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

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2009-2010 Regular Sessions

I N S E N A T E

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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:

Section 1. Subdivision 4 of section 65 of the public service law, as amended by chapter 789 of the laws of 1930, is amended to read as follows:

4. Nothing in this chapter shall be taken to prohibit a gas corporation or electric corporation from establishing a sliding scale for a fixed period for the automatic adjustment [or] OF charges for gas, electricity or any RELATED service rendered or to be rendered [and] BY OR the dividends to be paid to stockholders of such gas corporation or electric corporation, provided that:

(A) the sliding scale shall first have been filed with and approved by the commission; [but]

(B) WITH RESPECT TO THE AUTOMATIC ADJUSTMENT OF CHARGES FOR THE SALE OF GAS OR ELECTRICITY TO RESIDENTIAL CONSUMERS, PURSUANT TO THIS CHAPTER:

(I) ANY AUTOMATIC RATE ADJUSTMENT SHALL BE PERMITTED ONLY WHEN ASSOCIATED WITH AND REFLECTIVE OF CHANGES IN THE REASONABLE COSTS OF FUEL PURCHASED FOR THE PRODUCTION OF ELECTRICITY BY SUCH ELECTRIC CORPORATION OR CHANGES IN THE REASONABLE COSTS OF GAS OR ELECTRICITY PURCHASED BY SUCH GAS CORPORATION OR ELECTRIC CORPORATION FOR RESALE TO RESIDENTIAL CONSUMERS;

(II) SUCH GAS CORPORATION OR ELECTRIC CORPORATION SHALL MAKE NO MORE 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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(III) THE ANNUALIZED INCREASE IN REVENUES FOR SUCH GAS CORPORATION OR ELECTRIC CORPORATION WHICH IS ASSOCIATED WITH SUCH ADJUSTMENTS IN ANY TWELVE MONTH PERIOD SHALL NOT EXCEED THE GREATER OF THREE HUNDRED THOUSAND DOLLARS OR TWO AND ONE-HALF PERCENT OF THE CORPORATION'S REVENUES DURING SUCH TWELVE MONTH PERIOD;

(C) PROVIDED, HOWEVER, THAT IF THE COMMISSION FINDS THAT THE REQUIREMENTS OF PARAGRAPH (B) OF THIS SUBDIVISION ARE RESULTING OR ARE REASONABLY CERTAIN TO RESULT IN A SUBSTANTIAL IMPAIRMENT OF THE FINANCIAL INTEGRITY OF A GAS OR ELECTRIC CORPORATION, THE COMMISSION SHALL INSTITUTE A PROCEEDING, ON AN EMERGENCY BASIS, TO EXAMINE WHETHER SUCH CORPORATION HAS PRUDENTLY CONSIDERED ALL REASONABLY AVAILABLE SOURCES AND SUPPLIERS OF NATURAL GAS OR ELECTRICITY, INCLUDING LONG- AND SHORT-TERM CONTRACTS, AND OTHER COMPETITIVE MARKET PRODUCTS TO SATISFY THE DEMAND FOR NATURAL GAS OR ELECTRICITY USING THE LEAST COST COMBINATION OF SUCH SOURCES AND SUPPLIERS. IF, UPON THE CONCLUSION OF SUCH EXAMINATION, THE COMMISSION FINDS THAT A SUBSTANTIAL IMPAIRMENT OF FINANCIAL INTEGRITY CONTINUES, THEN THE COMMISSION SHALL CONDUCT A HEARING UPON PUBLIC NOTICE AND MAY MODIFY THE REQUIREMENT OF PARAGRAPH (B) OF THIS SUBDIVISION TO THE EXTENT NECESSARY TO ELIMINATE THE SUBSTANTIAL IMPAIRMENT OF FINANCIAL INTEGRITY; AND

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

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