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

S. 5383--A A. 7871--A

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

April 27, 2009

IN SENATE -- Introduced by Sen. PERKINS -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. KELLNER, HEVESI, MAISEL, ESPAILLAT -- Multi-Sponsored by -- M. of A. BRENNAN, COOK, GLICK -- read once and referred to the Committee on Energy -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to converting residential rental buildings from being mass-metered to submetered

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

Section 1. Section 53 of the public service law is renumbered section 54 and a new section 53 is added to read as follows:

S 53. RESIDENTIAL RENTAL BUILDING SUBMETERING. 1. A MASTER-METERED RESIDENTIAL RENTAL BUILDING MAY BE CONVERTED TO BE SUBMETERED IF THE OWNER OF THE BUILDING FILES AN APPLICATION TO CONVERT THE BUILDING TO SUBMETERING WITH THE COMMISSION, PROVIDED THAT:

(A) THE APPLICANT APPLYING TO PROVIDE SUBMETERED ELECTRIC SERVICE INCLUDES WITH THE APPLICATION A PROCEDURE FOR NOTIFYING IN WRITING, WITHIN THIRTY DAYS OF FILING THE APPLICATION WITH THE COMMISSION, ALL TENANTS OF RECORD OF THE PROPOSAL TO SUBMETER. THE NOTIFICATION SHALL:

(I) INCLUDE A SUMMARY OF THE INFORMATION PROVIDED TO THE COMMISSION;

(II) INFORM TENANTS THAT A PUBLIC COMMENT PERIOD HAS COMMENCED;

(III) STATE THE DATE AFTER WHICH COMMENTS DIRECTED TO THE COMMISSION WILL NO LONGER BE ACCEPTED;

(IV) PROMINENTLY DISPLAY THE ADDRESS AND TELEPHONE NUMBER OF THE NEAREST PUBLIC SERVICE COMMISSION OFFICE;

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

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(V) STATE THE DATE, TIME, AND LOCATION OF THE PUBLIC HEARING SET BY THE COMMISSION TO HEAR TESTIMONY FROM THE PUBLIC;

(VI) DIRECT THE TENANT WHERE ON THE PUBLIC SERVICE COMMISSION'S WEBSITE THE ENTIRE APPLICATION CAN BE VIEWED, AS WELL AS TO PROVIDE A TOLL-FREE TELEPHONE NUMBER AND ADDRESS FROM WHICH A TENANT OF RECORD MAY REQUEST A COPY OF THE COMPLETE APPLICATION TO BE MAILED TO SUCH TENANT AT NO COST TO THE TENANT;

(VII) INCLUDE A STATEMENT SUBSTANTIATING ANY ECONOMIC ADVANTAGES OF SUBMETERING OVER DIRECT UTILITY METERING AT THE PREMISES PROPOSED TO BE SUBMETERED;

(VIII) INCLUDE A DESCRIPTION OF THE TYPE OF SUBMETERING SYSTEM TO BE INSTALLED AND A VALIDATION OF ITS RELIABILITY AND ACCURACY;

(IX) STATE THE METHOD AND BASIS FOR CALCULATING RATES TO TENANTS, WHICH SHALL INCLUDE A MAXIMUM RATE PROVISION PREVENTING CHARGES TO TENANTS FROM EXCEEDING THE TARIFFED RATES AND CHARGES FOR SERVICE FROM THE LOCAL DISTRIBUTION UTILITY;

(X) STATE COMPLAINT PROCEDURES AND TENANT PROTECTIONS CONSISTENT WITH THE HOME ENERGY FAIR PRACTICES ACT; AND

(XI) DEMONSTRATE THAT SATISFACTORY ARRANGEMENTS HAVE BEEN MADE WITH THE LOCAL DEPARTMENT OF SOCIAL SERVICES TO PROVIDE CONTINUED ELECTRIC SERVICE UPON ACCEPTANCE OF VENDOR PAYMENT OF UTILITY ASSISTANCE GRANTS IN ACCORDANCE WITH THE STATE PLAN FOR REGULAR AND EMERGENCY HOME ENERGY ASSISTANCE UNDER SECTION NINETY-SEVEN OF THE SOCIAL SERVICES LAW, THE EMERGENCY UTILITY ASSISTANCE PROGRAM UNDER SECTION ONE HUNDRED THIRTY-ONE-S OF THE SOCIAL SERVICES LAW, AND IN ACCORDANCE WITH OTHER PROVISIONS OF THE SOCIAL SERVICES LAW OR REGULATIONS OF THE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE RELATING TO UTILITY ASSISTANCE PAYMENTS.

(B) THE COMMISSION HOLDS A PUBLIC HEARING AT A LOCATION NEAR THE RESIDENTIAL RENTAL BUILDING AT LEAST THIRTY DAYS PRIOR TO THE CONDITIONAL AND FINAL APPROVAL OR DENIAL OF THE SUBMETERING APPLICATION.

(C) THE APPLICANT INCLUDES WITH THE APPLICATION:

(I) FINDINGS OF A STUDY COMMISSIONED BY THE APPLICANT OF THE THERMAL CHARACTERISTICS OF THE BUILDING;

(II) RECORDS OF THE LAST TWENTY-FOUR MONTHS OF ELECTRICAL USAGE AND CHARGES;

(III) THE PROJECTED SUBMETERED RATES AT THE CURRENT USAGE RATE FOR THE VARIOUS DWELLING UNIT TYPES THAT EXIST IN THE BUILDING;

(IV) A PLAN TO REPLACE ALL NON-ENERGY STAR RATED APPLIANCES PROVIDED BY THE APPLICANT TO THE TENANTS WITH ENERGY STAR RATED APPLIANCES.

(D) THE APPLICANT PAYS ALL COSTS OF AN INDEPENDENT ENERGY ANALYSIS OF THE BUILDING BY ONE OF THE CONSULTANTS CHOSEN BY THE TENANTS IF A GROUP OF AT LEAST FIFTY PERCENT OF THE TENANTS OF RECORD REQUEST SUCH ANALYSIS AND THE GROUP OF TENANTS PROVIDES TO THE APPLICANT AT LEAST THREE BIDS FROM CONSULTANTS WHO CAN PERFORM SUCH ANALYSIS.

2. (A) ALL APPLICATIONS FILED PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A TWO-TIERED APPROVAL PROCESS BY THE COMMISSION. INITIAL APPROVAL OF AN APPLICATION, IF GRANTED BY THE COMMISSION, SHALL BE GRANTED FOR A PERIOD OF ONE YEAR, AT WHICH TIME, THE APPROVAL SHALL AUTOMATICALLY EXPIRE; PROVIDED THAT, WITHIN THREE MONTHS PRIOR OR SUBSEQUENT TO THE EXPIRATION OF THE GRANT OF CONDITIONAL APPROVAL, THE APPLICANT MAY FILE FOR REVIEW OF THE APPLICATION FOR THE PURPOSE OF OBTAINING FINAL APPROVAL OF THE APPLICATION. ANY APPLICANT FILING FOR REVIEW FOR FINAL APPROVAL OF AN APPLICATION SHALL SUBMIT TO THE COMMISSION A LISTING OF THE ACTUAL METERED USAGE RATES AND CHARGES TO THE

TENANTS DURING THE PERIOD OF THE CONDITIONAL APPROVAL OF THE APPLICATION.

(B) ANY APPLICANT WHOSE APPLICATION FOR CONDITIONAL APPROVAL IS DENIED BY THE COMMISSION MAY RE-FILE AN APPLICATION NO EARLIER THAN SIX MONTHS FOLLOWING THE DENIAL OF THE APPLICATION BY THE COMMISSION.

(C) THE COMMISSION SHALL PROVIDE WRITTEN NOTICE TO AN APPLICANT OF ITS DECISION REGARDING APPLICATIONS WITHIN THIRTY DAYS OF THE PUBLIC HEARING REQUIRED BY SUBDIVISION ONE OF THIS SECTION. ALL DENIALS OF APPLICATIONS SHALL STATE THE REASONS FOR THE DENIAL, SHALL SPECIFY THE MEASURES THE APPLICANT MUST TAKE TO QUALIFY FOR APPROVAL OF THE APPLICATION AND SHALL ADVISE THE APPLICANT OF HIS OR HER RIGHT TO INVESTIGATION AND REVIEW OF THE DENIAL OF THE APPLICATION IF THE APPLICANT CONSIDERS SUCH DENIAL TO BE WITHOUT JUSTIFICATION.

S 2. The public service commission shall promulgate any rules and regulations necessary for the implementation of this act on its effective date.

S 3. This act shall take effect immediately.