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I N A S S E M B L Y

(PREFILED)

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Introduced by M. of A. CAHILL, MAGEE, GUNTHER, RUSSELL -- Multi-Sponsored by -- M. of A. CALHOUN, DUPREY, P. LOPEZ -- read once and referred to the Committee on Energy -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public service law and the public authorities law, in relation to net energy metering with micro-hydroelectric generating equipment

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

Section 1. The section heading and paragraph (a) of subdivision 1 of section 66-j of the public service law, as amended by chapter 355 of the laws of 2009, are amended and a new paragraph (h) is added to subdivision 1 to read as follows:

Net energy metering for residential solar, farm waste, non-residential solar electric generating systems, micro-combined heat and power generating equipment, [or] fuel cell electric generating equipment, AND MICRO-HYDROELECTRIC GENERATING EQUIPMENT.

(a) "Customer-generator" means: (i) a residential customer of an electric corporation, who owns or operates solar electric generating equipment located and used at his or her residence; (ii) a customer of an electric corporation, who owns or operates farm waste electric generating equipment located and used at his or her "farm operation," as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law; (iii) a non-residential customer of an electric corporation which owns or operates solar electric generating equipment located and used at its premises; (iv) a residential customer of an electric corporation who owns, leases or operates micro-combined heat and power generating equipment located on the customer's premises;

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

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[and] (v) a residential customer of an electric corporation who owns, leases or operates fuel cell generating equipment located on the customer's premises; (VI) A RESIDENTIAL CUSTOMER OF AN ELECTRIC CORPORATION, WHO OWNS OR OPERATES MICRO-HYDROELECTRIC GENERATING EQUIPMENT LOCATED AND USED AT HIS OR HER RESIDENCE; AND (VII) A NON-RESIDENTIAL CUSTOMER OF AN ELECTRIC CORPORATION WHICH OWNS OR OPERATES MICRO-HYDROELECTRIC GENERATING EQUIPMENT LOCATED AND USED AT ITS PREMISES.

(H) "MICRO-HYDROELECTRIC GENERATING EQUIPMENT" MEANS A HYDROELECTRIC SYSTEM (I) (A) IN THE CASE OF A RESIDENTIAL CUSTOMER, WITH A RATED CAPACITY OF NOT MORE THAN TWENTY-FIVE KILOWATTS; AND (B) IN THE CASE OF A NON-RESIDENTIAL CUSTOMER, WITH A RATED CAPACITY OF NOT MORE THAN TWO THOUSAND KILOWATTS; AND (II) 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, AND THAT IS OPERATED IN COMPLIANCE WITH ANY STANDARDS AND REQUIREMENTS ESTABLISHED UNDER THIS SECTION.

S 2. Subdivision 2 of section 66-j of the public service law, as amended by chapter 355 of the laws of 2009, is amended to read as follows:

2. Interconnection and net energy metering. An electric corporation shall provide for the interconnection of solar and farm waste electric generating equipment, micro-combined heat and power generating equipment [and], fuel cell electric generating equipment AND MICRO-HYDROELECTRIC GENERATING EQUIPMENT owned or operated by a customer-generator and for net energy metering, 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 under this section.

S 3. Subdivision 3 of section 66-j of the public service law, as amended by chapter 355 of the laws of 2009, subparagraphs (i) and (iii) of paragraph (c) as amended by chapter 7 of the laws of 2010 and paragraph (e) as added by chapter 35 of the laws of 2011, is amended to read as follows:

3. Conditions of service. (a) (i) 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 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.

(ii) On or before three months after the effective date of this subparagraph, 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 non-residential customer generators, according to the requirements of this section. The commission shall render a decision within three months of the date on which the schedule is filed.

(iii) Each electric corporation shall make such contract and schedule available to customer-generators on a first come, first served basis, until the total rated generating capacity for solar and farm waste electric generating equipment, micro-combined heat and power generating equipment [and], fuel cell electric generating equipment AND MICRO-HYDROELECTRIC GENERATING EQUIPMENT owned, leased or operated by customer-generators in the corporation's service area is equivalent to one

percent of the corporation's electric demand for the year two thousand five, as determined by the department.

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

(c) 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:

(i) In the case of a customer-generator who owns or operates solar electric generating equipment, micro-combined heat and power generating equipment [or], fuel cell electric generating equipment OR MICRO-HYDROELECTRIC GENERATING EQUIPMENT located and used at his or her residence, or a non-residential customer-generator who owns or operates solar electric generating equipment with a rated capacity of not more than twenty-five kilowatts, up to a maximum amount of three hundred fifty dollars;

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

(iii) In the case of a non-residential customer-generator who owns or operates solar electric generating equipment OR MICRO-HYDROELECTRIC GENERATING EQUIPMENT with a rated capacity of more than twenty-five kilowatts located and used at its premises, such cost shall be as determined by the electric corporation subject to review, upon the request of such customer-generator, by the department.

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

(e) A customer who owns or operates a farm operation as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law, or a non-residential customer-generator as defined by subparagraph (iii) of paragraph (a) of subdivision one of this section that locates solar electric generating equipment or farm waste electric generating equipment with a net energy meter on property owned or leased by such customer-generator may designate all or a portion of the net metering credits generated by such equipment to meters at any property owned or leased by such customer-generator within the service territory of the same electric corporation to which the customer-generator's net energy meters are interconnected and being within the same load zone as determined by the location based marginal price as of the date of initial request by the customer-generator to conduct net metering. The electric corporation will credit the accounts of the customer by applying any credits to the highest use meter first, then subsequent highest use meters until all such credits are attributed to the customer. Any excess credits shall be carried over to the following month.

S 4. Subdivision 5 of section 66-j of the public service law, as amended by chapter 355 of the laws of 2009, is amended to read as follows:

5. Safety standards. (a) 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 residential solar or farm waste electric generating equipment, micro-combined heat and power generating equipment and fuel cell electric generating equipment AND MICRO-HYDROELECTRIC 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:

(i) equipment necessary to isolate automatically the residential solar, farm waste, micro-combined heat and power and fuel cell electric generating system AND MICRO-HYDROELECTRIC GENERATING EQUIPMENT from the utility system for voltage and frequency deviations; and

(ii) a manual lockable disconnect switch provided by the customer-generator which shall be located on the outside of the customer's premises and externally accessible for the purpose of isolating the residential solar and farm waste electric generating equipment AND MICRO-HYDROELECTRIC GENERATING EQUIPMENT.

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

(i) In the case of a customer-generator who owns or operates solar electric generating equipment located and used at his or her residence; an electric corporation may not require a customer-generator to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance provided that the residential solar or farm waste electric generating equipment, micro-combined heat and power generating equipment [or], fuel cell electric generating equipment OR MICRO-HYDROELECTRIC GENERATING EQUIPMENT meets the safety standards established pursuant to this paragraph.

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

1. the electric generating equipment meets the safety standards established pursuant to this paragraph; and

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

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

S 5. Subdivision 5-a of section 66-j of the public service law, as amended by chapter 355 of the laws of 2009, is amended to read as follows:

5-a. Safety standards; non-residential solar electric generating equipment AND MICRO-HYDROELECTRIC GENERATING EQUIPMENT. (a) On or before three months after the effective date of this subdivision, each electric corporation shall establish standards that are necessary for

net energy metering and the interconnection of non-residential solar electric generating equipment OR MICRO-HYDROELECTRIC 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:

(i) equipment necessary to isolate automatically the solar generating system OR MICRO-HYDROELECTRIC GENERATING EQUIPMENT from the utility system for voltage and frequency deviations; and

(ii) a manual lockable disconnect switch provided by the customer-generator which shall be located on the outside of the customer-generator's premises and externally accessible for the purpose of isolating the solar electric generating equipment OR MICRO-HYDROELECTRIC GENERATING EQUIPMENT.

(b) In the event that the total rated generating capacity of solar electric generating equipment OR MICRO-HYDROELECTRIC GENERATING EQUIPMENT that provides electricity to the electric corporation through the same local feeder line exceeds twenty percent of the rated capacity of the local feeder line, the electric corporation may require the customer-generator to comply with reasonable measures to ensure safety of the local feeder line.

(c) Unless otherwise determined to be necessary by the commission, an electric corporation may not require a customer-generator to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance provided that the solar electric generating equipment OR MICRO-HYDROELECTRIC GENERATING EQUIPMENT meets the safety standards established pursuant to this subdivision.

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

S 6. Subdivision (h) of section 1020-g of the public authorities law, as amended by chapter 355 of the laws of 2009, is amended to read as follows:

(h) To implement programs and policies designed to provide for the interconnection of: (i) (A) solar electric generating equipment owned or operated by residential customers, (B) farm waste electric generating equipment owned or operated by customer-generators, (C) solar electric generating equipment owned or operated by non-residential customers, (D) micro-combined heat and power generating equipment owned, leased or operated by residential customers, [and] (E) fuel cell electric generating equipment owned, leased or operated by residential customers, AND (F) MICRO-HYDROELECTRIC GENERATING EQUIPMENT OWNED, LEASED OR OPERATED BY CUSTOMER-GENERATORS and for net energy metering consistent with section sixty-six-j of the public service law, to increase the efficiency of energy end use, to shift demand from periods of high demand to periods of low demand and to facilitate the development of cogeneration; and (ii) wind electric generating equipment owned or operated by customer-generators and for net energy metering consistent with section sixty-six-l of the public service law.

S 7. This act shall take effect immediately.