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

4993

2011-2012 Regular Sessions

I N S E N A T E

May 2, 2011

Introduced by Sen. BALL -- 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 and the public authorities law, in relation to net energy metering for solar, wind, fuel cell and farm waste electric generating systems; and to repeal section 66-l of the public service law relating to net energy metering for residential and/or farm service wind electric generating systems

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

Section 1. The section heading and subdivisions 1, 2, 3, 4 and 5 of section 66-j of the public service law, as amended by chapter 355 of the laws of 2009, paragraph (d) of subdivision 1 and subparagraphs (i) and (iii) of paragraph (c) of subdivision 3 as amended by chapter 7 of the laws of 2010, and the opening paragraph of paragraph (e) of subdivision 1 as amended by chapter 336 of the laws of 2010, are amended to read as follows:

Net energy metering for [residential] solar, WIND, FUEL CELL OR farm waste[, non-residential solar] electric generating systems, OR micro-combined heat and power generating equipment[, or fuel cell electric generating equipment]. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Customer-generator" means: (i) [a residential] ANY customer of an electric corporation, who owns or operates solar, WIND OR FUEL CELL electric generating equipment, OR ANY HYBRID EQUIPMENT COMPOSED OF THESE THREE TECHNOLOGIES located and used at his or her [residence] PREMISES; (ii) a customer of an electric corporation, who owns or operates farm waste electric generating equipment located and used at his or her "farm operation," as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law; AND (iii) [a non-residential customer of an electric corporation which owns or operates

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

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solar electric generating equipment located and used at its premises; (iv)] a residential customer of an electric corporation who owns, leases or operates micro-combined heat and power generating equipment located on the customer's premises[; and (v) a residential customer of an electric corporation who owns, leases or operates fuel cell generating equipment located on the customer's premises].

(b) "Net energy meter" means a meter that measures the reverse flow of electricity to register the difference between the electricity supplied by an electric corporation to the customer-generator and the electricity provided to the corporation by that customer-generator.

(c) "Net energy metering" means the use of a net energy meter to measure, during the billing period applicable to a customer-generator, the net amount of electricity supplied by an electric corporation and provided to the corporation by a customer-generator.

(d) "Solar electric generating equipment" means a photovoltaic system (i) [(A) in the case of a residential customer, with a rated capacity of not more than twenty-five kilowatts; and (B) in the case of a non-residential customer,] with a rated capacity of not more than two thousand kilowatts; and (ii) that is manufactured, installed, and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in [conjunction] PARALLEL with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

(e) "Farm waste electric generating equipment" means equipment that generates electric energy from biogas produced by the anaerobic digestion of agricultural waste, such as livestock manure, farming wastes and food processing wastes with a rated capacity of not more than [one] TWO thousand kilowatts, that is:

(i) manufactured, installed, and operated in accordance with applicable government and industry standards;

(ii) connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities;

(iii) operated in compliance with any standards and requirements established under this section;

(iv) fueled at a minimum of ninety percent on an annual basis by biogas produced from the anaerobic digestion of agricultural waste such as livestock manure materials, crop residues, and food processing waste; and

(v) fueled by biogas generated by anaerobic digestion with at least fifty percent by weight of its feedstock being livestock manure materials on an annual basis.

(f) "Micro-combined heat and power generating equipment" means an integrated, cogenerating building heating and electrical power generation system, operating on any fuel and of any applicable engine, fuel cell, or other technology, with a rated capacity of at least one kilowatt and not more than ten kilowatts electric and any thermal output that at full load has a design total fuel use efficiency in the production of heat and electricity of not less than eighty percent, and annually produces at least two thousand kilowatt hours of useful energy in the form of electricity that may work in combination with supplemental or parallel conventional heating systems, that is manufactured, installed and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities.

(g) "Fuel cell electric generating equipment" means a solid oxide, molten carbonate, proton exchange membrane or phosphoric acid fuel cell with a combined rated capacity of not more than [ten] TWO THOUSAND kilowatts that is manufactured, installed and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in parallel with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

(H) "WIND ELECTRIC GENERATING EQUIPMENT" MEANS A WIND GENERATOR OR GENERATORS WITH A COMBINED RATED CAPACITY OF NOT MORE THAN TWO THOUSAND KILOWATTS THAT IS MANUFACTURED, INSTALLED AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS, THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED IN PARALLEL WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES, AND THAT IS OPERATED IN COMPLIANCE WITH ANY STANDARDS AND REQUIREMENTS ESTABLISHED UNDER THIS SECTION.

(I) "ELECTRIC CORPORATION" MEANS ANY PUBLIC OR PRIVATELY OWNED ENTITY THAT OFFERS RETAIL ELECTRICAL SERVICE TO END-USE ELECTRIC CONSUMERS.

(J) "ELIGIBLE TECHNOLOGIES" MEANS THE SOLAR, WIND, FUEL CELL OR FARM WASTE ELECTRIC GENERATING EQUIPMENT.

2. Interconnection and net energy metering. An electric corporation shall provide for the interconnection of [solar and farm waste electric generating equipment] ELIGIBLE TECHNOLOGIES, AND micro-combined heat and power generating equipment [and fuel cell electric generating equipment] owned or operated by a customer-generator and for net energy metering, provided that the customer-generator enters into a net energy metering contract with the corporation or complies with the corporation's net energy metering schedule and complies with standards and requirements established under this section.

3. Conditions of service. (a) [(i)] On or before three months after the effective date of this section, each electric corporation shall develop a model contract and file a schedule that establishes consistent and reasonable rates, terms and conditions for net energy metering to customer-generators, according to the requirements of this section. The commission shall render a decision within three months from the date on which the schedule is filed.

[(ii) On or before three months after the effective date of this subparagraph, each electric corporation shall develop a model contract and file a schedule that establishes consistent and reasonable rates, terms and conditions for net energy metering to non-residential customer generators, according to the requirements of this section. The commission shall render a decision within three months of the date on which the schedule is filed.

(iii) Each electric corporation shall make such contract and schedule available to customer-generators on a first come, first served basis, until the total rated generating capacity for solar and farm waste electric generating equipment, micro-combined heat and power generating equipment and fuel cell electric generating equipment owned, leased or operated by customer-generators in the corporation's service area is equivalent to one percent of the corporation's electric demand for the year two thousand five, as determined by the department.]

(b) [Nothing in this subdivision shall prohibit a corporation from providing net energy metering to additional customer-generators. The commission shall have the authority, after January first, two thousand

twelve, to increase the percent limits if it determines that additional net energy metering is in the public interest.

(c) In the event that the electric corporation determines that it is necessary to install a dedicated transformer or transformers, or other equipment to protect the safety and adequacy of electric service provided to other customers, a customer-generator shall pay the electric corporation's actual costs of installing the transformer or transformers, or other equipment:

(i) In the case of a customer-generator who owns or operates solar electric generating equipment, micro-combined heat and power generating equipment or fuel cell electric generating equipment located and used at his or her residence, or a non-residential customer-generator who owns or operates solar electric generating equipment with a rated capacity of not more than twenty-five kilowatts, up to a maximum amount of three hundred fifty dollars;

(ii) In the case of a customer-generator who owns or operates farm waste electric generating equipment located and used at his or her "farm operation," up to a total amount of five thousand dollars per "farm operation"; and

(iii) In the case of a non-residential customer-generator who owns or operates solar electric generating equipment with a rated capacity of more than twenty-five kilowatts located and used at its premises, such cost shall be as determined by the electric corporation subject to review, upon the request of such customer-generator, by the department.

(d)] An electric corporation shall impose no other charge or fee, including, BUT NOT LIMITED TO, back-up, stand by and demand charges, for the provision of net energy metering to a customer-generator, except as provided in paragraph (d) of subdivision four of this section.

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 charge the customer-generator for the net electricity supplied 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.

(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 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, 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 promptly issue payment at its avoided cost to the customer-generator, as defined in subparagraph (i) or (ii) 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.

(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) NET ENERGY METERING SHALL BE ACCOMPLISHED USING A SINGLE METER CAPABLE OF REGISTERING THE FLOW OF ELECTRICITY IN TWO DIRECTIONS. AN ADDITIONAL METER OR METERS TO MONITOR THE FLOW OF ELECTRICITY IN EACH DIRECTION MAY BE INSTALLED WITH THE CONSENT OF THE CUSTOMER-GENERATOR, AT THE EXPENSE OF THE ELECTRIC CORPORATION, AND THE ADDITIONAL METERING SHALL BE USED ONLY TO PROVIDE THE INFORMATION NECESSARY TO ACCURATELY BILL OR CREDIT THE CUSTOMER-GENERATOR PURSUANT TO PARAGRAPH (F) OF THIS SUBDIVISION, OR TO COLLECT SYSTEM PERFORMANCE INFORMATION ON THE ELIGIBLE TECHNOLOGY FOR RESEARCH PURPOSES. IF THE EXISTING ELECTRICAL METER OF AN ELIGIBLE CUSTOMER-GENERATOR IS NOT CAPABLE OF MEASURING THE FLOW OF ELECTRICITY IN TWO DIRECTIONS AND PROVIDED THE REASON THE METER IS NOT CAPABLE OF MEASURING THE FLOW IN TWO DIRECTIONS IS NOT RELATED EITHER TO A MECHANICAL DEVICE INSTALLED BY AN ELECTRIC CORPORATION OR SUCH CORPORATION'S SELECTION OF A METER WITHOUT THIS CAPABILITY WHEN OTHER METERS CAPABLE OF MEASURING THE FLOW OF ELECTRICITY IN TWO DIRECTIONS WERE AVAILABLE TO THE ELECTRIC CORPORATION, THE CUSTOMER-GENERATOR SHALL BE RESPONSIBLE FOR ALL EXPENSES INVOLVED IN PURCHASING AND INSTALLING A METER THAT IS ABLE TO MEASURE THE FLOW OF ELECTRICITY IN TWO DIRECTIONS. IF AN ADDITIONAL METER OR METERS ARE INSTALLED, THE NET ENERGY METERING CALCULATION SHALL YIELD A RESULT IDENTICAL TO THAT OF A SINGLE METER.

(F) EVERY ELECTRIC CORPORATION SHALL DEVELOP A STANDARD CONTRACT OR TARIFF PROVIDING FOR NET ENERGY METERING, AND SHALL MAKE THIS CONTRACT AVAILABLE TO ELIGIBLE CUSTOMER-GENERATORS, UPON REQUEST. EVERY ELECTRIC CORPORATION SHALL ENSURE THAT REQUESTS FOR ESTABLISHMENT OF NET ENERGY METERING ARE PROCESSED IN A TIME PERIOD NOT EXCEEDING THAT FOR SIMILARLY SITUATED CUSTOMERS REQUESTING NEW ELECTRIC SERVICE, BUT NOT TO EXCEED ONE MONTH FROM THE DATE THE ELECTRIC CORPORATION RECEIVES A COMPLETED APPLICATION FORM FROM AN ELIGIBLE CUSTOMER-GENERATOR. IF AN ELECTRIC CORPORATION IS UNABLE TO PROCESS THE REQUEST WITHIN THE ALLOWABLE TIMEFRAME, THE ELECTRIC CORPORATION SHALL NOTIFY THE CUSTOMER-GENERATOR OF THE REASON FOR ITS INABILITY TO PROCESS THE REQUEST AND THE DATE THE REQUEST WILL BE COMPLETED. EVERY ELECTRIC CORPORATION SHALL MAKE ALL NECESSARY FORMS AND CONTRACTS FOR NET ENERGY METERING AVAILABLE FOR DOWNLOAD FROM THE INTERNET.

(G) EACH NET ENERGY METERING CONTRACT OR TARIFF SHALL BE IDENTICAL, WITH RESPECT TO RATE STRUCTURE, ALL RETAIL RATE COMPONENTS AND ANY MONTHLY CHARGES, TO THE CONTRACT OR TARIFF TO WHICH THE SAME CUSTOMER WOULD BE ASSIGNED IF SUCH CUSTOMER WAS NOT AN ELIGIBLE CUSTOMER-GENERATOR, EXCEPT THAT ELIGIBLE CUSTOMER-GENERATORS SHALL NOT BE ASSESSED STANDBY CHARGES ON THE ELECTRICAL GENERATING CAPACITY OR THE KILOWATT-HOUR PRODUCTION OF AN ELIGIBLE TECHNOLOGY. THE CHARGES FOR ALL RETAIL RATE COMPONENTS FOR ELIGIBLE CUSTOMER-GENERATORS SHALL BE BASED EXCLUSIVELY ON THE CUSTOMER-GENERATOR'S NET KILOWATT-HOUR CONSUMPTION OVER A TWELVE MONTH PERIOD, WITHOUT REGARD TO THE CUSTOMER-GENERATOR'S CHOICE OF ELECTRIC CORPORATION. ANY NEW OR ADDITIONAL DEMAND CHARGE,

STANDBY CHARGE, CUSTOMER CHARGE, MINIMUM MONTHLY CHARGE, INTERCONNECTION CHARGE OR OTHER CHARGE THAT WOULD INCREASE AN ELIGIBLE CUSTOMER-GENERATOR'S COSTS BEYOND THOSE OF OTHER CUSTOMERS IN THE RATE CLASS TO WHICH THE ELIGIBLE CUSTOMER-GENERATOR WOULD OTHERWISE BE ASSIGNED ARE CONTRARY TO THE INTENT OF THIS SECTION, AND SHALL NOT FORM A PART OF NET ENERGY METERING CONTRACTS OR TARIFFS.

(H) FOR ALL ELIGIBLE CUSTOMER-GENERATORS TAKING SERVICE UNDER TARIFFS EMPLOYING "TIME OF USE" RATES, ANY NET MONTHLY CONSUMPTION OF ELECTRICITY SHALL BE CALCULATED ACCORDING TO THE TERMS OF THE CONTRACT OR TARIFF TO WHICH THE SAME CUSTOMER WOULD BE ASSIGNED TO OR BE ELIGIBLE FOR IF THE CUSTOMER WAS NOT AN ELIGIBLE CUSTOMER-GENERATOR. WHEN THOSE SAME CUSTOMER-GENERATORS ARE NET GENERATORS DURING ANY DISCRETE TIME OF USE PERIOD, THE NET KILOWATT-HOURS PRODUCED SHALL BE VALUED AT THE SAME PRICE PER KILOWATT-HOUR AS THE ELECTRIC CORPORATION WOULD CHARGE FOR RETAIL KILOWATT-HOUR SALES DURING THAT SAME TIME OF USE PERIOD AND THAT VALUE SHALL BE APPLIED AS A CREDIT TO ANY OF THE DISCRETE TIME OF USE PERIODS UNDER THE TARIFF. IF THE ELIGIBLE CUSTOMER-GENERATOR'S TIME OF USE ELECTRICAL METER IS UNABLE TO MEASURE THE FLOW OF ELECTRICITY IN TWO DIRECTIONS, THE PROVISIONS OF PARAGRAPH (D) OF THIS SUBDIVISION SHALL APPLY.

5. Safety standards. (a) On or before three months after the effective date of [this section, each electric corporation shall establish standards that are necessary for net energy metering and the interconnection of residential solar or farm waste electric generating equipment, micro-combined heat and power generating equipment and fuel cell electric generating equipment to its system and that the commission shall determine are necessary for safe and adequate service and further the public policy set forth in this section. Such standards may include but shall not be limited to:

(i) equipment necessary to isolate automatically the residential solar, farm waste, micro-combined heat and power and fuel cell electric generating system from the utility system for voltage and frequency deviations; and

(ii) a manual lockable disconnect switch provided by the customer-generator which shall be located on the outside of the customer's premises and externally accessible for the purpose of isolating the residential solar and farm waste electric generating equipment.

(b) Upon its own motion or upon a complaint, the commission, or its designated representative, may investigate and make a determination as to the reasonableness and necessity of the standards or responsibility for compliance with the standards.

(i) In the case of a customer-generator who owns or operates solar electric generating equipment located and used at his or her residence; an electric corporation may not require a customer-generator to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance provided that the residential solar or farm waste electric generating equipment, micro-combined heat and power generating equipment or fuel cell electric generating equipment meets the safety standards established pursuant to this paragraph.

(ii) In the case of a customer-generator who owns or operates farm waste electric generating equipment located and used at his or her "farm operation," an electric corporation may not require a customer-generator to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance provided that:

1. the electric generating equipment meets the safety standards established pursuant to this paragraph; and

2. the total rated generating capacity (measured in kW) of farm waste electric generating equipment that provides electricity to the electric corporation through the same local feeder line, does not exceed twenty percent of the rated capacity of that local feeder line.

(iii) In the event that the total rated generating capacity of farm waste electric generating equipment that provides electricity to the electric corporation through the same local feeder line exceeds twenty percent of the rated capacity of the local feeder line, the electric corporation may require the customer-generator to comply with reasonable measures to ensure safety of that local feeder line.] PARAGRAPH (B) OF THIS SUBDIVISION, THE COMMISSION SHALL ESTABLISH STANDARDS FOR INTERCONNECTION OF GENERATORS, TAKING INTO ACCOUNT APPLICABLE INDUSTRY STANDARDS INCLUDING IEEE 1541, AND BEST PRACTICES INCLUDED IN THE INTERSTATE RENEWABLE ENERGY COUNCIL'S MODEL INTERCONNECTION RULES MR-12005. SUCH STANDARDS SHALL NOT BE MORE RESTRICTIVE OF INTERCONNECTION THAN STANDARDS ESTABLISHED IN FERC ORDERS 2006 AND 2006A AS OF THE EFFECTIVE DATE OF PARAGRAPH (B) OF THIS SUBDIVISION.

(B) THE COMMISSION SHALL PROMULGATE REGULATIONS ENSURING THAT SIMPLIFIED CONTRACTS WILL BE USED FOR THE INTERCONNECTION OF GENERATORS THAT HAVE A PRODUCTION CAPACITY NOT EXCEEDING TWO THOUSAND KILOWATTS AND SHALL CONSIDER THE BEST PRACTICES FOR CONSUMER FRIENDLY CONTRACTS ADOPTED BY NATIONAL ASSOCIATIONS OF STATE UTILITY REGULATORS. SUCH CONTRACTS SHALL NOT REQUIRE LIABILITY OR OTHER INSURANCE IN EXCESS OF WHAT IS TYPICALLY CARRIED BY CUSTOMER-GENERATORS FOR GENERAL LIABILITY.

S 2. Section 66-l of the public service law is REPEALED.

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, WIND, FUEL CELL OR FARM WASTE 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)] CUSTOMER-GENERATORS, (II) micro-combined heat and power generating equipment owned, leased or operated by residential customers, and [(E)] (III) 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].

S 4. This act shall take effect immediately.