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

373

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. JACOBS, BRENNAN -- Multi-Sponsored by -- M. of A. COLTON, DINOWITZ, ENGLEBRIGHT, GALEF, GOTTFRIED, HOOPER, JOHN, McENENY, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to the use of revenues by public utilities

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

Section 1. The public service law is amended by adding a new section 107-a to read as follows:

S 107-A. USE OF REVENUES BY PUBLIC UTILITY COMPANIES. 1. NO PUBLIC UTILITY COMPANY SHALL USE REVENUES RECEIVED FROM THE RENDITION OF PUBLIC SERVICE WITHIN THE STATE TO ENTER INTO OR AMEND, DIRECTLY OR INDIRECTLY, ANY AGREEMENT CONTAINING PROVISIONS WHICH INCREASE, DIRECTLY OR INDIRECTLY, THE CURRENT OR FUTURE COMPENSATION OF ANY OFFICER OR DIRECTOR OF SUCH PUBLIC UTILITY COMPANY, WHERE THE EFFECTUATION OF SUCH AGREEMENT IS CONTINGENT UPON A CHANGE IN CONTROL OF SUCH PUBLIC UTILITY COMPANY OR UPON THE EXISTENCE OF ANY TENDER OFFER OR REQUEST OR INVITATION FOR TENDERS OF ANY CLASS OR SERIES OF SHARES OF SUCH PUBLIC UTILITY COMPANY.

2. FOR PURPOSES OF THIS SECTION, "CHANGE IN CONTROL" MEANS (A) ANY MERGER OR CONSOLIDATION OF A PUBLIC UTILITY COMPANY WITH ANY OTHER CORPORATE ENTITY; (B) ANY TRANSFER OF A SUBSTANTIAL PORTION OF THE ASSETS OF A PUBLIC UTILITY COMPANY WITHOUT THE APPROVAL OF A MAJORITY OF THE BOARD OF DIRECTORS OF SUCH UTILITY; (C) ACQUISITION BY ANY PERSON OR ENTITY OF MORE THAN TWENTY-FIVE PER CENTUM OF THE VOTING SECURITIES OF A PUBLIC UTILITY COMPANY; (D) APPOINTMENT OF A RECEIVER FOR A PUBLIC UTILITY COMPANY; OR (E) A CHANGE IN THE COMPOSITION OF THE BOARD OF DIRECTORS OF A PUBLIC UTILITY COMPANY WHICH REMOVES THE CURRENT DIRECTORS FROM A MAJORITY.

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

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3. IN NO EVENT SHALL THE CONSENT AND APPROVAL OF THE PUBLIC SERVICE COMMISSION BE GRANTED FOR ANY AGREEMENT FOR SEVERANCE COMPENSATION OF ANY OFFICER OR DIRECTOR OF A PUBLIC UTILITY COMPANY UNLESS ITS COST IS FULLY DEDUCTIBLE AS A BUSINESS EXPENSE FROM FEDERAL TAXATION.

4. THE PROVISIONS OF THIS SECTION SHALL NOT PROHIBIT ROUTINE INCREASES IN COMPENSATION, OR OTHER ROUTINE COMPENSATION AGREEMENTS, UNDERTAKEN IN THE ORDINARY COURSE OF BUSINESS OF A PUBLIC UTILITY COMPANY.

S 2. This act shall take effect immediately.