

3307

2011-2012 Regular Sessions

I N S E N A T E

February 16, 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 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:

1 Section 1. Section 66 of the public service law is amended by adding a
2 new subdivision 29 to read as follows:
3 29. (A) FOR THE PURPOSES OF THIS SUBDIVISION:
4 (I) "INDEPENDENT SYSTEM OPERATOR" SHALL MEAN ANY ENTITY OPERATING IN
5 THE STATE THAT IS APPROVED BY THE UNITED STATES FEDERAL ENERGY REGULATO-
6 RY COMMISSION TO OPERATE IN THE STATE TO ADMINISTER AND MONITOR WHOLE-
7 SALE ELECTRICITY MARKETS; AND
8 (II) "END USE SECTOR MEMBER" SHALL INCLUDE ANY ENTITY THAT PURCHASES
9 ELECTRICITY FOR ITS OWN CONSUMPTION AND NOT FOR RESALE.
10 (B) THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROVIDE OVERSIGHT
11 AND MONITOR THE MARKET OPERATIONS OF AN INDEPENDENT SYSTEM OPERATOR,
12 INCLUDING BUT NOT LIMITED TO THE EXTENT TO WHICH IT:
13 (I) SERVES THE NEEDS OF ALL CUSTOMER CLASSES AND OPERATES IN A MANNER
14 THAT IS IN THE BEST INTEREST OF THE PUBLIC;
15 (II) ENSURES RELIABILITY, QUALITY AND MAINTENANCE OF THE TRANSMISSION
16 SYSTEM;
17 (III) MEETS THE REQUIREMENTS OF THE NEW YORK STATE OPEN MEETING LAWS;
18 AND
19 (IV) CONTRIBUTES TO THE ACHIEVEMENT OF ENERGY EFFICIENCY AND FUEL
20 DIVERSITY GOALS OF THE STATE.
21 (C) THE COMMISSION SHALL ENSURE THAT AN INDEPENDENT SYSTEM OPERATOR
22 OPERATE IN A MANNER TO PREVENT MARKET MANIPULATION AND OPPORTUNITIES FOR
23 COLLUSION BY REQUIRING AN INDEPENDENT SYSTEM OPERATOR TO DISCLOSE PRICE
24 DATA RELATED TO ITS WHOLESALE MARKET OPERATIONS INCLUDING, BUT NOT

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

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1 LIMITED TO, INFORMATION ON REAL-TIME, DAY-AHEAD AND SPOT MARKET BIDS AND
2 BIDDERS IN AN INDEPENDENT SYSTEM OPERATOR'S WHOLESALE ELECTRICITY MARKET
3 AUCTIONS, TRANSMISSION CONGESTION CONTRACT AUCTIONS AND INSTALLED CAPAC-
4 ITY MARKET AUCTIONS TO BE MADE PUBLIC WITH NO MORE THAN A THREE MONTH
5 DELAY. SUCH INFORMATION SHALL BE MADE IN A FORMAT READILY AVAILABLE AND
6 ACCESSIBLE TO THE PUBLIC INCLUDING, BUT NOT LIMITED TO PROVIDING SUCH
7 DATA IN AGGREGATE HOURLY, DAILY, MONTHLY, ANNUAL AND HISTORICAL DATA
8 SETS FOR COMPARISON PURPOSES AS WELL AS DATA RELATED TO SEASONAL AND
9 PEAK LOAD VARIATIONS AND AVERAGES.

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

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

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

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

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

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

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

33 (I) PARTICIPATING IN TASK FORCE, WORKING GROUP AND COMMITTEE MEETINGS
34 AS WELL AS IN OTHER MEETINGS ADDRESSING MATTERS AFFECTING MARKETS ADMIN-
35 ISTERED BY AN INDEPENDENT SYSTEM OPERATOR;

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

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

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

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

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

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

1 (I) ANALYSES BY AN INDEPENDENT SYSTEM OPERATOR AND OTHER SUCH DATA
2 COLLECTED AND ANALYZED BY THE COMMISSION INFORMATION ON REAL-TIME,
3 HOUR-AHEAD AND DAY-AHEAD MARKET BIDS AND BIDDERS IN AN INDEPENDENT
4 SYSTEM OPERATOR'S WHOLESALE ELECTRICITY MARKET AUCTIONS, TRANSMISSION
5 CONGESTION CONTRACT AUCTIONS AND INSTALLED MARKET AUCTIONS;
6 (II) A DETERMINATION OF THE EXTENT TO WHICH THE ENERGY MARKETS ARE
7 MAINTAINING NECESSARY LEVELS OF RELIABILITY;
8 (III) A DETERMINATION OF WHETHER OR NOT ALL CUSTOMER CLASSES ARE BEING
9 ADEQUATELY SERVED BY COMPETITIVE ENERGY MARKETS;
10 (IV) A DETERMINATION OF THE COMPETITIVENESS OF ENERGY MARKETS; INCLUD-
11 ING A DETERMINATION WHETHER OR NOT THE ELECTRIC INDUSTRY IS PROVIDING
12 CONSUMERS WITH THE LOWEST PRICES POSSIBLE WITHIN A RESTRUCTURED, COMPET-
13 ITIVE RETAIL MARKETPLACE;
14 (V) A DETERMINATION OF THE EXTENT TO WHICH THE ENERGY MARKETS ARE
15 ACHIEVING THE ENERGY EFFICIENCY AND FUEL DIVERSITY GOALS OF THE STATE;
16 (VI) THE NAME AND TERMS OF THE BOARDS OF DIRECTORS AND AN INDEPENDENT
17 SYSTEM OPERATOR MANAGEMENT, OPERATING AND BUSINESS COMMITTEE MEMBERS;
18 (VII) AN INDEPENDENT SYSTEM OPERATOR'S FINANCIAL INFORMATION; AND
19 (VIII) RECOMMENDATIONS FOR IMPROVING ANY DEFICIENCIES SO IDENTIFIED IN
20 ELECTRICITY ENERGY MARKETS, INCLUDING NON-COMPETITIVE PRICING SITU-
21 ATIONS. THE COMMISSION SHALL SUBMIT SUCH REPORT TO THE GOVERNOR, THE
22 PRESIDENT PRO TEM OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINOR-
23 ITY LEADERS OF THE SENATE AND THE ASSEMBLY, THE CHAIRS OF THE ENERGY
24 COMMITTEES OF THE SENATE AND THE ASSEMBLY, NO LATER THAN APRIL FIRST,
25 TWO THOUSAND TWELVE AND ANNUALLY THEREAFTER.
26 S 2. This act shall take effect immediately.