

# STATE OF NEW YORK

5255

2021-2022 Regular Sessions

## IN ASSEMBLY

February 12, 2021

Introduced by M. of A. WALKER, CUSICK -- read once and referred to the Committee on Energy

AN ACT to amend the public service law and the public authorities law, in relation to establishing a clean and resilient energy 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-q to read as follows:

3 § 66-q. Clean and resilient energy program. 1. As used in this  
4 section:

5 (a) "Clean and resilient behind the meter distributed energy resource  
6 project" means an electricity generating system located behind a custom-  
7 er meter in the state that is configured to provide uninterrupted elec-  
8 tric service to a customer throughout an extended outage of the elec-  
9 tricity distribution system, and which:

10 (i) (1) generates electricity without producing greenhouse gases or  
11 local combustion related pollutants; or

12 (2) generates electricity or electricity and thermal energy via a  
13 non-combustion process at an annual average efficiency of no less than  
14 fifty-five percent measured on a lower heating value basis; or

15 (3) generates electricity and thermal energy at an annual average  
16 efficiency of no less than seventy percent measured on a lower heating  
17 value basis and reduces the local combustion related air pollutant  
18 oxides of nitrogen by at least fifty percent in comparison to the most  
19 recent annual average marginal emission factors, accounting for line  
20 losses, for the New York independent system operator zone in which the  
21 project is located at the time of interconnection; and

22 (ii) is located at a community continuity asset or within the bounda-  
23 ries of an existing or planned microgrid.

24 (b) "Community continuity asset" means a public or private entity that  
25 provides critical services to the public during an outage of the elec-

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

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1 tric distribution system. Community continuity assets shall include, but  
2 are not limited to: telecommunications providers, large retail stores,  
3 supermarkets, government agencies, data centers, transportation systems,  
4 financial institutions, gas stations, educational institutions, health  
5 care providers, large multi-family residential housing, community  
6 centers, and other customers deemed by the commission to provide a crit-  
7 ical service to the public that would promote or enhance health and  
8 safety during an outage of the electric distribution system.

9 (c) "Extended outage" means an outage of the electric distribution  
10 system that continues for a period of twenty-four hours or longer.

11 (d) "Uninterrupted" means that the output of the system is delivered  
12 to the end-use customer throughout an extended electric distribution  
13 system outage, with the exception of momentary interruptions associated  
14 with transitions to and from grid parallel and grid islanded operations.

15 (e) "Microgrid" means a load or group of interconnected loads and  
16 distributed energy resources within clearly defined electrical bounda-  
17 ries that acts as a single controllable entity with respect to the grid.  
18 A microgrid can connect and disconnect from the grid to enable it to  
19 operate in both grid-connected or island-mode.

20 2. Within one hundred eighty days of the effective date of this  
21 section, the commission shall modify the clean energy fund investment  
22 plan to allocate no less than five percent of annual clean energy fund  
23 expenditures to encourage the development of clean and resilient behind  
24 the meter distributed energy resource projects. The program modifica-  
25 tions shall require:

26 (a) administration by the New York state energy research and develop-  
27 ment authority;

28 (b) planned annual expenditures that amount to no less than five  
29 percent of overall annual clean energy fund expenditures commencing in  
30 calendar year two thousand twenty-two and sustained each year through  
31 calendar year two thousand twenty-six;

32 (c) incentive structures that maximize cost-effectiveness and practi-  
33 cality through competitive procurements, standing-offers, or production  
34 incentives;

35 (d) annual reports on the achievements and effectiveness of the  
36 program; and

37 (e) any other requirements deemed appropriate by the commission to  
38 effectuate the purposes of this section.

39 § 2. Section 1020-ll of the public authorities law, as renumbered by  
40 chapter 520 of the laws of 2018, is renumbered section 1020-zz.

41 § 3. Sections 1020-jj, 1020-kk and 1020-ll of the public authorities  
42 law, sections 1020-jj and 1020-kk as renumbered by chapter 520 of the  
43 laws of 2018 and section 1020-ll as renumbered by chapter 415 of the  
44 laws of 2017, are renumbered sections 1020-ww, 1020-xx, and 1020-yy and  
45 a new section 1020-jj is added to read as follows:

46 § 1020-jj. Clean and resilient energy initiative. 1. As used in this  
47 section:

48 (a) "Clean and resilient behind the meter distributed energy resource  
49 project" means an electricity generating system located behind a custom-  
50 er meter that is configured to provide uninterrupted electric service to  
51 a customer throughout an extended outage of the electric distribution  
52 system, and which:

53 (i) (1) generates electricity without producing greenhouse gases or  
54 local combustion related pollutants; or

1 (2) generates electricity or electricity and thermal energy via a  
2 non-combustion process at an annual average efficiency of no less than  
3 fifty-five percent measured on a lower heating value basis; or

4 (3) generates electricity and thermal energy at an annual average  
5 efficiency of no less than seventy percent measured on a lower heating  
6 value basis and reduces the local combustion related air pollutant  
7 oxides of nitrogen by at least fifty percent in comparison to the most  
8 recent annual average marginal emission factors, accounting for line  
9 losses, for the New York independent system operator zone in which the  
10 project is located at the time of interconnection; and

11 (ii) is located at a community continuity asset or within the bounda-  
12 ries of an existing or planned microgrid.

13 (b) "Community continuity asset" means a public or private entity that  
14 provides critical services to the public during an outage of the elec-  
15 tric distribution system. Community continuity assets shall include,  
16 but are not limited to: telecommunications providers, large retail  
17 stores, supermarkets, government agencies, data centers, transportation  
18 systems, financial institutions, gas stations, educational institutions,  
19 health care providers, large multi-family residential housing, community  
20 centers, and other customers deemed by the authority to provide a crit-  
21 ical service to the public that would promote or enhance health and  
22 safety during an outage of the electric distribution system.

23 (c) "Extended outage" means an outage of the electric distribution  
24 system that continues for a period of twenty-four hours or longer.

25 (d) "Uninterrupted" means that the output of the system is delivered  
26 to the end-use customer throughout an electric distribution system  
27 outage, with the exception of momentary interruptions associated with  
28 transitions to and from grid parallel and grid islanded operations.

29 (e) "Microgrid" means a load or group of interconnected loads and  
30 distributed energy resources within clearly defined electrical bounda-  
31 ries that acts as a single controllable entity with respect to the grid.  
32 A microgrid can connect and disconnect from the grid to enable it to  
33 operate in both grid-connected or island-mode.

34 2. Within one hundred eighty days of the effective date of this  
35 section, the authority shall modify its existing programs that encourage  
36 the development of clean and resilient behind the meter distributed  
37 energy resource projects. The authority shall consult with the New York  
38 state public service commission and the New York state energy research  
39 and development authority in the design and implementation of such  
40 program. The projects shall require:

41 (a) planned annual expenditures that amount to no less than fifteen  
42 million dollars commencing in calendar year two thousand twenty-two and  
43 sustained each year through calendar year two thousand twenty-six;

44 (b) incentive structures that maximize cost-effectiveness and practi-  
45 cality through competitive procurements, standing-offers, or production  
46 incentives;

47 (c) annual reports on the achievements and effectiveness of the  
48 program; and

49 (d) any other requirements deemed appropriate by the authority to  
50 effectuate the purposes of this section.

51 § 4. This act shall take effect immediately.