

# STATE OF NEW YORK

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## IN SENATE

April 25, 2018

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Introduced by Sen. GRIFFO -- 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 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  
23 of an electric corporation who owns, leases or operates micro-combined  
24 heat and power generating equipment located on the customer's premises;  
25 (v) a residential customer of an electric corporation who owns, leases

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

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

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

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

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

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

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

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

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

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

53 (v) fueled by biogas generated by anaerobic digestion with at least  
54 fifty percent by weight of its feedstock being livestock manure materi-  
55 als 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** percent of the corporation's electric demand for the year two thousand five, as determined by the department.

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

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

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

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

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

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

(III) In lieu of its previously effective net energy metering contracts and schedules, each electric corporation shall make the contracts and schedules approved by the commission pursuant to this paragraph available to all customer-generators within its service area

1 seeking to contract with the electric corporation after such approval by  
2 the commission. The limitation on net energy metering contracts set  
3 forth in subparagraph (iii) of this paragraph shall not apply to value  
4 of distributed energy resources contracts.

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

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

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

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

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