STATE OF NEW YORK

941--A

2017-2018 Regular Sessions

IN SENATE

January 5, 2017

Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to the "renewable energy credit opportunity and exchange protection act" establishing the rights of consumers and businesses to own and trade renewable energy credits

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

Section 1. This act shall be known and may be cited as the "renewable energy credit opportunity and exchange protection act".

§ 2. The public service law is amended by adding a new section 66-o to read as follows:

§ 66-o. Renewable energy credit opportunity and exchange protection act. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Attribute" has the meaning given such term in the operating rules, as the same may be amended and revised, and includes the environmental attributes;

(b) "Renewable energy credit", "renewable energy certificate", "renewable generation attribute certificate", or "rec" means a tradable, contractual instrument that represents the full suite of attributes, including all of the environmental attributes, associated with the generation of kilowatt-hours or megawatt-hours of electricity from a renewable energy generation facility;

(c) "Qualified generation attribute tracking system" means:

(i) ERCOT: electric reliability council of Texas;

(ii) MIRECS: Michigan renewable energy certification system;

(iii) M-RETS: Midwest renewable energy tracking system;

(iv) NAR: North American renewables registry;

(v) NC-RETS: North Carolina renewable energy tracking system;

(vi) NEPOOL-GIS: New England power pool generation information system;

(vii) NYGATS: New York generation attribute tracking system;

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

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(viii) NVTREC: Nevada tracks renewable energy credits;
(ix) PJM-GATS: PJM EIS'S generation attribute tracking system;
(x) WREGIS: Western renewable energy generation information system; or
(xi) any other attribute tracking system approved for use by the authority;
(d) "Renewable energy generation facility" means an electric generating facility that produces or generates electricity from a recognized renewable fuel type under the operating rules, and shall include renewable energy generation facilities paired with storage;
(e) "Renewable energy generator" means the owner of a renewable energy generation facility;
(f) "REC owner" means the renewable energy generator or person or entity to whom the renewable energy generator transfers and assigns the right to its recs within a qualified generation attribute tracking system. The authority or an electric corporation can be a "REC owner" upon the transfer and assignment by the renewable energy generator;
(g) "Authority" means the New York state energy research and development authority;
(h) "Commission" means the New York state public service commission; and
(i) "Operating rules" means the New York generation attribute tracking system operating rules issued by the authority, as the same may be amended or revised.
2. Renewable energy generator's rights to renewable energy credits. (a) Notwithstanding any other provision of law or claims of the authority or the commission to the contrary, a renewable energy generator shall have full rights of ownership of its recs, including but not limited to the right to register, record, transfer, trade, sell, assign or otherwise dispose of such recs on a nondiscriminatory basis in accordance with the rules of the relevant qualified generation attribute tracking system(s). Neither the authority nor the commission shall make any claims to RECs in contradiction of this section, and any rulings, orders, guidance, or other claims of the authority or the commission inconsistent with this section, whether issued prior to or after the effective date of this section, shall be void.
(b) Neither the authority, the commission, nor any electric corporation shall make any claims to a renewable energy generation facility's RECs, or deny a renewable energy generator the rights and benefits under this law, based on: (i) a renewable energy generator's receipt of funds or payments from the authority, or federal or state tax incentives; or (ii) participation in net metering under sections sixty-six-j and sixty-six-l of this article, as the same may be amended or superseded, or any similar or successor mechanism that results in compensation to the renewable energy generation facility or its owner or customers from an electric corporation.
3. Registration, recording, tracking and transferring renewable energy credits. (a) Any generation attribute tracking system established in New York state, whether under section eighteen hundred fifty-four of the public authorities law or otherwise, shall permit rec owners to register, record, transfer, trade, sell and assign their renewable energy credits on a nondiscriminatory basis in such system.
(b) The commission and the authority shall issue any necessary rulings or orders clarifying the rights of REC owners as outlined in this section no later than thirty days after the effective date of this section.

§ 3. This act shall take effect immediately.