

5521--A

Cal. No. 122

2011-2012 Regular Sessions

I N A S S E M B L Y

February 23, 2011

Introduced by M. of A. ENGLEBRIGHT, HOOPER, BENEDETTO, GUNTHER, GALEF, SCHIMEL, AUBRY, JAFFEE, MAISEL, CASTRO, LIFTON, MARKEY, ROSENTHAL, GABRYSZAK, LAVINE -- Multi-Sponsored by -- M. of A. BOYLAND, BOYLE, BRENNAN, GOTTFRIED, MAGEE, MCENENY, PERRY, REILLY, SWEENEY, THIELE, WEISENBERG -- read once and referred to the Committee on Energy -- reported from committee, advanced to a third reading, amended and 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 credit for electricity generated by a customer-generator subject to net energy metering

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

1 Section 1. Subdivision 4 of section 66-j of the public service law, as
2 amended by chapter 355 of the laws of 2009, is amended to read as
3 follows:
4 4. Rates. An electric corporation shall use net energy metering to
5 measure and charge for the net electricity supplied by the corporation
6 and provided to the corporation by a customer-generator, according to
7 these requirements:
8 (a) In the event that the amount of electricity supplied by the corpo-
9 ration during the billing period exceeds the amount of electricity
10 provided by a customer-generator, the corporation shall, AFTER DEDUCT-
11 ING, FROM THE AGGREGATE OF UNUSED CREDIT FOR EXCESS ELECTRICITY GENER-
12 ATED BY SUCH CUSTOMER-GENERATOR PRIOR TO SUCH BILLING PERIOD, AN AMOUNT
13 OF CREDIT EQUAL TO THE AMOUNT OF ELECTRICITY SUPPLIED BY THE ELECTRIC
14 CORPORATION, TO THE EXTENT SUCH CREDIT EXISTS, AND MAY THEREAFTER charge
15 the customer-generator for the net electricity supplied, AFTER DEDUCTION
16 OF SUCH CREDITS, at the same rate per kilowatt hour applicable to
17 service provided to other customers in the same service class which do
18 not generate electricity onsite.

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

LBD08773-02-1

1 (b) In the event that the amount of electricity produced by a custom-
2 er-generator during the billing period exceeds the amount of electricity
3 used by the customer-generator, the corporation shall (I) apply a credit
4 to the next bill for service to the customer-generator for the net elec-
5 tricity provided at the same rate per kilowatt hour applicable to
6 service provided to other customers in the same service class which do
7 not generate electricity onsite, OR (II) AT THE OPTION OF THE CUSTOMER-
8 GENERATOR, CREDIT SUCH CUSTOMER-GENERATOR WITH THE AMOUNT OF EXCESS
9 KILOWATT HOURS GENERATED IN EXCESS OF ITS USE, AND SUCH CREDIT SHALL BE
10 AGGREGATED INDEFINITELY TO BE USED AS CREDIT AGAINST CHARGES INCURRED
11 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION; except for micro-combined
12 heat and power or fuel cell customer-generators, who will be credited at
13 the corporation's avoided costs. The avoided cost credit provided to
14 micro-combined heat and power or fuel cell customer-generators shall be
15 treated for ratemaking purposes as a purchase of electricity in the
16 market that is includable in commodity costs.

17 (c) At the end of the year or annualized over the period that service
18 is supplied by means of net energy metering, the corporation shall (I)
19 promptly issue payment at its avoided cost to the customer-generator, as
20 defined in subparagraph (i) [or], (ii), (IV) OR (V) of paragraph (a) of
21 subdivision one of this section, for the value of any remaining credit
22 for the excess electricity produced during the year or over the annual-
23 ized period by the customer-generator, OR (II) AT THE OPTION OF THE
24 CUSTOMER-GENERATOR, SHALL CONTINUE TO AGGREGATE SUCH CREDITS, AT THE
25 SAME RATE PER KILOWATT HOUR APPLICABLE TO THE SERVICE PROVIDED TO OTHER
26 CUSTOMERS IN THE SAME SERVICE CLASS WHICH DO NOT GENERATE ELECTRICITY ON
27 SITE, FOR AN INDEFINITE PERIOD OF TIME AND CONTINUE TO ALLOW USE OF SUCH
28 CREDIT TO OFFSET ANY LIABILITY OF THE CUSTOMER-GENERATOR TO THE ELECTRIC
29 CORPORATION DURING BILLING PERIODS IN WHICH THE ELECTRICITY GENERATED BY
30 THE CUSTOMER-GENERATOR IS LESS THAN THAT USED BY SUCH CUSTOMER.

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

39 (E) IN THE EVENT THAT A CUSTOMER-GENERATOR ELECTS TO ALLOW THE AGGRE-
40 GATION OF ANY CREDITS FOR EXCESS ELECTRICITY GENERATED, THE
41 CUSTOMER-GENERATOR SHALL BE ENTITLED TO AN ACCOUNTING OF SUCH CREDITS
42 ONCE EVERY FIVE YEARS AND UPON SUCH ACCOUNTING, THE ELECTRIC CORPORATION
43 SHALL PROMPTLY ISSUE PAYMENT AT ITS AVOIDED COST TO SUCH CUSTOMER-GENER-
44 ATOR, AS DEFINED IN SUBPARAGRAPH (I), (II), (IV) OR (V) OF PARAGRAPH (A)
45 OF SUBDIVISION ONE OF THIS SECTION, FOR THE VALUE OF ANY REMAINING CRED-
46 IT FOR THE EXCESS ELECTRICITY PRODUCED BY THE CUSTOMER-GENERATOR.

47 S 2. Subdivision 4 of section 66-1 of the public service law, as
48 amended by chapter 721 of the laws of 2006, paragraphs (b) and (c) as
49 amended and paragraph (d) as added by chapter 483 of the laws of 2008,
50 is amended to read as follows:

51 4. Rates. An electric corporation shall use net energy metering to
52 measure and charge for the net electricity supplied by the corporation
53 and provided to the corporation by a customer-generator, according to
54 the following requirements:

55 (a) In the event that the amount of electricity supplied by the corpo-
56 ration during the billing period exceeds the amount of electricity

1 provided by a customer-generator, the corporation shall, AFTER DEDUCT-
2 ING, FROM THE AGGREGATE OF UNUSED CREDIT FOR EXCESS ELECTRICITY GENER-
3 ATED BY SUCH CUSTOMER-GENERATOR PRIOR TO SUCH BILLING PERIOD, AN AMOUNT
4 OF CREDIT EQUAL TO THE AMOUNT OF ELECTRICITY SUPPLIED BY THE ELECTRIC
5 CORPORATION, TO THE EXTENT SUCH CREDIT EXISTS, AND MAY THEREAFTER charge
6 the customer-generator for the net electricity supplied, AFTER DEDUCTION
7 OF SUCH CREDITS, at the same rate per kilowatt hour applicable to
8 service provided to other customers in the same service class which do
9 not generate electricity on site.

10 (b) In the event that the amount of electricity produced by a custom-
11 er-generator during the billing period exceeds the amount of electricity
12 used by the customer-generator, the corporation shall (I) apply a credit
13 to the next bill for service to the customer-generator for the net elec-
14 tricity provided at the same rate per kilowatt hour applicable to
15 service provided to other customers in the same service class which do
16 not generate electricity on site, OR (II) AT THE OPTION OF THE CUSTOM-
17 ER-GENERATOR, CREDIT SUCH CUSTOMER-GENERATOR WITH THE AMOUNT OF EXCESS
18 KILOWATT HOURS GENERATED IN EXCESS OF ITS USE, AND SUCH CREDIT SHALL BE
19 AGGREGATED INDEFINITELY TO BE USED AS CREDIT AGAINST CHARGES INCURRED
20 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION.

21 (c) At the end of the year or annualized over the period that service
22 is supplied by means of net energy metering, the corporation shall (I)
23 promptly issue payment at its avoided cost to a residential or farm
24 service customer-generator for the value of any remaining credit for the
25 excess electricity produced during the year or over the annualized peri-
26 od by such customer-generator, OR (II) AT THE OPTION OF THE
27 CUSTOMER-GENERATOR, SHALL CONTINUE TO AGGREGATE SUCH CREDITS, AT THE
28 SAME RATE PER KILOWATT HOUR APPLICABLE TO THE SERVICE PROVIDED TO OTHER
29 CUSTOMERS IN THE SAME SERVICE CLASS WHICH DO NOT GENERATE ELECTRICITY ON
30 SITE, FOR AN INDEFINITE PERIOD OF TIME, AND CONTINUE TO ALLOW USE OF
31 SUCH CREDIT TO OFFSET ANY LIABILITY OF THE CUSTOMER-GENERATOR TO THE
32 ELECTRIC CORPORATION DURING BILLING PERIODS IN WHICH THE ELECTRICITY
33 GENERATED BY THE CUSTOMER-GENERATOR IS LESS THAN THAT USED BY SUCH
34 CUSTOMER.

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

43 (E) IN THE EVENT THAT A CUSTOMER-GENERATOR ELECTS TO ALLOW THE AGGRE-
44 GATION OF ANY CREDITS FOR EXCESS ELECTRICITY GENERATED, THE
45 CUSTOMER-GENERATOR SHALL BE ENTITLED TO AN ACCOUNTING OF SUCH CREDITS
46 ONCE EVERY FIVE YEARS AND UPON SUCH ACCOUNTING, THE ELECTRIC CORPORATION
47 SHALL PROMPTLY ISSUE PAYMENT AT ITS AVOIDED COST TO SUCH CUSTOMER-GENER-
48 ATOR FOR THE VALUE OF ANY REMAINING CREDIT FOR THE EXCESS ELECTRICITY
49 PRODUCED BY THE CUSTOMER-GENERATOR.

50 S 3. Subdivision (h) of section 1020-g of the public authorities law,
51 as amended by chapter 355 of the laws of 2009, is amended to read as
52 follows:

53 (h) To implement programs and policies designed to provide for the
54 interconnection of: (i) (A) solar electric generating equipment owned or
55 operated by residential customers, (B) farm waste electric generating
56 equipment owned or operated by customer-generators, (C) solar electric

1 generating equipment owned or operated by non-residential customers, (D)
2 micro-combined heat and power generating equipment owned, leased or
3 operated by residential customers, and (E) fuel cell electric generating
4 equipment owned, leased or operated by residential customers, and for
5 net energy metering consistent with section sixty-six-j of the public
6 service law, to increase the efficiency of energy end use, to shift
7 demand from periods of high demand to periods of low demand and to
8 facilitate the development of cogeneration; and (ii) wind electric
9 generating equipment owned or operated by customer-generators and for
10 net energy metering consistent with section sixty-six-l of the public
11 service law. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE THOUSAND
12 TWENTY-S OF THIS TITLE, THE AUTHORITY, IN ITS IMPLEMENTATION OF SUCH
13 PROGRAMS AND POLICIES, SHALL BE SUBJECT TO THE PROVISIONS OF SUBDIVISION
14 FOUR OF SECTION SIXTY-SIX-J AND SUBDIVISION FOUR OF SECTION SIXTY-SIX-L
15 OF THE PUBLIC SERVICE LAW;
16 S 4. This act shall take effect on the first of January next succeed-
17 ing the date on which it shall have become a law.