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

3535--A

2011-2012 Regular Sessions

I N S E N A T E

February 24, 2011

Introduced by Sens. OPPENHEIMER, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. Section 66 of the public service law is amended by adding a new subdivision 12-e to read as follows:

12-E. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWELVE OF THIS SECTION OR ANY OTHER PROVISION OF THIS CHAPTER TO THE CONTRARY, THE COMMISSION SHALL HOLD PUBLIC STATEMENT HEARINGS FOR THE PURPOSE OF RECEIVING STATEMENTS OF CUSTOMER IMPACT FOR ANY APPLICATION FILED BY A GAS CORPORATION, ELECTRIC CORPORATION OR MUNICIPALITY FOR MAJOR CHANGES IN RATES, CHARGES, OR RENTALS AS SUCH CHANGES ARE DEFINED IN SUBDIVISION TWELVE OF THIS SECTION. SUCH PUBLIC STATEMENT HEARINGS SHALL CONFORM TO THE FOLLOWING REQUIREMENTS:

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

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

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

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

(B) CUSTOMERS TO BE AFFECTED BY EACH PROPOSED MAJOR CHANGE IN RATES SHALL BE NOTIFIED OF PUBLIC STATEMENT HEARINGS BY BILL INSERTS TO BE INCLUDED WITH THE LATEST UTILITY BILLS WHICH WILL INSURE THAT AFFECTED CUSTOMERS RECEIVE SUCH BILL INSERTS BEFORE PUBLIC STATEMENT HEARINGS ARE HELD. BILL INSERTS SHALL CONTAIN CONSPICUOUS NOTICE, IN CLEAR AND UNDERSTANDABLE FORM AND LANGUAGE OF THE FOLLOWING INFORMATION.

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

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

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

(4) NOTICE THAT PUBLIC STATEMENT HEARINGS WILL BE HELD AFTER THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND BEFORE THE COMMISSION'S FINAL ORDER AND OPINION.

(5) NOTICE THAT THE COMMISSION MAY MODIFY THE DECISION OF THE ADMINISTRATIVE LAW JUDGE AND THAT THE COMMISSION WILL GIVE CONSIDERATION IN ITS DECISION TO ANY STATEMENTS OF CUSTOMER IMPACT PRESENTED AT PUBLIC STATEMENT HEARINGS.

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

(C) IN ADDITION TO ANY CONSIDERATION OF CUSTOMER IMPACT BY THE ADMINISTRATIVE LAW JUDGE, THE COMMISSION SHALL MAKE ADJUSTMENTS TO SUCH RECOMMENDED DECISION AS NECESSARY BASED UPON ANY ASPECT OF CUSTOMER IMPACT PRESENTED IN PUBLIC STATEMENT HEARINGS.

(D) THE COMMISSION SHALL ADOPT REGULATIONS TO EFFECTUATE THE PROVISIONS OF THIS SUBDIVISION.

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

(b) No change shall be made in any rate or charge, or in any form of contract or agreement or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed by a utility in compliance with an order of the commission, except after thirty days' notice to the commission and to each county, city, town and village served by such utility which had filed with such utility, within the prior twelve months, a request for such notice and which shall be affected by such change and publication of a notice to the public of such proposed change [once in each week for four successive weeks] ON THE FIRST AND SECOND TUESDAY OF THE MONTH FOLLOWING THE DATE ON WHICH SUCH PROPOSED CHANGE HAS BEEN FILED WITH THE COMMISSION in a newspaper having general circulation in each county containing territory affected by the proposed change, which notice shall plainly state the changes proposed and when the change will go into effect. The commission for good cause shown may, except in the case of major changes, allow changes to take effect prior to the end of such thirty-day period and without publication of notice to the public under such conditions as it may prescribe. The commission may delegate to the secretary of the commission its authority to approve a change to a schedule postponing the effective date of such schedule previously filed with the commission and to allow for good cause shown the postponement to take effect prior to the end of such thirty-day period and without publication of notice to the public.

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

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

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

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

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

(B) CUSTOMERS TO BE AFFECTED BY EACH PROPOSED MAJOR CHANGE IN RATES SHALL BE NOTIFIED OF PUBLIC STATEMENT HEARINGS BY BILL INSERTS TO BE INCLUDED WITH THE LATEST UTILITY BILLS WHICH WILL INSURE THAT AFFECTED CUSTOMERS RECEIVE SUCH BILL INSERTS BEFORE PUBLIC STATEMENT HEARINGS ARE HELD. BILL INSERTS SHALL CONTAIN CONSPICUOUS NOTICE, IN CLEAR AND UNDERSTANDABLE FORM AND LANGUAGE OF THE FOLLOWING INFORMATION.

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

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

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

(4) NOTICE THAT PUBLIC STATEMENT HEARINGS WILL BE HELD AFTER THE ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND BEFORE THE COMMISSION'S FINAL ORDER AND OPINION.

(5) NOTICE THAT THE COMMISSION MAY MODIFY THE DECISION OF THE ADMINISTRATIVE LAW JUDGE AND THAT THE COMMISSION WILL GIVE CONSIDERATION IN ITS DECISION TO ANY STATEMENTS OF CUSTOMER IMPACT PRESENTED AT PUBLIC STATEMENT HEARINGS.

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

(C) IN ADDITION TO ANY CONSIDERATION OF CUSTOMER IMPACT BY THE ADMINISTRATIVE LAW JUDGE, THE COMMISSION SHALL MAKE ADJUSTMENTS TO SUCH RECOMMENDED DECISION AS NECESSARY, BASED UPON ANY ASPECT OF ANY CUSTOMER IMPACT PRESENTED IN PUBLIC STATEMENT HEARINGS.

(D) THE COMMISSION SHALL ADOPT REGULATIONS TO EFFECTUATE THE PROVISIONS OF THIS SUBDIVISION.

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

(a) No change shall be made in any rate, charge or rental, or joint rate, charge or rental applicable to regulated basic services, switched

carrier access services, charges for interconnection between local exchange carriers, and toll services within a local access and transport area which shall have been filed by a telegraph corporation or telephone corporation hereinafter in this subdivision called a utility in compliance with this chapter, except after thirty days' notice to the commission and to each county, city, town and village served by such utility which had filed with such utility within the prior twelve months a request for such notice and shall be affected by such change and publication of a notice to the public of such proposed change [once in each week for four successive weeks] ON THE FIRST AND SECOND TUESDAY OF THE MONTH FOLLOWING THE DATE ON WHICH SUCH PROPOSED CHANGE HAS BEEN FILED WITH THE COMMISSIONER in a newspaper having general circulation in each county containing territory affected by the proposed change. No other change shall be made in any rate, charge or rental, or joint rate, charge or rental filed by a utility, except after ten business days' notice to the commission and publication of one notice at least ten business days prior to the effective date of the change in a newspaper of general circulation in each county affected by the proposed change. Such notices shall plainly state the changes proposed and the time when they go into effect. For the purpose of this paragraph, "regulated basic services" are defined as: residential, individual business, and public access line network access, connection charges for such network access, local usage, local coin usage rates, tone dialing, access to emergency services, statewide relay services, operator assistance services, [director] DIRECTORY listings, and provisions that affect privacy protections.

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