

STATE OF NEW YORK

5451--A

Cal. No. 852

2021-2022 Regular Sessions

IN SENATE

March 5, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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. Each component is wholly contained within a Part identified as
4 Parts A through B. The effective date for each particular provision
5 contained within such Part is set forth in the last section of such
6 Part. Any provision in any section contained within a Part, including
7 the effective date of the Part, which makes reference to a section "of
8 this act", when used in connection with that particular component, shall
9 be deemed to mean and refer to the corresponding section of the Part in
10 which it is found. Section four of this act sets forth the general
11 effective date of this act.

12 § 2. Legislative findings and declaration. In response to the COVID-19
13 pandemic, chapters 108 and 126 of the laws of 2020 were adopted to
14 ensure that New Yorkers would not be deprived of gas, electric, water or
15 telephone service, helping households follow the vital state policy of
16 "sheltering in place." The moratorium prohibited termination of utility
17 services at a pivotal moment when it became evident that sanitary condi-
18 tions were required to combat the COVID-19 virus and keep New Yorkers
19 safe and healthy, especially seniors and the medically vulnerable. The

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

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1 legislature finds and declares that it is unknown to the state the
2 number of New Yorkers who had their services terminated or disconnected
3 during the pandemic. The legislature finds that many utility customers
4 rely on continuous service for heat, water, and electricity to power
5 necessary equipment, such as life-saving health care devices and other
6 New Yorkers require cooling during extreme heat conditions and heat
7 during extreme cold conditions, particularly when congregate care cool-
8 ing and heating facilities are not safe for use by medically vulnerable
9 households. Now, as vaccine approvals and distributions signal a poten-
10 tial end to the pandemic, the legislature finds and declares that it is
11 imperative to ascertain the disruptive effects the pandemic had on util-
12 ity customers' finances, and utility finances and services, so that
13 evidence-based policy can be properly crafted thereafter.

14

PART A

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

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

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

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

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

30 e. "Telephone corporation" shall have the same meaning as subdivision
31 17 of section 2 of the public service law.

32 f. "Utility" shall mean a municipality, telephone corporation, utility
33 corporation, steam corporation, water-works corporation, an electric
34 corporation as defined in subdivision 13 of section 2 of the public
35 service law, a gas corporation as defined in subdivision 11 of section 2
36 of the public service law, a combination gas and electric corporation as
37 defined in subdivision 14 of section 2 of the public service law, a
38 steam corporation as defined in subdivision 22 of section 2 of the
39 public service law and any other community water system as defined in 10
40 NYCRR § 5-1.1.

41 g. "Utility corporation" shall have the same meaning as subdivisions
42 23 and 24 of section 2 of the public service law.

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

45 2. a. Within 45 days after the effective date of this act, the depart-
46 ment shall prepare and submit to the governor and the legislature a
47 written report that shall make findings and recommendations concerning
48 the effect the COVID-19 state of emergency has had on the provision by
49 utilities of electric, gas, water, and telephone service to commercial
50 and residential customers in this state. An updated report shall be
51 submitted monthly until 180 days after the end of the COVID-19 state of
52 emergency. Following the lifting or expiry of the COVID-19 state of
53 emergency, each utility shall quarterly for a period of three years, or
54 until such covered entity ceases to provide service in New York state,

1 file with the department the information required pursuant to this
2 subdivision. Without unreasonably exposing consumer personally iden-
3 tifiable information in a manner that violates public service law,
4 department and public service commission practice or federal law, the
5 reports shall include but not be limited to the following, with all
6 information to be broken down by utility, type of service provided,
7 month, customer class, governmental subdivision, zip code, county, and
8 United States Census American Community Survey Public Use Micro-data
9 Area:

10 (1) the number of customers and how that number compares to the previ-
11 ous year's number of customers at the same time;

12 (2) the number of disconnection notices sent due to non-payment,
13 disconnections due to non-payment, reconnections of customers that were
14 disconnected for non-payment, average time between service disconnection
15 due to non-payment and service reconnection, and how those numbers
16 compare to the previous year at the same time;

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

20 (4) the number of customers in arrears by, 1-30 days, 31-59 days,
21 60-89 days, 90-119 days, 120-149 days, 150-179 days and greater than 180
22 days at the end of each month, the total dollar amount owed and average
23 amount owed per customer in each of those categories, and how those
24 numbers compare to the previous year at the same time. Provided, howev-
25 er, that a utility or municipality may petition the department, in a
26 form and manner to be determined by the department, to allow such utili-
27 ty or municipality to provide such data in an alternative format if the
28 specificity set forth in this act cannot be obtained from an existing
29 utility information technology system and such data would result in the
30 increase of customer utility bills;

31 (5) the number of customers that became eligible for disconnection due
32 to bill non-payment but were not disconnected because of any legally
33 mandated or voluntary suspension of disconnections due to the COVID-19
34 state of emergency, or for any other statutory, regulatory or voluntary
35 reason irrespective of the COVID-19 emergency, or such other states of
36 emergency as may follow the end of the COVID-19 emergency;

37 (6) the number of customers that declared a change in financial
38 circumstances due to the COVID-19 state of emergency pursuant to
39 sections 32, 89-b, 89-1 and 91 of the public service law;

40 (7) the number of customers enrolled in deferred payment agreements at
41 the end of each month, the total dollar amount of arrears and average
42 amount of arrears per customer subject to such agreements, the average
43 length of the repayment term under such agreements, and how those
44 numbers compare to the previous year at the same time;

45 (8) the number of customers that entered into, successfully completed,
46 or defaulted from a deferred payment agreement, the total dollar amount
47 of arrears and average amount of arrears per customer subject to such
48 agreements, and how those numbers compare to the previous year at the
49 same time;

50 (9) available customer assistance programs, including terms of eligi-
51 bility, available budget for each program, and any enhancements to the
52 programs that have been made or are planned to address actual or antic-
53 ipated increased demand;

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

1 (11) the number of customers receiving assistance under each assist-
2 ance program at the end of each month, the total dollar amount of
3 assistance provided for arrears and the average amount per customer, the
4 total dollar amount of assistance provided for current or future bills
5 and the average amount per customer, and how those numbers compare to
6 the previous year at the same time;

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

10 (13) the total dollar amount of late fees, penalties, interest, recon-
11 nection fees and any other charge associated with late payment per
12 customer, and the average amount of late fees, penalties, interest,
13 reconnection fees and any other charge associated with late payment and
14 how those numbers compare to the previous year at the same time;

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

18 (15) the total dollar amounts billed to and collected from customer
19 accounts and how those amounts compare to the previous year at the same
20 time, except that such data need not be broken down by municipality and
21 zip code, and United States Census American Community Survey Public Use
22 Micro-data Area within the service area of a utility;

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

26 (17) the department's assessment of whether existing customer assist-
27 ance programs are presently and will in the future be sufficient to meet
28 the financial needs of customer accounts in arrears who are unable to
29 pay those arrears in full, as well as the needs of customer accounts who
30 may be unable to pay bills for current service;

31 (18) each utility's revenue, including sales revenue and operating or
32 net revenue information, and how those numbers compare to the previous
33 year at the same time; and

34 (19) each utility's schedule of rates and charges, provided that
35 "rates" means the fixed component, if any, and the volumetric or other
36 variable component, if any, of the cost of service that are applied to a
37 category of customers and "charges" means amounts that are billed to a
38 customer under specific circumstances that are not included in the
39 provider's base rate including, but not limited to, late fees,
40 connection fees, impact fees for new development, deposits for opening
41 new accounts and any other fees, surcharges or penalties.

42 b. Each utility shall, within 30 days of the effective date of this
43 act, and monthly thereafter until 180 days after the end of the COVID-19
44 state of emergency, file with the department, in a form and manner
45 determined by the department, the information required pursuant to para-
46 graph a of this subdivision. Following the lifting or expiry of the
47 COVID-19 state of emergency, each utility shall quarterly for a period
48 of three years, or until such covered entity ceases to provide service
49 in New York state, file with the department the information required
50 pursuant to paragraph a of this subdivision. Each utility shall publish
51 on its website the data it reports pursuant to this paragraph, simul-
52 taneously with submission of the data to the department.

53 3. If the data required by this act cannot reasonably be obtained from
54 an existing utility information technology system without an increase in
55 customer utility bills, a utility or municipality may petition the

1 department, in a form and manner to be determined by the department, to
2 provide the required data in an alternative format.

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

8 § 2. This act shall take effect immediately.

9

PART B

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

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

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

15 c. "Department" shall mean the department of environmental conserva-
16 tion.

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

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

22 2. a. Within 45 days after the effective date of this act, the depart-
23 ment shall prepare and submit to the governor and the legislature a
24 written report that shall make findings and recommendations concerning
25 the effect the COVID-19 state of emergency Following the lifting or
26 expiry of the COVID-19 state of emergency, each utility shall quarterly
27 for a period of three years, or until such covered entity ceases to
28 provide service in New York state, file with the department the informa-
29 tion required pursuant to this subdivision. Without unreasonably
30 exposing consumer personally identifiable information in a manner that
31 violates public service law, department and public service commission
32 practice or federal law, the reports shall include but not be limited to
33 the following, with all information to be broken down by utility, type
34 of service provided, month, customer class, municipality, zip code,
35 county, and United States Census American Community Survey Public Use
36 Micro-data Area:

37 (1) the number of customers and how that number compares to the previ-
38 ous year's number of customers at the same time;

39 (2) the number of disconnection notices sent due to non-payment,
40 disconnections due to non-payment, reconnections of customers that were
41 disconnected for non-payment, average time between service disconnection
42 due to non-payment and service reconnection, and how those numbers
43 compare to the previous year at the same time;

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

47 (4) the number of customers in arrears by 1-30 days, 31-59 days, 60-89
48 days, 90-119 days, 120-149 days, 150-179 days and greater than 180 days
49 at the end of each month, the total dollar amount owed and average
50 amount owed per customer in each of those categories, and how those
51 numbers compare to the previous year at the same time. Provided, howev-
52 er, that a utility or municipality may petition the department, in a
53 form and manner to be determined by the department, to allow such utili-
54 ty or municipality to provide such data in an alternative format if the

1 specificity set forth in this act cannot be obtained from an existing
2 utility information technology system and such data would result in the
3 increase of customer utility bills;

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

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

12 (7) the number of customers enrolled in deferred payment agreements at
13 the end of each month, the total dollar amount of arrears and average
14 amount of arrears per customer subject to such agreements, the average
15 length of the repayment term under such agreements, and how those
16 numbers compare to the previous year at the same time;

17 (8) the number of customers that entered into, successfully completed,
18 or defaulted from a deferred payment agreement, the total dollar amount
19 of arrears and average amount of arrears per customer subject to such
20 agreements, and how those numbers compare to the previous year at the
21 same time;

22 (9) available customer assistance programs, including terms of eligi-
23 bility, available budget for each program, and any enhancements to the
24 programs that have been made or are planned to address actual or antic-
25 ipated increased demand;

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

29 (11) the number of customers receiving assistance under each assist-
30 ance program at the end of each month, the total dollar amount of
31 assistance provided for arrears, the total dollar amount of assistance
32 provided for current or future bills and the average amount per custom-
33 er, and how that number compares to the previous year at the same time;

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

37 (13) the total dollar amount of late fees, penalties, reconnection
38 fees, interest and any other charge associated with late payment per
39 customer, and the average amount of late fees, penalties, reconnection
40 fees, interest, and any other charge associated with late payment and
41 how those numbers compare to the previous year at the same time;

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

45 (15) the total dollar amounts billed to and collected from customer
46 accounts and how those amounts compare to the previous year at the same
47 time, except that such data need not be broken down by municipality and
48 zip code, and United States Census American Community Survey Public Use
49 Micro-data Area within the service area of a utility;

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

53 (17) the department's assessment of whether existing customer assist-
54 ance programs are presently and will in the future be sufficient to meet
55 the financial needs of customer accounts in arrears who are unable to

1 pay those arrears in full, as well as the needs of customer accounts who
2 may be unable to pay bills for current service;

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

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

14 b. Each utility shall, within 30 days of the effective date of this
15 act, and monthly thereafter until 180 days after the end of the COVID-19
16 state of emergency, file with the department, in a form and manner
17 determined by the department, the information required pursuant to para-
18 graph a of this subdivision. Following the lifting or expiry of the
19 COVID-19 state of emergency, each utility shall quarterly for a period
20 of three years, or until such covered entity ceases to provide service
21 in New York state, file with the department the information required
22 pursuant to paragraph a of this subdivision. Each utility shall publish
23 on its website the data it reports pursuant to this paragraph, simul-
24 taneously with submission of the data to the department.

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

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

35 § 2. This act shall take effect immediately.

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

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