

# STATE OF NEW YORK

9892

## IN ASSEMBLY

February 25, 2020

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

AN ACT to amend the general business law, in relation to requiring comparison of prices charged by energy services companies

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

1 Section 1. Subdivisions 9, 10, 11 and 12 of section 349-d of the  
2 general business law, subdivision 9 as amended by section 34 of part A  
3 of chapter 62 of the laws of 2011 and subdivisions 10, 11 and 12 as  
4 added by chapter 416 of the laws of 2010, are amended to read as  
5 follows:

6 9. The first page of each billing statement from an ESCO delivered to  
7 the customer, either by the ESCO directly or by a utility corporation,  
8 by a municipality or by any other method, shall include a side-by-side  
9 comparison showing both the price charged by the ESCO for commodity and  
10 delivery service during the prior billing period, and the price the  
11 customer would have paid had they taken commodity and delivery service  
12 from their local utility corporation or municipality, as applicable.  
13 Such statement shall also include, separately and apart from the price  
14 charged by the ESCO for commodity and delivery service, an itemized list  
15 of prices charged by the ESCO for any energy-related value-added  
16 products provided by the ESCO during the prior billing period.

17 10. Every twelve months, an ESCO shall provide each of its customers  
18 with a statement comparing the price charged by the ESCO for commodity  
19 and delivery services and other energy-related value-added products over  
20 the prior twelve-month period with the price such customer would have  
21 paid had they taken commodity and delivery service from their local  
22 utility corporation or municipality, as applicable, for such period.  
23 Such statement shall convey such information in a manner that unambig-  
24 uously conveys whether the customer is saving money or paying a premium  
25 for service from the ESCO over such period.

26 11. The attorney general, upon his or her own motion or upon referral  
27 from the public service commission, the Long Island power authority or  
28 the department of state, may bring a civil action against any energy

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

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1 services company that violates any provision of this section and may  
2 recover (a) a civil penalty not to exceed one thousand dollars per  
3 violation; and (b) costs and reasonable attorney's fees. In any such  
4 proceeding the court may direct restitution.

5 ~~[10.]~~ 12. In addition to the right of action granted to the attorney  
6 general pursuant to this section, any person who has been injured by  
7 reason of any violation of this section may bring an action in his or  
8 her own name to enjoin such unlawful act or practice, an action to  
9 recover his or her actual damages or five hundred dollars, whichever is  
10 greater, or both such actions. The court may, in its discretion,  
11 increase the award of damages to an amount not to exceed three times the  
12 actual damages up to ten thousand dollars, if the court finds the  
13 defendant willfully or knowingly violated this section. The court may  
14 award reasonable attorney's fees to a prevailing plaintiff.

15 ~~[11.]~~ 13. Nothing in this section shall be deemed to limit any author-  
16 ity of the public service commission or the Long Island power authority,  
17 which existed before the effective date of this section, to limit,  
18 suspend or revoke the eligibility of an energy services company to sell  
19 or offer for sale any energy services for violation of any provision of  
20 law, rule, regulation or policy enforceable by such commission or  
21 authority.

22 ~~[12.]~~ 14. Nothing in this section shall be deemed to limit any author-  
23 ity of the public service commission or the Long Island power authority,  
24 which existed before the effective date of this section, to adopt addi-  
25 tional guidelines, practices, policies, rules or regulations relating to  
26 the marketing practices of energy services companies to residential and  
27 commercial customers, whether in person (including door to door), or by  
28 mail, telephone or other electronic means, that are not inconsistent  
29 with the provisions of this section.

30 § 2. This act shall take effect on the one hundred eightieth day after  
31 it shall have become a law. Effective immediately, the addition, amend-  
32 ment and/or repeal of any rule or regulation necessary for the implemen-  
33 tation of this act on its effective date are authorized and directed to  
34 be made and completed on or before such effective date.