

STATE OF NEW YORK

6255

2021-2022 Regular Sessions

IN ASSEMBLY

March 11, 2021

Introduced by M. of A. RICHARDSON -- read once and referred to the
Committee on Corporations, Authorities and Commissions

AN ACT to amend chapter 108 of the laws of 2020, amending the public service law relating to issuing a moratorium on utility termination of services during periods of pandemics and/or state of emergencies, in relation to making such provisions permanent; to amend the public service law, the public authorities law and the general business law, in relation to issuing a moratorium on utility termination of services; and to repeal certain provisions of the public service law relating thereto

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

1 Section 1. Section 5 of chapter 108 of the laws of 2020, amending the
2 public service law relating to issuing a moratorium on utility termi-
3 nation of services during periods of pandemics and/or state of emergen-
4 cies, as amended by section 2 of part B of chapter 126 of the laws of
5 2020, is amended to read as follows:

6 § 5. This act shall take effect immediately [~~and shall expire March~~
7 ~~31, 2021 when upon such date the provisions of this act shall be deemed~~
8 ~~repealed~~].

9 § 2. Subdivisions 6, 7, 8 and 9 of section 32 of the public service
10 law, subdivision 6 as amended and subdivisions 7, 8 and 9 as added by
11 chapter 108 of the laws of 2020, are amended to read as follows:

12 6. No utility corporation or municipality shall terminate or discon-
13 nect services to any residential customer or a small business customer
14 with twenty-five or fewer employees that is not a (i) publicly held
15 company, or a subsidiary thereof, (ii) seasonal, short-term, or tempo-
16 rary customer, (iii) high energy customer as defined by the commission,
17 or (iv) customer that the utility can demonstrate has the resources to
18 pay the bill, provided that the utility notifies the small business
19 customer of its reasons and of the customer's right to contest this

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

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1 determination through the commission's complaint procedures, for the
2 non-payment of an overdue charge for the duration of [~~the~~] a state
3 disaster emergency declared pursuant to section twenty-eight of the
4 executive [~~order two hundred two of two thousand twenty (herein after~~
5 ~~"the COVID-19 state of emergency")~~] law issued in response to a state,
6 national, or global event that is deemed to have a significant negative
7 and long-term impact on the state's economic future, and not due to a
8 short-term weather-related disaster emergency.

9 Utility corporations and municipalities shall have a duty to restore
10 service, to the extent not already required under this chapter, to any
11 residential customer within forty-eight hours if such service has been
12 terminated for non-payment during the pendency of the [~~COVID-19~~] state
13 [~~of~~] disaster emergency.

14 7. [~~For a period of one hundred eighty days after the COVID-19 state~~
15 ~~of emergency is lifted or expires, no~~] No utility corporation or munici-
16 pality shall terminate or disconnect the service of a residential or
17 small business customer because of defaulted deferred payment agreements
18 or arrears owed to the utility corporation or municipality when such
19 customer has experienced a change in financial circumstances as defined
20 by the department due to [~~the COVID-19~~] a state [~~of~~] disaster emergen-
21 cy[~~, as defined by the department~~] as set forth in subdivision six of
22 this section. The utility corporation or municipality shall provide such
23 residential or small business customer with the right to enter into, or
24 restructure, a deferred payment agreement without the requirement of a
25 down payment, late fees, or penalties, as such is provided for in this
26 article with such prohibition on down payments, late fees, or penalties
27 applicable to all arrears incurred during the duration of the state
28 disaster emergency.

29 8. Every utility corporation or municipality shall provide notice to
30 residential and small business customers, in a writing to be included
31 with a bill statement or, when appropriate, via electronic transmission
32 the provisions of this section and shall further make reasonable efforts
33 to contact customers who have demonstrated a change in financial circum-
34 stances due to [~~the COVID-19~~] a state [~~of~~] disaster emergency as set
35 forth in subdivision six of this section for the purpose of offering
36 such customers a deferred payment agreement consistent with the
37 provisions of this article.

38 9. Implementation of the provisions of this section shall not prohibit
39 a utility or municipality from recovering lost or deferred revenues
40 after the lifting or expiration of [~~the COVID-19~~] a state [~~of~~] disaster
41 emergency as set forth in subdivision six of this section, pursuant to
42 such means for recovery as are provided for in this chapter, and by
43 means not inconsistent with any of the provisions of this article. Noth-
44 ing in this section shall prohibit a utility corporation or municipality
45 from disconnecting service necessary to protect the health and safety of
46 customers and the public.

47 § 3. Subdivision 6 of section 32 of the public service law, as added
48 by chapter 686 of the laws of 2002, is REPEALED.

49 § 4. Subdivisions 9, 10 and 11 of section 89-b of the public service
50 law, as added by chapter 108 of the laws of 2020, are amended to read as
51 follows:

52 9. [~~For a period of one hundred eighty days after the COVID-19 state~~
53 ~~of emergency is lifted or expires, no~~] No water-works corporation shall
54 terminate or disconnect the service of a residential customer account or
55 the account of a small business customer with twenty-five or fewer
56 employees that is not a (i) publicly held company, or a subsidiary ther-

eof, (ii) seasonal, short-term, or temporary customer, (iii) high usage customer as defined by the commission, or (iv) customer that the utility can demonstrate has the resources to pay the bill, provided that the utility notifies the small business customer of its reasons and of the customer's right to contest this determination through the commission's complaint procedures, because of defaulted deferred payment agreements or arrears owed to the water-works corporation when such customer has experienced a change in financial circumstances, as defined by the department, due to [~~the COVID-19~~] a state [~~of~~] disaster emergency[, ~~as defined by the department~~] declared pursuant to section twenty-eight of the executive law issued in response to a state, national, or global event that is deemed to result in a significant negative and long-term impact on the state's economic future, and not due to a short-term weather-related disaster emergency. The water-works corporation shall provide such residential or small business customer with the right to enter into, or restructure, a deferred payment agreement without the requirement of a down payment, late fees, or penalties, as such is provided for in article two of this chapter with such prohibition on down payments, late fees, or penalties applicable to all arrears incurred during the duration of the state disaster emergency.

10. Every water-works corporation or small business shall provide notice to residential customers, in a writing to be included with a bill statement or, when appropriate, via electronic transmission, the provisions of this section and shall further make reasonable efforts to contact customers who have demonstrated a change in financial circumstances due to [~~the COVID-19~~] a state [~~of~~] disaster emergency as set forth in subdivision nine of this section for the purpose of offering such customers a deferred payment agreement consistent with the provisions of this section and article two of this chapter.

11. Implementation of the provisions of this section shall not prohibit a water-works corporation from recovering lost or deferred revenues after the lifting or expiration of the [~~COVID-19~~] state [~~of~~] disaster emergency as set forth in subdivision nine of this section, pursuant to such means for recovery as are provided for in this chapter, and by means not inconsistent with any of the provisions of this article. Nothing in this section shall prohibit a water-works corporation from disconnecting service when it is necessary to protect the health and safety of customers and the public.

§ 5. Section 89-1 of the public service law, as added by chapter 715 of the laws of 1931, subdivisions 3, 4, 5 and 6 as added by chapter 108 of the laws of 2020, is amended to read as follows:

§ 89-1. Municipal water systems. 1. For the purposes of this section, and for the purposes of any jurisdiction conferred by it upon the public service commission, a municipality is one which owns, maintains or operates, or proposes to own, maintain or operate, a water system, or which sells, furnishes or distributes, or proposes to sell, furnish or distribute, water for domestic, commercial or public uses, whether provided by its own system or the system of a water-works corporation or another municipality. As so limited, the term "municipality" for the purposes of this section, means a city, town, village or public district; and a "public district," as here used, is a district or other territorial division, whether incorporated or not, whose affairs are managed by any officer or officers, person or persons, elected by voters or taxpayers or appointed by a public officer or officers, and includes, without excluding others, a water district, water supply district and a fire district. The other provisions of this chapter shall not apply to

1 such a municipality, nor to its said business of owning, maintaining or
2 operating a water system or of selling, furnishing or distributing
3 water, except such provisions as are applied by this section by express
4 reference. The jurisdiction of the public service commission, with
5 respect to such a municipality or its said business, is that, and only
6 that, provided for in this section.

7 2. Each such municipality shall file with the public service commis-
8 sion a copy of the annual report of its division, bureau or department
9 of water.

10 3. No municipality shall terminate or discontinue residential service
11 or service to a small business with twenty-five or fewer employees that
12 is not a (i) publicly held company, or a subsidiary thereof, (ii)
13 seasonal, short-term, or temporary customer, (iii) high usage customer
14 as defined by the commission, or (iv) customer that the utility can
15 demonstrate has the resources to pay the bill, provided that the utility
16 notifies the small business customer of its reasons and of the custom-
17 er's right to contest this determination through the commission's
18 complaint procedures, for the nonpayment of bills, taxes, or fees for
19 the duration of [~~the~~] a state disaster emergency declared pursuant to
20 [~~executive order two hundred two of two thousand twenty (hereinafter the~~
21 ~~"COVID-19 state of emergency"~~)] section twenty-eight of the executive
22 law in response to a state, national, or global event that is deemed to
23 result in a significant negative and long-term impact on the state's
24 economic future, and not due to a short-term weather-related disaster
25 emergency. Every municipality shall have a duty to restore service to
26 any residential customer within forty-eight hours of the effective date
27 of this subdivision if such service has been terminated for non-payment
28 during the pendency of [~~the COVID-19~~] a state [~~of~~] disaster emergency.

29 4. [~~For a period of one hundred eighty days after the COVID-19 state~~
30 ~~of emergency is lifted or expires, no~~] No municipality shall terminate
31 or discontinue the service of a residential or small business customer
32 because of bill arrears, taxes, or fees owed to the municipality when
33 such customer has experienced a change in financial circumstances, as
34 defined by the department, due to [~~the COVID-19~~] a state [~~of~~] disaster
35 emergency[, ~~as defined by the department~~] as set forth in subdivision
36 three of this section. The municipality shall provide a residential or
37 small business service customer that has experienced a change in finan-
38 cial circumstances due to the [~~COVID-19~~] state [~~of~~] disaster emergency
39 with the right to enter into, or restructure, a deferred payment agree-
40 ment without the requirement of a down payment, late fees, or penalties,
41 as such is provided for in article two of this chapter, with such prohi-
42 bition on down payments, late fees, or penalties applicable to all
43 arrears incurred during the duration of the state disaster emergency.

44 5. Every municipality shall provide notice to residential and small
45 business customers in a writing to be included with a bill statement or,
46 when appropriate, via electronic transmission the provisions of this
47 section and shall further make reasonable efforts to contact customers
48 who have demonstrated a change in financial circumstances due to the
49 [~~COVID-19~~] state [~~of~~] disaster emergency as set forth in subdivision
50 three of this section for the purpose of offering such customers a
51 deferred payment agreement consistent with the provisions of this
52 section and article two of this chapter.

53 6. Implementation of the provisions of this section shall not prohibit
54 a municipality from recovering lost or deferred revenues after the lift-
55 ing or expiry of [~~the COVID-19~~] a state [~~of~~] disaster emergency,
56 provided that such means are not inconsistent with the provisions of

1 this article. Nothing in this section shall prohibit a municipality from
2 disconnecting service when it is necessary to protect the health and
3 safety of customers and the public.

4 7. Notwithstanding the provisions of subdivision one of this section,
5 for the purposes of subdivisions three, four, five and six of this
6 section, a "municipality" shall also include a public water authority
7 established pursuant to article five of the public authorities law.
8 Every municipality shall be subject to the jurisdiction of the commis-
9 sion for the purposes of enforcing the provisions of subdivisions three,
10 four, five and six of this section pursuant to sections twenty-four,
11 twenty-five and twenty-six of this chapter.

12 § 6. Subdivisions 9, 10, 11 and 12 of section 91 of the public service
13 law, subdivisions 9, 10 and 12 as amended by section 1 of part B of
14 chapter 126 of the laws of 2020, subdivision 11 as added by chapter 108
15 of the laws of 2020, are amended to read as follows:

16 9. No telephone corporation shall terminate or disconnect any services
17 provided by its infrastructure to a residential service customer or a
18 small business customer with twenty-five or fewer employees that is not
19 a (i) publicly held company, or a subsidiary thereof, (ii) seasonal,
20 short-term, or temporary customer, (iii) high usage customer as defined
21 by the commission, or (iv) customer that the utility can demonstrate
22 has the resources to pay the bill, provided that the utility notifies
23 the small business customer of its reasons and of the customer's right
24 to contest this determination through the commission's complaint proce-
25 dures, for the non-payment of an overdue charge for the duration of
26 ~~[the]~~ a state disaster emergency declared pursuant to section twenty-
27 eight of the executive [order two hundred two of two thousand twenty
28 (hereinafter "the COVID-19 state of emergency")] law in response to a
29 state, national or global event that is deemed to result in a signif-
30 icant negative and long-term impact on the state's economic future, and
31 not due to a short-term weather-related disaster emergency. Telephone
32 corporations shall have a duty to restore service, to the extent not
33 already required under this chapter, at the request of any residential
34 or small business customer within forty-eight hours if such service has
35 been terminated during the pendency of the ~~[COVID-19]~~ state ~~[of]~~ disas-
36 ter emergency and disconnection of such service was due to non-payment
37 of an overdue charge.

38 10. ~~[For a period of one hundred eighty days after the COVID-19 state~~
39 ~~of emergency is lifted or expires, no]~~ No telephone corporation shall
40 terminate or disconnect ~~[the service]~~ any services provided by its
41 infrastructure of a residential or small business customer account
42 because of defaulted deferred payment agreements or arrears then owed to
43 the telephone corporation when such customer has experienced a change in
44 financial circumstances as defined by the department, due to ~~[the~~
45 ~~COVID-19]~~ a state ~~[of]~~ disaster emergency~~[, as defined by the depart-~~
46 ~~ment]~~ as set forth in subdivision nine of this section. The telephone
47 corporation shall provide such residential or small business customer
48 with the right to enter into, or restructure, a deferred payment agree-
49 ment without the requirement of a down payment, late fees, or penalties,
50 with such prohibition on down payments, late fees, or penalties applica-
51 ble to all arrears incurred during the duration of the state disaster
52 emergency.

53 11. Every telephone corporation shall provide notice to residential
54 customers, and to those small business customers set forth in subdivi-
55 sion nine of this section, in a writing to be included with a bill
56 statement or, when appropriate, via electronic transmission the

provisions of this section and shall further make reasonable efforts to contact customers who have demonstrated a change in financial circumstances due to ~~[the COVID-19]~~ a state ~~[of]~~ disaster emergency as set forth in subdivision nine of this section for the purpose of offering such customers a deferred payment agreement consistent with the provisions of this section and article two of this chapter.

12. Implementation of the provisions of this section shall not prohibit a telephone corporation from recovering lost or deferred revenues after the lifting or expiration of ~~[the COVID-19]~~ a state ~~[of]~~ disaster emergency as set forth in subdivision nine of this section, pursuant to such means for recovery as are provided for in this chapter, and by means not inconsistent with any of the provisions of this article. Nothing in this section shall prohibit a telephone corporation from disconnecting service at the request of a customer. Nothing in this section shall prohibit a telephone corporation from disconnecting service when it is necessary to protect the health and safety of customers and the public.

§ 7. Section 216 of the public service law is amended by adding five new subdivisions 6, 7, 8, 9 and 10 to read as follows:

6. No cable television company shall terminate or disconnect services provided over their infrastructure to a residential service customer or a small business customer with twenty-five or fewer employees that is not a (i) publicly held company, or a subsidiary thereof, (ii) seasonal, short-term, or temporary customer, or (iii) customer that the cable television company can demonstrate has the resources to pay the bill, provided that the cable television company notifies the small business customer of its reasons and of the customer's right to contest this determination through the commission's complaint procedures, for the non-payment of an overdue charge for the duration of a state disaster emergency declared pursuant to an executive order issued in response to a state, national, or global event that is deemed to result in a significant negative and long-term impact on the state's economic future, and not due to a short-term weather-related disaster emergency. Cable television companies shall have a duty to restore service, to the extent not already required under this chapter, at the request of any residential or small business customer within forty-eight hours if such service has been terminated during the pendency of the state disaster emergency and disconnection of such service was due to non-payment of an overdue charge.

7. No cable television company shall terminate or disconnect services provided over their infrastructure of a residential or small business customer account because of defaulted deferred payment agreements or arrears then owed to the cable television company when such customer has experienced a change in financial circumstances, as defined by the department, due to a state disaster emergency as set forth in subdivision six of this section. The cable television company shall provide such residential or small business customer with the right to enter into, or restructure, a deferred payment agreement without the requirement of a down payment, late fees, or penalties, with such prohibition on down payments, late fees, or penalties applicable to all arrears incurred during the duration of the state disaster emergency.

8. Every cable television company shall provide notice to residential or small business customers in a writing to be included with a bill statement or, when appropriate, via electronic transmission the provisions of this section and shall further make reasonable efforts to contact customers who have demonstrated a change in financial circum-

stances due to a state disaster emergency as set forth in subdivision six of this section for the purpose of offering such customers a deferred payment agreement consistent with the provisions of this section and article two of this chapter.

9. Implementation of the provisions of this section shall not prohibit a cable television company from recovering lost or deferred revenues after the lifting or expiration of a state disaster emergency as set forth in subdivision six of this section, pursuant to such means for recovery as are provided for in this chapter, and by means not inconsistent with any of the provisions of this article. Nothing in this section shall prohibit a cable television company from disconnecting service at the request of a customer. Nothing in this section shall prohibit a cable television company from disconnecting service when it is necessary to protect the health and safety of customers and the public.

10. Every cable television company shall be subject to the jurisdiction of the commission for the purposes of enforcing the provisions of subdivisions six, seven, eight and nine of this section pursuant to sections twenty-four, twenty-five and twenty-six of this chapter, and any other applicable provision of this chapter.

§ 8. Subdivision 1 of section 1020-s of the public authorities law, as amended by chapter 415 of the laws of 2017, is amended to read as follows:

1. The rates, services and practices relating to the electricity generated by facilities owned or operated by the authority shall not be subject to the provisions of the public service law or to regulation by, or the jurisdiction of, the public service commission, except to the extent (a) article seven of the public service law applies to the siting and operation of a major utility transmission facility as defined therein, (b) article ten of such law applies to the siting of a generating facility as defined therein, (c) section eighteen-a of such law provides for assessment for certain costs, property or operations, (d) to the extent that the department of public service reviews and makes recommendations with respect to the operations and provision of services of, and rates and budgets established by, the authority pursuant to section three-b of such law, [and] (e) that section seventy-four of the public service law applies to qualified energy storage systems within the authority's jurisdiction, and (f) subdivisions six, seven, eight, nine and ten of section thirty-two of the public service law.

§ 9. The general business law is amended by adding a new section 399-zzzzz, to read as follows:

§ 399-zzzzz. Prohibition of certain broadband terminations or disconnections. 1. For the purposes of this section, the term "broadband service" shall mean a mass-market retail service that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, and shall include service provided by commercial mobile telephone service providers, but shall not include dial-up service.

2. No person, business, corporation, or their agents providing or seeking to provide broadband service in New York state shall terminate or disconnect services provided over their infrastructure to a residential service customer or a small business customer with twenty-five or fewer employees that is not a (i) publicly held company, or a subsidiary thereof, (ii) seasonal, short-term, or temporary customer, or (iii) customer that the broadband service provider can demonstrate has the

1 resources to pay the bill, provided that the broadband service provider
2 notifies the small business customer of its reasons and of the custom-
3 er's right to contest this determination through the commission's
4 complaint procedures, for the non-payment of an overdue charge for the
5 duration of a state disaster emergency declared pursuant to section
6 twenty-eight of the executive law in response to a state, national, or
7 global event that is deemed to result in a significant negative and
8 long-term impact on the state's economic future, and not due to a short-
9 term weather-related disaster emergency. Such persons or entities shall
10 have a duty to restore service, to the extent not already required, at
11 the request of any residential or small business customer within forty-
12 eight hours if such service has been terminated during the pendency of
13 the state disaster emergency and disconnection of such service was due
14 to non-payment of an overdue charge.

15 3. No person, business, corporation, or their agents providing or
16 seeking to provide broadband service in New York state shall terminate
17 or disconnect services provided over their infrastructure to a residen-
18 tial or small business customer account because of defaulted deferred
19 payment agreements or arrears then owed to such persons or entities when
20 such customer has experienced a change in financial circumstances due to
21 a state disaster emergency as set forth in subdivision two of this
22 section. The person, business, corporation, or their agents providing or
23 seeking to provide broadband service in New York state shall provide
24 such residential or small business customer with the right to enter
25 into, or restructure, a deferred payment agreement consistent with the
26 provisions of article two of the public service law without the require-
27 ment of a down payment, late fees, or penalties, with such prohibition
28 on down payments, late fees, or penalties applicable to all arrears
29 incurred during the duration of the state disaster emergency.

30 4. Every person, business, corporation, or their agents providing or
31 seeking to provide broadband service in New York state shall provide
32 notice to residential or small business customers in a writing to be
33 included with a bill statement or, when appropriate, via electronic
34 transmission the provisions of this section and shall further make
35 reasonable efforts to contact customers who have demonstrated a change
36 in financial circumstances due to a state disaster emergency as set
37 forth in subdivision two of this section for the purpose of offering
38 such customers a deferred payment agreement consistent with the
39 provisions of article two of the public service law.

40 5. Implementation of the provisions of this section shall not prohibit
41 a person, business, corporation, or their agents providing or seeking to
42 provide broadband service in New York state from recovering lost or
43 deferred revenues after the lifting or expiration of a state disaster
44 emergency as set forth in subdivision two of this section, pursuant to
45 such means for recovery by means not inconsistent with any of the
46 provisions of this section. Nothing in this section shall prohibit a
47 person, business, corporation, or their agents providing or seeking to
48 provide broadband service in New York state from disconnecting service
49 at the request of a customer. Nothing in this section shall prohibit a
50 person, business, corporation, or their agents providing or seeking to
51 provide broadband service in New York state from disconnecting service
52 when it is necessary to protect the health and safety of customers and
53 the public.

54 6. Whenever there shall be a violation of this section, an application
55 may be made by the attorney general in the name of the people of the
56 state of New York to a court or justice having jurisdiction by a special

1 proceeding to issue an injunction, and upon notice to the defendant of
2 not less than five days, to enjoin and restrain the continuance of such
3 violation; and if it shall appear to the satisfaction of the court or
4 justice that the defendant has, in fact, violated this section, an
5 injunction may be issued by the court or justice, enjoining and
6 restraining any further violations, without requiring proof that any
7 person has, in fact, been injured or damaged thereby. In any such
8 proceeding, the court may make allowances to the attorney general as
9 provided in paragraph six of subdivision (a) of section eighty-three
10 hundred three of the civil practice law and rules, and direct restitu-
11 tion. Whenever the court shall determine that a violation of this
12 section has occurred, the court may impose a civil penalty of not more
13 than one thousand dollars per violation. In connection with any such
14 proposed application, the attorney general is authorized to take proof
15 and make a determination of the relevant facts and to issue subpoenas in
16 accordance with the civil practice law and rules.

17 § 10. This act shall take effect immediately; provided, however, that
18 this act shall be applicable to relevant executive orders issued on or
19 after the effective date of this act.