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I N S E N A T E

February 11, 2009

Introduced by Sen. VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the rural electric cooperative law and the public service law, in relation to the powers of rural electric cooperatives

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

Section 1. Subdivision (d) of section 14 of the rural electric cooperative law is amended to read as follows:

(d) To generate, manufacture, purchase, acquire, accumulate and transmit electric energy, and to distribute, sell, supply, and dispose of electric energy to its members, to governmental agencies and political subdivisions, and to other persons not in excess of ten per centum of the number of its members, provided, however, that such other persons shall become members within one year after they commence taking electric service from the cooperative; and provided, further however, that the furnishing by a cooperative of electric cold storage or processing plant service shall not be deemed to be distributing, selling, supplying or disposing of electric energy, and provided, further however, that a cooperative [shall not] MAY, WITHIN THE TERRITORY WHERE THE COOPERATIVE HOLDS A FRANCHISE, distribute, sell, supply or dispose of electric energy to any premises or building receiving and using central station electric service or entitled to receive such service as provided by section twelve of the transportation corporations law on the effective date of this chapter or to any premises or buildings hereafter served by any person, corporation or municipality supplying central station electric service, if no co-operative service is available to such premises or building at the time of such installation, [without the consent] WITH THE MUTUAL AGREEMENT of the person, corporation, or municipality supplying or required by said section twelve of the transportation corporations law to supply such central station electric service, AND

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

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PROVIDED, FURTHER, THAT IN THE EVENT THAT SUCH MUTUAL AGREEMENT IS NOT REACHED WITHIN NINETY DAYS OF THE STATEMENT OF INTEREST BY THE COOPERATIVE, THEN THE CONSIDERATION TO THE PERSON, CORPORATION OR MUNICIPALITY FOR SUCH SERVICES BY THE COOPERATIVE SHALL BE DETERMINED WITHIN NINETY DAYS BY THE PUBLIC SERVICE COMMISSION PURSUANT TO SUBDIVISION TWENTY-NINE OF SECTION SIXTY-SIX OF THE PUBLIC SERVICE LAW. THE COOPERATIVE SHALL HAVE NINETY DAYS TO ACCEPT THE CONSIDERATION AS DETERMINED BY THE PUBLIC SERVICE COMMISSION;

S 2. Section 66 of the public service law is amended by adding a new subdivision 29 to read as follows:

29. IN THE EVENT THAT A MUTUAL AGREEMENT IS NOT REACHED PURSUANT TO SUBDIVISION (D) OF SECTION FOURTEEN OF THE RURAL ELECTRIC COOPERATIVE LAW, THE COMMISSION SHALL DETERMINE WITHIN NINETY DAYS THE CONSIDERATION BY THE RURAL ELECTRIC COOPERATIVE TO THE PERSON, AS DEFINED IN SECTION TWO OF THE RURAL ELECTRIC COOPERATIVE LAW, TO THE ELECTRIC CORPORATION OR TO THE MUNICIPALITY FOR SERVICES, AS DESCRIBED IN SUBDIVISION (D) OF SECTION FOURTEEN OF THE RURAL ELECTRIC COOPERATIVE LAW, TAKING INTO ACCOUNT THE OVERALL ECONOMIC EFFICIENCY OF SUCH SERVICES AND CONSIDERATION AND WHETHER THE CONSIDERATION AVOIDS ANY NEGATIVE EFFECT ON THE CUSTOMERS OF THE ELECTRIC CORPORATION OR THE MUNICIPALITY. THE COMMISSION SHALL INFORM THE RURAL ELECTRIC COOPERATIVE OF ITS DETERMINATION.

S 3. The opening paragraph of section 67 of the rural electric cooperative law is amended to read as follows:

Cooperatives and foreign corporations doing business in this state pursuant to this chapter shall be exempt in all respects from the jurisdiction and control of the public service commission of this state and shall not be subject to the provisions of the public service law, EXCEPT FOR THE PROVISIONS OF SUBDIVISION TWENTY-NINE OF SECTION SIXTY-SIX OF THE PUBLIC SERVICE LAW. Each cooperative, however, shall file with the public service commission an annual report verified by the oath of the president, vice-president, treasurer, secretary, general manager, or receiver, if any. The report shall show in detail

S 4. This act shall take effect immediately.