

STATE OF NEW YORK

7554--A

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 -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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
15 ensure that New Yorkers would not be deprived of gas, electric, water or
16 telephone service, helping households follow the vital state policy of
17 "sheltering in place." The moratorium prohibited termination of utility
18 services at a pivotal moment when it became evident that sanitary condi-
19 tions were required to combat the COVID-19 virus and keep New Yorkers

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

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

24 PART A

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

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

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

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

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

40 e. "Telephone corporation" shall have the same meaning as subdivision
41 17 of section 2 of the public service law.

42 f. "Utility" shall mean a municipality, telephone corporation, utility
43 corporation, steam corporation, water-works corporation, an electric
44 corporation as defined in subdivision 13 of section 2 of the public
45 service law, a gas corporation as defined in subdivision 11 of section 2
46 of the public service law, a combination gas and electric corporation as
47 defined in subdivision 14 of section 2 of the public service law, a
48 steam corporation as defined in subdivision 22 of section 2 of the
49 public service law and any other community water system as defined in 10
50 NYCRR § 5-1.1.

51 g. "Utility corporation" shall have the same meaning as subdivisions
52 23 and 24 of section 2 of the public service law.

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

2. a. Every utility shall be subject to the jurisdiction of the public service commission for the purposes of enforcing the provisions of this act pursuant to sections 24, 25 and 26 of the public service law. The commission shall adjudicate complaints and conduct investigations for violation of this act in the manner provided by the provisions of article 2 of the public service law.

b. Within 60 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 affordability 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 quarterly thereafter. 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, governmental subdivision, 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, 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 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, 89-1 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, the north country, the capital region/Hudson valley, and the city of New York/Long Island, as defined by the empire state development corporation, and provide meaningful opportunity for comment. The public hearings may be held virtually.

d. Each utility shall, within 30 days of the effective date of this act, and monthly thereafter until 180 days after the end of the COVID-19 state of emergency, file with the department, in a form and manner determined by the department, the information required pursuant to para-

graph b of this subdivision. Following the lifting or expiry of the COVID-19 state of emergency, each utility shall quarterly thereafter, or until such covered entity ceases to provide service in New York state, file with the department the information required pursuant to paragraph b 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. If the data required by this act cannot reasonably be obtained from an existing utility information technology system without an increase in customer utility bills, a utility or municipality may petition the department, in a form and manner to be determined by the department, to provide the required data in an alternative format.

4. 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 public service.

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, authority or other governmental subdivision.

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

2. a. Within 60 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, governmental division, 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, and how those numbers compare to the previous year at the same time;

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

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

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

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

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

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

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

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

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

40 (12) the number of customers charged late fees, penalties, recon-
41 nection fees, interest, and any other charge associated with late
42 payment;

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

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

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

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

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

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

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

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

30 § 2. This act shall take effect immediately.

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

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