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

5841--A

2015-2016 Regular Sessions

I N S E N A T E

June 5, 2015

Introduced by Sen. GRIFFO -- 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 a community renewable facility pilot 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 COMMUNITY RENEWABLE FACILITY PILOT PROGRAM. 1. AS USED IN THIS SECTION, "COMMUNITY RENEWABLE FACILITY" SHALL MEAN SOLAR ELECTRIC GENERATING EQUIPMENT, WIND ELECTRIC GENERATING EQUIPMENT AND HYDROELECTRIC GENERATING EQUIPMENT NOT TO EXCEED TEN MEGAWATTS, WHICH AN ELECTRIC CORPORATION IS AUTHORIZED TO OWN AND OPERATE UNDER THIS SECTION. SUCH EQUIPMENT SHALL BE MANUFACTURED, INSTALLED AND OPERATED IN CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION FACILITIES.

2. THE COMMISSION SHALL ESTABLISH THE NEW YORK STATE COMMUNITY RENEWABLE FACILITY PILOT PROGRAM TO AUTHORIZE THE DEVELOPMENT OF UP TO FIFTY MEGAWATTS OF COMMUNITY RENEWABLE FACILITY CAPACITY STATEWIDE, STRIVING FOR A REGIONAL BALANCE, IN ORDER TO STIMULATE THE GROWTH OF COMMUNITY RENEWABLE FACILITIES, USING A SUBSCRIPTION-BASED MODEL WHICH OFFERS ENERGY FOR A PERIOD OF TEN YEARS, WITH ELECTRIC CORPORATION OWNERSHIP AND MANAGEMENT. ANY SUBSCRIPTION PARTICIPATION BY ELECTRIC CORPORATIONS SHALL BE ON A DEFAULT BASIS ONLY IN THE EVENT OF UNSOLD SUBSCRIPTIONS.

3. THE COMMISSION SHALL OVERSEE AND APPROVE THE IMPLEMENTATION OF COMMUNITY RENEWABLE FACILITY PILOT PROGRAMS BY ELECTRIC CORPORATIONS WHICH SHALL INCLUDE THE FOLLOWING ELEMENTS:

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

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(A) ELECTRIC CORPORATIONS SHALL OWN OR HAVE A LONG-TERM LEASE ON THE REAL PROPERTY WHERE A RENEWABLE FACILITY WILL BE CONSTRUCTED AND SUCH LOCATION SHALL BE STRATEGICALLY LOCATED SO AS TO ALLOW FOR AN OPTIMIZED AND MORE SECURE AND FLEXIBLE ELECTRIC POWER SYSTEM.

(B) THE ELECTRIC CORPORATION SHALL OWN THE RENEWABLE FACILITY AND OTHER INFRASTRUCTURE REQUIRED TO INTEGRATE THE ELECTRICITY PRODUCED EFFECTIVELY INTO THE GRID CONNECTING TO THE ELECTRIC SYSTEM WHICH SHALL BE INTERCONNECTED AND OPERATED IN PARALLEL WITH THE ELECTRIC CORPORATION'S DISTRIBUTION FACILITIES.

(C) THE ELECTRIC CORPORATIONS SHALL ISSUE A REQUEST FOR PROPOSAL FOR THE CONSTRUCTION FOR THE RENEWABLE FACILITY.

(D) CUSTOMERS SHALL BE PROVIDED THE OPPORTUNITY TO PARTICIPATE IN THE COMMUNITY RENEWABLE FACILITY PILOT PROGRAM ON A FIRST COME, FIRST SERVE BASIS WHILE A PERCENTAGE OF SUBSCRIPTIONS SHALL BE RETAINED AS DETERMINED BY THE COMMISSION FOR LOW AND MODERATE INCOME PARTICIPATION.

(E) TERMS OF PARTICIPATION FOR CUSTOMERS SHALL BE PROPOSED BY THE ELECTRIC CORPORATION FOR REVIEW BY THE COMMISSION:

(I) THE COMMISSION SHALL ALLOW UTILITIES TO PROPOSE TERMS WHEREBY PARTICIPATING CUSTOMERS SHALL RECEIVE A BLOCK OF ENERGY IN INCREMENTS APPROVED BY THE COMMISSION BASED ON THE AVERAGE MONTHLY USAGE OF THE CUSTOMER WITH A FIXED PRICE PER KILOWATT HOUR FOR EACH BLOCK OF ENERGY WITH A RATE TO REMAIN CONSTANT FOR A FIXED PERIOD OF YEARS AS APPROVED BY THE COMMISSION; AND

(II) THE COMMISSIONER SHALL CONSIDER ALTERNATE OR ADDITIONAL TERMS OF PARTICIPATION AS PROPOSED BY THE ELECTRIC CORPORATION.

(F) ANY CUSTOMER PARTICIPATING IN THE COMMUNITY RENEWABLE FACILITY PILOT PROGRAM SHALL BE EXEMPT FROM THE SYSTEMS BENEFITS CHARGES AND THE CLEAN ENERGY STANDARD SURCHARGES BASED ON THEIR SUBSCRIPTION.

(G) THE ELECTRIC CORPORATION MAY PARTICIPATE IN FUNDING OPPORTUNITIES PROVIDED BY THE NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY OF THE NEW YORK POWER AUTHORITY.

4. THE ECONOMIC EVALUATION OF THE PROPOSED COMMUNITY RENEWABLE FACILITY PILOT PROGRAM BY THE COMMISSION SHALL INCLUDE A REVIEW OF THE FOLLOWING:

THE ELECTRIC CORPORATION, IN DETERMINING THE FIXED PRICE PER KILOWATT HOUR FOR COMMUNITY RENEWABLE FACILITY OWNERSHIP, SHALL INCLUDE THE ANNUAL COST OF SERVICE ON THE ASSET, LESS THE ESTIMATED AVERAGE ANNUAL CAPACITY AND ENERGY REVENUE. FOR PURPOSES OF THIS PARAGRAPH, FIXED COSTS IN DETERMINING THE FIXED PRICE SHALL INCLUDE: PROJECT INSTALLATION, PROJECT MATERIAL, LABOR, TAXES, INSURANCE, OPERATION, MAINTENANCE, INTERCONNECTION COSTS, THE ELECTRIC CORPORATION'S FINANCING COSTS FOR THE PROJECT INCLUDING COST OF DEBT, DEPRECIATION AND RETURN ON EQUITY, ENVIRONMENTAL AND PERMITTING COSTS, SITE SECURITY, DECOMMISSIONING COSTS AND INFORMATION TECHNOLOGY PROGRAMMING COSTS.

5. THE PARTICIPATING ELECTRIC CORPORATION SHALL:

(A) DEMONSTRATE TO THE COMMISSION THAT REASONABLE EFFORTS SHALL BE MADE TO INFORM CUSTOMERS OF THE OPPORTUNITY TO PARTICIPATE IN THE COMMUNITY RENEWABLE FACILITY PILOT PROGRAM;

(B) PROVIDE A COPY OF ANY CUSTOMER AGREEMENTS TO BE EXECUTED AS PART OF THE PROGRAM;

(C) PROVIDE AN EXAMINATION OF THE COSTS, BENEFITS, AND RISKS OF ANY PROPOSAL SUBMITTED BY AN ELECTRIC CORPORATION INCLUDING THE RATE IMPLICATIONS; AND

(D) DEMONSTRATE THAT IT HAS ENTERED INTO A LABOR PEACE AGREEMENT WITH A BONA-FIDE LABOR ORGANIZATION OF JURISDICTION THAT IS ACTIVELY ENGAGED IN REPRESENTING OR ATTEMPTING TO REPRESENT THE ELECTRIC CORPORATION'S

EMPLOYEES. THE MAINTENANCE OF SUCH A LABOR PEACE AGREEMENT SHALL BE AN ONGOING MATERIAL CONDITION OF AUTHORIZATION TO OWN A COMMUNITY RENEWABLE FACILITY UNDER THIS SECTION.

6. 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 COMMUNITY RENEWABLE FACILITY PILOT PROGRAM.

7. NO SOONER THAN FIVE YEARS AFTER ESTABLISHMENT OF THE STATE COMMUNITY RENEWABLE FACILITY PILOT PROGRAM AND ONLY AFTER REACHING THE FIFTY MEGAWATT CAP ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE COMMISSION MAY INCREASE THE CAP BY AN ADDITIONAL MAXIMUM OF FIFTY MEGAWATTS.

8. THE COMMISSION MAY SUSPEND OR TERMINATE THE PROGRAM AUTHORIZED UNDER THIS SECTION FOR ONE OR MORE ELECTRIC CORPORATIONS PROVIDED THAT THE COMMISSION, AFTER CONDUCTING A HEARING AS PROVIDED IN SECTION TWENTY OF THIS CHAPTER, MAKES A FINDING THAT THE PROGRAM IMPEDES THE PROVISION OF SAFE AND ADEQUATE ELECTRIC SERVICE OR THAT THERE IS A SIGNIFICANT INCREASE IN ARREARS OR UTILITY SERVICE DISCONNECTIONS THAT THE COMMISSION DETERMINES IS RELATED TO THE PROGRAM.

S 2. This act shall take effect immediately; provided however, that not later than one hundred eighty days after this act shall have become a law, the public service commission shall have in place a competitive process which shall be open to electric corporations.