

4759

2015-2016 Regular Sessions

I N S E N A T E

April 15, 2015

Introduced by Sen. FUNKE -- 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 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

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

LBD04640-01-5

anywhere within the state is to take place, the responsible utility shall offer an "opt-out" provision whereby a customer has the choice to retain their old meter so long as they pay a reasonable fee.

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

ARTICLE 12

SMART METER PILOT PROGRAM

SECTION 250. CREATION OF SMART METER PILOT PROGRAM.

251. DEFINITIONS.

252. IMPLEMENTATION OF PILOT PROGRAM.

253. PILOT PROGRAM; CONSIDERATIONS BY COMMISSION.

254. INSTALLATION OF SMART METERS.

255. COST-RECOVERY.

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

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

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

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

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

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

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

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

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

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

(D) THE EXPECTED "PAYBACK" OR AMORTIZATION PERIOD FOR CAPITAL INVESTMENTS OF THE PILOT;

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

(F) ANYTHING ELSE THE COMMISSION DEEMS APPROPRIATE UNDER THE CIRCUMSTANCES.

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 INFORMATION;

(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 INVESTIGATIONS 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 COMPANY, 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 ARTICLE, 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

1 REQUIREMENTS AS DETERMINED BY THE COMMISSION, AND WILL INCLUDE BOTH A
2 ONE-TIME REPLACEMENT FEE AND A MONTHLY SERVICE FEE.

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

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

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

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

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

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

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

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

35 S 3. This act shall take effect immediately.