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I N  A S S E M B L Y

May 25, 2010

Introduced by M. of A. GORDON -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to authorizing virtual net energy metering

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public service law is amended by adding a new section 66-m to read as follows:

S 66-M. VIRTUAL NET ENERGY METERING. 1. DEFINITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CUSTOMER-GENERATOR" MEANS: (I) A CITY, TOWN, VILLAGE OR SPECIAL DISTRICT WHICH OWNS OR OPERATES ENERGY GENERATING EQUIPMENT FOR THE BENEFIT OF THE RESIDENTS THEREOF WHO ARE CUSTOMERS OF A SINGLE ELECTRIC CORPORATION; (II) A GROUP OF NONRESIDENTIAL CUSTOMERS OF AN ELECTRIC CORPORATION, WHO HAVE ENTERED INTO AN AGREEMENT TO JOINTLY OWN OR OPERATE ENERGY GENERATING EQUIPMENT; AND (III) A GROUP OF FARM OPERATIONS CUSTOMERS OF AN ELECTRIC CORPORATION, WHO HAVE ENTERED INTO AN AGREEMENT TO JOINTLY OWN OR OPERATE ENERGY GENERATING EQUIPMENT.

(B) "ENERGY GENERATING EQUIPMENT" MEANS FARM WASTE ELECTRIC GENERATING EQUIPMENT, FUEL CELL ELECTRIC GENERATING EQUIPMENT, MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT, SOLAR ELECTRIC GENERATING EQUIPMENT AND/OR WIND ELECTRIC GENERATING EQUIPMENT.

(C) "FARM OPERATIONS CUSTOMER" MEANS THE CUSTOMER OF AN ELECTRIC CORPORATION WHO USES ELECTRIC ENERGY IN HIS, HER OR ITS FARM OPERATION AS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW.

(D) "FARM WASTE ELECTRIC GENERATING EQUIPMENT" MEANS EQUIPMENT THAT GENERATES ELECTRIC ENERGY FROM BIOGAS PRODUCED BY THE ANAEROBIC DIGESTION OF AGRICULTURAL WASTE, SUCH AS LIVESTOCK MANURE, FARMING WASTES AND FOOD PROCESSING WASTES, THAT IS:

(I) MANUFACTURED, INSTALLED AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS;

(II) CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES;

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

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(III) FUELED AT A MINIMUM OF NINETY PERCENT ON AN ANNUAL BASIS BY BIOGAS PRODUCED FROM THE ANAEROBIC DIGESTION OF AGRICULTURAL WASTE SUCH AS LIVESTOCK MANURE MATERIALS, CROP RESIDUES AND FOOD PROCESSING WASTES; AND

(IV) FUELED BY BIOGAS GENERATED BY ANAEROBIC DIGESTION WITH AT LEAST FIFTY PERCENT BY WEIGHT OF ITS FEEDSTOCK BEING LIVESTOCK MANURE MATERIALS ON AN ANNUAL BASIS.

(E) "FUEL CELL ELECTRIC GENERATING EQUIPMENT" MEANS A SOLID OXIDE, MOLTEN CARBONATE, PROTON EXCHANGE MEMBRANE OR PHOSPHORIC ACID FUEL CELL THAT IS MANUFACTURED, INSTALLED AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN PARALLEL WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES.

(F) "MEMBER" MEANS ANY RESIDENT OF A MUNICIPALITY THAT IS A CUSTOMER-GENERATOR, OR ANY MEMBER OF A GROUP OF ELECTRIC CUSTOMERS THAT IS A CUSTOMER-GENERATOR.

(G) "MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT" MEANS AN INTEGRATED, COGENERATING BUILDING HEATING AND ELECTRICAL POWER GENERATION SYSTEM, OPERATING ON ANY FUEL AND OF ANY APPLICABLE ENGINE, FUEL CELL OR OTHER TECHNOLOGY THAT MAY WORK IN COMBINATION WITH SUPPLEMENTAL OR PARALLEL CONVENTIONAL HEATING SYSTEMS, THAT IS MANUFACTURED, INSTALLED AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES.

(H) "NET ENERGY METER" MEANS METERS THAT MEASURE THE REVERSE FLOW OF ELECTRICITY TO REGISTER THE DIFFERENCE BETWEEN THE ELECTRICITY SUPPLIED BY AN ELECTRIC CORPORATION TO THE MEMBERS OF A CUSTOMER-GENERATOR AND THE ELECTRICITY PROVIDED TO THE CORPORATION BY THAT CUSTOMER-GENERATOR.

(I) "NET ENERGY METERING" MEANS THE USE OF NET ENERGY METERS TO MEASURE, DURING THE BILLING PERIOD APPLICABLE TO THE MEMBERS OF A CUSTOMER-GENERATOR, THE NET AMOUNT OF ELECTRICITY SUPPLIED BY AN ELECTRIC CORPORATION AND PROVIDED TO THE CORPORATION BY SUCH CUSTOMER-GENERATOR.

(J) "SOLAR ELECTRIC GENERATING EQUIPMENT" MEANS A PHOTOVOLTAIC SYSTEM THAT IS MANUFACTURED, INSTALLED AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES.

(K) "WIND ELECTRIC GENERATING EQUIPMENT" MEANS ONE OR MORE WIND GENERATORS THAT ARE MANUFACTURED, INSTALLED AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN PARALLEL WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES.

2. INTERCONNECTION AND NET ENERGY METERING. AN ELECTRIC CORPORATION SHALL PROVIDE FOR THE INTERCONNECTION OF ENERGY GENERATING EQUIPMENT OWNED OR OPERATED BY A CUSTOMER-GENERATOR AND FOR NET ENERGY METERING OF THE MEMBERS OF SUCH CUSTOMER-GENERATOR, PROVIDED THAT THE CUSTOMER-GENERATOR ENTERS INTO A NET ENERGY METERING CONTRACT WITH THE CORPORATION OR COMPLIES WITH THE CORPORATION'S NET ENERGY METERING SCHEDULE AND COMPLIES WITH STANDARDS AND REQUIREMENTS ESTABLISHED PURSUANT TO THIS SECTION.

3. CONDITIONS OF SERVICE. (A) ON OR BEFORE THREE MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH ELECTRIC CORPORATION SHALL DEVELOP A MODEL CONTRACT AND FILE A SCHEDULE THAT ESTABLISHES CONSISTENT AND REASONABLE RATES, TERMS AND CONDITIONS FOR NET ENERGY METERING TO MEMBERS OF CUSTOMER-GENERATORS, ACCORDING TO THE REQUIREMENTS OF THIS

SECTION. THE COMMISSION SHALL RENDER A DECISION WITHIN THREE MONTHS FROM THE DATE ON WHICH THE SCHEDULE IS FILED.

(B) IN THE EVENT THAT THE ELECTRIC CORPORATION DETERMINES THAT IT IS NECESSARY TO INSTALL A DEDICATED TRANSFORMER OR TRANSFORMERS, OR OTHER EQUIPMENT TO PROTECT THE SAFETY AND ADEQUACY OF ELECTRIC SERVICE PROVIDED TO OTHER CUSTOMERS, A CUSTOMER-GENERATOR SHALL PAY THE ELECTRIC CORPORATION'S ACTUAL COSTS OF INSTALLING THE TRANSFORMER OR TRANSFORMERS, OR OTHER EQUIPMENT AS DETERMINED BY THE ELECTRIC CORPORATION SUBJECT TO REVIEW, UPON REQUEST OF SUCH CUSTOMER-GENERATOR, BY THE DEPARTMENT.

(C) AN ELECTRIC CORPORATION SHALL IMPOSE NO OTHER CHARGE OR FEE, INCLUDING BACK-UP, STANDBY AND DEMAND CHARGES, FOR THE PROVISION OF NET ENERGY METERING TO THE MEMBERS OF A CUSTOMER-GENERATOR.

4. RATES. AN ELECTRIC CORPORATION SHALL USE NET ENERGY METERING TO MEASURE AND CHARGE FOR THE NET ELECTRICITY SUPPLIED BY THE CORPORATION AND PROVIDED TO THE CORPORATION BY A CUSTOMER-GENERATOR, ACCORDING TO THESE REQUIREMENTS:

(A) IN THE EVENT THAT THE AMOUNT OF ELECTRICITY SUPPLIED BY THE CORPORATION DURING THE BILLING PERIOD EXCEEDS THE AMOUNT OF ELECTRICITY PROVIDED TO THE MEMBERS OF A CUSTOMER-GENERATOR, THE CORPORATION SHALL CHARGE THE MEMBERS OF THE CUSTOMER-GENERATOR, ON A PRO-RATA BASIS, FOR THE NET ELECTRICITY SUPPLIED AT THE SAME RATE PER KILOWATT HOUR APPLICABLE TO SERVICE PROVIDED TO OTHER CUSTOMERS IN THE SAME SERVICE CLASS WHICH DO NOT GENERATE ELECTRICITY ONSITE.

(B) IN THE EVENT THAT THE AMOUNT OF ELECTRICITY PRODUCED BY A CUSTOMER-GENERATOR DURING THE BILLING PERIOD EXCEEDS THE AMOUNT OF ELECTRICITY USED BY THE MEMBERS OF THE CUSTOMER-GENERATOR, THE CORPORATION SHALL APPLY A CREDIT, ON A PRO-RATA BASIS, TO THE NEXT BILLS FOR SERVICE TO THE MEMBERS OF THE CUSTOMER-GENERATOR FOR THE NET ELECTRICITY PROVIDED AS THE SAME RATE PER KILOWATT HOUR APPLICABLE TO SERVICE PROVIDED TO OTHER CUSTOMERS IN THE SAME SERVICE CLASS WHICH DO NOT GENERATE ELECTRICITY ON SITE.

(C) AT THE END OF THE YEAR OR ANNUALIZED OVER THE PERIOD THAT SERVICE IS SUPPLIED BY MEANS OF NET ENERGY METERING, THE CORPORATION SHALL PROMPTLY ISSUE PAYMENT AT ITS AVOIDED COSTS, ON A PRO-RATA BASIS, TO THE MEMBERS OF A CUSTOMER-GENERATOR FOR THE VALUE OF ANY REMAINING CREDIT FOR THE EXCESS ELECTRICITY PRODUCED DURING THE YEAR OR OVER THE ANNUALIZED PERIOD BY THE CUSTOMER-GENERATOR.

5. SAFETY STANDARDS. ON OR BEFORE THREE MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, EACH ELECTRIC CORPORATION SHALL ESTABLISH STANDARDS THAT ARE NECESSARY FOR NET ENERGY METERING AND THE INTERCONNECTION OF ENERGY GENERATING EQUIPMENT TO ITS SYSTEM AND THAT THE COMMISSION SHALL DETERMINE ARE NECESSARY FOR SAFE AND ADEQUATE SERVICE AND FURTHER THE PUBLIC POLICY SET FORTH IN THIS SECTION. SUCH STANDARDS MAY INCLUDE, BUT SHALL NOT BE LIMITED TO:

(A) EQUIPMENT NECESSARY TO ISOLATE AUTOMATICALLY THE ENERGY GENERATING EQUIPMENT FROM THE UTILITY SYSTEM FOR VOLTAGE AND FREQUENCY DEVIATIONS; AND

(B) A MANUAL LOCKABLE DISCONNECT SWITCH PROVIDED BY THE CUSTOMER-GENERATOR WHICH SHALL BE LOCATED ON THE OUTSIDE OF THE MEMBERS' PREMISES AND EXTERNALLY ACCESSIBLE FOR THE PURPOSE OF ISOLATING THE ENERGY GENERATING EQUIPMENT.

S 2. This act shall take effect immediately.