

1027

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PHEFFER, GABRYSZAK -- read once and referred to
the Committee on Consumer Affairs and Protection

AN ACT to amend the public service law, in relation to unauthorized
changes in suppliers of natural gas and electric service

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

1 Section 1. Section 65 of the public service law is amended by adding a
2 new subdivision 14 to read as follows:
3 14. UNAUTHORIZED CHANGES IN NATURAL GAS OR ELECTRIC SERVICE PROHIBIT-
4 ED. (A) NO SUPPLIER OF GAS OR ELECTRIC SERVICE OR ANY PERSON, FIRM OR
5 CORPORATION ACTING AS SUCH SUPPLIER'S AGENT OR REPRESENTATIVE SHALL ON
6 BEHALF OF A CUSTOMER MAKE OR DIRECT ANY CHANGE IN A SUPPLIER OF GAS OR
7 ELECTRIC SERVICE UNLESS SUCH SUPPLIER, AGENT OR REPRESENTATIVE COMPLIES
8 WITH REQUIREMENTS TO AUTHORIZE AND VERIFY THE CHANGE. THE COMMISSION
9 SHALL HAVE THE AUTHORITY TO ESTABLISH REQUIREMENTS FOR OBTAINING THE
10 AUTHORIZATION OF A CUSTOMER TO EFFECT A CHANGE IN THE CUSTOMER'S SUPPLI-
11 ER OF GAS OR ELECTRIC SERVICE AND FOR THE VERIFICATION OF SUCH CHANGE.
12 IN CONSTRUING AND ENFORCING THE PROVISIONS OF THIS SUBDIVISION, THE ACT
13 OF ANY PERSON, FIRM OR CORPORATION ACTING AS AN AGENT OR REPRESENTATIVE
14 OF A SUPPLIER OF GAS OR ELECTRIC SERVICE SHALL BE DEEMED TO BE THE ACT
15 OF SUCH SUPPLIER OF GAS OR ELECTRIC SERVICE. FOR THE PURPOSES OF THIS
16 SUBDIVISION, "SUPPLIER OF GAS OR ELECTRIC SERVICE" SHALL INCLUDE ANY
17 PERSON, FIRM OR CORPORATION THAT OFFERS, SELLS OR DELIVERS ALL OR PART
18 OF NATURAL GAS OR ELECTRIC SERVICE, INCLUDING, BUT NOT LIMITED TO, A GAS
19 OR ELECTRIC DISTRIBUTION COMPANY, A GAS OR ELECTRIC CORPORATION, A GAS
20 OR ELECTRICITY PROVIDER, MARKETER, AGGREGATOR OR BROKER.
21 (B) THE FAILURE TO COMPLY WITH THE PROVISIONS IN THIS SUBDIVISION
22 SHALL SUBJECT A SUPPLIER OF GAS OR ELECTRIC SERVICE TO EITHER THE JUDI-
23 CIAL PENALTY AUTHORIZED IN SECTION TWENTY-FIVE OF THIS CHAPTER FOR THE
24 FAILURE OR NEGLECT TO OBEY OR COMPLY WITH A PROVISION OF THIS CHAPTER OR

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

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1 THE ADMINISTRATIVE PENALTY ESTABLISHED IN THIS SUBDIVISION. IN SEEKING
2 SUCH JUDICIAL PENALTY OR ASSESSING SUCH ADMINISTRATIVE PENALTY, THE
3 COMMISSION SHALL TAKE INTO ACCOUNT THE NATURE, CIRCUMSTANCES, EXTENT,
4 GRAVITY AND NUMBER OF THE VIOLATIONS, AND WITH RESPECT TO THE VIOLATOR,
5 THE DEGREE OF CULPABILITY, ANY HISTORY OF PRIOR OFFENSES AND REPEATED
6 VIOLATIONS, AND SUCH OTHER MATTERS AS MAY BE APPROPRIATE AND RELEVANT.
7 THE REMEDIES PROVIDED BY THIS SUBDIVISION SHALL BE IN ADDITION TO ANY
8 OTHER REMEDIES PROVIDED BY LAW.

9 (C) THE COMMISSION, AFTER OPPORTUNITY FOR A HEARING, SHALL HAVE THE
10 AUTHORITY TO ASSESS DIRECTLY AN ADMINISTRATIVE PENALTY AGAINST ANY
11 SUPPLIER OF GAS OR ELECTRIC SERVICE FOR EACH VIOLATION OF THIS SUBDIVI-
12 SION OR ORDER OF THE COMMISSION IMPLEMENTING OR ENFORCING THE PROVISIONS
13 OF THIS SUBDIVISION. SUCH PENALTY SHALL NOT EXCEED ONE THOUSAND DOLLARS
14 FOR EACH VIOLATION ASSOCIATED WITH EACH METER SERVICE POINT. ALL MONEYS
15 RECOVERED FROM ANY ADMINISTRATIVE PENALTY SHALL BE PAID INTO THE STATE
16 TREASURY TO THE CREDIT OF THE GENERAL FUND.

17 (D) WHENEVER THE COMMISSION DETERMINES THAT ANY SUPPLIER OF GAS OR
18 ELECTRIC SERVICE IS VIOLATING OR ABOUT TO VIOLATE ANY PROVISION OF THIS
19 SUBDIVISION OR ANY REGULATION OR ORDER OF THE COMMISSION IMPLEMENTING OR
20 ENFORCING THE PROVISIONS OF THIS SUBDIVISION, OR HAS FAILED TO PAY ANY
21 PENALTY ASSESSED PURSUANT TO THE PROVISIONS OF THIS SUBDIVISION, THE
22 COMMISSIONER SHALL HAVE POWER TO BRING AN ACTION OR ENFORCEMENT PROCEED-
23 ING AS PROVIDED BY SECTION TWENTY-SIX OF THIS CHAPTER.

24 S 2. This act shall take effect on the one hundred twentieth day
25 after it shall have become a law; provided, however, that effective
26 immediately, the addition, amendment and/or repeal of any rule or regu-
27 lation necessary for the implementation of this act on its effective
28 date are authorized and directed to be made and completed on or before
29 such effective date.