA), the Public Service Commission (PSC), the New York Energy Research and Development Authority (NYSERDA), 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 2011, 117 bills were referenced to the Committee and 29 bills were reported from the Committee. The full Assembly considered and passed 24 of these bills. Seven of those bills were signed into law. The report outlines the legislation that incorporates many of the Assembly's proposals developed by the Committee to address the challenges facing us regarding New York State energy policy.

## II. MAJOR ISSUES FOR 2011

### Recharge New York Program

(A.4010-C (budget bill); Chapter 60 of the Laws of 2011)

This legislation overhauls and improves the state's economic development energy initiatives by phasing out the Power for Jobs (PFJ) program and replacing it with the Recharge New York program. The program will provide 910 megawatts (MW) of low-cost power to businesses and non-profits throughout the state that commit to creating and retaining jobs. Participants will receive power at a blended rate, that reflects the cost of NYPA hydro-power and power procured by the authority on the wholesale market.

Criteria for receiving an award of Recharge New York power will include consideration of an applicant's energy costs, capital investments, payroll and job benchmarks. Under the new law, current PFJ recipients who do not meet the new criteria would be phased out over a two year period, receiving 66 percent of current benefits in year one and 33 percent in the year two. The Economic Development Power Allocation Board (EDPAB) will begin soliciting applications January 31, 2012 and commence administering benefits July 1, 2012. The program would make available up to 100 MW for small businesses and not-for-profits.

A significant source of resources for the new Recharge New York program is the power allocation set aside for rural and domestic customers in Upstate New York. The Assembly took the position that those customers should be fully compensated for the surrender of that power. Though we were unsuccessful in achieving that goal, significant recompense was afforded upstate customers as a result of the Assembly negotiating position.

### Power NY Act

(A.8510/Cahill; Chapter 388 of the Laws of 2011)

At the close of the 2011 legislative session, the Assembly led the way in successful three-way negotiations to pass the Power NY Act, a comprehensive measure that will allow for the environmentally responsible siting of power plants in order to meet the state's growing energy needs. Additionally, Power NY includes a provision improving upon the Green Jobs-Green New York program through the establishment of an on-bill recovery program and requires a study analyzing the feasibility of increasing solar energy production in New York State.

The Power NY Act reestablishes with significant changes the Article X power plant siting law, which expired in 2003. Under the new law, all proposed facilities 25 MW and greater will qualify for the Article X process, a change from the previous threshold of 80 MW. The new threshold will encourage the responsible siting of smaller alternative energy projects, including wind facilities. Under the law, municipalities and community groups will have access to up to \$750,000 in intervenor fees to help defray the cost of participation during the pre-application and application stages of the siting process.

Applicants for siting and construction of a power plant will be required to provide a comprehensive air quality study of the proposed facility on the surrounding community that would consider emissions not only the proposed facility but from additional sources that have not yet been constructed. Ad hoc appointments to the power plant siting board will be chosen by legislative leaders from a list of local residents provided by local leaders, ensuring local participation.

Power NY will also enhance the landmark Green-Jobs Green New York program, which provides low-cost financing for energy efficiency retrofits for residents and businesses across the state. Under the new Act, customers will be able to repay their loans through a charge on their monthly utility bill (“on bill financing”). Each customer’s monthly charge would likely reflect the projected savings of their retrofit. The on bill financing program was implemented in the autumn of 2012 and is currently enrolling participants across New York State.

The legislation directs NYSERDA and the Public Service Commission (PSC) to conduct a study detailing the economic and environmental benefits of achieving a goal of 5,000 megawatts of solar energy by 2025.

#### Mandating Environmentally Responsible Siting of Electric Transmission Lines (A.7399 Cahill; Passed Assembly)

The Assembly passed legislation that would require the PSC, prior to approval of a construction permit for an electric transmission line, to find that the proposed line conforms with the most recent State Energy Plan, with consideration of whether a proposed facility would cause adverse environmental impacts on the state’s air quality as a result of an increase in electric generation both in-state and out-of-state.

### A. ENERGY EFFICIENCY

#### Ensuring the Performance of Energy Efficiency Portfolio Standard Grants (A.261 Hevesi; Chapter 5 of the Laws of 2011)

The Assembly passed legislation requiring NYSERDA to provide a report to the executive and legislative leaders detailing the energy usage of participants who have received grant-funded capital improvements through the Energy Efficiency Portfolio Standard program (EEPS).

#### NYSERDA To Collect Information on Energy Efficient Outdoor Lighting (A.1474 Rosenthal; Chapter 503 of the Laws of 2011)

The Assembly passed legislation requiring NYSERDA to collect and disseminate information on energy efficient outdoor lighting as it does for other energy intensive products and technologies. Poorly designed and inefficient outdoor lighting can be expensive to operate and contribute to nighttime light pollution. Under this bill, NYSERDA would collect information on cost-effective outdoor lighting technologies to increase awareness of their availability and encourage the responsible installation of these products.

Expanding Eligibility For NYPA Energy Efficiency Products to Private Higher Education Institutions  
(A.6994-A Morelle; Chapter 494 of the Laws of 2011)

The Assembly passed legislation that would allow New York's non-profit private colleges and universities to have access to NYPA's energy-related projects, programs and services, including the financing, development and construction of energy efficient and clean energy technologies and technical assistance in the retrofitting of buildings in order to conserve energy and incorporate renewable power sources. This law will help private higher education institutions throughout the state improve their efficiency and minimize their carbon footprint through improvements to their buildings.

Understanding Consumer Clean Energy Practices  
(A.42-A Hevesi; Passed Assembly)

The Assembly passed legislation directing NYSERDA to commence the collection of consumer data relating to energy efficiency and clean energy practices pre and post installation. The data would contribute to an understanding of the duration of time consumers maintain energy efficiency practices after initiating them and would include an analysis of what practices best encourage and offer incentives for energy efficiency behaviors. The study would also include an assessment of energy price fluctuations on consumer behavior.

Installation of Cool Roof Technology in Public Buildings  
(A.96 Hevesi; Passed Assembly)

The Assembly passed legislation that builds upon the State Green Building Construction Act, which established standards for energy efficiency in state agency building construction and renovation. The bill would require compliance with certain roofing standards promulgated by the Office of General Services. These standards would include the use of materials and building processes that reflect heat away from roofs, including coating, white paint and plant-based insulation. Reducing energy loads through cool roofing practices would save the state in energy costs. The State Green Building Construction Act is a previous Assembly initiative.

## B. CONSUMER ISSUES

Providing Gas and Electric Bill Information to Prospective Renters  
(A.3780-A Jeffries; Passed Assembly)

The Assembly approved legislation that would require a utility to make available to a landlord or lessor of rental property, upon the written request of a prospective tenant prior to the commencement of tenancy, information consisting of charges sustained at the premises for gas or electric service for the life of the dwelling unit or two years, whichever is shorter. Under this legislation, a previous tenant or ratepayer's privacy would be protected by allowing only for the disclosure of the address and charges.

Requiring Comprehensive Emergency Preparedness from Utilities  
(A.4980 Bing; Passed Assembly)

The Assembly passed legislation which would require utilities to annually submit to the PSC emergency plans that detail training programs, planning and preparations to be undertaken in advance of major storms or weather that would potentially disturb electrical transmission and delivery. The bill would require procedures for timely communication with appropriate government agencies, the public and media. Additionally, the legislation would mandate that certain procedures be followed for effectively determining the scope of a power outage including the location of affected areas and those affected by an outage or voltage reductions. Had this legislation become law in advance of Superstorm Sandy, it would have encouraged better preparation on the part of utilities and provided much-needed information to assist in recovery.

### Utility Portfolio Management

(A.5606/ Brennan; Passed Assembly)

The Assembly passed legislation amending Public Service Law to require electric utilities to institute portfolio management services for their customers and place new requirements on electric utility companies to protect their customers from increasing volatility in energy prices.

The legislation 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 PSC. After public comment and participation to determine if the plans met the requirements described in this legislation, the PSC would approve the plan if it met the established requirements. The PSC 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.

### C. NET ENERGY METERING AND ALTERNATIVE ENERGY AND ENERGY PLANNING

#### Including Micro-Hydroelectric Equipment to Net Metering Law

(A.28-A Cahill; Chapter 546 of the Laws of 2011)

The Assembly approved legislation allowing residential customers to install micro-hydroelectric equipment of up to 25 kilowatts (KW) and non-residential customers to install micro-hydroelectric equipment up to 2,000 (KW). According to the 2009 State Energy Plan, New York has the potential to increase hydroelectric generation by more than 2,000 MW. An important means of integrating more of this clean and renewable source of energy is to encourage smaller scale projects that can be incorporated into the state’s net metering law.

#### Exempting Batteries and Flow Batteries from Public Service Commission Regulation

(A.3656-A Cahill; Chapter 6 of the Laws of 2011)

The Assembly passed legislation that added batteries and flow batteries of up to 80 MW to the definition of alternative energy production facility, which are not subject to PSC jurisdiction. As battery technology has dramatically improved as a means of energy storage, it is poised to become an important fixture for energy conservation, storing power produced during off-peak hours for periods of high demand.

#### Requires the Long Island Power Authority to comply with PSC external locking disconnect switch requirement

(A.5525-A/Englebright; Chapter 413 of the Laws of 2011)

The Assembly pushed for the successful passage of legislation requiring LIPA to conform to PSC standards relating to locking external disconnect switches. This bill was necessary in circumventing LIPA’s redundant and cost-prohibitive requirement that all solar net electric metering units include an external locking disconnect switch. By requiring LIPA to comply with PSC’s interconnection standards, customers installing solar net electric metering devices of 25KW and smaller will not be mandated to include disconnect switches. Disconnect switches have become redundant as residential solar energy equipment is now designed to include safety features that prevent solar devices from delivering power to the grid during an electric failure. The enactment of this legislation will remove a substantial block to solar energy generation in a region of the state with significant solar potential.

Allows Net Metering Customers to Carry Over Credits From Excess Energy On an Annual Basis  
(A.5521-A Englebright; Passed Assembly)

The Assembly passed legislation that would further encourage electric customers to participate in net-metering. This legislation would allow customer generators operating solar, farm waste, and wind generation wind electric systems the option to carry over credit earned for excess energy they produced indefinitely. Under current net metering law, unless the utility chooses otherwise, customers are paid out at the end of each year. Additionally customer-generators would be entitled to an accounting of aggregate credits once on a five-year basis. The law would encourage greater participation by allowing customers to use aggregate credits when energy is more expensive.

Allowing for Remote Metering for Agricultural and Non-Residential Customer Generators  
(A.6270-B Crespo; Chapter 35 of the Laws of 2011)

The Assembly passed legislation permitting agricultural and non-residential customer generators operating solar, farm waste or wind generating electrical equipment to produce electricity at a remote site and credit up to 100 percent of the energy produced to another meter under their control within a 25 mile radius of the generating equipment. This bill will help expand the use of net metering by farms, small businesses, municipalities and school districts, by allowing each to devote electricity produced off-site to separate electric meters.

Streamlining the State Energy Planning Board  
(A.8316/Cahill; Chapter 195 of Laws of 2011)

The Assembly passed legislation that will enhance the State Energy planning process. Every five years, EPB issues an SEP to guide New York in its development of policies to reduce energy consumption, control the cost of energy usage and encourage environmentally sound energy decisions. This legislation will streamline operations of the EPB by removing the president of the state Urban Development Corporation and the director of the now former State Emergency Management Office and the chair of the now former Consumer Protection Board, which were both merged into other agencies that are represented on the EPB. Additionally, the legislation will provide EPB discretion in issuing its energy forecasts with at least one due each 10 years. Additionally, the law will require the EPB to conduct at least three public hearings each in the Upstate and Downstate regions designated by EPB to consider any draft SEP.

As of December 31, 2012, the State Energy Planning Board failed to produce the Draft State Energy Plan, as required by statute to have been completed by September, 2012. The Assembly is considering remedial legislation to assure that the Plan proceeds in a timely fashion and that the public is afforded a full opportunity for review and participation before a final plan is produced.

#### D. RURAL ELECTRICAL COOPERATIVES

Expanding Rural Co-op Service Territory  
(A.6280/Magee; Chapter 555 of the Laws of 2011)

The Assembly passed legislation necessary for the potential expansion of New York's rural cooperatives by amending the definition of a rural area to mean any area of the state not included within the boundaries of any city or village having a population in excess of 20,000 residents. The previous definition accounted for any areas not included within the boundaries of a city or village of 1,000 or fewer residents. This new law will allow rural electric cooperatives greater opportunity to expand its service territory subject to an agreement with the electric corporation currently serving such rural area.

New York rural electric cooperatives were created in 1941 to provide electric service in rural 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.

### III. PUBLIC OVERSIGHT AND HEARINGS

#### Budget Oversight

In January 2011, the Energy Committee conducted a budget oversight hearing to examine the operations of the Department of Public Service, NYSERDA and NYPA pursuant to the SFY 2010-2011 enacted budget. The Committee took testimony from the Chair of PSC in order to determine if DPS maintained sufficient staffing to handle the many ratemaking cases and consumer issues it faces. Testimony revealed that as many as 900,000 customers were 90 days or more in arrears on utility bills in 2010. Additionally, the committee took testimony from LIPA and NYPA regarding the energy efficiency programs the authorities administer. The committee concluded that energy efficiency programs should be accelerated and made more customer-friendly to encourage greater participation from ratepayers and help New York meet its clean energy goals.

#### Transmission

In May 2011, the Energy Committee conducted a joint hearing with the Committee on Corporations, Authorities and Commissions and the Committee on Cities to examine PSC's decision to grant an Article VII certificate for the construction of the Hudson Transmission Project (HTP), a 600 megawatt high voltage transmission line connecting the Pennsylvania-Jersey-Maryland (PJM) wholesale electric market to a substation in Manhattan to serve NYPA's public power customers. The committees sought to understand the PSC's September 2010 decision to allow for construction of the seven-mile underwater cable in light of concerns about the project's costs and the potential for increased air emissions. The PJM electrical grid includes 13 states and the District of Columbia. Power generation for that region relies on a majority percentage of coal-fired power plants, including facilities that have been cited as being significant contributors to the degradation of air quality in New York State, particularly the greater metropolitan region.

The committees heard testimony from the Department of Public Service, NYPA the New York Independent System Operator (NYISO), Powerbridge LLC, and Sierra Club. The committees concluded that PSC granted the Article VII certificate despite an assessment provided by the New York State Department of Environmental Conservation (DEC) of significant increases of air emissions. Additionally, the committees determined that the overall cost of the project was uncertain.

Consistent with those findings, legislation has been pre-filed that would require that entities proposing transmission lines originating outside New York State demonstrate, inter alia, compliance with New York State air quality standards (A.1246 Cahill).

**APPENDIX A**

**2011 SUMMARY SHEET**

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

<b><u>Final Disposition</u></b>	<b><u>Assembly Bills</u></b>	<b><u>Senate Bills</u></b>	<b><u>Total</u></b>
<b>TOTAL Bills Referred to Committee</b>	<b>103</b>	<b>4</b>	<b>107</b>
<b><u>Bills Reported With or Without Amendment</u></b>	<b>34</b>	<b>0</b>	<b>34</b>
To Floor	<b>12</b>	<b>0</b>	<b>12</b>
To Ways and Means	<b>11</b>	<b>0</b>	<b>11</b>
To Codes	<b>7</b>	<b>0</b>	<b>7</b>
To Rules	<b>4</b>	<b>0</b>	<b>4</b>
<b>Bills Having Enacting Clause Stricken</b>	<b>5</b>	<b>0</b>	<b>5</b>
<b>Bills Never Reported, Remained in Committee</b>	<b>59</b>	<b>4</b>	<b>63</b>

**TOTAL NUMBER OF COMMITTEE  
MEETINGS HELD**

**10**

## APPENDIX B

### Bills Passed by Both Houses

<u>Governor's Action</u>	<u>Bill Number</u>	<u>Description</u>
Chapter 5	A.261 (Hevesi)	Requires NYSERDA to submit an annual report detailing Energy Efficiency Portfolio Standard and approving program.
Chapter 6	A.3656-A (Cahill)	Includes batteries and flow batteries to the definition of an alternate energy production facility.
Chapter 35	A.10216 (Cahill)	Includes a kinetic energy storage device utilizing flywheels or compressed air in the definition of an alternate energy production facility.
Chapter 195	A.8316 (Cahill)	Relates to the composition, responsibilities and discretion of the State Energy Planning Board
Chapter 388	A.8510 (Cahill)	Establishes the Power NY Act of 2011.
Chapter 413	A.5525-A (Englebright)	Requires the Long Island Power Authority (LIPA) to conform to safety standards regarding manual lockable disconnect switches for solar electric generating equipment.
Chapter 494	A.6994-A (Morelle)	Relates to the eligibility of certain institutions of higher education to access certain projects, programs and services of the New York Power Authority.
Chapter 503	A.1474 (Rosenthal)	Relates to the powers and duties of the New York State Energy Research and Development Authority (NYSERDA) with respect to the collection of information regarding energy efficient outdoor lighting.
Chapter 530	A.7765-A (Moya)	Relates to net energy metering of fuel cell technology for residential and non-residential electrical customers.

Chapter 546	A.28-A (Cahill)	Relates to net energy metering for micro-hydroelectric generating equipment
Chapter 555	A.6280 (Magee)	Relates to the definition of rural areas within the Rural Electric Cooperative Law.

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## APPENDIX C

### Bills Passed by the Assembly

<u>Bill Number</u>	<u>Sponsor</u>	<u>Description</u>
A.42-A	Hevesi	Directs NYSERDA to undertake a statewide study of consumer behaviors with respect to energy efficiency and clean energy technology.
A.96	Hevesi	Authorizes the use of cool roofs on new or substantially renovated state-owned buildings.
A.3780-A	Jeffries	Requires gas and electric utilities to make available to landlords upon request information concerning gas and electric charges incurred for residential premises.
A.5606	Brennan	Requires electric utilities to establish portfolio management services on behalf of customers.
A.7412	Thiele	Prevents the Public Service Commission from raising utility rates to offset revenues loss due to energy conservation efforts by consumers.
A.7777	Simotas	Directs the Public Service Commission to undertake a study of consumer protections adopted by electric corporations and utilities.
A.7778	Linares	Requires reporting by the Public Service Commission on consumer protections adopted by electric corporations and municipalities.
A.8082	Cahill	Relates to electric utility demand charges rendered to volunteer fire and ambulance companies.