

# STATE OF NEW YORK

5746

2017-2018 Regular Sessions

## IN ASSEMBLY

February 15, 2017

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to abolishing the market clearing price

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

1 Section 1. Section 66 of the public service law is amended by adding  
2 three new subdivisions 29, 30 and 31 to read as follows:

3 29. Review the rates of any public utility on an annual basis,  
4 provided however that upon a determination by the commission that the  
5 public interest does not require such annual rate review, a review of  
6 rates may be undertaken at no more than three year intervals.

7 30. (a) Use the fullest extent of its powers to regulate the distrib-  
8 ution of retail electric energy to retail customers in the state and, to  
9 the extent not prohibited by federal law, the transmission of electric  
10 energy in the state.

11 (b) A market clearing price mechanism for the purchase of power shall  
12 be forbidden for purchases made through the wholesale market via a bid  
13 procurement or auction process held by the independent system operator  
14 ("ISO") of New York, or any successor in law and function to such enti-  
15 ty.

16 (c) Such auction or bid procurement process shall be overseen by the  
17 commission, which shall require a descending clock, pay-as-bid auction  
18 in which bid amounts will continue to fall until no bidder is willing to  
19 supply electricity at a lower price. For the purposes of this article  
20 "descending clock auction" shall be defined as an auction in which the  
21 prices drop throughout an auction of time-limited duration; starting  
22 high and being reduced gradually until the supply bid is just sufficient  
23 to meet the electrical load to be procured. Prices that tick down in a  
24 round decrease by a decrement; which is a given percentage of the previ-

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

LBD07504-01-7

1 ous price. Bidders holding the final bids when the auction closes are  
2 the winners.

3 (d) Bidders will be forbidden from knowing when the amount of elec-  
4 tricity supply fills requirements.

5 (e) The commission shall appoint an independent market advisor to  
6 review market practices and behavior; that will recommend to the ISO  
7 actions that can be taken to mitigate or correct behavior by market  
8 participants that was reasonably calculated to, or had the effect of  
9 affecting the function of the auction process so that the winning bidder  
10 was not the lowest price bidder.

11 (f) Utilities may buy power from markets other than the ISO, or via  
12 contracts with individuals or groups of generating entities, provided  
13 that such electrical energy must be offered to customers at just and  
14 reasonable rates.

15 31. (a) The commission shall exercise its full jurisdiction over the  
16 ISO of New York.

17 (b) The commission shall regulate the reliability, quality and mainte-  
18 nance by transmitters and distributors of their transmission and retail  
19 distribution systems.

20 (c) The commission shall regulate the reliability, quality, mainte-  
21 nance, and price of generators.

22 (d) The commission shall not require any incumbent electric utility to  
23 divest itself of any generation, transmission or distribution assets  
24 pursuant to any provision of this chapter without specific authorizing  
25 legislation for such purpose.

26 (e) The commission shall develop codes of conduct governing the  
27 conduct of incumbent electric utilities and affiliates thereof when any  
28 such affiliates provide, or control any entity that provides, gener-  
29 ation, distribution, or transmission services to the extent necessary to  
30 prevent impairment of competition. Nothing in this chapter shall prevent  
31 an incumbent electric utility from offering metering options to its  
32 customers.

33 § 2. This act shall take effect immediately.