

# STATE OF NEW YORK

3793

2017-2018 Regular Sessions

## IN ASSEMBLY

January 30, 2017

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to clarifying the mandatory time within which the public service commission must act upon petitions submitted by regulated entities and the citizenry

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public service law is amended by adding a new section  
2 28 to read as follows:

3 § 28. Petitions; time period for action to be taken. 1. For the  
4 purposes of this section, the term:

5 (a) "customer" shall mean a customer or consumer of a utility service  
6 that is regulated pursuant to this chapter, who shall be either an indi-  
7 vidual; a group of individuals; the mayor of a city; the trustees of a  
8 village; the town board of a town; or the chief executive office or the  
9 legislative body of a county. For the purposes of this subdivision,  
10 "customer" shall include the division of consumer protection of the  
11 department of state.

12 (b) "petition" shall mean any petition or complaint filed with or  
13 submitted to the commission pursuant to this chapter by a customer,  
14 alleging or relating to:

15 (i) the failure or omitting to do anything required of a public utili-  
16 ty company by any provision of this chapter, or by any regulations or an  
17 order of the commission;

18 (ii) any actions taken by a public utility company, its officers,  
19 employees or agents that are contrary to or in violation of the  
20 provisions of this chapter; the regulations or an order of the commis-  
21 sion; or the terms or conditions of the franchise or charter of the  
22 public utility company;

23 (iii) rate charges or classification of service; or

24 (iv) the adequacy, efficiency or reliability of service.

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

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1 Such term shall not mean or include any petition filed or submitted by  
2 a public utility corporation or any corporation that provides or  
3 supplies utility services pursuant to this chapter.

4 2. (a) Notwithstanding any provision of law to the contrary, and  
5 except where a shorter time period is required pursuant to this chapter,  
6 the commission shall complete its investigation and issue a determi-  
7 nation or decision with respect to any petition within ninety days of  
8 the filing or submission of the petition.

9 (b) Notwithstanding any provision of paragraph (a) of this subdivi-  
10 sion, if the petition alleges an emergency or some other action that  
11 threatens or impacts the health or safety of any person or the surround-  
12 ing area, the commission shall make a determination as soon as possible  
13 but in no event more than thirty days from the date when such petition  
14 was filed or submitted.

15 (c) If the commission is unable to meet the time limitations set forth  
16 in this subdivision, the commission shall prepare and send to the peti-  
17 tioner or complainant a written document stating the reasons for the  
18 failure or inability of the commission to comply with the time frames,  
19 and the date when a determination will be made, except that the  
20 provisions of this paragraph shall not apply to petitions described in  
21 paragraph (b) of this subdivision.

22 (d) Notwithstanding any provision of this subdivision and of this  
23 chapter to the contrary, if the petitioner or complainant requests an  
24 opportunity to be heard on the petition, the commission shall commence  
25 the hearing within ten business days of the request and shall make its  
26 determination within thirty days of the last day of the hearing. If the  
27 commission directs that a hearing be conducted on the petition, the  
28 decision to conduct such hearing shall be made within thirty days of the  
29 initial filing of the petition, and the hearing shall be completed and a  
30 decision thereon issued within ninety days of the initial filing of the  
31 petition.

32 3. On or before February fifteenth of each year, the commission shall  
33 submit a report to the governor, the speaker of the assembly, the tempo-  
34 rary president of the senate and the chairs of senate and assembly  
35 committees on corporations, authorities and commissions setting forth:

36 (a) the total number of petitions filed or submitted with the commis-  
37 sion in the previous calendar year;

38 (b) a breakdown of such petitions by utility and subject matter of the  
39 petition;

40 (c) the number of such petitions upheld, dismissed or otherwise  
41 resolved, broken down by utility and subject matter;

42 (d) the number and percentage of petitions that were upheld, dismissed  
43 or resolved within the statutory time frame; and

44 (e) if applicable, the number of petitions that were not completed or  
45 resolved within the statutory time frames, the reasons for failure to  
46 meet the time frames, and the average length of time for such petitions  
47 to be finally completed or resolved.

48 4. If the commission fails to meet or comply with the time frames set  
49 forth in this subdivision, the petitioner or complainant may commence a  
50 special proceeding against the commission pursuant to subdivision one of  
51 section seventy-eight hundred three of the civil practice law and rules.  
52 A prevailing petitioner or complainant shall be entitled to reasonable  
53 attorney's fees and court costs.

54 § 2. On or before the one hundred eightieth day after the effective  
55 date of this act, the public service commission shall make or render a  
56 determination on any petition or complaint that was filed with or

1 submitted to such commission prior to the effective date of this act. As  
2 soon as reasonably possible after the end of the 180 day period, the  
3 public service commission shall issue a report to the governor, the  
4 speaker of the assembly, the temporary president of the senate and the  
5 chairs of the senate and assembly standing committees on corporations,  
6 authorities and commissions stating the total number of petitions or  
7 complaints involved; the number of petitions or complaints dismissed or  
8 resolved; and if such commission is unable to meet this time frame, the  
9 reasons for the delay or inaction.

10 § 3. Severability. If any provision of this act or its application to  
11 any person or circumstance is held invalid, this invalidity does not  
12 affect other provisions or applications of this act that can be given  
13 effect without the invalid provision or application, and to this end the  
14 provisions of this act are declared to be severable.

15 § 4. This act shall take effect immediately.