STATE OF NEW YORK

6328

2019-2020 Regular Sessions

IN SENATE

June 5, 2019

Introduced by Sen. PARKER -- (at request of the Department of Public Service) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public service law, in relation to the issuance of subpoenas

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

Section 1. Section 19 of the public service law, as amended by chapter 310 of the laws of 1962 and subdivision 1 as amended by chapter 131 of the laws of 1963, is amended to read as follows:

§ 19. Attendance of witnesses and their fees. 1. The commission, the chairman, the general counsel or deputy general counsel to the commission, the solicitor to the commission, or an officer or employee of the department specifically authorized by the commission or the chairman to conduct an investigation or hearing shall have the power to issue subpoenas and subpoena duces tecum. [~~All subpoenas~~] Any subpoena so issued shall be signed [~~and issued~~] by either the chairman, a commissioner, [~~by~~] the general counsel or deputy general counsel to the commission, the solicitor to the commission, an officer or employee of the [~~commission~~] department specially authorized by the commission or the chairman to conduct an investigation or hearing or by the secretary or assistant secretary [~~of~~] to the commission. The fees of witnesses required to attend before the commission, [~~or~~] the chairman, a commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, shall be the same as in the case of a subpoena issued out of a court of record, and paid when the witness is excused from further attendance. Except as is herein provided subpoenas shall be regulated by the civil practice law and rules. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party to any proceeding before the commission, the cost of service thereof and

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

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the fee of the witness shall be borne by the party at whose instance the witness is summoned.

2. If a person subpoenaed to attend before the commission [~~or~~]**, the chairman,** a commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, fails to obey the command of such subpoena, without reasonable cause, or if a person in attendance before the commission [~~or~~]**, the chairman, a** commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book or papers, when ordered so to do by the commission, [~~or~~] **the chairman,** a commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, or to subscribe and swear to his deposition after it has been correctly reduced to writing, he **or she** shall be guilty of a misdemeanor and may be prosecuted therefor in any court of competent criminal jurisdiction. **Pursuant to subdivision (b) of section two thousand three hundred eight of the civil practice law and rules, the general counsel may apply in the name of the people of the state of New York, to the supreme court of the state of New York, for an order compelling attendance of a person and/or production of books or papers, as required by the subpoena issued in accordance with this section.**

§ 2. This act shall take effect immediately and shall apply to any proceeding, case or matter pending before the public service commission or the department of public service on such date.