S T A T E O F N E W Y O R K

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I N A S S E M B L Y

March 31, 2009

Introduced by M. of A. GALEF, KOON, BRADLEY, GABRYSZAK, ROSENTHAL, GUNTHER, JAFFEE, DINOWITZ, FIELDS, DelMONTE, MAISEL, COLTON, WALKER, GORDON -- Multi-Sponsored by -- M. of A. BOYLAND, BRODSKY, BROOK-KRASNY, DESTITO, GOTTFRIED, JOHN, V. LOPEZ, MAGNARELLI, MILLMAN, PEOPLES, SCHIMEL, SPANO, SWEENEY, THIELE, WEISENBERG -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to providing real time smart metering technology to residential electricity customers

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

Section 1. Legislative intent. The legislature intends to provide residential customers with the ability to control and manage electricity usage and the time of usage in their homes. The implementation of a real time pricing smart meter program should help to conserve energy and prevent peak-time system overloads. The expansion of the use of real time pricing smart meters from the commercial and industrial markets to the residential market should benefit consumers with reduced monthly costs and stimulate market competition.

S 2. The public service law is amended by adding a new section 39-a to read as follows:

S 39-A. REAL TIME PRICING SMART METERING. 1. AS USED IN THIS SECTION, THE TERM "REAL TIME SMART METER" OR "METER" SHALL MEAN A METERING DEVICE THAT HAS THE FOLLOWING CAPABILITIES:

(A) COUPLED WITH AN IN-HOME DISPLAY DEVICE THAT CAN DISPLAY REAL TIME USAGE OR DEMAND AND REAL TIME PRICING IN USEFUL COMPARISONS INCLUDING, BUT NOT LIMITED TO, MEANS SUCH AS SIDE BY SIDE BAR GRAPHS OR COLOR CODED SYSTEMS THAT REFLECT CHANGING UTILITY DEMAND AND PRICING;

(B) RECORDING AND STORING AND INTERPRETING KILOWATT PER HOUR USER RATES IN ONE-HALF HOUR INTERVALS;

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

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(C) COMMUNICATING REAL TIME PRICING THRESHOLDS TO HOME APPLIANCES TO REDUCE APPLIANCE USAGE AS DETERMINED BY THE RATEPAYER OR IN AGREEMENTS WITH AN ENERGY PROVIDER;

(D) BEING READ REMOTELY OR RECEIVING DATA FROM, BUT NOT LIMITED TO, THE INTERNET, WIRELESS FIDELITY NETWORK, BROADBAND OVER POWER LINE, POWER LINE CARRIER, ETHERNET, PHONE LINE, WIRELESS CELL PHONE LINE, RADIO FREQUENCY OR OTHER COMMUNICATIONS SYSTEM;

(E) STORING USAGE DATA UP TO THREE MONTHS;

(F) DETECTING A LOSS OF POWER TO A CUSTOMER WITH IMMEDIATE COMMUNICATION OF SUCH LOSS TO THE ENERGY PROVIDER; AND

(G) PROVIDING DATA ANALYSIS ON SUCH AS HISTORICAL CONSUMPTION PATTERNS, UTILIZATION RATES, POWER OUTAGES, PEAK DEMAND TIMES AND POWER REQUIREMENTS, COSTS PER KILOWATT HOUR, PRICING, AND USAGE HISTORY.

2. (A) THE COMMISSION SHALL PROMOTE THE UTILIZATION OF REAL TIME SMART METERS BY RESIDENTIAL ELECTRICITY CUSTOMERS IN THIS STATE. FURTHERMORE, IT SHALL PROVIDE FOR THE CERTIFICATION OF COMPANIES WHO INSTALL, RENT, SELL, MAINTAIN, REPAIR, ALTER OR REPLACE SUCH METERS.

(B) RESIDENTIAL ELECTRICITY CUSTOMERS SHALL HAVE THE OPTION TO CONTINUE WITH THEIR PRESENT UTILITY METERING SYSTEM OR ACQUIRING A REAL TIME SMART METER. SUCH METER MAY BE PURCHASED OR RENTED FROM THE SUPPLIER OF ELECTRICITY OR FROM A THIRD PARTY CERTIFIED BY THE COMMISSION TO TRANSACT SUCH BUSINESS. PURCHASES MAY BE MADE BY CASH OR BY FINANCING FOR A TERM OF UP TO TWENTY YEARS. RENTAL AGREEMENTS MAY ALSO BE ENTERED INTO ON AN ANNUAL OR TERM OF YEARS BASIS.

(C) (I) THE COST OF ELECTRICITY FOR A RESIDENTIAL CUSTOMER WHO ELECTS TO CHANGE TO A REAL TIME SMART METER SHALL BE BASED ON:

(1) THE CUSTOMER'S ELECTRICITY USAGE AND TIME OF USAGE; AND

(2) A FLAT FEE THAT SHALL INCORPORATE: (A) A GENERATION BID COST; AND (B) SERVICE SIZE COSTS BASED ON THE RESIDENTIAL CUSTOMER'S SERVICE SIZE CAPACITY AS DETERMINED BY THE SUPPLIER OF ELECTRICITY.

(II) AN ADDITIONAL SURCHARGE SHALL BE LEVIED ON SUCH RESIDENTIAL CUSTOMER IF SUCH ELECTRICITY USAGE EXCEEDS THE SERVICE SIZE CAPACITY.

(III) THE VARIABLE COSTS SHALL BE PAID BY A RESIDENTIAL CUSTOMER FOR ELECTRICITY USED AS INDICATED BY THE REAL TIME SMART METER AND THE FLAT FEE COSTS SHALL BE PAID BY SUCH CUSTOMER, AS DETERMINED BY THE SUPPLIER OF ELECTRICITY AND APPROVED BY THE COMMISSION, AS PART OF THE REGULAR BILLING CYCLE.

(D) THE COMMISSION SHALL APPROVE ALL CHARGES, INCLUDING VARIABLE RATES, FIXED RATES AND SURCHARGES.

3. ELECTRICITY TRANSFER AND DELIVERY UTILITIES REGULATED BY THE COMMISSION MAY REACH AGREEMENT WITH THE COMMISSION TO FOREGO PARTICIPATION IN THE REAL TIME SMART METER PROGRAM FOR AT LEAST TEN YEARS. DURING THIS PERIOD OF TIME NEW METER SERVICE PROVIDERS AND COMMUNITY PROVIDERS WOULD HAVE THE OPPORTUNITY TO PROVIDE SUCH METERS IN THIS MARKET. IF SUCH AN AGREEMENT IS ENTERED INTO, SUCH UTILITIES SHALL BE ALLOWED TO RECEIVE A METER DECOMMISSIONING FEE. THE METER DECOMMISSIONING FEE SHALL BE AN AMOUNT AGREED UPON BY SUCH UTILITY AND THE COMMISSION.

4. THE COMMISSION SHALL ESTABLISH REAL TIME SMART METERING PILOT PROGRAMS. A COUNTY LEGISLATURE OR BOARD OF SUPERVISORS MAY PETITION THAT THE COMMISSION APPROVE THE OPERATION OF A REAL TIME SMART METERING PILOT PROGRAM WITHIN ITS JURISDICTION ON AN ACCELERATED BASIS. SUCH PETITION SHALL SET FORTH THE PARAMETERS OF THE PILOT PROGRAM INCLUDING THE CUSTOMERS OF SUCH COUNTY TO BE SERVED, TECHNOLOGIES TO BE USED AND PROVIDE DETAILED PERFORMANCE MEASURES TO BE USED INCLUDING ENERGY CONSERVATION GOALS.

S 3. The public service commission shall promulgate rules and regulations to implement the provisions of this act. Such rules and regulations shall include, but not be limited to, establishing criteria for the operation and approval of all smart metering programs, including those applications submitted by county governments to establish their own real time smart metering programs. A county legislature or board of supervisors may petition the public service commission for approval to establish a local real time smart metering program on or after the three hundred sixty-fifth day after this act shall have become a law. If such petition is denied, the public service commission shall provide in writing the reasons for such denial and provide the conditions and criteria the public service commission maintains would lead to a subsequent application approval. Any county application shall have a public hearing conducted on such application within 120 days of submission of such application to the public service commission and a decision rendered within 120 days after the public hearing has been concluded.

S 4. This act shall take effect on the two hundred seventieth day after it shall have become a law; provided, however, that effective immediately the public service commission is authorized to adopt any rules or regulations necessary to implement the provisions of this act on or before such date.