

# STATE OF NEW YORK

2744

2021-2022 Regular Sessions

## IN SENATE

January 25, 2021

Introduced by Sens. COMRIE, BAILEY -- read twice and ordered printed,  
and when printed to be committed to the Committee on Energy and Tele-  
communications

AN ACT to amend the public service law, in relation to complaint handling  
procedures by the public service commission

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

1 Section 1. Section 43 of the public service law, as added by chapter  
2 713 of the laws of 1981, subdivision 3 as added by chapter 686 of the  
3 laws of 2002, is amended to read as follows:

4 § 43. Complaint handling procedures. 1. The commission shall maintain  
5 regulations for the handling of [~~residential~~] all customer complaints,  
6 which at a minimum shall require that each utility or municipality: (a)  
7 maintain procedures, and provide a copy of those procedures, as amended,  
8 to the commission, for prompt investigation of any complaint on a bill  
9 for gas, steam, or electric service rendered or a deposit required and  
10 for [~~prompt~~] reporting to the complainant [~~of~~] within: (i) fifteen busi-  
11 ness days after the result of such investigation for a utility corpo-  
12 ration; or (ii) thirty business days after the result of such investi-  
13 gation for a municipality. [~~If such~~] Such report [~~is made orally, the~~  
14 ~~utility corporation or municipality shall offer the complainant upon a~~  
15 ~~written request the opportunity to receive the report in writing~~] shall  
16 be in writing and provide all supporting documentation; (b) inform any  
17 complainant [~~whose complaint is resolved in favor of the utility corpo-~~  
18 ~~ration or municipality, in whole or in part,~~] of the availability of the  
19 commission's complaint handling procedures; (c) refrain from terminating  
20 service for nonpayment so long as a complaint is pending before a utili-  
21 ty, municipality or the commission and for fifteen days thereafter, or  
22 for such period as the commission for good cause shall establish;  
23 provided however, that as a condition of continued service during the  
24 pendency of any such dispute, a customer shall pay the undisputed

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

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1 portions of any bill for service including bills for current usage, or  
2 such amounts as the commission determines reasonably reflect the cost of  
3 usage to such customer; and (d) refrain from treating the disputed  
4 portion of any bill as late during the pendency of any complaint before  
5 the utility or municipality. Late payment charges shall not be levied  
6 during the period it takes to resolve disputed amounts.

7 2. The commission shall maintain regulations for complaint handling  
8 procedures including complaints with respect to the negotiation of a  
9 deferred payment agreement which shall include, at a minimum: (a)  
10 provision for investigation and informal review and for appeal to the  
11 commission [~~in its discretion~~]; (b) that the burden of proof in all  
12 proceedings shall be on the utility corporation or municipality[~~, except~~  
13 ~~as otherwise provided by the commission for good cause~~]; and (c)  
14 provision for parties to receive a written determination of any  
15 complaint[~~, upon request,~~] in plain and simple English, which determi-  
16 nation shall set forth the relevant facts established, the reasons for  
17 the determination, what actions must be taken and what further proce-  
18 dures are available to a complainant.

19 3. The commission shall [~~use its best efforts to~~] complete its initial  
20 investigation [~~and review and to issue~~] within: (a) fifteen business  
21 days for a utility corporation or; (b) thirty business days for a muni-  
22 cipality. The commission shall complete the informal review, if the  
23 initial decision is appealed, within fifteen business days. The commis-  
24 sion shall, within ninety days, issue its final written determination of  
25 any appeal to it pursuant to this section.

26 4. Failure by any utility corporation or municipality to provide a  
27 response as provided by subdivision one of this section, shall invoke a  
28 penalty of: (a) one hundred dollars per business day for each business  
29 day that exceeds the initial fifteen business day period for a utility  
30 corporation; or (b) twenty-five dollars per business day for each busi-  
31 ness day that exceeds the initial thirty business day period for a muni-  
32 cipality.

33 5. Upon the failure of the commission to adhere to the deadlines  
34 provided by subdivision three of this section, the complainant may  
35 commence a special proceeding against the commission pursuant to subdi-  
36 vision one of section seventy-eight hundred three of the civil practice  
37 law and rules. A prevailing complainant shall be entitled to reasonable  
38 attorney's fees and court costs.

39 § 2. This act shall take effect on the ninetieth day after it shall  
40 have become a law. Effective immediately, the addition, amendment,  
41 and/or repeal of any rules and regulations necessary to implement the  
42 provisions of this act on its effective date are authorized and directed  
43 to be completed on or before such effective date.