

TEXT OF RULE

Chapter III of Subtitle BB of 9 NYCRR is hereby repealed. A new Chapter III is added as follows:

STATE ENERGY PLANNING PROCEEDING

TABLE OF CONTENTS

SUBCHAPTER A	GENERAL PROVISIONS
Part 7840	Introduction
Part 7841	Definitions
Part 7842	Public Access to Records
Part 7843	[Reserved]
SUBCHAPTER B	PROCEDURES
Part 7844	Scoping
Part 7845	Commencement of the Energy Planning Proceeding
Part 7846	Filing and Service of Documents
Part 7847	Draft State Energy Plan
Part 7848	Board Hearings
Part 7849	Subpoenas
Part 7850	Waiver
Part 7851	State Energy Plan
Part 7852	Amendments
Part 7853	[Reserved]
Part 7854	[Reserved]
SUBCHAPTER C	PLANS OF MAJOR ENERGY SUPPLIERS
Part 7856	General Provisions
Part 7857	Electric Plans
Part 7858	Natural Gas Plans
Part 7859	Petroleum Plans
Part 7860	Coal Plans
Part 7861	Steam Plans
Part 7862	Biogas, Biofuel and Biomass Plans
Part 7863	End-Use Energy Efficiency, Renewable and Emerging Technology Plans

SUBCHAPTER A

GENERAL PROVISIONS

PART

7840	Introduction
7841	Definitions
7842	Public Access to Records
7843	[Reserved]

7840.1 Introduction. (a) This Chapter comprises the regulations for implementation of the State Energy Planning proceedings established by Chapter 433 of the Laws of 2009, as amended by Chapter 195 of the Laws of 2011. These proceedings culminate in the issuance by the State Energy Planning Board ("Board") of a State Energy Plan ("Plan") every four years, with the final version of the first Plan to be issued on or before March 15, 2013.

(b) The energy planning proceedings shall provide all entities listed in section 6-106(3) of the Energy Law and other interested persons a full and fair opportunity to present information and their views to the Board on any aspect of, or issue required to be addressed in, the State Energy Plan.

(c) The Plan will not be a fixed document. The Board is required to (1) adopt a Plan every four years, and (2) prepare a biennial report every second year following issuance of a Plan. The Board may amend the Plan, or aspects thereof, upon its own initiative or upon the written application of any interested person, in accordance with Part 7852.

(d) Any energy-related action or decision of a state agency, board, commission or authority shall be reasonably consistent with the forecasts and the policies and long-range energy planning objectives and strategies contained in the Plan, including its most recent update; provided, however, that any such action or decision which is not reasonably consistent with the Plan shall be deemed in compliance with this subdivision, provided that such action or decision includes a finding that the relevant provisions of the Plan are no longer reasonable or probable based on a material and substantial change in fact or circumstance, and a statement explaining the basis for this finding. A state agency, board, commission or authority may

take official notice of the most recent State Energy Plan adopted by the Board prior to any final energy-related decision by such agency, board, commission or authority.

(e) Nothing in these regulations shall limit the authority of any state agency, board, commission or authority to deny the application to construct, operate or modify an energy facility on environmental or public health and safety grounds, or that alternate means of energy procurement or alternate location for an energy facility can be secured.

(f) To facilitate public participation in the energy planning process, a State Energy Plan website will be created and the Secretary will maintain a service list.

PART 7841 DEFINITIONS

Section 7841.1 Definitions. (a) For the purposes of this Chapter, the terms hereinafter listed shall have the following meanings:

1. Biofuel means a liquid or solid fuel derived from biomass through chemical, thermal, or biological processes.
2. Biogas means a gas produced by the breakdown of biomass, typically yielding a mixture of methane and carbon dioxide.
3. Biogas, Biofuel, and Biomass Research and Development means any efforts or activities to develop innovations that improve methods for growth, production, processing, or end-use efficiency of biogas, biofuel, and biomass.
4. Biomass means a biological material, including but not limited to plant material and the biogenic portion of municipal solid waste.
5. Board means the State Energy Planning Board established under subdivision one of Section 6-102 of the Energy Law.
6. Bulk System Operator, or BSO, means the New York Independent System Operator, or its successor.
7. Capability Period, for the electricity sector, means six month periods which are established as follows: (1) from May 1 through October 31 of each year ("Summer Capability Period"); and (2) from November 1 of each year through April 30 of the following year ("Winter Capability Period"); or such other periods as may be determined by the Bulk System Operator. A Summer Capability Period followed by a Winter Capability Period shall be referred to as a "Capability Year."
8. Capacity means the capability to generate or transmit electrical power, or the ability to control demand at the direction of the Bulk System Operator, measured in megawatts ("MW").

9. Chair means the Chair of the Board, who shall be the President of the New York State Energy Research and Development Authority.
10. City Gate means a point or measuring station at which a local distribution company receives natural gas from a natural gas pipeline company or transmission system.
11. Cogeneration means the production of electrical energy and another form of useful energy, such as heat or steam, through the sequential use of energy.
12. Coincident Peak Demand means the electricity demand of individual customers, group of customers, or sub-systems that occurs at the same time of peak demand of the entire electric power system. Coincident peak demand may be identified for both summer and winter periods.
13. Control Efficiency means the ratio of the amount of a pollutant removed from effluent gases by a control device to the total amount of pollutant without control.
14. Co-products means other products made as a result of biofuel and biomass production, including but not limited to livestock feed, sweeteners, fibers, and oil.
15. Delivery means the physical transfer of natural, synthetic, or supplemental gas from facilities operated by the responding company to facilities operated by others or to consumers.
16. Electricity Research and Development means any efforts or activities to develop innovations that improve and/or advance more efficient or lower emitting methods for generation, transmission, distribution, or end-use of electricity.
17. Electricity Transmission and Distribution Company means a company that owns and operates electric transmission and distribution assets.

18. End-User means the Person that ultimately consumes the energy solely for its own purposes and does not sell such energy for resale or further distribute such energy other than for its own consumption.
19. End-Use Energy Efficiency, Renewable and Emerging Technology Research and Development means activities or projects engaged in for the purpose of developing technological innovations or improvements at the customer-sited level that enable needed functions to be performed with less energy expended or with energy sources that are renewable and sustainable.
20. Energy Efficiency means methods and technologies that can reduce the input requirements of energy, electricity, or fuel used to accomplish the same level of output.
21. Energy Service Company means a person that provides energy commodity services for End-Users and/or finances, installs, implements or otherwise facilitates energy efficiency, cogeneration, on-site energy production, demand response, aggregation of energy and/or demand reduction, and/or other measures and services for End-Users.
22. Expansion Pipeline Capacity Projects means any additional through put capacity gained by an additional pipeline or system modifications that increase the volume transported through existing pipelines.
23. Firing Type means boiler configuration, such as, but not limited to, tangential, wall-fired, cyclone or stoker.
24. Fuel Type means the fuel used to produce energy, heat, steam, or other usable form of output and includes, but is not limited to, natural gas, distillate oil, residual oil, kerosene, methane gas, uranium, coal, (such as anthracite, bituminous, sub-bituminous, or lignite), biofuel, biogas, biomass, sunlight, water, and wind.
25. Gathering System means a network of smaller pipelines leading from well heads into larger processing or pipeline systems.

26. Generation Unit means a facility supplying electric capacity and/or producing electricity or ancillary services and/or an electric energy storage facility that is accessible to the New York Control Area.
27. Hearing Officer means the person(s) designated by the Chair to conduct any hearing held under this Chapter. The Hearing Officer shall have all the powers of the Board in the conduct of hearings.
28. Heat Rate means to measure a generating station thermal efficiency, generally expressed in BTUs per net kilowatt-hour. The net heat rate is computed by dividing the total British Thermal Unit, or BTU, content of fuel burned for electric generation by the resulting net available kilowatt-hour generation. Average annual heat rate is the net heat rate computed over the period of a calendar year. In the case of cogeneration facilities, the input BTUs of fuel burned for electric generation should be calculated by taking the input BTUs of fuel used for combustion turbines, steam boilers (excluding backup boilers) and supplemental firing then subtracting the net output BTUs of useful thermal energy provided for purposes other than electric generation.
29. Heat Rate Penalty means the average percentage increase in average annual heat rate which results from the application of a particular emission control technology.
30. In-State Natural Gas Production means natural gas extracted within the boundaries of New York State.
31. Independent Oil Supplier means any entity: (a) involved in the production of oil with less than \$5,000,000 per year in retail sales and who do not refine more than 75,000 barrels per day; or (b) commonly referred to as a "jobber", who is involved in the purchase of petroleum products from refiners for the purpose of resale to retailers; or (c) exclusively involved in the retail provision of petroleum based products.

32. Integrated Major Oil Company means any entity engaged in one or multiple phases of the oil or petroleum business, ranging from upstream exploration and production to downstream functions relating to transportation, refining, marketing and retail whose revenues exceed \$5,000,000 per year from retail sales of petroleum products or natural gas.
33. Interface means a defined set of transmission facilities that separate Load Zones and that separate the New York Control Area from adjacent control areas.
34. Interstate Natural Gas Pipeline means any pipeline operator engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. 717 et seq.
35. Intrastate Natural Gas Pipeline means any pipeline operator engaged in natural gas transportation (not including gathering system) which is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act [15 U.S.C. 717 et seq.], other than any such pipeline which is not subject to the jurisdiction of the Federal Energy Regulatory Commission solely by reason of section 1(c) of the Natural Gas Act [15 U.S.C. 717 (c)].
36. Liquefied Natural Gas, or LNG, means natural gas stored as a cryogenic liquid.
37. Load means the amount of electric power, as measured in kilowatts or megawatts, required at any specified point or points on a system at a specific moment in time by an End-User or group of End-Users.
38. Load Shape means the distribution of energy requirements over time and is derived from plotting energy requirements on a chart or graph, which produces a graph whose curve usually has a distinctive shape. As energy requirements change, the shape of the graph also changes, so the

redistribution of demand or load is referred to as changing the load shape.

39. Load Zone means one of eleven geographical areas located within the New York Control Area that is bounded by one or more of the fourteen New York State Interfaces.
40. Local Distribution Company, or LDC, means any person engaged in the transportation, or local distribution, of natural gas and the sale of natural gas for ultimate consumption, other than a natural gas interstate pipeline, intrastate pipeline, storage company or gathering system.
41. Major Biomass Supplier or Processor means a major solid biomass supplier or processor that supplies or processes items within New York State such as, but not limited to corn, oilseeds, switchgrass, and forest products. Major Biogas or Biofuel Producer means a major liquid or solid biofuel or biogas producer that manufactures items within New York State such as, but not limited to, ethanol, biodiesel, wood pellets, and manufactured logs. Major biomass supplier or processor is any entity that has the capacity to supply or process more than 20,000 tons of biomass annually. Major biofuel producer is any entity that has the capacity to produce more than ten million gallons of liquid biofuel annually or more than 20,000 tons of solid biofuel annually. Major biogas producer is any entity that has the capacity to produce more than 100 million cubic feet of biogas annually.
42. Major Coal Supplier means any person who, during the preceding calendar year, acted as a producer, broker, transporter, or wholesaler of 25,000 tons or more of anthracite, bituminous, sub-bituminous or lignite coal delivered into the State distribution system for use within the State.
43. Major Electricity Supplier means any entity other than the Bulk System Operator involved in the generation, transmission or distribution of

greater than 10 megawatts electric power, the provision of voltage support, backup or spinning reserve or other grid-related ancillary services for sale into the bulk wholesale electric power system in New York.

44. Major Energy Supplier means any of the following: major electricity supplier; major natural gas supplier; major petroleum supplier; major coal supplier; major steam supplier; major biomass supplier or processor; or major biogas or biofuel producer.
45. Major Natural Gas Supplier means any Local Distribution Company operating in franchised service territories serving 14,000 customers or more, persons engaged in extraction of natural gas from in-state geologic formations, storage companies, or any intrastate and interstate natural gas pipeline company providing service within and to the State.
46. Major Petroleum Supplier means any person who, during the preceding calendar year, made the first sale, involving either physical delivery or exchange agreements, of any petroleum product or crude oil, other than raw material input for refinery runs, into the State for use within the State, provided that either the total annual volume of all such sales exceeded 2,500,000 barrels or such sales of propane alone exceeded 250,000 gallons. Such term includes 1) independent oil suppliers and 2) pipeline companies which are used to deliver refined petroleum fuels into the State and barge companies which annually deliver more than one million gallons of refined petroleum fuels into the State.
47. Major Steam Supplier means any steam corporation operating in franchised service territories.
48. Municipality means an incorporated city, county, town, or village.

49. Nameplate Rating means the maximum rated output of a generator under specific conditions designated by the manufacturer.
50. Natural Gas-Fired Project means an electric generating facility operating with natural gas as an input fuel to the plant, including but not limited to turbines, engines or boilers.
51. Natural Gas Research and Development means any effort or activity to develop innovations that improve and/or advance natural gas exploration, production, delivery, and/or end-use.
52. New York Control Area, or NYCA, means the portion of the bulk electric system under the operational control of or subject to notification by the Bulk System Operator.
53. New York Independent System Operator, or NYISO, means the not-for-profit corporation, or any successor organization, responsible for operating the State's bulk electricity grid, administering New York's competitive wholesale electricity markets, and conducting comprehensive long-term planning for the State's electric power system serving New York State. NYISO is the federally designated electric bulk system operator in New York.
54. New York State Reliability Council, or NYSRC, means **an entity which promulgates criteria and standards to reliably plan and operate the New York State bulk power system, and which establishes the annual statewide Installed Capacity Requirement.**
55. Non-Coincident Peak Demand is the actual individual electric power peak demand of each customer or sub-system whose time of occurrence does not necessarily coincide with the time of peak demand for the entire electric power system.
56. Once through cooling means a power plant cooling system that withdraws water directly from a water body, moves it through a condenser where it

absorbs heat from the boiler steam and then discharges back into the source water body at an elevated temperature.

57. Peak Day means the one day consisting of a 24 hour-period (mid-night - 11:59 pm) with the highest demand of natural gas or electricity during a month or year.
58. Person means any individual, trustee, agency, partnership, association, corporation, company, municipality, political subdivision or other legal entity.
59. Petroleum Plans means the plans of the major petroleum suppliers containing the information required by section 6-106 of the Energy Law and this Chapter.
60. Petroleum Research and Development means any efforts or activities to identify potential areas and develop innovations that improve or advance methods for exploration, production, processing, or end-use of petroleum and refined petroleum products.
61. Planning Period means a time period designated by the Board.
62. Principal Structure means the main design type of the electric transmission facility, including underground/water circuit, wood structure single circuit, wood structure double circuit, steel structure single circuit, steel structure double circuit, or steel structure quadruple circuit.
63. Proposed Electric Transmission Facility means a facility that will, if constructed, have the capacity to transmit electricity from one point to another in an electric power system.
64. PTID means a five digit Plant Identification number as assigned by the Bulk System Operator to a Generating Unit.
65. Records Access Officer means the person designated by the Chair to ensure appropriate response by the Board to requests to the Board for access to records.

66. Refined Petroleum Fuels means petroleum fuels used to produce heat and power including, but not limited to, gasoline, jet fuel, distillate fuels (#2 fuel oil, kerosene and diesel), residual oils (#4, 5 and 6 fuel oil, and bunker oil), and liquefied petroleum gases (propane).
67. Requirements, as applied to electricity, means the electric energy requirements of a power system which include, but are not limited to, voltage support, frequency regulation and other services that are necessary to support the transmission of energy from resources to loads while maintaining reliable operation of the transmission system in accordance with **mandatory reliability standards, criteria, and rules, and** Good Utility Practice.
68. Rerating means changing the stated capacity rating of a generating unit or station.
69. Resource means equipment, structure, or fuel that has the capability to provide energy.
70. Sales means the retail or wholesale transaction of a unit of energy between an Energy Provider, including but not limited to a Utility, and an End-User.
71. Secretary means the person designated by the Chair to perform administrative and other functions determined by the Chair.
72. Sendout means the gross amount of natural gas introduced into the transmission or distribution system that is needed to meet demand in a given time period.
73. State means New York State.
74. State Energy Plan, or the Plan, means a plan adopted by the Board pursuant to Article 6 of the Energy Law and these regulations.
75. Steam corporation means every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever owning, operating or

managing any steam plant, (a) except where steam is made or produced and distributed by the maker, on or through private property solely for the maker's own use or the use of the maker's tenant and not for sale to others, (b) except where steam is made or produced by the maker solely from one or more co-generation or alternate energy production facilities or distributed solely from one or more of such facilities to users located at or near a project site or (c) except where steam is made or produced and distributed solely for the use of its members by a non-profit cooperative corporation organized under the cooperative corporations law.

76. Storage means a facility that stores energy. An electric energy storage facility is a facility that stores electric energy through existing and emerging technologies including, but not limited to, pumped storage hydroelectric generation, compressed air energy systems, batteries, capacitors, and flywheels. A natural gas storage facility is a facility that stores natural gas, either above or below ground. A petroleum storage expansion project is any significant modification or expansion of petroleum storage or transshipment facilities with total storage capacity above 400,000 gallons that will result in the construction of new storage tanks or alteration of the intended use of existing tanks.
77. Summer Season Sales natural gas means sales from April through October directly to a retail or end-use customer.
78. Throughput is a measurement of the amount of oil or gas product flowing through a pipeline.
79. Transportation Capacity (Firm and Interruptible) means pipeline capacity available for purchase or use by entities other than that which originally contracted for it.

80. Unit Availability means the number of hours per year the unit was capable of producing electricity, whether it actually produced electricity or not, based on the unit's forced outage rate.
81. Unit Type describes the technology used to produce electricity or heat and may include but not limited to natural gas (combustion) turbine, combined cycle, cogeneration, steam turbine, fuel cell, conventional hydro, integrated coal gasification, internal combustion, jet engine, nuclear steam (boiling water reactor or pressurized water reactor), pumped storage hydropower, flywheel technology, photovoltaic, and wind turbine.
82. Winter Season Sales means natural gas sales from November through March directly to a retail or end-use customer.

PART 7842 PUBLIC ACCESS TO RECORDS

Section

- 7842.1 Purpose and scope
- 7842.2 Designation of Records Access Officer
- 7842.3 Location of records
- 7842.4 Hours for public inspection
- 7842.5 Requests for public access to records
- 7842.6 Confidential information
- 7842.7 Subject matter list
- 7842.8 Denial of access to records; Appeals
- 7842.9 Fees
- 7842.10 Public notice

Section 7842.1 Purpose and scope. (a) The people's right to know the process of government decision-making and the documents and statistics leading to determinations is basic to our society. Accordingly, the Board's policy with respect to requests for its records is that disclosure is the rule and withholding is the exception. All records not exempt from disclosure will be made available.

(b) The Board shall furnish to the public the information and records required by the Freedom of Information Law (Article 6 of the Public Officers Law), as well as records otherwise available by law.

(c) Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

Section 7842.2 Designation of Records Access Officer. (a) The Chair is responsible for ensuring compliance with these regulations, and has designated the Records Access Officer on the State Energy Plan website.

(b) The Records Access Officer is responsible for ensuring appropriate responses to requests for access to records from the Board.

(c) The Records Access Officer shall ensure that the Board and its staff:

(1) maintains an up-to-date subject matter list of records in the Board's possession;

(2) assists persons seeking records to identify the records sought, if necessary, and when appropriate, indicates the manner in which the records are filed, retrieved or generated to assist persons in reasonably describing records;

(3) contacts persons seeking records when a request is voluminous or when locating the records involves substantial effort, so that the Board may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested;

(4) upon locating the records, considers the request in accordance with with Sections 7842.5 and 7842.6, then takes one of the following actions:

(i) makes records available for inspection; or,
(ii) denies access to the records in whole or in part and explains in writing the reasons for denial;

(5) upon request for copies of records:
(i) makes a copy available upon payment or offer to pay established fees, if any, in accordance with Section 7842.9; or,

(ii) permits the requester to copy those records;

(6) upon request, certifies that a record is a true copy;
and

(7) upon failure to locate records, certifies that:

(i) the records are not in the possession of the Board, or

(ii) the records of which the Board is a custodian cannot be found after diligent search.

Section 7842.3 Location of records. Records shall be available for public inspection and copying at a location designated by the Board and posted on the State Energy Plan web site.

Section 7842.4 Hours for public inspection. Requests for public access to records shall be accepted and records produced during all hours regularly open for business. These hours are 8:30 a.m. - 5:00 p.m. or at alternate hours at the Board's discretion.

Section 7842.5 Requests for public access to records. (a) A request for records must be in writing. Any written request for records shall be deemed to be a request for records pursuant to the Freedom of Information Law, whether or not the Freedom of Information Law is mentioned in the request. A request for records may be sent to the State Energy Planning Board Records Access Officer.

(b) A request for access to records must reasonably describe the records requested. Where possible, specific information regarding dates, title, file designations, and other information which may help identify the records, should be supplied by the requester. Where the information supplied by the requester is not sufficient to permit identification and location of the records by Board staff without an unreasonable amount of effort, the requester will be contacted and asked to supply the necessary information. Every reasonable effort shall be made by Board staff to assist in the identification and location of requested records.

(c) The Board shall respond to a written request which reasonably describes the records sought within five business days of receipt

of the request. When appropriate, the response shall include a statement that access to the records sought will be determined in accordance with section 7842.6 of this Part, "Confidential information."

(d) If the Board does not provide or deny access to the record sought within five business days of receipt of a request, the Records Access Officer shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when the request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with section 7842.6 of this Part. If the Board determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the records within twenty business days from the date of the acknowledgment of the receipt of the request, the Records Access Officer shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part. Reasons for an inability to grant a request within twenty days may include, but are not limited to, the following: (a) when it is necessary to search for and collect the requested records from Board members or other entities that are separate from the Board; or (b) the request requires the search for, collection or examination of a voluminous amount of records. The response may set forth a request on the part of the Board to confer with the requester to review the request to determine which records will satisfy the objectives and needs of the requester. The Board's failure to conform to these provisions shall constitute a denial of access to records subject to administrative appeal pursuant to section 7842.8.

(e) The time limitations on a response to requests for records shall begin to run as of the time a request for records is received by the

Records Access Officer and a date-stamp notation placed directly on the request.

(f) If the Board has reasonable means available, the Board will accept and respond to requests for records by electronic mail unless another form of response is requested or required.

Section 7842.6 Confidential information. (a) Purpose and scope. This section establishes procedures for the determination of confidential status of information submitted to the Board, and for the retention by the Board of confidential records.

(b) Definition of confidential information. Confidential information may consist of, but shall not be limited to: proprietary data concerning past, present or planned future energy distribution, sales volumes, or prices; customer lists; individual customer usage and billing data; proprietary energy conservation or renewable energy resource devices, processes or plans; critical infrastructure information; other trade secrets; and other information which is not published or divulged, disclosure of which would cause substantial injury to the competitive position of the submitter; or information required to be maintained as confidential pursuant to any law, regulation, order, tariff, or licensing condition.

(c) Records containing confidential information. (1) Any person submitting information to the Board pursuant to law, regulation or directive and requesting confidential status for such information shall clearly identify the information considered to be confidential and state the reasons why the information should be excepted or exempted from disclosure. A record containing confidential information shall be labeled, on each page as appropriate, using such words as "confidential," "trade secret," "proprietary information," "critical infrastructure information," or words of similar import. The request shall be in writing and indicate:

(i) the specific information requested to be considered confidential, including, where applicable, page or form and line, chart or table designation;

(ii) the confidential nature of the information, including a description of the nature and extent of the injury to the competitive position of the submitter (or to the person who supplied such information to the submitter) which would be incurred were the information to be disclosed;

(iii) whether the information is treated as confidential by the submitter, including whether it has been made available to others and, if so, under what conditions;

(iv) the worth or value of the information to the submitter (or to the person who supplied such information to the submitter) and to either such person's competitors if applicable or known;

(v) the amount of effort or money expended by the submitter (or to the person who supplied such information to the submitter) in developing the record;

(vi) whether any patent, copyright or similar legal protection exists for the information;

(vii) whether the public disclosure of such information is otherwise restricted by law, and the specific source and contents of such restrictions;

(viii) the date upon which such information will no longer need to be kept confidential, if known;

(ix) whether the request itself contains information which, if disclosed, would defeat the purpose for which confidential status is sought; and

(x) whether persons other than the submitter have any interest in maintaining the confidentiality of the information; and

(xi) other factors considered relevant to the submitter.

(2) Subject to the provisions of subdivision (6) of this section, information submitted in accordance with subdivision (1) of this section shall be submitted to the Board's Records Access Officer. Such information shall be maintained apart by the Board from all other records until 15 days after the entitlement to confidential status has been finally determined, or such further time as ordered by a court of competent jurisdiction. Nothing in this section, however, shall bar the Chair from disclosing the information in the form of a summary which aggregates information provided by at least three similarly situated submitters and which summary is adequate to protect the interests of the submitters in the information.

(3) On the initiative of the Board at any time, or upon the written request of any person for access to information to which confidential status has been requested, the Records Access Officer shall:

(i) inform the person who requested confidential status of the record access officer's intention to determine whether such status should be granted;

(ii) permit the submitter who requested such status, within ten business days of receipt of notification from the Records Access Officer, to submit a written statement of the necessity for the granting of such confidential status; and

(iii) within ten business days of receipt of such written statement, or within ten business days of the expiration of the period prescribed for submission of such statement, issue a written determination, including the Records Access Officer's rationale for granting or denying such status. Copies of such determination shall be served upon the person requesting the record, if any, the major energy supplier or other

person who requested or received confidential status, and the Committee on Open Government.

(4) A refusal to grant confidential status under subdivision (3) of this section may be appealed by the person submitting the information, and a refusal to disclose the record may be appealed by the person requesting disclosure of the record in accordance with this subdivision.

(i) Within seven business days of receipt of written notice of such refusal, the person aggrieved may file a written appeal from the record access officer's determination with the Chair.

(ii) The appeal shall be determined by the Chair within ten business days of the receipt of the appeal. Written notice of the determination shall be served upon the person requesting the record, if any, the person who requested or received confidential status, and the Committee on Open Government. The notice shall contain a statement of the reasons for the determination.

(5) A proceeding to review an adverse determination pursuant to subdivision (4) of this section may be commenced pursuant to Article 78 of the Civil Practice Law and Rules by the person seeking an exception or exemption from disclosure. Such proceeding must be commenced within 15 days of the service of the written notice containing the adverse determination provided for in paragraph (4)(ii) of this section. Neither the Board nor the Chair shall disclose such information prior to the time a claim of confidentiality is finally resolved by a court of competent jurisdiction, and thereafter any disclosure shall be consistent with the order of such court.

(6) Nothing in this section shall require any person to disclose any information that would violate any law, regulation, order, or licensing condition.

Section 7842.7 Subject matter list. (a) The Records Access Officer shall maintain a reasonably detailed current list by subject matter of all records in the Board's possession, whether or not records are available pursuant to subdivision two of section eighty-seven of the Public Officers Law.

(b) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

(c) The subject matter list shall be updated annually, and shall be posted on the State Energy Plan website. The most recent update shall appear on the first page of the subject matter list.

Section 7842.8 Denial of access to records; appeals. (a) Denial of access to records shall be in writing, stating the reason therefore and advising the requester of the right to appeal to the individual designated to determine appeals.

(b) If requested records are not provided in a timely manner, as required in section 7842.5 of these regulations, such failure shall also be deemed a denial of access.

(c) The Chair shall determine appeals regarding denial of access to records under the Freedom of Information Law.

(d) Any person denied access to records may appeal within thirty days of a denial.

(e) The time for deciding an appeal by the Chair shall commence upon receipt of a written appeal identifying:

(1) the date and location of requests for records;

(2) a description, to the extent possible, of the records that were denied; and

(3) whether the denial of access was in writing or due to failure to provide records as required by section 7842.5 of this Part;

(4) the name and return address of the person denied access.

(f) The Chair shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to the Committee on Open Government at the Department of State (DOS).

(g) The Chair shall inform the appellant and the Committee on Open Government of the Chair's determination in writing within ten business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in subdivision (f) of this section. A failure to determine an appeal within ten business days of its receipt by granting access to the records sought or fully explaining the reasons for further denial in writing shall constitute a denial of the appeal.

Section 7842.9 Fees. (a) There shall be no fee charged for:

- (1) inspection of records;
- (2) search for records; or
- (3) any certification pursuant to this Part.

(b) Copies of records shall be provided upon the payment of or offer to pay a fee of 25 cents a page for copies not exceeding 9 by 14 inches, or the actual cost of reproducing such records if larger copies are required. If records are copied electronically to computer disk or to other media, copies will be provided upon the payment of or the offer to pay the cost of the computer disk or other such media, and any other actual costs incurred by the Board. If it is not practical for the Board to photocopy or electronically copy any such record, it will be copied commercially if the person requesting the copy pays or offers to pay the fee equal to the cost of such commercial reproduction.

c) Preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of Board staff time is needed to prepare a copy of the record requested. A person requesting a record shall be informed of the estimated cost of preparing a copy of the record if more than two hours of Board staff time is needed, or if an outside professional service would be retained to prepare a copy of the record.

Section 7842.10 Public notice. A notice containing the title, business address and business telephone number of the Records Access Officer and appeals person, and the location where records can be seen or copied, and the business address of the Committee on Open Government shall be posted on the State Energy Plan website.

SUBCHAPTER B

PROCEDURES

PART

- 7844 Scoping
- 7845 Commencement of the Energy Planning Proceeding
- 7846 Filing and Service of Documents
- 7847 Draft State Energy Plan
- 7848 Board Hearings
- 7849 Subpoenas
- 7850 Waiver
- 7851 State Energy Plan
- 7852 Amendments
- 7853 [Reserved]
- 7854 [Reserved]

PART 7844 SCOPING

Section 7844.1 Initial scoping meeting. The Board shall meet to examine current energy issues, including issues identified in the previous planning proceeding which continue to be of importance in the State, as well as any new issues which have developed since the previous planning proceeding or which are presently developing. The Board shall develop a draft Scope that includes a statement of issues and policies that the Board proposes to address.

PART 7845 COMMENCEMENT OF THE ENERGY PLANNING PROCEEDING

Section

7845.1 Commencement of the energy planning proceeding and establishment of a service list

7845.2 Review of responses to Notice of Commencement

Section 7845.1 Commencement of the energy planning proceeding and establishment of a service list. (a) After the initial scoping meeting provided for in Section 7844.1, the Chair shall commence the State Energy Planning proceeding and so notify the public by posting on the State Energy Plan website and causing to be published in the State Register a Notice of Commencement of the Planning Proceeding. Such notice shall provide a brief description of the planning proceeding, including the draft Scope, and invite requests from interested persons for inclusion on a service list to receive documents in the proceeding. Such notice shall also solicit input on the draft Scope and other matters that the public believes should be addressed by the Board in the State Energy Plan.

(b) For each planning proceeding, the Board shall establish a service list that includes persons who reside in or conduct business in the State who make a request in writing to the Board's Secretary to be included on the service list.

Section 7845.2 Review of responses to Notice of Commencement. Upon receipt of any written submissions from interested persons in response to the Board's Notice of Commencement of the Planning Proceeding, the Board may revise the draft Scope contained in the Notice of Commencement of the Planning Proceeding or may identify additional issues or policies which it intends to address in the planning proceeding. A list of any such revised or

additional issues or policies to be addressed shall be posted on the State Energy Plan website.

PART 7846 FILING AND SERVICE OF DOCUMENTS

Section

7846.1 Notices, Briefs, Appeals and other Documents

7846.2 Requirements for Electronically-Filed and Served Documents

Section 7846.1 Notices, Briefs, Appeals and other Documents.

Documents shall be filed electronically unless the filing party certifies that it is unable to do so, in which case a paper document may be filed. When a document is served by a party on another party, service shall be by electronic means unless the serving and receiving parties agree otherwise, or the Secretary or Hearing Officer authorizes the use of a different means of service.

Section 7846.2 Requirements for Electronically-Filed and Served

Documents. Documents filed or served electronically shall be:

(1) in a format that can be read using software that is readily available and is in widespread use by government, business, and individuals (e.g. Microsoft Word, Microsoft Excel, Microsoft Powerpoint, Adobe Acrobat);

(2) electronically-searchable unless the party providing the document certifies that it does not have the capability to produce a searchable file.

PART 7847 DRAFT STATE ENERGY PLAN

Section

7847.1 Draft State Energy Plan

7847.2 Publication of Draft Plan

Section 7847.1 Draft State Energy Plan. The Board shall prepare and issue a Draft Plan which shall address each item identified in Section 6-104(2) of the Energy Law.

Section 7847.2 Publication of Draft Plan. A copy of the draft Plan shall be posted on the State Energy Plan website. A copy of the draft Plan and all non-confidential information and comments filed with the Board shall be made available to the public for inspection.

PART 7848 BOARD HEARINGS

Section

- 7848.1 Notice of public hearings
- 7848.2 Schedule and conduct of public comment hearings
- 7848.3 Written comments
- 7848.4 Evidentiary hearings
- 7848.5 Record

Section 7848.1 Notice of public hearings. Upon issuance of the draft State Energy Plan, the Board shall provide notice in the State Register and on the State Energy Plan website of public comment hearings to be conducted by the Board. The notice shall also indicate the opportunity for any interested person to submit written comments to the Board, and to request evidentiary hearings on the factual assumptions underlying the draft Plan in accordance with section 7848.4(a) of this Part. Copies of such notice shall be distributed to the Board's service list.

Section 7848.2 Schedule and conduct of public comment hearings. The Board shall establish a schedule specifying the times and locations of the public comment hearings. The Board shall hold at least three hearings in both the Downstate and Upstate regions as those regions are defined in section 6-102(2) of the Energy Law, to afford interested persons a reasonable opportunity to offer written and oral comments on the draft State Energy Plan.

Section 7848.3 Written comments. (a) Interested persons may submit written comments in connection with the draft State Energy Plan. Written comments shall be submitted by a date specified by the Board.

(b) Written comments may address any aspect of, or issue addressed in, the draft State Energy Plan. Commenters are encouraged to include in their written comments a description of their interest and experience in the subject being addressed.

Section 7848.4 Evidentiary hearings. (a) Request for evidentiary hearings. (1) Subsequent to the issuance of the draft Plan, an interested person seeking to provide evidentiary material or data may request the Board to conduct an evidentiary hearing on the issues identified in subdivision two of section 6-104 of the Energy Law, or the Board may conduct such hearing on its own initiative.

(2) The request shall be served on the Board no later than the date of the last public comment hearing scheduled by the Board. The entity making the request shall serve a copy of such request to those on the Board's service list at the same time as the request is served on the Board.

(3) Such request shall indicate:

(i) a description of the evidentiary material or data the requester proposes to submit to the Board;

(ii) whether a factual dispute requiring an evidentiary hearing exists;

(iii) the significance of the issue in dispute and the likelihood that resolution of the disputed point would affect materially the forecasts or the energy policies, planning objectives or strategies contained in the draft Plan; and

(iv) the degree to which the person requesting the evidentiary hearings has sought to limit the factual matters in dispute by seeking additional information pursuant to section 7848.4(e).

(4) Each such request shall also indicate whether the person intends to sponsor expert witnesses in such hearings. If so, the

request shall include a brief description of the expert's qualifications and a summary of the matters about which the expert intends to testify, and a summary of the basis for the expert's testimony and opinion. The Board may request that the person furnish such additional information as the Board deems appropriate to enable it to fully understand the issues that would be presented by the proposed testimony.

(5) The Board shall issue a ruling as to whether an evidentiary hearing is warranted and specifying the issues to be addressed.

(b) Parties. (1) In the event an evidentiary hearing is held by the Board, the parties to such hearing shall include:

(i) staff designated by the Board to participate in the hearing;

(ii) all persons requesting an evidentiary hearing;
and

(iii) any other person granted party status by the Board.

(2) Requests for party status. (i) Major energy suppliers; municipalities; or State agencies, authorities, boards or commissions may become parties to any evidentiary hearing held by the Board. The Board shall grant party status to any other person if the Board determines that such person is likely to contribute to the development of a complete record, or if party status is otherwise fair and in the public interest. Each entity seeking party status shall notify the Secretary of the Board in writing of their interest not later than ten days following issuance of the Board's ruling identifying issues to be the subject of an evidentiary hearing. Such notice shall state the party's name and the name, address, electronic mail address, and telephone number of its attorney or other officer or representative upon whom service of documents should be made, and

shall identify subject(s) as to which the party is interested in participating.

(3) Grouping of parties. (i) In the interests of efficiency, parties with similar interests may be ordered to be grouped by the Hearing Officer.

(ii) When two or more parties have been grouped in accordance with subparagraph (i) of this paragraph, the Hearing Officer may limit the number of representatives of the grouped parties that will be permitted to question witnesses.

(iii) Notwithstanding subparagraphs (i) and (ii) of this paragraph, each party shall have the right to file a brief with the Board.

(c) Service of documents.

(1) Service.

(i) Each party shall be served with a copy of:

(a) formal notices, rulings, decisions and orders of the Board, the Chair, or any Hearing Officer appointed pursuant to this Chapter; and

(b) any other documents required to be served pursuant to these regulations.

(ii) A list of parties upon whom service of documents in the evidentiary hearing is to be made shall be prepared by the Chair and provided to such parties.

(2) Service on Board. Documents required to be served on the Board shall be delivered to the Secretary of the Board. The Board shall maintain a copy of all documents served on the Board with respect to an evidentiary hearing on a particular draft Plan for at least two years after the final Plan is issued. Except as provided in Part 7842 of this Chapter, all interested persons shall have access to inspect all such filed documents.

(3) Service on the Hearing Officer. Parties shall serve the Hearing Officer, after the effective date of the Hearing Officer's appointment, if one has been appointed, with copies of all documents filed in the hearing proceeding.

(d) Hearing Officer.

(1) The Board may appoint a Hearing Officer to conduct an evidentiary hearing. The nature and scope of the authority and duties of the Hearing Officer shall be as set forth herein and as prescribed by the Board.

(2) If the Board does not appoint a Hearing Officer for the evidentiary hearing, the Chair shall perform the duties of the Hearing Officer under these regulations.

(e) Requests for additional information.

(1) Following the issuance of the draft Plan, interested persons may request from the Board access to any information regarding the contents of the draft Plan. Non-confidential information will be made available to all parties.

(2) Any party may request from a party submitting testimony in any evidentiary hearing additional relevant information regarding such testimony, including data, records and documents. Such requests shall be served promptly, but in no event later than the first day of hearings.

(3) Parties are encouraged to communicate and exchange information informally, including by telephone or by meeting, and to use the formal procedures provided for in this section to compel production only as necessary.

(4) Responses to written requests for additional information shall be provided within fourteen days unless additional time to respond is granted by the Hearing Officer, and shall be in writing unless

otherwise indicated by the requesting party. The responding party shall identify the person or persons responsible for each response.

(5) The Hearing Officer shall resolve any disputes concerning such requests for additional information.

(6) All written requests for additional information, and responses, objections and motion papers relating to the requests, shall be served on all parties and the Hearing Officer, unless otherwise ordered by the Hearing Officer.

(7) Responses to information requests may be included in the record of the proceeding upon motion for such adoption timely made and granted. Any response to such a motion may be contained in the responding party's brief.

(f) Prefiled written testimony from the parties.

(1) Any party may submit testimony in connection with the evidentiary hearing on the issues identified by the Board in its ruling pursuant to paragraph (a)(5) of this section. All testimony shall be prefiled and in written form. Unless otherwise provided by the Hearing Officer, testimony shall be submitted on or before 30 days following the Board's issuance of such ruling. The testimony shall be served on each party and on the Board.

(2) Prepared written testimony, in question-and-answer form, shall be received in evidence with the same force and effect as though it were stated orally by the witnesses, provided that each of the witnesses is present at the hearing at which his or her prepared written testimony is offered and adopts that testimony under oath. If cross-examination of a witness' prepared testimony is waived by all other parties, that witness need not be present and his or her testimony may be adopted by affidavit submitted to the Hearing Officer.

(g) Schedule and location of hearings. When an evidentiary hearing is determined by the Board to be necessary, such hearing shall be held on an expedited basis at such time and place as the Board shall direct.

(h) Conduct of hearings generally. The rules of evidence applicable to a proceeding before a court shall not apply to any evidentiary hearings held under this section. The Hearing Officer may, however, limit or exclude repetitive, irrelevant, redundant or immaterial testimony or evidence or questions posed to witnesses, during such hearing.

(i) Briefs.

(1) Time for submission. In the event an evidentiary hearing is conducted by the Board, parties participating in such hearing may submit a brief to the Hearing Officer not later than 14 days following the conclusion of such hearing unless otherwise provided by the Hearing Officer. The Hearing Officer shall determine the number of briefs that may be written, and any page limitations.

(2) Filing and service. All briefs shall be typed, double-spaced, on paper measuring 8 1/2 inches in width and 11 inches in length. Briefs shall clearly show the title of the proceedings, the filing date of the brief, and the name of the party on whose behalf the brief is submitted. Citations to the record shall be made in support of arguments presented. Briefs shall be served on all parties and the original shall contain a signed affirmation that service has been properly made.

(3) Reply briefs. Reply briefs may be permitted at the discretion of the Hearing Officer.

(j) Motions.

(1) The parties are encouraged to use informal means to resolve matters in controversy before filing motions.

(2) Prior to the designation of a Hearing Officer, all motions shall be addressed to the Chair.

(3) After the designation of a Hearing Officer, all motions and replies thereto shall be addressed to the Hearing Officer.

(4) Replies to a motion shall be submitted within ten days of the receipt of the motion, unless otherwise provided by the Hearing Officer or chair.

(5) All motions and replies thereto shall be served on the Hearing Officer, if any, the Board, and on each party.

(k) Interlocutory Appeals.

(1) An interlocutory appeal from a ruling of the Hearing Officer may be filed by the person aggrieved only in extraordinary circumstances where a prompt decision is necessary to prevent detriment to the public interest. The appeal shall be submitted to the Chair, who may rule on the appeal or refer it to the Board. A person filing an interlocutory appeal from an adverse ruling shall state the objectionable ruling, the basis for the appeal and any authorities relied upon, and demonstrate the detriment to the public interest which would result if review is not granted.

(2) An appeal from an interlocutory ruling of the Hearing Officer shall be taken within seven days of the issuance of the ruling. The appealing party shall serve the appeal upon the Chair and each party. Any party may submit a response to the appeal within seven days of service of the appeal. Responses shall be served on the Chair and on each party. These time limits may be modified by the Chair.

(3) Until the Board or the Chair rules on an interlocutory appeal, any ruling of the Hearing Officer shall be valid and binding.

(4) Any party may, in its brief to the Board, request the Board to consider any matter for which an interlocutory appeal from a ruling of the Hearing Officer was not permitted, or any matter which the Chair alone decided.

(l) Final Decision.

(1) The Hearing Officer shall submit a hearing report to the Chair within 45 days after the close of the record. The report shall include findings of fact, conclusions of law and recommendations on all issues before the Hearing Officer.

(2) The Board shall issue a final decision within 60 days after the close of the record.

Section 7848.5 Record. The record of the energy planning proceedings shall include: (a) the draft Plan;

(b) oral and written statements provided to the Board as part of the public comment hearings;

(c) in the event an evidentiary hearing is held, a record of testimony and documents admitted into the record;

(d) responses to information requests which have been admitted into the record by the Hearing Officer or Board;

(e) briefs of the parties;

(f) formal notices, rulings, decisions, and orders issued by the Board, its Chair, or the Hearing Officer;

(g) any other relevant information regarding the underlying bases for the draft Plan that the Board determines should be a part of the record; and

(h) any other matters of which the Board takes official notice.

PART 7849 SUBPOENAS

Section

- 7849.1 Subpoena to compel attendance at evidentiary hearings
- 7849.2 Subpoena duces tecum
- 7849.3 Service of application and reply
- 7849.4 Time for applying
- 7849.5 Reply

Section 7849.1 Subpoena to compel attendance at evidentiary hearings. In the event evidentiary hearings are conducted by the Board, any party to these hearings may, by written application, request that the Hearing Officer, or the Chair if no Hearing Officer is appointed, issue a subpoena to compel the attendance of a witness at an evidentiary hearing. An application for a subpoena shall state the specific reason or reasons why the attendance of the subpoenaed witness is necessary to the conduct of the hearing. The Board may also issue subpoenas to compel attendance on its own initiative.

Section 7849.2 Subpoena duces tecum. Any interested person may, by written application, request that the Chair, or a Hearing Officer if one is appointed by the Chair, issue a subpoena duces tecum to compel the production of papers or other documents. An application for a subpoena duces tecum, which can be made at any point during the State Energy Planning Proceeding, shall set forth the specific papers or other documents desired and the reasons why those papers or documents are necessary to the conduct of the energy planning proceedings. The Board may also issue subpoenas duces tecum on its own initiative.

Section 7849.3 Service of application and response. All subpoenas, applications for subpoenas and any responses thereto shall be served on the

person in whose custody or control the papers or documents sought reside or the person whose attendance is sought to be compelled, on the Chair, on the Hearing Officer, if any, and on each party.

Section 7849.4 Time for applying. An application for a subpoena shall be made at least 15 days prior to the date of the evidentiary hearing at which the witness would attend or the date on which the papers or other documents would be produced.

Section 7849.5 Response. The person who is the subject of an application under Section 7849.1 or 7849.2 of this Part may submit a written response within five days of receipt of the application. A person who fails to reply within five days shall be deemed to have consented to the application and shall comply with the subpoena.

PART 7850 WAIVER

Section

7850.1 Weekends and holidays

7850.2 Motions for waiver

Section 7850.1 Weekends and holidays. Whenever a date specified in this Chapter for the doing of any act falls on a weekend or a public holiday, such act shall be required to take place on the following business day.

Section 7850.2 Motions for waiver. Unless otherwise required by Article 6 of the Energy Law, any filing deadline, method of filing, number of copies, page limitation, or any other requirement of this Chapter may be waived by the Chair, or by the Hearing Officer if appointed by the Board, for the purpose of promoting the fair, orderly and efficient conduct of these proceedings. A motion (which may be in the form of a letter) under this section shall be made to the Secretary in a timely manner and shall clearly state the requirement sought to be waived and the reasons therefore. In addition, a motion to waive any requirement of Subchapter C of this Chapter shall be made no less than 15 days prior to the time submission would otherwise be required.

PART 7851 STATE ENERGY PLAN

Section 7851.1 State Energy Plan. The Board shall adopt a State Energy Plan, based on the record before it, which addresses each item identified in Section 6-104(2) of the Energy Law. The Board shall publish the Plan on the State Energy Plan website and notify the Board's service list when the Plan is published.

PART 7852 AMENDMENTS

Section

7852.1 Amendment

7852.2 Service and filing of application and response

7852.3 Board action

Section 7852.1 Amendment. Upon its own initiative or upon the written application of any interested person, the Board may amend the State Energy Plan. An application for an amendment shall state specifically the ground or grounds for the requested amendment, shall identify the material and substantial change in fact or circumstance since the most recent plan was adopted which necessitates the amendment, and may be filed any time before the commencement of the next energy planning proceeding.

Section 7852.2 Service and filing of application and response. The application for amendment shall be filed with the Board. If the application is filed by a person who was on the service list in the most recent energy planning proceeding, a copy of the application shall be served on all others on the service list in that proceeding. If the application is filed by any other person, the Board shall serve a copy of the application on all persons on the service list in the most recent energy planning proceeding. Any person so served may file a response with the Board within 15 days of receipt of the application.

Section 7852.3 Board action. If the Board determines that an amendment is warranted, the Board shall post on the State Energy Plan website and publish in the State Register notice of any draft amendments and reasons therefore, and shall solicit public comment thereon. In addition, the Board shall establish such further procedures, which may include the filing of data

by major energy suppliers and/or the Bulk System Operator, as it shall deem advisable for the consideration of the requested amendment. Prior to adopting any proposed amendment to the Plan, the Board shall hold public comment hearings and may hold evidentiary hearings upon the application of an interested party, provided that in its application, such party indicates the material and substantial change in fact or circumstance that such party believes necessitates an amendment to the Plan. The rules and procedures set forth in section 7848.4 shall govern any evidentiary hearing held by the Board. The Board shall adopt an amendment to the Plan only upon a finding by the Board that there has been a material and substantial change in fact or circumstance that: (1) has occurred since the adoption of the existing Plan, and (2) requires an amendment to the Plan. Any determination by the Board that no amendment is necessary, together with the reasons supporting such determination, shall be final.

SUBCHAPTER C

PLANS OF MAJOR ENERGY SUPPLIERS

PART

- 7856 General Provisions
- 7857 Electric Plans
- 7858 Natural Gas Plans
- 7859 Petroleum Plans
- 7860 Coal Plans
- 7861 Steam Plans
- 7862 Biogas, Biofuel and Biomass Plans
- 7863 End-Use Energy Efficiency, Renewable and Emerging Technology
Plans

PART 7856 GENERAL PROVISIONS

Section

- 7856.1 Introduction
- 7856.2 Filing requirements
- 7856.3 Submission of copies and information provided by reference to other documents
- 7856.4 Historic data and forecast data
- 7856.5 Contact list
- 7856.6 Workforce Utilization

Section 7856.1 Introduction. This Subchapter sets forth information filing requirements applicable to major energy suppliers, as determined by the Board. Separate filing requirements are established in Parts 7857 through 7863 for electricity; natural gas; petroleum; coal; steam; biogas, biofuels, and biomass; and end-use energy efficiency, renewable and emerging technology industries. The Board may require a single, comprehensive submission from industry groups, trade associations, or combinations of such groups and associations in place of submissions by individual member companies.

Section 7856.2 Filing requirements. Major energy suppliers or industry groups, trade associations or combinations of such groups and associations shall file in electronic form the specified information as requested by the Board, or by the Chair as authorized by the Board, in a format that the Chair deems appropriate on the schedule set by the Chair. The Board shall seek to obtain relevant information under this Subchapter C from entities that are members of the Board, including the Bulk System Operator, before requiring filings from major energy suppliers or industry groups, trade associations or

combinations of such groups and associations. To the extent possible, the Board will rely on publicly available data in developing the Plan.

Section 7856.3 Submission of copies and information provided by reference to other documents.

(a) Any information filing requirement imposed by this Subchapter may be satisfied by the submission of copies of documents or relevant portions thereof containing the required information prepared for purposes other than the State Energy Planning process. The documents shall be identified and the page(s) and section(s) where the required information may be found shall be indicated.

(b) Any information required to be filed under this Subchapter may be provided by reference to another document previously filed with the Board and in which such information is contained. In order to satisfy the filing requirements, each such reference must include the complete title and date of the document, and the page(s) and section(s) where the referenced information is to be found.

Section 7856.4 Historic data and forecast data. Where this Subchapter requires the submission of historic or forecast data, such information must be provided for the planning period designated by the Board.

Section 7856.5 Contact list. At the request of the Board, all major energy suppliers shall provide a company name, a contact person, and such contact person's address, phone number, and electronic mail address and, at the discretion of the Board, the number of current employees. The contact person shall be a person who is authorized to represent and act on behalf of

the major energy supplier for purposes of complying with the requirements of this Chapter.

Section 7856.6 Workforce Utilization. The Board may require the submission by major energy suppliers of labor market information, including but not limited to labor market characteristics such as jobs, staffing patterns, skill requirements, educational and training needs, earnings, career ladder opportunities, occupational trends and labor supply/demand assessment, in order to inform the coordination of energy policy and workforce utilization activities, and to ensure that the operation and necessary expansion of the energy sector is not inhibited by a shortage of skilled workers.

PART 7857 ELECTRIC PLANS

Section

- 7857.1 General
- 7857.2 Information Requirements
- 7857.3 Other

Section 7857.1 General. This Part sets forth the information filing requirements, as determined by the Board or by the Chair as authorized by the Board, applicable to major electricity suppliers and any other entity from which the Board deems appropriate to collect such information, including but not limited to the Bulk System Operator and the NYSRC.

Section 7857.2 Information Requirements. (a) For generation units that are connected to the grid within the New York Control Area, the following operating and unit characteristics:

- (1) station and unit name and/or number;
- (2) location (town, county, load zone and state);
- (3) the principal owner of the unit;
- (4) the contact person and/or organization, address, and phone number
- (5) type of unit and firing type (e.g., tangential);
- (6) type of primary and alternate fuel(s);
- (7) onsite or offsite company-owned or -leased maximum storage capacity for each fuel and for the generation unit;
- (8) net capability (megawatt) for summer and winter capability periods, measured to the standard of the Bulk System Operator, if available;
- (9) type of cooling system;

(10) the month and year in which the unit initially entered commercial service;

(11) anticipated retirement date, if any;

(12) the expiration date of federal or State licenses, where applicable;

(13) average annual unit heat rate (Btu per kWh) while burning each different fuel type, and including an average heat rate for the year burning all fuels;

(14) the net electric energy generated (megawatt-hour) monthly by fuel type and the total annual net energy generation (megawatt-hour);

(15) unit availability (total hours, dates and times of operations) for electric generating;

(16) fuel consumption (in both physical units and Btu) by fuel type for each month, separately reported for the unit and any backup boiler;

(17) Unit PTID, if available;

(18) Unit co-generation status;

(19) Nameplate rating of unit (megawatt);

(20) Unit rerating information shall be presented, indicating the dates and capacities of all planned reratings, by unit.

(21) total tons of oxides of sulfur, oxides of nitrogen, carbon dioxide, and particulate matter released, if any;

(22) total pounds of mercury released, if any;

(23) emission rates for oxides of sulfur, oxides of nitrogen, carbon dioxide, particulate matter, and mercury in pounds per MMBTU of fuel consumed by the generating unit, if applicable;

(24) If applicable, once through cooling water usage, as follows: (1) if the water source is a river, such usage shall be measured as

intake flow as annual average gallons per day and as a percent of river flow (based on minimum average seven consecutive day, ten-year flow); and (2) if the water source is a lake or ocean, such usage shall be measured in gallons per year.

(25) If applicable, a tabular summary identifying each emission control measure for a particular pollutant currently installed on the unit or planned to be installed, including, for each control measure and pollutant, the associated:

(i) control efficiency, including estimated pre-control and post-control emission rates (in lbs/MMBTU);

(ii) installation date of emission control measure;

(iii) remaining useful life of existing emission control measure;

(iv) initial cost and annual operating expenditures associated with emission control measure; and

(v) heat rate penalty.

(26) For natural gas-fired projects:

(i) natural gas supply/transportation contract start and end dates; name of pipeline(s) and its delivery service terms, including the maximum daily deliveries, the number of days that the maximum daily deliveries is available during the year, whether firm or interruptible basis, and seasonal allocation, if any, name of supplier and the amount of natural gas consumed from in-state production, if known;

(ii) local distribution company delivery service terms, including the maximum daily deliveries, the number of days that the maximum daily deliveries is available during the year, whether firm or interruptible basis, and seasonal allocation, if any; and

(iii) natural gas consumption for natural gas received directly from interstate natural gas pipelines.

(27) For each generation unit which has obtained required Federal or State permits, but which has not commenced commercial operation, the following information in a tabular summary may be requested:

- (i) station and unit name and/or numbers;
- (ii) location (town, county and state);
- (iii) the contact person and/or organization, address and phone number;
- (iv) the principal owner of the station and unit;
- (v) type of unit;
- (vi) fuel type;
- (vii) resource size (MW);
- (viii) status of resource (e.g., under construction/development, under licensing/review);
- (ix) target in-service date; and
- (x) storage capacity for any fuels stored onsite.

(b) For electricity transmission and distribution companies within the New York Control Area:

(1) the number of customers, by rate class, BSO load zone, and technology type, that sell energy back to the electric transmission and distribution company (net meter), and the amount of net excess energy received for the year; and

(2) the average hourly load shape for the average customer in each rate or customer class, if available.

(3) A list of the characteristics and terminal points on all existing transmission facilities greater than or equal to 115 kilovolts, including:

- (i) terminal names (to and from);
- (ii) voltage (design and operating);
- (iii) circuit mileage;

- (iv) number of circuits;
- (v) type of Conductor;
- (vi) summer and winter thermal rating of each circuit;
- (vii) principal structure; and
- (viii) circuit mileage for each type of structure, including the number of circuits on a common right-of-way.

(4) For each proposed transmission facility greater than or equal to 115 kilovolts:

- (i) identification of the terminals and a statement of the various factors, including environmental factors, that were considered in designating terminal locations;

- (ii) voltage (design and proposed operation);
- (iii) target in-service date;
- (iv) number of circuits;
- (v) approximate length in miles;
- (vi) type of construction;
- (vii) summer and winter thermal rating of each circuit;
- (viii) project description; and
- (ix) conductor size.

(5) Forecast and historical data on electricity usage and demand, including:

- (i) Long-term econometric and energy efficiency forecasts over the planning period for annual energy, NYCA coincident and non-coincident summer peak demand, and NYCA coincident and non-coincident winter peak demand;

- (ii) Historical actual and weather-adjusted data over the planning period for annual energy, coincident and non-coincident

summer peak demand, and NYCA coincident and non-coincident winter peak demand, including the date and time of the NYCA coincident and non-coincident summer and winter peak demands; and

(iii) A detailed technical description of the forecast and weather-adjustment procedures used, including methodologies and assumptions.

(6) A load and capacity schedule for each capability period, indicating generation capacity additions reasonably certain to be available, retirements, and reratings;

(7) A capacity mix table by calendar year;

(8) A summary of changes occurring to the operating system since the last report submission, including:

(i) new generating facilities added to the system;

(ii) generating facilities retired from the system;

(iii) significant reratings of units;

(iv) significant transmission line additions, retirement or reratings that occurred;

(9) A summary table of changes to the planned resource systems and energy storage systems;

(10) A table containing an itemized list of reasonably certain resource additions indicating the following information, where applicable:

(i) station/unit name;

(ii) owner/operator name;

(iii) unit type;

(iv) fuel type;

(v) name plate rating, and summer and winter capability (megawatt);

(vi) status of resource (e.g., under construction/development, under licensing/review);

(vii) projected operational date; and

(viii) location (town, county, state and load zone).

(11) A table containing an itemized list of reasonably certain resource reratings indicating the following information, where applicable:

(i) station/unit name, PTID;

(ii) owner/operator name;

(iii) unit type;

(iv) fuel type;

(v) current, incremental, and proposed total name plate rating, and summer and winter capability (megawatt);

(vi) status of resource (e.g., under construction/development, under licensing/review);

(vii) projected rerating date; and

(viii) location (town, county, state and load zone).

(12) A table containing an itemized list of reasonably certain resource retirements indicating the following information, where applicable:

(i) station/unit name, PTID;

(ii) owner/operator name;

(iii) unit type;

(iv) fuel type;

(v) name plate rating, and summer and winter capability (megawatt);

(vi) reason for retirement;

(vii) projected retirement date; and

(viii) location (town, county, state and load zone).

(13) The location of each existing and proposed electric transmission facility that forms a significant part of the bulk power transmission system (150 kV and above).

(14) A simplified one-line system diagram of the existing and proposed electric transmission facilities that forms a significant part of the bulk power transmission system (150 kV and above).

(15) A description of the load forecasting methodology and the assumptions and data used in the preparation of the forecasts, specifically including projections of demographic and economic activity and such other factors, statewide and by service area, which may influence demand for electricity, the bases for such projections, and conversions to electricity from other supply sources and expansion of distribution.

(16) A projection of estimated electricity prices for the planning period; and a detailed description of the methodology and assumptions used to develop the projection of estimated prices.

(17) peak load and capacity spatially referenced data, in a format that the Board deems appropriate, of the existing transmission facilities under current and projected load graphically identifying circuits that are near or projected to exceed ordinary line capacity during the planning period.

(c) For electricity research and development:

(1) a statement of research and development plans, including objectives and programs in the areas of energy efficiency, load management, electric generation and transmission, new energy technologies and pollution abatement and control;

(2) recent results of such programs undertaken or funded to date; and

(3) an assessment of the potential impacts of such results.

(d) The Bulk System Operator shall provide the following data on the markets it administers:

(i) the net electric energy generated monthly in megawatt-hours by fuel type and the total annual net energy generation in megawatt-hours for each unit participating in the BSO markets;

(ii) revenues paid by service type (e.g., energy, capacity, ancillary services) to each unit participating in the BSO markets; and

(iii) such information as the Board may request to confirm or augment information supplied by major electricity suppliers.

Section 7857.3 Other. The Board, or the Chair as authorized by the Board from time to time may require the submission of such other information as is necessary to carry out the purposes of this Chapter and Article 6 of the Energy Law, including but not limited to long-range plans for future operations and a statement of proposed policies, objectives, and strategies for meeting the State's future electricity needs.

PART 7858 NATURAL GAS PLANS

Section

- 7858.1 General
- 7858.2 Information Requirements
- 7858.3 Other

Section 7858.1 General. (a) This Part sets forth the information filing requirements, as determined by the Board or by the Chair as authorized by the Board, for major natural gas suppliers and any other entity that the Board deems appropriate to collect such information.

(b) Information filing requirements under this Part are intended generally to conform to industry practice, which reports demand and supply data on a sendout monthly and yearly basis, beginning on November 1st of one year and ending on October 31st of the following year.

(c) Volumes of natural gas should be reported in thousand cubic feet (mcf), million cubic feet (mmcf), or billion cubic feet (bcf), and natural gas usage should be reported in dekatherms (DT), on either an annual or daily basis (e.g., mmcf/day and DT/day) depending on the information request.

Section 7858.2 Information Requirements. (a) For forecast and historic data on deliveries, natural gas supply requirements and prices:

(1) By utility service area and statewide if available, the estimated monthly and annual in-state natural gas deliveries, winter season deliveries and peak day deliveries by end-use or customer classifications (in tabular and graphic files, in formats deemed appropriate by the Board), specifically identifying the extent to which energy efficiency measures, fuel switching, and the sale of natural gas directly to end-users

has been incorporated within such forecasts. Natural gas data may be requested for the categories stated below:

(i) firm demand, specifying total residential deliveries, total commercial deliveries, total industrial deliveries, total electric generation deliveries, total natural gas vehicle sales, total out-of-state sales, total public authority deliveries other deliveries, and lost and unaccounted for natural gas;

(ii) interruptible demand, specifying total residential deliveries, total commercial deliveries, total industrial deliveries, total electric generation deliveries, total natural gas vehicle sales, total out-of-state sales, total public authority deliveries, other deliveries, and lost and unaccounted for natural gas;

(iii) transportation customer deliveries, specifying total residential deliveries, total commercial deliveries, total industrial deliveries, total electric generation deliveries, total public authority deliveries, and other deliveries

(iv) deliveries for injection and liquefaction requirements; and

(v) the average monthly number of customers by the customer classes in total residential volumes, total commercial volumes, total industrial volumes, total electric generation volumes, total natural gas vehicle volumes, total out-of-state volumes, total public authority volumes, other volumes, and, if applicable, lost and unaccounted for natural gas.

(2) A forecast of natural gas supply requirements over the planning period, statewide and by utility service area, specifically identifying the amounts of natural gas needed to meet severe weather conditions, lost and unaccounted for natural gas, out-of-state sales commitments and use within the State. This information should be provided for

peak day, winter season, and annual load, both for normal weather and design weather.

(3) A description of the load forecasting methodology and the assumptions and data used in the preparation of the forecasts, specifically including projections of demographic and economic activity and such other factors, statewide and by service area, which may influence demand for natural gas, the bases for such projections, and conversions to natural gas from other supply sources and expansion of distribution. The description shall include the source of the weather data, including years of data used, and a description of the calculation of peak day load.

(4) End-user and city gate natural gas prices by monthly and annual sales, a projection of estimated end-user and city gate natural gas prices for the planning period; and a description of the methodology and assumptions used to develop the foregoing projection of estimated prices.

(5) A detailed description of the methodology and assumptions used to develop the projection of estimated prices.

(b) For natural gas inventory and supply assessment:

(1) Projected supplies of natural gas by monthly and annual sendout, for each of the categories identified below:

(i) total firm supply and capacity, including monthly (if applicable), annual and seasonal, storage, and other;

(ii) total interruptible supply and capacity, including released firm transportation and interruptible transportation;

(iii) total company sources, including LNG, liquefied petroleum gas/air (including propane), and other;

(iv) total transportation of customer natural gas, including firm and interruptible; and

(v) total appropriate deductions.

(2) An inventory of:

(i) All existing supply sources, storage facilities, and transmission facilities used to provide service within the State;

(ii) transmission and storage facilities under construction which would be used to provide service within the State, including their costs (projected or actual, where known) and capacities;

(iii) transmission facilities proposed to be constructed, listing separately those with FERC approval, those in the FERC filing and pre-filing process, those which have sought non-binding precedent agreements; and

(iv) transmission facilities operated, or planned to be operated by other than members of the Northeast Gas Association, to the extent that such information is available.

(3) An assessment of the ability of existing natural gas supply resources and transportation capacity, and those reasonably certain to be available, to satisfy their projected requirements over the planning period.

(4) A statement of recommended supply additions and demand-reducing measures for satisfying the natural gas supply requirements not reasonably certain to be met by natural gas supply sources identified in this section and the reasons therefore.

(c) For in-state natural gas production:

(1) a summary of monthly and annual natural gas production, including: number and location of wells, volume and energy content of annual production (million British Thermal Units (MMBTU) or dekatherms);

(2) summary of end-use or interconnection with local distribution, intrastate or interstate natural gas pipelines (if applicable);

(3) the number and demand of customers directly attached to local production and information on the reliability of that supply to those customers;

(4) amount of fuels/electricity used in production process (e.g. drilling; pumping; transportation of equipment, water, building materials, fluids, wastes; equipment use; waste treatment);

(5) amounts and concentrations of compounds used in production process;

(6) amount of land cleared associated with production process;

(7) and such other information as the Chair, from time to time, may require to carry out the purposes of this Chapter.

(d) For interstate and intrastate natural gas pipelines:

(1) current certificated pipeline capacity entering and exiting the State of New York;

(2) a description of expansion pipeline capacity projects to serve New York customers, which have been approved but not yet constructed, and proposed projects awaiting approval;

(3) a list of contract quantities and deliveries to customers in the State of New York, including deliveries made directly to end-users, such as cogeneration facilities. Where available, such data shall be provided on a monthly and a contract year basis (November 1 through October 31);

(4) a discussion of impediments to further market expansion in the State and the Northeast region;

(5) peak load and capacity spatially referenced data, in a format that the Board deems appropriate, of the existing pipeline facilities under current and projected load graphically identifying pipelines that are near or projected to exceed pipeline capacity during the planning period.

(e) spatially referenced data, in a format that the Board deems appropriate, of Local Distribution Company franchise territories, the

location of major transmission and distribution pipelines, and the location of other major natural gas facilities.

(f) For natural gas research and development:

(1) a statement of research and development plans, including objectives and programs in the areas of energy efficiency, dual fuel, and new energy technologies;

(2) recent results of such programs undertaken or funded to date; and

(3) an assessment of the potential impacts of such results.

Section 7858.3 Other. The Board, or the Chair as authorized by the Board from time to time, may require the submission of such other information as is necessary to carry out the purposes of this Chapter, including but not limited to long-range plans for future operations and a statement on proposed policies, objectives and strategies for meeting the State's future natural gas needs.

PART 7859 PETROLEUM PLANS

Section

7859.1	General
7859.2	Information Requirements
7859.3	Other

Section 7859.1 General. This Part sets forth information filing requirements, as determined by the Board or by the Chair as authorized by the Board, applicable to major petroleum suppliers and any other entity that the Board deems appropriate to collect such information.

Section 7859.2 Information Requirements

(a) For major petroleum suppliers, the following information may be requested:

(1) the type of business (e.g., integrated major oil company, independent oil supplier, terminal operator);

(2) the type(s) and volume(s) of refined petroleum fuels, by product, delivered into New York State and intended for in-State sale during the planning period; and

(3) the total current storage capacities for refined petroleum fuels and crude oil in the State by county and the means by which these facilities can be filled, including but not limited to barge, pipeline, truck.

(b) For refined petroleum fuels pipeline operations within the boundaries of New York State:

(1) the peak average daily throughput capacity and annual volumes transported by fuel type for each pipeline during the planning period, including the specific capacities for individual segments of the pipeline where capacity is not uniform across the State;

(2) a description of expansion projects, including significant modifications to existing facilities, to serve New York for which all Federal, State, and local approvals have been obtained, but which have not yet been completed; and

(3) Company name and address location of each petroleum terminal connected to pipeline.

(c) For petroleum barge operations that annually deliver more than one million gallons of refined petroleum fuels in the State:

(1) the number of barges that delivered refined petroleum fuels into the State during the planning period, their respective operating capacities, and total annual delivery volumes transported by fuel type;

(2) a description of expansion projects, including significant modifications to existing facilities, to serve New York for which all Federal, State, and local approvals have been obtained, but which have not yet been completed.

(d) For petroleum research and development:

(1) a statement of research and development plans, including objectives and programs in the areas of energy efficiency and new energy technologies;

(2) recent results of such programs undertaken or funded to date; and

(3) an assessment of the potential impacts of such results.

Section 7859.3 Other. The Board, or the Chair as authorized by the Board from time to time, may require the submission of such other information as is necessary to carry out the purposes of this Chapter, including but not limited to long-range plans for future operations.

PART 7860 COAL PLANS

The Board, or the Chair as authorized by the Board, may require the submission by major coal suppliers and any other entity that the Board deems appropriate to collect such information as is necessary to carry out the purposes of this Chapter. Requests from the Board or the Chair may include but not be limited to: sources and characteristics (e.g., average BTU content, sulfur content, ash, and carbon), including a description of coal source; how coal is transported to end-users in-state including a description of supply infrastructure needed to move coal into State such as barge, rail, or truck; and descriptions of coal research and development efforts, including a statement of research and development plans, together with objectives and programs in the areas of energy efficiency and new energy technologies; recent results of such programs undertaken or funded to date; and an assessment of the potential impacts of such results.

PART 7861 STEAM PLANS

Section

- 7861.1 General
- 7861.2 Forecast and historic data on sales, steam supply requirements and prices
- 7861.3 Steam facilities location and description
- 7861.4 Steam programs
- 7861.5 Other

Section 7861.1 General. (a) This Part sets forth the information filing requirements, as determined by the Board or by the Chair as authorized by the Board, applicable to major steam suppliers and any other entity that the Board deems appropriate to collect such information.

(b) Quantities of steam sales should be reported in thousand pounds of steam or mlbs.

Section 7861.2 Forecast and historic data on sales, steam supply requirements and prices:

(a) estimated monthly and annual steam sales, winter, summer and shoulder season sales and peak day sales over the planning period by end-use or customer classifications (in tabular and spatially referenced data, in formats deemed appropriate by the Board), specifically identifying the extent to which energy conservation and fuel switching measures, retention programs, and customer gain/loss have been incorporated within such forecasts.

(1) Steam sales data for each customer class, with a description of types of customers (e.g., hospitals, commercial office building);

(2) Indicate the number of customers by the customer classes set forth in paragraph (1) above;

(3) end-user prices, in filing year dollars, for annual sendout;

(4) information on recent interconnections as well as customer losses, such as removals, from the system, showing aggregate gains/losses to the system. Provide information on whether new construction has incorporated interconnection to the steam system.

(b) a forecast of steam supply requirements over the planning period, specifically the amounts of steam needed to meet peak system demand and net of distribution system losses. Provide a description of the load forecasting methodology and the assumptions and data used in the preparation of the forecasts, specifically including projections of demographic and economic activity and other factors which may influence demand, the bases for such projections, and conversions to natural gas or other fuels from steam.

Section 7861.3 Steam facilities location and description:

(a) a description of the general location of the steam generation and distribution system as well as a quantitative description of the system, including miles of pipes.

(b) System performance including estimated system efficiencies based on fuel inputs and measured steam delivery to end-use customers taking into account best estimates of transportation losses and leakage, condensate recovery rates, makeup water levels, and use of additional chemicals from lack of condensate recovery.

(c) an overview of the state of steam plants including age, types of boilers, primary and secondary fuels, boiler combustion efficiencies, use of cogeneration and upcoming plans for upgrades or retirements.

(d) a summary of non steam corporation sources of steam to the grid (e.g., CHP customers).

Section 7861.4 Steam programs:

(a) a summary of objectives and programs in the areas of steam generation and emission control technologies, energy conservation, emerging end-use steam technologies, such as but not limited to application of steam cooling resulting in electric load displacement;

(b) If applicable and available, a tabular summary identifying each emission control measure for a particular pollutant currently installed on the unit or planned to be installed, including, for each control measure and pollutant, the associated:

(i) control efficiency, including estimated pre-control and post-control emission rates (in lbs/MMBTU);

(ii) installation date of emission control measure;

(iii) remaining useful life of existing emission control measure;

(iv) initial cost and annual operating expenditures associated with emission control measure; and

(v) heat rate penalty.

(c) recent results of such programs undertaken or funded to date; and

(d) an assessment of the potential impacts of such results.

Section 7861.5 Other. The Board, or the Chair as authorized by the Board from time to time, may require the submission of such other information as is necessary to carry out the purposes of this Chapter, including but not limited to long-range plans associated with expansion, thermodynamic performance and thermal losses, retirement or maintenance of the distribution system.

PART 7862 BIOGAS, BIOFUEL, AND BIOMASS PLANS

Section

7862.1 General

7862.2 Information Requirements

7862.3 Other

Section 7862.1 General. This Part sets forth information filing requirements, as determined by the Board or by the Chair as authorized by the Board, applicable to major biogas and biofuel producers, and major biomass suppliers or processors and any other entity that the Board deems appropriate to collect such information.

Section 7862.2 Information Requirements. (a) For major biomass suppliers or processors, the following information may be required, as available:

- (1) facility annual production or process capacity;
- (2) the total volume(s) and prices of biomass, by product, annually supplied or processed in New York State and intended for in-State and out-of-State sale for the planning period;
- (3) the total volume(s) and prices of biomass, by product, annually supplied or processed in New York State and intended for in-State and out-of-State use for the planning period;
- (4) the type(s), volume, origin (such as in-State or out-of-State), and prices paid for feedstock used to supply or process the end-product;
- (5) the type(s), volume, and market prices earned for co-products such as but not limited to distiller grains;
- (6) the acreage of land used to produce each feedstock, such as but not limited to corn and soy;

(7) the use of the land prior to feedstock production;

(8) the quantities of products used in the production of each feedstock such as but not limited to fertilizer, limestone, herbicides, pesticides, and diesel fuel;

(9) type and quantities of energy and water used and emissions generated to manufacture or process the end-product and/or any co-products;

(10) the total current storage capacities for biomass in the State by county and the means by which these facilities can be filled such as but not limited to barge, pipeline, rail, and truck;

(11) a description of expansion projects, including significant modifications to existing facilities, to serve New York for which all federal, State, and local approvals have been obtained, but which have not yet been completed;

(12) a description of the conversion process;

(13) effects of biomass on operational equipment such as engines or boilers.

(b) For major biogas or biofuel producers, the following information may be required, as available:

(1) facility annual production or process capacity;

(2) the total volume(s) and prices of biogas and biofuels, by product, annually supplied or processed in New York State and intended for in-State and out-of-State sale for the planning period;

(3) the total volume(s) and prices of biogas and biofuels, by product, annually supplied or processed in New York State and intended for in-State and out-of-State use for the planning period;

(4) the type(s), volume, origin (such as in-State or out-of-State), and prices paid for feedstock used to supply or process the end-product;

(5) the type(s), volume, and market prices earned for co-products such as but not limited to distiller grains;

(6) the acreage of land used to produce each feedstock (e.g. corn, soy, biomass);

(7) the use of the land prior to feedstock production;

(8) the quantities of products used in the production of each feedstock, such as but not limited to fertilizer, limestone, herbicides, pesticides, diesel fuel;

(9) type and quantities of energy and water used and emissions generated to manufacture or process the end-product and/or any co-products;

(10) the total current storage capacities for biogas and biofuels in the State by county and the means by which these facilities can be filled such as but not limited to barge, pipeline, rail, and truck;

(11) a description of expansion projects, including significant modifications to existing facilities, to serve New York for which all federal, State, and local approvals have been obtained, but which have not yet been completed;

(12) a description of the conversion process;

(13) effects of biogas and biofuels on operational equipment such as engines or boilers.

(c) For biogas, biofuel, and biomass research and development, the following research and development information may be required:

(1) a statement of research and development plans, including objectives and programs in the areas of new energy technologies;

(2) recent results of such programs undertaken or funded to date; and

(3) an assessment of the potential impacts of such results.

Section 7862.3 Other. The Board, or the Chair as authorized by the Board from time to time, may require the submission of such other information as is necessary to carry out the purposes of this Chapter, including but not limited to long-range plans for future operations.

PART 7863 END-USE ENERGY EFFICIENCY, RENEWABLE AND EMERGING TECHNOLOGY
PLANS

The Board, or the Chair as authorized by the Board, from time to time, may require the submission by major energy suppliers and energy service companies and any other entity that the Board deems appropriate to collect information, such as the annual capital, installation, and operational cost per kW and conversion process efficiency, on end-use energy efficiency, renewable and emerging energy technologies, including but not limited to energy efficiency services, technologies and methodologies; commodity, end-use, demand response, and/or customer-sited energy services, technologies, and equipment installations such as fuel cells; and distributed generation.