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

January 29, 2009

Introduced by Sens. STAVISKY, ADAMS, DIAZ, DUANE, C. JOHNSON, ONORATO, PARKER, SAMPSON -- 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 prohibiting discontinuance of utility service to multiple dwellings

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

Section 1. Section 33 of the public service law, as added by chapter 713 of the laws of 1981, is amended to read as follows:

S 33. Discontinuance of residential utility service to multiple dwellings. [1. Notwithstanding any other provisions of law, no public utility company or municipality shall discontinue gas, electric or steam service to an entire multiple dwelling (as defined in the multiple dwelling law or the multiple residence law) located anywhere in this state for nonpayment of bills rendered for service unless such utility shall have given fifteen days written notice of its intention so to discontinue as follows:

(a) Such notice shall be served personally on the owner of the premises affected, or in lieu thereof, to the person, firm, or corporation to whom or which the last preceding bill has been rendered and from whom or which the utility has received payment therefor, and to the superintendent or other person in charge of the building or premises affected, if it can be readily ascertained that there is such superintendent or other person in charge.

(b) In lieu of personal delivery to the person or persons, firm or corporation specified in (a) above, such notice may be mailed in a postpaid wrapper to the address of such person or persons, firm or corporation.

(c) In addition to the notice prescribed by (a) or (b) above, fifteen days written notice shall be (i) posted in the public areas of such multiple dwelling, (ii) mailed to the "Occupant" of each unit in that

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

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multiple dwelling, (iii) mailed to the local health officer and the director of the social services district for the political subdivision in which the multiple dwelling is located, (iv) if the multiple dwelling is located in a city or a village, mailed to the mayor thereof, or if there be none, to the manager, or, if the multiple dwelling is located in a town, then mailed to the town supervisor, and (v) mailed to the county executive of the county in which the multiple dwelling is located, or if there be none, then to the chairman of such county's legislative body. Notice required by (iv) and (v) of this paragraph may be mailed to the persons specified therein or to their respective designees. The notice required by this paragraph shall state the intended date of discontinuance of service, the amount due for such service, and the procedure by which any tenant or public agency may make such payment and thereby avoid discontinuance of service.

(d) The written notice required by clauses (iii), (iv) and (v) of paragraph (c) above shall be repeated not more than four days nor less than two days prior to such discontinuance.

1-a. Whenever a notice of intention to discontinue utility service has been made pursuant to the provisions of this section and obligations owed the utility or municipality have been satisfied, the utility or municipality shall notify, in the same manner as it gave such notice of intention, the occupant of each unit that the intention to discontinue utility service no longer exists.

2. For the purposes of this section, the department charged with enforcing the multiple dwelling law shall prepare a schedule of all multiple dwellings within its jurisdiction and shall provide a copy of such schedule to any gas, steam or electric corporation or municipality subject to the provisions of this section. Such schedule shall be revised semi-annually and a revised copy provided to such corporation. Every county, and every municipality to which the multiple dwelling law does not apply, which county or municipality has compiled or hereafter may compile a listing of all multiple dwellings within its jurisdiction shall make such listing available without charge to any gas, steam or electric corporation providing service in such county or municipality.

3. Any gas, electric or steam corporation or municipality which willfully fails to comply with the provisions of this section shall be liable for a penalty of twenty-five dollars for each occupied unit of the multiple dwelling for each day during which service is unlawfully discontinued; provided, however, that when the only non-compliance with this section is failure to mail notice to each "Occupant" as required by clause (ii) of paragraph (c) of subdivision one above the penalty shall be twenty-five dollars for each occupied unit of the multiple dwelling to which notice was not mailed for each day during which service is unlawfully discontinued. An action to recover a penalty under this section may be brought by the counsel to the commission in any court of competent jurisdiction in this state in the name of the people of the state of New York. Any moneys recovered in such action shall be paid to the state treasury to the credit of the general fund.

4. Any person who willfully interferes with the posting of the notice specified in clause (i) of paragraph (c) of subdivision one above by any gas, steam or electric corporation or municipality, willfully defaces or mutilates any such notice, or willfully removes the same from the place where it is posted by such company prior to the date specified therein for the discontinuance of service shall be guilty of a violation and, upon conviction, shall be punished by a fine not exceeding twenty-five dollars.

5. The commission shall maintain rules and regulations for the payment by tenants of utility bills for gas, electric or steam service in a multiple dwelling to which this section applies where the owner of any such multiple dwelling, or the person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility or municipality has received payment therefor, has failed to pay such utility bills. Such rules and regulations shall (a) provide that utility service may not be discontinued to any such multiple dwelling as long as the tenants continue to make timely payments in accordance with established procedures; (b) include designation of an office to advise tenants of the rights and procedures available pursuant to such rules and regulations; (c) assure that tenants shall not be liable for bills more than two months in arrears; and (d) require the commission upon petition of twenty-five percent of the tenants of such multiple dwelling to meet with representatives of such tenants and the owner, person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility has received payment therefor] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO PUBLIC UTILITY COMPANY SHALL DISCONTINUE GAS, ELECTRIC, STEAM OR WATER SERVICE TO AN ENTIRE MULTIPLE DWELLING, AS DEFINED IN THE MULTIPLE DWELLING LAW OR THE MULTIPLE RESIDENCE LAW, LOCATED ANYWHERE IN THIS STATE FOR NON-PAYMENT OF BILLS RENDERED FOR SERVICE. SUCH COMPANY SHALL HAVE ALL OTHER RIGHTS AS IN ANY OTHER CASE WHERE MONEY IS OWING INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO FILE A LIEN AGAINST THE PROPERTY SO AFFECTED.

S 2. Section 116 of the public service law, as amended by chapter 713 of the laws of 1981, subdivision 5 as separately amended by chapter 511 of the laws of 1981, is amended to read as follows:

S 116. Discontinuance of water service to multiple dwellings. [1. Notwithstanding any other provisions of law, no public utility company shall discontinue water service to an entire multiple dwelling (as defined in the multiple dwelling law or the multiple residence law) located anywhere in this state for nonpayment of bills rendered for service unless such utility shall have given fifteen days' written notice of its intention so to discontinue as follows:

(a) Such notice shall be served personally on the owner of the premises affected, or in lieu thereof, to the person, firm, or corporation to whom or which the last preceding bill has been rendered and from whom or which the utility has received payment therefor, and to the superintendent or other person in charge of the building or premises affected, if it can be readily ascertained that there is such superintendent or other person in charge.

(b) In lieu of personal delivery to the person or persons, firm or corporation specified in (a) above, such notice may be mailed in a postpaid wrapper to the address of such person or persons, firm or corporation.

(c) In addition to the notice prescribed by (a) or (b) above, fifteen days' written notice shall be (i) posted in the public areas of such multiple dwelling, (ii) mailed to the "Occupant" of each unit in that multiple dwelling, (iii) mailed to the local health officer and the director of the social services district for the political subdivision in which the multiple dwelling is located, (iv) if the multiple dwelling is located in a city or a village, mailed to the mayor thereof, or if there be none, to the manager, or, if the multiple dwelling is located in a town, then mailed to the town supervisor, and (v) mailed to the county executive of the county in which the multiple dwelling is located, or if there be none, then to the chairman of such county's

legislative body. Notice required by (iv) and (v) of this paragraph may be mailed to the persons specified therein or to their respective designees. The notice required by this paragraph shall state the intended date of discontinuance of service, the amount due for such service, and the procedure by which any tenant or public agency may make such payment and thereby avoid discontinuance of service.

(d) The written notice required by clauses (iii), (iv) and (v) of paragraph (c) above shall be repeated not more than four days nor less than two days prior to such discontinuance.

1-a. Whenever a notice of intention to discontinue utility service has been made pursuant to the provisions of this section and obligations owed the utility have been satisfied, the utility shall notify, in the same manner as it gave such notice of intention, the occupant of each unit that the intention to discontinue utility service no longer exists.

2. For the purposes of this section, the department charged with enforcing the multiple dwelling law shall prepare a schedule of all multiple dwellings within its jurisdiction and shall provide a copy of such schedule to any water corporation subject to the provisions of this section. Such schedule shall be revised semi-annually and a revised copy provided to such corporation. Every county, and every municipality to which the multiple dwelling law does not apply, which county or municipality has compiled or hereafter may compile a listing of all multiple dwellings within its jurisdiction shall make such listing available without charge to any water corporation providing service in such county or municipality.

3. Any water corporation which willfully fails to comply with the provisions of this section shall be liable for a penalty of twenty-five dollars for each occupied unit of the multiple dwelling for each day during which service is unlawfully discontinued; provided, however, that when the only non-compliance with this section is failure to mail notice to each "Occupant" as required by clause (ii) of paragraph (c) of subdivision one above the penalty shall be twenty-five dollars for each occupied unit of the multiple dwelling to which notice was not mailed for each day during which service is unlawfully discontinued. An action to recover a penalty under this section may be brought by the counsel to the commission in any court of competent jurisdiction in this state in the name of the people of the state of New York. Any monies recovered in such action shall be paid to the state treasury to the credit of the general fund.

4. Any person who willfully interferes with the posting of the notice specified in clause (i) of paragraph (c) of subdivision one above by any water corporation, willfully defaces or mutilates any such notice, or willfully removes the same from the place where it is posted by such company prior to the date specified therein for the discontinuance of service shall be guilty of a violation and, upon conviction, shall be punished by a fine not exceeding twenty-five dollars.

5. The commission shall maintain rules and regulations for the payment by tenants of utility bills for water service in a multiple dwelling to which this section applies where the owner of any such multiple dwelling, or the person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility has received payment therefore, has failed to pay such utility bills. Such rules and regulations shall (i) provide that utility service may not be discontinued to any such multiple dwelling as long as the tenants continue to make timely payments in accordance with established procedures; (ii) include designation of an office to advise tenants of the

rights and procedures available pursuant to such rules and regulations; (iii) assure that tenants shall not be liable for bills more than two months in arrears; and (iv) require the commission upon petition of twenty-five percent of the tenants of such multiple dwelling to meet with representatives of such tenants and the owner, person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility has received payment therefore] NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO PUBLIC UTILITY COMPANY SHALL DISCONTINUE GAS, ELECTRIC, STEAM OR WATER SERVICE TO AN ENTIRE MULTIPLE DWELLING, AS DEFINED IN THE MULTIPLE DWELLING LAW OR THE MULTIPLE RESIDENCE LAW, LOCATED ANYWHERE IN THIS STATE FOR NON-PAYMENT OF BILLS RENDERED FOR SERVICE. SUCH COMPANY SHALL HAVE ALL OTHER RIGHTS AS IN ANY OTHER CASE WHERE MONEY IS OWING INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO FILE A LIEN AGAINST THE PROPERTY SO AFFECTED.

S 3. Paragraph (a) of subdivision 5 of section 32 of the public service law, as added by chapter 686 of the laws of 2002, is amended to read as follows:

(a) In the event the service to a residential customer terminated pursuant to this section [or the service to a multiple-family dwelling pursuant to section thirty-three of this article] or a two-family dwelling pursuant to section thirty-four of this article consists of the provision of gas or electricity commodity only, the utility providing distribution services to such customer shall suspend the provision of such distribution services and the provision of any other related services to such customer if:

(i) The utility providing distribution services to such customer is notified of the termination in such manner and form as the commission shall, by regulation, prescribe; which notification shall include documentation sufficient to confirm that such termination was, in all respects, in compliance with this article and that the conditions set forth in this subdivision have been met;

(ii) Except in the case of a service to a multiple dwelling pursuant to section thirty-three of this article, such customer was billed using a billing system in which all charges for service were present on a single bill;

(iii) Such utility providing distribution services provided such services to the customer at the time of the termination;

(iv) The utility implementing the termination confirms that it is able to and will take all actions within its control necessary to resume the provision of electric or gas commodity to such customer in accordance with the agreement for such service between such utility and such customer, if the customer makes full payment of the amount of arrears that were the basis for the termination of service;

(v) The utility implementing the termination has not assigned its right to obtain payment of the arrears to an entity that is not a utility for purposes of this article; and

(vi) Less than one year has elapsed since such termination of commodity service has occurred.

S 4. This act shall take effect immediately.