

# STATE OF NEW YORK

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452

2019-2020 Regular Sessions

## IN SENATE

(Prefiled)

January 9, 2019

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Introduced by Sens. HELMING, FUNKE, GALLIVAN, GRIFFO, RITCHIE -- 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 setting the rate of credit per kilowatt hour for farm waste generating equipment customer-generators, which includes the anaerobic digestion of agricultural waste

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

1 Section 1. Legislative Intent. It is the intent of this Legislature  
2 to support the ongoing financial viability of farm waste generating  
3 equipment customer-generators--more commonly known as anaerobic diges-  
4 ters--in New York state. Anaerobic digesters located on New York dairy  
5 farms create critical environmental attributes including, but not limit-  
6 ed to, reducing methane gas releases and abating nutrient contamination  
7 of nearby water sources. The Legislature also recognizes that legacy  
8 anaerobic digesters are not financially viable under the current compen-  
9 sation methodology; as such, legacy anaerobic digesters are at risk of  
10 closure. Any closures would undo the significant financial investment  
11 made by the state of New York to install anaerobic digesters under the  
12 Clean Energy Fund program. Closures would also put New York behind on  
13 meeting greenhouse gas emission reduction goals as set forth under the  
14 State Energy Plan, and behind on developing a clean, distributed grid.  
15 While the New York state Public Service Commission has initiated a  
16 proceeding to transition to a compensation methodology based on the  
17 value of distributed energy resources, the implementation of the new  
18 methodology will not address the immediate financial need of existing,  
19 or legacy, anaerobic digesters, or new digesters installed prior to the  
20 finalization of a meaningful value stack methodology that includes envi-

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

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1 ronmental values attributed to the avoided use of electricity generated  
2 by fossil fuels and the reduction of on-site greenhouse gas emissions.

3 The Legislature hereby determines that the public interest requires an  
4 increase in the rate of compensation for customer-generators operating  
5 legacy anaerobic digesters, and new digesters installed prior to the  
6 finalization of a meaningful value stack methodology, which will apply  
7 to credit calculations for the customer-generators' bills following  
8 implementation of this legislation.

9 § 2. Paragraph (b) of subdivision 4 of section 66-j of the public  
10 service law, as amended by chapter 494 of the laws of 2014, is amended  
11 to read as follows:

12 (b) In the event that the amount of electricity produced by a custom-  
13 er-generator during the billing period exceeds the amount of electricity  
14 used by the customer-generator, the corporation shall apply a credit to  
15 the next bill for service to the customer-generator for the net elec-  
16 tricity provided at the same rate per kilowatt hour applicable to  
17 service provided to other customers in the same service class which do  
18 not generate electricity onsite, except for micro-combined heat and  
19 power or fuel cell customer-generators [~~or farm waste generating equip-  
20 ment customer generators as described in subparagraph (ix) of paragraph  
21 (a) of subdivision one of this section~~], who will be credited at the  
22 corporation's avoided costs; provided, however, that in the case of farm  
23 waste generating equipment customer-generators, the corporation shall  
24 apply a credit to the next bill at a rate of no less than twelve cents  
25 per kilowatt hour. The avoided cost credit provided to micro-combined  
26 heat and power or fuel cell customer-generators [~~or farm waste generat-  
27 ing equipment customer generators as described in subparagraph (ix) of  
28 paragraph (a) of subdivision one of this section~~] shall be treated for  
29 ratemaking purposes as a purchase of electricity in the market that is  
30 includable in commodity costs.

31 § 3. This act shall take effect immediately.