STATE OF NEW YORK

438

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer 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:

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

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

10. Every twelve months, an ESCO shall provide each of its customers with a statement comparing the price charged by the ESCO for commodity and delivery services and other energy-related value-added products over the prior twelve-month period with the price such customer would have paid had they taken commodity and delivery service from their local utility corporation or municipality, as applicable, for such period. Such statement shall convey such information in a manner that unambig-

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

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uously conveys whether the customer is saving money or paying a premium for service from the ESCO over such period.

11. The attorney general, upon his or her own motion or upon referral from the public service commission, the Long Island power authority or the department of state, may bring a civil action against any energy services company that violates any provision of this section and may recover (a) a civil penalty not to exceed one thousand dollars per violation; and (b) costs and reasonable attorney's fees. In any such proceeding the court may direct restitution.

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

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

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

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such date.