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2011-2012 Regular Sessions

I N   S E N A T E

January 14, 2011

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Introduced by Sen. GIANARIS -- 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 the power of the public service commission to require refunds of or reductions in rates for inadequate or interrupted electric or steam service

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 20 of section 66 of the public service law, as  
2     added by chapter 394 of the laws of 1978, is amended to read as follows:  
3     20. (A) Notwithstanding any general or special law, rule or regu-  
4     lation, the commission shall have the power to provide for the refund of  
5     any revenues received by any gas or electric corporation which cause the  
6     corporation to have revenues in the aggregate in excess of its author-  
7     ized rate of return for a period of twelve months. The commission may  
8     initiate a proceeding with respect to such a refund after the conclusion  
9     of any such twelve month period.  
10    (B) NOTWITHSTANDING ANY GENERAL OR SPECIAL LAW, RULE OR REGULATION,  
11    THE COMMISSION SHALL IMPOSE PROMPT, MEANINGFUL RATE REFUNDS OR  
12    REDUCTIONS IN INSTANCES WHERE ELECTRIC CORPORATIONS FAIL TO MEET OBJEC-  
13    TIVELY MEASURED SERVICE QUALITY STANDARDS. SUCH REFUNDS OR REDUCTIONS  
14    SHALL AT A MINIMUM EQUAL FIVE PERCENT OF THE AMOUNT BILLED TO A CUSTOMER  
15    FOR THE PROVISION OF ELECTRIC SERVICE FOR A PERIOD OF TWELVE MONTHS OR  
16    SUCH LONGER PERIOD AS THE COMMISSION MAY PRESCRIBE; PROVIDED, HOWEVER,  
17    THAT THE COMMISSION MAY PRESCRIBE A SCHEDULE SETTING FORTH BOTH MINIMUM  
18    AND MAXIMUM AMOUNTS THAT A CUSTOMER MAY RECEIVE IN REFUNDS OR  
19    REDUCTIONS.  
20    (C) IN ADDITION TO THE PROVISIONS OF PARAGRAPHS (A) AND (B) OF THIS  
21    SUBDIVISION, IN EVERY INSTANCE WHERE ELECTRIC SERVICE IS INTERRUPTED DUE  
22    TO A LOCAL DISTRIBUTION SYSTEM FAILURE LASTING FOR TWELVE HOURS OR MORE  
23    WITHIN A TWENTY-FOUR HOUR PERIOD, THE COMMISSION SHALL REQUIRE AN ELEC-

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

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1 TRIC CORPORATION THAT DISTRIBUTES ELECTRICITY IN A CITY OF ONE MILLION  
2 OR MORE TO (1) REIMBURSE CUSTOMERS FOR DAMAGES TO OR LOSSES OF PROPERTY  
3 INCLUDING, BUT NOT LIMITED TO PERISHABLE FOOD ITEMS AND MEDICATIONS,  
4 ELECTRICAL EQUIPMENT, COMPUTER EQUIPMENT, AIR CONDITIONING EQUIPMENT,  
5 AND OTHER ELECTRONIC EQUIPMENT AND INSTRUMENTS USED BY COMMERCIAL ESTAB-  
6 LISHMENTS OR RESIDENCES; AND (2) PROVIDE APPROPRIATE COMPENSATION TO  
7 THOSE COMMERCIAL CUSTOMERS WHO HAVE LOST BUSINESS AS A RESULT OF THE  
8 SERVICE INTERRUPTION. SUCH COMPENSATION SHALL BE BASED UPON THE AVERAGE  
9 REVENUES EARNED BY THE BUSINESS IN SIMILAR TIME PERIODS, OR, FOR A NEW  
10 BUSINESS, THE AVERAGE REVENUES EARNED BY SIMILAR BUSINESSES IN SIMILAR  
11 TIME PERIODS. THE COMMISSION MAY PRESCRIBE REASONABLE LIMITS ON THE  
12 AMOUNT OF REIMBURSEMENT AND COMPENSATION AVAILABLE TO A CUSTOMER;  
13 PROVIDED THAT SUCH AMOUNTS SHALL NOT BE LESS THAN FIVE HUNDRED DOLLARS  
14 FOR LOSSES OF FOOD AND MEDICATIONS, ONE THOUSAND DOLLARS FOR DAMAGES TO  
15 ELECTRICAL EQUIPMENT AND INSTRUMENTS, AND TEN THOUSAND DOLLARS FOR LOST  
16 BUSINESS. ADDITIONAL REIMBURSEMENT AND COMPENSATION IN ACCORDANCE WITH  
17 THE PRECEDING REQUIREMENTS SHALL BE PROVIDED TO EACH CUSTOMER WHO  
18 REMAINS WITHOUT ELECTRICITY FOR EACH ADDITIONAL FORTY-EIGHT HOUR PERIOD  
19 THAT THE SERVICE INTERRUPTION CONTINUES. FOR THE PURPOSES OF THIS PARA-  
20 GRAPH, INTERRUPTION OF ELECTRIC SERVICE SHALL BE DEEMED TO INCLUDE  
21 REDUCTIONS IN VOLTAGE THAT DAMAGE ELECTRIC EQUIPMENT OR RENDER IT FUNC-  
22 TIONALLY INOPERABLE. THE COMMISSION MAY PROVIDE FOR REASONABLE LIMITA-  
23 TIONS ON THE AGGREGATE AMOUNT OF REIMBURSEMENTS AND COMPENSATION,  
24 PROVIDED THAT ANY SUCH LIMITATIONS SHALL TAKE INTO CONSIDERATION THE  
25 DURATION OF THE INTERRUPTION AND ITS IMPACT ON RESIDENTIAL AND COMMER-  
26 CIAL CUSTOMERS.

27 S 2. Section 80 of the public service law is amended by adding a new  
28 subdivision 13 to read as follows:

29 13. NOTWITHSTANDING ANY GENERAL OR SPECIAL LAW, RULE OR REGULATION,  
30 HAVE POWER TO IMPOSE PROMPT, MEANINGFUL RATE REFUNDS OR REDUCTIONS IN  
31 INSTANCES WHERE STEAM CORPORATIONS FAIL TO MEET OBJECTIVELY MEASURED  
32 SERVICE QUALITY STANDARDS. SUCH REFUNDS OR REDUCTIONS SHALL AT A MINIMUM  
33 EQUAL FIVE PERCENT OF THE AMOUNT BILLED TO A CUSTOMER FOR THE PROVISION  
34 OF SERVICE FOR A PERIOD OF TWELVE MONTHS OR SUCH LONGER PERIOD AS THE  
35 COMMISSION MAY PRESCRIBE; PROVIDED, HOWEVER, THAT THE COMMISSION MAY  
36 PRESCRIBE A SCHEDULE SETTING FORTH BOTH MINIMUM AND MAXIMUM AMOUNTS THAT  
37 A CUSTOMER MAY RECEIVE IN REFUNDS OR REDUCTIONS. IN ADDITION, IN EVERY  
38 INSTANCE WHERE SERVICE IS INTERRUPTED FOR A PERIOD OF FORTY-EIGHT HOURS  
39 OR SUCH LESSER PERIOD AS THE COMMISSION MAY DETERMINE, THE COMMISSION  
40 SHALL REQUIRE A STEAM CORPORATION THAT PROVIDES SERVICE IN A CITY OF ONE  
41 MILLION OR MORE TO REIMBURSE CUSTOMERS FOR DAMAGES TO OR LOSSES OF PROP-  
42 erty AND TO PROVIDE APPROPRIATE COMPENSATION TO THOSE COMMERCIAL CUSTOM-  
43 ers WHO HAVE LOST BUSINESS AS A RESULT OF THE SERVICE INTERRUPTION. SUCH  
44 COMPENSATION SHALL BE BASED UPON THE AVERAGE REVENUES EARNED BY THE  
45 BUSINESS IN SIMILAR TIME PERIODS, OR, FOR A NEW BUSINESS, THE AVERAGE  
46 REVENUES EARNED BY SIMILAR BUSINESSES IN SIMILAR TIME PERIODS. THE  
47 COMMISSION MAY PRESCRIBE REASONABLE LIMITS ON THE AMOUNT OF REIMBURSE-  
48 MENT AND COMPENSATION AVAILABLE TO A CUSTOMER; PROVIDED THAT SUCH  
49 AMOUNTS SHALL NOT BE LESS THAN FIVE HUNDRED DOLLARS FOR LOSSES OF PROP-  
50 erty AND TEN THOUSAND DOLLARS FOR LOST BUSINESS. ADDITIONAL REIMBURSE-  
51 MENT AND COMPENSATION IN ACCORDANCE WITH THE PRECEDING REQUIREMENTS  
52 SHALL BE PROVIDED TO EACH CUSTOMER WHO REMAINS WITHOUT SERVICE FOR EACH  
53 ADDITIONAL FORTY-EIGHT HOUR PERIOD, OR LESSER PERIOD AS DETERMINED BY  
54 THE COMMISSION, THAT THE SERVICE INTERRUPTION CONTINUES. THE COMMISSION  
55 MAY PROVIDE FOR REASONABLE LIMITATIONS ON THE AGGREGATE AMOUNT OF  
56 REIMBURSEMENTS AND COMPENSATION, PROVIDED THAT ANY SUCH LIMITATIONS

1 SHALL TAKE INTO CONSIDERATION THE DURATION OF THE INTERRUPTION AND ITS  
2 IMPACT ON RESIDENTIAL AND COMMERCIAL CUSTOMERS.

3 S 3. On or before April 1, 2012, the public service commission shall  
4 review its existing policies and shall report to the governor, speaker  
5 of the assembly, the temporary president of the senate, the chair of the  
6 senate finance committee, the chair of the assembly ways and means  
7 committee, the chair of the assembly energy committee and the chair of  
8 the senate energy and telecommunications committee on whether additional  
9 legislation, regulations or other actions are needed to ensure that  
10 electric and steam corporations adequately reimburse and compensate  
11 their customers for losses due to service interruptions and other fail-  
12 ures to provide safe and adequate service as required by the public  
13 service law.

14 S 4. This act shall take effect on the one hundred eightieth day after  
15 it shall have become a law. Provided, that the public service commission  
16 is immediately authorized and directed to take any and all actions,  
17 including but not limited to the promulgation of any necessary rules and  
18 the review of reimbursement and compensation policies, necessary to  
19 fully implement the provisions of this act on its effective date.