

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 conserva-
tion and lost revenues

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

1 Section 1. Section 72 of the public service law, as amended by chapter
2 212 of the laws of 1934, is amended to read as follows:
3 S 72. Notice and hearing; order fixing price of gas or electricity or
4 requiring improvement. Before proceeding under a complaint presented as
5 provided in section seventy-one OF THIS ARTICLE, the commission shall
6 cause notice of such complaint, and the purpose thereof, to be served
7 upon the person or corporation affected thereby. Such person or corpo-
8 ration shall have an opportunity to be heard in respect to the matters
9 complained of at a time and place to be specified in such notice. An
10 investigation may be instituted by the commission of its own motion as
11 to any matter of which complaint may be made, as provided in section
12 seventy-one of this [chapter] ARTICLE, or to enable it to ascertain the
13 facts requisite to the exercise of any power conferred upon it. After a
14 hearing and after such an investigation as shall have been made by the
15 commission or its officers, agents, examiners or inspectors, the commis-
16 sion may, by order, fix just and reasonable prices, rates and charges
17 for gas or electricity to be charged by such corporation or person, for
18 the service to be furnished notwithstanding that a higher or lower price
19 has been theretofore prescribed by general or special statute, contract,
20 grant, franchise condition, consent or other agreement, and may order
21 such improvement in the manufacture, conveying, transportation, distrib-
22 ution or supply of gas, in the manufacture, transmission or supply of
23 electricity, or in the methods employed by such person or corporation,
24 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.

LBD03135-01-9

1 change in price shall be upon such terms, conditions or safeguards as
2 the commission may prescribe. If it shall be made to appear to the
3 satisfaction of the commission that the public interest requires a
4 change in the price of gas or electricity charged by any such person or
5 corporation, or that such change is necessary for the purpose of provid-
6 ing adequate and efficient service, or for the preservation of the prop-
7 erty, the commission, upon such terms, conditions or safeguards as it
8 deems proper, may authorize an immediate, reasonable, temporary increase
9 or decrease in such price pending a final determination of the price to
10 be thereafter charged by such person or corporation. The terms, condi-
11 tions or safeguards prescribed may include provisions for the purposes
12 for which the additional revenue derived from any such temporary
13 increase may be expended and for the impounding thereof until the same
14 shall be applied to the purposes so specified. The price fixed by the
15 commission under this section or under subdivision five of section
16 sixty-six OF THIS ARTICLE shall be the maximum price to be charged by
17 such person, corporation or municipality for gas or electricity for the
18 service to be furnished within the territory and for a period to be
19 fixed by the commission in the order, not exceeding three years except
20 in the case of a sliding scale, and thereafter until the commission
21 shall, upon its own motion or upon the complaint of any corporation,
22 person or municipality interested, fix a higher or lower maximum price
23 of gas or electricity to be thereafter charged. In determining the
24 price to be charged for gas or electricity the commission may consider
25 all facts which in its judgment have any bearing upon a proper determi-
26 nation of the question although not set forth in the complaint and not
27 within the allegations contained therein, with due regard among other
28 things to a reasonable average return upon capital actually expended and
29 to the necessity of making reservations out of income for surplus and
30 contingencies. At any hearing involving a rate, the burden of proof to
31 show that the change in rate or price if proposed by the person, corpo-
32 ration or municipality operating such utility, or that the existing rate
33 or price, if on motion of the commission or in a complaint filed with
34 the commission it is proposed to reduce the rate or price, is just and
35 reasonable shall be upon the person, corporation or municipality operat-
36 ing such utility; and the commission may give to the hearing and deci-
37 sion of such questions preference over all other questions pending
38 before it and decide the same as speedily as possible. Nothing in this
39 chapter contained shall be deemed to prohibit the commission from fixing
40 a sliding scale upward rate for natural gas, beginning at a fixed price
41 per unit for a small consumption and then increasing the price per unit
42 as the consumption is increased. HOWEVER, AT NO TIME WILL THE COMMISSION
43 AUTHORIZE A RATE INCREASE TO OFFSET REVENUE LOSS DUE TO ENERGY CONSERVA-
44 TION EFFORTS BY CONSUMERS.

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