STATE OF NEW YORK

4573

2023-2024 Regular Sessions

IN ASSEMBLY

February 17, 2023

Introduced by M. of A. ZEBROWSKI, L. ROSENTHAL, THIELE, STECK -- 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 affordability of utility services

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

Section 1. Legislative findings and declaration. In response to the COVID-19 pandemic, chapters 108 and 126 of the laws of 2020 were adopted to ensure that New Yorkers would not be deprived of gas, electric, water service, helping households follow the vital state policy of "sheltering in place." The moratorium prohibited termination of utility services at a pivotal moment when it became evident that sanitary conditions were required to combat the COVID-19 virus and keep New Yorkers safe and healthy, especially seniors and the medically vulnerable. The legislature finds and declares that it is unknown to the state the number of New Yorkers who 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 and other New Yorkers require cooling during extreme heat conditions and heat during extreme cold conditions, particularly when congregate care cooling and heating facilities are not safe for use by medically vulnerable households. The legislature finds that the state requires comprehensive data concerning New Yorkers' ability to afford utility service, including the number of New Yorkers who had their services terminated or who are currently at risk of termination during the pandemic. The legislature finds that this data is critical to ascertain the effectiveness of the moratorium and other COVID-19 consumer protections, as well as the disruptive effects that the pandemic has had on utility customers' finances, and utility finances and services, and the public health, safety and welfare of

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

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millions of medically and financially vulnerable citizens. The legislature also finds that the permanent collection and reporting of utility data is imperative to gain regular updates on and evaluate trends concerning the scale and extent of terminations and utility debt across the state, so that evidence-based policy can be properly crafted thereafter.

§ 2. 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, and water, 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 through or by New York state or 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. "Commission" shall mean the public service commission.

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, authority or other governmental subdivision.

e. "Utility" shall mean a municipality, 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, a steam corporation as defined in subdivision 22 of section 2 of the public service law and any other community water system as defined in 10 NYCRR § 5-1.1.

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

g. "Water-works corporation" shall have the same meaning as subdivision 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 180 days after the effective date of this act, the commission 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, and water services to commercial and residential customers in this state. An updated report shall be submitted one year after the commission has submitted such initial report to the governor and legislature. Without unreasonably exposing consumer personally identifiable information in a manner that violates public service law 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 and county:

(1) the number of customers and how that number compares to the previous year's number of customers on the same month and day;

(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 on the same month and day;

(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 on the same month and day, 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 of arrears, and how those numbers compare to the previous year on the same month and day. Provided, however, that a utility or municipality may petition the commission, in a form and manner to be determined by the commission, 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 enrolled in deferred payment agreements at the end of each month;

(7) the number of customers that entered into, successfully completed, or defaulted from a deferred payment agreement, and how those numbers compare to the previous year on the same month and day;

(8) 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;

(9) the number of customers that applied for financial assistance under each applicable assistance program, and how those numbers compare to the previous year on the same month and day;

(10) 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 on the same month and day;

(11) the number of customers charged late fees, penalties, reconnection fees, interest, and any other charge associated with late payment of a bill;

(12) 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;

(13) 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

(14) the commission'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.

c. Following the commission's submission of the reports to the governor and legislature such reports shall be posted on the commission's website and be subject to 30 days of public comment on affordability

from the date of the submission to the governor and the legislature. The commission shall provide meaningful opportunities for public comment from all persons who will be impacted by findings of the commission, including persons living in disadvantaged communities and in rural communities across the state in entirety. Within 90 days of the submission of the initial report, the commission shall conduct at least five public hearings in different regions of the state, 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 90 days of the effective date of this act, submit to the commission, in a form and manner determined by the commission, the information required pursuant to paragraph b of this subdivision. Six months after the submission of the initial report to the governor and legislature, each utility shall submit to the commission, in a form and manner determined by the commission, 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 commission.

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

4. The commission 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 the information required pursuant to this section in a spreadsheet format.

§ 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.