

3934

2009-2010 Regular Sessions

I N S E N A T E

April 7, 2009

Introduced by Sen. OPPENHEIMER -- 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 establishing a procedure for public statement hearings

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

- 1 Section 1. Section 66 of the public service law is amended by adding a
2 new subdivision 12-d to read as follows:
3 12-D. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWELVE OF THIS
4 SECTION OR ANY OTHER PROVISION OF THIS CHAPTER TO THE CONTRARY, THE
5 COMMISSION SHALL HOLD PUBLIC STATEMENT HEARINGS FOR THE PURPOSE OF
6 RECEIVING STATEMENTS OF CUSTOMER IMPACT FOR ANY APPLICATION FILED BY A
7 GAS CORPORATION, ELECTRIC CORPORATION OR MUNICIPALITY FOR MAJOR CHANGES
8 IN RATES, CHARGES, OR RENTALS AS SUCH CHANGES ARE DEFINED IN SUBDIVISION
9 TWELVE OF THIS SECTION. SUCH PUBLIC STATEMENT HEARINGS SHALL CONFORM TO
10 THE FOLLOWING REQUIREMENTS:
11 A. (1) AT LEAST ONE DAY AND ONE EVENING HEARING SHALL BE HELD IN OR
12 NEAR EACH LOCALITY WHOSE CUSTOMERS WILL BE AFFECTED BY THE PROPOSED
13 MAJOR CHANGE IN RATES. IN EACH CASE, HEARINGS SHALL BE SCHEDULED AFTER
14 THE ADMINISTRATIVE LAW JUDGE HAS ISSUED A RECOMMENDED DECISION AND
15 BEFORE THE COMMISSION BEGINS DELIBERATIONS ON ITS FINAL ORDER AND OPIN-
16 ION.
17 (2) THE COMMISSION SHALL PREPARE A BRIEF SUMMARY, IN PLAIN AND SIMPLE
18 LANGUAGE OF THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION, THE
19 RECOMMENDED CHANGE IN RATES, AND THE AVERAGE ESTIMATED CHANGE IN RATES
20 FOR RESIDENTIAL CUSTOMERS. SUCH SUMMARIES SHALL BE MADE AVAILABLE TO
21 PERSONS ATTENDING PUBLIC STATEMENT HEARINGS.
22 (3) A MEMBER OF THE COMMISSION SHALL PRESIDE AT EACH PUBLIC STATEMENT
23 HEARING. EACH MEMBER OF THE COMMISSION SHALL PRESIDE OVER AT LEAST ONE
24 PUBLIC STATEMENT HEARING IN EACH CALENDAR YEAR.

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

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1 B. CUSTOMERS TO BE AFFECTED BY EACH PROPOSED MAJOR CHANGE IN RATES
2 SHALL BE NOTIFIED OF PUBLIC STATEMENT HEARINGS BY BILL INSERTS TO BE
3 INCLUDED WITH THE LATEST UTILITY BILLS WHICH WILL INSURE THAT AFFECTED
4 CUSTOMERS RECEIVE SUCH BILL INSERTS BEFORE PUBLIC STATEMENT HEARINGS ARE
5 HELD. BILL INSERTS SHALL CONTAIN CONSPICUOUS NOTICE, IN CLEAR AND UNDER-
6 STANDABLE FORM AND LANGUAGE OF THE FOLLOWING INFORMATION.

7 (1) NOTICE OF THE TIME, PLACE AND DATE OF PUBLIC STATEMENT HEARINGS.

8 (2) A BRIEF DESCRIPTION, PREPARED BY THE COMMISSION, OF THE CHANGE IN
9 RATES WHICH THE UTILITY HAS REQUESTED AND, IF THEN KNOWN, THE CHANGE IN
10 RATES RECOMMENDED BY THE COMMISSION'S STAFF.

11 (3) A SHORT STATEMENT OF THE NATURE OF THE PUBLIC STATEMENT HEARINGS.

12 (4) NOTICE THAT PUBLIC STATEMENT HEARINGS WILL BE HELD AFTER THE
13 ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND BEFORE THE COMMIS-
14 SION'S FINAL ORDER AND OPINION.

15 (5) NOTICE THAT THE COMMISSION MAY MODIFY THE DECISION OF THE ADMINIS-
16 TRATIVE LAW JUDGE AND THAT THE COMMISSION WILL GIVE CONSIDERATION IN ITS
17 DECISION TO ANY STATEMENTS OF CUSTOMER IMPACT PRESENTED AT PUBLIC STATE-
18 MENT HEARINGS.

19 (6) THE NAMES, ADDRESSES AND TELEPHONE NUMBERS OF EMPLOYEES OF THE
20 APPLICANT AND THE COMMISSION WHO CAN PROVIDE CUSTOMERS WITH ADDITIONAL
21 INFORMATION.

22 C. IN ADDITION TO ANY CONSIDERATION OF CUSTOMER IMPACT BY THE ADMINIS-
23 TRATIVE LAW JUDGE, THE COMMISSION SHALL MAKE ADJUSTMENTS TO SUCH RECOM-
24 MENDED DECISION AS NECESSARY BASED UPON ANY ASPECT OF CUSTOMER IMPACT
25 PRESENTED IN PUBLIC STATEMENT HEARINGS.

26 D. THE COMMISSION SHALL ADOPT REGULATIONS TO EFFECTUATE THE PROVISIONS
27 OF THIS SUBDIVISION.

28 S 2. Paragraph (b) of subdivision 12 of section 66 of the public
29 service law, as amended by chapter 154 of the laws of 1989, is amended
30 to read as follows:

31 (b) No change shall be made in any rate or charge, or in any form of
32 contract or agreement or any rule or regulation relating to any rate,
33 charge or service, or in any general privilege or facility, which shall
34 have been filed by a utility in compliance with an order of the commis-
35 sion, except after thirty days' notice to the commission and to each
36 county, city, town and village served by such utility which had filed
37 with such utility, within the prior twelve months, a request for such
38 notice and which shall be affected by such change and publication of a
39 notice to the public of such proposed change [once in each week for four
40 successive weeks] ON THE FIRST AND SECOND TUESDAY OF THE MONTH FOLLOWING
41 THE DATE ON WHICH SUCH PROPOSED CHANGE HAS BEEN FILED WITH THE COMMIS-
42 SION in a newspaper having general circulation in each county containing
43 territory affected by the proposed change, which notice shall plainly
44 state the changes proposed and when the change will go into effect. The
45 commission for good cause shown may, except in the case of major chang-
46 es, allow changes to take effect prior to the end of such thirty-day
47 period and without publication of notice to the public under such condi-
48 tions as it may prescribe. The commission may delegate to the secretary
49 of the commission its authority to approve a change to a schedule post-
50 poning the effective date of such schedule previously filed with the
51 commission and to allow for good cause shown the postponement to take
52 effect prior to the end of such thirty-day period and without publica-
53 tion of notice to the public.

54 S 3. Section 92 of the public service law is amended by adding a new
55 subdivision 2-a to read as follows:

1 2-A. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION
2 OR ANY OTHER PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSION
3 SHALL HOLD PUBLIC STATEMENT HEARINGS FOR THE PURPOSE OF RECEIVING STATE-
4 MENTS OF CUSTOMER IMPACT FOR ANY APPLICATION FILED BY A TELEPHONE OR
5 TELEGRAPH CORPORATION FOR MAJOR CHANGES IN RATES, CHARGES, OR RENTALS AS
6 SUCH CHANGES ARE DEFINED IN SUBDIVISION TWELVE OF SECTION SIXTY-SIX OF
7 THIS CHAPTER. SUCH PUBLIC STATEMENT HEARINGS SHALL CONFORM TO THE
8 FOLLOWING REQUIREMENTS.

9 A. (1) AT LEAST ONE DAY AND ONE EVENING HEARING SHALL BE HELD IN OR
10 NEAR EACH LOCALITY WHOSE CUSTOMERS WILL BE AFFECTED BY THE PROPOSED
11 MAJOR CHANGE IN RATES. IN EACH CASE, HEARINGS SHALL BE SCHEDULED AFTER
12 THE ADMINISTRATIVE LAW JUDGE HAS ISSUED A RECOMMENDED DECISION AND,
13 BEFORE THE COMMISSION BEGINS DELIBERATIONS ON ITS FINAL ORDER AND OPIN-
14 ION.

15 (2) THE COMMISSION SHALL PREPARE A BRIEF SUMMARY, IN PLAIN AND SIMPLE
16 LANGUAGE OF THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION, THE
17 RECOMMENDED CHANGE IN RATES, AND THE AVERAGE ESTIMATED CHANGE IN RATES
18 FOR RESIDENTIAL CUSTOMERS. SUCH SUMMARIES SHALL BE MADE AVAILABLE TO
19 PERSONS ATTENDING PUBLIC STATEMENT HEARINGS.

20 (3) A MEMBER OF THE COMMISSION SHALL PRESIDE AT EACH PUBLIC STATEMENT
21 HEARING. EACH MEMBER OF THE COMMISSION SHALL PRESIDE OVER AT LEAST ONE
22 PUBLIC STATEMENT HEARING IN EACH CALENDAR YEAR.

23 B. CUSTOMERS TO BE AFFECTED BY EACH PROPOSED MAJOR CHANGE IN RATES
24 SHALL BE NOTIFIED OF PUBLIC STATEMENT HEARINGS BY BILL INSERTS TO BE
25 INCLUDED WITH THE LATEST UTILITY BILLS WHICH WILL INSURE THAT AFFECTED
26 CUSTOMERS RECEIVE SUCH BILL INSERTS BEFORE PUBLIC STATEMENT HEARINGS ARE
27 HELD. BILL INSERTS SHALL CONTAIN CONSPICUOUS NOTICE, IN CLEAR AND UNDER-
28 STANDABLE FORM AND LANGUAGE OF THE FOLLOWING INFORMATION.

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30 (2) A BRIEF DESCRIPTION, PREPARED BY THE COMMISSION, OF THE CHANGE IN
31 RATES WHICH THE UTILITY HAS REQUESTED AND, IF THEN KNOWN, THE CHANGE IN
32 RATES RECOMMENDED BY THE COMMISSION'S STAFF.

33 (3) A SHORT STATEMENT OF THE NATURE OF THE PUBLIC STATEMENT HEARINGS.

34 (4) NOTICE THAT PUBLIC STATEMENT HEARINGS WILL BE HELD AFTER THE
35 ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND BEFORE THE COMMIS-
36 SION'S FINAL ORDER AND OPINION.

37 (5) NOTICE THAT THE COMMISSION MAY MODIFY THE DECISION OF THE ADMINIS-
38 TRATIVE LAW JUDGE AND THAT THE COMMISSION WILL GIVE CONSIDERATION IN ITS
39 DECISION TO ANY STATEMENTS OF CUSTOMER IMPACT PRESENTED AT PUBLIC STATE-
40 MENT HEARINGS.

41 (6) THE NAMES, ADDRESSES AND TELEPHONE NUMBERS OF EMPLOYEES OF THE
42 APPLICANT AND THE COMMISSION WHO CAN PROVIDE CUSTOMERS WITH ADDITIONAL
43 INFORMATION.

44 C. IN ADDITION TO ANY CONSIDERATION OF CUSTOMER IMPACT BY THE ADMINIS-
45 TRATIVE LAW JUDGE, THE COMMISSION SHALL MAKE ADJUSTMENTS TO SUCH RECOM-
46 MENDED DECISION AS NECESSARY, BASED UPON ANY ASPECT OF ANY CUSTOMER
47 IMPACT PRESENTED IN PUBLIC STATEMENT HEARINGS.

48 D. THE COMMISSION SHALL ADOPT REGULATIONS TO EFFECTUATE THE PROVISIONS
49 OF THIS SUBDIVISION.

50 S 4. Paragraph (a) of subdivision 2 of section 92 of the public
51 service law, as amended by chapter 517 of the laws of 1996, is amended
52 to read as follows:

53 (a) No change shall be made in any rate, charge or rental, or joint
54 rate, charge or rental applicable to regulated basic services, switched
55 carrier access services, charges for interconnection between local
56 exchange carriers, and toll services within a local access and transport

1 area which shall have been filed by a telegraph corporation or telephone
2 corporation hereinafter in this subdivision called a utility in compli-
3 ance with this chapter, except after thirty days' notice to the commis-
4 sion and to each county, city, town and village served by such utility
5 which had filed with such utility within the prior twelve months a
6 request for such notice and shall be affected by such change and publi-
7 cation of a notice to the public of such proposed change [once in each
8 week for four successive weeks] ON THE FIRST AND SECOND TUESDAY OF THE
9 MONTH FOLLOWING THE DATE ON WHICH SUCH PROPOSED CHANGE HAS BEEN FILED
10 WITH THE COMMISSIONER in a newspaper having general circulation in each
11 county containing territory affected by the proposed change. No other
12 change shall be made in any rate, charge or rental, or joint rate,
13 charge or rental filed by a utility, except after ten business days'
14 notice to the commission and publication of one notice at least ten
15 business days prior to the effective date of the change in a newspaper
16 of general circulation in each county affected by the proposed change.
17 Such notices shall plainly state the changes proposed and the time when
18 they go into effect. For the purpose of this paragraph, "regulated
19 basic services" are defined as: residential, individual business, and
20 public access line network access, connection charges for such network
21 access, local usage, local coin usage rates, tone dialing, access to
22 emergency services, statewide relay services, operator assistance
23 services, [director] DIRECTORY listings, and provisions that affect
24 privacy protections.

25 S 5. This act shall take effect on the thirtieth day after it shall
26 have become a law.