

4862

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law, in relation to creating the solar feed-in tariff pilot program

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

- 1 Section 1. Legislative intent. The legislature finds and declares all
2 of the following:
- 3 (a) It is the policy of the state of New York to encourage the rapid
4 and sustainable development of electricity from renewable sources,
5 particularly from smaller, widely distributed solar photovoltaic instal-
6 lations, by the adoption of a solar feed-in tariff pilot program created
7 pursuant to this act. Such pilot program will be instituted by the Long
8 Island Power Authority within the service area of the authority.
- 9 (b) This act will create green jobs for the state. The German solar
10 energy industry created over 50,000 jobs in less than five years, with
11 the entire renewable energy industry creating as many as 200,000 jobs.
12 Spain boasts 25,000 solar energy workers. Gainesville, Florida, where a
13 solar feed-in tariff program is currently being tested, is experiencing
14 a surge of capital investment in community solar systems and local
15 contractors are hiring.
- 16 (c) The pilot program created pursuant to this act will moderate the
17 near-term impact on ratepayers, while reducing volatility and long-term
18 rates relative to other sources of power.
- 19 (d) The pilot program created pursuant to this act will encourage
20 energy conservation by requiring a separate new meter to measure the
21 amount of solar electricity produced on site, while retaining the meter
22 that measures the total amount of electricity used on site.
- 23 (e) Distributed generation will enhance reliability while maintaining
24 utility profitability.

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

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(f) Local power generation from renewable energy resources is a clear pathway to energy independence and security for our future.

(g) Distributed solar installations bring the opportunity for renewable power generation to the local level, avoiding the environmental costs of large-scale, carbon-based, centralized power generation, and reducing a wide range of air pollutants, particularly greenhouse gases.

(h) This act presents a market mechanism to spur the solar industry within our communities. It provides a simple and transparent means for solar investments to earn reasonable and reliable returns, allowing capital to flow into clean and renewable energy systems in New York communities. While initially more expensive, these investments will, in the near future, result in sustainable green power sources that will deliver electricity to public utilities at lower energy costs than conventional generation.

S 2. Sections 1020-hh, 1020-ii and 1020-jj of the public authorities law, as renumbered by chapter 433 of the laws of 2009, are renumbered sections 1020-ii, 1020-jj and 1020-kk and a new section 1020-hh is added to read as follows:

S 1020-HH. SOLAR FEED-IN TARIFF PILOT PROGRAM. 1. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "COMMISSIONED" MEANS THE FIRST TIME A SOLAR ENERGY GENERATION FACILITY IS PUT INTO OPERATION FOLLOWING ESTABLISHMENT OF OPERATIONAL READINESS. COMMISSIONING ALSO INCLUDES THE MODERNIZATION OF AN EXISTING SOLAR ENERGY GENERATION FACILITY, IF MODERNIZATION COSTS ARE AT LEAST FIFTY PERCENT OF THE TOTAL ESTIMATED COST TO BUILD A COMPLETELY NEW ELECTRICAL GENERATION FACILITY AT THAT SITE, INCLUDING ALL BUILDING STRUCTURES AND INSTALLATIONS REQUIRED FOR ITS OPERATION.

(B) "PROGRAM" MEANS THE SOLAR FEED-IN TARIFF PILOT PROGRAM CREATED PURSUANT TO THIS SECTION.

(C) "SOLAR ENERGY GENERATION FACILITY" MEANS A FACILITY OR DEVICE THAT HAS THE PRIMARY PURPOSE OF COLLECTION AND DISTRIBUTION OF SOLAR ENERGY FOR THE GENERATION OF ELECTRICITY, THAT HAS THE CAPACITY TO PRODUCE AT LEAST ONE KILOWATT AND NOT MORE THAN ONE MEGAWATT OF ALTERNATING CURRENT RATED PEAK ELECTRICITY.

(D) "TAXABLE ENTITY" MEANS AN OWNER OR OPERATOR OF A SOLAR ENERGY GENERATION FACILITY THAT IS NOT A TAX-EXEMPT ENTITY.

(E) "TAX-EXEMPT ENTITY" MEANS AN OWNER OR OPERATOR OF A SOLAR ENERGY GENERATION FACILITY THAT IS LISTED UNDER SECTION 501(C) OF TITLE 26 OF THE UNITED STATES CODE.

2. (A) THE AUTHORITY SHALL ENTER INTO AGREEMENTS TO PURCHASE ALL OF THE ELECTRICITY GENERATED BY THE OWNER OR OPERATOR OF A SOLAR ENERGY GENERATION FACILITY LOCATED WITHIN THE SERVICE AREA OF THE AUTHORITY AT THE PRICES SET FORTH IN SUBDIVISION SIX OF THIS SECTION USING THE CONTRACT DEVELOPED BY THE AUTHORITY PURSUANT TO SUBDIVISION THREE OF THIS SECTION ON A FIRST-COME-FIRST-SERVED BASIS. CONTRACTS ENTERED INTO PURSUANT TO THIS SUBDIVISION SHALL BE TRANSFERABLE AND MAY BE USED AS SECURITY FOR LOANS. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THERE SHALL BE NO CAP ON THE AMOUNT OF ELECTRICITY PURCHASED FROM AN INDIVIDUAL OWNER OR OPERATOR OF A SOLAR ENERGY GENERATING FACILITY LOCATED WITHIN THE SERVICE AREA OF THE AUTHORITY PURSUANT TO THIS SECTION. THE ONLY LIMITATION ON THE AMOUNT OF ELECTRICITY PURCHASED PURSUANT TO THIS SECTION SHALL BE THE AGGREGATE LIMITATION PROVIDED FOR IN PARAGRAPH (C) OF SUBDIVISION THREE OF THIS SECTION.

(B) THE OWNER OR OPERATOR OF A SOLAR ENERGY GENERATION FACILITY SHALL PROVIDE THE AUTHORITY WITH NOTICE NOT LESS THAN SIXTY DAYS PRIOR TO THE SOLAR ENERGY GENERATION FACILITY BECOMING OPERATIONAL. ONCE OPERATIONAL,

1 THE OWNER OR OPERATOR OF THE FACILITY SHALL REQUEST INTERCONNECTION WITH
2 THE ELECTRICAL CORPORATION'S DISTRIBUTION SYSTEM.

3 (C) (I) THE AUTHORITY SHALL CONNECT A SOLAR ENERGY GENERATION FACILITY
4 TO ITS DISTRIBUTION SYSTEM UPON THE TERMS AND CONDITIONS SET BY THE
5 AUTHORITY, BUT IN NO CASE MORE THAN SIXTY DAYS AFTER THE REQUEST FOR
6 INTERCONNECTION PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION. THE
7 AUTHORITY SHALL APPLY, IN A NONDISCRIMINATORY MANNER, ESTABLISHED STAND-
8 ARDS FOR THE INTERCONNECTION OF SOLAR ENERGY GENERATION FACILITIES THAT
9 WILL ENSURE THE RELIABILITY OF ELECTRICAL SERVICE TO ALL CUSTOMERS, AND
10 WILL ENSURE THE SAFETY OF CUSTOMERS, GRID OPERATOR EMPLOYEES, AND THE
11 GENERAL PUBLIC.

12 (II) THE AUTHORITY SHALL PREPARE, PUBLISH, AND APPLY TRANSPARENT,
13 OBJECTIVE, AND NONDISCRIMINATORY RULES FOR CONNECTING SOLAR ENERGY
14 GENERATION FACILITIES TO ITS DISTRIBUTION SYSTEM.

15 (III) IF THE AUTHORITY DOES NOT PROVIDE INTERCONNECTION WITHIN THE
16 SIXTY-DAY TIMEFRAME ESTABLISHED PURSUANT TO SUBPARAGRAPH (I) OF THIS
17 PARAGRAPH, THE AUTHORITY SHALL BEGIN PAYMENTS PURSUANT TO PARAGRAPH (A)
18 OF THIS SUBDIVISION ON THE SIXTY-FIRST DAY AND THEREAFTER. THE PAYMENT
19 AMOUNTS SHALL BE BASED ON THE NAMEPLATE CAPACITY THAT THE SOLAR ENERGY
20 GENERATION FACILITY COULD PROVIDE IF CONNECTED TO THE DISTRIBUTION
21 SYSTEM.

22 (IV) ALL COSTS ASSOCIATED WITH THE INTERCONNECTION OF SOLAR ENERGY
23 GENERATION FACILITIES, INCLUDING DIRECT INTERCONNECTION COSTS, DISTRIB-
24 UTION SYSTEM ENHANCEMENTS, AND AUTHORITY COMPLIANCE COSTS, SHALL BE PAID
25 BY THE AUTHORITY AND INCLUDED AMONG THE COSTS THAT THE AUTHORITY SHALL
26 CONSIDER UNDER PARAGRAPH (C) OF SUBDIVISION THREE OF THIS SECTION FOR
27 COST RECOVERY FROM RATEPAYERS.

28 3. (A) THE AUTHORITY SHALL DEVELOP A STANDARD CONTRACT OF TWENTY YEARS
29 DURATION TO BE USED FOR ALL PAYMENTS MADE PURSUANT TO SUBDIVISION TWO OF
30 THIS SECTION. THE CONTRACT SHALL BE WRITTEN IN SIMPLE, CLEAR LANGUAGE
31 AND SHALL SPECIFY BOTH OF THE FOLLOWING:

32 (I) THE PRICE TO BE PAID FOR EACH KILOWATT-HOUR GENERATED.

33 (II) THAT THE OWNER OR OPERATOR OF THE SOLAR ENERGY GENERATION FACILI-
34 TY MUST SELL, AND THE ELECTRICAL CORPORATION MUST PURCHASE, ALL OF THE
35 SOLAR ENERGY GENERATED BY THE SOLAR ENERGY GENERATION FACILITY.

36 (B) THE AUTHORITY MAY ADJUST THE AMOUNT SET FORTH IN SUBDIVISION SIX
37 OF THIS SECTION NO MORE THAN ONCE EVERY TWO YEARS. THE AUTHORITY SHALL
38 ANNUALLY REVIEW THE AMOUNT TAKING INTO CONSIDERATION THE ABILITY OF SUCH
39 AMOUNT TO SUCCESSFULLY ENCOURAGE THE INSTALLATION OF SOLAR ENERGY GENER-
40 ATION FACILITIES AND TAKING INTO CONSIDERATION ANY CHANGES IN ANY OF THE
41 FOLLOWING:

42 (I) ACTUAL AVERAGE SYSTEM COSTS AND THE PRODUCTION OF EACH TYPE AND
43 SIZE OF SOLAR ENERGY GENERATION FACILITY.

44 (II) INFLATION AND INTEREST RATES.

45 (III) THE RETURN ACHIEVED BY THE OWNERS OR OPERATORS OF THE SOLAR
46 ENERGY GENERATION FACILITIES AND THE ELECTRICITY RATES PAID BY RATEPAY-
47 ERS.

48 (C) NO MORE THAN ONE HUNDRED MEGAWATTS OF ALTERNATING CURRENT RATED
49 PEAK ELECTRICITY IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

50 4. THE AUTHORITY SHALL ENSURE ALL OF THE FOLLOWING:

51 (A) A SIMPLE, CLEAR APPLICATION FORM FOR SOLAR ENERGY SYSTEM OPERATORS
52 OR OWNERS REQUIRING IDENTIFICATION OF THE SOLAR ENERGY GENERATION FACIL-
53 ITY OWNER AND THE INSTALLER, AND THE PRECISE LOCATION, TYPE AND SIZE OF
54 THE FACILITY.

55 (B) APPLICATIONS ARE PROCESSED IN LESS THAN THIRTY DAYS.

1 (C) SOLAR ENERGY GENERATION FACILITIES ARE COMMISSIONED WITHIN ONE
2 YEAR AFTER THEIR APPLICATION IS APPROVED.

3 (D) NO SYSTEM INSPECTION IS REQUIRED BEYOND WHAT IS REQUIRED BY EXIST-
4 ING LAW.

5 (E) THE INSTALLATION AND USE OF A SEPARATE, DEDICATED METER TO MEASURE
6 THE PRODUCTION OF SOLAR ENERGY FACILITIES OPERATING PURSUANT TO THIS
7 SECTION, AND REQUIRING ELECTRICAL CORPORATIONS TO READ THAT METER AT NO
8 COST TO THE OWNER OR OPERATOR OF THE SOLAR ENERGY GENERATION FACILITY.

9 5.(A) THE AUTHORITY SHALL PREPARE AN ANNUAL REPORT DESCRIBING AND
10 SUMMARIZING THE PROGRAM PURSUANT TO THIS SECTION.

11 (B) THE AUTHORITY SHALL BIENNIALY SUBMIT A REPORT TO THE LEGISLATURE
12 AND THE GOVERNOR ON THE IMPLEMENTATION OF THIS SECTION THAT SHALL
13 INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING:

14 (I) THE GENERATION CAPACITY OF NEW SOLAR ENERGY GENERATION FACILITIES
15 INSTALLED IN THE SERVICE AREA OF THE AUTHORITY AND THE ENVIRONMENTAL
16 EFFECTS OF THE ADDITION OF SUCH FACILITIES.

17 (II) ACTIONS TAKEN BY THE AUTHORITY TO IMPLEMENT THIS SECTION.

18 (III) REVISIONS TO THE AMOUNT SET FORTH IN SUBDIVISION SIX OF THIS
19 SECTION.

20 (IV) THE IMPACT OF THE IMPLEMENTATION OF THIS SECTION ON ELECTRICAL
21 RATES.

22 (V) RECOMMENDATIONS FOR CHANGES TO THIS SECTION, IF ANY, THAT MAY BE
23 NECESSARY OR ADVISABLE, INCLUDING WHETHER THE PROVISIONS OF THIS SECTION
24 SHOULD BE EXPANDED TO OTHER CITIES OR ADOPTED STATEWIDE.

25 6. THE PRICE OF ELECTRICITY UNDER AN AGREEMENT ENTERED INTO PURSUANT
26 TO THIS SECTION SHALL BE \$0.32 PER KILOWATT HOUR.

27 S 3. Severability. If any clause, sentence, paragraph, section or part
28 of this act shall be adjudged by any court of competent jurisdiction to
29 be invalid and after exhaustion of all further judicial review, the
30 judgment shall not affect, impair or invalidate the remainder thereof,
31 but shall be confined in its operation to the clause, sentence, para-
32 graph, section or part of this act directly involved in the controversy
33 in which the judgment shall have been rendered.

34 S 4. This act shall take effect on the first of January next succeed-
35 ing the date on which it shall have become a law.