

STATE OF NEW YORK

438

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to requiring comparison of prices charged by energy services companies

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

1 Section 1. Subdivisions 9, 10, 11 and 12 of section 349-d of the
2 general business law, subdivision 9 as amended by section 34 of part A
3 of chapter 62 of the laws of 2011 and subdivisions 10, 11 and 12 as
4 added by chapter 416 of the laws of 2010, are amended to read as
5 follows:

6 9. The first page of each billing statement from an ESCO delivered to
7 the customer, either by the ESCO directly or by a utility corporation,
8 by a municipality or by any other method, shall include a side-by-side
9 comparison showing both the price charged by the ESCO for commodity and
10 delivery service during the prior billing period, and the price the
11 customer would have paid had they taken commodity and delivery service
12 from their local utility corporation or municipality, as applicable.
13 Such statement shall also include, separately and apart from the price
14 charged by the ESCO for commodity and delivery service, an itemized list
15 of prices charged by the ESCO for any energy-related value-added
16 products provided by the ESCO during the prior billing period.

17 10. Every twelve months, an ESCO shall provide each of its customers
18 with a statement comparing the price charged by the ESCO for commodity
19 and delivery services and other energy-related value-added products over
20 the prior twelve-month period with the price such customer would have
21 paid had they taken commodity and delivery service from their local
22 utility corporation or municipality, as applicable, for such period.
23 Such statement shall convey such information in a manner that unambig-

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

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1 uously conveys whether the customer is saving money or paying a premium
2 for service from the ESCO over such period.

3 11. The attorney general, upon his or her own motion or upon referral
4 from the public service commission, the Long Island power authority or
5 the department of state, may bring a civil action against any energy
6 services company that violates any provision of this section and may
7 recover (a) a civil penalty not to exceed one thousand dollars per
8 violation; and (b) costs and reasonable attorney's fees. In any such
9 proceeding the court may direct restitution.

10 ~~[10-]~~ 12. In addition to the right of action granted to the attorney
11 general pursuant to this section, any person who has been injured by
12 reason of any violation of this section may bring an action in his or
13 her own name to enjoin such unlawful act or practice, an action to
14 recover his or her actual damages or five hundred dollars, whichever is
15 greater, or both such actions. The court may, in its discretion,
16 increase the award of damages to an amount not to exceed three times the
17 actual damages up to ten thousand dollars, if the court finds the
18 defendant willfully or knowingly violated this section. The court may
19 award reasonable attorney's fees to a prevailing plaintiff.

20 ~~[11-]~~ 13. Nothing in this section shall be deemed to limit any author-
21 ity of the public service commission or the Long Island power authority,
22 which existed before the effective date of this section, to limit,
23 suspend or revoke the eligibility of an energy services company to sell
24 or offer for sale any energy services for violation of any provision of
25 law, rule, regulation or policy enforceable by such commission or
26 authority.

27 ~~[12-]~~ 14. Nothing in this section shall be deemed to limit any author-
28 ity of the public service commission or the Long Island power authority,
29 which existed before the effective date of this section, to adopt addi-
30 tional guidelines, practices, policies, rules or regulations relating to
31 the marketing practices of energy services companies to residential and
32 commercial customers, whether in person (including door to door), or by
33 mail, telephone or other electronic means, that are not inconsistent
34 with the provisions of this section.

35 § 2. This act shall take effect on the one hundred eightieth day after
36 it shall have become a law. Effective immediately, the addition, amend-
37 ment and/or repeal of any rule or regulation necessary for the implemen-
38 tation of this act on its effective date are authorized to be made on or
39 before such date.