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

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 65 of the public service law is amended by adding a new subdivision 14 to read as follows:

14. UNAUTHORIZED CHANGES IN NATURAL GAS OR ELECTRIC SERVICE PROHIBITED. (A) NO SUPPLIER OF GAS OR ELECTRIC SERVICE OR ANY PERSON, FIRM OR CORPORATION ACTING AS SUCH SUPPLIER'S AGENT OR REPRESENTATIVE SHALL ON BEHALF OF A CUSTOMER MAKE OR DIRECT ANY CHANGE IN A SUPPLIER OF GAS OR ELECTRIC SERVICE UNLESS SUCH SUPPLIER, AGENT OR REPRESENTATIVE COMPLIES WITH REQUIREMENTS TO AUTHORIZE AND VERIFY THE CHANGE. THE COMMISSION SHALL HAVE THE AUTHORITY TO ESTABLISH REQUIREMENTS FOR OBTAINING THE AUTHORIZATION OF A CUSTOMER TO EFFECT A CHANGE IN THE CUSTOMER'S SUPPLIER OF GAS OR ELECTRIC SERVICE AND FOR THE VERIFICATION OF SUCH CHANGE. IN CONSTRUING AND ENFORCING THE PROVISIONS OF THIS SUBDIVISION, THE ACT OF ANY PERSON, FIRM OR CORPORATION ACTING AS AN AGENT OR REPRESENTATIVE OF A SUPPLIER OF GAS OR ELECTRIC SERVICE SHALL BE DEEMED TO BE THE ACT OF SUCH SUPPLIER OF GAS OR ELECTRIC SERVICE. FOR THE PURPOSES OF THIS SUBDIVISION, "SUPPLIER OF GAS OR ELECTRIC SERVICE" SHALL INCLUDE ANY PERSON, FIRM OR CORPORATION THAT OFFERS, SELLS OR DELIVERS ALL OR PART OF NATURAL GAS OR ELECTRIC SERVICE, INCLUDING, BUT NOT LIMITED TO, A GAS OR ELECTRIC DISTRIBUTION COMPANY, A GAS OR ELECTRIC CORPORATION, A GAS OR ELECTRICITY PROVIDER, MARKETER, AGGREGATOR OR BROKER.

(B) THE FAILURE TO COMPLY WITH THE PROVISIONS IN THIS SUBDIVISION SHALL SUBJECT A SUPPLIER OF GAS OR ELECTRIC SERVICE TO EITHER THE JUDICIAL PENALTY AUTHORIZED IN SECTION TWENTY-FIVE OF THIS CHAPTER FOR THE 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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THE ADMINISTRATIVE PENALTY ESTABLISHED IN THIS SUBDIVISION. IN SEEKING SUCH JUDICIAL PENALTY OR ASSESSING SUCH ADMINISTRATIVE PENALTY, THE COMMISSION SHALL TAKE INTO ACCOUNT THE NATURE, CIRCUMSTANCES, EXTENT, GRAVITY AND NUMBER OF THE VIOLATIONS, AND WITH RESPECT TO THE VIOLATOR, THE DEGREE OF CULPABILITY, ANY HISTORY OF PRIOR OFFENSES AND REPEATED VIOLATIONS, AND SUCH OTHER MATTERS AS MAY BE APPROPRIATE AND RELEVANT. THE REMEDIES PROVIDED BY THIS SUBDIVISION SHALL BE IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY LAW.

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

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

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