STATE OF NEW YORK

5632--A

2023-2024 Regular Sessions

IN SENATE

March 9, 2023

Introduced by Sen. HARCKHAM -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to consumer protection and utility meter choice

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

Section 1. The general business law is amended by adding a new section 349-g to read as follows:

§ 349-g. Consumer protection and utility meter choice. 1. For purposes of this section, the following terms shall have the following meanings:

(a) "Analog utility meter" shall mean a New York state public service commission approved electro-mechanical utility meter that measures a utility consumer's electric, water or gas usage and does not contain or utilize electronic components or switch mode power supply and does not extract, store, or transmit private utility usage data or radiofrequency radiation.

(b) "Digital utility meter" shall mean a New York state public service commission approved, radiofrequency transmitting or non-transmitting utility meter that utilizes electronic components, including but not limited to, switch mode power supply, antennas and batteries, to measure, extract, store and/or transmit electric, water or gas usage.

(c) "Consumer" shall mean the end-user of utility services from an electric corporation, water-works corporation or gas corporation, including tenants in and owners of public and privately-owned buildings and premises.

2. For the protection of consumer health, safety and/or privacy needs, it shall be the right of every consumer of an electric corporation, water-works corporation or gas corporation, at no penalty, fee or

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

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service charge, to decline permission to their electric corporation, water-works corporation or gas corporation:

(a) to replace an existing analog utility meter at such consumer's premises that is assigned to such consumer's account with a digital utility meter; or

(b) to install a digital utility meter at their property without such consumer's consent.

3. For the protection of consumer health, safety and/or privacy needs, it shall be the right of every consumer of an electric corporation, water-works corporation or gas corporation, at no penalty, fee or service charge, to require their electric corporation, water-works corporation or gas corporation to replace an existing digital utility meter at such consumer's premises that is assigned to such consumer's account with an analog utility meter.

4. An electric corporation, water-works corporation or gas corporation may not install a digital utility meter on a consumer's premises that is assigned to such consumer's account unless it first shall provide written notice to the consumer no less than ninety days prior to the scheduled installation of such meter, so that such consumer may decline permission for such installation. Such notice shall provide that:

(a) the consumer shall have the right to decline permission for their electric corporation, water-works corporation or gas corporation, from installing a digital utility meter with no fee, penalty or service charge; and

(b) the consumer may, at any point in time following the installation of a digital utility meter, require the removal of such device and its replacement with an analog utility meter, with no fee, penalty or service charge; and

(c) an electric corporation, water-works corporation or gas corporation must comply with such consumer's instructions within ten days of receipt, if the consumer informs such electric corporation, water-works corporation or gas corporation, in writing, that such consumer suffers from electromagnetic sensitivity and that the transmitted and unintended radiofrequency radiation from both transmitting and non-transmitting digital utility meters poses a health threat to such consumer or within thirty days of receipt in all other cases.

5. For buildings and properties having multiple units and multiple consumers of electric, water and/or gas services, electric corporations, water-works corporations, or gas corporations, in complying with subdivision four of this section:

(a) may not install or upgrade any digital utility meters at such a building or property, if fifty percent or more of such consumers decline permission for such installation; and

(b) shall remove a digital utility meter assigned to a consumer's account and replace with an analog meter when requested by such consumer in compliance with subdivision four of this section.

6. The electric corporation, water-works corporation and/or gas corporation shall maintain a record for a period of no less than three years of all responses it receives to requests for permission to install digital utility meters or for the removal and replacement with analog utility meters of previously installed digital meters.

7. The public service commission shall prescribe such rules and regulations to effectuate the provisions of this section as it may deem necessary.

§ 2. This act shall take effect immediately.