

1556

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GIANARIS, MARKEY, NOLAN, GALEF, JOHN, MILLMAN, ROBINSON, FIELDS, BENEDETTO, PHEFFER, ROSENTHAL, DIAZ, JAFFEE, COOK -- Multi-Sponsored by -- M. of A. BOYLAND, CAHILL, CYMBROWITZ, DESTITO, DINOWITZ, GOTTFRIED, V. LOPEZ, MCENENY, PERRY, REILLY, SAYWARD, SWEENEY, TOWNS, WEISENBERG -- read once and referred to the Committee on Corporations, Authorities and Commissions

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 regula-
4 tion, 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.

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

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

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

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

1 ADDITIONAL FORTY-EIGHT HOUR PERIOD, OR LESSER PERIOD AS DETERMINED BY
2 THE COMMISSION, THAT THE SERVICE INTERRUPTION CONTINUES. THE COMMISSION
3 MAY PROVIDE FOR REASONABLE LIMITATIONS ON THE AGGREGATE AMOUNT OF
4 REIMBURSEMENTS AND COMPENSATION, PROVIDED THAT ANY SUCH LIMITATIONS
5 SHALL TAKE INTO CONSIDERATION THE DURATION OF THE INTERRUPTION AND ITS
6 IMPACT ON RESIDENTIAL AND COMMERCIAL CUSTOMERS.

7 S 3. On or before April 1, 2010, the public service commission shall
8 review its existing policies and shall report to the governor, speaker
9 of the assembly, the temporary president of the senate, the chair of the
10 senate finance committee, the chair of the assembly ways and means
11 committee, the chair of the assembly energy committee and the chair of
12 the senate energy and telecommunications committee on whether additional
13 legislation, regulations or other actions are needed to ensure that
14 electric and steam corporations adequately reimburse and compensate
15 their customers for losses due to service interruptions and other fail-
16 ures to provide safe and adequate service as required by the public
17 service law.

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