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

5376--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 25, 2013

Introduced by M. of A. BRENNAN, ZEBROWSKI, CAHILL, COLTON, ROSENTHAL -- Multi-Sponsored by -- M. of A. ABBATE, CLARK, GALEF, GOTTFRIED, MAGEE, MARKEY, MILLMAN, PEOPLES-STOKES, SWEENEY, WEISENBERG -- read once and referred to the Committee on Energy -- committed to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to electric capacity and power procurement; and to amend the public authorities law, in relation to powers of the Long Island power authority respecting portfolio management services

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

Section 1. The public service law is amended by adding a new section 66-i to read as follows:

S 66-I. ELECTRIC CAPACITY AND POWER PROCUREMENT. 1. ANY ELECTRIC UTILITY CORPORATION, IN MEETING ITS OBLIGATION TO PROVIDE ELECTRIC CAPACITY AND POWER SERVICES TO CUSTOMERS WHO DO NOT CHOOSE TO RECEIVE ELECTRIC CAPACITY AND POWER SERVICE FROM ANOTHER PROVIDER, SHALL CONSIDER ALL REASONABLY AVAILABLE SUPPLY-SIDE AND DEMAND-SIDE RESOURCES, AND SHALL SELECT THE SOURCE OR SOURCES WHICH BEST SERVE THE PUBLIC INTEREST, TAKING INTO CONSIDERATION SUCH FACTORS AS RATEPAYER IMPACTS, SYSTEM RELIABILITY, ENVIRONMENTAL IMPACTS, CONSERVATION OF ENERGY RESOURCES, PRESERVATION OR CREATION OF ECONOMIC OPPORTUNITIES, FUEL EFFICIENCY, FUEL AVAILABILITY AND DIVERSITY, AND PUBLIC HEALTH AND WELFARE. EACH ELECTRIC UTILITY CORPORATION SHALL PROVIDE PORTFOLIO MANAGEMENT SERVICES TO ALL ELECTRIC CUSTOMERS WITHIN ITS SERVICE TERRITORY WHO DO NOT CHOOSE TO RECEIVE ELECTRIC CAPACITY AND POWER SERVICE FROM ANOTHER PROVIDER. FOR PURPOSES OF THIS SECTION, "PORTFOLIO MANAGEMENT SERVICE" SHALL MEAN THE PROVISION OF RELIABLE ELECTRIC CAPACITY AND POWER SERVICES DERIVED FROM A MIX OF SUPPLY-SIDE RESOURCES, INCLUDING LONG-TERM CONTRACTS, FOR SUPPLY DELIVERY DATES GREATER THAN ONE YEAR, SHORT-TERM CONTRACTS, FOR

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

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SUPPLY DELIVERY DATES WITHIN ONE YEAR, AND PURCHASES ON THE DAY-AHEAD AND SPOT WHOLESALE MARKETS; DEMAND-SIDE RESOURCES; AND OTHER MECHANISMS WHICH COLLECTIVELY REDUCE THE VOLATILITY OF WHOLESALE ELECTRICITY PRICES AND MINIMIZE CUSTOMER BILLS. FOR PURPOSES OF THIS SECTION, "SUPPLY-SIDE RESOURCES" SHALL INCLUDE CAPACITY AND ENERGY DERIVED FROM EXISTING CENTRAL-STATION POWER PLANTS OR FROM PROPOSED CENTRAL-STATION POWER PLANTS OR OTHER ELECTRIC GENERATING FACILITIES, INCLUDING RENEWABLE ENERGY RESOURCES, WHICH DELIVER POWER TO THE TRANSMISSION AND/OR DISTRIBUTION GRID. FOR PURPOSES OF THIS SECTION, "DEMAND-SIDE RESOURCES" SHALL INCLUDE CAPACITY AND ENERGY DERIVED FROM CLEAN DISTRIBUTED GENERATION SOURCES, INCLUDING RENEWABLE ENERGY RESOURCES, LOAD MANAGEMENT ACTIVITIES THAT CAN BE MONITORED THROUGH ACTIVITIES IN ACCORDANCE WITH PROCEDURES ESTABLISHED BY THE NEW YORK POWER POOL OR ANY SUCCESSOR ORGANIZATION, AND OTHER ENERGY EFFICIENCY ACTIVITIES, ABOVE AND BEYOND ANY PROGRAMS FUNDED BY ELECTRIC UTILITY RATEPAYERS MANAGED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY. THIS SERVICE DOES NOT INCLUDE OWNERSHIP AND OPERATION OF TRANSMISSION AND DISTRIBUTION SYSTEMS.

2. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS SECTION, EACH ELECTRIC UTILITY CORPORATION SHALL SUBMIT TO THE COMMISSION FOR APPROVAL A DRAFT PORTFOLIO MANAGEMENT SERVICE PLAN CONSISTING OF LONG-TERM AND SHORT-TERM PLANS FOR ELECTRIC CAPACITY AND ENERGY PROCUREMENT AND THE MIX OF SUPPLY-SIDE AND DEMAND-SIDE RESOURCES TO MEET FORECAST CAPACITY AND ENERGY NEEDS. EACH ELECTRIC UTILITY CORPORATION SHALL ALSO PROVIDE AN EXPLANATION HOW SUCH PLAN IS DESIGNED TO MODERATE POTENTIAL WHOLESALE PRICE VOLATILITY. THE COMMISSION SHALL PROVIDE PUBLIC NOTICE OF EACH DRAFT PORTFOLIO MANAGEMENT SERVICE PLAN AND SHALL PROVIDE OPPORTUNITIES FOR PUBLIC COMMENT AND PUBLIC HEARING ON THE PLAN. FOLLOWING PUBLIC COMMENT AND HEARING, THE COMMISSION SHALL APPROVE THE DRAFT PORTFOLIO MANAGEMENT SERVICE PLAN UPON A FINDING THAT SUCH PLAN MEETS THE REQUIREMENTS FOR PORTFOLIO MANAGEMENT SERVICE PLANS AS DESCRIBED IN SUBDIVISION ONE OF THIS SECTION. THE COMMISSION SHALL HAVE AUTHORITY TO REQUIRE EACH ELECTRIC CORPORATION TO CONDUCT COMPETITIVE BIDDING AUCTIONS OR OTHER PROCUREMENT PROGRAMS FOR THE PURPOSE OF SATISFYING PORTFOLIO MANAGEMENT SERVICE PLANS.

3. THE COMMISSION SHALL HAVE AUTHORITY TO PRESCRIBE GUIDELINES, RULES AND REGULATIONS REGARDING THE PARTICIPATION OF UTILITY COMPANIES, THEIR AFFILIATES, SUBSIDIARIES AND ANY OTHER CORPORATION OR PERSON IN PORTFOLIO MANAGEMENT SERVICES, INCLUDING COMPETITIVE BIDDING AUCTIONS, OR REGARDING ANY OTHER METHOD OF ACQUIRING ELECTRIC CAPACITY AND POWER. THE COMMISSION MAY, AFTER PUBLIC COMMENT AND EVIDENTIARY HEARING, PROVIDE FOR PROVISION OF PORTFOLIO MANAGEMENT SERVICE TO CUSTOMERS IN AN ELECTRIC UTILITY CORPORATION SERVICE TERRITORY BY AN ENTITY OTHER THAN THE ELECTRIC DISTRIBUTION CORPORATION, THROUGH A COMPETITIVE BIDDING AUCTION, SO LONG AS THE ENTITY SELECTED CAN MEET THE REQUIREMENTS OF THE SECTION. ANY RULES, REGULATIONS, GUIDELINES AND DETERMINATIONS ADOPTED OR ISSUED BY THE COMMISSION PERTAINING TO ACQUISITION OF ELECTRIC CAPACITY SHALL BE CONSISTENT WITH THE POLICY STATED IN THIS SECTION SHALL ALSO REQUIRE ACQUISITIONS OF ELECTRIC CAPACITY TO BE REASONABLY CONSISTENT WITH THE FORECASTS, POLICIES AND LONG-RANGE PLANNING OBJECTIVES AND STRATEGIES CONTAINED IN THE MOST RECENT FINAL STATE ENERGY PLAN OR ANY SUBSEQUENT UPDATE, PROVIDED, HOWEVER, THAT ANY DETERMINATION MADE BY THE COMMISSION UNDER THIS SECTION THAT IS NOT REASONABLY CONSISTENT WITH THE PLAN SHALL BE DEEMED IN COMPLIANCE WITH THIS SECTION, PROVIDED THAT SUCH DETERMINATION BY THE COMMISSION INCLUDES A FINDING THAT THE ELEMENT OF THE PLAN IS NO LONGER REASONABLE OR PROBABLE BASED ON A MATERIAL AND

SUBSTANTIAL CHANGE IN FACT OR CIRCUMSTANCE, AND A STATEMENT EXPLAINING THE BASIS FOR THIS FINDING.

4. THE COMMISSION SHALL ESTABLISH, AFTER PUBLIC COMMENT AND EVIDENTIARY HEARINGS, REGULATIONS FOR PERFORMANCE-BASED REWARDS AND PENALTIES THAT REFLECT THE EXTENT TO WHICH THE PORTFOLIO MANAGEMENT SERVICE PLAN PROVIDED BY EACH ELECTRIC UTILITY MINIMIZES CUSTOMER ELECTRIC BILLS AND THE VOLATILITY OF ELECTRICITY PRICES.

5. BOARDS OF STATE OR MUNICIPALLY OWNED UTILITIES WILL REMAIN RESPONSIBLE FOR PORTFOLIO MANAGEMENT SERVICES AND ANY ALTERNATIVE CHOICES AVAILABLE TO CUSTOMERS OF THESE UTILITIES.

S 2. Section 1020-f of the public authorities law, as added by chapter 517 of the laws of 1986, is amended by adding a new subdivision (ii) to read as follows:

(II) TO DEVELOP, WITH PUBLIC COMMENT AND HEARING, PORTFOLIO MANAGEMENT SERVICES, FOR ALL CUSTOMERS WHO DO NOT ELECT TO TAKE GENERATION SERVICES FROM AN ALTERNATE POWER SUPPLIER, IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION ONE OF SECTION SIXTY-SIX-I OF THE PUBLIC SERVICE LAW.

S 3. This act shall take effect immediately.