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 Assembly, do enact as follows:

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

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

(a) "Shared renewable energy facility" means renewable energy technology that is owned or developed by an entity other than a public authority or an electric distribution company and 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; that is operated in compliance with any standards and requirements established under this section; and where electricity generated by the facility is credited to the subscribers of the facility. A shared renewable energy facility:

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

(ii) shall have at least two subscribers; and

(iii) shall have a rated capacity of not more than two thousand kilowatts, and the commission shall have the authority to determine maximum rated capacity thresholds for shared renewable energy facilities based 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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stakeholder process through a proceeding to be established by the commission, and the attributes of each renewable energy technology.

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

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

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

(1) Filing articles of incorporation, forty dollars;

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

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

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

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

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

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

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

(1) The number of its members;

(2) The amount of its outstanding indebtedness;

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

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

(5) The names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to any of its employees; and

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

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

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

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

(f) "Bill credit" means an amount of money credited each billing period to an electric account based on a subscription to a shared renewable energy facility and pursuant to a subscriber agreement and the methodology used for calculation of the bill credit as established under this section.

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

(b) For a shared renewable energy facility, the total amount of electricity generated and available for allocation to subscribers shall be determined by a production meter installed and paid for by the subscriber organization that is the owner of the shared renewable energy facility.

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

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

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

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

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

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

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

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

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

(c) To the extent practicable, electric corporations shall utilize existing electronic data interchange infrastructure or other existing billing infrastructure to implement their billing and collection responsibilities under this section.

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

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.