STATE OF NEW YORK

2038

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. DINOWITZ, SEAWRIGHT -- read once and referred to the Committee on Consumer Affairs and Protection

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 Assembly, do enact as follows:

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

§ 43. Complaint handling procedures. 1. The commission shall maintain regulations for the handling of [~~residential~~] **all** customer complaints, which at a minimum shall require that each utility or municipality: (a) maintain procedures**, and provide a copy of those procedures, as amended, to the commission,** for prompt investigation of any complaint on a bill for gas**, steam,** or electric service rendered or a deposit required and for [~~prompt~~] reporting to the complainant [~~of~~] **within: (i) fifteen business days after** the result of such investigation **for a utility corporation; or (ii) thirty business days after the result of such investigation for a municipality**. [~~If such~~] **Such** report [~~is made orally, the utility corporation or municipality shall offer the complainant upon a written request the opportunity to receive the report in writing~~] **shall be in writing and provide all supporting documentation**; (b) inform any complainant [~~whose complaint is resolved in favor of the utility corporation or municipality, in whole or in part,~~] of the availability of the commission's complaint handling procedures; (c) refrain from terminating service for nonpayment so long as a complaint is pending before a utility, municipality or the commission and for fifteen days thereafter, or for such period as the commission for good cause shall establish; provided however, that as a condition of continued service during the pendency of any such dispute, a customer shall pay the undisputed portions of any bill for service including bills for current usage, or

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

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such amounts as the commission determines reasonably reflect the cost of usage to such customer; and (d) refrain from treating the disputed portion of any bill as late during the pendency of any complaint before the utility or municipality. **Late payment charges shall not be levied during the period it takes to resolve disputed amounts.**

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

3. The commission shall [~~use its best efforts to~~] complete its **initial** investigation [~~and review and to issue~~] **within: (a) fifteen business days for a utility corporation or; (b) thirty business days for a municipality. The commission shall complete the informal review, if the initial decision is appealed, within fifteen business days. The commission shall**, within ninety days, **issue** its final written determination of any appeal to it pursuant to this section.

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

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

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