

# STATE OF NEW YORK

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1225--A

Cal. No. 173

2017-2018 Regular Sessions

## IN SENATE

January 6, 2017

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Introduced by Sens. GRIFFO, CARLUCCI, CROCI, FUNKE, LITTLE, RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public service law, in relation to establishing the New York state clean energy tech production 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 § 66-o. New York state clean energy tech production program. 1. The  
4 commission shall, within forty-five days of the effective date of this  
5 section, commence a proceeding to establish a self-directed program for  
6 its industrial, commercial and large energy users, in order to stimulate  
7 the growth and adoption of more efficient use of energy, greater use of  
8 advanced energy management products, deeper penetration of renewable  
9 energy resources such as wind, solar, geothermal, renewable biomass or  
10 biogas and anaerobic digestion, wider deployment of "distributed" energy  
11 resources, such as micro grids, roof-top solar, fuel cells and other  
12 on-site power supplies, and energy storage.

13 2. The commission, in collaboration with the utilities and large  
14 industrial customers, shall develop, oversee and issue guidelines estab-  
15 lishing rules and principles for the self-directed program which shall  
16 include the following elements:

17 (a) A program structure that allows industrial, commercial and large  
18 users to treat their existing and future clean energy surcharges;  
19 including, but not limited to, surcharges to support the clean energy  
20 fund, the system benefits charge, the renewable portfolio standard, the

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

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1 energy efficiency portfolio standard and energy efficiency transition  
2 implementation plans as dedicated funds for energy efficiency, greater  
3 use of advanced energy management products, deeper penetration of renew-  
4 able energy resources such as wind, solar, geothermal, and anaerobic  
5 digestion, wider deployment of "distributed" energy resources, such as  
6 micro grids, roof-top solar, fuel cells and other on-site power  
7 supplies, and energy storage through an energy savings account.

8 (b) The self-directed program shall be available to all individual  
9 customers with a thirty-six month average demand of two megawatts or  
10 greater as well as customers with an aggregated thirty-six month average  
11 demand of four megawatts or greater as long as one or more of the  
12 accounts being aggregated by the customer has at least a thirty-six  
13 month average demand of one megawatt.

14 (c) A mechanism to recoup paid funds from self-directed customers if  
15 it is determined that funds contained in the energy savings account were  
16 utilized erroneously or if planned energy efficiency or other projects  
17 permitted herein did not actually occur.

18 (d) A requirement that after seven years any unused surcharges  
19 contained in the energy saving account shall be made available for  
20 original purposes of the surcharge.

21 (e) A requirement to collect and establish self-directed customers'  
22 baseline energy use data.

23 (f) A method to measure and verify all claimed energy objectives,  
24 using the same standards for data collection as other existing and  
25 future clean energy surcharges.

26 (g) Offering self-directed customers multi-year time frames greater  
27 than thirty-five months in which to expend aggregated energy efficiency  
28 fees.

29 (h) A means to calculate energy optimization established by the  
30 commission and based on annual electricity usage, provided that:

31 (1) annual electricity usage shall be normalized so that neither of  
32 the following are included in the calculation of the percentage of  
33 incremental energy savings: (i) changes in electricity usage because of  
34 changes in business activity levels not attributable to energy optimiza-  
35 tion; (ii) changes in electricity usage because of the installation,  
36 operation, or testing of pollution control equipment.

37 (2) savings may also be calculated on the average number of megawatt  
38 hours of electricity sold by the electric provider annually during the  
39 previous three years to retail customers in this state.

40 (i) The self-directed customer must develop a self-directed optimiza-  
41 tion plan. Such plan shall outline how the customer intends to achieve  
42 the goals of the self-directed program.

43 (j) A customer implementing a self-directed energy optimization plan  
44 shall provide a brief report biannually documenting the measures taken  
45 to meet the goals of the self-directed program. The report shall provide  
46 sufficient information for the utilities and the commission to monitor  
47 progress toward the goals in the self-directed plan and to develop reli-  
48 able estimates of the energy savings, renewable power generated and/or  
49 the deployment of distributed energy resources that are being achieved  
50 from self-directed plans.

51 (k) Participants will have the opportunity to self-direct all of their  
52 own contributions otherwise recovered through surcharges to qualifying  
53 projects, provided, however, that a portion of the contributions, equal  
54 to no more than one percent, is allocated to support program adminis-  
55 tration and evaluation, measurement and verification.

1 (l) A mechanism to provide that measures taken by self-directed  
2 customers, to meet the goals of the self-directed program, should be  
3 accredited to the appropriate program goals of the utility and/or load  
4 serving entity of the self-directed customer. Nothing contained in this  
5 section shall be construed as transferring the obligations of one  
6 customer class to another customer class.

7 (m) A requirement that self-direct customers match seven and one-half  
8 percent of self-directed energy optimization plan total costs provided  
9 such matching contribution may be in the form of a financial and/or in  
10 kind contribution.

11 3. The commission shall provide an annual report on or before the  
12 first day of January to the governor, the temporary president of the  
13 senate, the speaker of the assembly, the minority leader of the senate  
14 and the minority leader of the assembly, on the clean energy tech  
15 production program.

16 § 2. This act shall take effect immediately.