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

5277--A

2015-2016 Regular Sessions

I N S E N A T E

May 12, 2015

Introduced by Sens. FUNKE, AMEDORE, CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to the creation of the New York Farm-to-Urban Consumer Solar Access Act of 2016

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

Section 1. Legislative intent and purpose. It is the intent of the Legislature to extend access to the savings and benefits of solar power to electricity consumers that reside in multifamily buildings by allowing these consumers to share in the savings and benefits of solar power systems located on agricultural land or other qualified properties including landfills and brownfields. By extending the state's abundant solar energy resources to more consumers, it is the further intent of the Legislature to reduce the costs for electricity incurred by consumers residing in multifamily buildings, to increase the benefits that accrue to electricity consumers that reside in multifamily properties from the payment of the system benefit charge, to create new sources of income for owners of agricultural land and other qualifying properties, and to create jobs and increase economic growth for the citizens of the State.

S 2. Short title. This act shall be known and may be cited as the "New York Farm-to-Urban Consumer Solar Access Act of 2016".

S 3. The public service law is amended by adding a new article 12 to read as follows:

ARTICLE 12

SHARED SOLAR POWER

SECTION 240. DEFINITIONS.

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

LBD11026-02-6

241. SHARED SOLAR POWER.

S 240. DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "SOLAR ELECTRIC GENERATING EQUIPMENT" MEANS A PHOTOVOLTAIC SYSTEM THAT IS: (A) INTERCONNECTED TO THE DISTRIBUTION SYSTEM ON THE CUSTOMER SIDE OF THE ELECTRIC DISTRIBUTION COMPANY METER, (B) OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES AND IN COMPLIANCE WITH ANY STANDARDS AND REQUIREMENTS ESTABLISHED UNDER SECTION SIXTY-SIX-J OF THIS CHAPTER, (C) WITH A RATED CAPACITY OF NOT MORE THAN TWO HUNDRED KILOWATTS UNTIL THE END OF TWO THOUSAND SEVENTEEN, FIVE HUNDRED KILOWATTS UNTIL THE END OF TWO THOUSAND EIGHTEEN AND THE COMMISSION MAY, THROUGH A FORMAL PROCEEDING INCREASE THE RATED CAPACITY TO AN AGGREGATE TOTAL OF ONE MEGAWATT THROUGH A FORMAL PROCEEDING AT ANY TIME AFTER JANUARY FIRST, TWO THOUSAND NINETEEN, AND (D) THAT IS MANUFACTURED, INSTALLED, AND OPERATED IN ACCORDANCE WITH APPLICABLE GOVERNMENT AND INDUSTRY STANDARDS.

2. "CUSTOMER-GENERATOR" MEANS A RESIDENTIAL OR NON-RESIDENTIAL CUSTOMER OF AN ELECTRIC CORPORATION WHO OWNS OR OPERATES SOLAR ELECTRIC GENERATING EQUIPMENT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, LOCATED AND USED AT HIS OR HER FARM OPERATION, AS SUCH TERM IS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW; OR A NON-RESIDENTIAL CUSTOMER OF AN ELECTRIC CORPORATION WHICH OWNS OR OPERATES SOLAR ELECTRIC GENERATING EQUIPMENT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, LOCATED AND USED AT A QUALIFIED SITE PURSUANT TO SUBDIVISION NINE OF THIS SECTION.

3. "NET ENERGY METER" MEANS A METER THAT MEASURES THE REVERSE FLOW OF ELECTRICITY TO REGISTER THE DIFFERENCE BETWEEN THE ELECTRICITY SUPPLIED BY AN ELECTRIC CORPORATION TO THE CUSTOMER-GENERATOR AND THE ELECTRICITY PROVIDED TO THE CORPORATION BY THAT CUSTOMER-GENERATOR.

4. "NET ENERGY METERING" MEANS THE USE OF A NET ENERGY METER TO MEASURE, DURING THE BILLING PERIOD APPLICABLE TO A CUSTOMER-GENERATOR, THE NET AMOUNT OF ELECTRICITY SUPPLIED BY AN ELECTRIC CORPORATION AND PROVIDED TO THE CORPORATION BY A CUSTOMER-GENERATOR.

5. "ELECTRIC UTILITY" MEANS ANY INVESTOR-OWNED UTILITY THAT DISTRIBUTES ELECTRICITY WITHIN THIS STATE.

6. "QUALIFIED CONSUMER" SHALL MEAN AN ELECTRIC SERVICE ACCOUNT HOLDER OF AN ELECTRIC UTILITY WHO RESIDES IN A BUILDING OF GREATER THAN FOUR HOUSING UNITS OR IN A CONDOMINIUM OR HOUSING COOPERATIVE LOCATED IN THE SERVICE TERRITORY OF THE ELECTRIC UTILITY OR ANY OF ITS WHOLLY OWNED SUBSIDIARIES, IN WHICH THE SHARED SOLAR POWER FACILITY, AS DEFINED IN SUBDIVISION EIGHT OF THIS SECTION, IS LOCATED; OR WHO RESIDES WITHIN FIVE MILES OF A FARM OPERATION AS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE AGRICULTURE AND MARKETS LAW THAT IS ALSO A QUALIFIED SITE UNDER THE PROVISIONS OF THIS CHAPTER AND IS LOCATED IN THE SERVICE TERRITORY OF THE ELECTRIC UTILITY.

7. "QUALIFIED SOLAR ENERGY GENERATION" MEANS ELECTRIC OUTPUT MEASURED IN KWH FROM A SHARED SOLAR POWER FACILITY AS DEFINED IN SUBDIVISION EIGHT OF THIS SECTION.

8. "SHARED SOLAR POWER FACILITY" MEANS SOLAR ELECTRIC GENERATING EQUIPMENT AS DEFINED IN SUBDIVISION ONE OF THIS SECTION, WHOSE OWNER HOLDS THE TITLE OR LEASEHOLD OF A "QUALIFIED SITE" AS DEFINED IN SUBDIVISION NINE OF THIS SECTION, AND THAT ELECTS TO ASSIGN NET METERING CREDITS TO "QUALIFIED CONSUMERS", AS DEFINED IN SUBDIVISION SIX OF THIS SECTION, ACCORDING TO THE REQUIREMENTS OF THIS ARTICLE.

9. "QUALIFIED SITE" SHALL MEAN: (A) PROPERTY USED FOR FARM OPERATIONS AS DEFINED IN SUBDIVISION ELEVEN OF SECTION THREE HUNDRED ONE OF THE

AGRICULTURE AND MARKETS LAW; OR (B) PROPERTY OWNED OR LEASED BY ANY LEGAL ENTITY THAT IS ORGANIZED AS A NOT FOR PROFIT OR A LANDFILL, OR AN AREA DESIGNATED AS A BROWNFIELD.

10. "SOLAR SUBSCRIPTION" MEANS A CONTRACT MADE BY THE OWNER OF A QUALIFIED SITE ASSIGNING A PRO-RATE SHARE, WHOSE NUMERATOR IS ONE AND WHOSE DENOMINATOR IS THE NUMBER OF QUALIFIED CONSUMERS TO WHOM THE NET METERING CREDITS OF THE SHARED SOLAR POWER FACILITY ARE BEING ALLOCATED, TO A QUALIFIED CONSUMER WITH A MINIMUM LENGTH OF THREE YEARS, A MAXIMUM LENGTH OF TEN YEARS, A FIXED ANNUAL RENEWAL DATE, A PROVISION PROVIDING THE QUALIFIED CONSUMER WITH THE RIGHT TO END THEIR SUBSCRIPTION ON THE ANNUAL RENEWAL DATE WITH SIXTY DAYS NOTICE TO THE OWNER.

11. "SHARED SOLAR POWER ALLOCATION SCHEDULE" SHALL MEAN AN ATTACHMENT TO THE SCHEDULE PRESCRIBED IN SUBDIVISION THREE OF SECTION SIXTY-SIX-J OF THIS CHAPTER, PUBLISHED BY EACH ELECTRIC UTILITY, TO BE FILLED OUT ELECTRONICALLY BY THE SHARED FACILITY OWNER AND FILED ELECTRONICALLY WITH THE ELECTRIC UTILITY TO SHOW THE PRORATED SHARE OF THE KWH PRODUCED BY THE SHARED SOLAR FACILITY TO BE ALLOCATED TO A UTILITY ACCOUNT HOLDER. WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE EACH ELECTRIC UTILITY SHALL SUBMIT ITS ATTACHMENT SCHEDULE AND DESCRIBE ITS FILING PROCEDURES TO THE COMMISSION.

S 241. SHARED SOLAR POWER. 1. THE KWH OF ELECTRICITY GENERATED BY A SHARED SOLAR FACILITY DURING EACH ELECTRIC UTILITY BILLING PERIOD SHALL BE ALLOCATED BY THE OWNER OF THE SHARED SOLAR FACILITY ACCORDING TO THE TERMS OF THE SUBSCRIPTION AGREEMENT FOR EACH SUBSCRIBING CONSUMER. THE ALLOCATION SHALL BE RECORDED AND FILED WITH THE ELECTRIC UTILITY WHOSE ACCOUNT HOLDERS ARE SUBSCRIBERS. THE AMOUNT OF THE NET METERING CREDITS TO BE ATTRIBUTED TO EACH SUCH CUSTOMER SHALL BE DETERMINED BY THE ALLOCATION PROVIDED BY THE SHARED SOLAR FACILITY. THE CREDIT WILL BE APPLIED TO THE MONTHLY BILL OF EACH SUBSCRIPTION HOLDER WITH A SUBSCRIPTION AGREEMENT AT THE SAME RATE AS THE CUSTOMER PAYS ON THEIR PRIMARY ACCOUNT. CREDITS MAY BE CARRIED FORWARD BY SUCH CUSTOMERS FROM MONTH TO MONTH. WRITTEN NOTICE OF THE IDENTITY OF THE CUSTOMERS SO DESIGNATED AND THE ALLOCATION OF THE CREDITS TO BE ATTRIBUTED TO SUCH CUSTOMERS SHALL BE IN SUCH FORM AS REQUIRED BY THE PROVISIONS DESCRIBED IN SUBDIVISION TEN OF SECTION TWO HUNDRED FORTY OF THIS ARTICLE.

2. A SOLAR SUBSCRIPTION SHALL NOT BE CONSIDERED AS A SECURITY.

3. A CUSTOMER-GENERATOR WHO OWNS A SHARED SOLAR FACILITY AT A QUALIFIED SITE MAY DESIGNATE ALL OR A PORTION OF THE NET METERING CREDITS GENERATED BY SUCH EQUIPMENT TO QUALIFIED CONSUMERS WHO RESIDE WITHIN THAT UTILITY SERVICE TERRITORY.

4. ALL RENEWABLE ENERGY CREDITS PRODUCED BY THE SHARED SOLAR FACILITY SHALL, NOT WITHSTANDING THE TERMS AND CONDITIONS OF ANY INCENTIVE PROGRAM FOR WHICH THE OWNER IS ELIGIBLE, REMAIN THE PROPERTY OF THE OWNER OF THE SHARED SOLAR FACILITY.

5. SHARED SOLAR FACILITIES SHALL BE EXEMPT FROM THE LIMITATIONS SET FORTH IN SUBPARAGRAPH (III) OF PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION SIXTY-SIX-J OF THIS CHAPTER. SHARED SOLAR FACILITIES SHALL BE SUBJECT TO ALL SAFETY STANDARDS AS SET FORTH IN SUBDIVISION FIVE OF SUCH SECTION.

6. EACH RETAIL ELECTRIC SUPPLIER THAT IS AN ELECTRIC DISTRIBUTION COMPANY SHALL BE ENTITLED TO RECOVER THE PRUDENTLY INCURRED COSTS OF COMPLYING WITH ITS OBLIGATIONS, AS DETERMINED BY THE COMMISSION. ALL SUCH COSTS SHALL BE RECOVERED THROUGH THE SUPPLY PORTION OF EACH ELECTRIC CUSTOMER'S BILL IN A COMPETITIVELY NEUTRAL MANNER.

7. THE COMMISSION MAY IN ITS DISCRETION AND THROUGH A FORMAL PROCEEDING, SUSPEND THIS PROGRAM IF IT IS DETERMINED TO HAVE A SUBSTANTIAL

NEGATIVE IMPACT ON THE UTILITY COSTS OF RATEPAYERS, OR IF IT IS DETERMINED THAT THE FURTHER OPERATION OF THE PROGRAM IS NOT IN THE PUBLIC INTEREST. IF THE COMMISSION SHOULD ISSUE AN ORDER PURSUANT TO THIS SUBDIVISION, ALL PROJECTS ALREADY UNDER CONTRACT AS OF THE DATE OF THE ORDER WOULD BE HELD HARMLESS AND ALLOWED TO OPERATE UNDER THE CONDITIONS THAT EXIST PRIOR TO SUCH ORDER.

S 4. Severability. If any provision of this act is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining provisions of this act, which remaining provisions shall continue in full force and effect.

S 5. This act shall take effect immediately.