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2011-2012 Regular Sessions

I N S E N A T E

February 4, 2011

Introduced by Sen. MAZIARZ -- 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, in relation to enacting the "fair electricity auction market act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "fair electricity auction market act".
3 S 2. Section 66 of the public service law is amended by adding three
4 new subdivisions 29, 30 and 31 to read as follows:
5 29. REVIEW THE RATES OF ANY PUBLIC UTILITY ON AN ANNUAL BASIS,
6 PROVIDED HOWEVER THAT UPON A DETERMINATION BY THE COMMISSION THAT THE
7 PUBLIC INTEREST DOES NOT REQUIRE SUCH ANNUAL RATE REVIEW, A REVIEW OF
8 RATES MAY BE UNDERTAKEN AT NO MORE THAN THREE YEAR INTERVALS.
9 30. (A) USE THE FULLEST EXTENT OF ITS POWERS TO REGULATE THE DISTRIB-
10 UTION OF RETAIL ELECTRIC ENERGY TO RETAIL CUSTOMERS IN THE STATE AND, TO
11 THE EXTENT NOT PROHIBITED BY FEDERAL LAW, THE TRANSMISSION OF ELECTRIC
12 ENERGY IN THE STATE.
13 (B) A MARKET CLEARING PRICE MECHANISM FOR THE PURCHASE OF POWER SHALL
14 BE FORBIDDEN FOR PURCHASES MADE THROUGH THE WHOLESALE MARKET VIA A BID
15 PROCUREMENT OR AUCTION PROCESS HELD BY THE INDEPENDENT SYSTEM OPERATOR
16 ("ISO") OF NEW YORK, OR ANY SUCCESSOR IN LAW AND FUNCTION TO SUCH ENTI-
17 TY.
18 (C) SUCH AUCTION OR BID PROCUREMENT PROCESS SHALL BE OVERSEEN BY THE
19 COMMISSION, WHICH SHALL REQUIRE A DESCENDING CLOCK, PAY-AS-BID AUCTION
20 IN WHICH BID AMOUNTS WILL CONTINUE TO FALL UNTIL NO BIDDER IS WILLING TO
21 SUPPLY ELECTRICITY AT A LOWER PRICE. FOR THE PURPOSES OF THIS ARTICLE
22 "DESCENDING CLOCK AUCTION" SHALL BE DEFINED AS AN AUCTION IN WHICH THE
23 PRICES DROP THROUGHOUT AN AUCTION OF TIME-LIMITED DURATION; STARTING
24 HIGH AND BEING REDUCED GRADUALLY UNTIL THE SUPPLY BID IS JUST SUFFICIENT

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

LBD01310-02-1

1 TO MEET THE ELECTRICAL LOAD TO BE PROCURED. PRICES THAT TICK DOWN IN A
2 ROUND DECREASE BY A DECREMENT; WHICH IS A GIVEN PERCENTAGE OF THE PREVI-
3 OUS PRICE. BIDDERS HOLDING THE FINAL BIDS WHEN THE AUCTION CLOSES ARE
4 THE WINNERS.

5 (D) BIDDERS WILL BE FORBIDDEN FROM KNOWING WHEN THE AMOUNT OF ELEC-
6 TRICITY SUPPLY FILLS REQUIREMENTS.

7 (E) THE COMMISSION SHALL APPOINT AN INDEPENDENT MARKET ADVISOR TO
8 REVIEW MARKET PRACTICES AND BEHAVIOR THAT WILL RECOMMEND TO THE ISO
9 ACTIONS THAT CAN BE TAKEN TO MITIGATE OR CORRECT BEHAVIOR BY MARKET
10 PARTICIPANTS THAT WAS REASONABLY CALCULATED TO, OR HAD THE EFFECT OF
11 AFFECTING THE FUNCTION OF THE AUCTION PROCESS SO THAT THE WINNING BIDDER
12 WAS NOT THE LOWEST PRICE BIDDER.

13 (F) UTILITIES MAY BUY POWER FROM MARKETS OTHER THAN THE ISO, OR VIA
14 CONTRACTS WITH INDIVIDUALS OR GROUPS OF GENERATING ENTITIES, PROVIDED
15 THAT SUCH ELECTRICAL ENERGY MUST BE OFFERED TO CUSTOMERS AT JUST AND
16 REASONABLE RATES.

17 31. (A) THE COMMISSION SHALL EXERCISE ITS FULL JURISDICTION OVER THE
18 ISO OF NEW YORK.

19 (B) THE COMMISSION SHALL REGULATE THE RELIABILITY, QUALITY AND MAINTENANCE
20 BY TRANSMITTERS AND DISTRIBUTORS OF THEIR TRANSMISSION AND RETAIL
21 DISTRIBUTION SYSTEMS.

22 (C) THE COMMISSION SHALL REGULATE THE RELIABILITY, QUALITY, MAINTENANCE,
23 AND PRICE OF GENERATORS.

24 (D) THE COMMISSION SHALL NOT REQUIRE ANY INCUMBENT ELECTRIC UTILITY TO
25 DIVEST ITSELF OF ANY GENERATION, TRANSMISSION OR DISTRIBUTION ASSETS
26 PURSUANT TO ANY PROVISION OF THIS CHAPTER WITHOUT SPECIFIC AUTHORIZING
27 LEGISLATION FOR SUCH PURPOSE.

28 (E) THE COMMISSION SHALL DEVELOP CODES OF CONDUCT GOVERNING THE
29 CONDUCT OF INCUMBENT ELECTRIC UTILITIES AND AFFILIATES THEREOF WHEN ANY
30 SUCH AFFILIATES PROVIDE, OR CONTROL ANY ENTITY THAT PROVIDES, GENERATION,
31 DISTRIBUTION, OR TRANSMISSION SERVICES TO THE EXTENT NECESSARY TO
32 PREVENT IMPAIRMENT OF COMPETITION. NOTHING IN THIS CHAPTER SHALL PREVENT
33 AN INCUMBENT ELECTRIC UTILITY FROM OFFERING METERING OPTIONS TO ITS
34 CUSTOMERS.

35 S 3. This act shall take effect immediately.