

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:

- 1 Section 1. The public service law is amended by adding a new section
2 66-o to read as follows:
3 S 66-0. NEW YORK STATE COMMUNITY RENEWABLE FACILITY PILOT PROGRAM. 1.
4 AS USED IN THIS SECTION, "COMMUNITY RENEWABLE FACILITY" SHALL MEAN SOLAR
5 ELECTRIC GENERATING EQUIPMENT, WIND ELECTRIC GENERATING EQUIPMENT AND
6 HYDROELECTRIC GENERATING EQUIPMENT NOT TO EXCEED TEN MEGAWATTS, WHICH AN
7 ELECTRIC CORPORATION IS AUTHORIZED TO OWN AND OPERATE UNDER THIS
8 SECTION. SUCH EQUIPMENT SHALL BE MANUFACTURED, INSTALLED AND OPERATED IN
9 CONJUNCTION WITH AN ELECTRIC CORPORATION'S TRANSMISSION AND DISTRIBUTION
10 FACILITIES.
11 2. THE COMMISSION SHALL ESTABLISH THE NEW YORK STATE COMMUNITY RENEWA-
12 BLE FACILITY PILOT PROGRAM TO AUTHORIZE THE DEVELOPMENT OF UP TO FIFTY
13 MEGAWATTS OF COMMUNITY RENEWABLE FACILITY CAPACITY STATEWIDE, STRIVING
14 FOR A REGIONAL BALANCE, IN ORDER TO STIMULATE THE GROWTH OF COMMUNITY
15 RENEWABLE FACILITIES, USING A SUBSCRIPTION-BASED MODEL WHICH OFFERS
16 ENERGY FOR A PERIOD OF TEN YEARS, WITH ELECTRIC CORPORATION OWNERSHIP
17 AND MANAGEMENT. ANY SUBSCRIPTION PARTICIPATION BY ELECTRIC CORPORATIONS
18 SHALL BE ON A DEFAULT BASIS ONLY IN THE EVENT OF UNSOLD SUBSCRIPTIONS.
19 3. THE COMMISSION SHALL OVERSEE AND APPROVE THE IMPLEMENTATION OF
20 COMMUNITY RENEWABLE FACILITY PILOT PROGRAMS BY ELECTRIC CORPORATIONS
21 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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1 (A) ELECTRIC CORPORATIONS SHALL OWN OR HAVE A LONG-TERM LEASE ON THE
2 REAL PROPERTY WHERE A RENEWABLE FACILITY WILL BE CONSTRUCTED AND SUCH
3 LOCATION SHALL BE STRATEGICALLY LOCATED SO AS TO ALLOW FOR AN OPTIMIZED
4 AND MORE SECURE AND FLEXIBLE ELECTRIC POWER SYSTEM.

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

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

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

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

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

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

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

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

32 4. THE ECONOMIC EVALUATION OF THE PROPOSED COMMUNITY RENEWABLE FACILI-
33 TY PILOT PROGRAM BY THE COMMISSION SHALL INCLUDE A REVIEW OF THE FOLLOW-
34 ING:

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

45 5. THE PARTICIPATING ELECTRIC CORPORATION SHALL:

46 (A) DEMONSTRATE TO THE COMMISSION THAT REASONABLE EFFORTS SHALL BE
47 MADE TO INFORM CUSTOMERS OF THE OPPORTUNITY TO PARTICIPATE IN THE COMMU-
48 NITY RENEWABLE FACILITY PILOT PROGRAM;

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

51 (C) PROVIDE AN EXAMINATION OF THE COSTS, BENEFITS, AND RISKS OF ANY
52 PROPOSAL SUBMITTED BY AN ELECTRIC CORPORATION INCLUDING THE RATE IMPLI-
53 CATIONS; AND

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

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

4 6. THE COMMISSION SHALL PROVIDE AN ANNUAL REPORT ON OR BEFORE THE
5 FIRST DAY OF JANUARY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
6 SENATE, THE SPEAKER OF THE ASSEMBLY, THE MINORITY LEADER OF THE SENATE
7 AND THE MINORITY LEADER OF THE ASSEMBLY, ON THE COMMUNITY RENEWABLE
8 FACILITY PILOT PROGRAM.

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

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

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