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

1181

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

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 abolishing the market clearing price

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 three new subdivisions 29, 30 and 31 to read as follows:

29. REVIEW THE RATES OF ANY PUBLIC UTILITY ON AN ANNUAL BASIS, PROVIDED HOWEVER THAT UPON A DETERMINATION BY THE COMMISSION THAT THE PUBLIC INTEREST DOES NOT REQUIRE SUCH ANNUAL RATE REVIEW, A REVIEW OF RATES MAY BE UNDERTAKEN AT NO MORE THAN THREE YEAR INTERVALS.

30. (A) USE THE FULLEST EXTENT OF ITS POWERS TO REGULATE THE DISTRIBUTION OF RETAIL ELECTRIC ENERGY TO RETAIL CUSTOMERS IN THE STATE AND, TO THE EXTENT NOT PROHIBITED BY FEDERAL LAW, THE TRANSMISSION OF ELECTRIC ENERGY IN THE STATE.

(B) A MARKET CLEARING PRICE MECHANISM FOR THE PURCHASE OF POWER SHALL BE FORBIDDEN FOR PURCHASES MADE THROUGH THE WHOLESALE MARKET VIA A BID PROCUREMENT OR AUCTION PROCESS HELD BY THE INDEPENDENT SYSTEM OPERATOR ("ISO") OF NEW YORK, OR ANY SUCCESSOR IN LAW AND FUNCTION TO SUCH ENTITY.

(C) SUCH AUCTION OR BID PROCUREMENT PROCESS SHALL BE OVERSEEN BY THE COMMISSION, WHICH SHALL REQUIRE A DESCENDING CLOCK, PAY-AS-BID AUCTION IN WHICH BID AMOUNTS WILL CONTINUE TO FALL UNTIL NO BIDDER IS WILLING TO SUPPLY ELECTRICITY AT A LOWER PRICE. FOR THE PURPOSES OF THIS ARTICLE "DESCENDING CLOCK AUCTION" SHALL BE DEFINED AS AN AUCTION IN WHICH THE PRICES DROP THROUGHOUT AN AUCTION OF TIME-LIMITED DURATION; STARTING HIGH AND BEING REDUCED GRADUALLY UNTIL THE SUPPLY BID IS JUST SUFFICIENT TO MEET THE ELECTRICAL LOAD TO BE PROCURED. PRICES THAT TICK DOWN IN A

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

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ROUND DECREASE BY A DECREMENT; WHICH IS A GIVEN PERCENTAGE OF THE PREVIOUS PRICE. BIDDERS HOLDING THE FINAL BIDS WHEN THE AUCTION CLOSES ARE THE WINNERS.

(D) BIDDERS WILL BE FORBIDDEN FROM KNOWING WHEN THE AMOUNT OF ELECTRICITY SUPPLY FILLS REQUIREMENTS.

(E) THE COMMISSION SHALL APPOINT AN INDEPENDENT MARKET ADVISOR TO REVIEW MARKET PRACTICES AND BEHAVIOR; THAT WILL RECOMMEND TO THE ISO ACTIONS THAT CAN BE TAKEN TO MITIGATE OR CORRECT BEHAVIOR BY MARKET PARTICIPANTS THAT WAS REASONABLY CALCULATED TO, OR HAD THE EFFECT OF AFFECTING THE FUNCTION OF THE AUCTION PROCESS SO THAT THE WINNING BIDDER WAS NOT THE LOWEST PRICE BIDDER.

(F) UTILITIES MAY BUY POWER FROM MARKETS OTHER THAN THE ISO, OR VIA CONTRACTS WITH INDIVIDUALS OR GROUPS OF GENERATING ENTITIES, PROVIDED THAT SUCH ELECTRICAL ENERGY MUST BE OFFERED TO CUSTOMERS AT JUST AND REASONABLE RATES.

31. (A) THE COMMISSION SHALL EXERCISE ITS FULL JURISDICTION OVER THE ISO OF NEW YORK.

(B) THE COMMISSION SHALL REGULATE THE RELIABILITY, QUALITY AND MAINTENANCE BY TRANSMITTERS AND DISTRIBUTORS OF THEIR TRANSMISSION AND RETAIL DISTRIBUTION SYSTEMS.

(C) THE COMMISSION SHALL REGULATE THE RELIABILITY, QUALITY, MAINTENANCE, AND PRICE OF GENERATORS.

(D) THE COMMISSION SHALL NOT REQUIRE ANY INCUMBENT ELECTRIC UTILITY TO DIVEST ITSELF OF ANY GENERATION, TRANSMISSION OR DISTRIBUTION ASSETS PURSUANT TO ANY PROVISION OF THIS CHAPTER WITHOUT SPECIFIC AUTHORIZING LEGISLATION FOR SUCH PURPOSE.

(E) THE COMMISSION SHALL DEVELOP CODES OF CONDUCT GOVERNING THE CONDUCT OF INCUMBENT ELECTRIC UTILITIES AND AFFILIATES THEREOF WHEN ANY SUCH AFFILIATES PROVIDE, OR CONTROL ANY ENTITY THAT PROVIDES, GENERATION, DISTRIBUTION, OR TRANSMISSION SERVICES TO THE EXTENT NECESSARY TO PREVENT IMPAIRMENT OF COMPETITION. NOTHING IN THIS CHAPTER SHALL PREVENT AN INCUMBENT ELECTRIC UTILITY FROM OFFERING METERING OPTIONS TO ITS CUSTOMERS.

S 2. This act shall take effect immediately.