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

994

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to energy conservation and lost revenues

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

Section 1. Section 72 of the public service law, as amended by chapter 212 of the laws of 1934, is amended to read as follows:

S 72. Notice and hearing; order fixing price of gas or electricity or requiring improvement. Before proceeding under a complaint presented as provided in section seventy-one OF THIS ARTICLE, the commission shall cause notice of such complaint, and the purpose thereof, to be served upon the person or corporation affected thereby. Such person or corporation shall have an opportunity to be heard in respect to the matters complained of at a time and place to be specified in such notice. An investigation may be instituted by the commission of its own motion as to any matter of which complaint may be made, as provided in section seventy-one of this [chapter] ARTICLE, or to enable it to ascertain the facts requisite to the exercise of any power conferred upon it. After a hearing and after such an investigation as shall have been made by the commission or its officers, agents, examiners or inspectors, the commission may, by order, fix just and reasonable prices, rates and charges for gas or electricity to be charged by such corporation or person, for the service to be furnished notwithstanding that a higher or lower price has been theretofore prescribed by general or special statute, contract, grant, franchise condition, consent or other agreement, and may order such improvement in the manufacture, conveying, transportation, distribution or supply of gas, in the manufacture, transmission or supply of electricity, or in the methods employed by such person or corporation, as will in its judgment be adequate, just and reasonable. Any such

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

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change in price shall be upon such terms, conditions or safeguards as the commission may prescribe. If it shall be made to appear to the satisfaction of the commission that the public interest requires a change in the price of gas or electricity charged by any such person or corporation, or that such change is necessary for the purpose of providing adequate and efficient service, or for the preservation of the property, the commission, upon such terms, conditions or safeguards as it deems proper, may authorize an immediate, reasonable, temporary increase or decrease in such price pending a final determination of the price to be thereafter charged by such person or corporation. The terms, conditions or safeguards prescribed may include provisions for the purposes for which the additional revenue derived from any such temporary increase may be expended and for the impounding thereof until the same shall be applied to the purposes so specified. The price fixed by the commission under this section or under subdivision five of section sixty-six OF THIS ARTICLE shall be the maximum price to be charged by such person, corporation or municipality for gas or electricity for the service to be furnished within the territory and for a period to be fixed by the commission in the order, not exceeding three years except in the case of a sliding scale, and thereafter until the commission shall, upon its own motion or upon the complaint of any corporation, person or municipality interested, fix a higher or lower maximum price of gas or electricity to be thereafter charged. In determining the price to be charged for gas or electricity the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard among other things to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies. At any hearing involving a rate, the burden of proof to show that the change in rate or price if proposed by the person, corporation or municipality operating such utility, or that the existing rate or price, if on motion of the commission or in a complaint filed with the commission it is proposed to reduce the rate or price, is just and reasonable shall be upon the person, corporation or municipality operating such utility; and the commission may give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible. Nothing in this chapter contained shall be deemed to prohibit the commission from fixing a sliding scale upward rate for natural gas, beginning at a fixed price per unit for a small consumption and then increasing the price per unit as the consumption is increased. HOWEVER, AT NO TIME WILL THE COMMISSION AUTHORIZE A RATE INCREASE TO OFFSET REVENUE LOSS DUE TO ENERGY CONSERVATION EFFORTS BY CONSUMERS.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law.