

# STATE OF NEW YORK

3266

2023-2024 Regular Sessions

## IN ASSEMBLY

February 2, 2023

Introduced by M. of A. O'DONNELL -- read once and referred to the  
Committee on Energy

AN ACT to amend the public service law, in relation to shared renewable  
energy facilities

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

1 Section 1. The public service law is amended by adding a new section  
2 66-u to read as follows:

3 § 66-u. Shared renewable energy facilities. 1. Definitions. As used in  
4 this section, the following terms shall have the following meanings:

5 (a) "Shared renewable energy facility" means renewable energy technol-  
6 ogy that is owned or developed by an entity other than a public authori-  
7 ty or an electric distribution company and that is manufactured,  
8 installed, and operated in accordance with applicable government and  
9 industry standards; that is connected to the electric system and oper-  
10 ated in conjunction with an electric corporation's transmission and  
11 distribution facilities; that is operated in compliance with any stand-  
12 ards and requirements established under this section; and where elec-  
13 tricity generated by the facility is credited to the subscribers of the  
14 facility. A shared renewable energy facility:

15 (i) shall utilize one of the following renewable energy technologies  
16 as defined by sections sixty-six-j and sixty-six-l of this article: (A)  
17 solar electric generating equipment; (B) farm waste electric generating  
18 equipment; (C) fuel cell electric generating equipment; (D) micro-hy-  
19 droelectric generating equipment; and (E) wind electric generating  
20 equipment;

21 (ii) shall have at least two subscribers; and

22 (iii) shall have a rated capacity of not more than two thousand kilo-  
23 watts, and the commission shall have the authority to determine maximum  
24 rated capacity thresholds for shared renewable energy facilities based  
25 upon an evaluation and finding of public interest, as determined by a

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

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1 stakeholder process through a proceeding to be established by the  
2 commission, and the attributes of each renewable energy technology.

3 (b) "Subscriber" means a customer of an electric corporation who  
4 subscribes to a shared renewable energy facility and who has identified  
5 an individual meter at any property owned or leased by the customer to  
6 which the subscription shall be attributed. Such meters shall be within  
7 the service territory of the same electric corporation to which the  
8 shared renewable energy facility is interconnected and within the same  
9 load zone of the New York independent system operator as determined by  
10 the locational based marginal price as of the date of the initial  
11 request by the subscriber organization to interconnect the shared renew-  
12 able energy facility.

13 (c) "Subscriber organization" means an organization whose purpose is  
14 to own and operate a shared renewable energy facility for the subscrib-  
15 ers of the shared renewable energy facility. A subscriber organization  
16 may be any for-profit or non-profit entity and shall be permitted by the  
17 state pursuant to section sixty-eight of this chapter if, as determined  
18 by the commission to be in the public interest pursuant to a stakeholder  
19 process through a proceeding to be established by the commission, the  
20 subscriber organization's shared renewable energy facility has a maximum  
21 rated capacity threshold larger than two thousand kilowatts.

22 (i) The subscriber organization shall file with the department of  
23 state articles of incorporation, amendment, consolidation, merger,  
24 conversion, or dissolution, when executed and acknowledged, including  
25 such affidavits as may be required by the department of state. The  
26 secretary of state shall, upon the payment of the fees as specified in  
27 this paragraph, index such articles. Upon the filing of such articles,  
28 the incorporation, amendment, consolidation, merger, conversion, or  
29 dissolution provided for therein shall be in effect. The department of  
30 state shall charge and collect for:

31 (1) Filing articles of incorporation, forty dollars;

32 (2) Filing articles of amendment, twenty-five dollars;

33 (3) Filing articles of consolidation or merger, twenty-five dollars;

34 (4) Filing articles of conversion, twenty-five dollars;

35 (5) Filing certificate of election to dissolve, five dollars;

36 (6) Filing articles of dissolution, five dollars; and

37 (7) Filing certificate of change of principal office, fifteen dollars.

38 (ii) Each subscriber organization shall file with the commission an  
39 annual report, which shall show in detail:

40 (1) The number of its members;

41 (2) The amount of its outstanding indebtedness;

42 (3) Its receipts and expenditures during the preceding year;

43 (4) The amount paid in reduction of its indebtedness and as interest  
44 upon its indebtedness;

45 (5) The names of its officers and the aggregate amount paid as sala-  
46 ries to them and the amount paid as wages to any of its employees; and

47 (6) The location of its plant or plants and system, with a full  
48 description of its property and franchise areas.

49 (d) "Subscriber agreement" means a written agreement identifying each  
50 subscriber of a shared renewable energy facility, which shall include  
51 the name, address, and the electric corporation account number to which  
52 the subscription shall be attributed. The subscriber agreement shall  
53 designate the portion of production from the shared renewable energy  
54 facility allocated to each subscriber for the purposes of calculating  
55 the bill credit to each subscriber. The subscriber agreement shall be

1 filed by the subscriber organization with the electric corporation to  
2 which the shared renewable energy facility is interconnected.

3 (e) "Subscription" means a direct or indirect ownership, lease, or  
4 financial interest in a shared renewable energy facility that enables a  
5 subscriber to receive a bill credit for a retail account with the elec-  
6 tric corporation. Each subscription shall be sized to represent the  
7 energy production from at least one kilowatt of the shared renewable  
8 energy facility's generating capacity provided, however, that the  
9 subscription is sized to produce no more than one hundred percent of the  
10 subscriber's average annual electrical consumption. In sizing the  
11 subscription, a deduction for the amount of any existing renewable ener-  
12 gy generation at the subscriber's premises and any subscriptions by the  
13 subscriber in other shared renewable energy facilities shall be made.

14 (f) "Bill credit" means an amount of money credited each billing peri-  
15 od to an electric account based on a subscription to a shared renewable  
16 energy facility and pursuant to a subscriber agreement and the methodol-  
17 ogy used for calculation of the bill credit as established under this  
18 section.

19 2. Provisions pertaining to shared renewable energy facilities. (a)  
20 The determination of the bill credit available to each subscriber of a  
21 shared renewable energy facility shall be based on each subscriber's  
22 subscription in that shared renewable energy facility.

23 (b) For a shared renewable energy facility, the total amount of elec-  
24 tricity generated and available for allocation to subscribers shall be  
25 determined by a production meter installed and paid for by the subscrib-  
26 er organization that is the owner of the shared renewable energy facili-  
27 ty.

28 3. Provisions pertaining to subscribers, subscriber organizations and  
29 subscriptions. (a) A subscriber organization shall be responsible for  
30 providing to the electric corporation, at the beginning of each billing  
31 cycle, a subscriber agreement statement identifying the portion of  
32 production allocated to each subscriber. Subscriber organizations may  
33 add new subscribers to a subscriber agreement or change the individual  
34 metered accounts to which a subscriber's subscription shall be attri-  
35 buted at the beginning of each billing cycle by providing an updated  
36 subscriber agreement to the electric corporation. If there has been no  
37 change in the allocations from the previous submission, the subscriber  
38 organization is not required to file an updated subscriber agreement.

39 (b) An electric corporation may require that customers participating  
40 in a shared renewable energy facility have their meters read on the same  
41 billing cycle.

42 (c) The dispute resolution procedures available to parties in the  
43 electric corporation's interconnection tariff shall be available for the  
44 purposes of resolving disputes between an electric corporation and  
45 subscribers or their designated representative for disputes involving  
46 the electric corporation's allocation of bill credits to the subscrib-  
47 er's electric account. The electric corporation shall not be responsible  
48 for resolving disputes related to the agreements between a subscriber,  
49 the owner of a shared renewable energy facility that is a subscriber  
50 organization or any other party. This provision shall in no way limit  
51 any other rights the subscriber may have related to an electric corpo-  
52 ration's provision of electric service or other matters as provided by,  
53 but not limited to, tariff, decision of the commission, or statute.

54 (d) The following provisions may apply to a shared renewable energy  
55 facility that has a rated capacity of not more than two thousand kilo-  
56 watts, based upon an evaluation and finding of public interest as deter-

1 mined by a stakeholder process through a proceeding to be established by  
2 the commission:

3 (i) Subscribers shall not be assessed standby charges on the shared  
4 renewable energy facility or the kilowatt-hour generation of such a  
5 shared renewable energy facility.

6 (ii) An electric corporation shall impose no other charge or fee,  
7 including back-up, standby and demand charges, for the provision of a  
8 subscription to such a shared renewable energy facility.

9 4. Bill crediting and collection procedures. (a) The electric corpo-  
10 ration will credit the accounts of the subscribers of the shared renewa-  
11 ble energy facility by applying a bill credit to each metered account  
12 associated with a subscription in accordance with the terms of the  
13 subscriber agreement. The electric corporation shall carry over any bill  
14 credit earned by a subscriber and not used in the current billing period  
15 to offset the subscriber's consumption in subsequent billing periods.  
16 Any such bill credit shall not reduce any fixed monthly customer charges  
17 imposed by the electric corporation.

18 (b) The schedule applicable to a subscriber shall be identical, with  
19 respect to rate structure, all retail rate components, and any monthly  
20 charges, to the charges that the subscriber would be assigned if the  
21 subscriber did not receive a bill credit according to this section.

22 (c) To the extent practicable, electric corporations shall utilize  
23 existing electronic data interchange infrastructure or other existing  
24 billing infrastructure to implement their billing and collection respon-  
25 sibilities under this section.

26 (d) The commission shall ensure full and timely recovery of all  
27 reasonable costs incurred by an electric corporation to implement the  
28 program under this section, including reasonable expenses for changes to  
29 their billing system and handling of collections, and shall determine  
30 the appropriate method of allocating those costs.

31 5. Calculation of bill credits. (a) For subscribers to a shared renew-  
32 able energy facility that are located on the same distribution feeder as  
33 the shared renewable energy facility, the value of the bill credit shall  
34 be calculated by multiplying the subscriber's portion of the kilowatt-  
35 hour electricity production from the shared renewable energy facility by  
36 the retail rate as charged to the subscriber by the electric corpo-  
37 ration;

38 (b) The commission, in consultation with New York state energy  
39 research and development authority, may revise the bill credit calcu-  
40 lation methodology at any time that it concludes that the existing meth-  
41 odology does not provide subscribers with the fair value of electricity  
42 and other benefits produced by shared renewable energy facilities and  
43 that such a revision is in the public interest, as determined by a  
44 stakeholder process through a proceeding to be established by the  
45 commission. Any revision to the bill credit calculation methodology  
46 shall apply to new shared renewable energy facilities interconnected  
47 after the commission adopts a new methodology.

48 6. Conditions of service. (a) An electric corporation shall provide  
49 for the interconnection of shared renewable energy facilities owned or  
50 operated by a subscriber organization, provided the subscriber organiza-  
51 tion has paid or agreed in writing, along with the furnishing of reason-  
52 able security, to pay the electric corporation for the material and  
53 installation costs relating to any portion of a distribution line,  
54 service line and appurtenant facilities that exceeds the portion which  
55 the electric corporation is required to provide without contribution,  
56 which costs shall be defined in the electric corporation's tariff, and

1 that the subscriber organization enters into a contract with the corpo-  
2 ration or complies with the corporation's applicable schedule and  
3 complies with standards and requirements established under this section.

4 (b) On or before three months after the effective date of this  
5 section, each electric corporation shall develop a model contract and  
6 file a schedule that establishes consistent and reasonable rates, terms  
7 and conditions for shared renewable energy facilities, according to the  
8 requirements of this section. The commission shall render a decision  
9 within three months from the date on which the schedule is filed.

10 (c) In the event that the electric corporation determines that it is  
11 necessary to install a dedicated transformer or transformers, or other  
12 equipment to protect the safety and adequacy of electric service  
13 provided to other customers, a subscriber organization shall pay the  
14 electric corporation's actual costs of installing the transformer or  
15 transformers, or other equipment as determined by the electric corpo-  
16 ration subject to review, upon request of such subscriber organization,  
17 by the commission.

18 (d) On or before three months after the effective date of this  
19 section, each electric corporation shall establish standards that are  
20 necessary for shared renewable energy facilities and the interconnection  
21 of shared renewable energy generating equipment to its system and that  
22 the commission shall determine are necessary for safe and adequate  
23 service and further the public policy set forth in this section. Such  
24 standards may include, but shall not be limited to:

25 (i) equipment necessary to isolate automatically the energy generating  
26 equipment from the utility system for voltage and frequency deviations;  
27 and

28 (ii) a manual lockable disconnect switch provided by the subscriber  
29 organization which shall be externally accessible for the purpose of  
30 isolating the energy generating equipment.

31 § 2. This act shall take effect immediately.