STATE OF NEW YORK

1451--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

Introduced by M. of A. SANTABARBARA, STECK, J. RIVERA, BRONSON -- read once and referred to the Committee on Agriculture -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the agriculture and markets law, in relation to authorizing the delivery of liquefied petroleum gas in times of emergency

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

Section 1. Section 192-e of the agriculture and markets law is amended by adding two new subdivisions 6-a and 6-b to read as follows:

6-a. a. Definitions. For the purposes of this subdivision:

(i) "liquefied petroleum gas tank" shall mean a cylinder, container or receptacle, fixed in place, that is intended to be used to store liquefied petroleum gas for the purpose of heating, or generating electric power, for a residential customer;

(ii) "qualifying emergency" shall mean:

(A) a federal, state or local state of emergency has been declared, or federal or state authorities have granted a waiver from hours-of-operations limitations affecting liquefied petroleum gas deliveries; or

(B) severe weather or any other similar circumstance exist that may result in an individual being placed in imminent danger of death or injury, or may result in a building structure and/or its fixtures being at risk of significant damage due to lack of residential heat caused by the lack of sufficient liquified petroleum gas to produce residential heat;

(iii) "regular supplier" shall mean a person, firm, limited liability company or corporation that owns a liquefied petroleum gas tank and that, pursuant to a current contract, has agreed to supply liquefied petroleum gas to such tank for use by a residential customer or the customer's agent or agents; and

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

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(iv) "temporary emergency supplier" shall mean a person, firm, limited liability company or corporation that fills, refills or otherwise delivers liquefied petroleum gas into a liquefied petroleum gas tank it does not own, where such tank is subject to an existing contract between a regular supplier and their customer.

b. Notwithstanding any other law, rule or regulation to the contrary, when a qualifying emergency is in effect, a residential customer who has a contract with a regular supplier to fill a liquefied petroleum gas tank reasonably believes the amount of liquefied petroleum gas in their tank will be insufficient to meet the customer's heating needs, the customer shall make a good faith effort to procure delivery of liquefied petroleum gas from such regular supplier. If the regular supplier is unable to make a scheduled delivery or fulfill the customer's good faith request, directly or through another supplier, for delivery within twenty-four hours, the customer may arrange to have a temporary emergency supplier fill, refill or otherwise deliver liquefied petroleum gas into such liquefied petroleum gas tank, provided that the temporary emergency supplier ensures that such tank, and the devices and pipelines operated in connection with such tank, have been inspected and certified as required by law and all applicable regulations.

c. When a temporary emergency supplier delivers liquefied petroleum gas to a residential customer pursuant to this subdivision, neither such temporary emergency supplier nor such customer's regular supplier may charge any penalty or fee in addition to any filling, refilling or delivery fees that are usually charged to other customers in the course of business under circumstances when paragraph b of this subdivision is not applicable.

d. Any contract executed subsequent to the effective date of this subdivision for the supply of liquefied petroleum gas to a residential customer shall include provisions relating to delivery and fees pursuant to paragraphs b and c of this subdivision if applicable.

e. Nothing in this subdivision shall be deemed to restrict a liquefied petroleum gas customer who owns a liquefied petroleum gas tank from procuring such gas from any supplier.

6-b. The commissioner, in cooperation with the department of law, shall develop a "propane consumer bill of rights" consistent with this section to address the rights of consumers who enter into contracts for the provision and delivery of liquefied petroleum gas, including the right of customers to purchase liquefied petroleum gas from temporary suppliers pursuant to subdivision six-a of this section. Such bill of rights shall be provided by every regular supplier of liquefied petroleum gas to the consumer when a contract is executed, and then annually while a contract remains in effect and the department shall post such bill of rights on its website.

§ 2. The commissioner of agriculture and markets shall develop regulations consistent with subdivisions six-a and six-b of section 192-e of the agriculture and markets law for the implementation thereof including, but not limited to, the responsibilities of temporary emergency suppliers and regular suppliers for the safe inspection, testing and filling of liquefied petroleum gas tanks, and any devices and pipelines operated in connection with such tanks, pursuant to such subdivisions and the need for appropriate liability insurance coverage for such suppliers.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however that the provisions of this act shall take effect immediately upon the occurrence of a qualify-

ing emergency for any customer residing within the geographic limits of such qualifying emergency as declared by federal, state or local authorities or as otherwise determined by federal or state authorities or the commissioner; and provided that the commissioner of agriculture and markets shall notify the legislative bill drafting commission upon the occurrence of a qualifying emergency, if such qualifying emergency occurs within the first 120 days after this act shall have become a law, in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers 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 and completed on or before such date.