

# STATE OF NEW YORK

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## IN SENATE

March 5, 2021

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Introduced by Sens. PARKER, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT directing the department of public service to prepare a written report on the affordability of utility services (Part A); and directing the department of public service to prepare a written report on the effect of the COVID-19 state of emergency on wastewater utilities (Part B)

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

1 Section 1. This act enacts into law components of legislation relating  
2 to the effects of the COVID-19 state disaster emergency on utilities'  
3 services and the affordability of such services. Each component is  
4 wholly contained within a Part identified as Parts A through B. The  
5 effective date for each particular provision contained within such Part  
6 is set forth in the last section of such Part. Any provision in any  
7 section contained within a Part, including the effective date of the  
8 Part, which makes reference to a section "of this act", when used in  
9 connection with that particular component, shall be deemed to mean and  
10 refer to the corresponding section of the Part in which it is found.  
11 Section four of this act sets forth the general effective date of this  
12 act.

13 § 2. Legislative findings and declaration. In response to the COVID-19  
14 pandemic, chapters 108 and 126 of the laws of 2020 were adopted to

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

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1 ensure that New Yorkers would not be deprived of gas, electric, water or  
2 telephone service, helping households follow the vital state policy of  
3 "sheltering in place." The moratorium prohibited termination of utility  
4 services at a pivotal moment when it became evident that sanitary condi-  
5 tions were required to combat the COVID-19 virus and keep New Yorkers  
6 safe and healthy, especially seniors and the medically vulnerable. The  
7 legislature finds and declares that it is unknown to the state the  
8 number of New Yorkers who had their services terminated or disconnected  
9 during the pandemic. The legislature finds that many utility customers  
10 rely on continuous service for heat, water, and electricity to power  
11 necessary equipment, such as life-saving health care devices and other  
12 New Yorkers require cooling during extreme heat conditions and heat  
13 during extreme cold conditions, particularly when congregate care cool-  
14 ing and heating facilities are not safe for use by medically vulnerable  
15 households. The legislature finds that the state requires comprehensive  
16 data concerning New Yorkers' ability to afford utility service, includ-  
17 ing the number of New Yorkers who had their services terminated or who  
18 are currently at risk of termination during the pandemic. The legisla-  
19 ture finds that this data is critical to ascertain the effectiveness of  
20 the moratorium and other COVID-19 consumer protections, as well as the  
21 disruptive effects that the pandemic has had on utility customers'  
22 finances, and utility finances and services, and the public health,  
23 safety and welfare of millions of medically and financially vulnerable  
24 citizens. The legislature also finds that the permanent collection and  
25 reporting of utility data is imperative to gain regular updates on and  
26 evaluate trends concerning the scale and extent of terminations and  
27 utility debt across the state, so that evidence-based policy can be  
28 properly crafted thereafter.

29 PART A

30 Section 1. 1. As used in this act:

31 a. "Assistance program" shall mean any program offered to eligible  
32 low-income customers to assist with the costs of electricity, gas,  
33 water, and telephone including but not limited to the low-income home  
34 energy assistance program, any low-income affordability plans as  
35 provided by public service commission case number 14-M-0565, and/or any  
36 other financial assistance program provided through or by New York state  
37 or individual utilities, counties or municipalities.

38 b. "COVID-19 state of emergency" shall mean the state disaster emer-  
39 gency declared pursuant to executive order 202 of 2020.

40 c. "Department" shall mean the department of public service.

41 d. "Municipality" shall have the same meaning as subdivision 16 of  
42 section 2 of the public service law and shall include potable water  
43 districts and potable water systems owned and/or operated by a city,  
44 town, village, authority or other governmental subdivision.

45 e. "Telephone corporation" shall have the same meaning as subdivision  
46 17 of section 2 of the public service law.

47 f. "Utility" shall mean a municipality, telephone corporation, utility  
48 corporation, steam corporation, water-works corporation, an electric  
49 corporation as defined in subdivision 13 of section 2 of the public  
50 service law, a gas corporation as defined in subdivision 11 of section 2  
51 of the public service law, a combination gas and electric corporation as  
52 defined in subdivision 14 of section 2 of the public service law, a  
53 steam corporation as defined in subdivision 22 of section 2 of the

1 public service law and any other community water system as defined in 10  
2 NYCRR § 5-1.1.

3 g. "Utility corporation" shall have the same meaning as subdivisions  
4 23 and 24 of section 2 of the public service law.

5 h. "Water-works corporation" shall have the same meaning as subdivi-  
6 sion 27 of section 2 of the public service law.

7 2. a. Every utility shall be subject to the jurisdiction of the public  
8 service commission for the purposes of enforcing the provisions of this  
9 act pursuant to sections 24, 25 and 26 of the public service law. The  
10 commission shall adjudicate complaints and conduct investigations for  
11 violation of this act in the manner provided by the provisions of arti-  
12 cle 2 of the public service law.

13 b. Within 60 days after the effective date of this act, the department  
14 shall prepare and submit to the governor and the legislature a written  
15 report that shall make findings and recommendations concerning the  
16 affordability of electric, gas, water, and telephone service to commer-  
17 cial and residential customers in this state. An updated report shall be  
18 submitted monthly until 180 days after the end of the COVID-19 state of  
19 emergency and quarterly thereafter. Without unreasonably exposing  
20 consumer personally identifiable information in a manner that violates  
21 public service law, department and public service commission practice or  
22 federal law, the reports shall include but not be limited to the follow-  
23 ing, with all information to be broken down by utility, type of service  
24 provided, month, customer class, governmental subdivision, zip code,  
25 county, and United States Census American Community Survey Public Use  
26 Micro-data Area:

27 (1) the number of customers and how that number compares to the previ-  
28 ous year's number of customers at the same time;

29 (2) the number of disconnection notices sent due to non-payment,  
30 disconnections due to non-payment, reconnections of customers that were  
31 disconnected for non-payment, average time between service disconnection  
32 due to non-payment and service reconnection, and how those numbers  
33 compare to the previous year at the same time;

34 (3) the number of liens on real property placed, sold, or enforced due  
35 to non-payment, and how those numbers compare to the previous year at  
36 the same time, if applicable;

37 (4) the number of customers in arrears by 1-90 days, 90-180 days, and  
38 greater than 180 days at the end of each month, the total dollar amount  
39 owed, and how those numbers compare to the previous year at the same  
40 time. Provided, however, that a utility or municipality may petition  
41 the department, in a form and manner to be determined by the department,  
42 to allow such utility or municipality to provide such data in an alter-  
43 native format if the specificity set forth in this act cannot be  
44 obtained from an existing utility information technology system and such  
45 data would result in the increase of customer utility bills;

46 (5) the number of customers that became eligible for disconnection due  
47 to bill non-payment but were not disconnected because of any legally  
48 mandated or voluntary suspension of disconnections due to the COVID-19  
49 state of emergency, or for any other statutory, regulatory or voluntary  
50 reason irrespective of the COVID-19 emergency, or such other states of  
51 emergency as may follow the end of the COVID-19 emergency;

52 (6) the number of customers that declared a change in financial  
53 circumstances due to the COVID-19 state of emergency pursuant to  
54 sections 32, 89-b, 89-1 and 91 of the public service law;

(7) the number of customers enrolled in deferred payment agreements at the end of each month, the total dollar amount of arrears, and how those numbers compare to the previous year at the same time;

(8) the number of customers that entered into, successfully completed, or defaulted from a deferred payment agreement, the total dollar amount of arrears, the average length of the repayment term under such agreements, and how those numbers compare to the previous year at the same time;

(9) available customer assistance programs, including terms of eligibility, and any enhancements to the programs that have been made or are planned to address actual or anticipated increased demand;

(10) the number of customers that applied for financial assistance under each applicable assistance program, and how those numbers compare to the previous year at the same time;

(11) the number of customers receiving assistance under each assistance program at the end of each month, the total dollar amount of assistance provided for arrears, the total dollar amount of assistance provided for current or future bills and the average amount per customer, and how those numbers compare to the previous year at the same time;

(12) the number of customers charged late fees, penalties, reconnection fees, interest, and any other charge associated with late payment of a bill;

(13) the total dollar amount of late fees, penalties, interest, reconnection fees and any other charge associated with late payment per customer, the average and median dollar amount billed to customer accounts and the average and median utility usage per customer account;

(14) the methods and contents of general communications by utilities to customer accounts concerning their rights and available assistance programs, excluding any customer-specific communications;

(15) the department's assessment of whether existing customer assistance programs are presently and will in the future be sufficient to meet the financial needs of customer accounts in arrears who are unable to pay those arrears in full, as well as the needs of customer accounts who may be unable to pay bills for current service;

(16) each utility's revenue, including sales revenue and operating or net revenue information, and how those numbers compare to the previous year at the same time; and

(17) each utility's schedule of rates and charges, provided that "rates" means the fixed component, if any, and the volumetric or other variable component, if any, of the cost of service that are applied to a category of customers and "charges" means amounts that are billed to a customer under specific circumstances that are not included in the provider's base rate including, but not limited to, late fees, connection fees, impact fees for new development, deposits for opening new accounts and any other fees, surcharges or penalties.

c. Following the department's submission of any reports compiling and analyzing the data, the reports shall be posted on the department website and be subject to 30 days of public comment on affordability from the date of issuance. The department shall provide meaningful opportunities for public comment from all persons who will be impacted by findings and submissions of the department, including persons living in disadvantaged communities and in rural communities across the state in entirety. Within 90 days of the submission of any reports, the department shall conduct at least one public hearing in each of the following regions of the state: western New York, the finger lakes, the southern tier, central New York, the Mohawk valley,

1 the north country, the capital region/Hudson valley, and the city of New  
2 York/Long Island, as defined by the empire state development corpo-  
3 ration, and provide meaningful opportunity for comment. The public hear-  
4 ings may be held virtually.

5 d. Each utility shall, within 30 days of the effective date of this  
6 act, and monthly thereafter until 180 days after the end of the COVID-19  
7 state of emergency, file with the department, in a form and manner  
8 determined by the department, the information required pursuant to para-  
9 graph b of this subdivision. Following the lifting or expiry of the  
10 COVID-19 state of emergency, each utility shall quarterly thereafter, or  
11 until such covered entity ceases to provide service in New York state,  
12 file with the department the information required pursuant to paragraph  
13 b of this subdivision. Each utility shall publish on its website the  
14 data it reports pursuant to this paragraph, simultaneously with  
15 submission of the data to the department.

16 3. If the data required by this act cannot reasonably be obtained from  
17 an existing utility information technology system without an increase in  
18 customer utility bills, a utility or municipality may petition the  
19 department, in a form and manner to be determined by the department, to  
20 provide the required data in an alternative format.

21 4. The department shall publish on its website the reports required  
22 pursuant to subdivision two of this section, simultaneously with the  
23 submission of each report. The reports shall include presentations of  
24 the information required pursuant to subdivision two of this section in  
25 a spreadsheet format.

26 § 2. This act shall take effect immediately.

27 PART B

28 Section 1. 1. As used in this act:

29 a. "Assistance program" shall mean any program offered to eligible  
30 low-income customers to assist with the costs of wastewater services.

31 b. "COVID-19 state of emergency" shall mean the state disaster emer-  
32 gency declared pursuant to executive order 202 of 2020.

33 c. "Department" shall mean the department of public service.

34 d. "Municipality" shall mean a county, city, town or village and shall  
35 include wastewater districts and systems owned and/or operated by a  
36 city, town, village, authority or other governmental subdivision.

37 e. "Utility" shall mean a municipality or other entity providing  
38 wastewater services to customers in the state.

39 2. a. Within 60 days after the effective date of this act, the depart-  
40 ment shall prepare and submit to the governor and the legislature a  
41 written report that shall make findings and recommendations concerning  
42 the effect the COVID-19 state of emergency has had on the provision by  
43 utilities of wastewater service to commercial and residential customers  
44 in this state. An updated report shall be submitted monthly until 180  
45 days after the end of the COVID-19 state of emergency and thereafter  
46 shall be submitted quarterly by and for each utility until such a  
47 covered entity ceases to provide service in New York state. Without  
48 unreasonably exposing consumer personally identifiable information in a  
49 manner that violates public service law, department and public service  
50 commission practice or federal law, the reports shall include but not be  
51 limited to the following, with all information to be broken down by  
52 utility, type of service provided, month, customer class, governmental  
53 division, zip code, county, and United States Census American Community  
54 Survey Public Use Micro-data Area:

(1) the number of customers and how that number compares to the previous year's number of customers at the same time;

(2) the number of disconnection notices sent due to non-payment, disconnections due to non-payment, reconnections of customers that were disconnected for non-payment, and how those numbers compare to the previous year at the same time;

(3) the number of liens on real property placed, sold, or enforced due to non-payment, and how those numbers compare to the previous year at the same time, if applicable;

(4) the number of customers in arrears by 1-90 days, 90-180 days, and greater than 180 days at the end of each month, the total dollar amount owed and how those numbers compare to the previous year at the same time. Provided, however, that a utility or municipality may petition the department, in a form and manner to be determined by the department, to allow such utility or municipality to provide such data in an alternative format if the specificity set forth in this act cannot be obtained from an existing utility information technology system and such data would result in the increase of customer utility bills;

(5) the number of customers that became eligible for disconnection due to bill nonpayment but were not disconnected because of any legally mandated or voluntary suspension of disconnections due to the COVID-19 state of emergency, or for any other statutory, regulatory or voluntary reason irrespective of the COVID-19 emergency, or such other states of emergency as may follow the end of the COVID-19 emergency;

(6) the number of customers that declared a change in financial circumstances due to the COVID-19 state of emergency;

(7) the number of customers enrolled in deferred payment agreements at the end of each month, the average length of the repayment term under such agreements, the total dollar amount of arrears and how those numbers compare to the previous year at the same time;

(8) the number of customers that entered into, successfully completed, or defaulted from a deferred payment agreement, the total dollar amount of arrears and how those numbers compare to the previous year at the same time;

(9) available utility customer assistance programs, including terms of eligibility, and any enhancements to the programs that have been made or are planned to address actual or anticipated increased demand;

(10) the number of customers that applied for financial assistance under each applicable assistance program, and how those numbers compare to the previous year at the same time;

(11) the number of customers receiving assistance under each assistance program at the end of each month, the total dollar amount of assistance provided for arrears, the total dollar amount of assistance provided for current or future bills and how that number compares to the previous year at the same time;

(12) the number of customers charged late fees, penalties, reconnection fees, interest, and any other charge associated with late payment;

(13) the total dollar amount of late fees, penalties, reconnection fees, interest and any other charge associated with late payment per customer, the average and median dollar amount billed to customer accounts and the average and median utility usage per customer account;

(14) the methods and contents of general communications by utilities to customer accounts concerning their rights and available assistance programs, excluding any customer-specific communications;

1 (15) the department's assessment of whether existing customer assist-  
2 ance programs are presently and will in the future be sufficient to meet  
3 the financial needs of customer accounts in arrears who are unable to  
4 pay those arrears in full, as well as the needs of customer accounts who  
5 may be unable to pay bills for current service;

6 (16) each utility's revenue, including sales revenue and operating or  
7 net revenue information, and how those numbers compare to the previous  
8 year at the same time; and

9 (17) each utility's schedule of rates and charges, provided that  
10 "rates" means the fixed component, if any, and the volumetric or other  
11 variable component, if any, of the cost of service that are applied to a  
12 category of customers and "charges" mean amounts that are billed to a  
13 customer under specific circumstances that are not included in the  
14 provider's base rate including, but not limited to, late fees,  
15 connection fees, impact fees for new development, deposits for opening  
16 new accounts, and any other fees, surcharges, or penalties.

17 b. Each utility shall, within 30 days of the effective date of this  
18 act, and monthly thereafter until 180 days after the end of the COVID-19  
19 state of emergency, and quarterly thereafter until such a covered entity  
20 ceases to provide service in New York state, file with the department,  
21 in a form and manner determined by the department, the information  
22 required pursuant to paragraph a of this subdivision. Each utility  
23 shall publish on its website the data it reports pursuant to this para-  
24 graph, simultaneously with submission of the data to the department.

25 3. If the data required by this act cannot reasonably be obtained from  
26 an existing utility information technology system without an increase in  
27 customer utility bills, a utility or municipality may petition the  
28 department, in a form and manner to be determined by the department, to  
29 provide the required data in an alternative format.

30 4. The department shall publish on its website the reports required  
31 pursuant to subdivision two of this section, simultaneously with the  
32 submission of each report. The reports shall include presentations of  
33 the information required pursuant to subdivision two of this section in  
34 a spreadsheet format.

35 § 2. This act shall take effect immediately.

36 § 3. Severability clause. If any clause, sentence, paragraph, subdivi-  
37 sion, section or part of this act shall be adjudged by any court of  
38 competent jurisdiction to be invalid, such judgment shall not affect,  
39 impair, or invalidate the remainder thereof, but shall be confined in  
40 its operation to the clause, sentence, paragraph, subdivision, section  
41 or part thereof directly involved in the controversy in which such judg-  
42 ment shall have been rendered. It is hereby declared to be the intent of  
43 the legislature that this act would have been enacted even if such  
44 invalid provisions had not been included herein.

45 § 4. This act shall take effect immediately; provided, however, that  
46 the applicable effective date of Parts A through B of this act shall be  
47 as specifically set forth in the last section of such Parts.