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

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6002

2013-2014 Regular Sessions

I N   A S S E M B L Y

March 13, 2013
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Introduced by M. of A. BRENNAN -- Multi-Sponsored by -- M. of A. JACOBS
  -- read once and referred to the Committee on Corporations, Authori-
  ties and Commissions

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

 1   Section 1. Section 66 of the public service law is amended by adding
 2 three new subdivisions 29, 30 and 31 to read as follows:
 3   29. REVIEW THE RATES OF ANY PUBLIC UTILITY ON AN ANNUAL BASIS,
 4 PROVIDED HOWEVER THAT UPON A DETERMINATION BY THE COMMISSION THAT THE
 5 PUBLIC INTEREST DOES NOT REQUIRE SUCH ANNUAL RATE REVIEW, A REVIEW OF
 6 RATES MAY BE UNDERTAKEN AT NO MORE THAN THREE YEAR INTERVALS.
 7   30. (A) USE THE FULLEST EXTENT OF ITS POWERS TO REGULATE THE DISTRIB-
 8 UTION OF RETAIL ELECTRIC ENERGY TO RETAIL CUSTOMERS IN THE STATE AND, TO
 9 THE EXTENT NOT PROHIBITED BY FEDERAL LAW, THE TRANSMISSION OF ELECTRIC
10 ENERGY IN THE STATE.
11   (B) A MARKET CLEARING PRICE MECHANISM FOR THE PURCHASE OF POWER SHALL
12 BE FORBIDDEN FOR PURCHASES MADE THROUGH THE WHOLESALE MARKET VIA A BID
13 PROCUREMENT OR AUCTION PROCESS HELD BY THE INDEPENDENT SYSTEM OPERATOR
14 ("ISO") OF NEW YORK, OR ANY SUCCESSOR IN LAW AND FUNCTION TO SUCH ENTI-
15 TY.
16   (C) SUCH AUCTION OR BID PROCUREMENT PROCESS SHALL BE OVERSEEN BY THE
17 COMMISSION, WHICH SHALL REQUIRE A DESCENDING CLOCK, PAY-AS-BID AUCTION
18 IN WHICH BID AMOUNTS WILL CONTINUE TO FALL UNTIL NO BIDDER IS WILLING TO
19 SUPPLY ELECTRICITY AT A LOWER PRICE. FOR THE PURPOSES OF THIS ARTICLE
20 "DESCENDING CLOCK AUCTION" SHALL BE DEFINED AS AN AUCTION IN WHICH THE
21 PRICES DROP THROUGHOUT AN AUCTION OF TIME-LIMITED DURATION; STARTING
22 HIGH AND BEING REDUCED GRADUALLY UNTIL THE SUPPLY BID IS JUST SUFFICIENT
23 TO MEET THE ELECTRICAL LOAD TO BE PROCURED. PRICES THAT TICK DOWN IN A
24 ROUND DECREASE BY A DECREMENT; WHICH IS A GIVEN PERCENTAGE OF THE PREVI-

1 OUS PRICE. BIDDERS HOLDING THE FINAL BIDS WHEN THE AUCTION CLOSES ARE
2 THE WINNERS.
3   (D) BIDDERS WILL BE FORBIDDEN FROM KNOWING WHEN THE AMOUNT OF ELEC-
4 TRICITY SUPPLY FILLS REQUIREMENTS.
5   (E) THE COMMISSION SHALL APPOINT AN INDEPENDENT MARKET ADVISOR TO
6 REVIEW MARKET PRACTICES AND BEHAVIOR; THAT WILL RECOMMEND TO THE ISO
7 ACTIONS THAT CAN BE TAKEN TO MITIGATE OR CORRECT BEHAVIOR BY MARKET
8 PARTICIPANTS THAT WAS REASONABLY CALCULATED TO, OR HAD THE EFFECT OF
9 AFFECTING THE FUNCTION OF THE AUCTION PROCESS SO THAT THE WINNING BIDDER
10 WAS NOT THE LOWEST PRICE BIDDER.
11   (F) UTILITIES MAY BUY POWER FROM MARKETS OTHER THAN THE ISO, OR VIA
12 CONTRACTS WITH INDIVIDUALS OR GROUPS OF GENERATING ENTITIES, PROVIDED
13 THAT SUCH ELECTRICAL ENERGY MUST BE OFFERED TO CUSTOMERS AT JUST AND
14 REASONABLE RATES.
15   31. (A) THE COMMISSION SHALL EXERCISE ITS FULL JURISDICTION OVER THE
16 ISO OF NEW YORK.
17   (B) THE COMMISSION SHALL REGULATE THE RELIABILITY, QUALITY AND MAINTE-
18 NANCE BY TRANSMITTERS AND DISTRIBUTORS OF THEIR TRANSMISSION AND RETAIL
19 DISTRIBUTION SYSTEMS.
20   (C) THE COMMISSION SHALL REGULATE THE RELIABILITY, QUALITY, MAINTE-
21 NANCE, AND PRICE OF GENERATORS.
22   (D) THE COMMISSION SHALL NOT REQUIRE ANY INCUMBENT ELECTRIC UTILITY TO
23 DIVEST ITSELF OF ANY GENERATION, TRANSMISSION OR DISTRIBUTION ASSETS
24 PURSUANT TO ANY PROVISION OF THIS CHAPTER WITHOUT SPECIFIC AUTHORIZING
25 LEGISLATION FOR SUCH PURPOSE.
26   (E) THE COMMISSION SHALL DEVELOP CODES OF CONDUCT GOVERNING THE
27 CONDUCT OF INCUMBENT ELECTRIC UTILITIES AND AFFILIATES THEREOF WHEN ANY
28 SUCH AFFILIATES PROVIDE, OR CONTROL ANY ENTITY THAT PROVIDES, GENER-
29 ATION, DISTRIBUTION, OR TRANSMISSION SERVICES TO THE EXTENT NECESSARY TO
30 PREVENT IMPAIRMENT OF COMPETITION. NOTHING IN THIS CHAPTER SHALL PREVENT
31 AN INCUMBENT ELECTRIC UTILITY FROM OFFERING METERING OPTIONS TO ITS
32 CUSTOMERS.
33   S 2. This act shall take effect immediately.