STATE OF NEW YORK

4610

2023-2024 Regular Sessions

IN ASSEMBLY

February 17, 2023

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

AN ACT to amend the public service law and the public authorities law, in relation to providing for a two percent cap on rate increases imposed by utilities

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

Section 1. Subdivision 1 of section 65 of the public service law, as amended by chapter 789 of the laws of 1930, is amended to read as follows:

1. Every gas corporation, every electric corporation and every municipality shall furnish and provide such service, instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, electric corporation or municipality for gas, electricity or any service rendered or to be rendered, shall be just and reasonable and not more than allowed by law or by order of the commission. Every unjust or unreasonable charge made or demanded for gas, electricity or any such service, or in connection therewith, or in excess of that allowed by law or by the order of the commission is prohibited. **No gas corporation or electric corporation shall increase rates by more than two percent as measured on an annual basis.**

§ 2. Paragraphs 2 and 4 of subdivision (u) of section 1020-f of the public authorities law, as added by section 7 of part A of chapter 173 of the laws of 2013, are amended to read as follows:

2. The authority and the service provider shall thereafter submit for review to the department of public service any rate proposal that would increase the rates and charges [~~and thus increase the aggregate revenues of the authority by more than two and one-half~~]. **Such rate proposal shall not provide for an increase of such rates by more than two** percent to be measured on an annual basis[~~; provided, however, that the authori-~~

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

LBD03898-02-3

~~ty may place such rates and charges into effect on an interim basis, subject to prospective rate adjustment; provided, further, that a final rate plan issued by the authority that would not so increase such rates and charges shall not be subject to the requirements of paragraph four of this subdivision and shall be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. The authority and/or the service provider may otherwise submit for review to such department any rate proposal irrespective of its effect on revenues~~].

4. Any recommendations associated with a rate proposal submitted pursuant to paragraphs one and two of this subdivision shall be provided by the department of public service to the board of the authority immediately upon their finalization by the department. Unless the board of the authority makes a preliminary determination in its discretion that any particular recommendation is inconsistent with the authority's sound fiscal operating practices, any existing contractual or operating obligations, or the provision of safe and adequate service, the board shall implement such recommendations as part of its final rate plan and such final determination shall be deemed to satisfy the requirements of this subdivision and be considered final for the purposes of review under article seventy-eight of the civil practice law and rules. **The board shall not approve a final rate plan that increases rates by more than two percent.** The board shall make any such preliminary determination of inconsistency within thirty days of receipt of such recommendations, with notice and the basis of such determination being provided to the department of public service, and contemporaneously posted on the websites of the authority and its service provider. The board shall thereafter, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing, the department of public service shall present the basis for its recommendations, the board shall present the basis for its determination of inconsistency and the service provider may present its position. The authority and the service provider may, during the time period before such public hearing reach agreement with the department on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementation with respect to any such recommendations. The authority's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law.