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

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I N A S S E M B L Y

June 13, 2016

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Woerner) -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to establishing the New York state clean energy tech production program

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-o to read as follows:

S 66-O. NEW YORK STATE CLEAN ENERGY TECH PRODUCTION PROGRAM. 1. (A) THE COMMISSION SHALL, WITHIN FORTY-FIVE DAYS OF THE EFFECTIVE DATE OF THIS SECTION, COMMENCE A PROCEEDING TO ESTABLISH A SELF-DIRECTED PROGRAM FOR ITS INDUSTRIAL, COMMERCIAL AND LARGE USERS, IN ORDER TO STIMULATE THE GROWTH AND ADOPTION OF MORE EFFICIENT USE OF ENERGY, GREATER USE OF ADVANCED ENERGY MANAGEMENT PRODUCTS, DEEPER PENETRATION OF RENEWABLE ENERGY RESOURCES SUCH AS WIND, SOLAR, GEOTHERMAL, AND ANAEROBIC DIGESTION, WIDER DEPLOYMENT OF "DISTRIBUTED" ENERGY RESOURCES, SUCH AS MICRO GRIDS, ROOF-TOP SOLAR, FUEL CELLS AND OTHER ON-SITE POWER SUPPLIES, AND STORAGE.

2. THE COMMISSION, IN COLLABORATION WITH THE UTILITIES AND LARGE INDUSTRIAL CUSTOMERS, SHALL DEVELOP, OVERSEE AND ISSUE GUIDELINES ESTABLISHING RULES AND PRINCIPLES FOR THE SELF-DIRECTED PROGRAM WHICH SHALL INCLUDE THE FOLLOWING ELEMENTS:

(A) A PROGRAM STRUCTURE THAT ALLOWS INDUSTRIAL, COMMERCIAL AND LARGE USERS TO TREAT THEIR EXISTING AND FUTURE CLEAN ENERGY SURCHARGES; INCLUDING, BUT NOT LIMITED TO, SURCHARGES TO SUPPORT THE CLEAN ENERGY FUND, THE SYSTEM BENEFITS CHARGE, THE RENEWABLE PORTFOLIO STANDARD, THE ENERGY EFFICIENCY PORTFOLIO STANDARD AND ENERGY EFFICIENCY TRANSITION IMPLEMENTATION PLANS AS DEDICATED FUNDS FOR ENERGY EFFICIENCY, GREATER USE OF ADVANCED ENERGY MANAGEMENT PRODUCTS, DEEPER PENETRATION OF RENEWABLE ENERGY RESOURCES SUCH AS WIND, SOLAR, GEOTHERMAL, AND ANAEROBIC DIGESTION, WIDER DEPLOYMENT OF "DISTRIBUTED" ENERGY RESOURCES, SUCH AS MICRO GRIDS, ROOF-TOP SOLAR, FUEL CELLS AND OTHER ON-SITE POWER SUPPLIES, AND STORAGE THROUGH AN ENERGY SAVINGS ACCOUNT.

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

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(B) THE SELF-DIRECTED PROGRAM SHALL BE AVAILABLE TO ALL INDIVIDUAL CUSTOMERS WITH A THIRTY-SIX MONTH AVERAGE DEMAND OF TWO MEGAWATTS OR GREATER AS WELL AS CUSTOMERS WITH AN AGGREGATED THIRTY-SIX MONTH AVERAGE DEMAND OF FOUR MEGAWATTS OR GREATER AS LONG AS ONE OR MORE OF THE ACCOUNTS BEING AGGREGATED BY THE CUSTOMER HAS AT LEAST A THIRTY-SIX MONTH AVERAGE DEMAND OF ONE MEGAWATT.

(C) A MECHANISM TO RECOUP PAID FUNDS FROM SELF-DIRECTED CUSTOMERS IF IT IS DETERMINED THAT FUNDS CONTAINED IN THE ENERGY SAVINGS ACCOUNT WERE UTILIZED ERRONEOUSLY OR IF PLANNED ENERGY EFFICIENCY SAVINGS DID NOT ACTUALLY OCCUR.

(D) A REQUIREMENT THAT AFTER SEVEN YEARS ANY UNUSED SURCHARGES CONTAINED IN THE ENERGY SAVING ACCOUNT SHALL BE MADE AVAILABLE FOR ORIGINAL PURPOSES OF THE SURCHARGE.

(E) A REQUIREMENT TO COLLECT AND ESTABLISH SELF-DIRECTED CUSTOMERS' BASELINE ENERGY USE DATA.

(F) A METHOD TO MEASURE AND VERIFY ALL CLAIMED ENERGY OBJECTIVES, USING THE SAME STANDARDS FOR DATA COLLECTION AS OTHER EXISTING AND FUTURE CLEAN ENERGY SURCHARGES.

(G) OFFERING SELF-DIRECTED CUSTOMERS MULTI-YEAR TIME FRAMES GREATER THAN THIRTY-FIVE MONTHS IN WHICH TO EXPEND AGGREGATED ENERGY EFFICIENCY FEES.

(H) A MEANS TO CALCULATE ENERGY OPTIMIZATION ESTABLISHED BY THE COMMISSION AND BASED ON ANNUAL ELECTRICITY USAGE, PROVIDED THAT:

(1) ANNUAL ELECTRICITY USAGE SHALL BE NORMALIZED SO THAT NEITHER OF THE FOLLOWING ARE INCLUDED IN THE CALCULATION OF THE PERCENTAGE OF INCREMENTAL ENERGY SAVINGS: (I) CHANGES IN ELECTRICITY USAGE BECAUSE OF CHANGES IN BUSINESS ACTIVITY LEVELS NOT ATTRIBUTABLE TO ENERGY OPTIMIZATION; (II) CHANGES IN ELECTRICITY USAGE BECAUSE OF THE INSTALLATION, OPERATION, OR TESTING OF POLLUTION CONTROL EQUIPMENT.

(2) SAVINGS MAY ALSO BE CALCULATED ON THE AVERAGE NUMBER OF MEGAWATT HOURS OF ELECTRICITY SOLD BY THE ELECTRIC PROVIDER ANNUALLY DURING THE PREVIOUS THREE YEARS TO RETAIL CUSTOMERS IN THIS STATE.

(I) THE SELF-DIRECTED CUSTOMER MUST DEVELOP A SELF-DIRECTED OPTIMIZATION PLAN. SUCH PLAN SHALL OUTLINE HOW THE CUSTOMER INTENDS TO ACHIEVE THE GOALS OF THE SELF-DIRECTED PROGRAM.

(J) A CUSTOMER IMPLEMENTING A SELF-DIRECTED ENERGY OPTIMIZATION PLAN SHALL PROVIDE A BRIEF REPORT BIANNUALLY DOCUMENTING THE MEASURES TAKEN TO MEET THE GOALS OF THE SELF-DIRECTED PROGRAM. THE REPORT SHALL PROVIDE SUFFICIENT INFORMATION FOR THE UTILITIES AND THE COMMISSION TO MONITOR PROGRESS TOWARD THE GOALS IN THE SELF-DIRECTED PLAN AND TO DEVELOP RELIABLE ESTIMATES OF THE ENERGY SAVINGS, RENEWABLE POWER GENERATED AND/OR THE DEPLOYMENT OF DISTRIBUTED ENERGY RESOURCES THAT ARE BEING ACHIEVED FROM SELF-DIRECTED PLANS.

(K) PARTICIPANTS WILL HAVE THE OPPORTUNITY TO SELF-DIRECT A MAJORITY OF THEIR OWN CONTRIBUTIONS TO QUALIFYING PROJECTS, PROVIDED, HOWEVER, THAT A PORTION OF THE CONTRIBUTIONS, EQUAL TO NO MORE THAN ONE PERCENT, IS ALLOCATED TO SUPPORT PROGRAM ADMINISTRATION AND EVALUATION, MEASUREMENT AND VERIFICATION.

3. THE COMMISSION SHALL PROVIDE AN ANNUAL REPORT ON OR BEFORE THE FIRST DAY OF JANUARY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY, ON THE CLEAN ENERGY TECH PRODUCTION PROGRAM.

S 2. This act shall take effect immediately.