S T A T E O F N E W Y O R K

5410

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. BRENNAN, CLARK, GOTTFRIED, ORTIZ, CASTRO, GREENE -- Multi-Sponsored by -- M. of A. GLICK, JACOBS, JOHN, MAISEL, MILLMAN, NOLAN -- read once and referred to the Committee on Energy

AN ACT to amend the general business law and the public service law, in relation to limiting rates identified and deposits required by electricity redistributors

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

Section 1. Legislative findings and declaration of purpose. The legislature hereby finds and declares:

(a) There is a significant number of landlords in New York that redistribute electricity purchased from a utility or other person to their non-residential tenants. For example, in nineteen hundred eighty-eight approximately twenty-six percent of commercial/industrial electricity sales of Consolidated Edison Company of New York, Inc. were to landlords who provided electricity to their non-residential tenants. The rates charged by those landlords, or "electricity redistributors", to non-residential tenants and the manner in which such rates are charged are not currently regulated by the public service commission. In the absence of regulation, some landlords in New York resell electricity to their non-residential tenants at an excessive profit, and fail to disclose adequately the rate or the basis of the charge for electricity and the terms under which such charge may be subject to change.

(b) Such practices, and the resulting perception of high or sharply rising energy costs, discourage businesses from entering and remaining in New York. Thus, there is a need to protect non-residential tenants from such practices. This protection can best be accomplished by limiting the rates identified and deposits required by electricity redistributors, and requiring electricity redistributors to disclose fully and clearly to a non-residential tenant the tenant's charges and costs relating to use of electricity in the tenant's premises.

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

LBD07592-01-9

S 2. The general business law is amended by adding a new article 30-B to read as follows:

ARTICLE 30-B
ELECTRICITY REDISTRIBUTORS

SECTION 641. DEFINITIONS.
642. LIMITATION ON RATES IDENTIFIED BY ELECTRICITY REDISTRIBUTORS.
643. DEPOSITS.
644. ACCESS TO AND RETENTION OF RECORDS.
645. NOTICE TO TENANT.
646. ARBITRATION.
647. DISCONTINUANCE OF IDENTIFICATION OF ELECTRICITY CHARGES.
648. LOCAL CONDITIONS ON BENEFITS.
649. VIOLATIONS AND PENALTIES.
649-A. RULES AND REGULATIONS.

S 641. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "CHARGES FOR ACTUAL ELECTRICITY USED" MEANS DEMAND, ENERGY AND FUEL ADJUSTMENT CHARGES, ANY TAXES AND TAX SURCHARGES THEREON, AND ANY OTHER RELATED UTILITY CHARGES SPECIFICALLY AUTHORIZED TO BE TREATED AS CHARGES FOR ACTUAL ELECTRICITY IN REGULATIONS PROMULGATED BY THE COMMISSION, BUT SHALL NOT INCLUDE PENALTIES FOR LATE PAYMENT OR ASSESSMENTS OR CHARGES FOR ANY DISTRIBUTION-RELATED FACILITIES;

2. "COMMISSION" MEANS THE PUBLIC SERVICE COMMISSION OF THE STATE OF NEW YORK;

3. "DISTRIBUTION-RELATED FACILITIES" MEANS ANY AND ALL METERS, WIRES, TRANSFORMERS AND OTHER EQUIPMENT LOCATED AT A BUILDING AND USED TO SUPPLY ELECTRICITY WITHIN SUCH BUILDING;

4. "ELECTRICITY REDISTRIBUTOR" MEANS ANY LANDLORD OR TENANT OF A BUILDING OR AGENT THEREOF WHO PURCHASES ELECTRICITY FROM A UTILITY OR ANY OTHER PERSON, CORPORATION OR ENTITY, AND ON A METERED OR UNMETERED BASIS RESELLS OR OTHERWISE REDISTRIBUTES SUCH ELECTRICITY TO ONE OR MORE NON-RESIDENTIAL TENANTS IN SUCH BUILDING, AND IDENTIFIES TO SUCH TENANTS CHARGES FOR SUCH ELECTRICITY; AND

5. "UTILITY" MEANS ANY ELECTRIC CORPORATION SUBJECT TO THE JURISDICTION AND GENERAL SUPERVISION OF THE COMMISSION.

S 642. LIMITATION ON RATES IDENTIFIED BY ELECTRICITY REDISTRIBUTORS. 1. NO ELECTRICITY REDISTRIBUTOR SHALL BILL OR OTHERWISE CHARGE ANY NON-RESIDENTIAL TENANT FOR ELECTRICITY FURNISHED, SUPPLIED OR OTHERWISE REDISTRIBUTED TO SUCH TENANT'S PREMISES OR TO ANY OTHER TENANT PREMISES AT A RATE WHICH EXCEEDS THE MAXIMUM ALLOWABLE RATE FOR ELECTRICITY AS DETERMINED IN ACCORDANCE WITH PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION, PROVIDED, HOWEVER, THAT NOTHING IN THIS SECTION IS INTENDED TO LIMIT OR OTHERWISE RESTRICT AMOUNTS THAT AN ELECTRICITY REDISTRIBUTOR CAN CHARGE AS RENT TO NON-RESIDENTIAL TENANTS. FOR PURPOSES OF THIS SUBDIVISION, "RENT" SHALL NOT INCLUDE CHARGES FOR ACTUAL ELECTRICITY USED IN PREMISES LEASED OR OCCUPIED BY NON-RESIDENTIAL TENANTS.

(A) WHERE AN ELECTRICITY REDISTRIBUTOR FURNISHES ELECTRICITY TO A NON-RESIDENTIAL TENANT IN A BUILDING ON A METERED BASIS, SUCH TENANT SHALL BE CHARGED FOR ACTUAL ELECTRICITY USED IN THE PREMISES LEASED OR OCCUPIED BY SUCH TENANT, AS MEASURED BY A PROPERLY INSTALLED AND OPERATING METER, AT A RATE NOT TO EXCEED THE RATE THAT IS CHARGED TO ELECTRICITY REDISTRIBUTORS BY THE UTILITY THAT IS PROVIDING ELECTRICITY SERVICE IN THE SERVICE AREA WHERE SUCH BUILDING IS LOCATED, PLUS AN ADDITIONAL AMOUNT NOT TO EXCEED TWELVE PERCENT OF CHARGES FOR ACTUAL ELECTRICITY USED. WHERE THERE IS NO DEMAND METER TO MEASURE SUCH TENANT'S INDIVIDUAL DEMAND, THE ELECTRICITY REDISTRIBUTOR SHALL CONVERT THE TOTAL DEMAND

CHARGE FOR THE BUILDING TO AN AVERAGE CHARGE PER KILOWATT HOUR, WHICH AVERAGE CHARGE SHALL BE MULTIPLIED BY SUCH TENANT'S TOTAL KILOWATT HOUR USAGE TO CALCULATE SUCH TENANT'S DEMAND CHARGE. IN ADDITION, WHERE THE CHARGE TO SUCH ELECTRICITY REDISTRIBUTOR INCLUDES A RATE VARYING WITH TIME OF USE AND THERE IS NO METER TO MEASURE SUCH TENANT'S DAILY PEAK USAGE, THE ELECTRICITY REDISTRIBUTOR SHALL AGGREGATE THE PEAK AND OFF-PEAK DEMAND AND ENERGY COSTS FOR THE BUILDING AND CHARGE ALL NON-RESIDENTIAL TENANTS IN THE BUILDING AT A RATE EQUAL TO SUCH ELECTRICITY REDISTRIBUTOR'S AVERAGE DEMAND AND ENERGY COSTS PER KILOWATT OR KILOWATT HOUR, AS APPROPRIATE.

(B) (I) WHERE AN ELECTRICITY REDISTRIBUTOR FURNISHES ELECTRICITY TO A NON-RESIDENTIAL TENANT ON AN UNMETERED BASIS, SUCH TENANT SHALL BE CHARGED FOR ELECTRICITY USED IN THE PREMISES LEASED OR OCCUPIED BY SUCH TENANT AN AMOUNT DETERMINED BY ONE OF THE FOLLOWING METHODS, AT THE OPTION OF SUCH ELECTRICITY REDISTRIBUTOR:

(A) A CHARGE FOR ELECTRICITY BASED UPON A SURVEY CONDUCTED OR PAID FOR BY SUCH ELECTRICITY REDISTRIBUTOR OF THE ESTIMATED ACTUAL ELECTRICITY USED BY SUCH TENANT IN SUCH PREMISES, AT A RATE NOT TO EXCEED THE RATE THAT IS CHARGED TO ELECTRICITY REDISTRIBUTORS BY THE UTILITY THAT IS PROVIDING ELECTRICITY SERVICE IN THE SERVICE AREA WHERE SUCH BUILDING IS LOCATED, PLUS AN ADDITIONAL AMOUNT NOT TO EXCEED TWELVE PERCENT OF SUCH RATE. SUCH RATE SHALL ONLY INCLUDE CHARGES FOR ACTUAL ELECTRICITY USED. WHERE SUCH SURVEY DOES NOT MEASURE SUCH TENANT'S INDIVIDUAL DEMAND, SUCH ELECTRICITY REDISTRIBUTOR SHALL CONVERT THE TOTAL DEMAND CHARGE FOR THE BUILDING TO AN AVERAGE CHARGE PER KILOWATT HOUR, WHICH AVERAGE CHARGE SHALL BE MULTIPLIED BY SUCH TENANT'S ESTIMATED TOTAL KILOWATT HOUR USAGE DERIVED FROM SUCH SURVEY, TO CALCULATE SUCH TENANT'S DEMAND CHARGE. IN ADDITION, WHERE THE CHARGE TO SUCH ELECTRICITY REDISTRIBUTOR INCLUDES A RATE VARYING WITH TIME OF USE AND SUCH SURVEY DOES NOT MEASURE SUCH TENANT'S DAILY PEAK USAGE, SUCH ELECTRICITY REDISTRIBUTOR SHALL AGGREGATE THE PEAK AND OFF-PEAK DEMAND AND ENERGY COSTS FOR THE BUILDING AND CHARGE ALL NON-RESIDENTIAL TENANTS IN THE BUILDING AT A RATE EQUAL TO SUCH ELECTRICITY REDISTRIBUTOR'S AVERAGE DEMAND AND ENERGY COSTS PER KILOWATT OR KILOWATT HOUR, AS APPROPRIATE; OR

(B) A CHARGE FOR ELECTRICITY BASED UPON SUCH TENANT'S PROPORTIONATE SHARE OF THE ACTUAL COST OF ELECTRICITY FOR THE ENTIRE BUILDING, PLUS AN ADDITIONAL AMOUNT NOT TO EXCEED TWELVE PERCENT OF SUCH CHARGES. SUCH COST SHALL ONLY INCLUDE CHARGES FOR ACTUAL ELECTRICITY USED. SUCH SHARE SHALL BE DETERMINED BY A SURVEY CONDUCTED OR PAID FOR BY THE ELECTRICITY REDISTRIBUTOR OF THE AREA LEASED OR OCCUPIED BY SUCH TENANT, WHICH AREA SHALL BE MEASURED BY A REASONABLE STANDARD CONSISTENTLY APPLIED TO ALL TENANTS IN THE ENTIRE BUILDING. SUCH SHARE SHALL BE A PROPORTION OF THE TOTAL AREA IN THE ENTIRE BUILDING, WHICH TOTAL AREA SHALL INCLUDE PUBLIC, COMMON AND SERVICE AREAS OF SUCH BUILDING BUT SHALL NOT INCLUDE TENANT PREMISES WHICH ARE NOT LEASED OR OCCUPIED. NOTHING HEREIN SHALL PREVENT AN ELECTRICITY REDISTRIBUTOR FROM CHARGING AS A PORTION OF RENT AS DESCRIBED IN THIS SUBDIVISION ANY AMOUNT FOR ELECTRICITY USED IN PUBLIC, COMMON OR SERVICE AREAS OR IN TENANT PREMISES THAT ARE NOT LEASED OR OCCUPIED. UPON SIXTY DAYS' PRIOR WRITTEN NOTICE, SUCH TENANT, AT ITS EXPENSE AND OPTION, SHALL BE ENTITLED TO A CHANGE FROM PRORATING ELECTRICITY CHARGES IN ACCORDANCE WITH THIS ITEM TO DETERMINING SUCH CHARGES IN ACCORDANCE WITH A SURVEY AS DESCRIBED IN CLAUSE (A) OF THIS SUBPARAGRAPH.

(II) WHERE AN ELECTRICITY REDISTRIBUTOR USES A SURVEY AS DESCRIBED IN CLAUSE (A) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, EITHER SUCH ELECTRICITY REDISTRIBUTOR OR ANY NON-RESIDENTIAL TENANT MAY, UPON FORTY-FIVE

DAYS' PRIOR WRITTEN NOTICE, ELECT FOR ADDITIONAL SURVEYS TO BE CONDUCTED BY OR AT THE EXPENSE OF SUCH ELECTRICITY REDISTRIBUTOR BECAUSE OF CHANGED CONDITIONS RESULTING FROM THE ADDITION OR REMOVAL OF EQUIPMENT, MACHINERY, OR OTHER ELECTRICAL DEVICES, PROVIDED THAT SUCH ELECTION MAY ONLY BE MADE WHERE IT IS REASONABLY BELIEVED THAT SUCH CHANGED CONDITIONS COULD RESULT IN A CHANGE IN ELECTRICITY USAGE OF GREATER THAN FIVE PERCENT IN COMPARISON WITH RESULTS OF THE PRIOR SURVEY. WHERE AN ELECTRICITY REDISTRIBUTOR USES A SURVEY AS DESCRIBED IN CLAUSE (A) OR (B) OF SUBPARAGRAPH (I) OF THIS PARAGRAPH, EITHER SUCH ELECTRICITY REDISTRIBUTOR OR ANY NON-RESIDENTIAL TENANT MAY, UPON FORTY-FIVE DAYS' PRIOR WRITTEN NOTICE, NOT MORE THAN ONCE IN ANY CALENDAR YEAR, ELECT FOR AN ADDITIONAL SURVEY TO BE CONDUCTED BECAUSE OF A DISAGREEMENT WITH THE PRIOR SURVEY; PROVIDED, HOWEVER, THAT IN ANY YEAR IN WHICH SUCH TENANT CHANGES FROM PRORATING ELECTRICITY CHARGES IN ACCORDANCE WITH CLAUSE (B) OF SUCH SUBPARAGRAPH TO DETERMINING SUCH CHARGES IN ACCORDANCE WITH CLAUSE (A) OF SUCH SUBPARAGRAPH, SUCH ELECTRICITY REDISTRIBUTOR AND SUCH TENANT SHALL EACH BE ENTITLED TO ELECT AN ADDITIONAL SURVEY PURSUANT TO THIS SENTENCE AFTER SUCH CHANGE REGARDLESS OF WHETHER AN ADDITIONAL SURVEY PURSUANT TO THIS SENTENCE WAS CONDUCTED BEFORE SUCH CHANGE. THE PERSON ELECTING AN ADDITIONAL SURVEY SHALL CONDUCT SUCH SURVEY OR PAY THE COSTS THEREOF. IF AN ELECTRICITY REDISTRIBUTOR AND A TENANT DO NOT AGREE ON THE RESULTS OF ANY ADDITIONAL SURVEY CONDUCTED BECAUSE OF DISAGREEMENT WITH A PRIOR SURVEY, THEN, WITHIN FIFTEEN DAYS AFTER THE RECEIPT OF THE RESULTS OF SUCH ADDITIONAL SURVEY, THE REPRESENTATIVES OF SUCH ELECTRICITY REDISTRIBUTOR AND SUCH TENANT SHALL CHOOSE AN INDEPENDENT REPRESENTATIVE, WHOSE COST SHALL BE SHARED EQUALLY BY SAID PARTIES, TO MAKE A BINDING DETERMINATION, PROVIDED THAT IF THE REPRESENTATIVES OF SUCH ELECTRICITY REDISTRIBUTOR AND SUCH TENANT CANNOT AGREE UPON AN INDEPENDENT REPRESENTATIVE WITHIN SUCH FIFTEEN DAY PERIOD, THEN AN INDEPENDENT REPRESENTATIVE SHALL BE APPOINTED IN ACCORDANCE WITH A PROCEDURE ESTABLISHED IN REGULATIONS PROMULGATED BY THE COMMISSION.

2. AN ELECTRICITY REDISTRIBUTOR SHALL CLEARLY STATE IN WRITING CHARGES TO A NON-RESIDENTIAL TENANT FOR USAGE OF ELECTRICITY AS DESCRIBED IN SUBDIVISION ONE OF THIS SECTION AND SHALL INCLUDE IN SUCH STATEMENT THE CHARGE PER KILOWATT HOUR AND THE CHARGE PER KILOWATT, IF APPLICABLE, AND ANY INFORMATION NECESSARY FOR COMPUTATION OF SUCH CHARGES. SUCH ELECTRICITY REDISTRIBUTOR SHALL ISSUE AT LEAST ONE BILL OR STATEMENT FOR SUCH USAGE EVERY SIXTY DAYS.

3. AN ELECTRICITY REDISTRIBUTOR SHALL PROVIDE TO EACH NON-RESIDENTIAL TENANT A COPY OF THE APPLICABLE RATE SCHEDULE IN THE TARIFF OF THE UTILITY THAT IS PROVIDING ELECTRICITY SERVICE FOR RESALE OR REDISTRIBUTION IN THE SERVICE AREA WHERE SUCH BUILDING IS LOCATED WITHIN THIRTY DAYS OF COMMENCEMENT, RENEWAL, OR EXTENSION BY SUCH TENANT OF A LEASE OR OCCUPANCY. SUCH ELECTRICITY REDISTRIBUTOR SHALL ALSO PROVIDE TO SUCH TENANTS A COPY OF SUCH RATE SCHEDULE AFTER ANY CHANGES THEREIN, IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE COMMISSION.

S 643. DEPOSITS. AN ELECTRICITY REDISTRIBUTOR MAY REQUIRE ANY NON-RESIDENTIAL TENANT TO WHOM SUCH ELECTRICITY REDISTRIBUTOR SHALL SUPPLY ELECTRICITY SERVICES TO DEPOSIT A REASONABLE SUM OF MONEY ACCORDING TO THE ESTIMATED QUANTITY OF SUCH SERVICES NECESSARY TO SUPPLY ELECTRICITY FOR TWO CALENDAR MONTHS, AT RATES AND CHARGES ESTIMATED IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, TO SECURE PAYMENT FOR SUCH SERVICES ACTUALLY RENDERED, AND SHALL ALLOW TO EVERY DEPOSITOR INTEREST AT A RATE PER ANNUM EQUAL TO THAT PAID BY UTILITIES TO THEIR CUSTOMERS AS PRESCRIBED FROM TIME TO TIME BY THE COMMISSION, PAYABLE UPON THE RETURN OF THE DEPOSIT OR AT EARLIER INTERVALS AS HEREINAFTER PRESCRIBED. WHEN-

EVER SUCH DEPOSIT HAS BEEN HELD FOR A PERIOD OF ONE YEAR, THE INTEREST ACCRUED ON SUCH DEPOSIT SHALL BE CREDITED TO THE DEPOSITOR ON THE FIRST BILLING FOR ELECTRICITY SERVICE RENDERED AFTER THE NEXT SUCCEEDING FIRST DAY OF OCTOBER. IF THE DEPOSITOR WAS NOT DELINQUENT IN THE PAYMENT OF ANY BILL IN SUCH ONE YEAR PERIOD, THE DEPOSIT SHALL BE REFUNDED PROMPTLY AT THE END THEREOF, BUT WITHOUT PREJUDICE TO THE RIGHT TO REQUIRE A DEPOSIT THEREAFTER IN THE EVENT OF A DELINQUENCY OR WHERE IT CAN BE SHOWN THAT THE FINANCIAL CONDITION OF A NON-RESIDENTIAL TENANT IS SUCH THAT IT IS LIKELY THAT THE TENANT MAY DEFAULT IN THE FUTURE, AND TO RETAIN SUCH DEPOSIT FOR A PRUDENT PERIOD; EXCEPT THAT SUBJECT TO SUCH REGULATIONS AS THE COMMISSION MAY ESTABLISH, THE DEPOSIT MAY BE RETAINED FOR A PRUDENT PERIOD BEYOND SUCH A ONE YEAR PERIOD.

S 644. ACCESS TO AND RETENTION OF RECORDS. 1. NOT MORE THAN ONCE IN ANY CALENDAR YEAR AND UPON TWENTY DAYS' WRITTEN NOTICE, A NON-RESIDENTIAL TENANT MAY INSPECT AN ELECTRICITY REDISTRIBUTOR'S RECORDS WITH RESPECT TO THE ELECTRICITY CHARGES FOR THE PRECEDING THREE YEARS BY ANY UTILITY, OR OTHER PERSON, CORPORATION OR ENTITY TO SUCH ELECTRICITY REDISTRIBUTOR THAT INCLUDE THE RATES OR CHARGES FOR THE PREMISES OCCUPIED BY SUCH TENANT OR THAT ARE NECESSARY FOR DETERMINATION OF THE RATE OR CHARGE PERMISSIBLE UNDER SECTION SIX HUNDRED FORTY-TWO OF THIS ARTICLE. THE PROVISIONS OF THIS ARTICLE SHALL NOT ENTITLE SUCH TENANT TO INSPECT ANY SUCH RECORDS FOR ANY MONTH PRIOR TO THE EFFECTIVE DATE OF THIS ARTICLE OR ANY MONTH FOR WHICH SUCH TENANT MADE PAYMENTS FOR ELECTRICITY USAGE OR CONSUMPTION PURSUANT TO THE PROVISIONS OF A LEASE OR AGREEMENT NOT SUBJECT TO THE PROVISIONS OF THIS ARTICLE.

2. AN ELECTRICITY REDISTRIBUTOR SHALL RETAIN ANY AND ALL ACCOUNTS, BOOKS, CONTRACTS, DOCUMENTS AND PAPERS RELATING TO ANY PURCHASE OF ELECTRICITY BY SUCH ELECTRICITY REDISTRIBUTOR AND REDISTRIBUTION OF SUCH ELECTRICITY TO NON-RESIDENTIAL TENANTS IN A BUILDING WHERE SUCH ELECTRICITY IS REDISTRIBUTED TO ONE OR MORE NON-RESIDENTIAL TENANTS IN SUCH BUILDING PURSUANT TO A LEASE OR AGREEMENT THAT IS SUBJECT TO THE PROVISIONS OF THIS ARTICLE, FOR A PERIOD OF THREE YEARS.

S 645. NOTICE TO TENANT. AN ELECTRICITY REDISTRIBUTOR SHALL INCLUDE IN ANY LEASE OR OTHER AGREEMENT FOR THE USE AND OCCUPANCY BY A NON-RESIDENTIAL TENANT OF PREMISES IN A BUILDING OWNED OR LEASED BY SUCH ELECTRICITY REDISTRIBUTOR WRITTEN NOTICE INFORMING SUCH TENANT OF THE PROVISIONS OF THIS ARTICLE. SUCH NOTICE SHALL INCLUDE THE FOLLOWING STATEMENT: "THE MAXIMUM AMOUNT THAT YOU MAY BE CHARGED FOR ELECTRICITY USED IN YOUR PREMISES IS REGULATED BY ARTICLE THIRTY-B OF THE GENERAL BUSINESS LAW AND REGULATIONS PROMULGATED THEREUNDER." SUCH NOTICE SHALL ALSO INFORM SUCH NON-RESIDENTIAL TENANT THAT AN ARBITRATOR OR ARBITRATION FIRM SHALL BE USED FOR RESOLUTION OF DISPUTES OR COMPLAINTS PURSUANT TO SECTION SIX HUNDRED FORTY-SIX OF THIS ARTICLE. THE COMMISSION MAY ALSO BY REGULATION PRESCRIBE ADDITIONAL NOTICE REQUIREMENTS PURSUANT TO THIS SECTION.

S 646. ARBITRATION. 1. NON-RESIDENTIAL TENANTS AND ELECTRICITY REDISTRIBUTORS SHALL SUBMIT DISPUTES OR COMPLAINTS ARISING UNDER THIS ARTICLE TO AN ARBITRATOR OR ARBITRATION FIRM, UPON PAYMENT OF A PRESCRIBED FILING FEE, IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE COMMISSION. SUCH ARBITRATOR OR ARBITRATION FIRM SHALL BE APPOINTED IN ACCORDANCE WITH SUCH REGULATIONS. WHERE THE AMOUNT OF THE ARBITRATOR'S OR ARBITRATION FIRM'S AWARD IS TEN THOUSAND DOLLARS OR GREATER, EXCLUSIVE OF INTEREST AND FEES, THE PARTY REQUIRED TO PAY SUCH AWARD MAY INSTITUTE A COURT ACTION TO ADJUDICATE THE DISPUTE OR COMPLAINT DE NOVO. ARTICLE SEVENTY-FIVE OF THE CIVIL PRACTICE LAW AND RULES SHALL APPLY TO ANY ARBITRATION TO THIS SECTION, EXCEPT WHERE SUCH ARTICLE IS INCONSISTENT WITH THIS ARTICLE. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO AFFECT

ANY CONTRACTUAL, STATUTORY OR CONSTITUTIONAL RIGHTS OR REMEDIES PROVIDED TO ANY PERSON BY LAW, OTHER THAN THE RIGHTS AND REMEDIES DESCRIBED BY THIS ARTICLE.

2. THE ARBITRATOR SHALL HAVE THE AUTHORITY TO RESOLVE DISPUTES ARISING UNDER THIS ARTICLE BY AWARDING APPROPRIATE RELIEF, WHICH MAY INCLUDE ORDERING A REFUND OF ANY AMOUNT PAID BY A NON-RESIDENTIAL TENANT IN EXCESS OF THE CHARGES AUTHORIZED BY THIS ARTICLE, ORDERING THAT FUTURE CHARGES FOR ELECTRICITY BE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE, AND ORDERING THAT THE ARBITRATOR'S EXPENSES AND FEES, TOGETHER WITH OTHER EXPENSES, INCLUDING ATTORNEY'S FEES, INCURRED IN THE CONDUCT OF THE ARBITRATION, SHALL BE PAID AS PROVIDED IN THE AWARD.

S 647. DISCONTINUANCE OF IDENTIFICATION OF ELECTRICITY CHARGES. 1. WHERE ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AN ELECTRICITY REDISTRIBUTOR IDENTIFIES TO NON-RESIDENTIAL TENANTS IN PREMISES OF A BUILDING CHARGES FOR ELECTRICITY THAT IS PURCHASED BY SUCH ELECTRICITY REDISTRIBUTOR FROM A UTILITY OR ANY OTHER PERSON, CORPORATION OR ENTITY, SUCH ELECTRICITY REDISTRIBUTOR MAY NOT, WHETHER UNILATERALLY OR PURSUANT TO A LEASE OR OTHER AGREEMENT, AT ANY TIME AFTER SUCH EFFECTIVE DATE IN WHICH SUCH ELECTRICITY REDISTRIBUTOR ENGAGES IN REDISTRIBUTION OF ELECTRICITY IN SUCH BUILDING, FAIL TO IDENTIFY SUCH CHARGES FOR SUCH PREMISES DURING ANY PERIOD OF TIME IN WHICH SUCH PREMISES ARE OCCUPIED BY NON-RESIDENTIAL TENANTS; PROVIDED THAT A LANDLORD OR TENANT OF A BUILDING OR AGENT THEREOF WHO IS AN ELECTRICITY REDISTRIBUTOR AS DEFINED IN SECTION SIX HUNDRED FORTY-ONE OF THIS ARTICLE MAY, NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, ENTER INTO A LEASE OR AGREEMENT WITH A NON-RESIDENTIAL TENANT PURSUANT TO WHICH SUCH IDENTIFICATION OF CHARGES IS NOT REQUIRED IF SO AUTHORIZED BY THE MAYOR OF A CITY HAVING A POPULATION OF ONE MILLION OR MORE, OR BY THE GOVERNING BODY OF A COUNTY NOT WHOLLY INCLUDED WITHIN SUCH CITY, IN WHICH SUCH BUILDING IS LOCATED. SUCH AUTHORIZATION MAY BE ISSUED UPON A SHOWING THAT SUCH IDENTIFICATION IS NO LONGER EITHER PHYSICALLY OR FINANCIALLY PRACTICAL.

2. WHERE ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION AN ELECTRICITY REDISTRIBUTOR HAS IDENTIFIED TO NON-RESIDENTIAL TENANTS IN A BUILDING CHARGES FOR ELECTRICITY, A NEW ELECTRICITY REDISTRIBUTOR WHO ACQUIRES OR LEASES SUCH BUILDING SHALL BE SUBJECT TO SUBDIVISION ONE OF THIS SECTION AS IF SUCH NEW ELECTRICITY REDISTRIBUTOR WERE THE PRIOR ELECTRICITY REDISTRIBUTOR FOR SUCH BUILDING.

S 648. LOCAL CONDITIONS ON BENEFITS. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT A CITY HAVING A POPULATION OF ONE MILLION OR MORE FROM IMPOSING CONDITIONS UPON RECEIPT OF ANY BENEFITS PROVIDED TO ELECTRICITY REDISTRIBUTORS, INCLUDING REDUCTIONS IN TAX LIABILITY, PROVIDED THAT SUCH CONDITIONS SHALL NOT BE LESS RESTRICTIVE UPON ELECTRICITY REDISTRIBUTORS THAN THE TERMS OF THIS ARTICLE.

S 649. VIOLATIONS AND PENALTIES. 1. ANY PERSON VIOLATING ANY PROVISION OF THIS ARTICLE SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED EITHER ONE THOUSAND DOLLARS, OR UP TO TWO TIMES ANY OVERCHARGE ASSESSED OR PAID AS A RESULT OF SUCH VIOLATION FOR THE FIRST VIOLATION COMMITTED IN ANY FIVE-YEAR PERIOD, AND NOT TO EXCEED EITHER FIVE THOUSAND DOLLARS OR UP TO THREE TIMES THE AMOUNT OF SUCH OVERCHARGE FOR EACH SUBSEQUENT VIOLATION COMMITTED WITHIN SUCH PERIOD. FOR PURPOSES OF THIS SECTION, ALL OVERCHARGES TO A TENANT IN A SIXTY-DAY PERIOD SHALL CONSTITUTE A SINGLE VIOLATION.

2. THE ATTORNEY GENERAL OR ANY CITY, TOWN, VILLAGE OR COUNTY, OTHER THAN A COUNTY WHOLLY INCLUDED WITHIN A CITY, IN THE NAME OF ITS CITIZENS, MAY BRING AN ACTION TO RECOVER THE CIVIL PENALTIES SET FORTH IN SUBDIVISION ONE OF THIS SECTION, TO RESTRAIN FURTHER VIOLATIONS OF THIS

ARTICLE AND TO OBTAIN SUCH OTHER RELIEF AS A COURT WITH PROPER JURISDICTION MAY DEEM APPROPRIATE. IN ANY SUCH ACTION BROUGHT BY THE ATTORNEY GENERAL, THE ATTORNEY GENERAL SHALL BE AUTHORIZED TO RECOVER THE COSTS OF SUCH ACTION, WHICH SHALL BE PAID, ALONG WITH ANY CIVIL PENALTIES AWARDED, INTO THE STATE TREASURY TO THE CREDIT OF THE GENERAL FUND. IN ANY SUCH ACTION BROUGHT BY A CITY, TOWN, VILLAGE OR COUNTY, THE CITY, TOWN, VILLAGE OR COUNTY SHALL BE AUTHORIZED TO RECOVER THE COSTS OF SUCH ACTION; WHICH SHALL BE PAID, ALONG WITH ANY CIVIL PENALTIES AWARDED, TO ITS GENERAL FUND.

3. THE ATTORNEY GENERAL OR THE CHIEF LEGAL OFFICER OF A CITY, TOWN, VILLAGE OR COUNTY AUTHORIZED TO BRING AN ACTION UNDER THIS SECTION, SHALL HAVE THE POWER TO INSPECT ANY WRITTEN MATERIALS RETAINED BY AN ELECTRICITY REDISTRIBUTOR PURSUANT TO SUBDIVISION TWO OF SECTION SIX HUNDRED FORTY-FOUR OF THIS ARTICLE, AND SUCH ELECTRICITY REDISTRIBUTOR SHALL PROVIDE ACCESS THERETO, FOR THE PURPOSE OF ENSURING COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE.

4. NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED TO PREVENT THE CORPORATION COUNSEL OF ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE FROM MAINTAINING AN ACTION TO RECOVER AN AMOUNT EQUAL TO ANY BENEFITS PROVIDED UNDER THE PROVISIONS OF ANY LOCAL LAW OR LAWS ADOPTED PURSUANT TO ARTICLE TWO-G OF THE GENERAL CITY LAW WHICH ARE IMPROPERLY OBTAINED.

S 649-A. RULES AND REGULATIONS. THE COMMISSION SHALL ADOPT SUCH RULES AND REGULATIONS AS IT DEEMS NECESSARY AND PROPER FOR IMPLEMENTATION OF THIS ARTICLE.

S 3. The public service law is amended by adding a new section 5-a to read as follows:

S 5-A. ELECTRICITY REDISTRIBUTORS. THE COMMISSION SHALL ADOPT SUCH RULES AND REGULATIONS AS IT DEEMS NECESSARY AND PROPER FOR IMPLEMENTATION OF ARTICLE THIRTY-B OF THE GENERAL BUSINESS LAW. SUCH RULES AND REGULATIONS SHALL BE ENFORCEABLE AS PROVIDED IN SUCH ARTICLE.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law but shall not be applicable to leases and other agreements that represent occupancies commencing before such effective date, provided that this act shall apply to any renewals or extensions of such leases and agreements; provided further, however, that sections 647 and 649 of article 30-B of the general business law, as added by section two of this act, shall take effect immediately and apply to all occupancies commencing or continuing as of the date of enactment of this act, and provided further that the public service commission of the state of New York shall promulgate within 180 days of the date of enactment of this act into law, rules or regulations necessary for the implementation of the provisions of article 30-B of the general business law, as added by section two of this act, and on or after such date of enactment the public service commission may take any other actions necessary for the timely implementation of this act.