

5280

2013-2014 Regular Sessions

I N   S E N A T E

May 15, 2013

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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 shared renewable energy facilities

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

1     Section 1. The public service law is amended by adding a new section  
2     66-n to read as follows:  
3     S 66-N. SHARED RENEWABLE ENERGY FACILITIES. 1. DEFINITIONS. AS USED IN  
4     THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:  
5     (A) "SHARED RENEWABLE ENERGY FACILITY" MEANS RENEWABLE ENERGY TECHNOLOGY  
6     THAT IS OWNED OR DEVELOPED BY AN ENTITY OTHER THAN A PUBLIC AUTHORITY OR AN  
7     ELECTRIC DISTRIBUTION COMPANY AND THAT IS MANUFACTURED,  
8     INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND  
9     INDUSTRY STANDARDS; THAT IS CONNECTED TO THE ELECTRIC SYSTEM AND OPERATED  
10    IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND  
11    DISTRIBUTION FACILITIES; THAT IS OPERATED IN COMPLIANCE WITH ANY STANDARDS  
12    AND REQUIREMENTS ESTABLISHED UNDER THIS SECTION; AND WHERE ELECTRICITY  
13    GENERATED BY THE FACILITY IS CREDITED TO THE SUBSCRIBERS OF THE  
14    FACILITY. A SHARED RENEWABLE ENERGY FACILITY:  
15    (I) SHALL UTILIZE ONE OF THE FOLLOWING RENEWABLE ENERGY TECHNOLOGIES  
16    AS DEFINED BY SECTIONS SIXTY-SIX-J AND SIXTY-SIX-L OF THIS ARTICLE: (A)  
17    SOLAR ELECTRIC GENERATING EQUIPMENT; (B) FARM WASTE ELECTRIC GENERATING  
18    EQUIPMENT; (C) FUEL CELL ELECTRIC GENERATING EQUIPMENT; (D) MICRO-HYDROELECTRIC  
19    GENERATING EQUIPMENT; AND (E) WIND ELECTRIC GENERATING  
20    EQUIPMENT;  
21    (II) SHALL HAVE AT LEAST TWO SUBSCRIBERS; AND  
22    (III) SHALL HAVE A RATED CAPACITY OF NOT MORE THAN TWO THOUSAND KILOWATTS,  
23    AND THE COMMISSION SHALL HAVE THE AUTHORITY TO DETERMINE MAXIMUM  
24    RATED CAPACITY THRESHOLDS FOR SHARED RENEWABLE ENERGY FACILITIES BASED

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

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1 UPON AN EVALUATION AND FINDING OF PUBLIC INTEREST, AS DETERMINED BY A  
2 STAKEHOLDER PROCESS THROUGH A PROCEEDING TO BE ESTABLISHED BY THE  
3 COMMISSION, AND THE ATTRIBUTES OF EACH RENEWABLE ENERGY TECHNOLOGY.

4 (B) "SUBSCRIBER" MEANS A CUSTOMER OF AN ELECTRIC CORPORATION WHO  
5 SUBSCRIBES TO A SHARED RENEWABLE ENERGY FACILITY AND WHO HAS IDENTIFIED  
6 AN INDIVIDUAL METER AT ANY PROPERTY OWNED OR LEASED BY THE CUSTOMER TO  
7 WHICH THE SUBSCRIPTION SHALL BE ATTRIBUTED. SUCH METERS SHALL BE WITHIN  
8 THE SERVICE TERRITORY OF THE SAME ELECTRIC CORPORATION TO WHICH THE  
9 SHARED RENEWABLE ENERGY FACILITY IS INTERCONNECTED AND WITHIN THE SAME  
10 LOAD ZONE OF THE NEW YORK INDEPENDENT SYSTEM OPERATOR AS DETERMINED BY  
11 THE LOCATIONAL BASED MARGINAL PRICE AS OF THE DATE OF THE INITIAL  
12 REQUEST BY THE SUBSCRIBER ORGANIZATION TO INTERCONNECT THE SHARED RENEW-  
13 ABLE ENERGY FACILITY.

14 (C) "SUBSCRIBER ORGANIZATION" MEANS AN ORGANIZATION WHOSE PURPOSE IS  
15 TO OWN AND OPERATE A SHARED RENEWABLE ENERGY FACILITY FOR THE SUBSCRIB-  
16 ERS OF THE SHARED RENEWABLE ENERGY FACILITY. A SUBSCRIBER ORGANIZATION  
17 MAY BE ANY FOR-PROFIT OR NON-PROFIT ENTITY AND SHALL BE PERMITTED BY THE  
18 STATE PURSUANT TO SECTION SIXTY-EIGHT OF THIS CHAPTER IF, AS DETERMINED  
19 BY THE COMMISSION TO BE IN THE PUBLIC INTEREST PURSUANT TO A STAKEHOLDER  
20 PROCESS THROUGH A PROCEEDING TO BE ESTABLISHED BY THE COMMISSION, THE  
21 SUBSCRIBER ORGANIZATION'S SHARED RENEWABLE ENERGY FACILITY HAS A MAXIMUM  
22 RATED CAPACITY THRESHOLD LARGER THAN TWO THOUSAND KILOWATTS.

23 (I) THE SUBSCRIBER ORGANIZATION SHALL FILE WITH THE DEPARTMENT OF  
24 STATE ARTICLES OF INCORPORATION, AMENDMENT, CONSOLIDATION, MERGER,  
25 CONVERSION, OR DISSOLUTION, WHEN EXECUTED AND ACKNOWLEDGED, INCLUDING  
26 SUCH AFFIDAVITS AS MAY BE REQUIRED BY THE DEPARTMENT OF STATE. THE  
27 SECRETARY OF STATE SHALL, UPON THE PAYMENT OF THE FEES AS SPECIFIED IN  
28 THIS PARAGRAPH, INDEX SUCH ARTICLES. UPON THE FILING OF SUCH ARTICLES,  
29 THE INCORPORATION, AMENDMENT, CONSOLIDATION, MERGER, CONVERSION, OR  
30 DISSOLUTION PROVIDED FOR THEREIN SHALL BE IN EFFECT. THE DEPARTMENT OF  
31 STATE SHALL CHARGE AND COLLECT FOR:

32 (1) FILING ARTICLES OF INCORPORATION, FORTY DOLLARS;

33 (2) FILING ARTICLES OF AMENDMENT, TWENTY-FIVE DOLLARS;

34 (3) FILING ARTICLES OF CONSOLIDATION OR MERGER, TWENTY-FIVE DOLLARS;

35 (4) FILING ARTICLES OF CONVERSION, TWENTY-FIVE DOLLARS;

36 (5) FILING CERTIFICATE OF ELECTION TO DISSOLVE, FIVE DOLLARS;

37 (6) FILING ARTICLES OF DISSOLUTION, FIVE DOLLARS; AND

38 (7) FILING CERTIFICATE OF CHANGE OF PRINCIPAL OFFICE, FIFTEEN DOLLARS.

39 (II) EACH SUBSCRIBER ORGANIZATION SHALL FILE WITH THE COMMISSION AN  
40 ANNUAL REPORT, WHICH SHALL SHOW IN DETAIL:

41 (1) THE NUMBER OF ITS MEMBERS;

42 (2) THE AMOUNT OF ITS OUTSTANDING INDEBTEDNESS;

43 (3) ITS RECEIPTS AND EXPENDITURES DURING THE PRECEDING YEAR;

44 (4) THE AMOUNT PAID IN REDUCTION OF ITS INDEBTEDNESS AND AS INTEREST  
45 UPON ITS INDEBTEDNESS;

46 (5) THE NAMES OF ITS OFFICERS AND THE AGGREGATE AMOUNT PAID AS SALA-  
47 RIES TO THEM AND THE AMOUNT PAID AS WAGES TO ANY OF ITS EMPLOYEES; AND

48 (6) THE LOCATION OF ITS PLANT OR PLANTS AND SYSTEM, WITH A FULL  
49 DESCRIPTION OF ITS PROPERTY AND FRANCHISE AREAS.

50 (D) "SUBSCRIBER AGREEMENT" MEANS A WRITTEN AGREEMENT IDENTIFYING EACH  
51 SUBSCRIBER OF A SHARED RENEWABLE ENERGY FACILITY, WHICH SHALL INCLUDE  
52 THE NAME, ADDRESS, AND THE ELECTRIC CORPORATION ACCOUNT NUMBER TO WHICH  
53 THE SUBSCRIPTION SHALL BE ATTRIBUTED. THE SUBSCRIBER AGREEMENT SHALL  
54 DESIGNATE THE PORTION OF PRODUCTION FROM THE SHARED RENEWABLE ENERGY  
55 FACILITY ALLOCATED TO EACH SUBSCRIBER FOR THE PURPOSES OF CALCULATING  
56 THE BILL CREDIT TO EACH SUBSCRIBER. THE SUBSCRIBER AGREEMENT SHALL BE

FILED BY THE SUBSCRIBER ORGANIZATION WITH THE ELECTRIC CORPORATION TO WHICH THE SHARED RENEWABLE ENERGY FACILITY IS INTERCONNECTED.

(E) "SUBSCRIPTION" MEANS A DIRECT OR INDIRECT OWNERSHIP, LEASE, OR FINANCIAL INTEREST IN A SHARED RENEWABLE ENERGY FACILITY THAT ENABLES A SUBSCRIBER TO RECEIVE A BILL CREDIT FOR A RETAIL ACCOUNT WITH THE ELECTRIC CORPORATION. EACH SUBSCRIPTION SHALL BE SIZED TO REPRESENT THE ENERGY PRODUCTION FROM AT LEAST ONE KILOWATT OF THE SHARED RENEWABLE ENERGY FACILITY'S GENERATING CAPACITY PROVIDED, HOWEVER, THAT THE SUBSCRIPTION IS SIZED TO PRODUCE NO MORE THAN ONE HUNDRED PERCENT OF THE SUBSCRIBER'S AVERAGE ANNUAL ELECTRICAL CONSUMPTION. IN SIZING THE SUBSCRIPTION, A DEDUCTION FOR THE AMOUNT OF ANY EXISTING RENEWABLE ENERGY GENERATION AT THE SUBSCRIBER'S PREMISES AND ANY SUBSCRIPTIONS BY THE SUBSCRIBER IN OTHER SHARED RENEWABLE ENERGY FACILITIES SHALL BE MADE.

(F) "BILL CREDIT" MEANS AN AMOUNT OF MONEY CREDITED EACH BILLING PERIOD TO AN ELECTRIC ACCOUNT BASED ON A SUBSCRIPTION TO A SHARED RENEWABLE ENERGY FACILITY AND PURSUANT TO A SUBSCRIBER AGREEMENT AND THE METHODOLOGY USED FOR CALCULATION OF THE BILL CREDIT AS ESTABLISHED UNDER THIS SECTION.

2. PROVISIONS PERTAINING TO SHARED RENEWABLE ENERGY FACILITIES. (A) THE DETERMINATION OF THE BILL CREDIT AVAILABLE TO EACH SUBSCRIBER OF A SHARED RENEWABLE ENERGY FACILITY SHALL BE BASED ON EACH SUBSCRIBER'S SUBSCRIPTION IN THAT SHARED RENEWABLE ENERGY FACILITY.

(B) FOR A SHARED RENEWABLE ENERGY FACILITY, THE TOTAL AMOUNT OF ELECTRICITY GENERATED AND AVAILABLE FOR ALLOCATION TO SUBSCRIBERS SHALL BE DETERMINED BY A PRODUCTION METER INSTALLED AND PAID FOR BY THE SUBSCRIBER ORGANIZATION THAT IS THE OWNER OF THE SHARED RENEWABLE ENERGY FACILITY.

3. PROVISIONS PERTAINING TO SUBSCRIBERS, SUBSCRIBER ORGANIZATIONS AND SUBSCRIPTIONS. (A) A SUBSCRIBER ORGANIZATION SHALL BE RESPONSIBLE FOR PROVIDING TO THE ELECTRIC CORPORATION, AT THE BEGINNING OF EACH BILLING CYCLE, A SUBSCRIBER AGREEMENT STATEMENT IDENTIFYING THE PORTION OF PRODUCTION ALLOCATED TO EACH SUBSCRIBER. SUBSCRIBER ORGANIZATIONS MAY ADD NEW SUBSCRIBERS TO A SUBSCRIBER AGREEMENT OR CHANGE THE INDIVIDUAL METERED ACCOUNTS TO WHICH A SUBSCRIBER'S SUBSCRIPTION SHALL BE ATTRIBUTED AT THE BEGINNING OF EACH BILLING CYCLE BY PROVIDING AN UPDATED SUBSCRIBER AGREEMENT TO THE ELECTRIC CORPORATION. IF THERE HAS BEEN NO CHANGE IN THE ALLOCATIONS FROM THE PREVIOUS SUBMISSION, THE SUBSCRIBER ORGANIZATION IS NOT REQUIRED TO FILE AN UPDATED SUBSCRIBER AGREEMENT.

(B) AN ELECTRIC CORPORATION MAY REQUIRE THAT CUSTOMERS PARTICIPATING IN A SHARED RENEWABLE ENERGY FACILITY HAVE THEIR METERS READ ON THE SAME BILLING CYCLE.

(C) THE DISPUTE RESOLUTION PROCEDURES AVAILABLE TO PARTIES IN THE ELECTRIC CORPORATION'S INTERCONNECTION TARIFF SHALL BE AVAILABLE FOR THE PURPOSES OF RESOLVING DISPUTES BETWEEN AN ELECTRIC CORPORATION AND SUBSCRIBERS OR THEIR DESIGNATED REPRESENTATIVE FOR DISPUTES INVOLVING THE ELECTRIC CORPORATION'S ALLOCATION OF BILL CREDITS TO THE SUBSCRIBER'S ELECTRIC ACCOUNT. THE ELECTRIC CORPORATION SHALL NOT BE RESPONSIBLE FOR RESOLVING DISPUTES RELATED TO THE AGREEMENTS BETWEEN A SUBSCRIBER, THE OWNER OF A SHARED RENEWABLE ENERGY FACILITY THAT IS A SUBSCRIBER ORGANIZATION OR ANY OTHER PARTY. THIS PROVISION SHALL IN NO WAY LIMIT ANY OTHER RIGHTS THE SUBSCRIBER MAY HAVE RELATED TO AN ELECTRIC CORPORATION'S PROVISION OF ELECTRIC SERVICE OR OTHER MATTERS AS PROVIDED BY, BUT NOT LIMITED TO, TARIFF, DECISION OF THE COMMISSION, OR STATUTE.

(D) THE FOLLOWING PROVISIONS MAY APPLY TO A SHARED RENEWABLE ENERGY FACILITY THAT HAS A RATED CAPACITY OF NOT MORE THAN TWO THOUSAND KILOWATTS, BASED UPON AN EVALUATION AND FINDING OF PUBLIC INTEREST AS DETER-

MINED BY A STAKEHOLDER PROCESS THROUGH A PROCEEDING TO BE ESTABLISHED BY THE COMMISSION:

(I) SUBSCRIBERS SHALL NOT BE ASSESSED STANDBY CHARGES ON THE SHARED RENEWABLE ENERGY FACILITY OR THE KILOWATT-HOUR GENERATION OF SUCH A SHARED RENEWABLE ENERGY FACILITY.

(II) AN ELECTRIC CORPORATION SHALL IMPOSE NO OTHER CHARGE OR FEE, INCLUDING BACK-UP, STANDBY AND DEMAND CHARGES, FOR THE PROVISION OF A SUBSCRIPTION TO SUCH A SHARED RENEWABLE ENERGY FACILITY.

4. BILL CREDITING AND COLLECTION PROCEDURES. (A) THE ELECTRIC CORPORATION WILL CREDIT THE ACCOUNTS OF THE SUBSCRIBERS OF THE SHARED RENEWABLE ENERGY FACILITY BY APPLYING A BILL CREDIT TO EACH METERED ACCOUNT ASSOCIATED WITH A SUBSCRIPTION IN ACCORDANCE WITH THE TERMS OF THE SUBSCRIBER AGREEMENT. THE ELECTRIC CORPORATION SHALL CARRY OVER ANY BILL CREDIT EARNED BY A SUBSCRIBER AND NOT USED IN THE CURRENT BILLING PERIOD TO OFFSET THE SUBSCRIBER'S CONSUMPTION IN SUBSEQUENT BILLING PERIODS. ANY SUCH BILL CREDIT SHALL NOT REDUCE ANY FIXED MONTHLY CUSTOMER CHARGES IMPOSED BY THE ELECTRIC CORPORATION.

(B) THE SCHEDULE APPLICABLE TO A SUBSCRIBER SHALL BE IDENTICAL, WITH RESPECT TO RATE STRUCTURE, ALL RETAIL RATE COMPONENTS, AND ANY MONTHLY CHARGES, TO THE CHARGES THAT THE SUBSCRIBER WOULD BE ASSIGNED IF THE SUBSCRIBER DID NOT RECEIVE A BILL CREDIT ACCORDING TO THIS SECTION.

(C) TO THE EXTENT PRACTICABLE, ELECTRIC CORPORATIONS SHALL UTILIZE EXISTING ELECTRONIC DATA INTERCHANGE INFRASTRUCTURE OR OTHER EXISTING BILLING INFRASTRUCTURE TO IMPLEMENT THEIR BILLING AND COLLECTION RESPONSIBILITIES UNDER THIS SECTION.

(D) THE COMMISSION SHALL ENSURE FULL AND TIMELY RECOVERY OF ALL REASONABLE COSTS INCURRED BY AN ELECTRIC CORPORATION TO IMPLEMENT THE PROGRAM UNDER THIS SECTION, INCLUDING REASONABLE EXPENSES FOR CHANGES TO THEIR BILLING SYSTEM AND HANDLING OF COLLECTIONS, AND SHALL DETERMINE THE APPROPRIATE METHOD OF ALLOCATING THOSE COSTS.

5. CALCULATION OF BILL CREDITS. (A) FOR SUBSCRIBERS TO A SHARED RENEWABLE ENERGY FACILITY THAT ARE LOCATED ON THE SAME DISTRIBUTION FEEDER AS THE SHARED RENEWABLE ENERGY FACILITY, THE VALUE OF THE BILL CREDIT SHALL BE CALCULATED BY MULTIPLYING THE SUBSCRIBER'S PORTION OF THE KILOWATT-HOUR ELECTRICITY PRODUCTION FROM THE SHARED RENEWABLE ENERGY FACILITY BY THE RETAIL RATE AS CHARGED TO THE SUBSCRIBER BY THE ELECTRIC CORPORATION;

(B) THE COMMISSION, IN CONSULTATION WITH NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY, MAY REVISE THE BILL CREDIT CALCULATION METHODOLOGY AT ANY TIME THAT IT CONCLUDES THAT THE EXISTING METHODOLOGY DOES NOT PROVIDE SUBSCRIBERS WITH THE FAIR VALUE OF ELECTRICITY AND OTHER BENEFITS PRODUCED BY SHARED RENEWABLE ENERGY FACILITIES AND THAT SUCH A REVISION IS IN THE PUBLIC INTEREST, AS DETERMINED BY A STAKEHOLDER PROCESS THROUGH A PROCEEDING TO BE ESTABLISHED BY THE COMMISSION. ANY REVISION TO THE BILL CREDIT CALCULATION METHODOLOGY SHALL APPLY TO NEW SHARED RENEWABLE ENERGY FACILITIES INTERCONNECTED AFTER THE COMMISSION ADOPTS A NEW METHODOLOGY.

6. CONDITIONS OF SERVICE. (A) AN ELECTRIC CORPORATION SHALL PROVIDE FOR THE INTERCONNECTION OF SHARED RENEWABLE ENERGY FACILITIES OWNED OR OPERATED BY A SUBSCRIBER ORGANIZATION, PROVIDED THE SUBSCRIBER ORGANIZATION HAS PAID OR AGREED IN WRITING, ALONG WITH THE FURNISHING OF REASONABLE SECURITY, TO PAY THE ELECTRIC CORPORATION FOR THE MATERIAL AND INSTALLATION COSTS RELATING TO ANY PORTION OF A DISTRIBUTION LINE, SERVICE LINE AND APPURTENANT FACILITIES THAT EXCEEDS THE PORTION WHICH THE ELECTRIC CORPORATION IS REQUIRED TO PROVIDE WITHOUT CONTRIBUTION, WHICH COSTS SHALL BE DEFINED IN THE ELECTRIC CORPORATION'S TARIFF, AND

1 THAT THE SUBSCRIBER ORGANIZATION ENTERS INTO A CONTRACT WITH THE CORPO-  
2 RATION OR COMPLIES WITH THE CORPORATION'S APPLICABLE SCHEDULE AND  
3 COMPLIES WITH STANDARDS AND REQUIREMENTS ESTABLISHED UNDER THIS SECTION.

4 (B) ON OR BEFORE THREE MONTHS AFTER THE EFFECTIVE DATE OF THIS  
5 SECTION, EACH ELECTRIC CORPORATION SHALL DEVELOP A MODEL CONTRACT AND  
6 FILE A SCHEDULE THAT ESTABLISHES CONSISTENT AND REASONABLE RATES, TERMS  
7 AND CONDITIONS FOR SHARED RENEWABLE ENERGY FACILITIES, ACCORDING TO THE  
8 REQUIREMENTS OF THIS SECTION. THE COMMISSION SHALL RENDER A DECISION  
9 WITHIN THREE MONTHS FROM THE DATE ON WHICH THE SCHEDULE IS FILED.

10 (C) IN THE EVENT THAT THE ELECTRIC CORPORATION DETERMINES THAT IT IS  
11 NECESSARY TO INSTALL A DEDICATED TRANSFORMER OR TRANSFORMERS, OR OTHER  
12 EQUIPMENT TO PROTECT THE SAFETY AND ADEQUACY OF ELECTRIC SERVICE  
13 PROVIDED TO OTHER CUSTOMERS, A SUBSCRIBER ORGANIZATION SHALL PAY THE  
14 ELECTRIC CORPORATION'S ACTUAL COSTS OF INSTALLING THE TRANSFORMER OR  
15 TRANSFORMERS, OR OTHER EQUIPMENT AS DETERMINED BY THE ELECTRIC CORPO-  
16 RATION SUBJECT TO REVIEW, UPON REQUEST OF SUCH SUBSCRIBER ORGANIZATION,  
17 BY THE COMMISSION.

18 (D) ON OR BEFORE THREE MONTHS AFTER THE EFFECTIVE DATE OF THIS  
19 SECTION, EACH ELECTRIC CORPORATION SHALL ESTABLISH STANDARDS THAT ARE  
20 NECESSARY FOR SHARED RENEWABLE ENERGY FACILITIES AND THE INTERCONNECTION  
21 OF SHARED RENEWABLE ENERGY GENERATING EQUIPMENT TO ITS SYSTEM AND THAT  
22 THE COMMISSION SHALL DETERMINE ARE NECESSARY FOR SAFE AND ADEQUATE  
23 SERVICE AND FURTHER THE PUBLIC POLICY SET FORTH IN THIS SECTION. SUCH  
24 STANDARDS MAY INCLUDE, BUT SHALL NOT BE LIMITED TO:

25 (I) EQUIPMENT NECESSARY TO ISOLATE AUTOMATICALLY THE ENERGY GENERATING  
26 EQUIPMENT FROM THE UTILITY SYSTEM FOR VOLTAGE AND FREQUENCY DEVIATIONS;  
27 AND

28 (II) A MANUAL LOCKABLE DISCONNECT SWITCH PROVIDED BY THE SUBSCRIBER  
29 ORGANIZATION WHICH SHALL BE EXTERNALLY ACCESSIBLE FOR THE PURPOSE OF  
30 ISOLATING THE ENERGY GENERATING EQUIPMENT.

31 S 2. This act shall take effect immediately.