

# STATE OF NEW YORK

1163--B

2021-2022 Regular Sessions

## IN SENATE

January 7, 2021

Introduced by Sen. BENJAMIN -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to net energy metering for fuel-flexible linear generator electric generating equipment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2-b of section 2 of the public service law, as  
2 amended by chapter 6 of the laws of 2011, is amended to read as follows:  
3 2-b. The term "alternate energy production facility," when used in  
4 this chapter, includes any solar, wind turbine, fuel cell, fuel-flexible  
5 linear generator electric generating equipment, tidal, wave energy,  
6 waste management resource recovery, refuse-derived fuel, wood burning  
7 facility, or energy storage device utilizing batteries, flow batteries,  
8 flywheels or compressed air, together with any related facilities  
9 located at the same project site, with an electric generating capacity  
10 of up to eighty megawatts, which produces electricity, gas or useful  
11 thermal energy.

12 § 2. The section heading of section 66-j of the public service law, as  
13 amended by chapter 546 of the laws of 2011, is amended to read as  
14 follows:

15 Net energy metering for residential solar, farm waste, non-residential  
16 solar electric generating systems, micro-combined heat and power gener-  
17 ating equipment, fuel cell electric generating equipment, fuel-flexible  
18 linear generator electric generating equipment, and micro-hydroelectric  
19 generating equipment.

20 § 3. Subparagraphs (v) and (vi) of paragraph (a) of subdivision 1 of  
21 section 66-j of the public service law, subparagraph (v) as separately

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 amended by chapters 530 and 546 of the laws of 2011 and subparagraph  
2 (vi) as added by chapter 530 of the laws of 2011, are amended to read as  
3 follows:

4 (v) a residential customer of an electric corporation who owns, leases  
5 or operates fuel cell generating equipment or fuel-flexible linear  
6 generator electric generating equipment located on the customer's prem-  
7 ises; and (vi) a non-residential customer of an electric corporation who  
8 owns, leases or operates fuel cell generating equipment or fuel-flexible  
9 linear generator electric generating equipment located and used at the  
10 customer's premises;

11 § 4. Paragraph (f) of subdivision 1 of section 66-j of the public  
12 service law, as added by chapter 355 of the laws of 2009, is amended to  
13 read as follows:

14 (f) "Micro-combined heat and power generating equipment" means an  
15 integrated, cogenerating building heating and electrical power gener-  
16 ation system, operating on any fuel and of any applicable engine, fuel  
17 cell, fuel-flexible linear generator, or other technology, with a rated  
18 capacity of at least one kilowatt and not more than ten kilowatts elec-  
19 tric and any thermal output that at full load has a design total fuel  
20 use efficiency in the production of heat and electricity of not less  
21 than eighty percent, and annually produces at least two thousand kilo-  
22 watt hours of useful energy in the form of electricity that may work in  
23 combination with supplemental or parallel conventional heating systems,  
24 that is manufactured, installed and operated in accordance with applica-  
25 ble government and industry standards, that is connected to the electric  
26 system and operated in conjunction with an electric corporation's trans-  
27 mission and distribution facilities.

28 § 5. Subdivision 1 of section 66-j of the public service law is  
29 amended by adding a new paragraph (i) to read as follows:

30 (i) "Fuel-flexible linear generator electric generating equipment" or  
31 "fuel-flexible linear generator" means an integrated system consisting  
32 of oscillators, cylinders, electricity conversion equipment and associ-  
33 ated balance of plant components that directly convert the linear motion  
34 of the oscillators into electricity and which has a combined rated  
35 capacity of not more than two thousand kilowatts.

36 § 6. Subdivision 2 of section 66-j of the public service law, as  
37 amended by chapter 546 of the laws of 2011, is amended to read as  
38 follows:

39 2. Interconnection and net energy metering. An electric corporation  
40 shall provide for the interconnection of solar and farm waste electric  
41 generating equipment, micro-combined heat and power generating equip-  
42 ment, fuel cell electric generating equipment, fuel-flexible linear  
43 generator electric generating equipment and micro-hydroelectric generat-  
44 ing equipment owned or operated by a customer-generator and for net  
45 energy metering, provided that the customer-generator enters into a net  
46 energy metering contract with the corporation or complies with the  
47 corporation's net energy metering schedule and complies with standards  
48 and requirements established under this section.

49 § 7. Subparagraph (iii) of paragraph (a) of subdivision 3 of section  
50 66-j of the public service law, as amended by chapter 546 of the laws of  
51 2011, is amended to read as follows:

52 (iii) Each electric corporation shall make such contract and schedule  
53 available to customer-generators on a first come, first served basis,  
54 until the total rated generating capacity for solar and farm waste elec-  
55 tric generating equipment, micro-combined heat and power generating  
56 equipment, fuel cell electric generating equipment, fuel-flexible linear

1 generator electric generating equipment and micro-hydroelectric generat-  
2 ing equipment owned, leased or operated by customer-generators in the  
3 corporation's service area is equivalent to one percent of the corpo-  
4 ration's electric demand for the year two thousand five, as determined  
5 by the department.

6 § 8. Paragraph (c) of subdivision 3 of section 66-j of the public  
7 service law, as amended by chapter 546 of the laws of 2011, subparagraph  
8 (iii) as amended by chapter 494 of the laws of 2014, is amended to read  
9 as follows:

10 (c) In the event that the electric corporation determines that it is  
11 necessary to install a dedicated transformer or transformers, or other  
12 equipment to protect the safety and adequacy of electric service  
13 provided to other customers, a customer-generator shall pay the electric  
14 corporation's actual costs of installing the transformer or transfor-  
15 mers, or other equipment:

16 (i) In the case of a customer-generator who owns or operates solar  
17 electric generating equipment, micro-combined heat and power generating  
18 equipment, fuel cell electric generating equipment, fuel-flexible linear  
19 generator electric generating equipment or micro-hydroelectric generat-  
20 ing equipment located and used at his or her residence, or a non-resi-  
21 dential customer-generator who owns or operates solar electric generat-  
22 ing equipment with a rated capacity of not more than twenty-five  
23 kilowatts, up to a maximum amount of three hundred fifty dollars;

24 (ii) In the case of a customer-generator who owns or operates farm  
25 waste electric generating equipment located and used at his or her "farm  
26 operation," up to a total amount of five thousand dollars per "farm  
27 operation"; and

28 (iii) In the case of a non-residential customer-generator who owns or  
29 operates solar electric generating equipment or fuel cell electric  
30 generating equipment or fuel-flexible linear generator electric generat-  
31 ing equipment or micro-hydroelectric generating equipment or farm waste  
32 generating equipment as described in subparagraph (ix) of paragraph (a)  
33 of subdivision one of this section, with a rated capacity of more than  
34 twenty-five kilowatts located and used at its premises, such cost shall  
35 be as determined by the electric corporation subject to review, upon the  
36 request of such customer-generator, by the department.

37 § 9. Paragraph (g) of subdivision 3 of section 66-j of the public  
38 service law, as added by chapter 200 of the laws of 2013, is amended to  
39 read as follows:

40 (g) A customer who owns or operates a farm operation as such term is  
41 defined in subdivision eleven of section three hundred one of the agri-  
42 culture and markets law, or a non-residential customer-generator as  
43 defined by subparagraph (viii) of paragraph (a) of subdivision one of  
44 this section that locates fuel cell electric generating equipment or  
45 fuel-flexible linear generator electric generating equipment with a net  
46 energy meter on property owned or leased by such customer-generator may  
47 designate all or a portion of the net metering credits generated by such  
48 equipment to meters at any property owned or leased by such customer-  
49 generator within the service territory of the same electric corporation  
50 to which the customer-generator's net energy meters are interconnected  
51 and being within the same load zone as determined by the location based  
52 marginal price as of the date of initial request by the customer-genera-  
53 tor to conduct net metering. The electric corporation will credit the  
54 accounts of the customer by applying any credits to the highest use  
55 meter first, then subsequent highest use meters until all such credits

1 are attributed to the customer. Any excess credits shall be carried over  
2 to the following month.

3 § 10. Paragraph (b) of subdivision 4 of section 66-j of the public  
4 service law, as amended by chapter 494 of the laws of 2014, is amended  
5 to read as follows:

6 (b) In the event that the amount of electricity produced by a custom-  
7 er-generator during the billing period exceeds the amount of electricity  
8 used by the customer-generator, the corporation shall apply a credit to  
9 the next bill for service to the customer-generator for the net elec-  
10 tricity provided at the same rate per kilowatt hour applicable to  
11 service provided to other customers in the same service class which do  
12 not generate electricity onsite, except for micro-combined heat and  
13 power or fuel cell or fuel-flexible linear generator customer-generators  
14 or farm waste generating equipment customer-generators as described in  
15 subparagraph (ix) of paragraph (a) of subdivision one of this section,  
16 who will be credited at the corporation's avoided costs. The avoided  
17 cost credit provided to micro-combined heat and power or fuel cell or  
18 fuel-flexible linear generator customer-generators or farm waste gener-  
19 ating equipment customer-generators as described in subparagraph (ix) of  
20 paragraph (a) of subdivision one of this section shall be treated for  
21 ratemaking purposes as a purchase of electricity in the market that is  
22 includable in commodity costs.

23 § 11. Paragraph (a) of subdivision 5 of section 66-j of the public  
24 service law, as amended by chapter 546 of the laws of 2011, is amended  
25 to read as follows:

26 (a) On or before three months after the effective date of this  
27 section, each electric corporation shall establish standards that are  
28 necessary for net energy metering and the interconnection of residential  
29 solar or farm waste electric generating equipment, micro-combined heat  
30 and power generating equipment and fuel cell electric generating equip-  
31 ment, fuel-flexible linear generator electric generating equipment and  
32 micro-hydroelectric generating equipment to its system and that the  
33 commission shall determine are necessary for safe and adequate service  
34 and further the public policy set forth in this section. Such standards  
35 may include but shall not be limited to:

36 (i) equipment necessary to isolate automatically the residential  
37 solar, farm waste, micro-combined heat and power and fuel cell electric  
38 generating system and fuel-flexible linear generator electric generating  
39 equipment and micro-hydroelectric generating equipment from the utility  
40 system for voltage and frequency deviations; and

41 (ii) a manual lockable disconnect switch provided by the customer-gen-  
42 erator which shall be located on the outside of the customer's premises  
43 and externally accessible for the purpose of isolating the residential  
44 solar and farm waste electric generating equipment and micro-hydroelec-  
45 tric generating equipment.

46 § 12. Subparagraph (i) of paragraph (b) of subdivision 5 of section  
47 66-j of the public service law, as amended by chapter 546 of the laws of  
48 2011, is amended to read as follows:

49 (i) In the case of a customer-generator who owns or operates solar  
50 electric generating equipment located and used at his or her residence;  
51 an electric corporation may not require a customer-generator to comply  
52 with additional safety or performance standards, perform or pay for  
53 additional tests, or purchase additional liability insurance provided  
54 that the residential solar or farm waste electric generating equipment,  
55 micro-combined heat and power generating equipment, fuel cell electric  
56 generating equipment, fuel-flexible linear generator electric generating

1 equipment or micro-hydroelectric generating equipment meets the safety  
2 standards established pursuant to this paragraph.

3 § 13. Subdivision 1 of section 66-p of the public service law, as  
4 added by chapter 106 of the laws of 2019, is amended to read as follows:

5 1. As used in this section:

6 (a) "jurisdictional load serving entity" means any entity subject to  
7 the jurisdiction of the commission that secures energy to serve the  
8 electrical energy requirements of end-use customers in New York state;

9 (b) "renewable energy systems" means systems that generate electricity  
10 or thermal energy through use of the following technologies: solar ther-  
11 mal, photovoltaics, on land and offshore wind, hydroelectric, geothermal  
12 electric, geothermal ground source heat, tidal energy, wave energy,  
13 ocean thermal, [~~and~~] fuel cells which do not utilize a fossil fuel  
14 resource in the process of generating electricity, and fuel-flexible  
15 linear generators which do not utilize a fossil fuel resource in the  
16 process of generating electricity.

17 § 14. This act shall take effect immediately.