

4283

2009-2010 Regular Sessions

I N S E N A T E

April 21, 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 public service law and the public authorities law, in relation to the net energy metering for micro-combined heat and power generating systems

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

1 Section 1. The section heading and subdivisions 1, 2, 3, 4 and 5 of
2 section 66-j of the public service law, the section heading, paragraphs
3 (a), (d) and (e) of subdivision 1, subdivision 2, paragraphs (a), (b)
4 and (c) of subdivision 3 and paragraphs (c) and (d) of subdivision 4 as
5 amended by chapter 452 of the laws of 2008, subdivisions 1, 3, 4 and 5
6 as amended by chapter 515 of the laws of 2002 and paragraph (b) and the
7 opening paragraph of paragraph (e) of subdivision 1 as amended by chap-
8 ter 480 of the laws of 2008, are amended to read as follows:
9 Net energy metering for residential solar, farm waste or non-residen-
10 tial solar electric generating systems, OR MICRO-COMBINED HEAT AND POWER
11 GENERATING EQUIPMENT. 1. Definitions. As used in this section, the
12 following terms shall have the following meanings:
13 (a) "Customer-generator" means: (i) a residential customer of an elec-
14 tric corporation, who owns or operates solar electric generating equip-
15 ment located and used at his or her residence; (ii) a customer of an
16 electric corporation, who owns or operates farm waste electric generat-
17 ing equipment located and used at his or her "farm operation," as such
18 term is defined in subdivision eleven of section three hundred one of
19 the agriculture and markets law; [and] (iii) a non-residential customer
20 of an electric corporation which owns or operates solar electric gener-
21 ating equipment located and used at its premises; AND (IV) A RESIDENTIAL
22 CUSTOMER OF AN ELECTRIC CORPORATION WHO OWNS, LEASES OR OPERATES MICRO-

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

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1 COMBINED HEAT AND POWER GENERATING EQUIPMENT LOCATED ON THE CUSTOMER'S
2 PREMISES.

3 (b) "Net energy meter" means a meter that measures the reverse flow of
4 electricity to register the difference between the electricity supplied
5 by an electric corporation to the customer-generator and the electricity
6 provided to the corporation by that customer-generator.

7 (c) "Net energy metering" means the use of a net energy meter to meas-
8 ure, during the billing period applicable to a customer-generator, the
9 net amount of electricity supplied by an electric corporation and
10 provided to the corporation by a customer-generator.

11 (d) "Solar electric generating equipment" means a photovoltaic system
12 (i) (A) in the case of a residential customer, with a rated capacity of
13 not more than twenty-five kilowatts; and (B) in the case of a non-resi-
14 dential customer, with a rated capacity of not more than the lesser of
15 two thousand kilowatts or such customer's peak load as measured over the
16 prior twelve month period, or in the case that such twelve month period
17 of measurement is not available, then as determined by the commission
18 based on its analysis of comparable facilities; and (ii) that is manu-
19 factured, installed, and operated in accordance with applicable govern-
20 ment and industry standards, that is connected to the electric system
21 and operated in conjunction with an electric corporation's transmission
22 and distribution facilities, and that is operated in compliance with any
23 standards and requirements established under this section.

24 (e) "Farm waste electric generating equipment" means equipment that
25 generates electric energy from biogas produced by the anaerobic
26 digestion of agricultural waste, such as livestock manure, farming
27 wastes and food processing wastes with a rated capacity of not more than
28 five hundred kilowatts, that is:

29 i. manufactured, installed, and operated in accordance with applicable
30 government and industry standards;

31 ii. connected to the electric system and operated in conjunction with
32 an electric corporation's transmission and distribution facilities;

33 iii. operated in compliance with any standards and requirements estab-
34 lished under this section;

35 iv. fueled at a minimum of ninety percent on an annual basis by biogas
36 produced from the anaerobic digestion of agricultural waste such as
37 livestock manure materials, crop residues, and food processing waste;
38 and

39 v. fueled by biogas generated by anaerobic digestion with at least
40 fifty percent by weight of its feedstock being livestock manure materi-
41 als on an annual basis.

42 (F) "MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT" MEANS AN
43 INTEGRATED, COGENERATING BUILDING HEATING AND ELECTRICAL POWER GENER-
44 ATION SYSTEM, OPERATING ON ANY FUEL AND OF ANY APPLICABLE ENGINE, FUEL
45 CELL, OR OTHER TECHNOLOGY, WITH A RATED CAPACITY OF AT LEAST ONE KILO-
46 WATT AND NOT MORE THAN TEN KILOWATTS ELECTRIC AND ANY THERMAL OUTPUT
47 THAT AT FULL LOAD HAS A DESIGN TOTAL FUEL USE EFFICIENCY IN THE
48 PRODUCTION OF HEAT AND ELECTRICITY OF NOT LESS THAN SEVENTY-FIVE
49 PERCENT, AND ANNUALLY PRODUCES AT LEAST TWO THOUSAND HOURS OF USEFUL
50 ENERGY IN THE FORM OF ELECTRICITY THAT MAY WORK IN COMBINATION WITH
51 SUPPLEMENTAL OR PARALLEL CONVENTIONAL HEATING SYSTEMS, THAT IS MANUFAC-
52 TURED, INSTALLED AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT
53 AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND
54 OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND
55 DISTRIBUTION FACILITIES.

1 2. Interconnection and net energy metering. An electric corporation
2 shall provide for the interconnection of solar and farm waste electric
3 generating equipment AND MICRO-COMBINED HEAT AND POWER GENERATING EQUIP-
4 MENT owned or operated by a customer-generator and for net energy meter-
5 ing, provided that the customer-generator enters into a net energy
6 metering contract with the corporation or complies with the corpo-
7 ration's net energy metering schedule and complies with standards and
8 requirements established under this section.

9 3. Conditions of service. (a) (i) On or before three months after the
10 effective date of this section, each electric corporation shall develop
11 a model contract and file a schedule that establishes consistent and
12 reasonable rates, terms and conditions for net energy metering to
13 customer-generators, according to the requirements of this section. The
14 commission shall render a decision within three months from the date on
15 which the schedule is filed.

16 (ii) On or before three months after the effective date of this
17 subparagraph, each electric corporation shall develop a model contract
18 and file a schedule that establishes consistent and reasonable rates,
19 terms and conditions for net energy metering to non-residential customer
20 generators, according to the requirements of this section. The commis-
21 sion shall render a decision within three months of the date on which
22 the schedule is filed.

23 (iii) Each electric corporation shall make such contract and schedule
24 available to customer-generators on a first come, first served basis,
25 until the total rated generating capacity for solar and farm waste elec-
26 tric generating equipment AND MICRO-COMBINED HEAT AND POWER GENERATING
27 EQUIPMENT owned or operated by customer-generators in the corporation's
28 service area is equivalent to one percent of the corporation's electric
29 demand for the year two thousand five, as determined by the department.

30 (b) Nothing in this subdivision shall prohibit a corporation from
31 providing net energy metering to additional customer-generators. The
32 commission shall have the authority, after January first, two thousand
33 twelve, to increase the percent limits if it determines that additional
34 net energy metering is in the public interest.

35 (c) In the event that the electric corporation determines that it is
36 necessary to install a dedicated transformer or transformers, or other
37 equipment to protect the safety and adequacy of electric service
38 provided to other customers, a customer-generator shall pay the electric
39 corporation's actual costs of installing the transformer or transfor-
40 mers, or other equipment:

41 (i) In the case of a customer-generator who owns or operates solar
42 electric generating equipment OR MICRO-COMBINED HEAT AND POWER GENERAT-
43 ING EQUIPMENT located and used at his or her residence[;], up to a maxi-
44 mum amount of three hundred fifty dollars[.];

45 (ii) In the case of a customer-generator who owns or operates farm
46 waste electric generating equipment located and used at his or her "farm
47 operation," up to a total amount of five thousand dollars per "farm
48 operation"[];

49 (iii) In the case of a non-residential customer-generator who owns or
50 operates solar electric generating equipment located and used at its
51 premises, such cost shall be as determined by the department pursuant to
52 standards established thereby.

53 (d) An electric corporation shall impose no other charge or fee,
54 including back-up, stand by and demand charges, for the provision of net
55 energy metering to a customer-generator, except as provided in paragraph
56 (d) of subdivision four of this section.

1 4. Rates. An electric corporation shall use net energy metering to
2 measure and charge for the net electricity supplied by the corporation
3 and provided to the corporation by a customer-generator, according to
4 these requirements:

5 (a) In the event that the amount of electricity supplied by the corpo-
6 ration during the billing period exceeds the amount of electricity
7 provided by a customer-generator, the corporation shall charge the
8 customer-generator for the net electricity supplied at the same rate per
9 kilowatt hour applicable to service provided to other customers in the
10 same service class which do not generate electricity onsite.

11 (b) In the event that the amount of electricity produced by a custom-
12 er-generator during the billing period exceeds the amount of electricity
13 used by the customer-generator, the corporation shall apply a credit to
14 the next bill for service to the customer-generator for the net elec-
15 tricity provided at the same rate per kilowatt hour applicable to
16 service provided to other customers in the same service class which do
17 not generate electricity onsite, EXCEPT FOR MICRO-COMBINED HEAT AND
18 POWER CUSTOMER-GENERATORS, WHO WILL BE CREDITED AT THE CORPORATION'S
19 AVOIDED COSTS. THE AVOIDED COST CREDIT PROVIDED TO MICRO-COMBINED HEAT
20 AND POWER CUSTOMER-GENERATORS SHALL BE TREATED FOR RATEMAKING PURPOSES
21 AS A PURCHASE OF ELECTRICITY IN THE MARKET THAT IS INCLUDABLE IN COMMOD-
22 ITY COSTS.

23 (c) At the end of the year or annualized over the period that service
24 is supplied by means of net energy metering, the corporation shall
25 promptly issue payment at its avoided cost to the customer-generator, as
26 defined in subparagraph (i) or (ii) of paragraph (a) of subdivision one
27 of this section, for the value of any remaining credit for the excess
28 electricity produced during the year or over the annualized period by
29 the customer-generator.

30 (d) In the event that the corporation imposes charges based on kilo-
31 watt demand on customers who are in the same service class as the
32 customer-generator but which do not generate electricity on site, the
33 corporation may impose the same charges at the same rates to the custom-
34 er-generator, provided, however, that the kilowatt demand for such
35 demand charges is determined by the maximum measured kilowatt demand
36 actually supplied by the corporation to the customer-generator during
37 the billing period.

38 5. Safety standards. (a) On or before three months after the effective
39 date of this section, each electric corporation shall establish stand-
40 ards that are necessary for net energy metering and the interconnection
41 of residential solar or farm waste electric generating equipment AND
42 MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT to its system and
43 that the commission shall determine are necessary for safe and adequate
44 service and further the public policy set forth in this section. Such
45 standards may include but shall not be limited to:

46 (i) equipment necessary to isolate automatically the residential solar
47 [and], farm waste AND MICRO-COMBINED HEAT AND POWER generating system
48 from the utility system for voltage and frequency deviations; and

49 (ii) a manual lockable disconnect switch provided by the customer-gen-
50 erator which shall be located on the outside of the customer's premises
51 and externally accessible for the purpose of isolating the residential
52 solar and farm waste electric generating equipment.

53 (b) Upon its own motion or upon a complaint, the commission, or its
54 designated representative, may investigate and make a determination as
55 to the reasonableness and necessity of the standards or responsibility
56 for compliance with the standards.

1 (i) In the case of a customer-generator who owns or operates solar
2 electric generating equipment located and used at his or her residence;
3 an electric corporation may not require a customer-generator to comply
4 with additional safety or performance standards, perform or pay for
5 additional tests, or purchase additional liability insurance provided
6 that the residential solar or farm waste electric generating equipment
7 OR MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT meets the safety
8 standards established pursuant to this paragraph.

9 (ii) In the case of a customer-generator who owns or operates farm
10 waste electric generating equipment located and used at his or her "farm
11 operation," an electric corporation may not require a customer-generator
12 to comply with additional safety or performance standards, perform or
13 pay for additional tests, or purchase additional liability insurance
14 provided that:

15 1. the electric generating equipment meets the safety standards estab-
16 lished pursuant to this paragraph; and

17 2. the total rated generating capacity (measured in kW) of farm waste
18 electric generating equipment that provides electricity to the electric
19 corporation through the same local feeder line, does not exceed twenty
20 percent of the rated capacity of that local feeder line.

21 (iii) In the event that the total rated generating capacity of farm
22 waste electric generating equipment that provides electricity to the
23 electric corporation through the same local feeder line exceeds twenty
24 percent of the rated capacity of the local feeder line, the electric
25 corporation may require the customer-generator to comply with reasonable
26 measures to ensure safety of that local feeder line.

27 S 2. Subdivision (h) of section 1020-g of the public authorities law,
28 as amended by chapter 452 of the laws of 2008, is amended to read as
29 follows:

30 (h) To implement programs and policies designed to provide for the
31 interconnection of: (i) (A) solar electric generating equipment owned or
32 operated by residential customers, (B) farm waste electric generating
33 equipment owned or operated by customer-generators, [and] (C) solar
34 electric generating equipment owned or operated by non-residential
35 customers, AND (D) MICRO-COMBINED HEAT AND POWER GENERATING EQUIPMENT
36 OWNED OR OPERATED BY RESIDENTIAL CUSTOMERS, and for net energy metering
37 consistent with section sixty-six-j of the public service law, to
38 increase the efficiency of energy end use, to shift demand from periods
39 of high demand to periods of low demand and to facilitate the develop-
40 ment of cogeneration; and (ii) wind electric generating equipment owned
41 or operated by customer-generators and for net energy metering consist-
42 ent with section sixty-six-l of the public service law.

43 S 3. This act shall take effect immediately.