STATE OF NEW YORK

7554

2021-2022 Regular Sessions

IN ASSEMBLY

May 13, 2021

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

AN ACT directing the department of public service to prepare a written report on the effect of the COVID-19 state of emergency on certain utilities (Part A); and directing the department of environmental conservation 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:

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

§ 2. Legislative findings and declaration. In response to the COVID-19 pandemic, chapter 108 of the laws of 2020 was adopted to ensure that New Yorkers would not be deprived of a minimum standard of decency. The law prohibited termination of utility services at a pivotal moment when it became evident that sanitary conditions were required to combat the COVID-19 virus. The legislature finds and declares that it is unknown to the state the number of New Yorkers whom had their services terminated or disconnected during the pandemic. The legislature finds that many utility customers rely on continuous service for heat, water, and electricity to power necessary equipment, such as life-saving health care devices. Now, as vaccine approvals and distributions signal a potential

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

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end to the pandemic, the legislature finds and declares that it is imperative to ascertain the disruptive effects the pandemic had on utility customers and utility services, so that evidence-based policy can be properly crafted thereafter.

PART A

Section 1. 1. As used in this act:

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

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

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

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

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

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

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

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

2. a. Within 30 days after the effective date of this act, the department shall prepare and submit to the governor and the legislature a written report that shall make findings and recommendations concerning the effect the COVID-19 state of emergency has had on the provision by utilities of electric, gas, water, and telephone service to commercial and residential customers in this state. An updated report shall be submitted monthly until 180 days after the end of the COVID-19 state of emergency and thereafter shall be submitted quarterly by and for each utility until such a covered entity ceases to provide service in New York state. Without unreasonably exposing consumer personally identifiable information in a manner that violates public service law, department and public service commission practice or federal law, the reports shall include but not be limited to the following, with all information to be broken down by utility, type of service provided, month, customer class, municipality, zip code, county, and United States Census American Community 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, average time between service disconnection due to non-payment and service reconnection, 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;

(4) the number of customers in arrears by 30, 60, 90, 120, 150, and 180 days at the end of each month, the total dollar amount owed and average amount owed per customer in each of those categories, and how those numbers compare to the previous year at the same time, provided however that if the provision of such data beyond the current electric, gas and steam utility standard of 60 day arrears would raise rates unreasonably for residential or commercial ratepayers, the department shall work with the utilities to take advantage of pending or ongoing upgrades or replacement of utility information technology systems to lower such bill impacts to two percent or less per year over the period necessary to attain reports of the granularity set forth in this act;

(5) the number of customers that became eligible for disconnection due to bill non-payment 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 pursuant to sections 32, 89-b, 89-l 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 average amount of arrears per customer subject to such agreements, the average length of the repayment term under such agreements, 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 average amount of arrears per customer subject to such agreements, and how those numbers compare to the previous year at the same time;

(9) available customer assistance programs, including terms of eligibility, available budget for each program, 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, and how that number compares to the previous year at the same time;

(12) the number of customers charged late fees, penalties, and interest, the total dollar amount of late fees, penalties, and interest charged and average amount of late fees, penalties, and interest per customer subject to such charges, and how those numbers compare to the previous year at the same time;

(13) the average and median dollar amount billed to customer accounts and the average and median utility usage per customer account, and how those numbers compare to the previous year at the same time;

(14) the total dollar amounts billed to and collected from customer accounts and how those amounts compare to the previous year at the same

time, except that such data need not be broken down by municipality and zip code within the service area of a utility;

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

(16) 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.

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

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

§ 2. This act shall take effect immediately.

PART B

Section 1. 1. As used in this act:

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

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

c. "Department" shall mean the department of environmental conservation.

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

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

2. a. Within 30 days after the effective date of this act, the department shall prepare and submit to the governor and the legislature a written report that shall make findings and recommendations concerning the effect the COVID-19 state of emergency has had on the provision by utilities of wastewater service to commercial and residential customers in this state. An updated report shall be submitted monthly until 180 days after the end of the COVID-19 state of emergency and thereafter shall be submitted quarterly by and for each utility until such a covered entity ceases to provide service in New York state. Without unreasonably exposing consumer personally identifiable information in a manner that violates public service law, department and public service commission practice or federal law, the reports shall include but not be limited to the following, with all information to be broken down by utility, type of service provided, month, customer class, municipality, zip code, county, and United States Census American Community 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, average time between service disconnection due to non-payment and service reconnection, 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;

(4) the number of customers in arrears by 30, 60, 90, 120, 150, and 180 days at the end of each month, the total dollar amount owed and average amount owed per customer in each of those categories, and how those numbers compare to the previous year at the same time, provided however that if the provision of such data would raise rates unreasonably for residential or commercial customers, the department shall work with the utilities to take advantage of pending or ongoing upgrades or replacement of utility information technology systems to lower such bill impacts to two percent or less per year over the period necessary to attain reports of the granularity set forth in this act;

(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 total dollar amount of arrears and average amount of arrears per customer subject to such agreements, the average length of the repayment term under such agreements, 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 average amount of arrears per customer subject to such agreements, and how those numbers compare to the previous year at the same time;

(9) available customer assistance programs, including terms of eligibility, available budget for each program, 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, and how that number compares to the previous year at the same time;

(12) the number of customers charged late fees, penalties, and interest, the total dollar amount of late fees, penalties, and interest charged and average amount of late fees, penalties, and interest per customer subject to such charges, and how those numbers compare to the previous year at the same time;

(13) the average and median dollar amount billed to customer accounts and the average and median utility usage per customer account, and how those numbers compare to the previous year at the same time;

(14) the total dollar amounts billed to and collected from customer accounts and how those amounts compare to the previous year at the same time, except that such data need not be broken down by municipality and zip code within the service area of a utility;

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

(16) 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.

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

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

§ 2. This act shall take effect immediately.

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

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