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

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:

Section 1. Subdivision 4 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:

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

(a) In the event that the amount of electricity supplied by the corporation during the billing period exceeds the amount of electricity provided by a customer-generator, the corporation shall, AFTER DEDUCTING, FROM THE AGGREGATE OF UNUSED CREDIT FOR EXCESS ELECTRICITY GENERATED BY SUCH CUSTOMER-GENERATOR PRIOR TO SUCH BILLING PERIOD, AN AMOUNT OF CREDIT EQUAL TO THE AMOUNT OF ELECTRICITY SUPPLIED BY THE ELECTRIC CORPORATION, TO THE EXTENT SUCH CREDIT EXISTS, AND MAY THEREAFTER charge the customer-generator for the net electricity supplied, AFTER DEDUCTION OF SUCH CREDITS, at the same rate per kilowatt hour applicable to service provided to other customers in the same service class which do not generate electricity onsite.

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

LBD08773-02-1

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

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

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

(E) IN THE EVENT THAT A CUSTOMER-GENERATOR ELECTS TO ALLOW THE AGGREGATION OF ANY CREDITS FOR EXCESS ELECTRICITY GENERATED, THE CUSTOMER-GENERATOR SHALL BE ENTITLED TO AN ACCOUNTING OF SUCH CREDITS ONCE EVERY FIVE YEARS AND UPON SUCH ACCOUNTING, THE ELECTRIC CORPORATION SHALL PROMPTLY ISSUE PAYMENT AT ITS AVOIDED COST TO SUCH CUSTOMER-GENERATOR, AS DEFINED IN SUBPARAGRAPH (I), (II), (IV) OR (V) OF PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION, FOR THE VALUE OF ANY REMAINING CREDIT FOR THE EXCESS ELECTRICITY PRODUCED BY THE CUSTOMER-GENERATOR.

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

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

(a) In the event that the amount of electricity supplied by the corporation during the billing period exceeds the amount of electricity provided by a customer-generator, the corporation shall, AFTER DEDUCTING, FROM THE AGGREGATE OF UNUSED CREDIT FOR EXCESS ELECTRICITY GENERATED BY SUCH CUSTOMER-GENERATOR PRIOR TO SUCH BILLING PERIOD, AN AMOUNT OF CREDIT EQUAL TO THE AMOUNT OF ELECTRICITY SUPPLIED BY THE ELECTRIC CORPORATION, TO THE EXTENT SUCH CREDIT EXISTS, AND MAY THEREAFTER charge the customer-generator for the net electricity supplied, AFTER DEDUCTION OF SUCH CREDITS, at the same rate per kilowatt hour applicable to service provided to other customers in the same service class which do not generate electricity on site.

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

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

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

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

S 3. 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 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. NOTWITHSTANDING THE PROVISIONS OF SECTION ONE THOUSAND TWENTY-S OF THIS TITLE, THE AUTHORITY, IN ITS IMPLEMENTATION OF SUCH PROGRAMS AND POLICIES, SHALL BE SUBJECT TO THE PROVISIONS OF SUBDIVISION FOUR OF SECTION SIXTY-SIX-J AND SUBDIVISION FOUR OF SECTION SIXTY-SIX-L OF THE PUBLIC SERVICE LAW;

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.