

STATE OF NEW YORK

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2019-2020 Regular Sessions

IN ASSEMBLY

February 1, 2019

Introduced by M. of A. ENGLEBRIGHT, CUSICK, CARROLL, SANTABARBARA, BARRON, HUNTER, GOTTFRIED, ORTIZ, COLTON, ARROYO, LIFTON, ABINANTI, JAFFEE, LUPARDO, DAVILA, MOSLEY, SEAWRIGHT, SIMON, WILLIAMS, HYNDMAN, NIOU, D'URSO, WOERNER, DICKENS, GALEF, STIRPE, L. ROSENTHAL, MAGNARELLI, WALLACE, STECK, WEPRIN, PEOPLES-STOKES, GLICK -- Multi-Sponsored by -- M. of A. BUCHWALD, COOK, M. L. MILLER, 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

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

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term is defined in subdivision eleven of section three hundred one of the agriculture and markets law; (iii) a non-residential customer of an electric corporation which owns or operates solar electric generating equipment located and used at its premises; (iv) a residential customer of an electric corporation who owns, leases or operates micro-combined heat and power generating equipment located on the customer's premises; (v) a residential customer of an electric corporation who owns, leases or operates fuel cell generating equipment located on the customer's premises; and (vi) a non-residential customer of an electric corporation who owns, leases or operates fuel cell generating equipment located and used at the customer's premises; (vii) a residential customer of an electric corporation, who owns or operates micro-hydroelectric generating equipment located and used at his or her residence; (viii) a non-residential customer of an electric corporation which owns or operates micro-hydroelectric generating equipment located and used at its premises; and (ix) a non-residential customer of an electric corporation which owns or operates farm waste electric generating equipment located and used at its premises.

Customer-generators also include all residential and non-residential customers eligible to receive credits from remote net-metered and community distributed generating equipment as defined in paragraph (e) of subdivision three of this section and the commission's orders for implementing a community net metering program.

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

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

(d) "Solar electric generating equipment" means a photovoltaic system (i) (A) in the case of a residential customer (other than a farm utilizing a residential meter), with a rated capacity of not more than twenty-five kilowatts; (B) in the case of a customer who owns or operates a farm operation as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law utilizing a residential meter with a rated capacity of not more than one hundred kilowatts; and (C) 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.

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

(i) manufactured, installed, and operated in accordance with applicable government and industry standards;

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

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

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

1 equipment, fuel cell electric generating equipment and micro-hydroelec-
2 tric generating equipment owned, leased or operated by customer-genera-
3 tors in the corporation's service area is equivalent to [~~one~~] twelve
4 percent of the corporation's electric demand for the year two thousand
5 five, as determined by the department.

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

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

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

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

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

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

1 render a decision within three months of the date on which the contract
2 and schedule are filed.

3 (III) In lieu of its previously effective net energy metering
4 contracts and schedules, each electric corporation shall make the
5 contracts and schedules approved by the commission pursuant to this
6 paragraph available to all customer-generators within its service area
7 seeking to contract with the electric corporation after such approval by
8 the commission. The limitation on net energy metering contracts set
9 forth in subparagraph (iii) of this paragraph shall not apply to value
10 of distributed energy resources contracts.

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

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

20 (b) Nothing in this subdivision shall prohibit a corporation from
21 providing net energy metering to additional customer-generators. The
22 commission shall have the authority, after January first, two thousand
23 [~~twelve~~] twenty, to increase the percent limits established by subpara-
24 graph (iii) of paragraph (a) of this subdivision if it determines that
25 additional net energy metering is in the public interest.

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

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