

8433

2011-2012 Regular Sessions

I N   A S S E M B L Y

June 15, 2011

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Introduced by M. of A. DINOWITZ, 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  
25 THE ADMINISTRATIVE PENALTY ESTABLISHED IN THIS SUBDIVISION. IN SEEKING

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

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

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

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

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