

2164

2009-2010 Regular Sessions

I N   S E N A T E

February 12, 2009

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Introduced by Sens. PARKER, DIAZ, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, ONORATO, OPPENHEIMER, SAMPSON, SCHNEIDERMAN, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to the utilization of automatic rate adjustments for natural gas or electric service and providing for the repeal of such provisions upon expiration thereof

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

1     Section 1. Subdivision 4 of section 65 of the public service law, as  
2 amended by chapter 789 of the laws of 1930, is amended to read as  
3 follows:  
4     4. Nothing in this chapter shall be taken to prohibit a gas corpo-  
5 ration or electric corporation from establishing a sliding scale for a  
6 fixed period for the automatic adjustment [or] OF charges for gas, elec-  
7 tricity or any RELATED service rendered or to be rendered [and] BY OR  
8 the dividends to be paid to stockholders of such gas corporation or  
9 electric corporation, provided that:  
10     (A) the sliding scale shall first have been filed with and approved by  
11 the commission; [but]  
12     (B) WITH RESPECT TO THE AUTOMATIC ADJUSTMENT OF CHARGES FOR THE SALE  
13 OF GAS OR ELECTRICITY TO RESIDENTIAL CONSUMERS, PURSUANT TO THIS CHAP-  
14 TER:  
15     (I) ANY AUTOMATIC RATE ADJUSTMENT SHALL BE PERMITTED ONLY WHEN ASSOCI-  
16 ATED WITH AND REFLECTIVE OF CHANGES IN THE REASONABLE COSTS OF FUEL  
17 PURCHASED FOR THE PRODUCTION OF ELECTRICITY BY SUCH ELECTRIC CORPORATION  
18 OR CHANGES IN THE REASONABLE COSTS OF GAS OR ELECTRICITY PURCHASED BY  
19 SUCH GAS CORPORATION OR ELECTRIC CORPORATION FOR RESALE TO RESIDENTIAL  
20 CONSUMERS;  
21     (II) SUCH GAS CORPORATION OR ELECTRIC CORPORATION SHALL MAKE NO MORE  
22 THAN ONE SUCH ADJUSTMENT IN ANY SIX MONTH PERIOD; AND

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

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1 (III) THE ANNUALIZED INCREASE IN REVENUES FOR SUCH GAS CORPORATION OR  
2 ELECTRIC CORPORATION WHICH IS ASSOCIATED WITH SUCH ADJUSTMENTS IN ANY  
3 TWELVE MONTH PERIOD SHALL NOT EXCEED THE GREATER OF THREE HUNDRED THOU-  
4 SAND DOLLARS OR TWO AND ONE-HALF PERCENT OF THE CORPORATION'S REVENUES  
5 DURING SUCH TWELVE MONTH PERIOD;

6 (C) PROVIDED, HOWEVER, THAT IF THE COMMISSION FINDS THAT THE REQUIRE-  
7 MENTS OF PARAGRAPH (B) OF THIS SUBDIVISION ARE RESULTING OR ARE REASON-  
8 ABLY CERTAIN TO RESULT IN A SUBSTANTIAL IMPAIRMENT OF THE FINANCIAL  
9 INTEGRITY OF A GAS OR ELECTRIC CORPORATION, THE COMMISSION SHALL INSTI-  
10 TUTE A PROCEEDING, ON AN EMERGENCY BASIS, TO EXAMINE WHETHER SUCH CORPO-  
11 RATION HAS PRUDENTLY CONSIDERED ALL REASONABLY AVAILABLE SOURCES AND  
12 SUPPLIERS OF NATURAL GAS OR ELECTRICITY, INCLUDING LONG- AND SHORT-TERM  
13 CONTRACTS, AND OTHER COMPETITIVE MARKET PRODUCTS TO SATISFY THE DEMAND  
14 FOR NATURAL GAS OR ELECTRICITY USING THE LEAST COST COMBINATION OF SUCH  
15 SOURCES AND SUPPLIERS. IF, UPON THE CONCLUSION OF SUCH EXAMINATION, THE  
16 COMMISSION FINDS THAT A SUBSTANTIAL IMPAIRMENT OF FINANCIAL INTEGRITY  
17 CONTINUES, THEN THE COMMISSION SHALL CONDUCT A HEARING UPON PUBLIC  
18 NOTICE AND MAY MODIFY THE REQUIREMENT OF PARAGRAPH (B) OF THIS SUBDIVI-  
19 SION TO THE EXTENT NECESSARY TO ELIMINATE THE SUBSTANTIAL IMPAIRMENT OF  
20 FINANCIAL INTEGRITY; AND

21 (D) nothing in this subdivision shall operate to prevent the commis-  
22 sion DURING OR after the expiration of such fixed period from fixing  
23 proper, just and reasonable rates and charges to be made for service as  
24 authorized in this article.

25 S 2. This act shall take effect immediately and shall expire and be  
26 deemed repealed January 31, 2013.