

Renewable Energy Updates

By Robert R. Dooley

Solar

Assembly bill A9149A-2011 is the New York Solar Industry Development and Jobs Act of 2012 providing additional incentives to enable the rapid development of the solar industry. As part of the bill, the Assembly proposes legislation compelling the Department of Environmental Conservation to create an incentive program for the development of qualified solar photovoltaic (PV) generating systems by the beginning of 2013 with a goal of creating 670 megawatts by 2015 and 3000 megawatts by 2021.

The increase in production is ambitious. The DEC's website sets expectations of increase in New York's total on-grid solar electric generation capacity to increase from eight megawatts (from 2009) to 80 megawatts by 2015. In other words, there is a significant gap in what currently is expected to be developed and what is hoped a state incentive program will be able to rapidly close. The Utilities and Authorities ordered to generate this capacity will be authorized to modify the goals if achieving these goals would exceed 1.5 percent of their annual



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electricity sales revenue over the life of the program. While the cap at 1.5 percent itself is not bothersome, the fixed rate throughout the life of the program is bland and could be more creative facilitating increased budgetary commitment by the Authorities and Utilities. For example, District of Columbia Public Service Commission Renewable Energy Portfolio Standard ensures that the program is scaled over time by increasing the budgetary cap allowing the statutory goals to be modified from .50 percent in 2012 to a high of 2.5 percent in 2023.

At of July 16, 2012, the Long Island Power Authority (LIPA) commenced its "Clean Solar Initiative" with a goal to acquire and inspire additional solar energy. The program contains New York's first feed-in tariff program. By a Power Purchase Agreement, LIPA will purchase solar energy generated on its customer's property for a period of 20 years at a fixed rate (\$0.22 per kWh). The strategic market based initiative likely leads the state's effort to encourage renewable energy development. The program encourages renewable energy in the Long Island community that is densely populated inhibiting the transport of renewable energy sources from the upstate regions and provides a potential long term advancement of the renewable sector.

Wind

The research continues in an effort to manage and advance the potential future development of offshore wind energy projects off the coast of New York State. In March, 2012, the National Oceanic and Atmospheric Administration released a study "A Bio-geographic Assessment of Sea-birds, Deep Sea Corals and Ocean Habitats of the New York Bight" to assist in identifying favorable wind energy development sites in the Atlantic and protect critical offshore bird and fish habitats. The report will have multiple uses. First, it will be used to gain understanding on the ocean environment, human uses and their interactions. The report

will also be treated as a planning tool. As a planning tool, the study will be used to develop a framework to coordinate and support decisions that will assist in reducing uncertainty for coastal managers and prospective investors concerning renewable energy development. It is anticipated that the report will also lead to a series of amendments to New York's Coastal Management Program. The full report can be found on the Administration's website: www.noaa.gov.

Note: Robert R. Dooley is the co-chair of the Environmental Law Committee and is an associate with the Law Office of Frederick Eisenbud where his practice is concentrated in environmental and commercial litigation.

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