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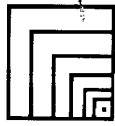
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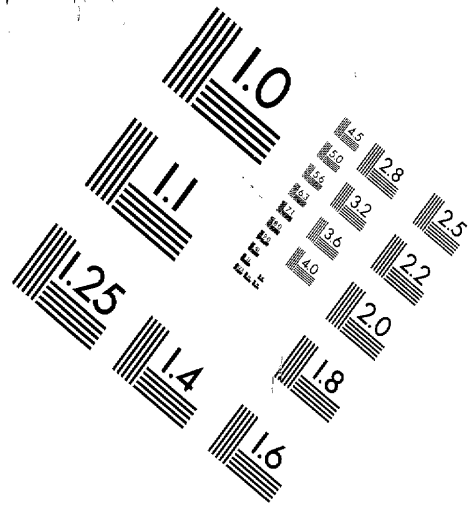
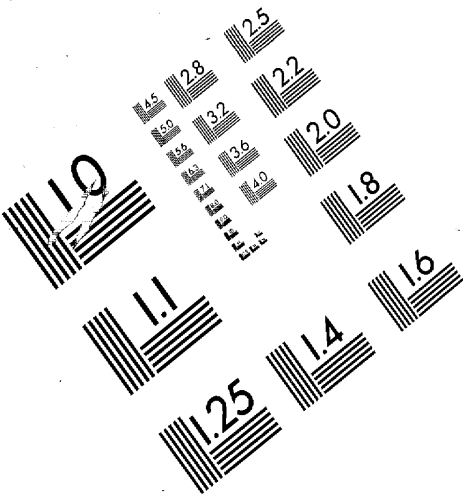
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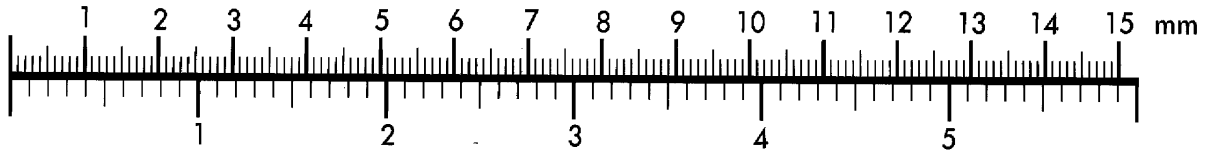


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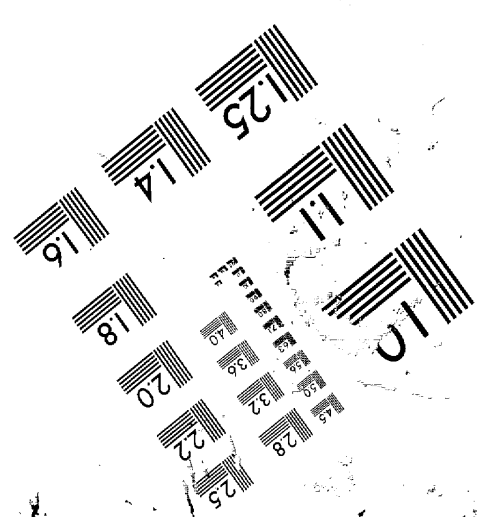
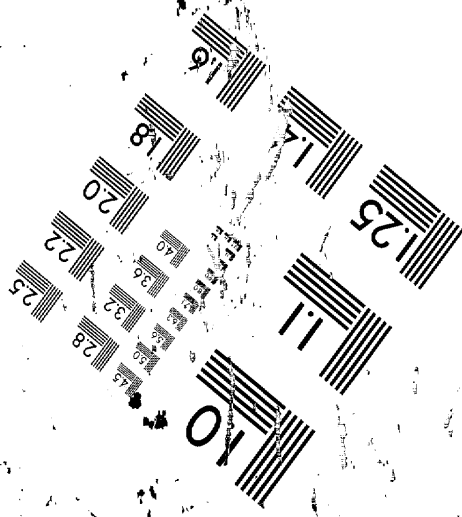
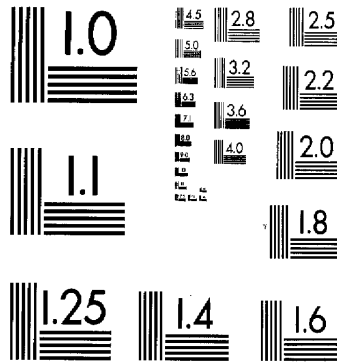
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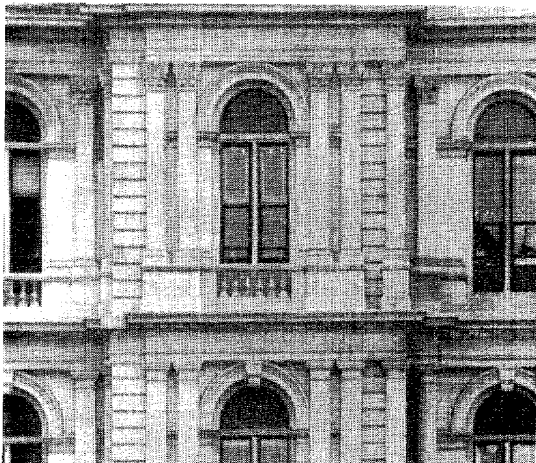
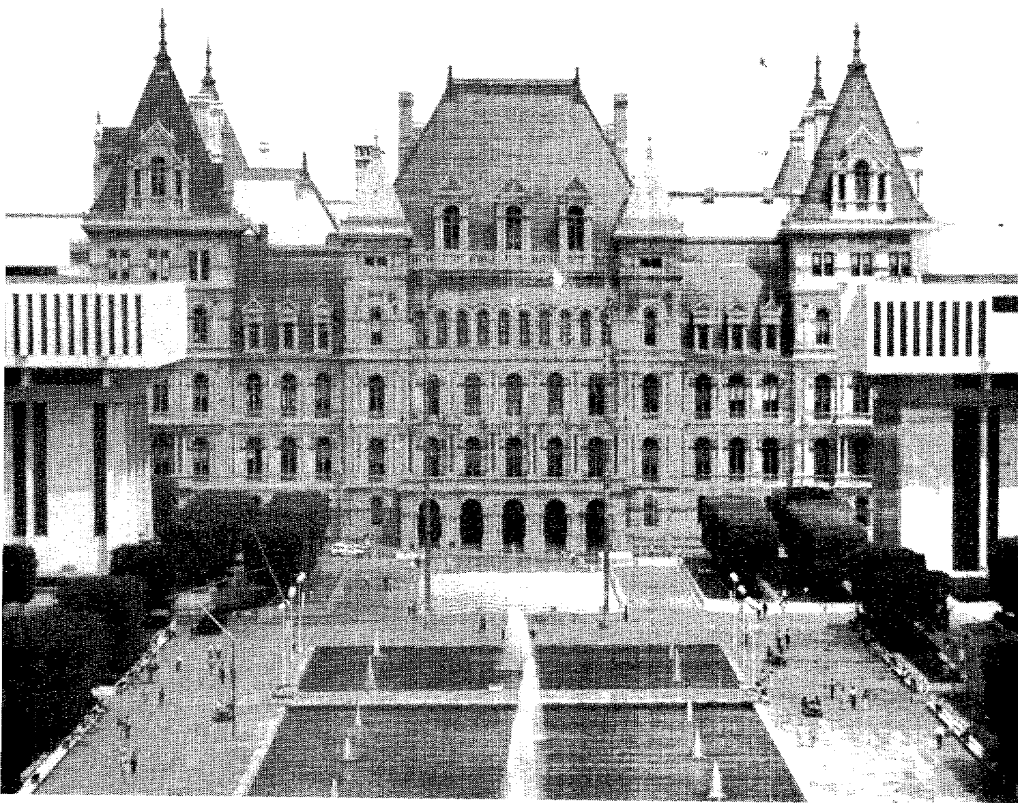
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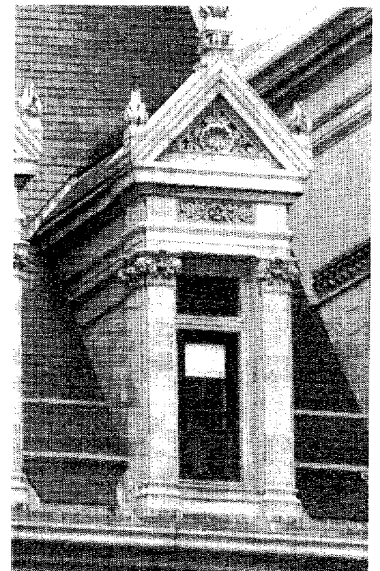
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*Paul D.
Tonko
Chair*

*Sheldon Silver
Speaker*





PAUL D. TONKO
Assemblyman 105th District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

CHAIRMAN
Committee on Energy

CHAIRMAN
Task Force on the Mohawk Valley

COMMITTEES
Agriculture
Education
Transportation

December 15, 1998

Honorable Sheldon Silver
Speaker of the Assembly
932 Legislative Office Building
Albany, New York 12248

Dear Mr. *Shelly* Speaker:

I am pleased to submit to you the 1998 Annual Report of the Assembly Standing Committee on Energy. This year is the Committee's twentieth anniversary and has produced legislation which will benefit all energy consumers.

I commend you on your leadership in the energy area, especially through the proposal to accelerate the Power for Jobs Program as part of the historic budget conference committee process. The Assembly's initial proposal evolved into the expansion and acceleration of this program through Chapter 386 of the Laws of 1998. This law will create and retain more jobs in this State by providing additional lower-cost electricity sooner to small and large businesses and to not-for-profit corporations.

I take great pride knowing that we have continued to work toward a sound energy policy for the State. The Assembly has passed the most comprehensive legislative package which would have reduced electricity prices for all types of ratepayers in this State by at least 10 percent this year, with a 25 percent reduction by 2000, while ensuring access to safe and reliable electric service.

Unfortunately, the Governor and the Senate failed to support our initiative and denied consumers access to greater energy cost relief than the Public Service Commission has provided. As a result, the Governor's Public Service Commission and the utilities are restructuring the electric industry on their own, without the benefit of an agreement on a comprehensive statutory blueprint which would have put energy cost reduction for consumers ahead of utility cost recovery.

We will continue to take steps so that consumers actually receive reliable electric service at a lower cost as a result of competition in the electric industry. If consumers do not receive

the benefits they deserve, we immediately should call upon the Governor and the Senate to take the necessary action we have advocated all along.

As we set our sights on the 1999 Legislative Session, I look forward to continuing to work with you on providing economic, safe, and reliable energy to consumers and stimulating economic prosperity in this State.

I thank you for your support and look forward to your continued leadership in the coming year.

Sincerely,

A handwritten signature in cursive script that reads "Paul".

Paul D. Tonko, Chairman
Assembly Energy Committee

1998
Annual Report

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

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I. INTRODUCTION

The Assembly Energy Committee, now in its 20th year, has jurisdiction over legislation relating to energy availability and sources, energy policy and planning, the conservation of energy, and electric and gas rate-making in New York State. The Committee considers bills which amend the Energy Law, the Public Service Law, the Public Authorities Law, and the Economic Development Law. The Committee works closely with the Assembly Committee on Corporations, Authorities and Commissions, which considers legislation concerning the structure and operations of the Power Authority of the State of New York (PASNY), the Public Service Commission (PSC), the Energy Research and Development Authority (ERDA), and the Long Island Power Authority (LIPA). The Committee also works with other State agencies, including the Department of Economic Development (DED), the Department of Environmental Conservation (DEC), and the Department of Transportation (DOT).

In 1998, the Committee considered 85 bills, acting favorably on 26. The Committee monitored the passage of five related bills which originated in other committees. Fourteen bills, within the scope of interest of the Committee, passed the Assembly; four became law.

The public's growing recognition of the economic impact of energy decisions has given rise to a new era in energy policy for New York's electric industry. The success of the independent power industry, the availability of economic development power allocations through PASNY, self-generation by many large customers, and efforts to establish additional municipal electric systems provide increasingly competitive alternatives to utility-generated power.

The Assembly's goal is to encourage the stimulation of economic growth through an energy policy which reduces electricity costs by at least 25 percent and which maintains an economic, reliable, and environmentally sensitive energy supply for all consumers. Since New York has lagged behind the rest of the nation in the current period of economic growth, the State must understand the link between energy costs and economic development and, in particular, job creation to speed its economic recovery.

To help boost New York's economy, the Assembly has developed a comprehensive legislative package which would reduce electric rates and increase competition in the electric industry, including reorganizing PASNY. In addition, the legislation would create the Energy 2000 Fund to maximize benefits of competition to consumers by providing mechanisms to reduce rates and to finance energy projects. The Committee will continue working for changes in the energy industry to benefit all ratepayers.

II. BUDGET

A. PETROLEUM OVERCHARGE RESTITUTIONARY FUNDS (POCR)

1. Background

The public first became aware of the importance of energy conservation during the energy crisis of the early 1970's and of the fact that rising energy costs can be mitigated through the efficient use of energy by consumers.

Successful conservation actually lowers ratepayers' bills. This fact is important to families who find their heating bills to be a major financial burden and to businesses for which high energy costs are an impediment to stability and growth. In addition, energy conservation can reduce the State's overall consumption of energy and decrease pollution. Also, the State's economy is strengthened through the creation of a new industry producing efficiency technology, such as manufacturing of energy efficient light bulbs, the implementation of advanced heating systems, and the development of high technology computer systems which analyze energy use and target the conservation of power.

Since 1986, the State has been able to support conservation efforts through the allocation of more than a quarter of a billion dollars, which New York gets as a result of federal court orders requiring oil companies to repay funds received from violating pricing regulations and illegally overcharging customers for petroleum products in the 1970's. The State has received money from three major settlements: Kansas Stripper, Exxon, and Warner. Additional settlements recently have been resolved. The federal courts ordered the states to use these restitutionary payments for energy conservation programs.

Over the years, the Committee has been successful in directing large portions of the money to low- and middle- income residential customers, who spend a high proportion of their incomes on energy bills. The Committee also has provided program funding for business and institutional customers. These programs provided free audits, low-interest loans, grants for energy conservation improvements, as well as, funds for the development of energy-saving technologies.

ERDA has been designated to administer uncompleted projects, contracts, and commitments which were entered into prior to March 31, 1995. PASNY has been designated as the custodian of more recent funding.

2. POCR Allocations

This year, Chapter 57 of the Laws of 1998, Budget Bill A.9096-B/S.6096-B, allocates \$2.2 million of POCR funds to PASNY in the following amounts to implement the following programs:

- **School Fuel Cell Equipment**

\$250,000 is provided for Liverpool Central School District High School for the installation of fuel cell equipment, including all accessory equipment.

- **RIT Efficiency Project with Mobil Films Division**

\$200,000 is provided for the installation of energy efficient building envelope and other improvements, in cooperation with Rochester Institute of Technology, at the facilities of a business involved with chemicals films and located in Monroe County.

- **RPI Efficiency Project with Beech-Nut**

\$100,000 is provided for flexible technical assistance and/ or technology transfer, in cooperation with Rensselaer Polytechnic Institute, to improve energy efficiency, productivity, and product quality associated with fruit/ vegetable processing, quick-freezing, and pressure cooking at Beech-Nut manufacturing facility located in Montgomery County.

- **RPI Efficiency Project with Feuz Manufacturing**

\$100,000 is provided for flexible technical assistance and/ or technology transfer, in cooperation with Rensselaer Polytechnic Institute, to improve energy efficiency, productivity, and product quality associated with the precision fabrication/ manufacturing of metal apparatus at Feuz manufacturing facility located in Schenectady County.

- **Energy Efficiency in Public Facilities**

\$83,333 is provided for energy efficiency improvements in public facilities for a variety of projects statewide.

- **Independent College and University Energy Assistance Loan Fund**

\$733,333 is provided for interest-free loans for energy efficiency projects at private colleges and universities throughout the State.

- **PASNY Efficiency Programs**

\$733,333 is provided to enhance existing PASNY programs, such as the High Efficiency Lighting Programs (HELP), which meet federal guidelines. HELP serves county and municipal government facilities, public schools and community colleges, and State government facilities. In addition, this program allows a sub-allocation for ERDA or similar government entities to promote energy conservation.

B. VETO OF FUNDING FOR PUBLIC UTILITY LAW PROJECT (PULP)

Governor Pataki vetoed \$761,000 of funding provided by the Legislature to PULP. PULP is a consumer group which advocates for affordable energy costs before the PSC, the Federal Government, and the courts.

III. COMMITTEE ACCOMPLISHMENTS

A. COMPETITION IN THE ELECTRIC INDUSTRY

Electricity costs in New York State are significantly higher than the national average. This disparity hampers economic prosperity for all consumers, especially businesses. The high cost of electricity threatens to erode the utilities' customer base, resulting in further rate increases for residential and small business customers who will be forced to bear a higher proportion of the utilities' fixed costs.

Increasing competition in the electricity industry, with proper regulatory safeguards, can result in lower electricity costs. Competition must be implemented in a manner that does not jeopardize the safety or reliability of the electric system and that provides benefits to all classes of customers.

The Assembly's legislative package, known as Competition Plus/Energy 2000, would provide a blueprint for the implementation of competition in the electric industry and would address issues which are solely in the purview of the Legislature. In addition, as a component of comprehensive legislation establishing a competitive electric industry and with the appropriate conditions and restrictions, securitization has the potential to reduce electricity costs, if combined with cost reductions by power producers.

This legislative package passed the Assembly but was not acted upon by the Senate.

1. The Assembly's Comprehensive Energy Strategy

Competition Plus; (A.7942-D, Tonko, Silver, Bragman)

This bill would require a ten percent electric rate reduction by September 1998 and later reductions equal to fifty percent of the difference between New York's average rates and those of the national average. It would allow customers to choose their electricity suppliers by March 2000 and would deregulate power producers.

Competition Plus would create separate companies for electricity generation and for transmission and distribution by 2003 and for electricity and gas by 2005, unless system reliability would be reduced or consumer costs would be increased. If it is determined that customers are not being served at reasonable prices or if customers are

not benefiting from competition, the PSC may re-regulate, as needed, to correct problems.

This bill would establish requirements for the implementation of competition in the electric industry. These requirements would include:

- guaranteeing the safety and reliability of the electric system;
- ensuring residential, commercial, and industrial customers benefit from competition;
- limiting utility cost recovery;
- preserving consumer protection and customer service;
- utilizing the expertise of electric industry workers and minimizing dislocations;
- fostering environmental and energy efficiency programs, and
- maximizing public participation.

This bill also would establish criteria for limiting excessive utility management costs and the restructuring of power purchase contracts.

This legislation also would establish a Temporary Special Commission for the purpose of overseeing the restructuring of the electric industry in New York State in a manner that best serves the public interest. The Temporary Commission would conduct public hearings and would negotiate with the members of the residential and business community, as well as, representatives of government in determining the best course for implementing competition. The Temporary Special Commission would expire upon the election of members of the PSC by the people of the State of New York.

This bill also would provide for the issuance of qualified rate orders by the Temporary Special Commission, consistent with the requirements for competition, to authorize the securitization of qualified transition expenditures. Eligible expenditures would be limited to:

- regulatory assets (costs related to demand-side management, research and development, low-income customers, renewable resources, environmental remediation, and worker transition) acquired before January 1, 1997;
- the costs of restructured independent power producers (IPP) contracts, and
- the cost of financing such expenditures.

The aggregate statewide amount of financing would be limited to \$5 billion. Access to financing would be based upon the reduction of costs to customers and would depend upon the implementation of utility transition programs, related to energy efficiency, renewable resources, and worker transition programs.

In addition, the legislation would create a temporary joint legislative commission to study the impact of a competitive industry on state and local taxation.

PASNY Reorganization and Energy 2000 Fund; (A.7941-C, Silver, Tonko, Bragman)

This bill would require a plan for the restructuring of PASNY and would establish the Energy 2000 Fund. This plan will provide immediate savings for all utility customers and will foster increased competition in the State's energy industry. This bill would designate a Power Authority Restructuring Board to create the restructuring plan and to approve all payments from the Energy 2000 Fund.

The plan would provide for the sale of all of PASNY's non-hydroelectric generating facilities and transmission facilities or would provide an explanation of why these assets could not be sold. PASNY would continue to operate hydro facilities and would support the electric system, particularly in transmission-constrained areas, if competition is not providing electricity services in an efficient manner.

The PASNY restructuring plan, when implemented, would minimize the dislocation of employees and would preserve benefits under existing collective bargaining agreements. Any transfer of facilities or restructuring of PASNY is contingent upon the extension of terms and conditions of employment, for a reasonable initial period, of any non-managerial employees. In addition, PASNY would operate an electric industry employee training center.

Workers would continue to receive their retirement benefits as though they were still employed by PASNY. The restructuring plan would provide for standards of training and certification of PASNY employees who operate and maintain electric facilities and for safety and reliability standards during emergencies and disasters.

The introduction of competition into the electric industry raises three important issues that are addressed by this legislation. The first issue is the role which PASNY should play as a competitor in the electricity market. PASNY has the potential to enjoy unfair advantages in this market. For this reason, PASNY should be restructured, so that it primarily provides services which are not adequately provided by the private sector.

The second issue is how utilities and other power producers will manage the transition into competition. In order to hasten the price

reductions which competition will bring, while avoiding unfair impacts on power producers, PASNY would establish the Energy 2000 Fund to provide loan guarantees, in a competitive manner, for private sector refinancing of power producer debt. This refinancing would result in immediate savings for utility customers.

The third issue is the treatment under a competitive industry of energy efficiency, research and development, worker transition, and other beneficial programs. The Energy 2000 Fund will ensure that important public benefits are not lost in the transition to competition.

Reliability and Workforce Bill; (A.8578, Rules, Tonko)

This bill would ensure that the reliability of the electric system would be maintained through the continued employment of a skilled workforce by the State's electric corporations and by PASNY. This bill would require the PSC to adopt standards for distribution systems and electric generating facilities and for training and certification of employees. This bill would require similar training and certification standards for PASNY employees.

The PSC would require electric corporations, undertaking (a) a sale of generation, transmission, or distribution assets, (b) a merger, sale of stock, formation of a holding company, or any other significant restructuring, or (c) a significant downsizing of operation and maintenance expenses, to establish an industry worker transition program, in conjunction with the Department of Labor (DOL).

The PSC also would require that the costs of such a program be funded with monies made available through the Empire State Economic Development Fund and the DOL's Secretary's Discretionary Grant Program. The PSC must ensure that all reasonable efforts have been made to obtain funds from these sources, prior to allowing any recovery of program costs from ratepayers.

The bill would not impair the effectiveness of any collective bargaining agreements, and contracts relating to employment terms would continue to remain in effect. This provision would apply to electric corporations and to PASNY.

This year, the bill originated in the Assembly Ways and Means Committee but is in the purview of the Assembly Energy Committee.

PSC Commissioners Accountability; (A.8245, Rules, Tonko)

This bill would require that the members of the PSC be elected to office. Allowing the public to elect PSC Commissioners would provide greater participation and accountability in the regulation of the provision of gas and electric service, which is vital to the public interest. In order to provide greater public oversight, two consecutive Legislatures (for example, this one and the one after the next election)

would have to approve this measure before the election of the PSC members could occur.

This year, this bill originated in the Assembly Corporations, Authorities, and Commissions Committee but is in the purview of the Assembly Energy Committee.

Nuclear Restrictions for PASNY; (A.10214, Tonko)

This bill would ensure that PASNY does not acquire the financial liabilities of nuclear facilities owned by the State's utilities at the expense of the Authority's customers.

PASNY is a public entity and should not be used to bail-out the nuclear costs of the State's utilities, especially if PASNY's customers could be ultimately responsible for repaying that financing.

This bill would prohibit PASNY from: (1) acquiring any interest in; (2) becoming involved in the repayment of costs associated with; or (3) making capital investments in, any nuclear plant it did not have an ownership interest in during 1996.

This prohibition would not apply to actions or contracts related to the closure and decommissioning of a nuclear plant which PASNY did not own in 1996 as long as such a project is not paid for by PASNY's customers.

PASNY Funding for Consumer Projects; (A.10215, Tonko)

This bill would require PASNY to provide at least \$100 million annually in funding for energy conservation and renewable energy projects for consumers who apply.

Financial assistance would include loans, interest subsidies, loan guarantees, and/or principal reductions. Such assistance would be provided based on the amount of energy saved compared to the amount of financial assistance required. This financial assistance would be repaid to PASNY over a ten year period with savings which accrue to the applicant as a result of installing efficient equipment.

Funding for energy conservation and renewables, either through utilities or other State resources, has declined in recent years. Energy saving measures should continue to be readily available to consumers in order to reduce energy bills. This bill would provide financial assistance without cost to utility or PASNY ratepayers.

2. Near Term Competitive Options

Accelerating and Expanding of the Power for Jobs Program; (Chapter 386 of the Laws of 1998, A.11406-A, Rules, Tonko)

The Power for Jobs Program was enacted in 1997 to provide lower cost power to small and large businesses and to not-for-profit corporations for the creation and retention of jobs. The power under the program has been in high demand.

This law increases the amount of power available under the Power for Jobs Program from 400 megawatts to 450 megawatts. The measure increases the amount of power available for small businesses and not-for-profit corporations from 75 megawatts to 100 megawatts. Half of the power (225 megawatts) comes from competitive procurement. The rest of the power would come from PASNY's FitzPatrick Nuclear Facility.

The legislation accelerates the allocation of the existing 400 megawatts of power under the Power for Jobs Program from three years to two years. It requires that two-thirds (267 megawatts) of the original power be made available in the first year and one-third (133 megawatts) in the second year. The additional 50 megawatts is made available in the third year of the program.

PASNY has required small businesses who use less than 400 kilowatts to apply for power under the Power for Jobs program as a group. Many small businesses are unaware of how to apply as a group. This act lowers the threshold for power use from 400 kilowatts to 100 kilowatts for which small businesses can apply for power on their own or as a group.

Eligible program participants still need to meet job creation or job retention commitments under existing law. Job creation criteria include the number and type of jobs to be created, long-term commitment to New York State, and contribution to economic strength of the area. Job retention criteria include to what extent operations would be scaled back or closed down, competitors have access to lower electricity prices, or investments are being made in on-site electric-generation technology.

Expanding Net Metering Tax Credits; (Chapter 467 of the Laws of 1998, A.11252, Rules, Englebright)

Net metering was enacted in 1997 to nurture competition in New York State's electric industry by providing residential customers with short-term choices as to how their electricity is produced. Net metering involves giving residential utility customers the opportunity to save money by generating their own power and still remaining a utility customer for back-up power.

This law revises the personal income tax credit for the installation of solar generating equipment used as part of net energy metering. The revised credit formula encourages residential customers to install smaller units and preserves the benefits of the existing program for installers of larger units.

The new formula increases the amount of costs per watt allowed to be used in computing the tax credit from \$1.50 to \$6.00 and establishes \$3750 as the maximum allowable credit per taxpayer. Existing law limits the availability of net energy metering to 0.1 percent of the 1996 peak demand of each electric corporation.

3. Consumer Protection Measures

Ensuring Continued Energy Services to Consumers; (A.5989-A, Tonko)

This bill would maintain consumer protections provided under the Home Energy Fair Practices Act and related provisions for residential gas, electric, and steam customers. This bill would clarify and underscore existing law by explicitly prohibiting the waiver of any right, obligation, rule or regulation related to continuing, starting, changing or discontinuing residential gas, electric, or steam service by any party or the PSC. These rights include safe, reliable, dependable and continued service for all residential customers, regardless of a customer's ability to pay for that service and without the fear of termination without proper notice.

This year, the bill originated in the Assembly Rules Committee but is in the purview of the Assembly Energy Committee. This legislation passed the Assembly but was not acted upon by the Senate.

Utility Contracting for Labor Rules; (A.5763, Brodsky)

This bill would limit the ability of an electric or gas utility to enter a contract to purchase services, currently performed by or within the professional practice of members of the utility's own bargaining unit. The bill would apply to contracts which exceed \$250,000 and change orders to such contracts which increase the value by more than 25 percent.

The utility may enter into such a contract only if it is: (1) cost-effective, while providing that the contractor's wages and supplements are not substantially below the prevailing wages and supplements for the area; or (2) required for a short duration, special expertise or to meet an urgent need; and, in either case, (3) in compliance with law and with the utility's affirmative action efforts (including compliance by the contractor with the utility's goal).

Not less than 15 days before award of the contract (except in the case of an emergency contract), the utility must give the involved union information about how the contract complies with the above criteria.

The bill provides an opportunity for the union to be heard before the PSC, for approval or disapproval of the contract by the PSC, and for ultimate review under Article 78 of the Civil Practice Law and Rules.

Certain gas and electric utilities have been contracting out services which are presently performed by bargaining unit members but may not in fact be reducing utility costs. Workers and management can work together to accomplish the public goal of safe work and reasonable utility rates, without relying on reducing the numbers of bargaining unit employees.

This legislation passed the Assembly but was not acted upon by the Senate.

Transfer of State Energy Code; (Chapter 292 of the Laws of 1998, A.8328-A, Rules, Tonko)

This law transfers the State Energy Conservation Construction Code from the Division of Housing and Community Renewal (DHCR) to the Department of State (DOS), where other building codes are now housed.

The State Fire Prevention and Building Code Council is authorized to review and amend rules and regulations to ensure that the Code is cost-effective and provides energy savings.

The Secretary of State is authorized to issue written interpretations of the Code upon request and to review applications for variances or modifications to the Code. The Secretary of State is required to report annually to the Legislature and the Governor as to the operation and effectiveness of the Code.

B. RATE REGULATION

Reducing Rates For Veterans' Organizations; (Chapter 82 of the Laws of 1998, A.422, Gunther)

This law requires utilities and municipalities to offer not-for-profit veterans' posts or halls the same rates currently charged to domestic consumers, religious organizations and community residences, without raising rates to other consumers.

Currently, veterans' organizations are charged a utility rate based on the amount and type of service they use. Higher utility rates reduce the operating budgets of veteran organizations, thus limiting their ability to sponsor needed community services. Reducing energy costs for veterans' organizations would allow them to better afford to provide community services to veterans and would accelerate the transition to a competitive electricity market.

This year, the bill originated in the Assembly Rules Committee but is in the purview of the Assembly Energy Committee.

Lifeline Rates; (A.8294-B, Rules, Vann)

This legislation would establish a lifeline rate, on or after March 1, 2000, to assist seniors with incomes below \$60,000 and low income residential customers in paying their electric bills, without raising costs for other customers.

The bill would require electric utilities and LIPA to provide a \$10 discount off of the portion of the bill for transmission, distribution, and account management products and service charges (electricity charges other than the costs to acquire or generate electricity).

This legislation passed the Assembly but was not acted upon by the Senate.

Natural Gas Prices at City Gate; (A.5875, Parment)

This bill would require the PSC to direct gas corporations to purchase natural gas at the lowest available price at "city gate." Gas corporations would not be required to purchase natural gas from instate or out-of-state sources when it can be demonstrated that such a purchase would have an adverse impact on ratepayers, which cannot be reasonably mitigated.

This year, the bill originated in the Assembly Rules Committee but is in the purview of the Assembly Energy Committee. This legislation passed the Assembly but was not acted upon by the Senate.

IV. PUBLIC HEARINGS

A. COAL CONVERSION AND OTHER ISSUES AFFECTING ENERGY AND SCHOOLS

On February 5, 1998 in New York City, several Assembly Committees held a public hearing to gather information and hear comment on the topic of energy and schools, including the status of coal conversion projects in New York City schools.

The successful implementation of the Clean Air for Schools coal conversion projects is dependent upon the cooperative effort of PASNY, the New York City Board of Education and the School Construction Authority. The Committees investigated the status of this program and the efforts that each of the parties is contributing to its timely implementation.

B. DISTRIBUTED GENERATION AND HIGH-TECH ENERGY EFFICIENCY

On May 8, 1998 in Hauppauge, New York, the Assembly Standing Committee on Energy and the Legislative Commission on Science and Technology held a public hearing to examine economics of cutting-edge energy technology.

The purpose of this hearing was to examine factors that would facilitate growth in the high-tech energy sector, especially in distributed generation and energy efficiency. Fostering development in this sector would lead to the use of innovative energy technologies and a more economical energy supply and to the growth of high-tech energy businesses and jobs in New York state and on Long Island.

The Assembly Majority's high-tech agenda to create high-wage jobs includes initiatives to reduce taxes, develop a quality workforce, improve businesses' access to capital, foster industry and university collaboration, improve infrastructure, and market the State's technological resources.

Witnesses at the hearing discussed advances in the high-tech energy sector, opportunities for and barriers to the location and expansion of businesses, collaboration between businesses and universities, and the role of the State in fostering growth in the high-tech energy sector.

C. EXAMINATION OF THE OVERSIGHT ROLE OF THE PUBLIC SERVICE COMMISSION (PSC) AND THE LONG ISLAND POWER AUTHORITY (LIPA) RELATING TO THE PAYMENT OF BONUSES TO TOP EXECUTIVES OF THE LONG ISLAND LIGHTING COMPANY (LILCO)

In Farmingdale, New York, on June 23, 1998 and on July 28, 1998, the Assembly Standing Committee on Energy and the Assembly Standing Committee on Corporations, Authorities and Commissions held public hearings to scrutinize excessive bonuses to LILCO executives.

At issue was the circumstances under which LILCO's Board of Directors issued \$67 million in bonuses to the Chairman of LILCO and several of its top executives, whether Long Island ratepayers have been harmed, what redress may be possible, and the extent of any failure on the part of the PSC or LIPA in their oversight roles.

These hearings examined whether officials of LIPA or the PSC knew or should have known of these bonuses or the possibility of these bonuses, prior to the closure and approval of the mergers and transactions among LILCO, Keyspan (formerly Brooklyn Union Gas Company), and LIPA. The hearing inquired into the negotiation and oversight processes employed by LIPA and the PSC, in order to determine whether the proper questions about executive bonuses were asked by the agencies charged with the responsibility of protecting ratepayers and taxpayers.

VI. BRIEFING PAPERS

Increasing competition in the electric industry involves far reaching policy decisions requiring serious public input, debate and comprehensive solutions. The Assembly has issued a series of reports which begin to describe the nature and scope of decisions which must be made and the types of solutions to be considered.

In January 1998, Energy Committee Chairman Paul Tonko released a public hearing summary, *Highlights of Testimony from Assembly Hearings on Niagara Mohawk's PowerChoice Settlement*. Witnesses testified that the NiMo settlement was developed with insufficient public participation, does not reduce electricity prices sufficiently or equitably, has unfavorable economic consequences, does not provide equal access to competition for electricity services, and inadequately addresses public policy and nuclear issues.

Also, in 1997, the Assembly issued five papers as part of its "Shedding Light" series of briefing papers to provide background and focus for the public policy decisions which must be made during the transition to competition in the electric industry in New York State and the nation. These papers addressed the topics of securitization, electricity prices, and the LIPA/LILCO deal.

In addition, the Assembly has released two documents, *The Electric Industry in New York* in December 1995 and *Competition Plus/ Energy 2000* in March 1996. The first is a general primer on the industry, and the second describes the only comprehensive governmental proposal to address the move to competition.

The policy decisions discussed by the Assembly's briefing papers involve tens of billions of dollars, thousands of jobs, and consequences for decades. These decisions will determine whether New Yorkers can count on reliable service, whether New York State can compete to retain and create jobs, and whether residents and businesses can receive large reductions in their excessive electric rates.

VII. OUTLOOK FOR 1999

The Committee will continue to look for comprehensive solutions to reduce electricity costs and foster competition for all customers. As the electric industry prepares to move towards a competitive marketplace, the Committee will closely monitor the increasing competition among the utilities, independent power producers, and PASNY. In keeping with its progressive role, the Committee also will scrutinize closely new developments and technologies throughout the electric industry, including those of other states. The Committee will consider innovative ways to stimulate job creation and retention in the business and utility industry sectors and to reduce energy costs for customers.

APPENDIX A

1998 SUMMARY SHEET

Summary of Action on All Bills
Referred to the Committee on

ENERGY

<u>Final Action</u>	<u>Assembly Bills</u>	<u>Senate Bills</u>	<u>Total</u>
<u>Bills Reported With or Without Amendment</u>			
To Floor	0	0	0
To Ways and Means	18	0	18
To Codes	6	0	6
To Rules	2	0	2
To Judiciary	0	0	0
Total	26	0	26
<u>Bills Having Enacting Clauses Stricken</u>	2	0	2
<u>Bills Never Reported, Held in Committee</u>	11	0	11
<u>Bills Never Reported, Remained in Committee</u>	39	4	43
<u>Bills Recalled or Substituted</u>	0	3	3
Total Bills Referred to Committee	78	7	85
<u>Bills Committed to Rules</u>	3	0	3
<u>Bills Committed to W&M</u>	1	0	1
<u>Bills Committed to Corporations</u>	1	0	1
Total Bills in Committee Purview	83	7	90
<u>Energy Related Bills Which Passed Assembly</u>	14	0	14
<u>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</u>	5		

APPENDIX B

Bills Passed by Both Houses

<u>Governor's Action</u>	<u>Bill Number</u>	<u>Description</u>
Chapter 82	A.422 (Gunther)	Reduces rates for veteran's posts
Chapter 292	A.8328-A (Rules, Tonko)	Transfers the State Energy Code from DHCR to DOS
Chapter 467	A.11252 (Rules, Englebright)	Improves tax credit for installation of small net metering systems
Chapter 386	A.11406-A (Rules, Tonko)	Expands and accelerates the Power for Jobs Program

APPENDIX C

Bills Passed by the Assembly Only

<u>Bill Number</u>	<u>Sponsor</u>	<u>Description</u>
A.5763	Brodsky	Would limit contracting out by utilities of union labor work
A.5875	Parment	Would require purchase of natural gas at lowest price at the city gate
A.5989-A	Tonko	Would prohibit waiver of consumer protection under the Home Energy Fair Practices Act
A.7941-C	Rules, Silver	Would restructure PASNY and create the Energy 2000 Fund
A.7942-D	Rules, Tonko	Would reduce electric rates, implement competition, and allow limited securitization
A.8294-B	Rules, Vann	Would establish electric lifeline rate for seniors and low-income customers
A.8245	Rules, Tonko	Would require election of PSC Commissioners
A.8578	Rules, Tonko	Would establish a worker transition program for electric utilities and PASNY
A.10214	Tonko	Would prohibit PASNY from bailing-out utility nuclear costs
A.10215	Tonko	Would require PASNY to fund consumer energy efficiency and renewables projects