

STATE OF NEW YORK

10474

IN ASSEMBLY

April 26, 2018

Introduced by M. of A. ENGLEBRIGHT, CUSICK, CARROLL, SANTABARBARA, BARRON, HUNTER, GOTTFRIED, ORTIZ, COLTON, ARROYO, LIFTON, ABINANTI, JAFFEE, LUPARDO, SEPULVEDA, DAVILA, MOSLEY, SEAWRIGHT, SIMON, WILLIAMS, HYNDMAN, NIOU, D'URSO -- Multi-Sponsored by -- M. of A. BUCHWALD, COOK, THIELE -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to rate schedules for net energy metering; and directing the Long Island power authority to adopt a methodology for the establishment of a value of distributed energy resources crediting mechanism

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 1 of section 66-j of the public service law, as
2 amended by chapter 355 of the laws of 2009, paragraph (a) as amended and
3 paragraph (h) as added by chapter 546 of the laws of 2011, subparagraphs
4 (iv) and (v) of paragraph (a) as separately amended and subparagraph
5 (vi) of paragraph (a) as added by chapter 530 of the laws of 2011 and
6 subparagraphs (vii) and (viii) of paragraph (a) as amended and subpara-
7 graph (ix) of paragraph (a) as added by chapter 494 of the laws of 2014,
8 paragraph (d) as amended by chapter 253 of the laws of 2013, paragraph
9 (e) as amended by section 1 of part Z of chapter 58 of the laws of 2016,
10 and paragraph (g) as amended by chapter 518 of the laws of 2014, is
11 amended to read as follows:

12 1. Definitions. As used in this section, the following terms shall
13 have the following meanings:

14 (a) "Customer-generator" means: (i) a residential customer of an elec-
15 tric corporation, who owns or operates solar electric generating equip-
16 ment located and used at his or her residence; (ii) a customer of an
17 electric corporation, who owns or operates farm waste electric generat-
18 ing equipment located and used at his or her "farm operation," as such
19 term is defined in subdivision eleven of section three hundred one of
20 the agriculture and markets law; (iii) a non-residential customer of an
21 electric corporation which owns or operates solar electric generating
22 equipment located and used at its premises; (iv) a residential customer

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

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1 of an electric corporation who owns, leases or operates micro-combined
2 heat and power generating equipment located on the customer's premises;
3 (v) a residential customer of an electric corporation who owns, leases
4 or operates fuel cell generating equipment located on the customer's
5 premises; and (vi) a non-residential customer of an electric corporation
6 who owns, leases or operates fuel cell generating equipment located and
7 used at the customer's premises; (vii) a residential customer of an
8 electric corporation, who owns or operates micro-hydroelectric generat-
9 ing equipment located and used at his or her residence; (viii) a non-re-
10 sidential customer of an electric corporation which owns or operates
11 micro-hydroelectric generating equipment located and used at its prem-
12 ises; and (ix) a non-residential customer of an electric corporation
13 which owns or operates farm waste electric generating equipment located
14 and used at its premises. Customer-generators also include all residen-
15 tial and non-residential customers eligible to receive credits from
16 remote net-metered and community distributed generating equipment as
17 defined in paragraph (e) of subdivision three of this section and the
18 commission's orders for implementing a community net metering program.

19 (b) "Net energy meter" means a meter that measures the reverse flow of
20 electricity to register the difference between the electricity supplied
21 by an electric corporation to the customer-generator and the electricity
22 provided to the corporation by that customer-generator.

23 (c) "Net energy metering" means the use of a net energy meter to meas-
24 ure, during the billing period applicable to a customer-generator, the
25 net amount of electricity supplied by an electric corporation and
26 provided to the corporation by a customer-generator.

27 (d) "Solar electric generating equipment" means a photovoltaic system
28 (i) (A) in the case of a residential customer (other than a farm utiliz-
29 ing a residential meter), with a rated capacity of not more than twen-
30 ty-five kilowatts; (B) in the case of a customer who owns or operates a
31 farm operation as such term is defined in subdivision eleven of section
32 three hundred one of the agriculture and markets law utilizing a resi-
33 dential meter with a rated capacity of not more than one hundred kilo-
34 watts; and (C) in the case of a non-residential customer, with a rated
35 capacity of not more than ~~two~~ five thousand kilowatts; and (ii) that
36 is manufactured, installed, and operated in accordance with applicable
37 government and industry standards, that is connected to the electric
38 system and operated in conjunction with an electric corporation's trans-
39 mission and distribution facilities, and that is operated in compliance
40 with any standards and requirements established under this section.

41 (e) "Farm waste electric generating equipment" means equipment that
42 generates electric energy from biogas produced by the anaerobic
43 digestion of agricultural waste, such as livestock manure, farming
44 wastes and food processing wastes with a rated capacity of not more than
45 ~~two~~ five thousand kilowatts, that is:

46 (i) manufactured, installed, and operated in accordance with applica-
47 ble government and industry standards;

48 (ii) connected to the electric system and operated in conjunction with
49 an electric corporation's transmission and distribution facilities;

50 (iii) operated in compliance with any standards and requirements
51 established under this section;

52 (iv) fueled at a minimum of ninety percent on an annual basis by
53 biogas produced from the anaerobic digestion of agricultural waste such
54 as livestock manure materials, crop residues, and food processing waste;
55 and

(v) fueled by biogas generated by anaerobic digestion with at least fifty percent by weight of its feedstock being livestock manure materials on an annual basis.

(f) "Micro-combined heat and power generating equipment" means an integrated, cogenerating building heating and electrical power generation system, operating on any fuel and of any applicable engine, fuel cell, or other technology, with a rated capacity of at least one kilowatt and not more than ten kilowatts electric and any thermal output that at full load has a design total fuel use efficiency in the production of heat and electricity of not less than eighty percent, and annually produces at least two thousand kilowatt hours of useful energy in the form of electricity that may work in combination with supplemental or parallel conventional heating systems, that is manufactured, installed and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities.

(g) "Fuel cell electric generating equipment" means:

(i)(A) in the case of a residential customer, a solid oxide, molten carbonate, proton exchange membrane or phosphoric acid fuel cell with a combined rated capacity of not more than ten kilowatts; and (B) in the case of a non-residential customer, a solid oxide, molten carbonate, proton exchange membrane or phosphoric acid fuel cell with a combined rated capacity of not more than ~~two~~ **five** thousand kilowatts; and

(ii) that is manufactured, installed and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in parallel with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

(h) "Micro-hydroelectric generating equipment" means a hydroelectric system (i) (A) in the case of a residential customer, with a rated capacity of not more than twenty-five kilowatts; and (B) in the case of a non-residential customer, with a rated capacity of not more than ~~two~~ **five** thousand kilowatts; and (ii) that is manufactured, installed, and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

(i) "Distributed energy resources" includes, but is not limited to, farm waste electric generating equipment, fuel cell electric generating equipment, micro-combined heat and power generating equipment, micro-hydroelectric generating equipment, or solar electric generating equipment.

§ 2. Subparagraph (iii) of paragraph (a) of subdivision 3 of section 66-j of the public service law, as amended by chapter 546 of the laws of 2011, is amended to read as follows:

(iii) Each electric corporation shall make such contract and schedule available to customer-generators on a first come, first served basis, until the total rated generating capacity for solar and farm waste electric generating equipment, micro-combined heat and power generating equipment, fuel cell electric generating equipment and micro-hydroelectric generating equipment owned, leased or operated by customer-generators in the corporation's service area is equivalent to ~~one~~ **twelve**

1 percent of the corporation's electric demand for the year two thousand
2 five, as determined by the department.

3 § 3. Paragraph (a) of subdivision 3 of section 66-j of the public
4 service law is amended by adding a new subparagraph (iv) to read as
5 follows:

6 (iv) The model contracts and schedule of rates, terms and conditions
7 for net energy metering customer-generators approved by the commission
8 pursuant to subparagraphs (i) and (ii) of this paragraph and that were
9 in effect as of March first, two thousand seventeen, shall remain in
10 full force and effect and, subject to the limitation set forth in
11 subparagraph (iii) of this paragraph, shall be available to customer-
12 generators who execute an interconnection agreement with the electric
13 corporation prior to December thirty-first, two thousand twenty-one, and
14 shall remain available to those customer-generators for the lifetime of
15 the generating equipment.

16 § 4. Paragraph (a) of subdivision 3 of section 66-j of the public
17 service law is amended by adding a new subparagraph (v) to read as
18 follows:

19 (v)(A) No later than June thirtieth, two thousand twenty-one, the
20 commission shall adopt a methodology for the establishment of a value of
21 distributed energy resources crediting mechanism for customer-generators
22 which shall fully and accurately account for the energy and capacity
23 value of the electricity generated, as well as for the long-term value
24 of public benefits provided by such resources, including but not limited
25 to, grid security and resilience, climate security, reduced emissions of
26 greenhouse gases and other air and water pollutants, and reduced expo-
27 sure to fuel price volatility, environmental justice attributes, and
28 avoided societal and ratepayer costs from the reduction of energy bills
29 for low-income customers. In addition, the commission shall also seek to
30 ensure the predictability and simplicity of the application of this
31 methodology to customer-generators. No later than February twenty-
32 eighth, two thousand twenty-one, the department shall publish a draft
33 methodology for public comment and shall provide a public comment period
34 of no less than ninety days. Further, the commission shall hold at least
35 four public hearings about the draft methodology. These hearings shall
36 be held in different regions of the state, shall be held no earlier than
37 sixty days after the draft methodology is published, and shall be
38 announced at least thirty days in advance.

39 (B)(I) On or before three months after the commission's adoption of
40 the methodology required by clause (A) of this subparagraph, each elec-
41 tric corporation shall file with the commission a model contract and a
42 schedule that establishes consistent and reasonable rates, terms and
43 conditions for the value of distributed energy resource services
44 provided by residential customer-generators, according to the require-
45 ments of this section. The commission shall render a decision within
46 three months from the date on which the contract and schedule are filed.

47 (II) On or before three months after the effective date of this
48 subparagraph, each electric corporation shall file with the commission a
49 model contract and a schedule that establishes consistent and reasonable
50 rates, terms and conditions for the value of distributed energy
51 resources services provided by non-residential customer-generators,
52 according to the requirements of this section. The commission shall
53 render a decision within three months of the date on which the contract
54 and schedule are filed.

55 (III) In lieu of its previously effective net energy metering
56 contracts and schedules, each electric corporation shall make the

1 contracts and schedules approved by the commission pursuant to this
2 paragraph available to all customer-generators within its service area
3 seeking to contract with the electric corporation after such approval by
4 the commission. The limitation on net energy metering contracts set
5 forth in subparagraph (iii) of this paragraph shall not apply to value
6 of distributed energy resources contracts.

7 (C) Until the commission approves the contracts and schedules filed by
8 an electric corporation pursuant to this subparagraph, any value of
9 distributed energy resources contracts and schedules approved by the
10 commission prior to the effective date of this subparagraph shall remain
11 in full force and effect and shall be available to customer-generators
12 at their request.

13 § 5. Paragraph (b) of subdivision 3 of section 66-j of the public
14 service law, as amended by chapter 546 of the laws of 2011, is amended
15 to read as follows:

16 (b) Nothing in this subdivision shall prohibit a corporation from
17 providing net energy metering to additional customer-generators. The
18 commission shall have the authority, after January first, two thousand
19 [~~twelve~~ nineteen, to increase the percent limits established by subpar-
20 agraph (iii) of paragraph (a) of this subdivision if it determines that
21 additional net energy metering is in the public interest.

22 § 6. The Long Island power authority shall adopt a methodology for the
23 establishment of a value of distributed energy resources crediting mech-
24 anism generally consistent with the requirements set forth in section
25 66-j of the public service law. The authority shall utilize to the full-
26 est extent practicable technologies that rely on renewable energy
27 resources, improvements in energy efficiency, energy storage systems,
28 and shall seek to meet or exceed New York state climate change and envi-
29 ronmental goals. The authority shall hold no less than two public hear-
30 ings before establishing such a value of distributed energy resources
31 crediting mechanism. Provided however, until the authority approves
32 contracts and schedules for such value of distributed energy resources
33 crediting mechanism, any value of distributed energy resources crediting
34 mechanism contracts and schedules approved by the authority prior to the
35 effective date of this act shall remain in full force and effect and
36 shall be available to customer-generators at their request.

37 § 7. This act shall take effect on the sixtieth day after it shall
38 have become a law; provided, however, that effective immediately the
39 public service commission and the Long Island power authority are
40 authorized and directed to promulgate any rules and/or regulations
41 necessary to implement the provisions of this act.