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I N   A S S E M B L Y

January 17, 2014

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Introduced by M. of A. HEVESI -- read once and referred to the Committee  
on Energy

AN ACT to amend the public service law, in relation to mandating the  
public service commission to establish a smart metering 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 hereby finds that it is  
2     in the economic and environmental interest of the citizens of the state  
3     of New York to create a smart meter pilot program ("pilot program")  
4     under the direction of the New York state public service commission  
5     ("the commission"). The pilot program is the first concrete step in  
6     realizing the economic, environmental, health, and safety benefits that  
7     smart meter technology has promised.

8     Smart meters empower customers to reduce their energy costs by provid-  
9     ing real-time pricing information, and will help the state meet its  
10    energy efficiency goals in a way that reduces costs for all energy  
11    users.

12    Given extreme weather events and natural disasters in New York, utili-  
13    ties have had to respond to an increasing number of power outages. Smart  
14    meters can provide both the state and the utilities a powerful tool that  
15    aids them in pinpointing outages quickly and accurately. Such technolo-  
16    gy promotes the state's goal of minimizing public health impacts and  
17    improving the reliability of the state's energy systems.

18    The legislature believes that a public service commission proceeding  
19    is the best venue to discuss and determine the technical aspects of grid  
20    modernization, including health and safety concerns. The legislature  
21    also, however, wishes to promote a policy whereby residential utility  
22    customers have the right to choose the type of meter that is placed on  
23    their premises. Within the territory where the pilot program or use of  
24    any other two-way meter capable of sending and receiving electronic data  
25    anywhere within the state is to take place, the responsible utility  
26    shall offer an "opt-out" provision whereby a customer has the choice to  
27    retain their old meter so long as they pay a reasonable fee.

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

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1 S 2. The public service law is amended by adding a new article 12 to  
2 read as follows:

3 ARTICLE 12

4 SMART METER PILOT PROGRAM

5 SECTION 250. CREATION OF SMART METER PILOT PROGRAM.

6 251. DEFINITIONS.

7 252. IMPLEMENTATION OF PILOT PROGRAM.

8 253. PILOT PROGRAM; CONSIDERATIONS BY COMMISSION.

9 254. INSTALLATION OF SMART METERS.

10 255. COST-RECOVERY.

11 S 250. CREATION OF SMART METER PILOT PROGRAM. THE COMMISSION SHALL  
12 COMMENCE A PROCEEDING TO ESTABLISH A STATEWIDE SMART METER PILOT PROGRAM  
13 ("PILOT" OR "PILOT PROGRAM"). THE RULES AND REQUIREMENTS OF THE PILOT  
14 PROGRAM SHALL BE ESTABLISHED WITHIN TWENTY-FOUR MONTHS OF THE EFFECTIVE  
15 DATE OF THIS ARTICLE. THE PILOT PROGRAM WILL BE DESIGNED TO PROVIDE THE  
16 COMMISSION WITH INFORMATION TO DETERMINE THE BEST USE OF THIS TECHNOLOGY  
17 FOR THE BENEFIT OF RATEPAYERS AND THE STATE'S ENERGY INFRASTRUCTURE.  
18 THE COMMISSION SHALL ALLOW THE UTILITIES REASONABLE COST RECOVERY FOR  
19 THE PILOT PROGRAM UNDER A SEPARATE PROCEEDING.

20 S 251. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS ARE  
21 DEFINED AS FOLLOWS:

22 1. "SMART METERS" ARE DEFINED AS METERS THAT RECORD ELECTRICAL  
23 CONSUMPTION IN REAL-TIME OR OVER SHORT INTERVALS AND COMMUNICATE SUCH  
24 INFORMATION TO THE UTILITY THROUGH A TWO-WAY INFORMATION EXCHANGE.

25 2. "UTILITY" IS DEFINED AS ANY ELECTRIC UTILITY WITH ANNUAL REVENUES  
26 IN EXCESS OF TWO HUNDRED MILLION DOLLARS FROM SERVICES PROVIDED TO ITS  
27 CUSTOMERS.

28 S 252. IMPLEMENTATION OF PILOT PROGRAM. 1. A PILOT PROGRAM, AS SET  
29 FORTH IN THIS ARTICLE, SHALL BE IMPLEMENTED BY EACH ELECTRIC UTILITY  
30 THAT MAINTAINS A SERVICE AREA WITHIN NEW YORK STATE. THE PILOT MUST  
31 COMPRISE A MINIMUM OF ONE PERCENT OF THE UTILITY'S CUSTOMERS IN ORDER TO  
32 PROVIDE ADEQUATE SAMPLE SIZE. EACH UTILITY CHARGED WITH IMPLEMENTING A  
33 PILOT PROGRAM SHALL, WITHIN FORTY-EIGHT MONTHS OF THE EFFECTIVE DATE OF  
34 THIS ARTICLE, PROVIDE THE RESULTS OF THE PILOT PROGRAM TO THE COMMISS-  
35 SION. THE COMMISSION SHALL, IN ITS INITIAL PROCEEDING, DICTATE TO THE  
36 UTILITIES WHAT INFORMATION MUST BE FURNISHED FROM EACH UTILITY TO THE  
37 COMMISSION WITH RESPECT TO THE PILOT.

38 2. AFTER THE COMMISSION RECEIVES ITS PILOT PROGRAM REPORTS FROM THE  
39 UTILITIES, IT SHALL ISSUE A REPORT OF ITS EVALUATION OF THE PILOT. THE  
40 REPORT MUST BE PUBLISHED WITHIN FIFTY-FOUR MONTHS OF THE EFFECTIVE DATE  
41 OF THIS ARTICLE. A COPY OF THE REPORT MUST BE FURNISHED TO THE TEMPORARY  
42 PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE  
43 SENATE ENERGY AND TELECOMMUNICATIONS COMMITTEE AND THE CHAIR OF THE  
44 ASSEMBLY ENERGY COMMITTEE. THE REPORT SHALL ALSO BE MADE AVAILABLE TO  
45 THE PUBLIC ON THE COMMISSION'S WEBSITE.

46 S 253. PILOT PROGRAM; CONSIDERATIONS BY COMMISSION. 1. IN ESTABLISHING  
47 THE PILOT PROGRAM, THE COMMISSION MUST CONSIDER THE FOLLOWING:

48 (A) THE COST OF THE PILOT PROGRAM, INCLUDING PROPOSED BENEFITS AND  
49 COST-SAVINGS;

50 (B) THE BURDEN OR BENEFIT THAT A SMART METER PROGRAM WOULD HAVE ON THE  
51 GRID;

52 (C) THE EXPECTED LIFE OF THE CAPITAL INVESTMENTS AND COSTS OF MAINTENANCE  
53 OF THE PILOT;

54 (D) THE EXPECTED "PAYBACK" OR AMORTIZATION PERIOD FOR CAPITAL INVEST-  
55 MENTS OF THE PILOT;

(E) ANY ENVIRONMENTAL AND/OR GRID-RESILIENCY BENEFITS OF SMART METERS;  
AND

(F) ANYTHING ELSE THE COMMISSION DEEMS APPROPRIATE UNDER THE CIRCUM-  
STANCES.

2. UPON REQUEST OF THE COMMISSION, EACH UTILITY SHALL PROVIDE TO THE  
COMMISSION A STATEMENT INCLUDING:

(A) THE AMOUNT AND TYPE OF METERS CURRENTLY IN OPERATION WITHIN ITS  
SERVICE TERRITORY;

(B) THE ESTIMATED COST OF COMPLYING WITH THE PROPOSED PILOT, INCLUDING  
CUSTOMER COST-SAVINGS;

(C) OTHER BENEFITS AND DETRIMENTS OF THE PROPOSED PILOT; AND

(D) ANYTHING ELSE THE COMMISSION DEEMS APPROPRIATE AND NECESSARY FOR  
IMPLEMENTING THE PILOT.

3. IN ORDER TO FUND THE PILOT PROGRAM, THE COMMISSION SHALL AUTHORIZE  
REASONABLE COST-RECOVERY IN ACCORDANCE WITH SECTION TWO HUNDRED  
FIFTY-FIVE OF THIS ARTICLE.

4. THE PILOT PROGRAM MUST ADDRESS CUSTOMER PRIVACY, AND MUST INCLUDE,  
BUT IS NOT LIMITED TO, THE FOLLOWING CONSIDERATIONS:

(A) WHAT INFORMATION IS GATHERED FROM THE CUSTOMER;

(B) BY WHOM IT IS READ;

(C) WHERE/HOW THE INFORMATION IS TRANSMITTED AND STORED;

(D) LENGTH OF TIME THAT THE UTILITY CAN HOLD THE HOME'S USAGE INFORMA-  
TION;

(E) WHEN AND HOW THE CUSTOMER'S INFORMATION WILL BE PERMANENTLY  
DELETED;

(F) WHETHER SUCH INFORMATION IS RECOVERABLE UNDER FOIL;

(G) WHETHER SUCH INFORMATION WILL BE MADE AVAILABLE IN CRIMINAL INVES-  
TIGATIONS AND WHETHER THE SHERIFF'S OFFICE MAY GAIN ACCESS TO SUCH  
INFORMATION, INCLUDING THE PROCEDURE FOR OBTAINING SUCH RECORDS; AND

(H) ANYTHING ELSE THAT THE COMMISSION DEEMS APPROPRIATE AND NECESSARY.

5. EACH UTILITY MUST NOTIFY ALL CUSTOMERS WHO MAY BE AFFECTED BY THE  
PILOT PROGRAM OF THE FOLLOWING:

(A) AN EXPLANATION OF THE SMART METER PROGRAM;

(B) CUSTOMER RIGHTS UNDER THE SMART METER PROGRAM;

(C) THE RIGHT TO OPT-OUT;

(D) INFORMATION ON THE RADIO FREQUENCY USED IN SMART METERS;

(E) AN EXPLANATION OF SMART METER TECHNOLOGY PRIVACY CONCERNS;

(F) THE BENEFITS/PURPOSE OF THE SMART METERING PROGRAM; AND

(G) ANYTHING ELSE THE COMMISSION DEEMS NECESSARY AND APPROPRIATE.

S 254. INSTALLATION OF SMART METERS. 1. ANY RESIDENTIAL CUSTOMER WHO  
OWNS PROPERTY ON WHICH A SMART METER OR ANY OTHER TWO-WAY METER HAS BEEN  
INSTALLED WHETHER THROUGH A PILOT PROGRAM OR OTHERWISE MAY REQUEST, FOR  
A REASONABLE FEE TO BE DETERMINED BY THE COMMISSION IN A SEPARATE  
PROCEEDING, THAT THE UTILITY REMOVE THE SMART METER AND REPLACE IT WITH  
A DIGITAL, NON-COMMUNICATING METER. AS LONG AS THE SMART METER WAS  
INITIALLY INSTALLED AT THE DISCRETION AND EXPENSE OF THE UTILITY COMPA-  
NY, AND WAS DONE WITHOUT THE WRITTEN AUTHORIZATION OF THE RESIDENTIAL  
CUSTOMER, SUCH REQUEST WILL NOT BE UNREASONABLY DENIED BY THE UTILITY  
COMPANY, AND ANY DENIAL OF SUCH REQUEST WILL BE ACCOMPANIED BY WRITTEN  
JUSTIFICATION. PURSUANT TO SECTION TWO HUNDRED FIFTY-FIVE OF THIS ARTI-  
CLE, THE UTILITY COMPANY MAY REQUIRE A REASONABLE FEE ("OPT-OUT FEE") TO  
REPLACE A SMART METER WITH A NON-SMART METER. THE REASONABLE FEE WILL BE  
BASED ON, AMONG OTHER THINGS, THE LOCATION OF THE PREMISES, AND OTHER  
REQUIREMENTS AS DETERMINED BY THE COMMISSION, AND WILL INCLUDE BOTH A  
ONE-TIME REPLACEMENT FEE AND A MONTHLY SERVICE FEE.

1 2. ANY RESIDENTIAL CUSTOMER WITHIN THE SERVICE TERRITORY OF A UTILITY  
2 THAT HAS ADOPTED A SMART METER INSTALLATION PROGRAM, IS INSTALLING OR  
3 HAS INSTALLED SMART METERS OR ANY OTHER TWO-WAY METER, OR INTENDS TO  
4 INSTALL SMART METERS, HAS THE RIGHT TO BE NOTIFIED IN WRITING OF ANY  
5 SMART METER UPGRADES/REPLACEMENTS OR INSTALLATIONS AT LEAST SIXTY DAYS  
6 PRIOR TO THE EARLIEST POSSIBLE INSTALLATION OF SAME.

7 (A) SUCH WRITTEN NOTIFICATION SHALL CONTAIN ALL INFORMATION REQUIRED  
8 TO BE DISCLOSED PURSUANT TO THIS SECTION AND SHALL CONTAIN A BOLD AND  
9 CONSPICUOUS "OPT-OUT" OPTION EXEMPTING THE RESIDENTIAL CUSTOMER FROM THE  
10 PROGRAM FREE OF CHARGE.

11 (B) IF A PERSON CHOOSES TO "OPT-OUT" OF RECEIVING A SMART METER, THE  
12 UTILITY IS PROHIBITED FROM CONTACTING THAT SAME CUSTOMER REGARDING SMART  
13 METER INSTALLATION FOR A PERIOD OF TWO YEARS.

14 (C) HOWEVER, IF A RESIDENTIAL CUSTOMER WHO "OPTS-OUT" OF RECEIVING A  
15 SMART METER INSTALLATION THEN MOVES, RELOCATES, CHANGES RESIDENCE, OR  
16 DIES, THEN THE PROHIBITION ON INSTALLATION OF A SMART METER AT THAT  
17 PREMISES SHALL BE IMMEDIATELY VOIDED.

18 (D) FURTHER, IN THE EVENT THAT A RESIDENTIAL CUSTOMER WHO HAS "OPTED-  
19 OUT" WISHES TO RELOCATE TO A PREMISES ON WHICH A SMART METER IS ALREADY  
20 OPERATING, SUCH RESIDENTIAL CUSTOMER SHALL MAKE A NEW REQUEST THAT THE  
21 SMART METER BE REPLACED, AND MUST RE-PAY THE REASONABLE FEE.

22 (E) THE COMMISSION IS AUTHORIZED TO CONSIDER A DISCOUNT OR WAIVER OF  
23 THE FEES MENTIONED IN THIS SECTION IF IT DETERMINES THAT THE CUSTOMER IS  
24 WITHIN A VULNERABLE CLASS, INCLUDING CUSTOMERS WHO ARE VETERANS OR ARE  
25 UNABLE TO AFFORD THE OPT-OUT FEES.

26 3. SUBDIVISIONS ONE AND TWO OF THIS SECTION SHALL NOT AFFECT ANY UTIL-  
27 ITY'S EXISTING RIGHTS EXCEPT AS TO SMART METERS THAT HAVE ALREADY BEEN  
28 INSTALLED.

29 S 255. COST-RECOVERY. THE COMMISSION SHALL COMMENCE A SEPARATE  
30 PROCEEDING TO ALLOW REASONABLE COST-RECOVERY FOR UTILITIES TO IMPLEMENT  
31 THE PILOT PROGRAM AS SET FORTH IN THIS ARTICLE. ANY COST RECOVERY FEE  
32 OR FEES SHALL BE DETERMINED BY THE COMMISSION.

33 S 3. This act shall take effect immediately.