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

10117

I N A S S E M B L Y

May 7, 2012

Introduced by M. of A. BRENNAN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to providing oversight and monitoring the operations of an independent system operator

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

Section 1. 1. Definitions. For the purposes of this section, the terms:

a. "independent system operator" shall mean any not-for-profit corporation formed and operating in the state of New York that is approved by the United States federal energy regulatory commission to operate in the state to administer and monitor wholesale electricity markets.

b. "end use sector member" shall mean any entity that purchases electricity for its own consumption and not for resale.

2. Board members. The board of directors of the independent system operator shall include three members who shall represent the interests of small business owners and farmers. The governor, the speaker of the assembly and the temporary president of the senate shall each appoint one such member.

3. Disclosure of information. a. An independent system operator operating in this state shall disclose price data related to its wholesale market operations including, but not limited to, information on real-time, hour-head and day-ahead bids in the independent system operator's wholesale electricity market auctions, transmission congestion contract auctions and installed capacity market auctions with no more than a three month delay. Such data shall be provided in aggregate hourly, daily, monthly, annual and historical data sets for comparison purposes and shall also reflect seasonal and peak load variations and averages.

b. The independent system operator shall also disclose the names of any bidder that submits a bid in any of the auctions described in paragraph a of this subdivision and the amount of the bid.

c. Such information shall be made in a format readily available and accessible to the public.

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

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4. Consumer liaison. The independent system operator shall appoint an employee to serve as consumer liaison, whose primary duty shall be to interact with members of the end-use sector for the purposes of:

a. keeping end-use sector members informed about developments that may affect their interests;

b. explaining the issues and proposals under discussion and proposed for consideration at the operating committee, business issues committee and management committee as well as the ramifications of those proposals on residential consumers;

c. responding to the questions and concerns of members of the end-use sector; and

d. serving as the liaison between the end-use sector and the members of the operator's board of directors who are designated or assigned to focus on the interests of the residential, small business and farm electricity users.

5. Notwithstanding any other provision of law to the contrary, the independent system operator shall be subject to the provisions of section 74-a and article 7 of the public officers law.

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

29. (A) FOR THE PURPOSES OF THIS SUBDIVISION:

(I) "INDEPENDENT SYSTEM OPERATOR" SHALL MEAN ANY NOT-FOR-PROFIT CORPORATION FORMED AND OPERATING IN THE STATE THAT IS APPROVED BY THE UNITED STATES FEDERAL ENERGY REGULATORY COMMISSION TO OPERATE IN THE STATE TO ADMINISTER AND MONITOR WHOLESALE ELECTRICITY MARKETS; AND

(II) "END USE SECTOR MEMBER" SHALL INCLUDE ANY ENTITY THAT PURCHASES ELECTRICITY FOR ITS OWN CONSUMPTION AND NOT FOR RESALE.

(B) THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROVIDE OVERSIGHT AND MONITOR THE MARKET AND CORPORATE OPERATIONS OF AN INDEPENDENT SYSTEM OPERATOR, INCLUDING BUT NOT LIMITED TO THE EXTENT TO WHICH IT:

(I) SERVES THE NEEDS OF ALL CUSTOMER CLASSES AND OPERATES IN A MANNER THAT IS IN THE BEST INTEREST OF THE PUBLIC;

(II) ENSURES RELIABILITY, QUALITY AND MAINTENANCE OF THE TRANSMISSION SYSTEM;

(III) COMPLIES WITH THE REQUIREMENTS OF THE NEW YORK STATE OPEN MEETING AND FREEDOM OF INFORMATION LAWS; AND

(IV) CONTRIBUTES TO THE ACHIEVEMENT OF ENERGY EFFICIENCY AND FUEL DIVERSITY GOALS OF THE STATE.

(C) THE COMMISSIONER SHALL ANNUALLY ISSUE A REPORT RELATING THE MARKET AND CORPORATE OPERATIONS OF THE INDEPENDENT SYSTEM OPERATOR. SUCH REPORTS SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) ANALYSES BY AN INDEPENDENT SYSTEM OPERATOR AND OTHER DATA COLLECTED AND ANALYZED BY THE COMMISSION INFORMATION ON REAL-TIME, HOUR-AHEAD AND DAY-AHEAD MARKET BIDS AND BIDDERS IN AN INDEPENDENT SYSTEM OPERATOR'S WHOLESALE ELECTRICITY MARKET AUCTIONS, TRANSMISSION CONGESTION CONTRACT AUCTIONS AND INSTALLED MARKET AUCTIONS;

(II) A DETERMINATION OF THE EXTENT TO WHICH THE ENERGY MARKETS ARE MAINTAINING NECESSARY LEVELS OF RELIABILITY;

(III) A DETERMINATION OF WHETHER OR NOT ALL CUSTOMER CLASSES ARE BEING ADEQUATELY SERVED BY COMPETITIVE ENERGY MARKETS;

(IV) A DETERMINATION OF THE COMPETITIVENESS OF ENERGY MARKETS; INCLUDING A DETERMINATION WHETHER OR NOT THE ELECTRIC INDUSTRY IS PROVIDING CONSUMERS WITH THE LOWEST PRICES POSSIBLE WITHIN A RESTRUCTURED, COMPETITIVE RETAIL MARKETPLACE;

(V) A DETERMINATION OF THE EXTENT TO WHICH THE ENERGY MARKETS ARE ACHIEVING THE ENERGY EFFICIENCY AND FUEL DIVERSITY GOALS OF THE STATE;

(VI) THE NAME AND TERMS OF THE BOARDS OF DIRECTORS AND OF THE MEMBERS OF THE INDEPENDENT SYSTEM OPERATOR'S MANAGEMENT, OPERATING AND BUSINESS COMMITTEES;

(VII) AN INDEPENDENT SYSTEM OPERATOR'S FINANCIAL INFORMATION; AND

(VIII) RECOMMENDATIONS FOR IMPROVING ANY DEFICIENCIES SO IDENTIFIED IN ELECTRICITY ENERGY MARKETS, INCLUDING NON-COMPETITIVE PRICING SITUATIONS.

(D) THE COMMISSION SHALL SUBMIT SUCH REPORT TO THE GOVERNOR, THE PRESIDENT PRO TEM OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADERS OF THE SENATE AND THE ASSEMBLY, THE CHAIRS OF THE ENERGY COMMITTEES OF THE SENATE AND THE ASSEMBLY, NO LATER THAN APRIL FIRST, TWO THOUSAND TWELVE AND ANNUALLY THEREAFTER.

S 3. This act shall take effect immediately.