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

7889

2011-2012 Regular Sessions

I N A S S E M B L Y

May 20, 2011

Introduced by M. of A. BRENNAN -- read once and referred to the Committee on Governmental Operations

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. 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 ENTITY 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 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) MEETS THE REQUIREMENTS OF THE NEW YORK STATE OPEN MEETING LAWS; AND

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

(C) THE COMMISSION SHALL ENSURE THAT AN INDEPENDENT SYSTEM OPERATOR OPERATE IN A MANNER TO PREVENT MARKET MANIPULATION AND OPPORTUNITIES FOR COLLUSION BY REQUIRING AN INDEPENDENT SYSTEM OPERATOR TO DISCLOSE PRICE DATA RELATED TO ITS WHOLESALE MARKET OPERATIONS INCLUDING, BUT NOT LIMITED TO, INFORMATION ON REAL-TIME, DAY-AHEAD AND SPOT MARKET BIDS AND

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

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BIDDERS IN AN INDEPENDENT SYSTEM OPERATOR'S WHOLESALE ELECTRICITY MARKET AUCTIONS, TRANSMISSION CONGESTION CONTRACT AUCTIONS AND INSTALLED CAPACITY MARKET AUCTIONS TO BE MADE PUBLIC WITH NO MORE THAN A THREE MONTH DELAY. SUCH INFORMATION SHALL BE MADE IN A FORMAT READILY AVAILABLE AND ACCESSIBLE TO THE PUBLIC INCLUDING, BUT NOT LIMITED TO PROVIDING SUCH DATA IN AGGREGATE HOURLY, DAILY, MONTHLY, ANNUAL AND HISTORICAL DATA SETS FOR COMPARISON PURPOSES AS WELL AS DATA RELATED TO SEASONAL AND PEAK LOAD VARIATIONS AND AVERAGES.

(D) THE COMMISSION SHALL ENSURE ACCOUNTABILITY BY REQUIRING THAT AN INDEPENDENT SYSTEM OPERATOR'S BOARD OF DIRECTORS INCLUDES AT LEAST THREE NON-GOVERNMENTAL APPOINTMENTS THAT DIRECTLY REPRESENT THE INTERESTS OF RESIDENTIAL SMALL BUSINESS AND FARM ELECTRICITY USERS. THE GOVERNOR, THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY PRESIDENT OF THE SENATE SHALL EACH APPOINT ONE REPRESENTATIVE TO THE BOARD.

(E) THE COMMISSION SHALL REQUIRE AN INDEPENDENT SYSTEM OPERATOR TO CREATE THE POSITION OF CONSUMER LIAISON WHOSE PRIMARY ROLE SHALL BE TO INTERACT WITH MEMBERS OF THE END-USE SECTOR FOR THE PURPOSES OF:

(I) KEEPING END-USE SECTOR MEMBERS INFORMED ABOUT DEVELOPMENTS IN WORKING GROUPS/SUB-COMMITTEES THAT MAY AFFECT THEIR INTERESTS;

(II) EXPLAINING THE ISSUES AND PROPOSALS UNDER DISCUSSION AT THE WORKING GROUP/SUB-COMMITTEE MEETINGS AND PROPOSED FOR CONSIDERATION AT THE OPERATING COMMITTEE, BUSINESS ISSUES COMMITTEE AND MANAGEMENT COMMITTEE AS WELL AS THE RAMIFICATIONS OF THOSE PROPOSALS ON CONSUMERS;

(III) LISTENING AND RESPONDING TO THE QUESTIONS AND CONCERNS OF MEMBERS OF THE END-USE SECTOR; AND

(IV) SERVING AS THE LIAISON BETWEEN THE END-USE SECTOR AND THE DIRECTORS DESIGNATED OR ASSIGNED TO PAY PARTICULAR ATTENTION TO THE INTERESTS OF THE RESIDENTIAL, SMALL BUSINESS AND FARM ELECTRICITY USERS.

(F) THE COMMISSION SHALL REQUIRE AN INDEPENDENT SYSTEM OPERATOR TO ESTABLISH AND FUND AN END-USE CONSUMER SECTOR CONSULTANT FOR THE PURPOSES OF:

(I) PARTICIPATING IN TASK FORCE, WORKING GROUP AND COMMITTEE MEETINGS AS WELL AS IN OTHER MEETINGS ADDRESSING MATTERS AFFECTING MARKETS ADMINISTERED BY AN INDEPENDENT SYSTEM OPERATOR;

(II) ANALYZING EXISTING OR PROPOSED MARKET RULES REGARDING WHOLESALE SERVICE; AND

(III) PROVIDING TECHNICAL ASSISTANCE, AND SUPPORTING END-USE SECTOR PARTICIPATION IN PROCEEDINGS BEFORE THE FEDERAL ENERGY REGULATORY COMMISSION, THE PUBLIC SERVICE COMMISSION, OR OTHER REGULATORY AND/OR ADJUDICATIVE BODIES IN MATTERS AFFECTING MARKETS ADMINISTERED BY AN INDEPENDENT SYSTEM OPERATOR.

(G) (I) THE COMMISSION SHALL REQUIRE AN INDEPENDENT SYSTEM OPERATOR TO FILE A TARIFF AMENDMENT CREATING A RATE SCHEDULE TO ALLOW ALL MARKET PARTICIPANTS SERVING INTERNAL NEW YORK LOAD TO FUND COSTS OF HIRING AN END-USE CONSUMER SECTOR CONSULTANT.

(II) COSTS AND FEES ELIGIBLE FOR RECOVERY THROUGH THE TARIFF WOULD INCLUDE THOSE ASSOCIATED WITH THE END-USE CONSUMER SECTOR CONSULTANT PERFORMING THE TASKS OUTLINED IN PARAGRAPH (F) OF THIS SUBDIVISION.

(III) COSTS AND FEES NOT ELIGIBLE FOR RECOVERY SHALL INCLUDE, BUT NOT BE LIMITED TO, GOVERNMENTAL LOBBYING, PUBLIC OUTREACH (MEDIA, SPEAKING ENGAGEMENTS, ETC.), AND CONDUCT NOT AUTHORIZED BY THE END-USE SECTOR.

(H) THE COMMISSIONER SHALL ANNUALLY ISSUE A REPORT RELATING THE MARKET OPERATION OF AN INDEPENDENT SYSTEM OPERATOR. SUCH REPORTS SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) ANALYSES BY AN INDEPENDENT SYSTEM OPERATOR AND OTHER SUCH 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 AN INDEPENDENT SYSTEM OPERATOR MANAGEMENT, OPERATING AND BUSINESS COMMITTEE MEMBERS;

(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. 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 2. Subdivision 6 of section 66 of the public service law, as amended by chapter 784 of the laws of 1923, is amended to read as follows:

6. [Require] NOTWITHSTANDING ANY OTHER RULE, REGULATION, OR ORDER, REQUIRE every person and corporation under its supervision and it shall be the duty of every such person and corporation to file with the commission an annual report, verified by the oath of the president, vice-president, treasurer, secretary, general manager, or receiver, if any, thereof, or by the person required to file the same. The verification shall be made by said official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail (a) the amount of its authorized capital stock and the amount thereof issued and outstanding; (b) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (c) its receipts and expenditures during the preceding year; (d) the amount paid as dividends upon its stock and as interest upon its bonds; (e) the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; (f) the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and (g) such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may, from time to time, make [changes and] additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the person, corporation or municipality making such report to amend the same within a time prescribed by the commission. Any such person or corporation or municipality which shall neglect to make any such report or which shall fail to correct any such report within the

time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the people of the state of New York. The amount recovered in any such action shall be paid into the state treasury and be credited to the general fund. The commission may extend the time prescribed for cause shown.

S 3. This act shall take effect immediately.