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Title: A Local Law to amend the administrative code of the city of New York, in relation to granting J-51 tax incentives for energy conservation, electric submetering and load control equipment for certain housing developments.

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Int. No. 402

By Council Members Brewer, James, Lander, Palma, Vann, Williams, Dromm, Mendez, Van Bramer, Mark-Viverito, Garodnick, Crowley, Vallone, Gonzalez, Weprin, Koppell, Dickens, Lappin, Koslowitz, Rodriguez, Rivera, Vacca, Jackson and Halloran

A Local Law to amend the administrative code of the city of New York, in relation to granting J-51 tax incentives for energy conservation, electric submetering and load control equipment for certain housing developments.

Be it enacted by the Council as follows:

Section 1. Statement of legislative findings and intent.

The Council finds that the City is increasingly dependent on consumer conservation to avoid potential power emergencies. Load curtailment is the term for conserving electricity to prevent a blackout or a brownout. The Council finds that the development of energy reduction mechanisms, involving various sectors in the City's building environment, is essential to prevent blackouts, enhance air quality and reduce the price of electricity in the State's wholesale electric market for New York City.

Residents of buildings with master meters alone are not accountable for electricity use as the costs for electricity are not apportioned and residents are not charged specifically for their personal consumption. Consequently, disproportionate usage at times of peak demand places undue stress on the City's electric supply system. Higher costs based upon excessive usage are passed through to residents, rendering housing less affordable.

A new approach to the provision of electric service is required to transition from a regulated monopoly that provides all electric services to a competitive electric market. The “unbundling” of service components has a significant consequence for conservation. By requiring utilities to divest their power-generating facilities, New York State's retail competition regulations effectively erased utility-sponsored “demand side management” conservation. These programs were replaced with programs administered by the New York State Energy Research and Development Authority (NYSERDA) through funds collected from ratepayers through a System Benefits Charge (SBC). The SBC is an additional charge paid by ratepayers that NYSERDA has been designated to use to promote energy efficiency and assure maximum benefits to ratepayers. These funds are contributions from ratepayers and for ratepayers and are not traditional tax levy funds. The New York State Public Service Commission has designated NYSERDA to use the SBC funds to promote energy efficiency and assure maximum benefits to ratepayers.

NYSERDA offers incentive programs funded by the State to encourage the design and installation of metering and control systems that will reduce electric consumption, as well as other conservation measures, which provide building managers and residents with the tools to reduce electricity demand and costs. Commensurate incentives from the City of New York, in the form of J-51 tax abatements, are needed to supplement SBC incentives to induce cooperative boards and building managers to undertake the installation of conservation technologies.

The Council recognizes that a new paradigm of energy conservation based on the element of time of usage is essential if electricity is to be both reliable and affordable. The Council further finds the concepts of

Price Responsive Load Management and Demand Response, which provide a policy framework for consumer-oriented activities to alleviate strain on electric supplies and maximize the ability of the most efficient, cost-effective and least-polluting power plants to satisfy the City's requirements.

The Council, therefore, supports the introduction of Time Sensitive Electricity Pricing opportunities for consumers, to connect wholesale and retail markets and induce electric use when supplies are abundant and discourage use when supplies are scarce. New technologies are rapidly emerging to measure electricity in time intervals and transmit data electronically. SBC programmatic support for submetering of master-metered and direct-metered multifamily buildings allows apartment residents to participate in activities that reduce electric costs and enhance availability. Additional technologies allow electric intensive equipment such as air conditioners to be automatically controlled in response to peak periods and “curtailment events” determined by the Independent System Operator (ISO). These technologies allow residents to override “shut-offs” thus assuring resident control, while representing a significant opportunity for the multifamily building sector to earn incentives from ISO curtailment incentive programs and facilitate potential benefits of time sensitive electric rate structures.

While the J-51 program provided benefits for the installation of submeters, it does not provide special incentives for more expensive advanced metering systems nor for peak load control devices. This law creates opportunities to facilitate energy conservation and load curtailment in the City's multifamily sector.

§2. Paragraph 6 of subdivision b of section 11-243 of the administrative code of the city of New York, as amended by local law number 44 for the year 2001, is hereby amended to read as follows:

(6) alterations or improvements to an otherwise eligible building or structure commenced after January first, nineteen hundred eighty designed to conserve the use of fuel, electricity or other energy sources or to reduce demand for electricity, including the installation of meters for purposes of measuring the amount of electricity consumed for each dwelling unit, [and] conversions of direct metering to a system that includes a master meter and submeters and the installation of equipment for the curtailment of electric use, for the

shedding of electric load in the building and/or dwelling units, and the installation of advanced electric, measurement, display or communication systems to inform building managers and/or residents of the current and past use of electricity in any cooperative, condominium, ~~limited-profit housing company organized under article two of the private housing finance law~~ or housing development fund company organized under article eleven of the private housing finance law; or

§3. This local law shall take effect immediately, except that the provisions of this local law will apply to any application that is submitted after its enactment for work that was initiated prior to such enactment and such applications will be subject to the same rules that currently exist regarding the eligibility of work done and when an application for benefits relating to such work must be submitted.

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