PUBLIC SERVICE LAW

LAWS 1910, **CHAPTER 480**

An act relating to the public service of utility companies, constituting chapter forty-eight of the consolidated laws.

Became a law June 14, 1910, with the approval of the Governor. Passed, three-fifths being present.

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

CHAPTER 48 OF THE CONSOLIDATED LAWS

THE PUBLIC SERVICE LAW.

(Secs. 211-230.)

ARTICLE 1

THE DEPARTMENT OF PUBLIC SERVICE

§ 1. Short title. This chapter shall be known as the "Public Service Law." Reference in any law to the public service commission law shall mean the public service law, and amendments, in form, to the public service commission law enacted by the legislature of nineteen hundred thirty shall be treated as amendments to the public service law.

§ 2. Definitions. 1. The term "department" when used in this chapter, means the department of public service, and the term "commission," means the public service commission.

2. The term "commissioner," when used in this chapter, means one of the members of the public service commission.

2-a. The term "co-generation facility", when used in this chapter, includes any facility with an electric generating capacity of up to eighty megawatts, and including any facility with an electric generating capacity of up to one hundred twenty megawatts located at a project site within an air terminal operated by the port authority of New York and New Jersey and wholly contained within a city having a population of one million or more, which produces electricity and useful thermal energy solely for sale to the port authority of New York and New Jersey, for use at the airport, for sale to an electric utility, and/or for sale to the power authority of the state of New York, together with any related facilities located at the same project site, which is fueled by coal, gas, wood, alcohol, solid waste refuse-derived fuel, water or oil, to the extent any such oil fueled facility was fueled by oil prior to the effective date of this subdivision and there is no increase in the amount of oil used at the facility or to the extent oil is used as a backup fuel for such facility, and which simultaneously or sequentially produces either electricity or shaft horsepower and useful thermal energy which is used solely for industrial and/or commercial purposes.

2-b. The term "alternate energy production facility," when used in this chapter, includes any solar, wind turbine, fuel cell, fuel-flexible linear generator electric generating equipment, tidal, wave energy, waste management resource recovery, refuse-derived fuel, wood burning facility, or energy storage device utilizing batteries, flow batteries, flywheels or compressed air, together with any related facilities located at the same project site, with an electric generating capacity of up to eighty megawatts, which produces electricity, gas or useful thermal energy.

2-c. The term "small hydro facility", when used in this chapter, includes any hydroelectric facility, together with any related facilities located at the same project site, with an electric generating capacity of up to eighty megawatts.

2-d. The term "related facilities" shall mean any land, work, system, building, improvement, instrumentality or thing necessary or convenient to the construction, completion or operation of any co-generation, alternate energy production or small hydro facility and include also such transmission or distribution facilities as may be necessary to conduct electricity, gas or useful thermal energy to users located at or near a project site.

3. The term "corporation," when used in this chapter, includes a corporation, company, association and joint-stock association other than a corporation, company, association or joint stock association

generating electricity, shaft horsepower, useful thermal energy or gas solely from one or more co-generation, small hydro or alternate energy production facilities or distributing electricity, shaft horsepower, useful thermal energy or gas solely from one or more of such facilities to users located at or near a project site.

4. The word "person," when used in this chapter, includes an individual, firm or co-partnership other than an individual, firm or co-partnership generating electricity, shaft horsepower, useful thermal energy or gas solely from one or more co-generation, small hydro or alternate energy production facilities or distributing electricity, shaft horsepower, useful thermal energy or gas solely from one or more of such facilities to users located at or near a project site; provided, however, that an individual, firm or co-partnership generating or distributing electricity or gas solely from one or more co-generation, small hydro or alternate energy production facilities shall nevertheless be considered a person for purposes of commission jurisdiction under article seven of this chapter.

10. The term "gas plant," when used in this chapter, includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the manufacture, conveying, transportation, distribution, sale or furnishing of gas (natural or manufactured or mixture of both) for light, heat or power, but does not include property used solely for or in connection with the business of selling, distributing or furnishing of gas in enclosed containers.

11. The term "gas corporation," when used in this chapter, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any gas plant or thermal energy network (a) except where gas is made or produced and distributed by the maker on or through private property solely for its own use or the use of its tenants and not for sale to others, (b) except where compressed natural gas is sold, distributed or furnished solely as a fuel for use in motor vehicles, (c) except where manufactured gas is

sold by the producer only for use or resale by a gas corporation and such gas of the producer and any affiliated producers does not exceed in any one year thirty per cent of the total gas sold by any purchaser thereof in the area in which such manufactured gas is resold either as manufactured gas or as a component of mixed gas, and (d) except where gas is made or produced solely from one or more alternate energy production facilities or distributed solely from one or more of such facilities to users located at or near a project site; provided, however, that any producer not included within the meaning of "gas corporation" by reason of exception (c) or (d) shall nevertheless be considered a gas corporation for the purposes of commission jurisdiction relating to the safety of the construction, operation, or maintenance of plants manufacturing pipeline quality gas.

12. The term "electric plant," when used in this chapter, includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of electricity for light, heat or power; and any conduits, ducts or other devices, materials, apparatus or property for containing, holding or carrying conductors used or to be used for the transmission of electricity for light, heat or power, and also includes retired nuclear power reactors and their associated systems, structures, fuel and waste storage facilities, real estate, fixtures and personal property.

13. The term "electric corporation," when used in this chapter, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever (other than a railroad or street railroad corporation generating electricity solely for railroad or street railroad purposes or for the use of its tenants and not for sale to others) owning, operating or managing any electric plant or thermal energy network except where electricity or thermal energy is generated or distributed by the producer solely on or through private property for railroad or street railroad purposes or for its own use or the use of its tenants and not for sale to others; or except where electricity is generated by the producer solely from one or more

co-generation, small hydro or alternate energy production facilities or distributed solely from one or more of such facilities to users located at or near a project site.

14. The term "combination gas and electric corporation," when used in sections twenty-five-a, sixty-five and sixty-six of this chapter, includes any gas corporation operating in New York under common ownership with an electric corporation operating in New York or any electric corporation operating in New York under common ownership with a gas corporation operating in New York, or any successor of either such corporation; provided, however, that such term shall not include municipally-owned utilities, and shall not include any generating facilities owned or operated by either such corporation or any common owner thereof, or any subsidiary of such common owner.

16. The term "municipality", when used in this chapter, includes a city, village, town or lighting district, organized as provided by a general or special act, provided, however, that the counties of Nassau, Rockland, Suffolk and Westchester shall each be deemed a "municipality" and consents issued by each such county pursuant to the transportation corporations law and the county government law of Nassau county, local law adopted by the county legislature of Rockland county, the Suffolk county charter and the Westchester county charter respectively shall be deemed "consents of local authorities" for the purpose of applying every provision of this chapter applicable to consents of local authorities; and provided further that no county, city, village, town or lighting district shall be deemed a municipality with respect to any co-generation, small hydro or alternate energy production facility owned by one of the above from which electricity, useful thermal energy or gas is generated or produced or distributed from one or more of such facilities to users located at or near a project site.

17. The term "telephone corporation," when used in this chapter, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, owning, operating or managing any telephone line or part of telephone line used in the

conduct of the business of affording telephonic communication for hire; excepting, however, any corporation, company, association, joint-stock association, partnership or person, their lessees, trustees or receivers, who or which do not operate the business of affording telephonic communication for profit.

18. The term "telephone line," when used in this chapter, includes conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telephone corporation to facilitate the business of affording telephonic communication up to and including the demarcation point located on a subscriber's premises.

19. The term "telegraph corporation," when used in this chapter, includes every corporation, company, association, joint-stock association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating or managing any telegraph line or part of telegraph line used in the conduct of the business of affording for hire communication by telegraph.

20. The term "telegraph line," when used in this chapter, includes conduits, ducts, poles, wires, cables, cross-arms, instruments, machines, appliances and all devices, real estate, easements, apparatus, property and routes used, operated or owned by any telegraph corporation to facilitate the business of affording communication by telegraph.

21. The term "steam plant," when used in this chapter, includes all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the generation, transmission, distribution, sale or furnishing of steam for heat or power.

22. The term "steam corporation," when used in this chapter, includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed

by any court whatsoever owning, operating or managing any steam plant, (a) except where steam is made or produced and distributed by the maker, on or through private property solely for the maker's own use or the use of the maker's tenant and not for sale to others, (b) except where steam is made or produced by the maker solely from one or more co-generation or alternate energy production facilities or distributed soley from one or more of such facilities to users located at or near a project site or (c) except where steam is made or produced and distributed solely for the use of its members by a non-profit cooperative corporation organized under the cooperative corporations law.

22-a. The term "telecommuting", when used in this chapter, shall mean the conservation of energy through the reduction of travel by employees of the department to and from their designated workplace through the use of telecommunication and computer technology in tasks including, but not limited to, information transfer and processing.

23. The term "utility company" or "public utility company" is used to avoid repetitions in a provision applying to one or more persons or corporations operating an agency or agencies for public service, and who or which is or are subject to the jurisdiction, supervision and regulations prescribed by or pursuant to provisions of this chapter other than article 11; such term being so used only as a general term descriptive of such a person or corporation.

24. The term "utility corporation" or "public utility corporation" is an incorporated utility company.

25. The term "stock yard," when used in this chapter, includes all real estate, fixtures and personal property owned, used or to be used in connection with the business of affording facilities for the shipment of live stock and for the care thereof for such purpose prior to the time that transportation begins; and the term "stock yard company" includes every corporation, association, joint stock association, partnership and person, their lessees, trustees or receivers appointed by any court whatsoever, operating or managing a stock yard.

26. The term "water system" when used in this chapter includes all real estate, attachments, fixtures, impounded water, water-works, water plant, water rights and personal property, and all property either real, personal or mixed, owned, operated, used or to be used for or in connection with or to facilitate the distribution, sale or furnishing of water for domestic, commercial or public uses, but does not include property used solely for or in connection with the business of bottling or selling, distributing or furnishing bottled water.

27. The term "water-works corporation", when used in this chapter includes every corporation, company, association, joint stock association, partnership and person, their lessees, trustees or receivers, appointed by any court whatsoever, owning, operating or managing any water plant or water-works, except where water is distributed solely on or through private property solely for the use of the distributor or its tenants and not for sale to others.

28. "Thermal energy," when used in this chapter, shall mean piped non-combustible fluids used for transferring heat into and out of buildings for the purpose of eliminating any resultant on-site greenhouse gas emissions of all types of heating and cooling processes, including, but not limited to, comfort heating and cooling, domestic hot water, and refrigeration.

29. "Thermal energy network," when used in this chapter, shall mean all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate a utility-scale distribution infrastructure project that supplies thermal energy.

§ 3. Department of public service. There shall be in the state government a department of public service. The chairman of the public service commission shall be the chief executive officer of the department. He or she shall appoint and shall have the power to remove, subject to the provisions of the civil service law, all officers, clerks, inspectors, experts and employees of the department, and to approve all contracts for special service. The chairman shall designate one of the commissioners in the department or an officer of the department to act as deputy chairman during the absence or disability of the chairman and during such times such deputy chairman shall possess all the powers of the chairman as chief executive officer of the department.

§ 3-a. Transfer of lands. Notwithstanding any other provision of law, any land, property, right, easement or fee under the jurisdiction of the commission acquired in the name of the people of the state of New York for the purpose of the construction, maintenance or development of a grade crossing elimination project or acquired pursuant to any laws applicable to grade crossing eliminations which is determined by the commissioner of transportation to be of use or benefit for state transportation purposes is transferred to the commissioner of transportation. The commissioner of general services is authorized to convey to the city of New York any of said parcels or interests which the commissioner of transportation determines not to be necessary for state transportation purposes. Such conveyances may be made on such terms and conditions as the commissioner of general services may determine.

§ 3-b. Long Island office of the department. 1. There is hereby established in the department an office to review and make recommendations with respect to the operations and terms and conditions of service of, and rates and budgets established by, the Long Island power authority and/or its service provider.

2. Definitions. As used or referred to in this section:
(a) "Authority" means the Long Island power authority.
(b) "Service provider" means the entity under contract with the authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract. However, the service provider and any affiliate of the service provider with whom the authority or service provider contracts to provide

services associated with the authority's electric transmission and distribution system shall not be considered an electric corporation under this chapter.

(c) "Operations services agreement" means an agreement and any amendments thereto between the Long Island lighting company dba LIPA or the Long Island power authority and the service provider to provide management and operation services associated with the authority's electric transmission and distribution system.

3. General powers. In undertaking the requirements of this section, subject to subdivisions (u) and (bb) through (hh) of section one thousand twenty-f of the public authorities law, the department shall be empowered and authorized to:

(a) Review and make recommendations to the board of the Long Island power authority with respect to the rates and charges, including charges related to energy efficiency and renewable energy programs, to be established by the authority and become applicable on or after January first, two thousand sixteen pursuant to subdivision (u) of section one thousand twenty-f of the public authorities law.

(i) The purpose of such review is to make recommendations designed to ensure that the authority and the service provider provide safe and adequate transmission and distribution service at rates set at the lowest level consistent with sound fiscal operating practices.

(ii) The department's recommendations shall be designed to be consistent with ensuring that the revenue requirements related to such rate review are sufficient to satisfy the authority's obligations with respect to its bonds, notes and all other contracts.

(iii) In the context of such review, the department may make recommendations with regard to the compensation or fee structure included within the operations services agreement.

(iv) In undertaking such review and in making recommendations related to the proposed rates and charges, the department shall establish standards, policies and procedures that, at a minimum, provide for public statement and evidentiary hearings and participation of intervenors and other parties, and ensure that any final recommendations related to the proposed rates and charges are provided to the authority within two hundred forty days of the filing with the department of such plan.

(v) The parties to any such rate review proceeding shall include, but not be limited to, department staff, the authority, the service provider and, to the extent it deems necessary or appropriate, the utility intervention unit.

(b) Review the annual capital expenditures proposed by the service provider and recommend such improvement in the manufacture, conveying, transportation, distribution or supply of electricity, or in the methods employed by the the service provider as in the department's judgment allows for safe and adequate service.

(c) Annually review the emergency response plan of the authority and the service provider in accordance with the following requirements:

(i) Examine and determine whether the emergency response plan is consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of this chapter and any regulations or orders promulgated thereto, and to recommend amendments of same; and

(ii) Review and make recommendations to the authority with respect to the performance of the service provider in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event, defined for purposes of this section as an event where widespread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and its service provider, including making determinations with respect to whether the service provider is reasonably able to implement the emergency response plan, whether the length of any outages related to such emergency were materially longer than they would otherwise have been because the service provider failed to reasonably implement the emergency response plan, the reasonableness of costs associated with such emergency response, the costs, if any, that were unreasonably and imprudently incurred by the service provider, and whether the service provider would be liable for any such costs pursuant to the terms and conditions of the operations services agreement.

(d) Upon notification to the Long Island power authority, undertake a comprehensive and regular management and operations audit of the authority and service provider pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law. The department shall have discretion to have such an audit performed by its staff, or by an independent contractor. In every case in which an audit is required pursuant to subdivision (bb) of section one thousand twenty-f of the public authorities law performed by an independent auditor, the department shall have the authority to select the auditor, and to require the authority to enter into a contract with the auditor that is consistent with the contracting-related requirements specified in subdivision nineteen of section sixty-six of this chapter and the requirements of subdivision (bb) of section one thousand twenty-f of the public authorities law. Such contract shall provide further that the auditor shall work for and under the direction of the department according to such terms as the department may determine are necessary and reasonable.

(e) Accept, investigate, mediate to resolve and make recommendations to the Long Island power authority and/or the service provider regarding the resolution of complaints from consumers in the authority's service territory relating to, among other things, the provision of electric service provided by the service provider and/or the authority.

(f) Review the net metering program implemented under subdivision (h) of section one thousand twenty-g of the public authorities law and make recommendations designed to ensure consistency with the requirements of sections sixty-six-j and sixty-six-l of this chapter, and any regulations and orders adopted thereto.

(g) Review and make recommendations with respect to any proposed plan submitted by the Long Island power authority and/or the service provider related to implementation of energy efficiency measures, distributed generation or advanced grid technology programs having the purpose of providing customers with tools to more efficiently and effectively manage their energy usage and utility bills, and improving system reliability and power quality.

(h) Review the data, information and reports submitted pursuant to subdivision (hh) of section one thousand twenty-f of the public authorities law and other pertinent information related to the metrics in the operations services agreement, the Long Island power authority's evaluation of such data, information and reports, and make recommendations to the authority with respect to the service provider's annual incentive-based compensation within thirty days of receipt of such evaluation and information.

4. Review and inspection. To undertake the requirements of subdivision two of this section, the department shall be authorized to inspect all premises and facilities owned or operated by the authority and the service provider, review all books and records of the authority and the service provider, interview all appropriate personnel, and require annual reporting consistent with the requirements of subdivision six of section sixty-six of this chapter and any regulations and orders adopted thereto; provided, however, that this authority shall not extend to affiliates of the service provider.

*** § 3-c. Office of renewable energy siting and electric transmission.** 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Executive director" or "director" shall mean the executive director of the office of renewable energy siting and electric transmission.

(b) "ORES" and "office" shall mean the office of renewable energy siting and electric transmission established pursuant to this section.

(c) "Siting permit" shall mean the major renewable energy facility siting permit or major electric transmission facility permit issued by the executive director pursuant to article VIII of this chapter, and the rules and regulations promulgated by ORES and approved by the commission.

2. General powers and responsibilities. (a) There is hereby established in the department an office of renewable energy siting and electric transmission.

(b) ORES shall accept applications and evaluate, issue, amend, and approve the assignment and/or transfer of siting permits pursuant to article VIII of this chapter. ORES shall exercise its authority by and through the executive director.

(c) ORES, by and through the executive director, shall be authorized to conduct hearings and dispute resolution proceedings, issue permits, and adopt, subject to the approval of the public service commission, such rules, regulations and procedures as may be necessary, or any amendments or modifications thereto, convenient, or desirable to effectuate the purposes of this section and article VIII of this chapter.

(d) ORES shall, among other things, continue unimpeded the work of the office of renewable energy siting established under the former section ninety-four-c of the executive law. All permits issued by the former office of renewable energy siting, established pursuant to former section ninety-four-c of the executive law, and all certificates of environmental compatibility and public need issued by the commission pursuant to article VII of this chapter shall be considered for all legal purposes to be permits issued by ORES.

(e) All final siting permits issued by ORES or heretofore issued by the office of renewable energy siting established pursuant to the former section ninety-four-c of the executive law are hereby enforceable by ORES and the department pursuant to section twenty-four, section twenty-five, and section twenty-six of this article as if issued by the commission, except that such permits issued to combination gas and electric corporations are also enforceable by ORES and the department pursuant to section twenty-five-a of this article. ORES and the department shall monitor, enforce, and administer compliance with any terms and conditions set forth in a siting permit issued pursuant to article VIII of this chapter and in doing so may use and rely on authority provided to the commission otherwise available under this chapter. Notwithstanding any other provision of law to the contrary, the holder of a certificate or permit issued under article VIII of this chapter, or a predecessor statute thereto, for a major renewable energy facility with an electric generating capacity between twenty-five and eighty megawatts or that otherwise opts into article VIII of this chapter is subject to enforcement by ORES or the department pursuant to sections twenty-four, twenty-five and twenty-six of this article.

(f) At the request of ORES, all other state agencies and authorities are hereby authorized to provide support and render services to the office within their respective functions.

* NB Repealed December 31, 2040

§ 4. The public service commission. 1. There shall be in the department of public service a public service commission, which shall possess the powers and duties hereinafter specified, and also all powers necessary or proper to enable it to carry out the purposes of this chapter. The commission shall consist of five members, to be appointed by the governor, by and with the advice and consent of the senate. A commissioner shall be designated as chairman of the commission by the governor to serve in such capacity at the pleasure of the governor or until his term as commissioner expires whichever first occurs. At least one commissioner shall have experience in utility consumer advocacy. No more than three commissioners may be members of the same political party unless, pursuant to action taken under subdivision two of this section, the number of commissioners shall exceed five, and in such event no more than four commissioners may be members of the same political party.

2. Notwithstanding subdivision one, whenever the commission shall certify to the governor that additional commissioners are needed for the proper disposition of the business before it, the governor may increase the membership of the commission to seven members by appointing two additional commissioners by and with the advice and consent of the senate. The terms of office of such additional commissioners and the filling of vacancies during such terms shall be governed by subdivision three, except that upon the expiration of the terms of such additional commissioners, no further appointments or reappointments shall be made to such additional offices, unless the commission shall first certify to the governor that the need for additional commissioners continues to exist.

3. The term of office of a commissioner shall be six years from the first day of February of the calendar year in which he shall be appointed and commissioners shall serve on a full-time basis. Upon a vacancy occuring otherwise than by expiration of term in the office of any commissioner, the governor, by and with the advice and consent of the senate, shall fill the vacancy by appointment for the unexpired term.

4. Any commissioner appointed on or after July first, two thousand twenty-two, pursuant to this section shall have education and training,

and three or more years of experience in one or more of the following fields: economics, engineering, law, accounting, business management, utility regulation, public policy, consumer advocacy or environmental management.

§ 4-b. Removals. The governor may remove any public service commissioner, now in office or hereafter appointed, for inefficiency, neglect of duty or misconduct in office, giving him a copy of the charges against him, and an opportunity of being publicly heard in person or by counsel in his own defense, upon not less than ten days' notice. If such commissioner shall be removed the governor shall file in the office of the department of state a complete statement of charges made against such commissioner, and his findings thereon, together with a complete record of the proceeding.

§ 5. Jurisdiction, powers and duties of public service commission. 1. The jurisdiction, supervision, powers and duties of the public service commission shall extend under this chapter:

b. To the manufacture, conveying, transportation, sale or distribution of gas (natural or manufactured or mixture of both) and electricity for light, heat or power, to gas plants and to electric plants and to the persons or corporations owning, leasing or operating the same.

c. To the manufacture, holding, distribution, transmission, sale or furnishing of steam for heat or power, to steam plants and to the persons or corporations owning, leasing or operating the same.

d. To every telephone line which lies wholly within the state and that part within the state of New York of every telephone line which lies partly within and partly without the state and to the persons or corporations owning, leasing or operating any such telephone line.

e. To every telegraph line which lies wholly within the state and that part within the state of New York of every telegraph line which lies partly within and partly without the state and to the persons or corporations owning, leasing or operating any such telegraph line.

f. To the furnishing or distribution of water for domestic, commercial or public uses and to water systems and to the persons or corporations owning, leasing or operating the same.

g. To every stock yard within the state and to the stock yard company owning, leasing or operating the same, to the same extent and in respect to the same objects and purposes as such jurisdiction extends, under this chapter, to depots, freight houses and shipping stations of a common carrier, including the duty of such stock yard company to submit reports and be subjected to investigation as if it were a common carrier, and the powers and duties of such commission to fix charges and make and enforce orders relating to adequate service by such company.

h. A corporation or person owning or holding a majority of the stock of a common carrier, gas corporation or electrical corporation subject to the jurisdiction of the public service commission shall be subject to the supervision of the public service commission in respect of the relations between such common carrier, gas corporation or electrical corporation and such owners or holders of a majority of the stock thereof in so far as such relations arise from or by reason of such ownership or holding of stock thereof or the receipt or holding of any money or property thereof or from or by reason of any contract between them; and in respect of such relations shall in like manner and to the same extent as such common carrier, gas corporation or electrical corporation be subject to examination of accounts, records and memoranda, and shall furnish such reports and information as the public service commission shall from time to time direct and require, and shall be subject to like penalties for default therein.

i. To thermal energy provided by gas corporations, electric corporations, or combination gas and electric corporations.

2. The commission shall encourage all persons and corporations subject to its jurisdiction to formulate and carry out long-range programs,

individually or cooperatively, for the performance of their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources.

3. Application of the provisions of this chapter to one-way paging or two-way mobile radio telephone service with the exception of such services provided by means of cellular radio communication is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that regulation of such services should be reinstituted to the extent found necessary to protect the public interest because of a lack of effective competition.

4. Upon finding that it is in the public interest to do so, the commission may exempt from any or all of the provisions of this chapter, for such period of time as it deems appropriate, an association of homeowners owning and operating any water plant or water-works and distributing water only to customers having an interest and voice in its operation.

5. The commission shall develop a plan to maximize the use of telecommuting to conserve energy otherwise used by the personnel of the department in commuting to their assigned workplace. Within one year of the effective date of this subdivision, the commission shall submit a report to the governor and the legislature on the impact of such plan to include, but not be limited to, energy conservation, air quality, workforce acceptance, office costs and potential cost savings.

6. a. Application of the provisions of this chapter to cellular telephone services is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that suspension of the application of the provisions of this chapter shall cease to the extent found necessary to protect the public interest.

b. For the purpose of determining whether a cellular provider is subject to taxation under section one hundred eighty-six-a of the tax law on a gross income or gross operating income basis, during a period of suspension prescribed pursuant to this section, the tax status of such provider shall be determined on the day previous to the day such suspension commenced and such status shall continue during the period of such suspension.

c. Notwithstanding paragraph a of this subdivision, the commission may designate any commercial mobile radio or cellular telephone service providers as an eligible telecommunications carrier for purposes of providing lifeline service, in addition to any commercial mobile radio or cellular telephone service providers designated as such pursuant to 47 U.S.C. § 214(e) and 47 U.S.C. § 214(e)(2), without requiring any such provider to obtain a certificate of public convenience and necessity pursuant to section ninety-nine of this chapter. The commission is authorized and directed to promulgate all rules and regulations necessary to implement the provisions of this paragraph, and to establish standards and safeguards for approval as an eligible telecommunications carrier for purposes of providing lifeline service. Such standards and safeguards shall include, but not be limited to, the provider's managerial, financial and technical capability and expertise, including whether the provider has forfeited eligible telecommunications carrier designation in another state or been subject to the imposition of substantial monetary penalties by the federal communications commission or another state. Upon adoption by the commission, such standards and safeguards shall apply to new applicants, and shall not apply to previously approved providers or affiliated entities of such providers with common financial, managerial and technical capability and expertise.

§ 5-b. Corporations subject to chapter although not transacting business. Corporations formed to acquire property or to transact business which would be subject to the provisions of this chapter, and corporations possessing franchises for any of the purposes contemplated by this chapter, shall be deemed to be subject to the provisions of this chapter although no property may have been acquired, business transacted or franchises exercised.

§ 5-e. Jurisdiction of commission over certain corporations, their operations and facilities.

1. The commission shall have no jurisdiction, supervision, powers or duties with respect to any corporation which is owned or controlled in whole or in part by a gas corporation, an electric corporation or a gas and electric corporation subject to the jurisdiction of the commission the primary function of which is the leasing, as lessor or lessee and/or operating of a facility or facilities for the manufacture of electricity or steam, as is permitted by and provided in article 18-A of the general municipal law, provided that such facility or facilities are located on a parcel of land consisting of more than two hundred acres and formerly owned by the United States government and in any county of the state having a population of two million inhabitants or more and where the electric or steam service does not cross streets which are publicly maintained and open to the use of the public at large.

2. The provisions of this section shall apply only to corporations which have entered into an initial lease executed prior to July first, nineteen hundred eighty.

§ 7. Organization and records; minutes as evidence; destruction of certain records. 1. The commission shall have a secretary and assistant secretaries to be appointed by the chairman. It shall be the duty of the secretary to keep a full and true record of all proceedings and a transcript of the public sessions of the commission. The record of the proceedings of the commission shall be prima facie evidence of the proceedings of the commission. The transcript of public sessions shall be made available in the Albany and New York city offices that the commission maintains. The chairman shall have charge of the organization of its office, shall assign its employees to the several divisions or bureaus and shall superintend the performance of their duties. The secretary and assistant secretary, each commissioner and each hearing officer or person designated to conduct an investigation may administer oaths in all parts of the state, so far as the exercise of such power is properly incidental to the performance of his duty or that of the commission.

2. Such records and general correspondence as are no longer necessary for the purposes of the commission may be destroyed upon the order of the commission; but no such record, report or correspondence shall be destroyed until it shall have been on file for at least five years.

3. Any opinion issued by the commission in a formal commission proceeding shall include a record of the vote taken indicating the names of the commissioners who voted in favor and the names of the commissioners who voted against the opinion. Any statement of dissent shall be attached to the majority's opinion.

§ 8. Additional officers and employees. The chairman shall have power to employ such officers, clerks, inspectors, experts and employees, and to make such contracts for special services as he may deem to be necessary to carry out this chapter, or to perform the duties and exercise the powers conferred by law upon the commission. The chairman, by certificate filed in the office of the commission may from time to time, specially authorize any officer or employee of the commission to conduct any investigation or hearing, which the commission is authorized to conduct, to take testimony in respect of the subject or matter under investigation, and report the testimony to the commission, and in the conduct of such investigation or hearing such officer or employee shall have all the powers of a commissioner.

§ 9. Oath of office; eligibility of commissioners and officers. Each commissioner and each person appointed to office by the chairman shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office. The oaths of office other than those of a commissioner shall be filed in the office of the commission. No person shall be eligible for appointment or shall hold the office of commissioner or be appointed to, or hold, any office or position under the commission, who holds any official relation to any person or corporation subject to the supervision of the commission, or who owns stocks or bonds of any such corporation.

§ 10. Offices of commission; meeting; stationery, et cetera. The principal office of the public service commission shall be in the city of Albany, in rooms designated by the commissioner of general services. The public service commission shall also maintain a branch office in the city of New York. The commission shall hold stated meetings at least once a month during the year at its office. The offices shall be supplied with all necessary books, maps, charts, stationery, office furniture, telephone and telegraph connections and all other necessary appliances, to be paid for in the same manner as other expenses authorized by this chapter.

§ 11. Quorum; powers of a commissioner. A majority of the duly appointed commissioners shall constitute a quorum and not less than a majority of such commissioners concurring may transact any business, perform any duty or exercise any power of the commission. The commission may hold meetings of the commission at any time or place within the state. Any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner or before any specially authorized officer or employee of the commission, provided that at least one commissioner shall hold at least one public hearing without delegation of authority to any specially authorized hearing officer or employee when such hearings are mandated by applications for rate increases. All investigations, inquiries, hearings and decisions of a commissioner or specially authorized officer or employee shall be and be deemed to be the investigations, inquiries, hearings and decisions of the commission and every order made by a commissioner, when approved and confirmed by the commission and ordered filed in its office, shall be and be deemed to be the order of the commission.

§ 12. Counsel to the commission; duties. It shall be the duty of counsel to the commission, subject to the direction of the chairman, to represent and appear for the people of the state and the commission in all actions and proceedings involving any question under this chapter, or within the jurisdiction of the commission, and, if directed to do so to intervene, if possible, in any action or proceeding in which any such question is involved; to commence and prosecute all actions and proceedings directed or authorized, and to expedite in every way possible final determination of all such actions and proceedings; and generally to perform all duties and services delegated to or required of him.

§ 13. Expenses. All officers, clerks, inspectors, experts and employees of the commission shall receive the compensation fixed by the chairman of the commission within the amounts appropriated therefor by the legislature. The commissioners and counsel to the commission may receive, in lieu of expenses, twenty-five dollars per day, and a proportionate amount thereof for each fraction of a day, while engaged in the performance of official duties at a place other than the city to which they are regularly assigned, and shall be reimbursed for the actual and necessary cost of transportation incurred by them; this provision, however, shall not be applicable to the chairman or a commissioner receiving a definite sum in lieu of traveling expenses. The officers, clerks, inspectors, experts and employees, shall have reimbursed to them all actual and necessary traveling and other expenses and disbursements incurred or made by them in the discharge of their official duties.

§ 14. Payment of salaries and expenses. All salaries and expenses of the public service commission shall be paid monthly from the state treasury upon the audit and warrant of the comptroller out of the funds provided therefor.

§ 15. Certain acts prohibited. Every commissioner, and every person employed or appointed to office in the department is hereby forbidden and prohibited to solicit, suggest, request or recommend, directly or indirectly, to any corporation or person subject to the supervision of the commission, or to any officer, attorney, agent or employee thereof, the appointment of any person to any office, place, position or employment. And every such corporation and person, and every officer, attorney, agent and employee thereof, is hereby forbidden and prohibited to offer to any commissioner or to any person employed by the department any office, place, appointment or position, or to offer or give to any commissioner, or to any officer employed or appointed to office in the department any free pass or transportation or any reduction in fare to which the public generally are not entitled or free carriage for property or any present, gift or gratuity of any kind. If any commissioner or any person employed or appointed to office in the department shall violate any provision of this section he shall be removed from office. Every commissioner and every person employed or appointed to office in the department shall be and be deemed to be a public officer. Any employee or agent of the department who divulges any confidential information which may come to his knowledge during the course of any inspection or examination of the property, accounts, records or memoranda of any person, corporation or municipality subject to the jurisdiction of the commission, except insofar as he may be directed by the commission, or by a court or judge, or authorized by law, shall be guilty of a misdemeanor.

§ 16. Reports of commission. 1. All proceedings of the commission and all documents and records in its possession shall be public records.

2. The commission shall conduct a hearing and take testimony relative to any pending legislation with respect to any person, corporation or matter within the jurisdiction of the commission, if requested to do so by the legislature or by either branch thereof or by a standing committee of either branch thereof or by the governor or by any such person or corporation, and shall report its conclusions to the legislature. The commission may also recommend the enactment of such

legislation with respect to any matter within its jurisdiction as it deems wise or necessary in the public interest.

§ 17. Certified copies of papers filed to be evidence. Copies of all official documents and orders filed or deposited according to law in the office of the commission, certified by a commissioner or by the secretary or assistant secretary of the commission to be true copies of the originals, under the official seal of the division, shall be evidence in like manner as the originals.

§ 18-a. Costs and expenses of the commission and department and the assessment of such costs and expenses. 1. All costs and expenses of the department and commission shall be paid pursuant to appropriation on the certification of the chairman of the department and upon the audit and warrant of the comptroller. The state treasury shall be reimbursed therefore by payments to be made thereto from all moneys collected pursuant to this chapter. The total of such costs and expenses shall be borne by the public utility companies (including for the purposes of this section municipalities other than municipalities as defined in section eighty-nine-l of this chapter), corporations (including the power authority of the state of New York), and persons subject to the commission's regulation, to be assessed in the manner provided in subdivisions two, three and four of this section and section two hundred seventeen of this chapter.

1-a. All costs and expenses of the department related to the department's responsibilities under section three-b of this chapter shall be paid pursuant to appropriation on the certification of the chairman of the department and upon the audit and warrant of the comptroller. For the state fiscal year beginning on April first, two thousand fourteen and each state fiscal year thereafter, payments are to be made from all moneys collected from the Long Island power authority pursuant to this section. The total of such costs and expenses shall be assessed on such authority in the manner provided in subdivisions two, three and four of this section.

2. (a) The chairman of the department shall estimate prior to the start of each state fiscal year the total costs and expenses, including the compensation and expenses of the commission and the department, their officers, agents and employees, and including the cost of retirement contributions, social security, health and dental insurance, survivor's benefits, workers' compensation, unemployment insurance and other fringe benefits required to be paid by the state for the personnel of the commission and the department, and including all other items of maintenance and operation expenses, and all other direct and indirect costs. Based on such estimates, the chairman shall determine the amount to be paid by each assessed public utility company and the Long Island power authority and a bill shall be rendered to each such public utility company and authority.

(b) The bill for each public utility company and the Long Island power authority shall be rendered on or before February first preceding each fiscal year, and shall be for the amount equal to the product of the aforesaid estimated costs and expenses of conducting the department's and commission's total operations during the fiscal year for which billing is being made multiplied by the proportion which compares:

(1) the gross operating revenues, over and above five hundred thousand dollars, for that utility company or the authority derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman, to:

(2) the total of the gross operating revenues, derived from intrastate utility operations for all utility companies and the authority in the state which revenues are included under subparagraph one of this paragraph.

For the purposes of calculating the commodity cost component of its gross operating revenue, where the utility delivers to end-use customers electricity and/or natural gas commodities that are sold to such customers by a third party, such utility shall include in its revenues an estimate of the sales revenue for the electric and/or natural gas commodities that it delivers, including all such commodities sold to end-use customers by third parties, in such manner as to assure that all end-use delivery customers, regardless of the entity from which they purchase their electric and/or natural gas commodities, bear a fair and proportionate share of the assessment imposed herein, as the commission may determine.

(c) The minimum assessment for any utility company, as well as the Long Island power authority, whose gross revenues from intrastate utility operations are in excess of five hundred thousand dollars in the preceding calendar year shall be two hundred dollars.

(d) The amount of such bill for fiscal years beginning on or after April first, nineteen hundred eighty-three so rendered shall be paid by such public utility company and such authority to the department on or before April first; provided, however, that any such utility company or such authority may elect to make partial payments for such costs and expenses on March tenth of the preceding fiscal year and on September tenth of such fiscal year. Each such partial payment shall be a sum equal to fifty percentum of the estimate of costs and expenses to be assessed against such utility company or authority under the provisions of this subdivision and shall not be less than two hundred dollars.

(e) During the course of any state fiscal year, the chairman may increase or decrease the estimate of costs and expenses. In such case, revised bills shall be sent to each public utility company and such authority, and such increase or decrease shall be equally apportioned against the remaining payments for such fiscal year.

(f) On or before October tenth of each year, the chairman shall compute the actual costs and expenses of the department and the commission and adjustments or other corrections as needed for the preceding state fiscal year and, after deducting the amounts recovered pursuant to subdivisions three and four of this section, shall, on or before October twentieth, send to each public utility company and/or the authority affected thereby a statement setting forth the amount due and payable by, or the amount standing to the credit of, such public utility company and/or the authority. Any amount owing by any public utility company and/or the authority shall be paid not later than thirty days following the date such statement is received. Any such amount standing to the credit of any public utility company shall be refunded by the commission or, at the option of such utility company, shall be applied as a credit against any succeeding payment due.

(g) The total amount which may be charged to any public utility company and the Long Island power authority under authority of this subdivision for any state fiscal year shall not exceed one per centum of such public utility company's or authority's gross operating revenues derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman; provided, however, that no corporation or person that is subject to the jurisdiction of the commission only with respect to safety, or the power authority of the state of New York, shall be subject to the general assessment provided for under this subdivision.

Notwithstanding the provisions of subdivision one of this section, for telephone corporations as defined in subdivision seventeen of section two of this article, the total amount which may be charged such corporations for department expenses under the authority of subdivision one of this section for any state fiscal year shall not exceed one-third of one percentum of such corporation's gross operating revenue, over and above five hundred thousand dollars, derived from intrastate utility operations in the last preceding calendar year, or other twelve month period as determined by the chairman.

(h) On-bill recovery charges billed pursuant to section sixty-six-m of this chapter shall be excluded from any determination of an entity's gross operating revenues derived from intrastate utility operations for purposes of this section.

3. In the case of corporations or persons subject to the jurisdiction of the commission only with respect to safety, the chairman of the department shall ascertain from time to time, but not less than once in each fiscal year, all direct and indirect costs of investigating (a) the safety of the pipelines conveying gas at pressures in excess of one hundred twenty-five pounds per square inch gauge or conveying liquid petroleum products of such corporations or persons and (b) the safety of any gas plant of corporations manufacturing pipeline quality gas and subject to the safety jurisdiction of the commission by virtue of the proviso to exception (b) of subdivision eleven of section two of this chapter. The chairman shall for each investigation assess such costs against such corporations or persons whose pipelines or plants have been investigated. Bills for such an investigation may be rendered from time

to time but not less than once in each fiscal year, and the amount of such bills shall be paid by the appropriate corporation or person to the department within thirty days from the date of rendition. The total amount which may be charged to any corporation or person for any state fiscal year as the cost of investigating the safety of pipelines shall not exceed one hundred dollars times the sum of the products obtained by multiplying the mileage (to the nearest tenth) of each section of any such pipeline in the state in use at the end of the preceding calendar year by its nominal diameter in feet (to the nearest tenth). The total amount which may be charged to any pipeline quality gas manufacturing company for any state fiscal year as the costs of investigating the safety of the plant of such company shall not exceed one-third of one per centum of the estimate of the average annual gross revenues from the sales of manufactured gas over a three-year period of operation or anticipated operation, as determined by the chairman, of such pipeline quality gas manufacturing company.

* 4. In the case of the power authority of the state of New York, the chairperson of the department shall ascertain from time to time, but not less than once in each fiscal year, all direct and indirect costs of investigating requests by the power authority of the state of New York to establish new, major electric transmission facilities and major renewable energy facilities or to establish new, major electric generating facilities. The chairperson shall for each such investigation assess such costs against the power authority of the state of New York. Bills for such an investigation may be rendered from time to time, but not less than once in each fiscal year, and the amount of such bills shall be paid by the power authority of the state of New York to the department within thirty days from the date of rendition.

* NB Effective until December 31, 2040

* 4. In the case of the power authority of the state of New York, the chairman of the department shall ascertain from time to time, but not less than once in each fiscal year, all direct and indirect costs of investigating requests by the power authority of the state of New York to establish new, major utility transmission facilities as defined in article seven of this chapter or to establish new, major steam electric generating facilities as defined in article eight of this chapter. The chairman shall for each such investigation assess such costs against the

power authority of the state of New York. Bills for such an investigation may be rendered from time to time, but not less than once in each fiscal year, and the amount of such bills shall be paid by the power authority of the state of New York to the department within thirty days from the date of rendition.

* NB Effective December 31, 2040

4-a. In the case of research, development and demonstration of new energy technologies, the director of the budget may enter into contracts, subject to the availability of appropriations, with the New York state energy research and development authority for the costs of such research, development and demonstration beyond such amounts as may be available to the New York state energy research and development authority for such purposes from bonds, grants or other sources. On or before February first preceding each fiscal year, the chairman of the authority shall estimate and transmit to the chairman of the department of public service the total costs of authority research, development and demonstration projected to be authorized by contracts with the director of the budget for such fiscal year. The chairman of the department shall apportion the costs of such research, development and demonstration in accordance with the billing procedures of this section among gas corporations and electric corporations as defined in section two of this chapter. Such apportionment shall be excluded from the general assessment provided for under subdivision two of this section. The total amount which may be charged to any gas corporation and electric corporation for any state fiscal year shall be .6 cents per one thousand cubic feet for gas sold and .006 cents per kilowatt hour of electricity sold by such corporations in their intrastate utility operations the last preceding calendar year.

4-b. In the case of research, development and demonstration of new energy technologies, the director of the budget may enter into contracts, subject to the availability of appropriations, with the New York state energy research and development authority for the costs of such research, development and demonstration beyond such amounts as may be available to the New York state energy research and development authority for such purposes from bonds, grants or other sources, including the power authority of the state of New York. Not later than November first preceding each fiscal year, the energy research and development authority and the power authority of the state of New York shall agree as to a specific level of financial support to be provided by the power authority of the state of New York for the energy research and development authority's energy research development and demonstration activities for such fiscal year. Such level of financial support shall be incorporated in the annual budget request submitted by the energy research and development authority and shall be reflected as an offset to recommended appropriations for research, development and demonstration of new energy technologies; provided, however, that the sum of such recommended appropriations and such offset shall not exceed twelve million dollars. One hundred per centum of the costs of such research, development and demonstration not supplemented by bonds, grants or other sources, not to exceed nine million six hundred thousand dollars, shall be apportioned in accordance with the billing procedures of this section, provided, that such costs shall be apportioned among gas corporations and electric corporations as defined in section two of this chapter and shall be excluded from the general assessment provided for under subdivision two of this section. The total amount which may be charged to any gas corporation and electric corporation for any state fiscal year shall be .6 cents per one thousand cubic feet for gas sold and .006 cents per kilowatt hour of electricity sold by such corporations in their intrastate utility operations the last preceding calendar year.

5. On demand made within thirty days of the rendition of any bill pursuant to subdivision two, three or four of this section, the party so charged shall be afforded an opportunity to be heard as to the amount thereof. Any amounts of such bills not paid within thirty days from the date of determination upon such hearings, or, if none shall be demanded, on the date upon which such payment is due, shall bear interest at a rate to be prescribed by regulation of the commission. Such rate shall be not less than six percentum per annum nor more than the rate of interest prescribed by the superintendent of financial services pursuant to the provisions of section fourteen-a of the banking law in effect on the day immediately preceeding the date on which the provisions of this

subdivision as amended become effective, but if the commission has not set such rate, interest at six percentum per annum shall apply. Any interest rate set by the commission shall become effective not less than sixty days after such rate is promulgated.

§ 18-c. Refunds by the commission. Whenever it appears that any person, firm, corporation or municipal corporation, has paid to the commission fees or other charges in excess of the amount legally chargeable against such person, firm, corporation or municipal corporation, the commission shall have power, within three years after the date of such payment, to refund to such person, firm, corporation or municipal corporation the amount of such excess. Such refund may be made upon audit by the comptroller, from any moneys in the hands of the commission, not as yet turned over to the department of taxation and finance.

§ 19. Attendance of witnesses and their fees. 1. The commission shall have power to issue subpoenas and subpoena duces tecum. All subpoenas shall be signed and issued by a commissioner, by an officer or employee of the commission specially authorized to conduct an investigation or hearing or by the secretary or assistant secretary of the commission. The fees of witnesses required to attend before the commission, or a commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, shall be the same as in the case of a subpoena issued out of a court of record, and paid when the witness is excused from further attendance. Except as is herein provided subpoenas shall be regulated by the civil practice law and rules. Whenever a subpoena is issued at the instance of a complainant, respondent, or other party to any proceeding before the commission, the cost of service thereof and the fee of the witness shall be borne by the party at whose instance the witness is summoned.

2. If a person subpoenaed to attend before the commission or a commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, fails to obey the command of such subpoena,

without reasonable cause, or if a person in attendance before the commission or commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book or papers, when ordered so to do by the commission, or a commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, or to subscribe and swear to his deposition after it has been correctly reduced to writing, he shall be guilty of a misdemeanor and may be prosecuted therefor in any court of competent criminal jurisdiction.

§ 20. Practice before the commission; immunity of witnesses. 1. All hearings before the commission or a commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, shall be governed by rules to be adopted and prescribed by the commission. And in all investigations, inquiries or hearings the commission or a commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, shall not be bound by the technical rules of evidence.

2. In any investigation or inquiry by or upon any hearing before the commission or any commissioner, or an officer or employee specially authorized to conduct an investigation or hearing, the commission, any commissioner or the officer conducting the investigation or hearing may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law.

§ 21. Court proceedings; preferences. All actions and proceedings under this chapter, and all actions and proceedings commenced or prosecuted by order of the commission, and all actions and proceedings to which the commission or the people of the state of New York may be parties, and in which any question arises under this chapter, or under the railroad law, or under or concerning any order or action of the commission, shall be preferred over all other civil causes except election causes in all courts of the state of New York and shall be heard and determined in preference to all other civil business pending therein excepting election causes, irrespective of position on the calendar. The same preference shall be granted upon application in any action or proceeding in which the commission may be allowed to intervene.

§ 22. Rehearing before commission. After an order has been made by the commission any corporation or person interested therein shall have the right to apply for a rehearing in respect to any matter determined therein, but any such application must be made within thirty days after the service of such order, unless the commission for good cause shown shall otherwise direct; and the commission shall grant and hold such a rehearing if in its judgment sufficient reason therefore be made to appear. The decision of the commission granting or refusing the application for a rehearing shall be made within thirty days after the making of such application. If a rehearing shall be granted, the same shall be determined by the commission within thirty days after the same shall be finally submitted. An application for such a rehearing shall not excuse any corporation or person from complying with or obeying any order or any requirement of any order of the commission, or operate in any manner to stay or postpone the enforcement thereof except as the commission may by order direct. If, after such rehearing and a consideration of the facts, including those arising since the making of the order, the commission shall be of opinion that the original order or any part thereof is in any respect unjust or unwarranted, or should be changed, the commission may abrogate or change the same. An order made after any such rehearing abrogating or changing the original order shall have the same force and effect as an original order but shall not affect any right or the enforcement of any right arising from or by virtue of the original order.

§ 23. Service and effect of orders; stay. 1. Every order of the commission shall be served upon every person or corporation to be affected thereby by electronic service in a manner and format provided for in regulations established by the commission or alternatively, if non-electronic service is requested by such person or corporation, either by personal delivery of a copy thereof, or by the mailing of a copy thereof, in a sealed package with postage prepaid, to the person to be affected thereby or, in the case of a corporation, to any officer or agent thereof upon whom a summons may be served in accordance with the provisions of the civil practice law and rules. The commission shall provide, upon request, a certified copy thereof or a copy thereof bearing the seal of the commission. Within a time specified in the order of the commission every person and corporation upon whom it is served must if so required in the order notify the commission, in writing, whether the terms of the order are accepted and will be obeyed and in the case of a corporation such notification shall be signed and acknowledged by a person or officer duly authorized by the corporation to execute such acceptance and agreement. Every order of the commission shall take effect at a time therein specified and shall continue in force either for a period which may be designated therein or until changed or abrogated by the commission, unless such order be unauthorized by this chapter or any other act or be in violation of a provision of the constitution of the state or of the United States.

2. No order staying or suspending an order of the commission fixing any rate, fare or charge or joint rate, fare or charge shall be made by the supreme court otherwise than upon notice and after hearing; and if the order of the commission is suspended, the order suspending the same shall contain a specific finding based upon evidence submitted to the court and identified by reference thereto, that great and irreparable damage would otherwise result to the petitioner and specifying the nature of the damage.

3. Notwithstanding the provisions of subdivision one of this section, the commission, or a person designated by the commission to act in its place, may, verbally or in writing, order a public utility company or municipality to initiate, continue or restore service to a residential customer, whenever a reasonable question regarding the circumstances of a termination or refusal of service exists, whenever a dispute with respect to utility charges or service is pending, or whenever termination or refusal of service is likely to affect a person's health

and safety; provided that, a verbal order shall be confirmed by the commission or its designee by sending within five business days a written notice to the utility. The commission shall issue regulations implementing this section.

§ 24. Action to recover penalties or forfeitures. An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the commission may be brought in any court of competent jurisdiction in this state in the name of the people of the state of New York, and shall be commenced and prosecuted to final judgment by the commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; if the defendant in such action shall prove that during any portion of the time for which it is sought to recover penalties or forfeitures for a violation of an order or regulation of the commission the defendant was actually and in good faith prosecuting a suit, action or proceeding in the courts to set aside such order or regulation, the court shall remit the penalties or forfeitures incurred during the pendency of such suit, action or proceeding. All moneys recovered in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order. An action may be maintained by the commission for the whole or any part of the penalties or forfeitures prescribed in this chapter, and judgment may be rendered for the amount demanded in the complaint, or for any less amount, as justice may require.

§ 24-a. Notice to be given to department of state prior to rate increase.

1. Notwithstanding any inconsistent general, special or local law or rule or regulation to the contrary, the commission shall to the extent

the department shall so request in any cases or class of cases, give notice to the department of any filed statement proposing to modify or increase rates, services, schedule of rates or any other rating rule or to adopt or amend any rate or service rules or regulations within five days after the commission shall have received such statement from any utility subject to its jurisdiction; provided, however, that in lieu of giving such notice, the commission may direct that the utility give such notice to the department.

2. In any such case in which the department shall file with the commission a statement of intent to be a party, the department shall have and in its discretion may exercise all the rights and privileges of a party.

3. For the purposes of this section, the term "commission" shall mean the public service commission.

§ 24-b. Notice to be given Long Island power authority prior to rate increase. 1. Notwithstanding any inconsistent general, special or local law or rule or regulation to the contrary, the commission shall to the extent the Long Island power authority shall so request in any cases or class of cases, relating to a gas or electric corporation operating within the service territory of the authority, give notice to the authority of any filed statement proposing to modify or increase rates, services, schedule of rates or any other rating rule or to adopt or amend any rate or service rules or regulations within five days after the commission shall have received such statement from any gas or electric corporation within the service territory of the Long Island Power authority subject to its jurisdiction; provided, however, that in lieu of giving such notice, the commission may direct that the gas or electric corporation give such notice to the authority.

2. In any such case in which the authority shall file with the commission a statement of intent to be a party, the authority shall have and in its discretion may exercise all the rights and privileges of a party.

3. For the purposes of this section, the term "authority" shall mean the Long Island power authority, the term "commission" shall mean the public service commission.

§ 25. Penalties. 1. Every public utility company, corporation or person and the officers, agents and employees thereof shall obey and comply with every provision of this chapter and every order or regulation adopted under authority of this chapter so long as the same shall be in force.

2. Any public utility company, corporation or person and the officers, agents and employees thereof that knowingly fails or neglects to obey or comply with a provision of this chapter or an order adopted under authority of this chapter so long as the same shall be in force, shall forfeit to the people of the state of New York a sum not exceeding one hundred thousand dollars constituting a civil penalty for each and every offense and, in the case of a continuing violation, each day shall be deemed a separate and distinct offense.

3. Notwithstanding the provisions of subdivision two of this section, any such public utility company, corporation or person and the officers, agents and employees thereof that knowingly fails or neglects to obey or comply with a provision of this chapter, or an order or regulation adopted under the authority of this chapter, adopted specifically for the protection of human safety, including but not limited to the commission's code of gas safety regulations shall, if it is determined by the commission that such safety violation caused or constituted a contributing factor in bringing about a death or personal injury, forfeit to the state of New York a sum not to exceed the greater of:

(a) two hundred and fifty thousand dollars constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation, shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(b) the maximum forfeiture determined in accordance with subdivision two of this section.

4. Notwithstanding the provisions of subdivision one or two of this section, a public utility company, corporation or person and the officers, agents and employees thereof that knowingly fails or neglects to obey or comply with a provision of this chapter, or an order or regulation adopted under authority of this chapter, designed to protect the overall reliability and continuity of electric service, shall forfeit to the state of New York a sum not to exceed the greater of:

(a) five hundred thousand dollars constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation, shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(b) the maximum forfeiture determined in accordance with subdivision two of this section.

4-a. (a) Notwithstanding the provisions of subdivision one or two of this section, any public utility company or corporation, and the officers, agents or employees thereof that knowingly makes a false material statement, representation or certification to the commission in any rate proceeding shall forfeit to the state of New York a sum not to exceed two hundred fifty thousand dollars. Each false material statement, representation or certification shall constitute a separate and distinct offense for purposes of this section.

(b) A public utility company or corporation, and the officers, agents or employees thereof that discover that a false material statement, representation or certification was previously made to the commission in relation to a rate proceeding shall disclose such false material statement, representation or certification to the commission within three business days of discovery. Failure to make such disclosure shall constitute a knowing violation of this subdivision and shall cause such public utility company or corporation and the officers, agents or employees thereof to be liable for forfeiture pursuant to this subdivision.

5. Penalties provided for pursuant to this section shall be recovered in an action as provided in section twenty-four of this article.

6. Any payment made by a public utility company, corporation or person and the officers, agents and employees thereof as a result of an action as provided in section twenty-four of this article and the cost of litigation and investigation related to any such action shall not be included by the commission in revenue requirements used to establish rates and charges.

7. In construing and enforcing the provisions of this chapter relating to forfeitures and penalties, the act of any director, officer, agent or employee of a public utility company, corporation or person acting within the scope of his or her official duties or employment shall be deemed to be the act of such public utility company, corporation or person.

§ 25-a. Combination gas and electric corporations; administrative sanctions; recovery of penalties. Notwithstanding sections twenty-four and twenty-five of this article: 1. Every combination gas and electric corporation and the officers thereof shall adhere to every provision of this chapter and every order or regulation adopted under authority of this chapter so long as the same shall be in force.

2. (a) The commission shall have the authority to assess a civil penalty against a combination gas and electric corporation and the officers thereof subject to the jurisdiction, supervision, or regulation pursuant to this chapter in an amount as set forth in this section. In determining the amount of any penalty to be assessed pursuant to this section, the commission shall consider: (i) the seriousness of the violation for which a penalty is sought; (ii) the nature and extent of any previous violations for which penalties have been assessed against the corporation or officer; (iii) whether there was knowledge of the

violation; (iv) the gross revenues and financial status of the corporation; and (v) such other factors as the commission may deem appropriate and relevant. The remedies provided by this subdivision are in addition to any other remedies provided in law.

(b) Whenever the commission has reason to believe that a combination gas and electric corporation or such officers thereof should be subject to imposition of a civil penalty as set forth in this subdivision, it shall notify such corporation or officer. Such notice shall include, but shall not be limited to: (i) the date and a brief description of the facts and nature of each act or failure to act for which such penalty is proposed; (ii) a list of each statute, regulation or order that the commission alleges has been violated; and (iii) the amount of each penalty that the commission proposes to assess.

(c) Whenever the commission has reason to believe that a combination gas and electric corporation or such officers thereof should be subject to imposition of a civil penalty or penalties as set forth in this subdivision, the commission shall hold a hearing to demonstrate why the proposed penalty or penalties should be assessed against such combination gas and electric corporation or such officers.

3. Any combination gas and electric corporation determined by the commission to have failed to reasonably comply as shown by a preponderance of the evidence with a provision of this chapter, regulation or an order adopted under authority of this chapter so long as the same shall be in force shall forfeit a sum not exceeding the greater of one hundred thousand dollars or two one-hundredths of one percent of the annual intrastate gross operating revenue of the corporation, not including taxes paid to and revenues collected on behalf of government entities, constituting a civil penalty for each and every offense and, in the case of a continuing violation, each day shall be deemed a separate and distinct offense.

4. Notwithstanding the provisions of subdivision three of this section, any such combination gas and electric corporation determined by the commission to have failed to reasonably comply with a provision of this chapter, or an order or regulation adopted under the authority of this chapter specifically for the protection of human safety or

prevention of significant damage to real property, including, but not limited to, the commission's code of gas safety regulations shall, if it is determined by the commission by a preponderance of the evidence that such safety violation caused or constituted a contributing factor in bringing about: (a) a death or personal injury; or (b) damage to real property in excess of fifty thousand dollars, forfeit a sum not to exceed the greater of:

(i) two hundred fifty thousand dollars or three one-hundredths of one percent of the annual intrastate gross operating revenue of the corporation, not including taxes paid to and revenues collected on behalf of government entities, whichever is greater, constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph, each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation, shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(ii) the maximum forfeiture determined in accordance with subdivision three of this section.

5. Notwithstanding the provisions of subdivision three or four of this section, a combination gas and electric corporation determined by the commission to have failed to reasonably comply by a preponderance of the evidence with a provision of this chapter, or an order or regulation adopted under authority of this chapter, designed to protect the overall reliability and continuity of electric service, including but not limited to the restoration of electric service following a major outage event or emergency, shall forfeit a sum not to exceed the greater of:

(a) five hundred thousand dollars or four one-hundredths of one percent of the annual intrastate gross operating revenue of the corporation, not including taxes paid to and revenues collected on behalf of government entities, whichever is greater, constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(b) the maximum forfeiture determined in accordance with subdivision three of this section.

6. Any officer of any combination gas and electric corporation determined by the commission to have violated the provisions of subdivision three, four, or five of this section, and who knowingly violates a provision of this chapter, regulation or an order adopted under authority of this chapter so long as the same shall be in force shall forfeit a sum not to exceed one hundred thousand dollars constituting a civil penalty for each and every offense and, in the case of a continuing violation, each day shall be deemed a separate and distinct offense.

7. Any such assessment may be compromised or discontinued by the commission. All moneys recovered pursuant to this section, together with the costs thereof, shall be remitted to, or for the benefit of, the ratepayers in a manner to be determined by the commission.

8. Upon a failure by a combination gas and electric corporation or officer to remit any penalty assessed by the commission pursuant to this section, the commission, through its counsel, may institute an action or special proceeding to collect the penalty in a court of competent jurisdiction.

9. Any payment made by a combination gas and electric corporation or the officers thereof as a result of an assessment as provided in this section, and the cost of litigation and investigation related to any such assessment, shall not be recoverable from ratepayers.

10. In construing and enforcing the provisions of this chapter relating to penalties, the act of any director, officer, agent or employee of a combined gas and electric corporation acting within the scope of his or her official duties or employment shall be deemed to be the act of such corporation.

11. It shall be a violation of this chapter should a director, officer

or employee of a public utility company, corporation, person acting in his or her official duties or employment, or an agent acting on behalf of an employer take retaliatory personnel action such as discharge, suspension, demotion, penalization or discrimination against an employee for reporting a violation of a provision of this chapter of an order or regulation adopted under the authority of this chapter, including, but not limited to, those governing safe and adequate service, protection of human safety or prevention of significant damage to real property, including, but not limited to, the commission's code of gas safety. Nothing in this subdivision shall be deemed to diminish the rights, privileges or remedies of any employee under any other law or regulation, including but not limited to article twenty-C of the labor law and section seventy-five-b of the civil service law, or under any collective bargaining agreement or employment contract.

§ 26. Enforcement proceedings. Whenever the commission shall be of the opinion that a public utility company, corporation or person and the officers, agents or employees thereof is failing or omitting or is about to fail or omit to do anything required of it by any provision of this chapter or by order or regulation, adopted under the authority of this chapter or is doing anything or about to do anything, or permitting anything or about to permit anything to be done contrary to or in violation of any provision of this chapter or an order or regulation adopted pursuant to this chapter, the commission may direct counsel to the commission to commence an action or special proceeding in the supreme court in the name of the commission for the purpose of having such violations or threatened violations stopped and prevented. Counsel to the commission shall thereupon begin an action or special proceeding alleging the violation complained of and praying for appropriate relief. In case of default in answer or after answer, the court shall immediately inquire into the facts and circumstances in such manner as the court shall direct. Such other corporations or persons, as it shall seem to the court necessary or proper to join as parties in order to make its judgment effective may be joined as parties to the action or proceeding. The final judgment in any such action or special proceeding shall either dismiss the action or special proceeding, direct judgment as prayed for in the complaint or petition, or be in such other form as the court may determine is just and reasonable.

§ 27. Public availability of certain competitive requests for proposals. Any competitive requests for proposals relating to the generation of electricity, initiated as part of a proceeding before the commission and issued by any electric corporation having a retail franchise service territory in the state, shall be made available to the department and filed in the proceeding to which such requests for proposals pertain according to the department's regulations for the filing of documents with the department's secretary.

ARTICLE 2

RESIDENTIAL GAS, ELECTRIC AND STEAM UTILITY SERVICE

§ 30. Residential gas, electric and steam service policy. This article shall apply to the provision of all or any part of the gas, electric or steam service provided to any residential customer by any gas, electric or steam and municipalities corporation or municipality. It is hereby declared to be the policy of this state that the continued provision of all or any part of such gas, electric and steam service to all residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare and is in the public interest.

§ 31. Applications for service. 1. Every gas corporation, electric corporation or municipality shall provide residential service upon the oral or written request of an applicant, provided that the commission may require that requests for service be in writing under circumstances as it deems necessary and proper as set forth by regulation, and provided further that the applicant:

(a) makes full payment for residential utility service provided to a prior account in his name; or

(b) agrees to make payments under a deferred payment plan of any amounts due for service to a prior account in his name and makes a down payment based on criteria to be established by the commission. No such down payment shall exceed one-half of any money due from an applicant for residential utility service, or three months average billing, whichever is less; or

(c) is a recipient of public assistance, supplemental security income or additional state payments pursuant to the social services law, or is an applicant for such assistance, income or payments, and the utility corporation or the municipality receives payment from, or is notified of the applicant's eligibility for utility payments by the social services official of the social services district in which such person resides for amounts due for service to a prior account in the applicant's name, together with guarantee of future payments to the extent authorized by the social services law.

2. In the event a utility corporation or municipality denies an applicant's application for service it shall provide prompt written notice to such applicant of its reasons for denying service, specify what the applicant must do to qualify for service, and advise the applicant of his right to investigation and review of the denial of service by the department if the applicant considers such denial to be without justification. Any such notice denying service shall be sent to an applicant within three business days after either a completed oral or written application for service is received, provided however, the commission may specify a different period for good cause. The commission may also establish such additional notice requirements upon a utility corporation or municipality as it believes necessary to assure reasonable notification and protection for applicants.

3. Subject to the requirements of subdivisions four and five of this section, whenever a residential customer moves to a new residence within the service territory of the same utility corporation or municipality, he shall be eligible to receive service at the new residence and such service shall be considered a continuation of service in all respects, with any deferred payment agreement honored, and with all rights of such customer and such utility corporation provided by this article unimpaired.

* 4. In the case of any application for service to a building which is not supplied with electricity or gas, a utility corporation or municipality shall be obligated to provide service to such a building, provided however, that the commission may require applicants for service to buildings located in excess of one hundred feet from gas or electric

transmission lines to pay or agree in writing to pay material and installation costs relating to the applicant's proportion of the pipe, conduit, duct or wire, or other facilities to be installed.

* NB Effective until December 19, 2026

* 4. In the case of any application for electric service to a building which is not supplied with electricity, a utility corporation or municipality shall be obligated to provide electric service to such a building, provided however, that the commission may require applicants for service to buildings located in excess of one hundred feet from electric transmission lines to pay or agree in writing to pay material and installation costs relating to the applicant's proportion of the pipe, conduit, duct or wire, or other facilities to be installed.

* NB Effective December 19, 2026

* 4-a. In the case of any application for gas service to a building which is not supplied with gas, a utility corporation or municipality shall be obligated to provide gas service to such building, provided however, that the commission shall require applicants for gas service to such building to pay or agree in writing to pay material and installation costs relating to the pipe or other facilities to be installed to enable service to the applicant.

* NB Effective December 19, 2026

5. A utility corporation or municipality shall institute service to any applicant who meets the requirement of subdivision one of this section, within five business days after such applicant applies for service, provided however, such requirement shall not apply where the institution of service within five business days is prevented by adverse weather conditions, serious physical impediments, construction requirements, labor disputes or law. A utility corporation or municipality shall initiate service promptly to applicants, and any such corporation or municipality which fails to provide timely service to an applicant as required by this subdivision without good cause as determined by the commission, shall forfeit and pay to such applicant the sum of twenty-five dollars per day for each day that such service is not supplied. The chairman shall designate such officers and employees as he deems necessary to act on complaints relating to applications for service.

6. In the event the service sought in applications submitted pursuant to this section is comprised of the provision of gas or electricity commodity only, nothing in this section shall require the provision of such service to any and all such applicants; provided, however, that nothing in this subdivision shall prevent or preclude the commission or a court from ordering the provision of such service to all such applicants if such order is authorized pursuant to or required to implement a provision of law other than this article.

§ 31-a. Use of preferred name and pronouns. 1. Every utility corporation or municipality shall provide applicants for residential service and residential customers with a convenient option to request that the utility corporation or municipality use their preferred name and/or preferred pronouns in all written or oral communications between the utility corporation or municipality and the applicant or customer, as well as all statements or documentation relating to a customer's residential service, regardless of whether such applicant or customer's preferred name differs from their current legal name.

2. If an applicant or customer's preferred name differs from their current legal name, a utility corporation or municipality may require such applicant or customer to provide reasonable proof of identity using their legal name, provided that such information shall be used solely to verify the applicant or customer's identity or for other purposes required by law.

3. No utility corporation or municipality shall:

(a) willfully and repeatedly fail to use an applicant or customer's preferred name and/or preferred pronouns after being clearly informed of the preferred name and/or preferred pronouns pursuant to subdivision one of this section; or

(b) require an applicant or customer to specify their sexual orientation or gender identity or expression in order to use their preferred name and/or preferred pronouns.

§ 32. Termination of service. 1. Generally. Any termination of residential utility service by utility corporations or municipalities shall be in accordance with all relevant provisions of this article.

2. Utility service may be terminated, except as otherwise provided in this section, if any person supplied with electric or gas service to a residence:

(a) fails to pay charges for any service rendered during the preceding twelve months, provided however that the commission by regulations may permit the termination of service for bills due for service rendered during periods in excess of twelve months where (i) there was a dispute between such person and the utility corporation or municipality concerning the bill during the twelve month period, (ii) delays in termination are not the fault of the utility or were due to the culpable conduct of such person, or (iii) such bills are necessary to adjust estimated bills; or

(b) fails to pay amounts due under a deferred payment plan; or

(c) fails to pay or agree in writing to pay equipment and installation charges relating to initiation of service; and

(d) is sent a final notice of termination no less than fifteen days before the termination date shown on the notice. Any such notice shall, at a minimum, clearly state the reason for termination of service; how termination may be avoided; that the utility corporation or municipality has available procedures for handling complaints; a summary of the protections available under this article; that any customer eligible for such protections should contact the utility corporation or municipality; and such other provisions as the commission may require. A utility corporation or municipality may not issue a final notice of termination unless at least twenty days have elapsed from the date payment was due. The commission may increase the number of days before which a final notice of termination may be sent.

3. The commission shall safeguard from termination, or require restoration of service to, those residents who will suffer serious impairments to health or safety as a result of such termination or failure to restore services. The regulations shall include, but not be

limited to:

(a) Medical emergencies. The commission shall require the continuation or restoration of utility service to a customer's residence where a medical emergency exists. The commission shall provide for written certification by a medical doctor, nurse practitioner or local board of health that termination of service or failure to restore service will aggravate an existing medical emergency at a customer's residence, provided that the commission may authorize an initial certification by telephone if written certification is provided within five business days. The commission shall provide for the duration, form, content and renewal of written certificates. With respect to the renewal of written certificates, the commission may require the customer to demonstrate an inability to pay charges for service. The commission shall, in consultation with the departments of health and social services and the office for the aging, establish criteria to be used by a medical doctor, nurse practitioner or local board of health in making a determination that a medical emergency exists or that the absence of service will aggravate an existing medical emergency.

(b) Customers who are elderly, blind, or disabled. The commission shall provide special procedures to be followed by a utility or municipality with respect to the termination or restoration of service to a residence where the customer is known to or identified to the utility to be blind, disabled, or sixty-two years of age or older; provided that all the remaining residents of the household are sixty-two years of age or older, eighteen years of age or under, or blind or disabled. The commission shall afford reasonable protections to elderly, blind or disabled customers, including a requirement that the utility corporation or municipality make a diligent effort to contact by telephone or in person an adult resident at the customer's premises at least seventy-two hours prior to termination of service. The commission shall also establish reasonable procedures for identifying customers eligible for the protections of this section.

(c) Special procedures for cold weather periods. (i) The commission shall establish procedures to be followed by a utility or municipality supplying heat related service in cold weather periods. Such procedures shall be designed to identify and assist, prior to termination of service, those residents who may suffer serious impairment to health or safety as a result of any such termination. The commission shall establish the applicable cold weather periods; specify criteria for identifying residents who are likely to suffer serious impairments, and require that such service not be terminated unless a representative of the utility or municipality makes a diligent effort to contact by telephone or in person an adult resident of the customer's premises at least seventy-two hours prior to termination, makes a personal visit at the time of termination and provides the customer with information regarding the protections available under this article. The commission shall provide for the manner in which such contacts and personal visits are made. (ii) The commission shall also require a utility or municipality supplying service to continue service to customers where a serious impairment to health or safety is likely to result from termination of service and the person supplied is unable because of mental or physical problems to manage his or her own resources or to protect himself or herself from neglect or hazardous situations without the assistance of others. Doubts shall be resolved in favor of continued service. Continuations of service shall be for a period of time to be established by the commission. The commission shall consult with the department of social services and the state office for the aging in implementing the provisions of this paragraph.

4. The commission shall preclude terminations for nonpayment other than between the hours of eight a.m. and four p.m., Monday through Thursday, provided that such day or the following day is not a public holiday as defined in the general construction law.

5. (a) In the event the service to a residential customer terminated pursuant to this section or the service to a multiple-family dwelling pursuant to section thirty-three of this article or a two-family dwelling pursuant to section thirty-four of this article consists of the provision of gas or electricity commodity only, the utility providing distribution services to such customer shall suspend the provision of such distribution services and the provision of any other related services to such customer if:

(i) The utility providing distribution services to such customer is notified of the termination in such manner and form as the commission shall, by regulation, prescribe; which notification shall include documentation sufficient to confirm that such termination was, in all respects, in compliance with this article and that the conditions set forth in this subdivision have been met;

(ii) Except in the case of a service to a multiple dwelling pursuant to section thirty-three of this article, such customer was billed using a billing system in which all charges for service were present on a single bill;

(iii) Such utility providing distribution services provided such services to the customer at the time of the termination;

(iv) The utility implementing the termination confirms that it is able to and will take all actions within its control necessary to resume the provision of electric or gas commodity to such customer in accordance with the agreement for such service between such utility and such customer, if the customer makes full payment of the amount of arrears that were the basis for the termination of service;

(v) The utility implementing the termination has not assigned its right to obtain payment of the arrears to an entity that is not a utility for purposes of this article; and

(vi) Less than one year has elapsed since such termination of commodity service has occurred.

(b) All notices provided pursuant to this article in connection with such termination shall include notice of the suspension of services that, pursuant to this subdivision, can occur coincidental with such termination and shall state the amount which must be paid to the utility making the termination in order to obtain the resumption of service from such terminating utility and, if different, the amount which must be paid to the utility making the termination to end such suspension of services.

(c) The utility shall make its best efforts to institute such suspension of distribution service promptly and shall receive reasonable compensation from the terminating utility, as determined by the commission, for any costs associated with such suspension of distribution services. Any payments for arrears made by a customer after the termination of service shall be allocated equitably on a pro rata basis between the terminating utility and the utility that provided distribution services, to the extent arrears are owed to both such utilities.

(d) Such suspension shall end upon the occurrence of any of the conditions identified in paragraphs (a) through (e) of subdivision one of section thirty-five of this article, upon the expiration of one year after such termination of commodity service, or upon the receipt of payments by or on behalf of the customer to the terminating utility such that the amount paid by such customer to the terminating utility plus the amount previously paid the terminating utility plus any other charges paid to the utility providing distribution service during the period when such customer's arrears accrued is equal to or greater than the amount such customer would have paid if the entire utility service had been obtained from the utility providing distribution services during such period.

6. Implementation of the provisions of this section shall not limit the contractual remedies for damages which might be available to the terminating utility provided that an award of such damages is not inconsistent with any of the provisions of this article.

§ 33. Discontinuance of residential utility service to multiple dwellings. 1. Notwithstanding any other provisions of law, no public utility company or municipality shall discontinue gas, electric or steam service to an entire multiple dwelling (as defined in the multiple dwelling law or the multiple residence law) located anywhere in this state for nonpayment of bills rendered for service unless such utility shall have given fifteen days written notice of its intention so to discontinue as follows:

(a) Such notice shall be served personally on the owner of the premises affected, or in lieu thereof, to the person, firm, or corporation to whom or which the last preceding bill has been rendered and from whom or which the utility has received payment therefor, and to the superintendent or other person in charge of the building or premises affected, if it can be readily ascertained that there is such superintendent or other person in charge.

(b) In lieu of personal delivery to the person or persons, firm or corporation specified in (a) above, such notice may be mailed in a postpaid wrapper to the address of such person or persons, firm or corporation.

(c) In addition to the notice prescribed by paragraph (a) or (b) of this subdivision, fifteen days written notice shall be (i) posted in the public areas of such multiple dwelling, (ii) mailed to the "Occupant" of each unit in that multiple dwelling, (iii) mailed to the local health officer and the director of the social services district for the political subdivision in which the multiple dwelling is located, (iv) if the multiple dwelling is located in a city or a village, mailed to the mayor thereof, or if there be none, to the manager, or, if the multiple dwelling is located in a town, then mailed to the town supervisor, (v) mailed to the county executive of the county in which the multiple dwelling is located, or if there be none, then to the chairman of such county's legislative body, and (vi) mailed to the office of the New York state long term care ombudsman, if the multiple dwelling is a residential health care facility as defined in subdivision three of section twenty-eight hundred one of the public health law, an adult care facility as defined in subdivision twenty-one of section two of the social services law, or an assisted living residence as defined in subdivision one of section forty-six hundred fifty-one of the public health law as added by chapter two of the laws of two thousand four. Notice required by subparagraphs (iv) and (v) of this paragraph may be mailed to the persons specified therein or to their respective designees. The notice required by this paragraph shall state the intended date of discontinuance of service, the amount due for such service, and the procedure by which any tenant or public agency may make such payment and thereby avoid discontinuance of service.

(d) The written notice required by subparagraphs (iii), (iv), (v) and (vi) of paragraph (c) of this subdivision shall be repeated not more than four days nor less than two days prior to such discontinuance.

1-a. Whenever a notice of intention to discontinue utility service has been made pursuant to the provisions of this section and obligations owed the utility or municipality have been satisfied, the utility or municipality shall notify, in the same manner as it gave such notice of intention, the occupant of each unit that the intention to discontinue utility service no longer exists.

2. For the purposes of this section, the department charged with enforcing the multiple dwelling law shall prepare a schedule of all multiple dwellings within its jurisdiction and shall provide a copy of such schedule to any gas, steam or electric corporation or municipality subject to the provisions of this section. Such schedule shall be revised semi-annually and a revised copy provided to such corporation. Every county, and every municipality to which the multiple dwelling law does not apply, which county or municipality has compiled or hereafter may compile a listing of all multiple dwellings within its jurisdiction shall make such listing available without charge to any gas, steam or electric corporation providing service in such county or municipality.

3. Any gas, electric or steam corporation or municipality which willfully fails to comply with the provisions of this section shall be liable for a penalty of twenty-five dollars for each occupied unit of the multiple dwelling for each day during which service is unlawfully discontinued; provided, however, that when the only non-compliance with this section is failure to mail notice to each "Occupant" as required by clause (ii) of paragraph (c) of subdivision one above the penalty shall be twenty-five dollars for each occupied unit of the multiple dwelling to which notice was not mailed for each day during which service is unlawfully discontinued. An action to recover a penalty under this section may be brought by the counsel to the commission in any court of competent jurisdiction in this state in the name of the people of the state of New York. Any moneys recovered in such action shall be paid to the state treasury to the credit of the general fund.

4. Any person who willfully interferes with the posting of the notice specified in clause (i) of paragraph (c) of subdivision one above by any gas, steam or electric corporation or municipality, willfully defaces or mutilates any such notice, or willfully removes the same from the place where it is posted by such company prior to the date specified therein for the discontinuance of service shall be guilty of a violation and, upon conviction, shall be punished by a fine not exceeding twenty-five dollars.

5. The commission shall maintain rules and regulations for the payment by tenants of utility bills for gas, electric or steam service in a multiple dwelling to which this section applies where the owner of any such multiple dwelling, or the person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility or municipality has received payment therefor, has failed to pay such utility bills. Such rules and regulations shall (a) provide that utility service may not be discontinued to any such multiple dwelling as long as the tenants continue to make timely payments in accordance with established procedures; (b) include designation of an office to advise tenants of the rights and procedures available pursuant to such rules and regulations; (c) assure that tenants shall not be liable for bills more than two months in arrears; and (d) require the commission upon petition of twenty-five percent of the tenants of such multiple dwelling to meet with representatives of such tenants and the owner, person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility has received payment therefor.

§ 34. Discontinuance of utility service in two family dwellings. 1. Notwithstanding any other provision of law, no utility corporation or municipality shall terminate gas or electric service to a two family dwelling that it knows contains units where service is not metered separately unless such utility or municipality shall have given fifteen days' written notice of its intention to terminate service as follows:

(a) a copy of such notice shall be mailed to the owner of the premises affected, or in lieu thereof, to the person, firm or corporation to whom or which the last preceding service bill has been rendered, and

(b) a copy of such notice shall be mailed or otherwise delivered to each occupied unit, and

(c) where possible, a copy of such notice shall be posted in a conspicuous place at or within the dwelling.

2. The commission shall affirmatively approve or provide for the form and content of notices required by subdivision one of this section. Such notices shall state the intended date of termination of service, the

amount due for such service, and the procedure by which any occupant may make payment or take action to avoid termination of service.

3. The commission shall provide by regulation:

(a) that any occupant may prevent termination of service if such occupant applies for and is eligible for such service;

(b) that any occupant may prevent termination of service by making payments in accordance with established procedures. In no event shall such payments include bills more than two months in arrears. Any occupant who chooses to pay current charges shall not be liable for any future bills which may be rendered for utility service supplied to the dwelling. The utility corporation or municipality shall continue to render all bills to the customer with a copy to be sent to any occupant upon request; and

(c) staff to advise occupants of the provisions of this section and the commission's regulations.

4. Whenever the obligations owed to the utility corporation or municipality for service to a dwelling have been satisfied, the corporation or municipality shall notify an occupant of each dwelling which was given notice of intent to terminate service.

§ 35. Reconnection of service. 1. The commission shall by regulation establish reasonable conditions under which an electric or gas corporation or municipality shall be required to take all actions within such corporation or municipality's control and, where applicable, consistent with the provision of the agreement for commodity service, if any, between the corporation and the customer, provided such provisions are consistent with this article to reconnect service to residential customers. Such conditions shall include, but not be limited to, requirements for reconnection of service within twenty-four hours, unless prevented by circumstances beyond the utility's or municipality's control, (a) upon receipt by a corporation or municipality of the full amount of arrears which were the basis for termination of service, (b) upon the signing of a deferred payment plan together with a down payment based on criteria to be established by the commission, provided that no such down payment shall exceed one-half of the amount which was the basis of termination, or the amount of three months billing, whichever is less, (c) upon the direction of the commission, (d) upon the receipt of a commitment of a direct payment or a written guarantee of payment from the social services official of the social services district in which the customer resides or (e) where the utility or municipality has notice that a serious impairment to health or safety is likely to result if service is not reconnected. With respect to reconnection on the basis of serious impairment of health or safety doubts shall be resolved in favor of reconnection of service. The chairman shall designate such officers and employees as he deems necessary to act on requests for service reconnections.

2. Where any utility corporation or municipality is required to reconnect service within twenty-four hours and fails or neglects to do so without good cause as determined by the commission, it shall forfeit and pay to the customer the sum of not less than twenty-five dollars nor more than fifty dollars per day for each day thereafter, as determined by the commission, that such service is not supplied.

§ 36. Residential service deposits. 1. On and after January first, nineteen hundred eighty-two, no utility corporation or municipality shall require any new residential customer, other than a seasonal or short term customer, to post a security deposit as a condition of receiving utility service. In addition, no utility corporation or municipality shall after the first day of September, nineteen hundred eighty-two, or such earlier date as the commission may determine, require a current residential customer to post a security deposit other than such a customer who is delinquent according to standards set by the commission. Deposits held on the first day of September, nineteen hundred eighty-two, or such earlier date as the commission may determine, shall be returned to the customer immediately, but not later than the next bill for service; provided, however, that this provision shall not apply to deposits of delinquent customers. No utility corporation or municipality shall require any known recipient of public assistance, supplemental security income benefits or additional state payments to post a security deposit as a condition of receiving service.

2. Notwithstanding the provisions of subdivision one of this section, the commission, after investigation and hearing, may authorize any utility corporation or municipality to require and hold security deposits from residential customers or applicants for service upon a finding that the collection and maintenance of such deposits is cost effective to the utility as a whole without regard to cash flow and the availability of capital.

3. In any case where customer deposits are authorized by this section, a utility corporation or municipality may require a customer or applicant for service to deposit a reasonable sum of money according to the estimated quantity of such services necessary to supply the customer or applicant for service for two months, to secure payment for such services actually rendered, or for the rental of fixtures, instruments and facilities actually supplied. Every such utility corporation and municipality shall allow to every such customer or applicant for service interest on the sum deposited at a rate per annum to be prescribed from time to time and at least annually by the commission in light of current economic conditions and current charges paid for moneys borrowed by such utility, taking into account the expenses incurred by such utility in obtaining, handling, returning or crediting the sum deposited. Such interest shall be paid upon the return of the deposit, provided however, that whenever such deposit has been held for a period of one year, the interest shall be credited to the customer or applicant for service on the first billing for utility service rendered after the end of such period. If a customer or applicant for service is not delinquent in the payment of any billing during such one year period, the deposit shall be refunded promptly at the end thereof, without prejudice to the utility's or municipality's right to require a deposit thereafter in the event of a delinquency. All utility corporations and municipalities shall exempt from deposit requirements any customer or applicant for service who is sixty-two years of age or older, unless the customer or applicant for service is a bad credit risk according to standards set by the commission.

§ 37. Deferred payment agreements. 1. No utility corporation or municipality shall terminate or refuse to take all actions within such corporation or municipality's control and, where applicable, consistent with the provisions of the agreement for commodity service, if any, between the corporation and the customer, provided such provisions are consistent with this article, to restore service to a residential customer, because of arrears owed the utility corporation or municipality, unless the utility or municipality offers such customer a deferred payment agreement for such arrears; provided, however, that a deferred payment agreement under this article shall not be available to any customer who the commission determines has the resources available to pay his bill, and provided further, however, that any such agreement may provide for the customer to make a downpayment of the arrears, provided that no such downpayment shall exceed one-half of the amount of arrears or three months average billing, whichever is less. In addition, the commission shall provide by regulation that (a) all deferred payment agreements authorized by this article be fair and equitable, considering the customer's financial circumstances; (b) that such agreements obligate customers to make timely payment of current charges for service together with payment of arrears during the pendency of the agreements; that such agreements may be renegotiated and amended where the customer can demonstrate that there have been significant changes in his or her financial circumstances which have arisen due to conditions beyond the customer's control, and that, if the customer receives a utility service by the receipt of portions of such service from each of two or more utility corporations and is billed for such service through a single bill, the payments pursuant to the deferred payment agreement for current charges shall be allocated to each such utility corporation based on the current charges owing to each and the payments for arrears shall be allocated equitably on a pro-rata basis between such utility corporations based on the amount of arrears owing to each.

2. Upon offering any deferred payment agreement, and prior to the signing thereof, a utility corporation or municipality shall give a customer a copy of the agreement, in a form established or affirmatively approved by the commission, which shall contain a conspicuous, bold type

notice that the customer may request the assistance of the commission in reaching an agreement. Any such agreement shall be signed in duplicate by the utility or municipality and the customer and each shall receive a signed copy thereof.

§ 38. Budget or levelized payment plans; quarterly billing. 1. Every utility corporation or municipality shall offer residential customers a budget billing plan or levelized payment plan for payment of charges for gas or electric service. Any such plans shall also be offered to customers who are condominium associations or cooperative housing corporations regardless of whether such associations or corporations are classified as residential or commercial customers.

2. Every utility corporation or municipality shall offer residential customers who are sixty-two years of age or older, as an alternative to monthly billing, a plan for payment on a quarterly basis of charges for gas and electric service rendered by such corporation or municipality, provided that such customer's average annual billing is not more than one hundred fifty dollars.

3. The commission may establish such terms and conditions for plans required under this section as it deems necessary or proper.

§ 39. Meter reading and estimated bills. 1. A utility corporation or municipality may, in accordance with such requirements as the commission may impose by regulation, render an estimated bill for any billing period if: (a) the procedure used by such utility or municipality for calculating estimated bills has been approved by the commission, and the bill clearly indicates that it is based on an estimated reading and (b) the utility owning the meter and providing the meter reading data on which the estimated bill will be based or the municipality has made reasonable effort to obtain an actual meter reading or (c) circumstances beyond the control of the utility or municipality made an actual reading of the meter extremely difficult or (d) circumstances indicate a reported reading is likely to be erroneous, or (e) an estimated reading is prescribed or authorized by the commission for a billing period between periods when actual meter readings are scheduled or for seasonal or short term customers.

2. Where a utility corporation owning the meter and supplying meter reading data for a bill or a municipality fails to gain access to a meter for a period of four months or two billing periods, whichever is greater, the corporation or municipality shall take reasonable actions to obtain an actual meter reading. Such additional actions may include, but not be limited to: making an appointment with the customer or such other person who controls access to the meter for a reading at a time other than within normal business hours, offering the customer the opportunity to phone in a meter reading, or providing a card to the customer on which he or she may record the reading and mail it to the utility or municipality.

3. Where a utility corporation or municipality has submitted an estimated bill or bills to a residential customer, and such estimate or estimates significantly understate the actual amount of money owed by such customer, the customer shall have the right to pay the difference between the estimated charges and the actual charges in regular monthly installments over a reasonable period. The commission shall establish by regulation the minimum amount for any such underbilling, and the length of any such period; provided, however, that no such installment period shall be less than three months.

4. Upon discontinuation of utility service to a residential customer, a gas or electric corporation shall notify such customer of their right to an actual meter reading. It shall be the right of every residential customer of a gas or electric corporation, upon the discontinuation of utility service, to obtain, upon request, an actual meter reading by such customer's gas or electric corporation. A gas or electric corporation shall provide such a reading within forty-eight hours of such request, provided that if circumstances beyond the control of the gas or electric corporation make an actual reading of the meter extremely difficult, such corporation shall not be required to provide an actual meter reading. A gas or electric corporation shall not be

required to provide a physical meter reading during a holiday or non-work day, but shall instead provide such meter reading on the next workday.

§ 40. Voluntary third-party notification. 1. Every utility corporation or municipality shall permit a residential customer to designate a third party to receive notice of the total amount due or past due on all bills, the amounts of any payments paid by or on behalf of such residential customer, and copies of all notices relating to termination of service and notices relating to collection of amounts due sent to such residential customer, provided that the designated third party indicates in writing a willingness to receive such notices, and provided further, where a residential customer opts for third-party notifications, such residential customer may opt to continue to receive such notices.

2. Every utility corporation or municipality shall permit a landlord, upon written request of both the landlord and tenant, to designate a third party to be notified of all requests for discontinuance of service to units occupied by such tenant, provided that the designed third party indicates in writing a willingness to receive such notices, and provided further, where the tenant and landlord customers opt for third-party notifications, such tenant and landlord customers may opt to continue to receive such notices.

§ 41. Finality of certain utility charges. 1. Notwithstanding any other provision of law, if a utility corporation or municipality does not render a residential customer for gas or electric service, with the exception of a seasonal or short-term customer as defined by rule of the commission, a monthly bill for gas and/or electric services used by such customer during that monthly period, or, in the case of bi-monthly meter reads, during that month and the prior month, within three months from the end date of such monthly billing period, then, such residential customer shall not be charged for such gas and electric services which were not billed to the customer as provided herein, unless the failure of the corporation or municipality to bill sooner was not due to the neglect of the corporation or municipality or was due to the culpable conduct of the customer. If the customer remains liable for such service, the utility shall permit payments to be made under an installment payment plan, provided, however, that the utility or municipality may require prompt payment if the non-billing resulted from the culpable conduct of the customer. Any such installment payment plan may provide for a downpayment of up to one-half of the amounts due from the customer, or three months average billing, whichever is less.

2. Notwithstanding any other provision of law, a utility corporation or municipality may not adjust upward a bill previously rendered to a residential customer after the expiration of twelve months from the time service to which the adjustment pertains was provided unless (a) failure to bill correctly was caused by the customer's culpable conduct or was not due to the neglect of the utility or municipality; (b) such adjustment is necessary to adjust a budget payment plan; or (c) there was a dispute between the utility or municipality and the customer concerning the bill during the twelve-month period. A utility or municipality issuing an additional or increased bill charging for services rendered twelve or more months prior to such date of issuance shall include with it a notice giving the reason for the late billing.

3. No public utility company or municipality may render a bill for previously unbilled service, or adjust upward a bill previously rendered, to a residential customer after the expiration of twenty-four months from the time service to which the bill or adjustment pertains was provided. This provision shall not apply when the culpable conduct of a customer caused or contributed to the failure of the company or municipality to have rendered a timely or accurate billing.

§ 42. Other charges. 1. A utility corporation or municipality may impose late payment charges not in excess of one and one-half percent per month on the unpaid balance of any bill including any interest thereon. Any such late payment charge, however, may not be imposed if the bill is the subject of a pending complaint with the utility or municipality provided, however, that such charge may be imposed retroactively if the complaint is finally resolved in favor of the utility or municipality.

2. Except as provided in subdivision one of this section, no utility corporation or municipality may charge any residential customer a late payment charge, penalty, fee, interest, or other charge of any kind for any late payment, collection effort, service disconnection or deferred payment agreement occasioned by the customer's failure to pay timely for gas or electric service.

3. The rights and responsibilities of residential customers participating in green jobs-green New York on-bill recovery pursuant to section sixty-six-m of this chapter shall be substantially comparable to those of electric and gas customers not participating in on-bill recovery, and charges for on-bill recovery shall be treated as charges for utility service for the purpose of this article, provided that:

(a) all determinations and safeguards related to the termination and reconnection of service shall apply to on-bill recovery charges billed by a utility pursuant to such section;

(b) in the event that the responsibility for making utility payments has been assumed by occupants of a multiple dwelling pursuant to section thirty-three of this article or by occupants of a two-family dwelling pursuant to section thirty-four of this article, such occupants shall not be billed for any arrears of on-bill recovery charges or any prospective on-bill recovery charges, which shall remain the responsibility of the incurring customer;

(c) deferred payment agreements pursuant to section thirty-seven of this article shall be available to customers participating in on-bill recovery on the same terms as other customers, and the utility shall retain the same discretion to defer termination of service as for any other delinquent customer;

(d) where a customer has a budget billing plan or levelized payment plan pursuant to section thirty-eight of this article, the utility shall recalculate the payments under such plan to reflect the projected effects of installing energy efficiency measures as soon as practicable after receipt of information on the energy audit and qualified energy efficiency services selected;

(e) on-bill recovery charges shall not be subject to the provisions of section forty-one of this article;

(f) late payment charges on unpaid on-bill recovery charges shall be determined as provided in this section, or as otherwise consented to by the customer in the agreement for green jobs-green New York on-bill recovery and any such charges shall be remitted to the New York state energy research and development authority;

(g) notwithstanding the provisions of section forty-three of this article, when a complaint is related solely to work performed under the green jobs-green New York program or to the appropriate amount of on-bill recovery charges, the utility shall only be required to inform the customer of the complaint handling procedures of the New York state energy research and development authority, which shall retain responsibility for handling such complaints, and such complaints shall not be deemed to be complaints about utility service in any other commission action or proceeding; and

(h) billing information provided pursuant to section forty-four of this article shall include information on green jobs-green New York on-bill recovery charges, including the basis for such charges, and any information or inserts provided by the New York state energy research and development authority related thereto. In addition, at least annually the authority shall provide the utility with information for inclusion or insertion in the customer's bill that sets forth the amount and duration of remaining on-bill recovery charges and the authority's contact information and procedures for resolving customer complaints with such charges.

§ 42-a. Payment of wages to workers; certain cases. 1. The legislature hereby finds that the protection of critical infrastructure is furthered by the enhanced training, experience and expertise of workers in all positions at such facilities. Given that the state of New York, due to its representation as a beacon of liberty, diversity and equality, and its history of being the target of terrorist attacks, will always be a target for those who wish to do this country and this state harm, New York has a fundamental obligation to harden its infrastructure against any such threats or activity. In hardening the infrastructure there is no greater asset than the human capital that serve at the front lines of the effort to thwart terrorist attacks. The electric and steam generating facilities in the state, when active, provide a target that requires the hardening not only of the physical infrastructure but the human infrastructure as well. Turnover in such positions, for the service workers who provide cleaning, security and maintenance services at such active generating facilities will decrease if the workers are paid increased wages. The reduction of turnover will allow for the more developed and trained workforce to continue to provide the measure of safety and security the state requires. Given that important state interest, it is therefore found and declared that the workers at such facilities shall be trained to ensure their ability to meet the security needs of the facilities that they work upon. It is further found and declared that the reduction of turnover may be accomplished by the payment of rates of pay in line with those prevailing in such trade or occupation, as otherwise defined.

2. The wages paid, and benefits provided, to building service employees who are employed at a work location that is an active major electric or steam generating facility, or at a transmission or distribution facility considered critical infrastructure as determined by the division of homeland security and emergency services in consultation with the department, shall be subject to article nine of the labor law. For purposes of this section "major electric generating facility" means an electric generating facility with a nameplate generating capacity of twenty-five thousand kilowatts or more, including interconnection electric transmission lines and fuel gas transmission lines, and "major steam generating facility" means a steam generating facility with a generating capacity to be determined by the department.

§ 43. Complaint handling procedures. 1. The commission shall maintain regulations for the handling of residential customer complaints, which at a minimum shall require that each utility or municipality: (a) maintain procedures for prompt investigation of any complaint on a bill for gas or electric service rendered or a deposit required and for prompt reporting to the complainant of the result of such investigation. If such report is made orally, the utility corporation or municipality shall offer the complainant upon a written request the opportunity to receive the report in writing; (b) inform any complainant whose complaint is resolved in favor of the utility corporation or municipality, in whole or in part, of the availability of the commission's complaint handling procedures; (c) refrain from terminating service for nonpayment so long as a complaint is pending before a utility, municipality or the commission and for fifteen days thereafter, or for such period as the commission for good cause shall establish; provided however, that as a condition of continued service during the pendency of any such dispute, a customer shall pay the undisputed portions of any bill for service including bills for current usage, or such amounts as the commission determines reasonably reflect the cost of usage to such customer; and (d) refrain from treating the disputed portion of any bill as late during the pendency of any complaint before the utility or municipality.

2. The commission shall maintain regulations for complaint handling procedures including complaints with respect to the negotiation of a deferred payment agreement which shall include, at a minimum: (a) provision for investigation and informal review and for appeal to the commission in its discretion; (b) that the burden of proof in all proceedings shall be on the utility corporation or municipality, except as otherwise provided by the commission for good cause; and (c) provision for parties to receive a written determination of any complaint, upon request, in plain and simple English, which determination shall set forth the relevant facts established, the reasons for the determination, what actions must be taken and what further procedures are available to a complainant.

3. The commission shall use its best efforts to complete its investigation and review and to issue, within ninety days, its final written determination of any appeal to it pursuant to this section.

§ 44. Utility bills; informational notices. 1. Every utility corporation or municipality shall assure that bills for service to residential customers adequately explain the charges for service in clear and understandable form and language. The commission may, from time to time, specify the form and content of such bills to further the objectives of this subdivision.

2. The public service commission and the state board of elections shall coordinate a voluntary program with public utilities whereby at the time service is initiated to a residential customer, a utility corporation or municipality may provide each such customer with a voter registration and a change-of-residence registration form.

3. At the time that service is initiated to a residential customer, and at least once every year thereafter, a utility corporation or municipality shall provide each such customer with an additional notice which summarizes the rights and obligations of residential customers relating to the rendition of service. At the time any such notice is provided a customer, a utility corporation or municipality shall inquire as to the customer's eligibility for the protection afforded the elderly, blind, disabled and other customers under this article. The commission shall, by regulation, establish procedures to assure, to the extent practicable, that residential customers served by more than one utility corporation or municipality for gas service or for electric service shall not receive duplicative annual notices in connection with such gas service or in connection with such electric service.

4. The commission shall require every utility corporation or municipality providing service to a county wherein at least twenty percent of the population regularly speak a language other than English according to the most recent federal census to offer, at the request of a residential customer residing in such a county, to prepare and send to such customer its messages on bills and notices in both English and the other language.

5. At least once a year, every utility corporation, energy services company or municipality shall provide its customers with a notice that billing statements are available in large print format. Upon written

request by a customer, a utility corporation, energy services company or municipality shall provide the customer's billing statements in the large print format commencing no later than sixty days after the date upon which the request is received by the utility corporation, energy services company or municipality. The provisions of this subdivision shall apply only to printed statements. For the purposes of this section, "large print" shall mean a printed font size of sixteen or greater to illuminate billing information. For the purposes of this section, "energy services company" or "ESCO" shall mean an entity eligible to sell energy services to end-use customers using the transmission or distribution system of a utility corporation.

6. Upon customer request, every utility corporation, energy services company or municipality shall provide copies of previous billing statements and/or statements verifying that such person requesting the document is a customer of such utility corporation, energy services company or municipality. Utility companies, energy services companies and municipalities shall not impose any fee, charge or surcharge for such requests.

7. Notwithstanding any other provision of law, as part of every billing statement, any utility corporation that serves more than fifteen thousand customers in the state shall provide the average daily usage per month or the monthly usage at the customer's address for the prior thirteen months. Additionally, notwithstanding any conflicting provision of law, upon request by the customer, such utility corporation shall provide monthly billing charge amounts at such customer's address for the thirteen months prior to the current billing period, no later than thirty days after such request is made.

§ 45. Payment agencies. A utility corporation or municipality may permit its customers to pay their bills to a payment agent. The date of payment to any such agent shall be regarded as the date of payment to the utility or municipality.

§ 46. Emergency disconnections to residences. Notwithstanding any other section of this article, a utility corporation in ownership or control of the meters, pipes, fittings, wires and other apparatus associated with the establishment of service to a residence or a municipality may disconnect service to a residence when an emergency may threaten the health or safety of a person, the surrounding area or the utility's or municipality's distribution system. The utility corporation or municipality shall act promptly to assure restoration of service as soon as feasible. Service shall be restored to any residence before it may be terminated for any other reason.

§ 47. Inspection and examination of apparatus. 1. A duly authorized agent of a utility corporation or municipality may enter any dwelling, building or other location supplied with gas or electricity by the utility corporation or municipality, for the purpose of inspecting and examining the meters, pipes, fittings, wires and other apparatus for regulating, supplying and/or ascertaining the quantity supplied, under the following terms and conditions:

(a) the agent exhibits a photo-identification badge and a written authority signed by the president or vice-president and secretary or assistant secretary of the corporation, or by the mayor or clerk of a municipal corporation or by the chairman and secretary of a municipal board in control of a municipal utility, and

(b) any such inspection and examination shall be conducted on a non-holiday work day between eight a.m. and six p.m. or such other reasonable time requested by the customer, except when an emergency may threaten the health or safety of a person, the surrounding area or the utility's or municipality's distribution system, or except when the commission by regulation establishes a different time for the inspection and examination where there is evidence of meter tampering or theft of services.

2. Except when an emergency may threaten the health or safety of a person, the surrounding area or the utility's or municipality's distribution system or where authorized by court order, an agent of a utility or municipality, otherwise duly authorized to inspect and

examine apparatus may not enter locked premises without permission of a person lawfully in control of the premises, nor use any manner of force to carry out such inspection and examination.

§ 48. Emergency hotline. 1. The commission shall establish a toll free number, to be attended from nine o'clock a.m. to nine o'clock p.m. each business day, which a residential customer may use to contact a commission designee authorized to order the reconnection, continuation or initiation of residential gas or electric service whenever a reasonable question regarding the circumstances of a termination or refusal of service exists or whenever the health and safety of a person is involved.

2. Each utility corporation or municipality shall designate an employee who can be contacted by the commission's designee and who is authorized to direct an ordered reconnection, continuation or initiation of service.

3. The commission may by regulation alter the time requirement for operation of the emergency hotline as set forth in this section if the commission determines that such alteration continues to provide substantial emergency access to the commission by residential customers.

§ 48-a. Utility services; domestic violence victims. 1. Every utility corporation shall allow a person who is under a shared contract with such utility corporation to opt-out of such contract without fee, penalty or charge when such person is a victim of domestic violence and provides an attestation in writing that they no longer wish to be a party to such contract due to their status as a victim of domestic violence. Such utility corporation may not require such person to disclose confidential information or details relating to such person's status as a victim of domestic violence, as a condition of permitting such person to opt-out of such contract. Further, such utility corporation may not make release from such contract contingent on: (a) maintaining contractual or billing responsibility of a separated account with the provider; (b) approval of separation by the primary account holder, if the primary account holder is not the person making such request; or (c) a prohibition or limitation on the separation as a result of arrears accrued by the account. Such utility corporation shall release such person from such contract no later than seven days after receiving such opt-out request. Such utility corporation shall dispose of information submitted by such person no later than thirty days after receiving such information in a manner as to maintain confidentiality of such information.

2. Every utility corporation shall make information about the options and process described in subdivision one of this section readily available to customers on the website and any mobile application of such utility corporation, and in other forms of public-facing customer communication.

3. A covered provider and any officer, director, employee, vendor or agent thereof shall not be subject to liability for any claims arising from an action taken or omission made with respect to compliance with this section.

§ 49. Residential steam service. The rights and responsibilities of customers receiving residential steam service from steam corporations shall be substantially comparable to those of gas and electric customers under this article. The commission shall take such actions as it deems necessary and proper to achieve this objective.

§ 50. Residential water service. Every water-works corporation with gross revenues in excess of two hundred fifty thousand dollars shall provide residential service in accordance with all relevant provisions of this article. The commission shall adopt such rules and regulations as it deems necessary and proper to implement the provisions of this section.

§ 51. Rules and regulations. The commission shall adopt such additional rules and regulations as it deems necessary and proper to implement the provisions of this act.

§ 52. Gas, electric and steam service to tenants provided through shared meters. 1. Definitions: As used in this section, the following terms shall have the following meanings:

(a) "Owner" means and includes the owner or owners of the freehold of the premises or lesser estate therein, mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation, directly or indirectly in control of a dwelling.

(b) "Shared meter" means any utility meter that measures gas, electric or steam service provided to a tenant's dwelling and also measures such service to areas outside that dwelling and such tenant pays charges for the service to areas outside the dwelling measured through such meter.

(c) "Dwelling" means any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings, including any equipment located outside such building or structure or portion thereof which is under the exclusive use and control of the occupant, and is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of one or more human beings.

(d) "Utility" means any gas, electric and steam corporation and/or municipality providing service to residential customers.

(e) "Shared meter customer" means any tenant who rents a dwelling from an owner that is served by a shared utility meter for which the tenant, rather than the owner, is the utility's customer of record.

(f) "Extraordinary cost" means the cost, as determined by a qualified professional, of installing equipment necessary to eliminate a shared meter in a dwelling or portion thereof which is in excess of the amount of rent for four months rental of such dwelling. The commission shall adopt additional rules for determining extraordinary cost based upon whether the amount of service measured by the shared meter that is utilized outside the shared meter customer's dwelling is sufficient to warrant the cost of such installation.

(g) "Legal impediment" means a restriction which prevents separate metering, rewiring, or repiping due to zoning ordinances which limit the number or type or location of meters in a building or due to the historical significance of the structure or such other legal restrictions as determined by the commission in its rules.

(h) "Shared area charges" means that portion of charges billed to the shared meter customer which remains after excluding the estimated charges for service used by the shared meter customer and where applicable, a third party, for the period during which the owner maintained a shared meter condition in violation of this section or six years whichever is shorter.

(i) "Third party involvement" means that a third party whose utility service was to be measured through another meter had caused or benefitted from a shared meter condition.

2. Owner's responsibility for service measured through a shared meter. (a) An owner shall eliminate any shared meter condition or, in the alternative, establish an account in the owner's name for all the shared area charges for service measured through a shared meter effective six years prior to the discovery of or determination that a shared meter condition exists, or the first day of the tenancy, or the date the shared meter condition began, or the sixtieth day after the owner knew or should have known that third party involvement exists, or the date the owner assumed title to the dwelling, whichever is most recent in time and for all future service measured by the shared meter. The utility shall, upon an owner's application, open such an account and bill the owner for all applicable shared area charges and all future service measured by the shared meter through such account.

(b) (i) In the event that a legal impediment or extraordinary cost prevents elimination of a shared meter condition or in the event that the service measured through the shared meter is minimal, under commission rules adopted, pursuant to subdivision eight of this section, the owner, as an alternative to eliminating the shared meter condition, may enter into a mutually acceptable written agreement with the shared meter customer and where applicable, a third party, for apportioning the charges for service measured through the shared meter; provided, however, that the shared meter customer shall pay only for the estimated amount of service provided to the shared meter customer's dwelling, or

(ii) In the event that there is an existing written agreement between the owner and the shared meter customer, and where applicable, a third party, for the apportionment of charges for service measured by a shared meter prior to October twenty-fourth, nineteen hundred ninety-one, such agreement will remain in effect, as an alternative to eliminating the shared meter condition or establishing an account in the owner's name, until any lease or rental agreement for the rental of the dwelling expires, provided, however, that the shared meter customer or third party may request the commission or its designee to review the existing written agreement if such shared meter customer or third party believes the terms are unfair or unreasonable. If the commission or its designee finds that the terms of the existing written agreement are unfair or unreasonable, the commission or its designee shall void such agreement and assist the interested parties in negotiating and executing a mutually acceptable written agreement.

(c) (i) In the event that a mutually acceptable written agreement is negotiated and executed, the owner shall provide a copy of the agreement to the utility, the shared meter customer, and where applicable, a third party.

(ii) If the interested parties are unable to negotiate a mutually acceptable written agreement, the commission or its designee, upon a complaint by a customer or owner, shall order a remedy, consistent with the relief provided in this section, as it deems proper. The commission or its designee shall have the authority to apportion estimated charges for service measured by a shared meter among the owner, shared meter customer and any third party.

3. The provisions of this section: (a) may not be waived by an owner, tenant, or utility; and

(b) shall not affect the validity of a lease or rental agreement in effect on or before the effective date of this section. For purposes of this section, renewals and extensions of leases and rental agreements that commence after the effective date of this section shall be deemed to be new leases and rental agreements.

4. Determination of shared meter condition. (a) Upon a customer's

verbal or written complaint that a shared meter is measuring service to the customer's dwelling and that the customer is responsible for the charges for such service or upon receipt of other information indicating that a shared meter may exist, a utility shall notify the owner in writing of the owner's responsibilities under this section, that a complaint was received or information obtained that a shared meter may exist, and that the utility is required to conduct an investigation. If such utility is not the utility in ownership or control of the meters and related pipes, fittings, wires and other apparatus associated with the establishment and measurement of service to such customer's dwelling, notice shall also be provided to such metering utility. Upon the request of an owner or upon a complaint by a customer or upon receipt of information indicating that a shared meter may exist, such metering utility shall investigate and determine whether such service is or is not measured by a shared meter. Such metering utility may determine if separate metering or rewiring or repiping is possible and shall provide the owner with information describing how shared meter conditions can be eliminated. The investigation shall include, but not be limited to, conducting appropriate tests, an examination of wiring, piping, meters and heating equipment in the building as may be needed, an estimate of gas, electricity or steam used in the shared meter customer's dwelling and in areas outside the dwelling, and a review of billing records.

(b) The determination shall be provided in writing, within thirty business days of the date of the complaint or receipt of information or owner's request, to the customer, the owner, any other tenants receiving service measured by the shared meter, and any other utility providing service to such customer through such meter. Such written determination shall include a description of the specific areas outside the dwelling served by the shared meter, the nature of the uses of the service, and the proportional amount of service registered on the shared meter that is provided to the shared meter customer's dwelling and to areas outside the dwelling. A notice shall be included with the determination informing the recipients of the availability of the commission's complaint handling procedures, and providing the department's address and telephone number for filing objections to such determination.

(c) Failure of an owner to provide access to any common area in the building or to cooperate with any reasonable request made by the investigating utility shall result in a determination that the customer's dwelling is served by a shared meter, specifying the owner's action that such utility understood to be a failure to cooperate. Failure of a customer making a shared meter complaint to provide access to a dwelling controlled by the customer or to cooperate with any reasonable request made by the investigating utility shall cause the utility to suspend the investigation and to notify in writing the customer and the owner that the investigation is suspended, specifying the customer's action that such utility understood to be a failure to cooperate. A utility duly acting under this paragraph is entitled to make the determinations provided for and shall be held harmless from any subsequent monetary claim by an owner that the dwelling was not served by a shared meter or by a shared meter customer that the dwelling was served by a shared meter.

(d) Any customer filing a complaint under this section or owner who disagrees with a utility's determination may utilize the commission's complaint handling procedures to obtain a written departmental determination by complaining to the department within forty-five days after receipt of the utility's determination. In the event that the utility fails to provide a determination on a complaint under this section within the required time period, the department shall investigate, upon the shared meter customer's or owner's request, and issue a written determination. The commission or its designee shall have the authority to apportion estimated charges for service measured by a shared meter among the owner, shared meter customer and any third party.

5. Change in billing. Notwithstanding any inconsistent provision of law, one hundred twenty days after notice is sent to the owner that the utility or the department has made a final determination that the shared meter customer's dwelling is served by a shared meter in violation of subdivision two of this section:

(a) the utility shall verify that, pursuant to subdivision two of this section, the owner has eliminated the shared meter condition or has entered into a mutually acceptable written agreement with the shared meter customer and where applicable, a third party, for apportioning the charges for service measured by the shared meter and has provided a copy to the utility, or, as an alternative to eliminating the shared meter condition, has established a separate account in the owner's name as the customer of record for all applicable shared area charges and all future service measured by the shared meter;

(b) if the owner has not eliminated the shared meter or entered into such agreement or established such account or if the amount of the service is not minimal under commission rules adopted pursuant to subdivision eight of this section, the utility shall establish an account in the owner's name as the customer of record for service measured through the shared meter and bill the owner for all applicable shared area charges and all future service measured through the shared meter; provided, however, that the commission or its designee may grant an extension not to exceed ninety days to an owner if, in its judgment, extenuating circumstances beyond an owner's control prevented timely compliance, or such shared meter is the subject of an ongoing department review regarding the apportionment of estimated charges pursuant to subparagraph (ii) of paragraph (c) of subdivision two of this section;

(c) the utility shall refund to the customer or cancel shared area charges; provided, however, that when third party involvement exists, the utility shall credit the shared meter customer for all the estimated charges of the third party;

(d) when such determination follows a customer complaint regarding a shared meter condition or a utility discovery of a shared meter condition that is not in response to an owner's request for a utility inspection for a shared meter condition, with respect to utility service billed after December first, nineteen hundred ninety-six, the utility shall comply with the provisions of paragraphs (a), (b) and (c) of this subdivision, and further bill the owner and refund to the shared meter customer an estimated amount of charges for twelve months of all service measured by the shared meter; provided, however, that this paragraph shall not apply to a shared meter condition if service measured through the shared meter is minimal under commission rules adopted pursuant to subdivision eight of this section. An owner so billed may petition the commission or its designee for a determination that the amount of such bill is excessive and that such bill and refund be adjusted accordingly; provided, however, neither the adjusted bill nor the adjusted refund shall be less than twenty-five percent of the total amount of the original bill. The commission is authorized to make such a determination and adjustment if it finds that a bill and refund of twelve months' charges is unduly burdensome and unfair. In making such determination the commission or its designee shall consider the total amount of the bill and refund in relation to the shared area charges over such twelve month period and any other equitable factors established by the commission; and

(e) the utility shall bill the third party, when third party involvement exists, instead of the owner, for the applicable estimated charges for service used by the third party credited by the utility to the shared meter customer.

6. Refunded and cancelled utility charges. (a) No owner may bill a shared meter customer or otherwise recover from such customer any portion of the cancelled charges or charges refunded to such customer and shall not bill such customer for any portion or percentage of any future shared meter bills in the owner's name; provided, however, that this section shall not preclude an owner from increasing future rents by a specific sum to the extent otherwise permitted by law.

(b) A shared meter customer who receives a refund from a utility pursuant to this section shall return a proportional share of that refund to each person who had paid that shared meter customer for utility service associated with the payment so refunded. The utility shall be held harmless from the claim of any person for a share of any payment so refunded.

7. Remedies. Where the owner or shared meter customer demonstrates the existence of third party involvement, the owner or shared meter customer shall be entitled respectively to recover the charges billed by the utility to the owner's account, or to the shared meter customer's account, pursuant to this section in a civil action against the third party in a court of competent jurisdiction.

8. Minimal service. Notwithstanding any provision of this section to the contrary, the commission shall determine an appropriate quantity of service on a shared meter that is utilized outside of the shared meter customer's dwelling which is to be considered minimal in commission

rules and regulations.

9. Notice requirements. On or before December first, nineteen hundred ninety-five, every utility shall notify its residential customers and each owner served by the utility of the requirements of this section. Each utility may request from its customers the names and addresses of the owners or recipients of rent for dwellings occupied by the customers or obtain such names and addresses from any available public records in order to provide the notice required by this subdivision. Such notice shall be mailed in a postpaid wrapper under separate cover than bills for service to the premises. Every utility shall also provide notice at least annually to owners of dwellings, to the extent practicable, under a plan submitted by the utility and approved by the department. Every utility shall also implement an outreach program subsequent to such written notice. Each utility shall submit a plan to provide notice within sixty days of the effective date of this subdivision. In addition, every utility shall notify each of its customers at least annually, of the requirements that apply to owners, shared meter customers and utilities pursuant to this section and shall include the department's address and phone number for questions and complaints. In addition, each utility may arrange for the publication of notices in newspapers or the broadcasting in other media of notices describing such requirements. The notices shall be subject to the approval of the department.

10. Treatment of refunds. (a) Where, as of the effective date of this subdivision, an owner of a building consisting of one to five dwelling units has been billed for service measured through a shared meter without an apportionment of charges for service used by the shared meter customer and, where applicable, a third party, the utility shall refund to the owner, upon the written request of the owner, any charges which represent service used in the shared meter customer's dwelling and, where applicable, a third party. Such written request must be submitted no later than December first, nineteen hundred ninety-seven, provided that an owner may petition the commission or its designee for an extension upon a finding that such owner has not received timely or adequate notice of the availability of such refund. In any case where an

owner has been billed but has not paid for such service, the utility shall only collect from the owner shared area charges. The utility shall not attempt to charge the shared meter customer or the third party for any monies refunded to the owner pursuant to this section.

(b) In any case where a shared meter customer is entitled, following a final determination of shared meter condition prior to the effective date of this subdivision, to a refund but has not received such refund because the owner has not made payments for which the owner was billed, such shared meter customer shall receive his or her refund from the utility.

(c) Notwithstanding any other provision of this section, in the case where a shared meter customer is entitled, following a final determination of a shared meter condition, to a refund or cancellation of shared meter charges and title to the dwelling has been transferred to a new owner, such shared meter customer shall receive his or her refund from the utility for charges for service measured through a shared meter, excluding the estimated charges for service used in the shared meter customer's dwelling, for the period of time effective six years prior to the discovery of or determination that a shared meter condition exists, or the first day of the tenancy, or the date the shared meter condition began, whichever is most recent in time.

(d) The commission shall investigate whether and to what extent refunds provided pursuant to this subdivision were made necessary by inadequate notice to customers regarding the provisions of this section.

11. Other relief. Notwithstanding any other provision of this section, the rights of a utility customer under this article to seek and obtain relief for payments made for service not provided to his or her dwelling shall not be diminished in any manner. Unless otherwise specified in this section, the rights of a utility to collect payment for service rendered but unpaid shall not be diminished in any manner.

12. Apportionment. The commission shall establish guidelines for estimating the amount of utility use in other space outside the shared meter customer's dwelling and for apportioning costs required by this section.

§ 53. Application. For purposes of this article, a reference to a gas corporation, an electric corporation, a utility company, or a utility corporation shall include, but is not limited to, any entity that, in any manner, sells or facilitates the sale or furnishing of gas or electricity to residential customers. No provision of this article or of this chapter authorizes or permits the provision of gas or electricity service by any such corporation or other entity in any manner other than in full compliance with the provisions of this article or to authorize the commission to waive compliance with any requirement of this article for any such corporation or other entity.

§ 53-a. Prohibition of utilities engaging in detrimental conduct towards a residential customer. 1. A utility corporation or municipality, or energy services companies subject to the department's uniform business practices and section three hundred forty-nine and three hundred forty-nine-d of the general business law, also known as ESCOs, shall not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any residential customer in connection with the handling of a residential customer complaint, the offering and/or negotiating of a deferred payment agreement, or the collection of an unpaid balance or any other obligation owed by such customer.

2. All utilities or municipal utilities or ESCOs in violation of this section shall be subject to fines, penalties and enforcement by the department pursuant to sections twenty-four, twenty-five, twenty-five-a, and twenty-six of this chapter, and all such other legal or equitable remedies as may be necessary or convenient for protection of consumers against the prohibited behaviors described in subdivision one of this section.

3. The commission shall promulgate rules and regulations necessary to implement and enforce the provisions of this section.

ARTICLE 3-C

PROVISIONS RELATING TO LIQUID PETROLEUM PIPELINE CORPORATIONS

§ 63-ee. Application of article. This article shall apply to the conveying, transportation and furnishing of petroleum and other such flammable liquids, for any purpose, by way of pipeline. Within the meaning of any provision of this article, the term, "liquid petroleum", shall include crude oil, natural gasoline, natural gas liquids, liquefied petroleum gas, liquid petroleum products and any other such flammable liquids.

§ 63-ff. Powers of the commission in respect to liquid petroleum pipeline safety. The commission shall:

1. Have general supervision over the safety standards of all liquid petroleum pipeline corporations having authority under any general or special law or under any charter or franchise to lay down and maintain pipelines, ducts or conduits under or above the surface of any area of the state for the purpose of the conveying, transporting and furnishing of liquid petroleum and any other such flammable liquids.

2. Examine or investigate the methods employed in the conveying, transporting and furnishing of liquid petroleum in and through the state, and have the power to order such reasonable improvements as would best promote the public interest and preserve and protect the public health and safety, and in the pursuit of same, establish a basic code of liquid petroleum pipeline safety rules and regulations.

3. Have the power, either through its members, or inspectors, or employees duly authorized by it, to enter upon and to inspect the property, pipes, ducts and conduits of any corporation engaged in the transportation of petroleum via pipeline.

ARTICLE 4

PROVISIONS RELATING TO GAS AND ELECTRIC CORPORATIONS; REGULATION OF PRICE OF GAS AND ELECTRICITY

§ 64. Application of article. This article shall apply to the manufacture, conveying, transportation and furnishing of gas (natural or manufactured or mixture of both) for light, heat or power and the generation, furnishing and transmission of electricity for light, heat or power. Within the meaning of any provision of this article, each of the terms "gas corporation" and "electric corporation" also shall include a gas and electric corporation, that is, such a corporation as is organized for the objects and purposes of both a gas corporation and an electric corporation, as the context of such provisions and the powers actually exercised by such gas and electric corporation may require.

§ 65. Safe and adequate service; just and reasonable charges; unjust discrimination; unreasonable preference; protection of privacy. 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.

2. No gas corporation, electric corporation or municipality shall directly or indirectly, by any special rate, rebate, drawback or other

device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for gas or electricity or for any service rendered or to be rendered or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

3. No gas corporation, electric corporation or municipality shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

4. Nothing in this chapter shall be taken to prohibit a gas corporation or electric corporation from establishing a sliding scale for a fixed period for the automatic adjustment or charges for gas, electricity or any service rendered or to be rendered and the dividends to be paid to stockholders of such gas corporation or electric corporation, provided that the sliding scale shall first have been filed with and approved by the commission; but nothing in this subdivision shall operate to prevent the commission after the expiration of such fixed period from fixing proper, just and reasonable rates and charges to be made for service as authorized in this article.

5. Nothing in this chapter shall be taken to prohibit a gas corporation or electrical corporation from establishing classifications of service based upon the quantity used, the time when used, the purpose for which used, the duration of use or upon any other reasonable consideration, and providing schedules of just and reasonable graduated rates applicable thereto. No such classification, schedule, rate or charge shall be lawful unless it shall be filed with and approved by the commission, and every such classification, rate or charge shall be subject to change, alteration and modification by the commission.

6. Service charges prohibited. Every gas corporation shall charge for gas supplied a fair and reasonable price. No such corporation shall make or impose an additional charge or fee for service or for the installation of apparatus or the use of apparatus installed, except that a charge may be made:

(a) where entry, inspection or examination as authorized by subdivision nine of this section is denied;

(b) for reconnecting the service to a person or corporation if the service to such person or corporation was disconnected, in accordance with applicable legal requirements, for non-payment of bills for service;

(b-1) for expenses reasonably incurred as determined by the commission in cases of meter tampering and theft of service. Such expenses shall include, but not be limited to, the cost of investigating, repairing and replacing meters and pipes, and the cost of moving a meter and installing it in a secure location;

(c) for a remote meter reading device upon the request and consent of the customer;

(d) for installation of capital improvements and fixtures to promote energy efficiency upon the request and consent of the customer, including but not limited to the performance of qualified energy efficiency services for customers participating in green jobs-green New York on-bill recovery pursuant to section sixty-six-m of this article; or

(e) for the provision of thermal energy service.

7. No gas corporation or electric corporation shall sell or offer for sale any list of names of its customers.

8. Inspection of transmission pipelines conveying natural gas. Every gas corporation transmitting natural gas under permits or franchises permitting the laying or maintaining of pipelines conveying natural gas shall conduct a leak detection inspection using leak detection equipment or employing a visual inspection of such transmission pipelines annually or more frequently when ordered by the commission. A written report of every such inspection shall be made available to the commission.

9. Buildings may be entered for the examination of meters, pipes, fittings, wires and works. (a) Any officer or agent of any gas corporation, electric corporation or municipality for that purpose duly appointed and authorized by the corporation, upon exhibiting a photo-identification badge and a written authority signed by the president or vice-president and secretary or assistant secretary of the corporation, or by the mayor or clerk of a municipal corporation or by the chairman and secretary of a municipal board in control of a public utility, may enter, at all reasonable times, any store, building, room or place supplied with gas, electricity or water by such utility corporation or municipality for the purpose of inspecting and examining the meters, pipes, fittings, wires and works for supplying or regulating the supply of gas or electricity and of ascertaining the quantity of gas or electricity supplied.

(b) If any person, at any time, directly or indirectly, shall prevent or hinder any such officer or agent from so entering any such premises, or from making any such inspection or examination at any reasonable time, he or she shall forfeit to the corporation or municipality one hundred dollars for every such offense.

10. (a) Notwithstanding any other provision of law, in any case where electric corporations are permitted incremental seasonal differentials in rates or charges, such differentials shall not be imposed in any month upon any residential customer for the first two hundred fifty kilowatt hours used by such customer in such month; provided, however, that the commission may promulgate rules to permit the imposition of such seasonal differentials where a customer requests a special rate that may include a seasonal differential or where service is to be provided to a residential customer for a temporary period not to exceed six months.

(b) In any case where an electric corporation is permitted incremental seasonal differentials in rates or charges, such corporation shall, on or before such differential rates commence, inform any customer subject to such differential as to the commencement and termination dates of such differential rates and permit such customer to read his own meter on such dates and forward the readings thereon to the corporation.

11. Civil actions. (a) Every gas corporation, electric corporation or municipality furnishing utility service may initiate a civil action to collect a civil penalty against a user of non-residential service in accordance with this subdivision. Upon a showing in such action that a user of non-residential service has knowingly accepted or received the use and benefit of gas or electric service which has been prevented from being properly registered by a meter provided therefor, the utility may be granted a civil penalty, in addition to the value of the unpaid service, in an amount which the court in its discretion shall deem to be just and reasonable, which in no event shall be more than three times the retail value of the gas or electric service accepted or received. In any action under this subdivision, proof that a meter has been intentionally prevented from properly registering gas or electric service shall be prima facie proof that the user of non-residential service who accepts or receives the use and benefit of such service has done so with knowledge of the condition so existing, if the gas corporation, electric corporation or municipality shall first present evidence that such person took possession of the benefitted premises and used the gas or electric service prior to the creation of the condition.

(b) For the purposes of this subdivision, a user of non-residential service shall be a person benefitting from such service who is in possession of the premises to which the service is delivered.

(c) Any civil penalty recovered pursuant to this section in excess of the actual damages sustained by the utility shall be taken into account by the public service commission in establishing future utility rates.

12. An electric corporation shall send annually to each residence it serves a form that may be used to notify the corporation that a person living in the residence uses a life support system. For the purposes of this subdivision, life support systems shall include, but not be limited to, hemodialysis equipment, respirators and apnea monitors. An electric corporation shall maintain a current list of customers who use such life support systems and include the list in such electric corporation's system emergency plans.

13. (a) Every gas corporation or electric corporation furnishing utility services shall provide the following call center customer

assistance receiving inquiries by phone or in writing on: customer financial responsibility; receiving requests to initiate or terminate service; receiving requests for emergency services; shared metering; determining deposit required or billing rate; receiving meter and service orders and access to meter requests; explaining company rates, regulations, policies, procedures, and common practices; initiating trouble order forms and high bill investigations; inbound and/or outbound handling of payment and other credit arrangements such as obtaining deposits, financial statements and payment plans; collection assistance inquiries and referring customers to social service agencies and other assistance programs. This paragraph shall not apply to communications between departments to resolve a customer inquiry. For purposes of this section, "collection assistance inquiries" shall not include calls or activities related to the collection of debts that are referred to third-party collection agencies or those involving the direct pursuit of financial recovery on delinquent accounts.

(b) No gas or electric corporation shall close a call center or other facility providing the customer assistance set forth in paragraph (a) of this subdivision or send such customer assistance outside such gas or electric corporation's New York state service territory or outside of New York state without notice, a hearing and approval before the commission. Upon receipt of the notice required pursuant to this paragraph, the commission shall provide notice of the proceeding to interested parties and the public; and shall promptly fix a date for the commencement of a public hearing thereon not less than sixty days after such receipt. The testimony presented at such hearing may be presented in writing or orally, provided that the commission may make rules designed to exclude repetitive, redundant or irrelevant testimony while giving all interested parties the opportunity to present their documentary and/or testimonial evidence. The commission shall make a record of all testimony in all contested hearings. For purposes of this section "public hearing" means a public forum at a physical location, attended by commission members or their designees, where oral testimony is accepted and written testimony may be submitted for inclusion in the record. Such forum shall be open to parties to the proceeding and the general public for the presentation of comments that shall be limited to relevant facts directly related to the proceeding in question. Such hearing shall be commenced upon proper notice to the parties to the proceeding and the public at least thirty days prior to the scheduled date. It shall be permissible for a gas or electric corporation to send customer assistance requests outside of such corporation's New York state service territory or outside of New York state in the following circumstances: (i) when a call center or customer assistance facility is unable to adequately respond to customer assistance requests due to natural disaster, cyber attack, temporary loss of internet or phone connection or power, a state or local declared emergency that impacts the ability of a call center to manage customer assistance requests, or customer call volume that exceeds the capacity of the call center given normal staffing levels; (ii) for the purpose of workforce training; or (iii) to initiate work flexibility policies that allow call center employees to work from an approved alternative worksite other than a call center location provided, however, before a gas or electric corporation can establish policies for any call center employees that are represented by a bona fide labor organization through a collective bargaining agreement, such policies must have been mutually agreed to by the corporation and the labor organization. Such work flexibility policies shall not be considered a violation of this section. Any transfer of customer assistance requests outside of New York state or outside of the corporation's New York state service territory pursuant to subparagraph (i) of this paragraph shall be temporary and only for the duration of the emergency situation. A corporation must notify the commission of any transfers within ten business days following an exemption claimed pursuant to subparagraph (i) of this paragraph. For the purposes of this paragraph, "New York state service territory" shall be understood to refer to the designated geographic area served by the gas or electric corporation in accordance with its legal service obligations. The relocation of customer assistance calls to any of the corporation's call centers within New York state in existence prior to the effective date of the chapter of the laws of two thousand twenty-five that amended this paragraph, regardless of the specific service territory, shall not be considered a violation of this paragraph.

(c) This subdivision shall not apply to the collection of debt where by utility company policy such debt is directed to a collection agency or similar service companies.

(d) Every public utility under this subdivision shall provide the commission an affidavit, annually, that no call centers or other facilities providing customer assistance set forth in paragraph (a) of this subdivision have been closed without notice and hearing before the commission and that the utility has not relocated such customer assistance to another area of New York state or outside of New York state without notice and hearing before the commission. The affidavit shall be submitted in such form and at such times and shall contain information as the commission, by rule or regulation, may prescribe.

14. In conjunction with a management and operations audit undertaken pursuant to subdivision nineteen of section sixty-six of this article or upon its own motion, the commission shall review the capability, including but not limited to, the capability to implement emergency response plans and restoration, of each electric corporation to provide safe, adequate, and reliable service. Upon good cause shown, and after a hearing in accordance with the commission's rules and regulations, the commission may direct such corporation to comply with additional and more stringent terms and conditions of service than existed prior to the commencement of the management and operations audit, and may, in addition, assess the continued operation of such corporation as the provider of electric service in its service territory and propose, and act upon, such measures as are necessary to ensure safe and adequate service; provided, however, that nothing in this subdivision limits the commission's authority to undertake the actions set forth pursuant to section twenty-four, twenty-five or twenty-five-a of this chapter.

15. The chief executive officer of each combination gas and electric corporation shall certify to the commission on or before March fifteenth of each year that such corporation has internal controls, policies and procedures designed to ensure compliance with the requirements of this chapter and any rules, regulations, orders and procedures adopted thereto, including the obligation that such corporation provide safe and adequate service.

16. Unauthorized changes in natural gas or electric service

prohibited. (a) No supplier of gas or electric service or any person, firm or corporation acting as such supplier's agent or representative shall on behalf of a customer make or direct any change in a supplier of gas or electric service unless such supplier, agent or representative complies with requirements to authorize and verify the change. The commission shall have the authority to establish requirements for obtaining the authorization of a customer to effect a change in the customer's supplier of gas or electric service and for the verification of such change. In construing and enforcing the provisions of this subdivision, the act of any person, firm or corporation acting as an agent or representative of a supplier of gas or electric service shall be deemed to be the act of such supplier of gas or electric service. For the purposes of this subdivision, "supplier of gas or electric service" shall include any person, firm or corporation that offers, sells or delivers all or part of natural gas or electric service, including, but not limited to, a gas or electric distribution company, a gas or electric corporation, a gas or electricity provider, marketer, aggregator or broker.

(b) The failure to comply with the provisions in this subdivision shall subject a supplier of gas or electric service to either the judicial penalty authorized in section twenty-five of this chapter for the failure or neglect to obey or comply with a provision of this chapter or the administrative penalty established in this subdivision. In seeking such judicial penalty or assessing such administrative penalty, the commission shall take into account the nature, circumstances, extent, gravity and number of the violations, and with respect to the violator, the degree of culpability, any history of prior offenses and repeated violations, and such other matters as may be appropriate and relevant. The remedies provided by this subdivision shall be in addition to any other remedies provided by law.

(c) The commission, after opportunity for a hearing, shall have the authority to assess directly an administrative penalty against any supplier of gas or electric service for each violation of this subdivision or order of the commission implementing or enforcing the provisions of this subdivision. Such penalty shall not exceed one thousand dollars for each violation associated with each meter service point. All moneys recovered from any administrative penalty shall be paid into the state treasury to the credit of the general fund.

(d) Whenever the commission determines that any supplier of gas or electric service is violating or about to violate any provision of this subdivision or any regulation or order of the commission implementing or enforcing the provisions of this subdivision, or has failed to pay any penalty assessed pursuant to the provisions of this subdivision, the commissioner shall have power to bring an action or enforcement proceeding as provided by section twenty-six of this chapter.

§ 65-a. Notification to social services officials. The commission shall, to the extent not inconsistent with other requirements of law, establish requirements relating to the notification of an appropriate social services official by a gas corporation, electric corporation or municipality that payment for utility services furnished a person receiving public assistance, supplemental security income benefits or additional state payments pursuant to the social services law has not been made and such person is known by the corporation or municipality to be a recipient of such assistance, benefits or payments. The commission shall consult with the office of temporary and disability assistance in fulfilling the objectives of this section.

§ 65-b. Service to persons applying for or receiving public assistance, supplemental security income benefits or additional state payments. No gas corporation, electric corporation or municipality shall refuse to supply or to continue to supply utility services to any person who has applied for or is receiving public assistance, supplemental security income benefits, or additional state payments pursuant to the social services law, solely on the grounds that there may be money due to the utility corporation or municipality for services previously furnished to such person, if the utility corporation or municipality receives, or is entitled to receive, a direct payment or receives a guarantee of payment from a social services district.

§ 66. General powers of commission in respect to gas and electricity.

The commission shall:

1. Have general supervision of all gas corporations and electric corporations having authority under any general or special law or under any charter or franchise to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality for the purpose of furnishing or distributing gas or of furnishing or transmitting electricity for light, heat or power, or maintaining underground conduits or ducts for electrical conductors, and all gas plants and electric plants owned, leased or operated by any gas corporation or electric corporation.

1-a. Review the annual capital expenditure of each combination gas and electric corporation and may order such improvement in the manufacture, conveying, transportation, distribution or supply of gas, in the manufacture, transmission or supply of electricity, or in the methods employed by such corporation as in the commission's judgment is adequate, just and reasonable.

2. Investigate and ascertain, from time to time, the quality of gas supplied by persons, corporations and municipalities; examine or investigate the methods employed by such persons, corporations and municipalities in manufacturing, distributing and supplying gas or electricity for light, heat or power and in transmitting the same, and have power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas or electricity and those employed in the manufacture and distribution thereof, and have power to order reasonable improvements and extensions of the works, wires, poles, lines, conduits, ducts and other reasonable devices, apparatus and property of gas corporations, electric corporations and municipalities; and have power after an investigation and a hearing to order any corporation having authority under any general or special law or under any charter or franchise, to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality for the purpose of supplying, selling or distributing

natural gas, to augment its supply of natural gas, whenever the commission deems necessary and whenever artificial gas can be reasonably obtained, by acquiring by purchase, manufacture or otherwise a supply thereof to be mixed with such natural gas, in order to render adequate service to the customers of such corporation or to maintain a proper and uniform pressure; and have power after an investigation and a hearing to order any corporation having authority under any general or special law or under any charter or franchise, to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality for the purpose of supplying, selling or distributing artificial gas, to augment its supply of artificial gas, whenever the commission deems necessary and whenever natural gas can be reasonably obtained, by acquiring by purchase or otherwise a supply thereof to be mixed with such artificial gas, in order to render adequate service to the customers of such corporation or to maintain a proper and uniform pressure; and to fix such rate for the supplying of mixed gas as shall secure to such corporation a fair return; and may order the curtailment or discontinuance of the use of natural gas for manufacturing or industrial purposes, for periods aggregating not to exceed four months in any calendar year, if it is established to the satisfaction of the commission that the supply of natural gas is not adequate to meet the reasonable demands of domestic consumption and may prohibit the use of natural gas in wasteful devices and practices.

2-a. Have power, after an investigation and hearing held on notice and upon a finding that as a result of a shortage of gas a public emergency exists, to determine whether any gas corporation has available, or may be made available by the operation of its facilities, gas in excess of an amount necessary to supply its consumers for purposes for which gas may properly be used during such emergency. Upon the making of such a determination it shall have power to order such a gas corporation to transfer and make available to any other gas corporation where a shortage of gas exists, for the duration of the emergency, any or all of such excess gas for which the transferring company shall receive just compensation. Such order may require the installation and operation of all necessary connections and facilities at the expense of the purchasing gas corporation and require the selling and purchasing gas corporation to adopt appropriate regulations and practices to carry out the transfer of gas as ordered.

3. Have power by order to fix and change from time to time standards of the purity, illuminating power and heating power, and standards for the measurement thereof, of gas to be manufactured, distributed or sold by persons, corporations or municipalities for lighting, heating or power purposes, notwithstanding that other standards of the purity, illuminating power and heating power of gas and standards for the measurement thereof, may have been fixed by general or special statute and to prescribe from time to time the efficiency of the electric supply system, of the current supplied and of the lamps furnished by the persons, corporations or municipalities generating and selling electric current, and by order to require the gas so manufactured, distributed or sold to equal the standards so fixed by it, and to prescribe from time to time the reasonable minimum and maximum pressure at which gas shall be delivered by said persons, corporations or municipalities. For the purpose of determining whether the gas manufactured, distributed or sold by such persons, corporations or municipalities for lighting, heating or power purposes conforms to the standards of illuminating power, heating power, purity and pressure, and for the purpose of determining whether the efficiency of the electric supply system, of the current supplied and of the lamps furnished conforms to the orders issued by the commission, the commission shall have power of its own motion, to examine and investigate the plants and methods employed in manufacturing, delivering and supplying gas or electricity, and shall have access through its members or persons employed and authorized by it to make such examinations and investigations to all parts of the manufacturing plants owned, used or operated by the manufacture, transmission or distribution of gas or electricity by any such person, corporation or municipality.

4. Have power, in its discretion, to prescribe uniform methods of keeping accounts, records and books, to be observed by gas corporations and electric corporations and by municipalities engaged in the manufacture, sale and distribution of gas and electricity for light,

heat or power. It may also in its discretion prescribe, by order, forms of accounts, records and memoranda to be kept by such persons, corporations and municipalities. Notice of alterations by the commission in the required method or form of keeping a system of accounts shall be given to such persons or corporations by the commission at least six months before the same shall take effect. Any other and additional forms of accounts, records and memoranda kept by such corporations shall be subject to examination by the commission.

5. Examine all persons, corporations and municipalities under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business. Whenever the commission shall be of opinion, after a hearing had upon its own motion or upon complaint, that the rates, charges or classifications or the acts or regulations of any such person, corporation or municipality are unjust, unreasonable, unjustly discriminatory or unduly preferential or in anywise in violation of any provision of law, the commission shall determine and prescribe in the manner provided by and subject to the provisions of section seventy-two of this chapter the just and reasonable rates, charges and classifications thereafter to be in force for the service to be furnished notwithstanding that a higher or lower rate or charge has heretofore been prescribed by general or special statute, contract, grant, franchise condition, consent or other agreement, and the just and reasonable acts and regulations to be done and observed; and whenever the commission shall be of opinion, after a hearing had upon its own motion or upon complaint, that the property, equipment or appliances of any such person, corporation or municipality are unsafe, inefficient or inadequate, the commission shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters.

6. Require every person and corporation under its supervision and it shall be the duty of every such person and corporation to file with the commission an annual report, verified by the oath of the president,

vice-president, treasurer, secretary, general manager, or receiver, if any, thereof, or by the person required to file the same. The verification shall be made by said official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail (a) the amount of its authorized capital stock and the amount thereof issued and outstanding; (b) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (c) its receipts and expenditures during the preceding year; (d) the amount paid as dividends upon its stock and as interest upon its bonds; (e) the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; (f) the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and (g) such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the person, corporation or municipality making such report to amend the same within a time prescribed by the commission. Any such person or corporation or municipality which shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the people of the state of New York. The amount recovered in any such action shall be paid into the state treasury and be credited to the general fund. The commission may extend the time prescribed for cause shown.

7. Require each municipality engaged in operating any works or systems for the manufacture and supplying of gas or electricity to make an

annual report to the commission, verified by the oath of the general manager or superintendent thereof, showing in detail, (a) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding for lighting purposes; (b) its receipts and expenditures during the preceding year; (c) the amount paid as interest upon its bonds and upon other forms of evidence of indebtedness; (d) the name of and the amount paid to each person receiving a yearly or monthly salary, and the amount paid as wages to employees; (e) the location of its plant and system with a full description of the property; and (f) such other facts pertaining to the operation and maintenance of the plant and system as may be required by the commission. Such report shall be in the form, cover the period and be filed at the time prescribed by the commission.

8. Have power, either through its members or inspectors or employees duly authorized by it, to enter in or upon and to inspect the property, buildings, plants, factories, power houses, ducts, conduits and offices of any of such corporations, persons or municipalities.

9. Have power to examine the accounts, books, contracts, records, documents and papers of any such corporation, person or municipality, and have power, after hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. At any such hearing the burden of proof shall be on the person, corporation or municipality to establish the correctness of the accounts in which such outlays and receipts have been entered, and the commission may suspend a charge or credit pending submission of proof by such person, corporation or municipality.

10. Have power to compel, by subpoena duces tecum, the production of any accounts, books, contracts, records, documents, memoranda and papers. In lieu of requiring production of originals by subpoena duces tecum the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers, or parts thereof, to be filed with it. The commission may require of all such corporations, persons or municipalities, specific answers to questions upon which the commission may need information, and may also require

such corporations, persons or municipalities to file periodic reports in the form, covering the period and filed at the time prescribed by the commission. If such corporation, person or municipality shall fail to make specific answer to any question or shall fail to make a periodic report when required by the commission as herein provided within the time and in the form prescribed by the commission for the making and filing of any such report or answer, such corporation, person or the officer of the municipality shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the people of the state of New York. The amount recovered in any such action shall be paid into the state treasury and be credited to the general fund.

11. Have power in all parts of the state, either as a commission or through its members, or through an officer or employee specially authorized to conduct an investigation or hearing to subpoena witnesses, take testimony and administer oaths to witnesses in any proceeding or examination instituted before it, or conducted by it in reference to any matter within its jurisdiction under this article.

12. (a) Have power to require every gas corporation, electric corporation and municipality hereinafter in this subdivision called a utility to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such utility; but this subdivision shall not apply to state, municipal or federal contracts, except to the extent such contracts relate to transportation of electricity.

(b) No change shall be made in any rate or charge, or in any form of contract or agreement or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed by a utility in compliance with an order of the commission, except after thirty days' notice to the commission and to each county, city, town and village served by such utility which had filed with such utility, within the prior twelve months, a request for such notice and which shall be affected by such change and publication of a notice to the public of such proposed change once in each week for four successive weeks in a newspaper having general circulation in each county containing territory affected by the proposed change, which notice shall plainly state the changes proposed and when the change will go into effect. The commission for good cause shown may, except in the case of major changes, allow changes to take effect prior to the end of such thirty-day period and without publication of notice to the public under such conditions as it may prescribe. The commission may delegate to the secretary of the commission its authority to approve a change to a schedule postponing the effective date of such schedule previously filed with the commission and to allow for good cause shown the postponement to take effect prior to the end of such thirty-day period and without publication of notice to the public.

(c) For the purpose of this subdivision, "major changes" shall mean an increase in the rates and charges which would increase the aggregate revenues of the applicant more than the greater of three hundred thousand dollars or two and one-half percent, but shall not include changes in rates, charges or rentals (i) allowed to go into effect by the commission or made by the utility pursuant to an order of the commission after hearings held upon notice to the public, or (ii) proposed by a municipality.

(d) No utility shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges specified in its schedule filed and in effect; nor shall any utility refund or remit in any manner or by any device any portion of the rates or charges so specified, nor extend to any person any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons under like circumstances.

(e) The commission shall have power to prescribe the form of every such schedule, and from time to time prescribe by order such changes in the form thereof as may be deemed wise. The commission shall also have power to establish such rules and regulations to carry into effect this subdivision as it may deem necessary, and to modify or amend such rules or regulations from time to time. Nothing in this chapter shall be taken to prohibit a utility from establishing sliding scale upward rates, beginning at a fixed price per unit for a small consumption and then increasing the price per unit as the consumption is increased.

(f) (i) Whenever there shall be filed with the commission by any utility any schedule stating a new rate or charge, or any change in any form of contract or agreement or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, the commission may, at any time within sixty days from the date when such schedule would or has become effective, either upon complaint or upon its own initiative, and, if it so orders, without answer or other formal pleading by the utility, but upon reasonable notice, hold a hearing concerning the propriety of a change proposed by the filing. If such change is a major change, the commission shall hold such a hearing. Pending such hearing and decision thereon, the commission, upon filing with such schedule and delivering to the utility, a statement in writing of its reasons therefor, may suspend the operation of such schedule, but not for a longer period than fourteen months beyond the time when it would otherwise go into effect. After full hearing, whether completed before or after the schedule goes into effect, the commission may make such order in reference thereto as would be proper in a proceeding begun after the rate, charge, form of contract or agreement, rule, regulation, service, general privilege or facility had become effective.

(ii) The commission is authorized to approve, and any hearing involving a major change in rates for a gas corporation, electric corporation, or combination gas and electric corporation may consider, whether as a result of litigation or settlement negotiations, multi-year changes in rates or charges, in addition to the utility's filing. Any such additional multi-year rates or charges which result from a litigated process are authorized to be implemented in a similar manner to those resulting from settlement negotiations. The commission shall, in each order approving a major change in rates for such corporation, explain how the information in the record that it received from such corporation and the parties impacted its determination to approve a major change in rates consistent with the public interest either as a result of litigation or from a settlement, and include a written summary of the commission's rationale.

(g) The commission shall review all filings to determine if they are in compliance with section seventy-two-a of this article. The commission shall have the power to hold public hearings concerning the propriety of any increased rate or charge for fuel costs. At any hearing involving such an increase, the burden of proof as to the correctness and reasonableness of the charge shall be upon the utility.

(h) The commission may, as authorized by section seventy-two of this article, establish temporary rates or charges for any period of suspension under this section.

(i) At any hearing involving a rate, the burden of proof to show that the change or proposed change if proposed by the utility, or that the existing rate, if it is proposed to reduce the rate, is just and reasonable shall be upon the utility; and the commission may give to the hearing and decision of such questions preference over all other questions pending before it.

(j) The schedule, rates, charges, form of contract or agreement, rule, regulation, service, general privilege or facility in force when the new schedule, rate, charge, form of contract, rule, regulation, service, general privilege or facility was filed shall continue in force during the period of the suspension unless the commission shall establish a temporary rate or charge as authorized by section seventy-two of this article. Provided, however, that whenever the commission shall deny a request by a utility for a major change in rates or charges, the schedule, rate, charge, form of contract or agreement, rule, regulation, general privilege, facility, or service immediately in effect prior to such request being filed shall remain in full force and effect until such time as the commission approves a new schedule of rates or charges, unless the commission established a temporary rate or charge as authorized by section seventy-two of this article.

(k) In any case in which the commission determines that the whole or any part of any increased rate or charge imposed by a utility pursuant to any automatic adjustment, including but not limited to any fuel adjustment, was not just and reasonable, because of a lack of reasonable care on the part of the utility in providing gas or electric service, the commission may order the utility to refund, with interest, any moneys collected by the utility pursuant to such whole or part of such increased rate or charge. In determining whether a utility exercised reasonable care in providing gas or electric service, the commission shall take into account the public health and safety consequences, and the economic consequences to ratepayers, of the utility's actions.

(l) (i) The commission shall, within ten days of the commencement of any matter involving a major change in a rate for electric or gas service, publish, in a readily accessible location on the department's website, a summary in plain language, not to exceed one page or five hundred words, to the extent such information is available, containing the following:

(A) the proposed rate term;

(B) the total proposed rate change, in both percentage change from prior rate year and absolute requested tariff value, including yearly or sliding scale breakdown if applicable;

(C) the average proposed rate change for a residential, commercial, and industrial ratepayer, including yearly or sliding scale breakdown if applicable;

(D) an explanation of why the rate changes are requested and a summary of how the proposed revenue will be spent;

(E) the proposed return on equity in both percentage and absolute value over the total rate term;

(F) an estimated timeline of relevant hearings, comment periods, and deadlines;

(G) an explanation of how to submit public comment; and

(H) any other information the commission finds relevant.

(ii) The commission shall, within ten days of the issuance of an order adopting a rate change for electric or gas service or a tariff relating to a major change in a rate for electric or gas service, publish, in a readily accessible location on the department's website, a summary, not to exceed one page or five hundred words, containing the following:

(A) the rate term;

(B) the total rate change, in both percentage change from prior rate year and absolute tariff value, including yearly or sliding scale breakdown if applicable;

(C) a comparison of the initial proposed rate change and absolute tariff value and the final approved rate and tariff value;

(D) the average rate change for a residential, commercial, and industrial ratepayer, including yearly or sliding scale breakdown if applicable;

(E) a summary of how the revenue will be spent;

(F) the authorized return on equity in both percentage and absolute value over the total rate term;

(G) a summary of other proposals relevant to ratepayers such as earnings adjustment mechanisms, excess revenue allocation, performance metrics, affordability programs, and additional fees; and

(H) any other information the commission finds relevant.

(iii) In addition to the requirements of paragraph (b) of this subdivision, the commission shall send such summaries to members of the legislature who represent any portion of the territory impacted by the proposed change as well as newspapers having general circulation in each county containing the territory affected by the proposed change.

* (m) As a separate and distinct part of any filing by a utility proposing a major change in rates, the utility must provide a description of any proposed capital expenditure, on a per project basis, including but not limited to, the: (i) purpose of and the need for each of the proposed capital expenditures, (ii) total cost, (iii) expected period of usefulness, (iv) location in the service territory, (v) rationale for inclusion in the proceeding, and (vi) anticipated benefits to ratepayers and the operation of the distribution system. Such descriptions of capital expenditures, on a per project basis, shall be posted on the commission's website. Pursuant to paragraph (i) of this subdivision, the burden of proof to show that a change in rates related to each capital expenditure is just and reasonable shall be on the utility.

* NB Effective until January 1, 2027

* (m) As a separate and distinct part of any filing by a utility proposing a major change in rates, the utility must provide a description of any proposed capital expenditure, on a per project basis, including but not limited to, the: (i) purpose of and the need for each of the proposed capital expenditures, and if it advances state policy objectives, (ii) total cost, (iii) expected period of usefulness, (iv) location in the service territory, (v) rationale for inclusion in the proceeding, (vi) if there was consideration of non-wire or non-pipe alternatives prior to inclusion of traditional capital investments in distribution infrastructure, and (vii) anticipated benefits to

ratepayers and the operation of the distribution system, including, but not limited to, through avoided energy demand, transmission and distribution upgrades, or energy efficiency measures. Such descriptions of capital expenditures, on a per project basis, shall be posted on the commission's website. When reviewing each capital expenditure the commission shall consider whether the utility has satisfied the burden of proof to show that a change in rates related to each capital expenditure is just and reasonable.

* NB Effective January 1, 2027

* (n) (i) The commission shall require each filing for a major change in rates made by a gas corporation, an electric corporation, or a combination gas and electric corporation, to include an executive compensation disclosure. Such executive compensation disclosure shall include: (A) the median of the annual total compensation of all employees of the gas corporation or electric corporation, except for senior management positions; (B) the annual total compensation of the chief executive officer; (C) the annual total compensation for each other senior management position; and (D) the ratio of the amount described in clause (A) of this subparagraph to the amount described in clause (B) of this subparagraph.

(ii) The commission shall develop performance-based targets that tie compensation for the chief executive officer and other senior management positions and ratepayer-funded incentive compensation programs to the energy affordability index developed pursuant to section sixty-six-x of this article and shall consider adjustments to the corporation's return on equity based on such metric. Such adjustments shall not be based on factors which the corporation does not control, including, but not limited to, commodity supply prices.

(iii) For purposes of this paragraph, "senior management positions" shall include a chief executive officer, chief operations officer, chief financial officer, chief information officer, chief information technology officer, officer responsible for regulatory affairs, general counsel, and any other positions considered to be senior management by the corporation.

* NB Effective January 1, 2027

* (o) (i) The commission shall require each filing for a major change in rates made by a gas corporation, electric corporation, or combination

gas and electric corporation, to include, in addition to the corporation's recommended proposal, a budget constrained proposal that separately addresses operating expenses, capital expenditures, programmatic or policy expenditures, commodity supply costs, taxes, and other costs not within the control of the corporation. Such budget constrained proposal shall not increase the applicant's aggregate revenues by more than the average of the annual consumer price index increases over the prior three years.

(ii) In each filing for a major change in rates, the corporation shall demonstrate how any increase in its aggregate revenues by more than the increase set forth in the budget constrained proposal is necessary to ensure safety, reliability, or the continuation of energy affordability programs, energy efficiency programs, or cost-effective electrification upgrades. If the commission finds that the corporation has made such a demonstration, the commission must provide a detailed explanation as to why an increase of more than the budget constrained proposal was necessary in its order adopting the new schedule of rates and charges. The commission, in making its determination, shall consider the disclosures required pursuant to paragraph (n) of this subdivision, the descriptions and considerations required by paragraph (m) of this subdivision, and the affordability index provided by the applicant pursuant to section sixty-six-x of this article.

(iii) The commission shall require the corporation to track expenditures and outcomes and explain material deviations from the approved schedule of rates and charges no less frequently than on an annual basis.

* NB Effective January 1, 2027

* (p) (i) The commission is authorized and directed to, within two hundred seventy days of the effective date of this paragraph, establish rules to limit a utility's ability to recover its direct or indirect costs associated with its attendance in, participation in, preparation for, or appeal of any rate proceeding conducted before the commission. Such costs may include, but need not be limited to, attorneys' fees, fees to engage expert witnesses or consultants, the portion of employee salaries associated with such attendance, participation, preparation or appeal of a rate proceeding and related costs identified by the commission.

(ii) In establishing such rules the commission may consider: (A) setting an overall percentage of the utility's expenses in a rate case that are not recoverable; (B) setting a baseline of the reasonable cost of participation in a rate case; (C) establishing discovery parameters and what information in a proceeding must be promptly and comprehensively disclosed by the utility to interveners and to the commission to reduce time and costs associated with a lengthy discovery process; and (D) any other method that the commission determines will accelerate the delivery of such utility information, reduce such costs, and limit recovery of such costs to an amount that is reasonable and prudent.

* NB Effective January 1, 2027

* (q) The commission shall require each filing involving a major change in rates filed by a gas corporation, electric corporation, or combination gas and electric corporation to include an affordability index that shows the energy burden of such corporation's residential customers at the time of the corporation's filing and what the energy burden would be following the corporation's filed change in rates, as calculated using the methodology adopted by the commission pursuant to section sixty-six-x of this article.

(i) The corporation shall additionally include within such filing potential solutions to assist energy burdened customers.

(ii) All information pertaining to the requirements set forth in this paragraph shall be publicly available on the commission's website, except in cases where such public availability and posting would result in disclosure of confidential information, such confidential information shall be excluded or anonymized.

* NB Effective January 1, 2027

12-a. Have power to fix and alter the format and informational requirements of bills utilized by public and private gas corporations, electric corporations and gas and electric corporations in levying charges for service, to assure simplicity and clarity and to require indication of any adjustment charges, including but not limited to fuel adjustments, in monetary amounts. The commission shall further ensure periodic explanation of applicable rates and rate schedules for the purpose of assisting customers in making the most efficient use of energy.

12-b. (a) In consultation with the commissioner of the department of commerce have power 1. to designate as economic incentive areas specific areas in which reduced economic activity, unemployment and underutilization of utility facilities justifies the approval of reduced incentive rates for utility services, and to promulgate criteria for identifying such areas and customers eligible for such rates. Upon application of a utility corporation the commission shall authorize special economic incentive rates in such areas to such customers and for such periods of time as the commission finds will best effectuate the purposes of this subdivision. The commission may also provide for the gradual elimination of the rate reduction authorized, and for the elimination of such reduction, if any conditions imposed by the commission are not met. 2. to designate or form classes of customers as appropriate for special rates or tariffs, in order to prevent loss of such customers, or to attract new customers where necessary to maintain economic use of utility facilities.

Any such special rate or tariff shall be so designed as to recover the incremental cost of providing service to such customers and to contribute to the common costs which otherwise would be borne by other customers.

(b) The commission may also authorize utility corporations to contract with existing or prospective industrial and commercial customers to wheel or deliver electricity or gas purchased directly by such customers, provided that the commission finds that such arrangements are in the overall best interest of the rate payers of the corporation, and that the rates and fees for the services provided adequately compensate the corporation for the use of its facilities.

12-c. Notwithstanding any other provision of law, upon application of a gas or electric corporation, the commission shall authorize such corporation to charge a special empire zone rate equal to the incremental cost of providing service to customers certified as eligible for such rate pursuant to article eighteen-B of the general municipal law.

12-d. Notwithstanding any other provision of law, upon application of a gas or electric corporation, the commission shall authorize such corporation to charge a special excelsior jobs program rate equal to the incremental cost of providing service to participants in the excelsior jobs program as defined in article seventeen of the economic development law.

13. In case any electric corporation or gas corporation is engaged in carrying on any business other than owning, operating or managing a gas plant or an electric plant, which other business is not otherwise subject to the jurisdiction of the commission, and is so conducted that its operations are to be substantially kept separate and apart from the owning, operating, managing or controlling of such gas plant or electric plant, said corporation in respect of such other business shall not be subject to any of the provisions of this chapter and shall not be required to procure the assent or authorization of the commission to any act in such other business or to make any report in respect thereof. But this subdivision shall not restrict or limit the powers of the commission in respect to the owning, operating, managing or controlling by such corporation of such gas plant or electric plant, and said powers shall include also the right to inquire as to, and prescribe the apportionment of, capitalization, earnings, debts and expenses fairly and justly to be awarded to or borne by the ownership, operation, management or control of such gas plant or electric plant as distinguished from such other business. In any such case if the owning, operating, managing or controlling of such gas plant or electric plant by any such corporation is wholly subsidiary and incidental to the other business carried on by it and is inconsiderable in amount and not general in its character, the commission may by general rules exempt such corporation from making full reports and from the keeping of accounts as to such subsidiary and incidental business. Where the permission granted such corporation pursuant to section sixty-eight is to supply gas only to less than twenty customers specified by the commission, the commission may, if the public interest permits, exempt such corporation from compliance with all or any of the provisions of this article except those affecting matters of public safety and the

provisions of sections sixty-five, sixty-eight and seventy-four.

14. The commission shall have power to require each gas corporation and electric corporation to establish classifications of service based upon the quantity used, the time when used, the purpose for which used, the duration of use and upon any other reasonable consideration, and to establish in connection therewith just and reasonable graduated rates and charges; and it shall have power, either upon complaint or upon its own motion, to require such changes in such classifications, rates and charges as it shall determine to be just and reasonable. Neither the scheduled rates nor the minimum charge for residential customers shall, after July first, nineteen hundred thirty-seven, be based in any manner on the number of outlets, number of rooms, cubic or square foot area or other such standards.

15. Receive, and any gas corporation may at any time submit to the commission for its approval, one or more contracts proposed to be made by it for the purchase from the producer of by-product gas, to be used in its service to its consumers, in which said proposed contract the price of gas shall be based on the then market price of coal, and to vary therewith whenever the market price of coal shall vary to the extent of ten per centum for a period of not less than thirty days, and which said contract shall state the efficiency of said gas, and upon the approval of said contract by the commission, or said contract as the same may be amended, altered or changed, and upon the application of said gas corporation, the commission shall make an order fixing the rate or rates to be charged to consumers for the service of such gas, which said rate shall thereafter remain unchanged during the term of said contract in so far as said rate shall be based on the cost of gas to said corporation, except as such cost shall vary with the variations in the price of coal as in said contract provided. The commission shall have like powers and duties with reference to existing contracts made prior to January first, nineteen hundred and twenty-two, by a gas corporation for a supply of by-product gas where the price of gas varies as the price of coal varies. By-product, as used in this section, is defined to mean one of the several products obtained by treatment of coal by some process other than the customary distillation in retorts.

16. The commission shall have power after a hearing on its own motion, upon complaint or upon the application of a gas corporation or electric corporation to prescribe rates and charges for gas, electricity or other service rendered or to be rendered, embodying the automatic adjustment of such rates and charges, over a fixed period not exceeding four years, based on the relation between the net income from such rates and charges available for return and the fair value of the property of the corporation used and useful in said service; but nothing in this subdivision shall operate to prevent the commission after the expiration of such fixed period from fixing proper, just and reasonable rates and charges to be made for gas, electricity or service as authorized in this article.

17. Notwithstanding the provisions of this article, any gas corporation which transports natural gas through the state of New York but which does not deliver, sell or furnish any such gas to any person or corporation within the state of New York, shall be subject to regulation by the commission only insofar as the construction and operation of such facilities shall affect matters of public safety.

19. (a) The commission shall have power to provide for management and operations audits of gas corporations and electric corporations. Such audits shall be performed at least once every five years for combination gas and electric corporations, as well as for straight gas corporations having annual gross revenues in excess of two hundred million dollars. The audit shall include, but not be limited to, an investigation of the company's construction program planning in relation to the needs of its customers for reliable service, an evaluation of the efficiency of the company's operations, an evaluation of customer privacy protections, including but not limited to customer electrical and gas consumption data, and protection of critical energy infrastructure as defined in subdivision fourteen of section 1-103 of the energy law, recommendations with respect to same, and the timing with respect to the implementation of such recommendations. The commission shall have discretion to have such audits performed by its staff, or by independent auditors.

In every case in which the commission chooses to have the audit provided for in this subdivision or pursuant to subdivision fourteen of section sixty-five of this article performed by independent auditors, it shall have authority to select the auditors, and to require the company being audited to enter into a contract with the auditors providing for their payment by the company. Such contract shall provide further that the auditors shall work for and under the direction of the commission according to such terms as the commission may determine are necessary and reasonable.

(b) Each corporation subject to an audit under this subdivision shall file a report with the commission within thirty days after issuance of such audit detailing its plan to implement the recommendations made in the audit. After review of such plan, the commission may require each combined electric and gas corporation amend its plan in a particular manner. Such plan shall thereafter become enforceable upon approval by the commission. The commission shall have power to commence a proceeding to examine any such corporation's compliance with the recommendations of such audit.

(c) Upon the application of a gas or electric corporation for a major change in rates as defined in subdivision twelve of this section, the commission shall review that corporation's compliance with the directions and recommendations made previously by the commission, as a result of the most recently completed management and operations audit. The commission shall incorporate the findings of such review in its opinion or order, and such findings shall be enforceable by the commission.

(d) The commission shall have the power to provide for an annual audit of gas corporations and electric corporations relating to the adequacy of cyber-security policies, protocols, procedures and protections including, but not limited to, as such policies, protocols, procedures and protections relate to critical energy infrastructure as defined in subdivision fourteen of section 1-103 of the energy law and customer privacy including but not limited to customer electric and gas consumption data. The commission shall have the discretion to have such audits performed by its staff or by an independent third party.

* 20. Notwithstanding any general or special law, rule or regulation, the commission shall have the power to provide for the refund of any

revenues received by any gas or electric corporation which cause the corporation to have revenues in the aggregate in excess of its authorized rate of return for a period of twelve months. The commission may initiate a proceeding with respect to such a refund after the conclusion of any such twelve month period.

* NB Effective until January 1, 2027

* 20. (a) Notwithstanding any general or special law, rule or regulation to the contrary, the commission shall have the power to provide for the refund of any revenues received by any gas corporation, electric corporation, or combination gas and electric corporation, which cause the corporation to have revenues in the aggregate in excess of its authorized rate of return for a period of twelve months.

(b) Such corporations shall be required to return all revenues derived from their actual return on equity in excess of their authorized rate of return on equity to ratepayers, less an amount not to exceed the amount of revenue that would be derived from a rate of return on equity equal to one quarter of one percent, as determined by the commission, and upon a determination by the commission that such revenues in excess of a corporation's authorized rate of return on equity provide benefits to ratepayers through cost savings or efficiency gains which exceed the benefits of refunds pursuant to paragraph (c) of this subdivision. Provided, however, in no event shall ratepayers, in aggregate, receive less in returns than the corporation retains in excess revenues.

(c) The commission shall direct the corporation to return such excess revenues in the form of a bill credit; provided, however, that if the commission determines that the amount of the bill credit would be de minimis, the commission may set aside such excess revenues for customer benefit in a following rate case. Any bill credit shall be provided to ratepayers in a timely manner, following an accounting review by the department of the corporation's calculation of their excess revenue, and shall be clearly labeled on the ratepayer's bill. Any such bill credit shall be returned in its entirety on a single bill, unless the credit is in excess of the amount due on the bill so as to require the remaining portion of the bill credit to appear on a subsequent bill or bills. The commission may initiate a proceeding with respect to such a refund after the conclusion of any such twelve-month period. In such a proceeding the commission shall determine the bill credit amount due to ratepayers, may examine how credits could be distributed among various customer classifications of service, and shall issue an order requiring the disbursement of the bill credits.

(d) Such corporations shall be required to report annually to the department any excess revenues and the amount returned to ratepayers.

(e) For purposes of this subdivision, "authorized rate of return on equity" shall mean the return on the equity portion of the rate base that an electric corporation, gas corporation, or combination gas and electric corporation is authorized to collect in rates pursuant to the schedule of rates and charges on file with the commission or otherwise adopted by an order of the commission.

* NB Effective January 1, 2027

21. (a) Each electric corporation subject to section twenty-five-a of this chapter shall annually, on or before December fifteenth, submit to the commission an emergency response plan for review and approval. The emergency response plan shall be designed for the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision as an event where widespread outages have occurred in the service territory of the company due to storms, cyber attack, or other causes beyond the control of the company. The emergency response plan shall include, but need not be limited to, the following: (i) the identification of management staff responsible for company operations during an emergency; (ii) a communications system with customers during an emergency that extends beyond normal business hours and business conditions; (iii) identification of and outreach plans to customers who had documented their need for essential electricity for medical needs, which shall include but not be limited to, apnea monitors for infants, cuirass respirators, hemodialysis machines, IV feeding machines, IV medical infusion machines, oxygen concentrators, positive pressure respirators, respirator/ventilators, rocking bed respirators, suction machines, and tank type respirators; (iv) identification of and outreach plans to customers who had documented their need for essential electricity to provide critical telecommunications, critical transportation, critical fuel distribution services or other large-load customers identified by the commission; (v) designation of company staff to communicate with local officials and appropriate regulatory agencies;

(vi) provisions regarding how the company will assure the safety of its employees and contractors; (vii) procedures for deploying company and mutual aid crews to work assignment areas; (viii) identification of additional supplies and equipment needed during an emergency; (ix) the means of obtaining additional supplies and equipment; (x) procedures to practice the emergency response plan; (xi) appropriate safety precautions regarding electrical hazards, including plans to promptly secure downed wires within thirty-six hours of notification of the location of such downed wires from a municipal emergency official; (xii) plans to prioritize the securing of downed wires over routine maintenance or other work unrelated to a response to an emergency event after notification by an individual of the location of such downed wires and where such notification includes information indicating wire burning, arcing/sparking, or the restriction of ingress and egress from a building or vehicle, or other immediate hazards. Such plans shall, at minimum, include procedures to identify, locate, and assess the reported wire no later than seventy-two hours after the response to an emergency event ends; (xiii) plans setting forth how the communication and coordination of efforts between the electric corporation, electric corporation employees, electric corporation company crews, mutual aid crews, other utilities, local governments and any other entity performing services to assist such electric corporation shall occur; and (xiv) such other additional information as the commission may require. Each such corporation shall, on an annual basis, undertake drills implementing procedures to practice its emergency management plan. The commission may adopt additional requirements consistent with ensuring the reasonably prompt restoration of service in the case of an emergency event.

(b) After review of a corporation's emergency response plan, the commission may require such corporation to amend the plan. The commission may also open an investigation of the corporation's plan to determine its sufficiency to respond adequately to an emergency event. If, after hearings, the commission finds a material deficiency in the plan, it may order the company to make such modifications that it deems reasonably necessary to remedy the deficiency.

(c) The commission is authorized to open an investigation to review the performance of any corporation in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event. If, after evidentiary hearings or other investigatory proceedings, the commission finds that the corporation failed to reasonably implement its emergency response plan or the length of such corporation's outages were materially longer than they would have been, because of such corporation's failure to reasonably implement its emergency response plan, the commission may deny the recovery of any part of the service restoration costs caused by such failure, commensurate with the degree and impact of the service outage; provided, however, that nothing herein limits the commission's authority to otherwise commence a proceeding pursuant to sections twenty-four, twenty-five and twenty-five-a of this chapter.

(d) The commission shall certify to the department of homeland security and emergency services that each such corporation's emergency response plan is sufficient to ensure to the greatest extent feasible the timely and safe restoration of energy services after an emergency in compliance with the requirements of this chapter.

(e) The filing of each emergency response plan required under paragraph (a) of this subdivision shall also include a copy of all written mutual assistance agreements among utilities.

(f) Each electric corporation shall file with the county executive or the chief elected official of a county for each county within its service territory the most recent approved copy of the emergency response plan required pursuant to this section. For the purposes of an electric corporation operating within the city of New York, such corporation shall file the most recent approved emergency response plan with the emergency management office of the city of New York.

(g) The commission shall provide access to such emergency response plan pursuant to article six of the public officers law.

22. The commission shall permit the recovery through rates established pursuant to this section of all payments made by electric corporations pursuant to section twenty-nine-c of the executive law.

23. Require every gas corporation or electric corporation having equipment containing five hundred parts per million or greater of polychlorinated biphenyls (PCBs), including but not limited to,

capacitors and transformers, to submit a report to the commission. The report shall contain (1) a list of such equipment that is in service, each unit's location, size and service age, (2) a list of such equipment that is retired from service after the effective date of this subdivision, the date each unit was retired from service, and the location of the facility where the unit and/or PCBs are processed or stored, (3) the date for shipment of PCBs within or out of New York state, and (4) a description of the New York state portion of the shipping route. The commission shall require the report to be updated and distributed semiannually. In addition, such corporation shall submit to each county and city located in the service territory of the corporation a report containing the information listed above for such equipment and PCBs located in or transported through the county or city receiving the report.

For the purposes of this subdivision, capacitors, transformers, and equipment designed to use the PCB-free mineral oil dielectric fluids shall be presumed to contain concentrations below five hundred parts per million of PCBs, unless the unit has been serviced with fluid which contains five hundred parts per million or greater of PCBs, or there is any other reason to believe that the unit contains or was ever mixed with fluid with a concentration level of five hundred parts per million or greater or unless testing has specifically shown otherwise.

24. (a) If a nuclear power plant which is not commercially used and useful in the actual generation of electricity on the effective date of this subdivision and which is owned by a single utility on or after the effective date of this subdivision fails to commence or continue commercial operation after the effective date of this subdivision, the commission shall thereafter remove and exclude from the utility corporation's revenue requirement all amounts, costs, charges, adjustments, or extraordinary cost of capital allowances theretofore made, granted or provided which are attributable, directly or indirectly, to such nuclear power plant or to such plant's failure to commence commercial operation.

(b) The commission shall not thereafter, unless and until such plant commences or recommences commercial operation, include in such utility's revenue requirement any amounts, costs, charges, adjustments or extraordinary cost of capital allowances attributable, directly or indirectly, to such plant or to such plant's failure to commence commerical operation.

(c) Nothing in this subdivision shall be deemed to require a refund of the charges paid by or billed to a customer of such utility prior to a failure to commence or continue commercial operation of such plant.

(d) For the purposes of this subdivision, the failure to commence or continue commercial operation shall mean the abandonment of such plant after the effective date of this subdivision; the denial, including any denial pursuant to or as a result of any administrative or judicial review, of a commercial operating license or other regulatory approval necessary for the plant to become commercially used and useful in the actual generation of electricity; the failure of the plant to become commercially used and useful in the actual generation of electricity within forty-two months of the issuance of the low power testing license for such plant; or the occurrence of any event or the existence of any circumstances (other than customary inspection and maintenance and related repairs or refueling requirements) after the plant becomes commercially used and useful in the actual generation of electricity which renders the plant not commercially used and useful in the actual generation of electricity.

25. Notwithstanding any other provision of law to the contrary, whenever a city having a population of one million or more provides for a deduction from gross receipts of a gas corporation or electric corporation, pursuant to a local law authorized by the provisions of subdivision (k) of section twelve hundred one of the tax law, the rate or charge imposed by any such corporation within such city upon non-residential users of electricity or gas eligible to receive a rebate in accordance with a local law or laws adopted pursuant to article two-G of the general city law shall be set by the commission so as to reflect fully the decrease in tax liability attributable to such deduction.

26. Notwithstanding any other provision of law to the contrary, whenever the gas facility costs of a gas corporation are paid or reimbursed by the city of New York as provided in the gas facility cost

allocation act, the rates and charges of such gas corporation within such city shall be set by the commission so as to reflect fully the amount of such payments and reimbursements made by such city. The amount of such payments and reimbursements shall not be reflected directly or indirectly in any rate or charge imposed by such corporation outside such city.

27. (a) Each electric corporation with annual gross revenues in excess of two hundred million dollars shall offer the option of paying charges on the basis of time of use rates for service to its residential customers and to posts and halls owned by a not-for-profit corporation that is a veterans' organization. Such electric corporation shall periodically send a notice explaining the rates and informing such customers and organizations that the rates are available.

(b) Any electric corporation which offers its customers time of use rates shall notify those customers who elect or receive such rate regarding the following:

(1) the hours for which such rates are available for both standard and daylight savings time;

(2) the procedure such customers shall follow in order to have their meter clocks reset following an interruption of service if such resetting is necessary to restore the effective hours of the time of use rates; and

(3) when the utility has knowledge of an outage, a statement within sixty days of such outage that the time of use rates may not be applied at the previously stated times until the meter clock is reset, if such resetting is necessary.

28. No revenues foregone by an electric corporation, as a result of subjecting certain veterans' organizations with rates or charges applicable to domestic consumers pursuant to section seventy-six of this article, shall be recovered from the customers of such corporation.

29. (a) Each electric corporation subject to section twenty-five-a of this chapter shall prepare and submit a climate change vulnerability study to the commission within eighteen months of the effective date of this act. The commission shall provide such study to the governor and

the legislature. The climate change vulnerability study shall evaluate the electric corporation's infrastructure, design specifications, and procedures to better understand the corporation's vulnerability to climate-driven risks, and shall include, but not be limited to, adaptation measures to address vulnerabilities and any other information deemed necessary by the commission.

(b) Within sixty days from submission of a climate change vulnerability study to the commission, each electric corporation subject to section twenty-five-a of this chapter shall submit a climate resilience plan to the commission for review and approval. Each plan shall: (i) propose storm hardening and resiliency measures for the next ten years and twenty years, and shall explain the systematic approach the corporation will follow to achieve the objectives of mitigating the impacts of climate change to utility infrastructure, reducing restoration costs and outage times associated with extreme weather events, and enhancing reliability, as well as such other additional objectives the commission may require consistent with ensuring increased resiliency of utility infrastructure and overall reliability during extreme weather events; (ii) detail how the corporation will incorporate climate change into its planning, design, operations, and emergency response; (iii) incorporate climate change into existing processes and practices, manage climate change risks and build resilience; (iv) propose adjustments, as necessary, to how the corporation plans and designs infrastructure for the increasing impacts from climate change; and (v) address each of the elements specified in paragraph (d) of this subdivision and any additional elements specified by the commission. The commission shall adopt rules to specify any additional elements that must be included in a corporation's filing for review of climate resilience plans.

(c) Each subject electric corporation shall contemporaneously serve the climate resilience plan on the parties from its last rate case filed pursuant to subdivision twelve of this section.

(d) In its review of each climate resilience plan filed pursuant to this subdivision, which shall be separate from a corporation's rate proceeding, the commission shall, at minimum, consider:

(i) the extent to which the plan is expected to mitigate the impacts of climate change, reduce restoration costs and outage times associated with extreme weather events, and enhance reliability, including whether the plan examines areas of lower reliability performance;

(ii) the extent to which storm protection and hardening of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the corporation's service territory, including, but not limited to, coastal areas, flood zones, and rural areas;

(iii) the estimated costs and benefits to the corporation and its customers of making the improvements proposed in the plan, including considerations of equity in the plan as applied across the entire service territory, with particular attention paid to the costs and benefits in undergrounding transmission and distribution lines;

(iv) a schedule for implementing each of the storm hardening and resiliency measures included in the plan;

(v) whether the plan includes major performance benchmarks that measure the effectiveness of the implementation of the plan;

(vi) the estimated annual rate impact resulting from implementation of the plan during the first five years addressed in the plan;

(vii) the extent to which the plan considers a multi-pronged strategy appropriately tailored to addressing the impacts of climate change, reducing restoration costs and outage times and enhancing infrastructure reliability, including, but not limited to, vegetation management, improvements to system management practices, undergrounding of distribution and transmission lines, replacement of obsolete cables, wires and poles, automation and circuit reconfiguration, investing in infrastructure that supports the development of technologies that would improve response to extreme weather events and reduce restoration costs, and system resiliency through the deployment of distributed energy resources, and fortifying critical facilities;

(viii) the extent to which the plan identifies opportunities for coordination with municipalities, customer advocate groups, the independent system operator, the energy research and development authority, and other utility or telecommunication service providers; and,

(ix) the recommendations from the utility climate resilience working group established pursuant to paragraph (h) of this subdivision.

(e) No later than eleven months after a corporation files a climate resilience plan that contains all of the elements required by this subdivision, and after a public hearing on the plan, which shall include a public forum at a physical location, attended by commission members or their designees to take in written or oral comment, the commission shall determine whether it is in the public interest to approve or modify the plan.

(f) At least every five years after approval of a corporation's climate resilience plan, or more frequently upon a schedule determined to be appropriate by the commission, each corporation must file, for commission review, an updated plan that addresses each element specified in paragraph (b) of this subdivision. The commission shall approve, modify, or deny each updated plan pursuant to the criteria used to review the initial plan.

(g) The commission shall authorize each electric corporation to fully recover in the context of rate proceedings the costs associated with each project included in such corporation's climate resilience plan that is approved or modified by the commission, so long as such costs were prudently incurred. Each corporation may begin implementation of the climate and resilience measures in accordance with the schedule specified in its climate resilience plan once such plan is approved or modified by the commission. For capital projects that are placed into service and additional unrecovered expenses incurred prior to the base rates being reset in the first rate proceeding commenced by such corporation subsequent to the commission's approval or modification of the climate resilience plan, the company shall recover such costs through a "climate resiliency cost recovery" surcharge. The costs to be recovered through such a surcharge shall be detailed in a filing to the commission, and each corporation shall propose a method of allocating costs to customer classes in said filing. Such costs for capital projects in service may include an annual depreciation cost, calculated at the corporation's approved depreciation rates and a return on the undepreciated balance of the plant in service calculated at the corporation's approved weighted average cost of capital. In addition, all unrecovered expense balances, net of taxes, shall also earn carrying charges at the corporation's approved weighted average cost of capital. The commission may roll any unrecovered costs associated with such surcharge into base rates when the corporation's base rates are reset.

The commission shall identify in any order approving or modifying a corporation's rate plan the resiliency and storm hardening component of the revenue requirement on a cost and/or percentage basis.

(h) Each corporation shall establish a utility climate resilience working group no later than one year after the effective date of this subdivision. Such working group shall advise and make recommendations to the corporation and the commission on the development and implementation of the corporation's climate resilience plan. The corporation shall, in consultation with the department, include in the working group representatives from municipalities, customer advocacy groups, and energy and environmental advocacy organizations. The working group shall meet at least twice annually.

(i) Each corporation shall provide to the county executive or the chief elected official of a county for each county within its service territory the most recent approved copy of the climate resilience plan required pursuant to this subdivision. For the purposes of an electric corporation operating within the city of New York, such corporation shall provide the most recent approved climate resilience plan with both the mayor's office and emergency management office of the city of New York.

(j) The commission shall provide access to such climate resilience plans pursuant to article six of the public officers law.

(k) Beginning December first of the year after the second full year of implementation of a climate resilience plan and biennially thereafter, the corporation shall file with the commission a report on the status of its activities to comply with the plan, which report the commission shall, after review, submit to the governor and the legislature. The report shall include, but is not limited to, identification of all storm protection and resiliency activities completed or planned for completion, the actual costs and rate impacts associated with completed activities as compared to the estimated costs and rate impacts for those activities, the estimated costs and rate impacts associated with activities planned for completion, and the governance, planning, and operational activities undertaken by the corporation in furtherance of the climate resilience plan.

(l) The commission shall promulgate any necessary rules and regulations to implement and administer the provisions of this subdivision.

30. Promulgate rules and regulations to direct electric or gas corporations to develop and implement tools to monitor: (a) operational control networks giving the electric or gas corporation the ability to undertake the detection of unauthorized network behavior related to such corporation's industrial control systems, as defined in subdivision fifteen of section 1-103 of the energy law; and (b) monitor and protect customer privacy, including but not limited to customer electric and gas consumption data from unauthorized disclosure. On or before December thirty-first, two thousand twenty-three and not later than five years after such date, and every five years thereafter, the commission shall provide a report to the governor, the temporary president of the senate, the speaker of the assembly, the chairperson of the assembly standing committee on energy, and the chairperson of the senate standing committee on energy and telecommunications reviewing electric or gas corporation compliance with this section, including, as necessary, recommendations to the legislature if the commission determines that additional measures are required to ensure the effective protection of electric or gas corporation critical infrastructure.

31. Promulgate rules and regulations to direct electric or gas corporations to require the installation of advanced metering infrastructure that connects to the electric or gas distribution network operated by such electric or gas corporation be permitted only so long as access to the advanced meter infrastructure enables two-way communication between utilities and meters through the optimal communications network option, such as a wireless network, that is shared by at least two meter providers operating within the United States of America, if the commission determines that it is cost effective and technically feasible to do so.

32. Customer electric and gas consumption data shall be considered confidential. The commission shall have the authority to promulgate rules and regulations to require gas or electric corporations to take necessary measures to protect such data from unauthorized or unconsented disclosure.

* 33. (a) Following any commission decision that establishes a change in rates that results in an energy burden greater than three percent for residential electric service or greater than three percent for residential gas service, or greater than six percent for residential combination electric and gas service, the commission shall have the power to install an independent affordability monitor inside such gas corporation, electric corporation, or combination gas and electric corporation for a time period determined by the commission but for no less than one year and which shall not continue beyond any commission decision establishing a new schedule of rates or charges which constitutes a major change, pursuant to subdivision twelve of this section other than to complete its responsibilities pursuant to paragraph (c) of this subdivision relevant to the filing for which it was installed.

(b) In every case in which the commission installs an affordability monitor, it shall have authority to select the monitor, who shall not be affiliated with, or have a financial interest in such corporation or be an existing employee of the department, to enter into a contract with the monitor, and ensure the monitor's services are paid for. Such contract shall provide further that the monitor shall work for and under the direction of the commission according to such terms as the commission may determine are necessary and reasonable.

(c) (i) Such affordability monitor shall have power to examine records, including but not limited to, the accounts, books, contracts, property, assets, procurement history, taxes, accounting, operations, maintenance, past and present customer billing systems and related documents, customer complaints, as well as financial documents, reports, and papers of the corporation and shall have full access to management meetings and related records in order to review the corporation's operations and expenditures, and the corporation shall provide such materials and such access to the affordability monitor.

(ii) The affordability monitor shall report to the commission at least biannually the primary cost drivers that caused the energy burden to rise more than three percent for residential electric service or greater than three percent for residential gas service, or greater than six percent for residential combination gas and electric service, opportunities for cost savings and residential rate reduction, recommended changes in corporation operations, incentives, practices, or policies to achieve savings, and other information the affordability monitor determines relevant. Such report shall be publicly available and posted prominently on the commission's website.

(iii) The commission upon receiving a report from the affordability monitor shall review the primary cost drivers and identified opportunities for savings.

(iv) The commission in its review shall make a determination of whether the opportunities for savings detailed by the energy affordability monitor merit implementation. If the commission determines that any of the identified opportunities for savings are not efficient, just and reasonable, or would impact safety or reliability, or otherwise do not merit implementation, the commission shall explain the basis for that determination. If the commission determines an opportunity for savings merits implementation, it shall issue an order within 180 days to implement such opportunity.

(d) Any gas corporation, electric corporation, or combination electric and gas corporation shall promptly and comprehensively comply with any investigation or investigation request.

(e) (i) If the energy affordability monitor discovers evidence of widespread errors, including but not limited to errors in billing, rates, charges, and compensation for employees or third-party contractors, miscategorization of expenses, fraud, or wrongdoing, and the department, after reviewing the evidence from the monitor, determines such evidence constitutes a credible and actionable allegation of a violation of the law, the department shall initiate an investigation or enforcement action.

(ii) The commission shall determine whether the corporation was at fault and shall take any corrective action it deems appropriate. Any settlement, interest, fees, penalties or disgorged profits collected by the commission as a result of investigations pursuant to this subdivision shall be returned to impacted residential and small non-residential ratepayers in the form of on-bill credits.

* NB Effective January 1, 2027

§ 66-a. Conservation of gas, declaration of policy, delegation of

power. 1. It is hereby declared to be the policy of this state that when there develops in any area a situation under which a gas corporation supplying gas to such area is unable to meet the reasonable needs of its consumers and of persons or corporations applying for new or additional gas service, the available supply of gas shall be allocated among the customers of such gas corporation, in such manner as may be necessary to protect public health and safety and to avoid undue hardship, pursuant to rules and regulations as may be adopted by the commission, and that to carry out this declared policy the jurisdiction of the public service commission should be clarified.

2. Notwithstanding the provisions of any statute or any franchise held by a gas corporation, the commission shall have power, upon the finding that there exists such a shortage of gas in any area in the state, that the gas corporation supplying such area is unable and will be unable to secure or produce sufficient gas to meet the reasonable needs of its customers and of persons or corporations applying for new or additional gas service, to require such corporation to immediately discontinue the supplying of gas to additional customers or of supplying additional service to present customers, for such purpose or purposes as may be designated by the commission, or to customers using gas for a purpose prohibited by the commission pursuant to this act, and that upon the finding that the supply of gas available is and will be insufficient to supply the demands of all consumers receiving service, to require such gas corporation to curtail or discontinue service to any or all classes of customers of such gas corporation. In imposing such a direction or requirement, the commission shall give consideration first to existing domestic uses and uses deemed to be necessary by the commission to protect public health and safety and to avoid undue hardship and shall be limited to the period of the emergency provided that the gas corporation affected shall make such restriction, curtailing or discontinuance applicable to all customers or applicants for service in a like class. If the commission determines that good cause exists for supplying service to additional customers or for supplying additional service to some existing customers, notwithstanding the curtailment or discontinuance of service to other existing customers, it shall, to the extent feasible, allocate gas with equal priority to new or additional

domestic uses of gas and commercial or industrial processes which require gas because there is no practical substitute for it in such proportion as the commission determines to be reasonable. Provided that the commission shall be permitted, after public hearing, to authorize any natural gas produced from lands under the waters of Lake Erie to be used for process or feedstock requirements. The commission is authorized to adopt such rules, regulations and orders as are necessary or appropriate to carry out these delegated powers.

3. In carrying out the delegated powers provided for in this section, the commission shall, to the extent practicable, determine and establish gas conservation measures or standards. The commission may require compliance with such measures or standards as a condition of receiving service.

§ 66-b. Continuation of gas service. 1. Notwithstanding the provisions of section sixty-six-a of this chapter, no gas customer shall be denied a continuation of gas service following the demolition and reconstruction of any structure or structures owned by any such customer, provided that any such reconstructed structure or structures are on the same parcel of real property, reconstruction commences within one year of demolition and the new structure or structures do not materially increase the customer's gas usage.

§ 66-c. Conservation of energy. 1. It is hereby declared to be the policy of this state that it is in the public interest to encourage, at rates just and reasonable to electric and steam corporation ratepayers, the development of alternate energy production facilities, co-generation facilities and small hydro facilities in order to conserve our finite and expensive energy resources and to provide for their most efficient utilization when such facilities are needed to fulfill the energy, capacity or other electric system needs of this state, as determined by the most recent state energy plan. In furtherance of this declared policy, the commission shall encourage the participation of utilities in co-generation, small hydro and alternate energy production facilities either directly or through subsidiaries formed pursuant to the provisions of subdivisions three and four of this section. In addition, the commission shall require any electric corporation or steam corporation (a) to enter into long-term contracts to purchase or wheel electricity or useful thermal energy from any alternate energy production, small hydro or co-generation facility, with an electric generating capacity of up to eighty megawatts, under such rates, terms and conditions as the commission shall find just and economically reasonable to the corporation's ratepayers, non-discriminatory to co-generators, small hydro producers and alternate energy producers and further the public policy set forth herein; and (b) to provide supplemental or back-up power to any alternate energy production, small hydro or co-generation facility on a non-discriminatory basis and at just and reasonable rates; provided, however, that nothing contained in this section shall require any such electric or steam corporation to construct any additional facilities for such purposes unless such facilities are paid for in full by the owner or operator of the co-generation, small hydro or alternate energy production facility.

2. Notwithstanding any other provision of law, the minimum sales price for purchased electricity from any alternate energy production facility, co-generation facility or small hydro facility of six cents per kilowatt hour for each utility, as established by chapter eight hundred forty-three of the laws of nineteen hundred eighty-one, shall remain in full force and effect (a) for any contract fully executed by the parties and filed with the commission on or before June twenty-sixth, nineteen hundred ninety-two and (i) providing for the purchase of electricity at such minimum sales price, or (ii) providing for the purchase of electricity at a utility tariff rate referencing a statutory minimum sales price, or (iii) providing for the reconciliation or recalculation of such contract's purchase price by comparison to such statutory minimum sales price or tariff rate, for the duration of any such contract and subject to the terms and conditions of such contract and performance thereunder, provided, however, that such minimum sales price shall be implemented in accordance with the policies and conditions established by the commission, and (b) for any such facility concerning which a final and unappealable judgment of a court of New York state,

rendered prior to January first, nineteen hundred eighty-seven, determined that such facility was entitled to receive such minimum sales price, provided that such minimum sales price shall be applicable to all purchased electricity from such facility irrespective of any modifications or additions to such facility that may be necessary to enable such facility to achieve the electric power production capacity of such facility as set forth in an order of the Federal Energy Regulatory Commission issued prior to January first, nineteen hundred eighty-seven granting an application for certification of such facility as a qualifying facility, and (c) for any such facility which has been producing electricity in addition to the electricity which is the subject of a contract previously entered into with an electric corporation for such facility, which contract provides for the purchase of electricity in accordance with subdivision (a) of this section; provided, however, that the minimum sales price shall only be paid for electricity that does not exceed the maximum annual amount of electricity produced by such facility as of the effective date of this subdivision and does not exceed the amount of electricity provided for in the contract by more than ten percent, and provided, however, that such minimum sale price shall be implemented for the duration of the contract in accordance with policies and conditions established by the commission.

3. Notwithstanding any other provision of law, any gas, electric or steam corporation shall, upon application to the commission and the commission's approval thereof, be authorized to establish, and to finance out of retained earnings, a subsidiary corporation, which corporation shall have as its sole purpose, except as provided in subdivision five of this section, the ownership and/or operation, in whole or in part, of one or more co-generation, small hydro or alternate energy production facilities. Within a reasonable time after its receipt of a complete application to establish such subsidiary or to finance such subsidiary out of retained earnings, the commission shall approve such application unless it shall find that the proposed subsidiary or financing may affect the corporation's ability to meet its obligation to provide safe and adequate service at just and reasonable charges to its own customers. Any such subsidiary corporation shall be exempt from any

regulation by the commission under this chapter and the commission shall have no authority to regulate any rates, charges, service terms or service practices relating to any electricity, gas or steam produced by any such subsidiary corporation at any such facility except as specifically provided in subdivision one of this section.

4. (a) Any subsidiary corporation established by an electric, gas or steam corporation pursuant to the authorization of subdivision three of this section shall comply with the following criteria:

(1) If any such subsidiary shall obtain the use of transmission facilities or any services necessary for the sale or purchase of the energy generated from its co-generation, small hydro or alternate energy production facilities from any affiliated gas, electric or steam corporation, it shall do so only pursuant to a tariff filed with the commission by such gas, electric or steam corporation;

(2) Any such subsidiary corporation shall operate independently from any affiliated gas, electric or steam corporation in the establishment and operation of co-generation, small hydro or alternate energy production facilities and in the sale of energy produced from such facilities. It shall maintain its own books of account, have separate officers, utilize separate operating, marketing, installation, and maintenance personnel, and utilize separate computer facilities;

(3) Any such subsidiary corporation shall deal with any affiliated gas, electric or steam corporation only on an arm's length basis;

(4) All transactions between such a subsidiary corporation and an affiliated gas, electric or steam corporation which involve the transfer, either directly or by accounting or other record entries, of money, personnel, resources, other assets or anything of value, shall be reduced to writing. A copy of any contract, agreement, or other arrangement entered into between such entities shall be filed by the affiliated gas, electric or steam corporation with the commission within thirty days after the contract, agreement, or other arrangement is made. This provision shall not apply to any transaction governed by the provision of any existing state or federal law, regulation or tariff.

(b) Any gas, electric or steam corporation affiliated with such a subsidiary corporation shall:

(1) not engage in promoting the sale of energy from the subsidiary's

co-generation, small hydro or alternate energy production facilities; and

(2) not provide to any such subsidiary corporation any customer proprietary information, unless such information is made available to any member of the public upon request on the same terms and conditions under which such information is made available to the subsidiary.

(c) The rate of return for any gas, electric or steam corporation affiliated with any such subsidiary corporation shall not be based in whole or in part on the capitalization of such subsidiary nor shall the revenue requirements for any such gas, electric or steam corporation be based on any transactions between the gas, electric or steam corporation and its subsidiary which are not in compliance with paragraph a of this subdivision.

5. A subsidiary corporation established pursuant to the authorization of subdivision three of this section may have as an additional purpose the ownership and/or operation, in whole or in part, of one or more facilities located outside this state for the production of electric power and/or thermal energy, together with any land, work, system, building, improvement, instrumentality or thing necessary or convenient to the construction, completion or operation of any such facility, including also such transmission or distribution facilities located outside this state as may be necessary to conduct electricity or useful thermal energy to users located at or near a project site. Except as expressly provided herein, nothing in this subdivision shall be construed to modify, alter, limit, restrict, abrogate or enlarge the application of any other provision of this section. For the purposes of this subdivision, the term "facilities located outside this state for the production of electrical power and/or thermal energy" shall mean and include each of the following:

(i) Any "small hydro facility" as defined in subdivision two-c of section two of this chapter;

(ii) Any solar, wind turbine, waste management resource recovery, refuse-derived fuel or wood-burning facility which produces electricity, gas or useful thermal energy;

(iii) Any facility which is fueled by coal, gas, wood, alcohol, solid waste refuse-derived fuel, water or oil to the extent oil is used as a backup fuel for such facility, and which simultaneously or sequentially produces either electrical or shaft horsepower and useful thermal energy which is used solely for industrial and/or commercial purposes; and

(iv) Any facility which is fueled by coal, gas, wood, alcohol, solid waste refuse-derived fuel, water or oil, and which produces electrical power, shaft horsepower or thermal energy which is used solely for industrial and/or commercial purposes.

§ 66-d. Contract carrier authorization. 1. For purposes of this section the term natural gas shall mean natural gas produced within the state or transported within the state no matter where produced for consumption in the state.

2. The commission, upon its own initiative or upon application by a natural gas producer or a consumer of natural gas in any year and after notice and hearing shall, upon such terms and subject to such conditions as the commission considers just and reasonable, have the authority to order any gas corporation to transport or contract with others to transport gas under contract for sale by such producer or owned by such consumer provided that, the commission finds that the gas corporation has available capacity, that no undue burden shall be placed upon the gas corporation or its ratepayers and that the ability of the gas corporation to render adequate service to its customers is not impaired.

§ 66-e. Monitoring of natural gas procurement. 1. The commission shall continue to monitor natural gas procurement contracts and practices of gas corporations and determine whether any of such practices or provisions of any such contracts are anti-competitive in force or effect or otherwise contrary to the public interest. Such monitoring shall include an examination of the prevailing market prices in the state for gas supplies including domestic producer prices for natural gas.

2. In any application for a rate increase, a gas corporation shall show all sources of its gas supply and anticipated changes thereof and demonstrate that other dependable and adequate lower priced supplies are

not available. Where any of such sources is an affiliated company, the applicant shall have the burden to prove all related natural gas purchase or transportation prices and conditions are fair and reasonable.

3. The commission shall, upon complaint or upon its own motion, investigate the circumstances under which existing gas procurement contracts were made. Where the commission concludes that a gas corporation was imprudent in the making or administration of such contract, the commission shall exercise its authority to limit the rates charged by such gas corporation to amounts no higher than those which would have been justified had such corporation acted in a prudent manner.

§ 66-f. Purchase and procurement of natural gas at lowest available price. 1. The commission shall have the authority to direct any gas corporation subject to the jurisdiction of the commission to purchase or procure natural gas at the lowest available price as determined by the commission.

2. A gas corporation shall be required to purchase supplies of natural gas whenever a natural gas producer provides the gas corporation with at least six months prior notice of the availability of such gas, and the delivered cost of such gas is equal to or less than the highest delivered cost of natural gas produced outside the state which the gas corporation would otherwise purchase or acquire, adjusted to reflect substantive differences, if any, in the terms and conditions applicable to the sale of such gas over the period of availability of the natural gas; provided, however, that no gas corporation shall be required to purchase natural gas where it can demonstrate such purchase would have an adverse impact upon its ratepayers, which cannot be reasonably mitigated.

3. A gas corporation shall respond to a notice of availability of supplies of natural gas at a specified delivered cost provided by a producer of such gas within one month of the receipt of such notice,

and, if it indicates its intent not to purchase such supplies, shall provide in detail its reasons therefor. A natural gas producer may petition the public service commission, within fifteen days of the receipt of a gas corporation's response, to order such gas corporation to comply with subdivision one of this section. Such petition shall contain sufficient information to demonstrate the petitioner's ability to provide the supplies of natural gas offered for sale to the gas corporation. A copy of such petition shall also be served upon such gas corporation. Within twenty-one days of the receipt of such a petition, a gas corporation shall file such information as is necessary to demonstrate that the purchase of natural gas during the period of availability at the specified delivered cost of such gas would have an adverse impact upon its ratepayers. The petitioner and others shall have the opportunity to comment upon the filing by the gas corporation within twenty-one days of such filing. The commission shall take final action on any such petition within forty days after the date upon which the petitioner's comments are due. The commission may require a gas corporation to purchase all or a portion of the supplies of natural gas offered by the petitioner during the period of availability at the specified delivered cost, or at such other cost as will not result in an adverse impact upon such gas corporation's ratepayers. Nothing in this section shall require a producer of natural gas to sell such gas to a gas corporation at a cost other than that specified in its notice of availability.

§ 66-g. Sale of indigenous natural gas for generation of electricity. 1. The commission shall require an electric corporation to enter into long-term contracts to purchase or wheel electricity produced from indigenous natural gas supplies at the well site under such terms and conditions as the commission shall find just and economically reasonable to such corporation's customers, non-discriminatory to the producers of electricity from indigenous natural gas supplies, and furthers the public policy of this section and state energy policy; provided, however, the minimum sales price shall be no lower than the electric corporation's avoided cost. For the purpose of this section indigenous natural gas shall mean natural gas produced from wells located within the state.

2. Nothing contained in this section shall require an electric or gas corporation to construct any additional facilities to satisfy its obligations hereunder, unless such facilities are paid for in full by the producer or producers of indigenous natural gas.

3. Notwithstanding any other provision of law, a producer of indigenous natural gas whose natural gas activities are limited to the production, sale and/or transportation of indigenous natural gas to a gas corporation or a gas pipeline, the production, sale and/or transportation of indigenous natural gas to the facilities of less than twenty industrial or commercial users, the production, sale and/or transportation of natural gas to a co-generation or electrical generating facility, the production of electricity from indigenous natural gas at the well site for sale to an electric corporation, or any combination thereof, shall not be subject to the jurisdiction of the commission except (a) with respect to the safety of the construction, operation or maintenance of its gas plant and the certification of major utility transmission facilities under article VII of this chapter and (b) that such producer of indigenous natural gas that does not retain or transport such gas for his own use but rather sells or transports such gas to industrial or commercial users shall maintain a record of the volumes of such gas sold or transported to such users. Such producer shall submit these records annually to the commission on or before the thirty-first day of March.

§ 66-h. Certain electric corporations; payment equivalent to tax. The commission shall require each electric corporation that purchases electricity from an energy business as defined in subdivision (c) of section three hundred one-i of the tax law (1) that is a co-generation facility, as such term is defined in subdivision two-a of section two of this chapter, or (2) that is a qualifying facility, as such term is defined by section two hundred one of the Public Utility Regulatory Policies Act of 1978 (Public Law 95-617) that is a co-generation facility, or (3) that has executed or will execute a contract for the sale of electricity through negotiation with an electric corporation or an auction conducted by an electric corporation pursuant to a competitive bidding plan approved by the commission, to pay, in addition to payments made for such purchased electricity under a contract with such electric corporation, (i) an amount equal to the tax imposed under article thirteen-A of the tax law with respect to each Mcf of natural gas used to generate such electricity and (ii) with respect to contracts for the sale of electricity and/or steam executed prior to January first, two thousand, any sales and compensating use taxes imposed on natural gas used in the production of electricity and/or steam by or pursuant to the authority of section eleven hundred seven or subdivision (a) of section twelve hundred ten of the tax law, unless such sales and compensating use taxes imposed are otherwise accounted for in the payments the electric corporation makes under that contract; provided, however, that any such amount paid by such electric corporation shall be recovered through a fuel adjustment mechanism authorized by the commission; provided, further, that such amount shall not be recovered from charges for residential use provided by such electric corporation.

§ 66-j. Net energy metering for residential solar, farm waste, non-residential solar electric generating systems, micro-combined heat and power generating equipment, fuel cell electric generating equipment, fuel-flexible linear generator electric generating equipment, and micro-hydroelectric generating equipment. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Customer-generator" means: (i) a residential customer of an electric corporation, who owns or operates solar electric generating equipment located and used at his or her residence; (ii) a customer of an electric corporation, who owns or operates farm waste electric generating equipment located and used at his or her "farm operation," as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law; (iii) a non-residential customer of an electric corporation which owns or operates solar electric generating equipment located and used at its premises; (iv) a residential customer of an electric corporation who owns, leases or operates micro-combined heat and power generating equipment located on the customer's premises;

(v) a residential customer of an electric corporation who owns, leases or operates fuel cell generating equipment or fuel-flexible linear generator electric generating equipment located on the customer's premises; and (vi) a non-residential customer of an electric corporation who owns, leases or operates fuel cell generating equipment or fuel-flexible linear generator electric generating equipment located and used at the customer's premises; (vii) a residential customer of an electric corporation, who owns or operates micro-hydroelectric generating equipment located and used at his or her residence; (viii) a non-residential customer of an electric corporation which owns or operates micro-hydroelectric generating equipment located and used at its premises; and (ix) a non-residential customer of an electric corporation which owns or operates farm waste electric generating equipment located and used at its premises.

(b) "Net energy meter" means a meter that measures the reverse flow of electricity to register the difference between the electricity supplied by an electric corporation to the customer-generator and the electricity provided to the corporation by that customer-generator.

(c) "Net energy metering" means the use of a net energy meter to measure, during the billing period applicable to a customer-generator, the net amount of electricity supplied by an electric corporation and provided to the corporation by a customer-generator.

(d) "Solar electric generating equipment" means a photovoltaic system (i) (A) in the case of a residential customer (other than a farm utilizing a residential meter), with a rated capacity of not more than twenty-five kilowatts; (B) in the case of a customer who owns or operates a farm operation as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law utilizing a residential meter with a rated capacity of not more than one hundred kilowatts; and (C) in the case of a non-residential customer, with a rated capacity of not more than two thousand kilowatts; and (ii) that is manufactured, installed, and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

(e) "Farm waste electric generating equipment" means equipment that generates electric energy from biogas produced by the anaerobic digestion of agricultural waste, such as livestock manure, farming wastes and food processing wastes with a rated capacity of not more than two thousand kilowatts, that is:

(i) manufactured, installed, and operated in accordance with applicable government and industry standards;

(ii) connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities;

(iii) operated in compliance with any standards and requirements established under this section;

(iv) fueled at a minimum of ninety percent on an annual basis by biogas produced from the anaerobic digestion of agricultural waste such as livestock manure materials, crop residues, and food processing waste; and

(v) fueled by biogas generated by anaerobic digestion with at least fifty percent by weight of its feedstock being livestock manure materials on an annual basis.

(f) "Micro-combined heat and power generating equipment" means an integrated, cogenerating building heating and electrical power generation system, operating on any fuel and of any applicable engine, fuel cell, fuel-flexible linear generator, or other technology, with a rated capacity of at least one kilowatt and not more than ten kilowatts electric and any thermal output that at full load has a design total fuel use efficiency in the production of heat and electricity of not less than eighty percent, and annually produces at least two thousand kilowatt hours of useful energy in the form of electricity that may work in combination with supplemental or parallel conventional heating systems, that is manufactured, installed and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities.

(g) "Fuel cell electric generating equipment" means:

(i)(A) in the case of a residential customer, a solid oxide, molten carbonate, proton exchange membrane or phosphoric acid fuel cell with a combined rated capacity of not more than ten kilowatts; and (B) in the case of a non-residential customer, a solid oxide, molten carbonate, proton exchange membrane or phosphoric acid fuel cell with a combined rated capacity of not more than two thousand kilowatts; and

(ii) that is manufactured, installed and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in parallel with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

(h) "Micro-hydroelectric generating equipment" means a hydroelectric system (i) (A) in the case of a residential customer, with a rated capacity of not more than twenty-five kilowatts; and (B) in the case of a non-residential customer, with a rated capacity of not more than two thousand kilowatts; and (ii) that is manufactured, installed, and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in conjunction with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

(i) "Fuel-flexible linear generator electric generating equipment" or "fuel-flexible linear generator" means an integrated system consisting of oscillators, cylinders, electricity conversion equipment and associated balance of plant components that directly convert the linear motion of the oscillators into electricity and which has a combined rated capacity of not more than two thousand kilowatts.

(j) "Flexible interconnection" means the use of smart-grid technology to monitor and actively manage distributed energy resources.

2. Interconnection and net energy metering. An electric corporation shall provide for the interconnection of solar and farm waste electric generating equipment, micro-combined heat and power generating equipment, fuel cell electric generating equipment, fuel-flexible linear generator electric generating equipment and micro-hydroelectric generating equipment owned or operated by a customer-generator and for net energy metering, provided that the customer-generator enters into a net energy metering contract with the corporation or complies with the corporation's net energy metering schedule and complies with standards and requirements established under this section.

2-a. Flexible interconnection. (a) The commission shall direct electric corporations to develop proposals for a flexible interconnection program to be established in the state. Such proposals shall demonstrate how to implement flexible interconnection without increasing costs to ratepayers of distributed renewable energy resources or increasing the cost of maintaining and operating the distribution system. The commission shall solicit public comments on the electric corporation proposals.

(b) Upon review of the proposals and comments received, if the commission determines there is a viable proposal that would not meaningfully increase costs to ratepayers or the cost of maintaining and operating the distribution system, the commission shall commence a proceeding to develop such a proposal and establish guidelines and timelines for the implementation of flexible interconnection procedures.

3. Conditions of service. (a) (i) On or before three months after the effective date of this section, each electric corporation shall develop a model contract and file a schedule that establishes consistent and reasonable rates, terms and conditions for net energy metering to customer-generators, according to the requirements of this section. The commission shall render a decision within three months from the date on which the schedule is filed.

(ii) On or before three months after the effective date of this subparagraph, each electric corporation shall develop a model contract and file a schedule that establishes consistent and reasonable rates, terms and conditions for net energy metering to non-residential customer generators, according to the requirements of this section. The commission shall render a decision within three months of the date on which the schedule is filed.

(iii) Each electric corporation shall make such contract and schedule available to customer-generators on a first come, first served basis, until the total rated generating capacity for solar and farm waste electric generating equipment, micro-combined heat and power generating equipment, fuel cell electric generating equipment, fuel-flexible linear generator electric generating equipment and micro-hydroelectric generating equipment owned, leased or operated by customer-generators in the corporation's service area is equivalent to one percent of the corporation's electric demand for the year two thousand five, as determined by the department.

(b) Nothing in this subdivision shall prohibit a corporation from providing net energy metering to additional customer-generators. The commission shall have the authority, after January first, two thousand twelve, to increase the percent limits if it determines that additional net energy metering is in the public interest.

(c) In the event that the electric corporation determines that it is necessary to install a dedicated transformer or transformers, or other equipment to protect the safety and adequacy of electric service provided to other customers, a customer-generator shall pay the electric corporation's actual costs of installing the transformer or transformers, or other equipment:

(i) In the case of a customer-generator who owns or operates solar electric generating equipment, micro-combined heat and power generating equipment, fuel cell electric generating equipment, fuel-flexible linear generator electric generating equipment or micro-hydroelectric generating equipment located and used at his or her residence, or a non-residential customer-generator who owns or operates solar electric generating equipment with a rated capacity of not more than twenty-five kilowatts, up to a maximum amount of three hundred fifty dollars;

(ii) In the case of a customer-generator who owns or operates farm waste electric generating equipment located and used at his or her "farm operation," up to a total amount of five thousand dollars per "farm operation"; and

(iii) In the case of a non-residential customer-generator who owns or operates solar electric generating equipment or fuel cell electric generating equipment or fuel-flexible linear generator electric generating equipment or micro-hydroelectric generating equipment or farm waste generating equipment as described in subparagraph (ix) of paragraph (a) of subdivision one of this section, with a rated capacity of more than twenty-five kilowatts located and used at its premises, such cost shall be as determined by the electric corporation subject to review, upon the request of such customer-generator, by the department.

(d) An electric corporation shall impose no other charge or fee, including back-up, stand by and demand charges, for the provision of net energy metering to a customer-generator, except as provided in paragraph (d) of subdivision four of this section.

(e) A customer who owns or operates a farm operation as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law, or a non-residential customer-generator as defined by subparagraph (iii) of paragraph (a) of subdivision one of this section that locates solar electric generating equipment or farm waste electric generating equipment with a net energy meter on property owned or leased by such customer-generator may designate all or a portion of the net metering credits generated by such equipment to meters at any property owned or leased by such customer-generator within the service territory of the same electric corporation to which the customer-generator's net energy meters are interconnected and being within the same load zone as determined by the location based marginal price as of the date of initial request by the customer-generator to conduct net metering. The electric corporation will credit the accounts of the customer by applying any credits to the highest use meter first, then subsequent highest use meters until all such credits are attributed to the customer. Any excess credits shall be carried over to the following month.

(f) A customer who owns or operates a farm operation as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law, or a non-residential customer-generator as defined by subparagraph (viii) of paragraph (a) of subdivision one of this section that locates micro-hydroelectric generating equipment with a net energy meter on property owned or leased by such customer-generator may designate all or a portion of the net metering credits generated by such equipment to meters at any property owned or leased by such customer-generator within the service territory of the same electric corporation to which the customer-generator's net energy meters are interconnected and being within the same load zone as determined by the location based marginal price as of the date of initial request by the customer-generator to conduct net metering. The electric corporation will credit the accounts of the customer by applying any credits to the highest use meter first, then subsequent highest use meters until all such credits are attributed to the customer. Any excess credits shall be carried over to the following month.

(g) A customer who owns or operates a farm operation as such term is defined in subdivision eleven of section three hundred one of the agriculture and markets law, or a non-residential customer-generator as defined by subparagraph (viii) of paragraph (a) of subdivision one of this section that locates fuel cell electric generating equipment or fuel-flexible linear generator electric generating equipment with a net energy meter on property owned or leased by such customer-generator may designate all or a portion of the net metering credits generated by such equipment to meters at any property owned or leased by such customer-generator within the service territory of the same electric corporation to which the customer-generator's net energy meters are interconnected and being within the same load zone as determined by the location based marginal price as of the date of initial request by the customer-generator to conduct net metering. The electric corporation will credit the accounts of the customer by applying any credits to the highest use meter first, then subsequent highest use meters until all such credits are attributed to the customer. Any excess credits shall be carried over to the following month.

(h) A non-residential customer-generator as defined by subparagraph (ix) of paragraph (a) of subdivision one of this section that locates farm waste generating equipment with a net meter on property owned or leased by such customer-generator may designate all or a portion of the net metering credits generated by such equipment to meters at any property owned or leased by such customer-generator within the service territory of the same electric corporation to which the customer-generator's net energy meters are interconnected and being within the same load zone as determined by the location based marginal price as of the date of initial request by the customer-generator to conduct net metering. The electric corporation will credit the accounts of the customer by applying any credits to the highest use meter first, then subsequent highest use meters until all such credits are attributed to the customer. Any excess credits shall be carried over to the following month.

4. Rates. An electric corporation shall use net energy metering to measure and charge for the net electricity supplied by the corporation

and provided to the corporation by a customer-generator, according to these requirements:

(a) In the event that the amount of electricity supplied by the corporation during the billing period exceeds the amount of electricity provided by a customer-generator, the corporation shall charge the customer-generator for the net electricity supplied at the same rate per kilowatt hour applicable to service provided to other customers in the same service class which do not generate electricity onsite.

(b) In the event that the amount of electricity produced by a customer-generator during the billing period exceeds the amount of electricity used by the customer-generator, the corporation shall apply a credit to the next bill for service to the customer-generator for the net electricity provided at the same rate per kilowatt hour applicable to service provided to other customers in the same service class which do not generate electricity onsite, except for micro-combined heat and power or fuel cell or fuel-flexible linear generator customer-generators or farm waste generating equipment customer-generators as described in subparagraph (ix) of paragraph (a) of subdivision one of this section, who will be credited at the corporation's avoided costs. The avoided cost credit provided to micro-combined heat and power or fuel cell or fuel-flexible linear generator customer-generators or farm waste generating equipment customer-generators as described in subparagraph (ix) of paragraph (a) of subdivision one of this section shall be treated for ratemaking purposes as a purchase of electricity in the market that is includable in commodity costs.

(c) At the end of the year or annualized over the period that service is supplied by means of net energy metering, the corporation shall promptly issue payment at its avoided cost to the customer-generator, as defined in subparagraph (i), (ii) or (ix) of paragraph (a) of subdivision one of this section, for the value of any remaining credit for the excess electricity produced during the year or over the annualized period by the customer-generator.

(d) In the event that the corporation imposes charges based on kilowatt demand on customers who are in the same service class as the customer-generator but which do not generate electricity on site, the corporation may impose the same charges at the same rates to the customer-generator, provided, however, that the kilowatt demand for such demand charges is determined by the maximum measured kilowatt demand actually supplied by the corporation to the customer-generator during the billing period.

5. Safety standards. (a) On or before three months after the effective date of this section, each electric corporation shall establish standards that are necessary for net energy metering and the interconnection of residential solar or farm waste electric generating equipment, micro-combined heat and power generating equipment and fuel cell electric generating equipment, fuel-flexible linear generator electric generating equipment and micro-hydroelectric generating equipment to its system and that the commission shall determine are necessary for safe and adequate service and further the public policy set forth in this section. Such standards may include but shall not be limited to:

(i) equipment necessary to isolate automatically the residential solar, farm waste, micro-combined heat and power and fuel cell electric generating system and fuel-flexible linear generator electric generating equipment and micro-hydroelectric generating equipment from the utility system for voltage and frequency deviations; and

(ii) a manual lockable disconnect switch provided by the customer-generator which shall be located on the outside of the customer's premises and externally accessible for the purpose of isolating the residential solar and farm waste electric generating equipment and micro-hydroelectric generating equipment.

(b) Upon its own motion or upon a complaint, the commission, or its designated representative, may investigate and make a determination as to the reasonableness and necessity of the standards or responsibility for compliance with the standards.

(i) In the case of a customer-generator who owns or operates solar electric generating equipment located and used at his or her residence; an electric corporation may not require a customer-generator to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance provided that the residential solar or farm waste electric generating equipment, micro-combined heat and power generating equipment, fuel cell electric generating equipment, fuel-flexible linear generator electric generating equipment or micro-hydroelectric generating equipment meets the safety standards established pursuant to this paragraph.

(ii) In the case of a customer-generator who owns or operates farm waste electric generating equipment located and used at his or her "farm operation," an electric corporation may not require a customer-generator to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance provided that:

1. the electric generating equipment meets the safety standards established pursuant to this paragraph; and

2. the total rated generating capacity (measured in kW) of farm waste electric generating equipment that provides electricity to the electric corporation through the same local feeder line, does not exceed twenty percent of the rated capacity of that local feeder line.

(iii) In the event that the total rated generating capacity of farm waste electric generating equipment that provides electricity to the electric corporation through the same local feeder line exceeds twenty percent of the rated capacity of the local feeder line, the electric corporation may require the customer-generator to comply with reasonable measures to ensure safety of that local feeder line.

5-a. Safety standards; non-residential solar electric generating equipment and micro-hydroelectric generating equipment. (a) On or before three months after the effective date of this subdivision, each electric corporation shall establish standards that are necessary for net energy metering and the interconnection of non-residential solar electric generating equipment or micro-hydroelectric generating equipment to its system and that the commission shall determine are necessary for safe and adequate service and further the public policy set forth in this section. Such standards may include but shall not be limited to:

(i) equipment necessary to isolate automatically the solar generating system or micro-hydroelectric generating equipment from the utility system for voltage and frequency deviations; and

(ii) a manual lockable disconnect switch provided by the customer-generator which shall be located on the outside of the customer-generator's premises and externally accessible for the purpose of isolating the solar electric generating equipment or micro-hydroelectric generating equipment.

(b) In the event that the total rated generating capacity of solar electric generating equipment or micro-hydroelectric generating equipment that provides electricity to the electric corporation through the same local feeder line exceeds twenty percent of the rated capacity of the local feeder line, the electric corporation may require the customer-generator to comply with reasonable measures to ensure safety of the local feeder line.

(c) Unless otherwise determined to be necessary by the commission, an electric corporation may not require a customer-generator to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance provided that the solar electric generating equipment or micro-hydroelectric generating equipment meets the safety standards established pursuant to this subdivision.

(d) Upon its own motion or upon a complaint, the commission, or its designated representative, may investigate and make a determination as to the reasonableness and necessity of the standards or responsibility for compliance with the standards.

6. Electric restructuring. Notwithstanding the provisions of this section, including, but not limited to paragraph (b) of subdivision three of this section, a customer-generator shall comply with any applicable determinations of the commission relating to restructuring of the electric industry.

6-a. Distributed energy resource capacity expansion. The commission shall consider opportunities for proactive distribution upgrades that create distributed energy resource hosting capacity as part of its energy system planning. The commission shall take into account affordability, grid reliability, customer service goals, and costs.

7. Severability of provisions. The provisions of this section shall be severable and if the application of any clause, sentence, paragraph, subdivision, section, or part thereof to any person or circumstance

shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair, or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part or remainder thereof, as the case may be, to any other person, circumstance, 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.

§ 66-k. Allowance credit trading or sales. 1. Definitions. For purposes of this section, the following terms shall have the following meanings:

(a) "SO2" shall mean sulfur dioxide.

(b) "SO2 allowance credit" shall mean any SO2 credit issued to a generating source within the United States pursuant to the provisions of title four of the Federal Clean Air Act Amendments of 1990.

(c) "select SO2 allowance credits" shall mean any SO2 allowance credit issued to generating sources located within the boundaries of the state of New York.

(d) "acid precipitation source states" shall mean the following states: New Jersey, Pennsylvania, Maryland, Delaware, Virginia, North Carolina, Tennessee, West Virginia, Ohio, Michigan, Illinois, Kentucky, Indiana and Wisconsin.

2. Air pollution mitigation offset. (a) The commission shall assess an air pollution mitigation offset equal to any sum received by any utility corporation, person or entity entering into contracts or engaging in the sale or trade of select SO2 allowance credits for use in operations, permits or for maintaining compliance with SO2 emission requirements in acid precipitation source states, where such select SO2 allowance credits are found to have been transferred to the allowance deductions reserve account by a generating source located in an acid rain source state.

(b) Any utility corporation, person or entity entering into contracts or engaging in the sale or trade of any select SO2 allowance credits shall provide the commission with written notice of any select SO2 allowance transaction with five business days of such transaction. Such notice shall include the purchase price, and shall provide the commission a copy of the Allowance Transfer Form of the United States Environmental Protection Agency upon the issuance and/or signing of said form relating to the sale, exchange or trade by the utility corporation, person or entity, its subsidiaries, agents, employees, successors and assigns of select SO2 allowance credits.

(c) The commission will annually review information contained in the SO2 allowance tracking database operated by the United States Environmental Protection Agency for select SO2 allowances as identified by their unique serial number.

(d) Any moneys collected as an air pollution mitigation offset pursuant to this subdivision shall be deposited in the air pollution mitigation fund established pursuant to section ninety-nine-g of the state finance law and administered by the New York state energy research and development authority pursuant to subdivision ten-a of section eighteen hundred fifty-four of the public authorities law.

3. Exemptions. (a) The commission, in consultation with the department of environmental conservation, shall produce by rule or order a model restrictive covenant for use by any utility corporation, person or entity entering into contracts or engaging in the sale or trade of select SO2 allowance credits. The model restrictive covenant will be a self-enforcing contract that shall include at a minimum, the requirement to give notice to the commission of any SO2 allowance transaction covered by the restrictive covenant; the requirement that any subsequent holders of the SO2 allowance covered by the restrictive covenant include an identical restrictive covenant in any document relating to the sale or purchase of the covered SO2 allowances; provisions restricting usage in acid precipitation source states; and provisions for the enforcement of the terms of the restrictive covenant by the state of New York.

(b) Any utility corporation, person or entity entering into contracts or engaging in the sale or trade of select SO2 allowance credits may attach a restrictive covenant as a standard provision in any document relating to the sale or trade by the utility corporation, person or entity, its subsidiaries, agents, employees, successors and assigns, of select SO2 allowance credits. Such restrictive covenant must conform with the required provisions of the model restrictive covenant produced by the commission pursuant to this subdivision.

(c) Any utility corporation, person or entity acting in conformance with the provisions of this subdivision shall be exempt from the assessment of an air pollution mitigation offset.

4. Nothing contained in this section shall restrict a utility corporation from use or transfer of SO_2 allowances at New York facilities owned, controlled or operated now or in the future by the utility corporation, its successors, assigns or purchasers that come to own, control or operate such facilities.

5. Nothing in this section shall discourage or prohibit allowance trades (such as for retirement purposes) that will have a beneficial impact on sensitive receptor areas in the state of New York.

6. Nothing within this section will invalidate or subvert any prior contractual commitments and/or obligations made by a utility corporation, person or entity identified in subdivision two of this section prior to the effective date of this section.

§ 66-l. Net energy metering for residential, farm service and non-residential wind electric generating systems. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Customer-generator" means a residential customer, farm service customer or non-residential customer of an electric corporation, who owns or operates wind electric generating equipment.

(b) "Residential customer-generator" means a customer who owns or operates wind electric generating equipment located and used at his or her primary residence.

(c) "Farm service customer-generator" means a customer of an electric corporation who owns and operates wind electric generating equipment located and used on land used in agricultural production as defined in subdivision four of section three hundred one of the agriculture and markets law, and which is also the location of the customer's primary residence.

(c-1) "Non-residential customer-generator" means a customer of an electric corporation which owns or operates wind electric generating equipment located and used at its premises.

(d) "Net energy meter" means a meter that measures the reverse flow of electricity to register the difference between the electricity supplied by an electric corporation to the customer-generator and the electricity provided to the corporation by that customer-generator.

(e) "Net energy metering" means the use of a net energy meter to measure, during the billing period applicable to a customer-generator, the net amount of electricity supplied by an electric corporation or provided to the corporation by a customer-generator.

(f) "Wind electric generating equipment" means one or more wind generators with a combined rated capacity of not more than twenty-five kilowatts for a residential customer-generator, and not more than five hundred kilowatts for a farm service customer-generator, and not more than two thousand kilowatts for a non-residential customer-generator; that is manufactured, installed, and operated in accordance with applicable government and industry standards, that is connected to the electric system and operated in parallel with an electric corporation's transmission and distribution facilities, and that is operated in compliance with any standards and requirements established under this section.

2. Interconnection and net energy metering. An electric corporation shall provide for the interconnection and net energy metering of wind electric generating equipment owned or operated by a customer-generator; provided that the customer-generator enters into a net energy metering contract with the corporation or complies with the corporation's net energy metering schedule and complies with standards and requirements established under this section. The customer-generator shall be responsible for payment of one-half of the expense of such interconnection for wind electric generating equipment with a rated capacity of more than twenty-five kilowatts.

3. Conditions of service. (a) (i) On or before three months after the effective date of this section, each electric corporation shall develop

a model contract and file a schedule that establishes consistent and reasonable rates, terms and conditions for net energy metering to customer-generators, according to the requirements of this section. The commission shall render a decision within three months from the date on which the schedule is filed.

(ii) On or before three months after the effective date of this subparagraph, each electric corporation shall develop a model contract and file a schedule that establishes consistent and reasonable rates, terms and conditions for net energy metering to non-residential customer-generators, according to the requirements of this section. The commission shall render a decision within three months from the date on which the schedule is filed.

(iii) Each electric corporation shall make such contract and schedule available to customer-generators on a first come, first served basis, until the total rated generating capacity for wind electric generating equipment owned or operated by customer-generators in the corporation's service area is equivalent to three-tenths percent of the corporation's electric demand for the year two thousand five, as determined by the department.

(b) Nothing in this subdivision shall prohibit a corporation from providing net energy metering to additional customer-generators. The commission shall have the authority, after January first, two thousand twelve, to increase the percent limits if it determines that additional net energy metering is in the public interest.

(c) In the event that the electric corporation determines that it is necessary to install one or more dedicated transformers or other equipment to protect the safety and adequacy of electric service provided to its other customers, a customer-generator shall pay the electric corporation's actual costs of installing the transformer or transformers or other equipment:

(i) in the case of a residential, farm service or non-residential customer-generator with a combined rated capacity of not more than twenty-five kilowatts, up to a maximum amount of seven hundred fifty dollars; and

(ii) in the case of a farm service customer-generator with a combined rated capacity of not more than five hundred kilowatts, up to a maximum of five thousand dollars; and

(iii) in the case of a non-residential customer-generator with a combined rated capacity of more than twenty-five kilowatts, such cost shall be as determined by the electric corporation subject to review, upon the request of such customer-generator, by the department.

(d) An electric corporation shall impose no other charge or fee, including, but not limited to, back up, stand by or demand charges, for the provision of net metering to a customer-generator.

(e) A customer who owns or operates land used in agricultural production as defined in subdivision four of section three hundred one of the agriculture and markets law, or a non-residential customer-generator as defined by paragraph (c-1) of subdivision one of this section that locates wind electric generating equipment with a net energy meter on property owned or leased by such customer-generator may designate all or a portion of the net metering credits generated by such equipment to meters, at any property owned or leased by such customer-generator within the service territory of the same electric corporation to which the customer-generator's net energy meters are interconnected and being within the same load zone as determined by the location based marginal price as of the date of initial request by the customer-generator to conduct net metering. The electric corporation will credit the accounts of the customer by applying any credits to the highest use meter first, then subsequent highest use meters until all such credits are attributed to the customer. Any excess credits shall be carried over to the following month.

4. Rates. An electric corporation shall use net energy metering to measure and charge for the net electricity supplied by the corporation and provided to the corporation by a customer-generator, according to the following requirements:

(a) In the event that the amount of electricity supplied by the corporation during the billing period exceeds the amount of electricity provided by a customer-generator, the corporation shall charge the customer-generator for the net electricity supplied at the same rate per kilowatt hour applicable to service provided to other customers in the same service class which do not generate electricity on site.

(b) In the event that the amount of electricity produced by a customer-generator during the billing period exceeds the amount of electricity used by the customer-generator, the corporation shall apply a credit to the next bill for service to the customer-generator for the net electricity provided at the same rate per kilowatt hour applicable to service provided to other customers in the same service class which do not generate electricity on site.

(c) At the end of the year or annualized over the period that service is supplied by means of net energy metering, the corporation shall promptly issue payment at its avoided cost to a residential or farm service customer-generator for the value of any remaining credit for the excess electricity produced during the year or over the annualized period by such customer-generator.

(d) In the event that the corporation imposes charges based on kilowatt demand on customers who are in the same service class as the customer-generator but which do not generate electricity on site, the corporation may impose the same charges at the same rates to the customer-generator, provided, however, that the kilowatt demand for such demand charges is determined by the maximum measured kilowatt demand actually supplied by the corporation to the customer-generator during the billing period.

5. Safety standards. (a) Each electric corporation shall establish and maintain standards necessary for net energy metering and the interconnection of wind electric generating equipment to its system and that the commission shall determine are necessary for safe and adequate service and further the public policy set forth in this section. Such standards may include, but shall not be limited to:

(i) equipment necessary to isolate automatically a wind electric generating system from the utility system for voltage and frequency deviations; and

(ii) a manual lockable disconnect switch provided by the customer-generator which shall be located on the outside of the customer's premises and/or farm and externally accessible for the purpose of isolating the wind electric generating equipment.

(b) Upon its own motion or upon a complaint, the commission, or its designated representative, may investigate and make a determination as to the reasonableness and necessity of the standards or responsibility for compliance with the standards.

(c) Unless otherwise determined to be necessary by the commission, an electric corporation may not require a customer-generator to comply with additional safety or performance standards, or perform or pay for additional tests, or purchase additional liability insurance, provided that:

(i) the electric generating equipment meets the safety standards established pursuant to this paragraph; and

(ii) the total rated capacity (measured in kilowatts) of wind electric generating equipment that provides electricity to the electric corporation through the same local feeder line, does not exceed twenty percent of the rated capacity of that local feeder line.

In the event that the total rated generating capacity of wind electric generating equipment that provides electricity to the electric corporation through the same local feeder line exceeds twenty percent of the rated capacity of the local feeder line, the electric corporation may require the customer-generator to comply with reasonable measures to ensure safety of that local feeder line.

6. Electric restructuring. Notwithstanding the provisions of this section, including, but not limited to paragraph (c) of subdivision three of this section, a customer-generator shall comply with any applicable determinations of the commission relating to restructuring of the electric industry.

7. Severability of provisions. The provisions of this section shall be severable and if the application of any clause, sentence, paragraph, subdivision, section, or part thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair, or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part or remainder thereof, as the case may be, to any other person or circumstance, 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 be rendered.

§ 66-m. Green jobs-green New York on-bill recovery. 1.(a) The commission shall, within forty-five days of the effective date of this section, commence a proceeding to investigate the implementation by each combination electric and gas corporation having annual revenues in excess of two hundred million dollars of a billing and collection service for on-bill recovery charges in payment of obligations of its customers to the green jobs-green New York revolving loan fund established pursuant to title nine-A of article eight of the public authorities law and, within one hundred fifty days of the effective date of this section, the commission shall make a determination establishing the billing and collection procedures for such on-bill recovery charges. The department shall consult with the New York state energy research and development authority in the preparation of its recommendations to the commission for such determination. The commission shall require such electric and gas corporations to offer billing and collection services for green jobs-green New York on-bill recovery charges for eligible customers within three hundred days of the effective date of this section. To the extent practicable, such electric and gas corporations shall utilize existing electronic data interchange infrastructure or other existing billing infrastructure to implement their billing and collection responsibilities under this section, and shall utilize funding available from the New York state energy research and development authority to defray any costs associated with electronic data interchange improvements or other costs of initiating and implementing this program.

(b) To ensure proper program design and implementation, each electric and gas corporation shall initially limit the number of customers who pay a green jobs-green New York on-bill recovery charge at any given time to no more than one half of one percent of its total customers, on a first come, first served basis. Prior to reaching such limit, the New York state energy research and development authority shall petition the commission to review said limit, and the commission shall increase such limit provided that the commission finds that the program has not caused significant harm to the electric or gas company or its ratepayers.

(c) The commission may suspend such an electric and gas corporation's offering of the on-bill recovery charge provided that the commission, after conducting a hearing as provided in section twenty of this chapter, makes a finding that there is a significant increase in arrears or utility service disconnections that the commission determines is directly related to the on-bill recovery charge, or a finding of other good cause.

(d) The on-bill recovery charge shall be collected on the bill from the customer's electric corporation unless the qualified energy efficiency services at that customer's premises result in more projected energy savings on the customer's gas bill than the electric bill, in which case such charge shall be collected on the customer's gas corporation bill.

(e) The commission shall determine an appropriate percentage, up to fifteen percent, of the energy savings from qualified energy efficiency services, financed with a loan pursuant to section eighteen hundred ninety-six of the public authorities law that is subject to an on-bill recovery charge, to be credited to the combination electric and gas corporation that is issuing the bill for such charge, for purposes of meeting such corporation's targets under energy efficiency programs established by the commission.

2. Schedules for the collection and billing of on-bill recovery charges shall provide:

(a) that billing and collection services shall be available to all customers who have met the standards established by the New York state energy research and development authority for participation in the on-bill recovery mechanism under the green jobs-green New York program and have executed an agreement for the performance of qualified energy efficiency services under such program; provided, however, that for residential properties any such customer must hold primary ownership or represent the primary owner or owners of the premises and hold primary meter account responsibility or represent the primary holder or holders of meter account responsibility for all meters to which such on-bill recovery charges will apply;

(b) that the responsibilities of such electric and gas corporation are limited to providing billing and collection services for on-bill recovery charges as directed by the authority;

(c) that the rights and responsibilities of residential customers paying on-bill recovery charges shall be governed by the provisions of article two of this chapter;

(d) unless fully satisfied prior to sale or transfer, that (i) the on-bill recovery charges for any services provided at the customer's premises shall survive changes in ownership, tenancy or meter account responsibility, and (ii) that arrears in on-bill recovery charges at the time of account closure or meter transfer shall remain the responsibility of the incurring customer, unless expressly assumed by a subsequent purchaser of the property subject to such charges;

(e) not less than forty-five days after closure of an account that is subject to an on-bill recovery charge, and provided that the customer does not re-establish service with such electric and gas corporation, it shall be the responsibility of the New York state energy research and development authority and not the electric and gas corporation to collect any arrears that are due and owing;

(f) a customer remitting less than the total amount due for electric and/or gas services and on-bill recovery charges shall have such partial payment first applied as payment for electric and/or gas services and any remaining amount will be applied to the on-bill recovery charge;

(g) billing and collection services shall be available without regard to whether the energy or fuel delivered by the utility is the customer's primary energy source;

(h) unless otherwise precluded by law, participation in the green jobs-green New York program shall not affect a customer's eligibility for any rebate or incentive offered by a utility; and

(i) any other provisions necessary to provide for the billing and collection of on-bill recovery charges.

3. The commission shall not approve any application for the conversion to submetering of any master meter which is subject to any on-bill recovery charges.

§ 66-n. Net metering study. The commission shall conduct a study to analyze the economic and environmental benefits from and the economic cost burden, if any, of the net energy metering program and to analyze the extent to which ratepayers receiving service under the net energy metering program are paying the full cost of services provided to them by combined electric and gas corporations and gas corporations, and the extent to which their customers pay a share of costs of public purpose programs through assessments on their electric and/or gas bills. In analyzing program costs and benefits for the purposes of this study, the commission shall consider all electricity generated by renewable electric generating systems eligible for net metering under sections sixty-six-j and sixty-six-l of this article, including the electricity used onsite to reduce the customer's consumption of electricity that would otherwise be supplied through the electrical grid, as well as electrical output that is being fed back to the electrical grid for which the customer receives credit or net surplus electricity compensation under net energy metering. As it relates to the environmental benefits, the study shall quantify the approximate avoided level of harmful emissions including, but not limited to, information concerning: nitrogen dioxide, sulfur dioxide and carbon dioxide, as well as other air pollutants deemed necessary and appropriate for study by the commission. The study shall also quantify the economic costs and benefits of net energy metering to participants and non-participants and shall further disaggregate the results by utility. The study shall also gather and present data on the income distribution of residential net metering participants that is publicly available and aggregated by zip code and county. In order to assess the economic costs and benefits at various levels of net metering implementation, the study shall be conducted using multiple net energy metering penetration scenarios.

The commission shall publish a report from its findings. The report must be published within three hundred sixty-five days of the effective date of this section. A copy of the report must be furnished to the temporary president of the Senate, the speaker of the Assembly, the chair of the Senate energy and telecommunications committee and the chair of the Assembly energy committee.

§ 66-o. Electric vehicle charging tariff. 1. Definitions. For purposes of this section, the term "eligible vehicle" shall mean and include a motor vehicle that:

(a) has four wheels;
(b) was manufactured for use primarily on public streets, roads and highways;
(c) the powertrain of which has not been modified from the original manufacturer's specifications;
(d) is rated at not more than eight thousand five hundred pounds gross vehicle weight;
(e) has a maximum speed capability of at least fifty-five miles per hour; and
(f) is propelled at least in part by an electric motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operations, and that draws electricity from a hydrogen fuel cell or from a battery that:
(i) has a capacity of not less than four kilowatt hours; and
(ii) is capable of being recharged from an external source of electricity.

2. No later than April first, two thousand eighteen each combination gas and electric corporation shall file an application with the commission to establish a residential tariff for eligible vehicles for the purpose of recharging an eligible vehicle or vehicles.

3. The commission shall, after notice and opportunity for public comment, approve, modify, or reject the tariff.

4. Within sixty days of commission approval of a combination gas and electric corporation's tariff filed under this section, such combination gas and electric corporation shall make the tariff available to customers.

5. The combination gas and electric corporation may at any time propose revisions to a tariff filed under this section based on changing costs or conditions.

6. Each combination gas and electric corporation providing a tariff under this section shall periodically report to the commission, as established by the commission and on a form prescribed by the

commission, the following information:

(a) the number of customers who have arranged to have electricity delivered under the tariff;

(b) the total amount of electricity delivered under the tariff; and

(c) other data required by the commission.

§ 66-p. Establishment of a renewable energy program. 1. As used in this section:

(a) "jurisdictional load serving entity" means any entity subject to the jurisdiction of the commission that secures energy to serve the electrical energy requirements of end-use customers in New York state.

(b) "renewable energy systems" means systems that generate electricity or thermal energy through use of the following technologies: solar thermal, photovoltaics, on land and offshore wind, hydroelectric, geothermal electric, geothermal ground source heat, tidal energy, wave energy, ocean thermal, and fuel cells which do not utilize a fossil fuel resource in the process of generating electricity.

(c) "bill credit" shall have the same meaning as in subparagraph (i) of paragraph (a) of subdivision twenty-seven-b of section one thousand five of the public authorities law.

(d) "disadvantaged community" means a community defined as a disadvantaged community under article seventy-five of the environmental conservation law.

(e) "renewable energy" means electrical energy produced by a renewable energy system.

(f) "low-income or moderate-income end-use consumer" shall mean end-use customers of electric corporations and combination gas and electric corporations regulated by the public service commission whose income is found to be below the state median income based on household size.

2. No later than June thirtieth, two thousand twenty-one, the commission shall establish a program to require that: (a) a minimum of seventy percent of the state wide electric generation secured by jurisdictional load serving entities to meet the electrical energy requirements of all end-use customers in New York state in two thousand

thirty shall be generated by renewable energy systems; and (b) that by the year two thousand forty (collectively, the "targets") the statewide electrical demand system will be zero emissions. In establishing such program, the commission shall consider and where applicable formulate the program to address impacts of the program on safe and adequate electric service in the state under reasonably foreseeable conditions. The commission may, in designing the program, modify the obligations of jurisdictional load serving entities and/or the targets upon consideration of the factors described in this subdivision.

3. No later than July first, two thousand twenty-four and every two years thereafter, the commission shall, after notice and provision for the opportunity to comment, issue a comprehensive review of the program established pursuant to this section. The commission shall determine, among other matters: (a) progress in meeting the overall targets for deployment of renewable energy systems and zero emission sources, including factors that will or are likely to frustrate progress toward the targets; (b) distribution of systems by size and load zone; and (c) annual funding commitments and expenditures.

4. The commission may temporarily suspend or modify the obligations under such program provided that the commission, after conducting a hearing as provided in section twenty of this chapter, makes a finding that the program impedes the provision of safe and adequate electric service; the program is likely to impair existing obligations and agreements; and/or that there is a significant increase in arrears or service disconnections that the commission determines is related to the program.

5. No later than July first, two thousand twenty-four, the commission shall establish programs to require the procurement by the state's load serving entities of at least nine gigawatts of offshore wind electricity generation by two thousand thirty-five and six gigawatts of photovoltaic solar generation by two thousand twenty-five, and to support three gigawatts of statewide energy storage capacity by two thousand thirty.

6. In any proceeding commenced by the commission with a goal of

achieving one hundred eighty-five trillion British thermal units of end-use energy savings below the two thousand twenty-five energy-use forecast, the commission will include mechanisms to ensure that, where practicable, at least twenty percent of investments in residential energy efficiency, including multi-family housing, can be invested in a manner which will benefit disadvantaged communities, as defined in article seventy-five of the environmental conservation law, including low to moderate income consumers.

7. In the implementation of this section, the commission shall design programs in a manner to provide substantial benefits for disadvantaged communities, as defined in article seventy-five of the environmental conservation law, including low to moderate income consumers, at a reasonable cost while ensuring safe and reliable electric service. Specifically, the commission shall:

(a) To the extent practicable, specify that a minimum percentage of energy storage projects should deliver clean energy benefits into NYISO zones that serve disadvantaged communities, as defined in article seventy-five of the environmental conservation law, including low to moderate income consumers, and that energy storage projects be deployed to reduce the usage of combustion-powered peaking facilities located in or near disadvantaged communities;

(b) In pursuing the state's solar deployment goals, the New York state energy research and development authority shall consider enhanced incentive payments for solar and community distributed generation projects, focusing in particular but not limited to those serving disadvantaged communities, as defined in article seventy-five of the environmental conservation law, which result in energy cost savings or demonstrate community ownership models; and,

(c) In the allocation of ratepayer funds for clean energy, direct the New York state energy research and development authority and investor owned utilities to develop and report metrics for energy savings and clean energy market penetration in the low and moderate income market and in disadvantaged communities, as defined in article seventy-five of the environmental conservation law, and post such information on the authority's website.

8. The power authority of the state of New York shall, no later than twelve months after the effective date of this subdivision, file a petition to commence, and the commission shall commence, necessary proceedings to enable the power authority of the state of New York to provide bill credits from renewable energy generating projects under the renewable energy access and community help program, or "REACH", established pursuant to subdivision twenty-seven-b of section one thousand five of the public authorities law, to low-income or moderate-income end-use electricity consumers in disadvantaged communities for renewable energy produced by renewable energy generating projects developed, constructed, owned, or contracted for by the power authority of the state of New York pursuant to subdivision twenty-seven-a of section one thousand five of the public authorities law. Such bill credits shall be in addition to any other renewable energy program or any other program or benefit that low-income or moderate-income end-use electricity consumers in disadvantaged communities receive, and any other incentives made available by the power authority of the state of New York. For purposes of this subdivision, a renewable energy system developed, constructed, owned, or contracted for by the authority shall be:

(a) sized up to and including five megawatts alternating current and interconnected to the distribution system or transmission system in the service territory of the electric utility that serves the low-income or moderate-income end-use consumers that receive bill credits; or

(b) sized above five megawatts alternating current and interconnected to the distribution or transmission system at one or more points anywhere in New York state. The commission shall, after public notice and comment, establish such programs implementing REACH which:

(i) provide that jurisdictional load serving entities shall enter into agreements with the power authority of the state of New York to carry out REACH;

(ii) provide that jurisdictional load serving entities shall file tariffs and other solutions determined by the commission to implement REACH at a reasonable cost while ensuring safe and reliable electric service;

(iii) provide that, unless they opt out, low-income or moderate-income end-use electricity consumers in disadvantaged communities, including such end-use electricity customers who have or who reside in buildings that have on-site net-metered generation or who participate in a community choice aggregation or community distributed generation project, shall receive bill credits for renewable energy produced by a renewable energy system developed, constructed, owned, or contracted for by the power authority of the state of New York pursuant to subdivision twenty-seven-a of section one thousand five of the public authorities law;

(iv) consider enhanced incentive payments in bill credits to low-income or moderate-income end-use electricity consumers in disadvantaged communities for renewable energy systems including solar and community distributed generation projects as provided for in paragraph (b) of subdivision seven of this section;

(v) to the extent practicable include energy storage in renewable energy systems to deliver clean energy benefits to low-income or moderate-income end-use electricity consumers in disadvantaged communities as provided for in paragraphs (a) and (b) of subdivision seven of this section; and

(vi) address recovery by jurisdictional load serving entities of their prudently incurred costs of administering REACH in electric service delivery rates of the utility in whose service territory low-income or moderate-income end-use electricity consumers in a disadvantaged community participate in REACH.

§ 66-q. Gas and electric billing information for residential rental premises. Every gas corporation, electric corporation and municipality shall make available to any landlord or lessor of residential rental premises, within ten days of receipt of a written request therefor from any prospective tenant or lessee thereof, prior to the commencement of tenancy or execution of a lease, information consisting of the charges incurred at such premises for gas or electric service or both for the life of the dwelling unit or the preceding two year period, whichever is shorter. Such information shall be identified solely by the address of the dwelling unit, and no other information identifying the owner, lessee, or other occupant of the dwelling unit shall be utilized for, or made available in connection with, the furnishing of billing information pursuant to this section. Such information shall be furnished to both the landlord or lessor and to the prospective tenant or lessee without the imposition of any charge or fee therefor by any party to any party.

§ 66-r. Requirements for certain renewable energy systems. 1. For the purposes of this section, a "covered renewable energy system" means a renewable energy system, as such term is defined in section sixty-six-p of this article, with a capacity of greater than five megawatts alternating current and which involves the procurement of renewable energy credits by a public entity, or a third party acting on behalf and for the benefit of a public entity.

1-a. For the purposes of this section, an "other covered project" means: (a) any "thermal energy network" as defined by subdivision twenty-nine of section two of this chapter; (b) any offshore wind supply chain project, including but not limited to port infrastructure, primary component manufacturing, finished component manufacturing, subassembly manufacturing, subcomponent manufacturing, or raw material producers, or a combination thereof receiving direct funding from the New York state energy research and development authority pursuant to an award under a New York state energy research and development authority solicitation; or (c) a "major utility transmission facility" as such term is defined by section one hundred twenty of this chapter or "major electric transmission facility" as defined by article VIII of this chapter.

2. For purposes of this section, "public entity" shall include, but shall not be limited to, the state, a local development corporation as defined in subdivision eight of section eighteen hundred one of the public authorities law or section fourteen hundred eleven of the not-for-profit corporation law, a municipal corporation as defined in section one hundred nineteen-n of the general municipal law, an industrial development agency formed pursuant to article eighteen-A of the general municipal law or industrial development authorities formed pursuant to article eight of the public authorities law, and any state, local or interstate or international authorities as defined in section two of the public authorities law; and shall include any trust created

by any such entities.

3. The commission shall require that the owner of the covered renewable energy system or other covered project, or a third party acting on the owner's behalf, as an ongoing condition of any renewable energy credits agreement with a public entity, shall stipulate to the fiscal officer that it will enter into labor peace agreements with any bona fide labor organizations that either are actively representing employees providing necessary operations and maintenance services for the renewable energy system at the time of such agreement or provides notice that it is attempting to represent any employees in any titles who provide, or who will provide, necessary operations and maintenance services for the renewable energy system employed in the state; provided, however, this subdivision shall not apply to any covered projects defined in paragraph (c) of subdivision one-a of this section. The maintenance of such a labor peace agreement, or agreements, which cover all classes of operations and maintenance employees, shall be an ongoing material condition of any continuation of payments under a renewable energy credits agreement. For purposes of this section "labor peace agreement" means an agreement between an entity and labor organization that, at a minimum, protects the state's proprietary interests by prohibiting labor organizations and members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the relevant renewable energy system. "Renewable energy credits agreement" shall mean any public entity contract that provides production-based payments to a renewable energy project as defined in this section.

4. (a) Any public entity, in each contract for construction, reconstruction, alteration, repair, improvement or maintenance of a covered renewable energy system which involves the procurement of a renewable energy credits agreement by a public entity, or a third party acting on behalf and for the benefit of a public entity, the "public work" for the purposes of this subdivision, shall ensure that such contract shall contain a provision that the iron and steel used or supplied in the performance of the contract or any subcontract thereto shall be produced or made in whole or substantial part in the United

States, its territories or possessions. In the case of an iron or steel product all manufacturing must take place in the United States, from the initial melting stage through the application of coatings, except metallurgical processes involving the refinement of steel additives.

(b) The provisions of paragraph (a) of this subdivision shall not apply if the head of the department or agency constructing the public works, in his or her sole discretion, determines that the provisions would not be in the public interest, would result in unreasonable costs, or that obtaining such steel or iron in the United States would increase the cost of the contract by an unreasonable amount, or such iron or steel, including without limitation structural iron and structural steel cannot be produced or made in the United States in sufficient and reasonably available quantities and of satisfactory quality. The head of the department or agency constructing the public works shall include this determination in an advertisement or solicitation of a request for proposal, invitation for bid, or solicitation of proposal, or any other method provided for by law or regulation for soliciting a response from offerors intending to result in a contract pursuant to this subdivision. The provisions of paragraph (a) of this subdivision shall not apply for equipment purchased by a covered renewable energy system prior to the effective date of this chapter.

(c) The head of the department or agency constructing the public works may, at his or her sole discretion, provide for a solicitation of a request for proposal, invitation for bid, or solicitation of proposal, or any other method provided for by law or regulation for soliciting a response from offerors intending to result in a contract pursuant to this paragraph involving a competitive process in which the evaluation of competing bids gives significant consideration in the evaluation process to the procurement of equipment and supplies from businesses located in New York state.

5. Whenever changes are proposed to any public procurement process involving the program described in subdivision two of this section, the commission shall make simultaneous recommendations to the temporary president of the senate and speaker of the assembly, regarding necessary changes to this section, if any, in meeting the goals outlined in the legislative findings and intent of the chapter by which this section was

enacted.

§ 66-s. Electric vehicle charging; commercial tariff. 1. Definitions. For purposes of this section, the term "electric vehicles" shall mean and include a motor vehicle that:

(a) was manufactured for use primarily on public streets, roads and highways;

(b) the powertrain of which has not been modified from the original manufacturer's specifications;

(c) has a maximum speed capability of at least fifty-five miles per hour; and

(d) is propelled at least in part by an electric motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operations, and that draws electricity from a hydrogen fuel cell or from a battery that:

(i) has a capacity of not less than four kilowatt hours; and

(ii) is capable of being recharged from an external source of electricity.

2. The commission shall commence a proceeding to establish a commercial tariff utilizing alternatives to traditional demand-based rate structures, other operating cost relief mechanisms, or a combination thereof (collectively, "solutions") to facilitate faster charging for eligible light duty, heavy duty, and fleet electric vehicles. The commission shall evaluate the relative costs and benefits of proposed solutions, and such solutions must include, at a minimum: (a) technology-agnostic solutions so long as such solutions would not have the effect of discouraging innovation; (b) mechanisms to enable customers with fast electric vehicle charging for eligible light duty, heavy duty, and fleet electric as their largest source of energy demand to opt into solutions without unreasonable delay; (c) solutions for both existing and new customers; (d) mechanisms that would provide cost relief for customers during each combination gas and electric corporation monthly billing period; and (e) combination gas and electric corporation service territory-specific solutions.

3. The commission shall, no later than one year after the effective date of this section, after notice and public comment, including input from diverse stakeholders, regarding a proposal made by the department, issue an order approving or modifying such proposal.

4. The commission shall, no sooner than eighteen months of the date of such order, and periodically thereafter, review tariffs and other solutions implemented in accordance with this section, for the purpose of determining whether additional or other relief should be afforded to customers, or other changes to any tariffs or other solutions are necessary.

5. Each combination gas and electric corporation shall, within sixty days of the order issued pursuant to subdivision three of this section, file an application with the commission to provide a tariff or implement other solutions pursuant to the order under this section and shall periodically report to the commission, on a form prescribed by the commission, the following information:

(a) the number of customers who have arranged to have electricity delivered under the tariff or other solutions;

(b) the total amount of electricity delivered under the tariff or other solutions; and

(c) such other information as the commission shall require.

6. Within sixty days of commission approval of a combination gas and electric corporation's application filed under this section, such combination gas and electric corporation shall make any tariff or other operating cost relief mechanisms available to customers.

*** § 66-t. Thermal energy network development.** 1. The public service commission shall initiate a proceeding within three months of the effective date of this section to support the development of thermal energy networks for the purpose of meeting the greenhouse gas emissions and equity goals of the climate leadership and community protection act. The matters the commission shall consider in such proceeding shall include, but shall not be limited to, the appropriate ownership, market, and rate structures for thermal energy networks and whether the provision of thermal energy services by gas and/or electric utilities is in the public interest. The commission shall promulgate rules and regulations within two years to: (a) create fair market access rules for utility-owned thermal energy networks to accept thermal energy that aligns with the climate justice and greenhouse gas emissions reductions requirements of the climate leadership and community protection act and that does not increase greenhouse gas emissions or co-pollutants; (b) exempt small-scale thermal energy networks not owned by utilities from commission regulation; (c) promote the training and transition of utility workers impacted by this act; and (d) encourage third party participation and competition where it will maximize benefits to customers.

2. Within three months of the effective date of this section, each of the seven largest gas, electric, or combination gas and electric corporations shall submit to the commission for review and approval at least one and as many as five proposed pilot thermal energy network projects. In developing the pilot project proposals, at least one pilot project in each utility territory shall be proposed in a disadvantaged community as defined in subdivision five of section 75-0101 of the environmental conservation law, and if a utility proposes four or more pilot projects, at least two shall be proposed in disadvantaged communities. Each utility shall coordinate with other utility participants, the New York state energy research and development authority, and consultants with expertise on successful pilot projects to ensure that the pilot projects are diverse and designed to inform the commission's decisions in the proceeding on the various ownership, market, and rate structures for thermal energy networks. The pilot project proposals shall include specific customer protection plans and shall be made publicly available on the commission's website and shall be subject to a public comment period of no less than thirty days. Within six months of the effective date of this section, the commission shall determine whether it is in the public interest to approve or modify such pilot thermal energy network projects and shall issue an order directing each gas, electric or combination gas and electric corporation to implement such proposed or modified pilot thermal energy

network projects. In considering whether pilot thermal energy network projects are in the public interest, the commission shall consider whether the pilot project will develop information useful for the commission's promulgation of regulations governing thermal energy networks, whether the pilot project furthers the climate justice and/or emissions reduction mandates of the climate leadership and community protection act, whether the pilot project advances financial and technical approaches to equitable and affordable building electrification, and whether the pilot project creates benefits to customers and society at large, including but not limited to public health benefits in areas with disproportionate environmental or public health burdens, job retention/creation, reliability, and increased affordability of renewable thermal energy options.

3. Each gas, electric, or combination gas and utility corporation shall report to the commission, on a quarterly basis, and until completion of the pilot thermal energy network project as determined by the commission, the status of each pilot thermal energy network project. The commission shall post and make publicly available such reports on its website. The report shall include, but not be limited to, the: (a) stage of development of each pilot project; (b) barriers to development; (c) number of customers served; (d) costs of the pilot project; (e) number of jobs retained or created by the pilot project; and (f) any other such information the commission deems to be in the public interest.

4. Any thermal energy network created under this section shall demonstrate that the gas or electric corporation has entered into a labor peace agreement with a bona fide labor organization of jurisdiction that is actively engaged in representing gas and electric corporation employees. The labor peace agreement shall apply to the employees necessary for the maintenance and operation of such thermal energy network. The labor peace agreement shall be an ongoing material condition of authorization to maintain and operate such thermal energy networks. The employees eligible for these positions shall first be selected from and offered to a pool of transitioning utility workers who have lost, or are at risk of losing, their employment with a utility

downsizing its gas transmission and distribution system. Such list of potential employees shall be provided by affected unions and provided to the department of labor. The department of labor shall update and provide such list to the gas or electric corporation ninety days prior to purchase, acquisition, and/or construction of any thermal energy network created under this section.

* NB There are 2 § 66-t's

*** § 66-t. Registration of energy brokers and energy consultants.** 1. Definitions. For the purposes of this section, the following terms shall have the following meanings unless the context indicates otherwise:

a. "Broker compensation" means any payment made to an energy broker or energy consultant for the purposes of securing or procuring of energy for the end-use customer, or advising on the securing or procuring of energy for the end-use consumer.

b. "Customer disclosure label" means the statement an energy service company must provide a customer with whom it enters into a sales agreement pursuant to the rules and regulations of the public service commission.

c. "Energy broker" means an entity that assumes the contractual and legal responsibility for the sale of electric supply service, transmission or other services to end-use retail customers, but does not take title to any of the electricity sold, or an entity that assumes the contractual and legal obligation to provide for the sale of natural gas supply service, transportation or other services to end-use retail customers, but does not take title to any of the natural gas sold.

d. "Energy consultant" means any person, firm, association or corporation who acts as broker in soliciting, negotiating or advising any electric or natural gas contract, or acts as an agent in accepting any electric or natural gas contract on behalf of an ESCO.

e. "Energy service company" or "ESCO" means an entity eligible to sell electricity and/or natural gas to end-use customers using the transmission or distribution system of a utility corporation.

2. Acting without registering with the commission. a. (i) No person, firm, association or corporation shall act as an energy broker or energy consultant without first registering with the commission.

(ii) Any person, firm, association or corporation who or which acts as an energy broker or energy consultant in violation of this subdivision shall, in addition to other penalties prescribed by law, be subject to a penalty not to exceed five thousand dollars for each violation.

b. No person, firm, association or corporation shall identify or hold himself, herself or itself out to be an energy broker or energy consultant unless registered with the commission.

c. No person shall accept any commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating an energy contract in this state if that person is required to be registered under this section and is not so registered, unless stated otherwise herein.

3. Energy broker and energy consultant registration. a. An energy broker or energy consultant shall register with the commission authorizing such registered energy broker or energy consultant to act as an energy broker or energy consultant in a manner prescribed by the commission; provided that such: (i) energy broker demonstrates financial accountability as evidenced by a bond or other method of financial accountability in an amount not less than one hundred thousand dollars; and (ii) energy consultant demonstrates financial accountability as evidenced by a bond or other method of financial accountability in an amount not less than fifty thousand dollars.

b. The commission may refuse to register or revoke a registration if, in the commission's judgment, the energy broker or energy consultant registering has given cause for the revocation or suspension of operations.

c. Each registered energy broker or energy consultant shall annually pay the commission a five hundred dollar registration fee.

d. Each registered energy broker or energy consultant shall notify the commission upon changing his, her or its legal name.

4. Disclosure of compensation. a. Energy brokers and energy consultants shall be required to disclose their form and amount of compensation to customers via a conspicuous statement on any such contract or agreement between the energy agent, energy consultant, energy broker or energy intermediary and its customer.

b. If an energy service company collects broker compensation on behalf of an energy broker or energy consultant, such broker compensation shall be added as a provision to the customer disclosure label and shall reflect the amount and method of broker compensation.

5. Rebates prohibited. a. No energy broker, energy consultant or any other person acting for or on behalf of the energy broker or energy consultant shall offer or make, directly or indirectly, any rebate of any portion of the fee, premium or charge made, or pay or give to any applicant, or to any person, firm, or corporation acting as agent, representative, attorney, or employee of the energy rate payer or any interest therein, either directly or indirectly, any commission, any part of its fees or charges, or any other consideration or valuable thing, as an inducement for, or as compensation for, any energy supply or energy-related business, nor shall any applicant, or any person, firm, or corporation acting as agent, representative, attorney, or employee of the energy rate payer or of the prospective energy rate payer or anyone having any interest in the real property knowingly receive, directly or indirectly, any such rebate or other consideration or valuable thing. Any person or entity who violates this subdivision shall be subject to a penalty equal to the greater of: (i) five thousand dollars; or (ii) up to ten times the amount of any compensation or rebate received or paid.

b. For the purposes of this section, "an inducement for, or as compensation for, any energy supply business" shall mean a benefit given with the intention to compensate or offer compensation, directly or indirectly, for any past or present placement for a particular piece of energy supply or energy-related business to any applicant, or person, firm, or corporation acting as agent, representative, attorney, or employee of the energy rate payer, lessee, mortgagee or the prospective energy ratepayer, or any interest therein. Nothing contained in subdivision one of this section to the contrary shall prohibit any energy supplier corporation, energy broker, or energy consultant, or any other person acting for or on behalf of the energy service company, energy broker or energy consultant from undertaking any usual and customary marketing activity aimed at acquainting present and prospective customers with the advantages of using a particular energy supplier, energy broker, or energy consultant that are not intended for the purpose of a reward for the future placement of, or the past placement of, a particular piece of energy supply business.

* NB There are 2 § 66-t's

§ 66-u. Gas safety reports. 1. On or before April thirtieth of each year, each gas corporation shall file with the department a gas safety report. The department shall review the reports to monitor each gas corporation's pipeline replacement projects and all other activities related to providing safe and reliable gas service in order to determine whether the projects or activities are being carried out in a manner consistent with this chapter, the commission's rules, regulations and orders, and any practice the department has deemed necessary for the provision of safe and reliable service, and to track how each gas corporation is spending any funds allocated for pipeline replacement projects and all other activities related to providing safe and reliable gas service.

2. The gas safety report provided for in subdivision one of this section shall include a thorough description and explanation of the strategic planning and decision-making methodology used to determine and prioritize pipeline replacement projects, a description of the corporation's operation and maintenance activities related to gas

safety, a description of the corporation's inspections of its intrastate transmission and distribution lines, leak repair information, and any other information the department may require. If there has been no substantial change in a gas corporation's safety report since the gas safety report most recently filed with the department, the corporation, with consent of the department, may file an updated version of such report.

2-a. A gas corporation shall also include with its gas safety report a list of pipeline replacement projects completed by a gas corporation within the last year.

3. The commission may take any action to address and/or prevent a deficiency in a gas corporation's prioritization or administration of its pipeline replacement projects or operation and maintenance activities related to gas safety, including ordering reasonable improvements that will best promote the public interest, preserve the public health and protect those using gas pursuant to those powers provided to the commission as provided in this chapter, including but not limited to those in section sixty-six of this article.

§ 66-v. Requirements for certain climate risk-related and energy transition projects. 1. Each contract using funds from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law for a covered climate risk-related and energy transition project shall contain a provision that the iron and steel used or supplied in the performance of the contract or any subcontract thereto and that is permanently incorporated into the project, shall be produced or made in whole or substantial part in the United States, its territories or possessions. In the case of an iron or steel product, all manufacturing must take place in the United States, its territories or possessions, from the initial melting stage through the application of coatings, except metallurgical processes involving the refinement of steel additives. For the purposes of this subdivision, "permanently incorporated" shall mean an iron or steel product that is required to remain in place at the end of the project contract, in a fixed location, affixed to the project to which it was incorporated. Iron and steel products that are capable of being moved from one location to another shall not be considered permanently incorporated.

2. The provisions of subdivision one of this section shall not apply if the head of the public entity providing funds, in his or her sole discretion, determines that the provisions would not be in the public interest, would result in unreasonable costs, or that obtaining such steel or iron in the United States, its territories or possessions would increase the cost of the contract by an unreasonable amount, or such iron or steel, including without limitation iron and steel, cannot be produced or made in the United States its territories or possessions in sufficient and reasonably available quantities and of satisfactory quality.

3. The head of the public entity providing funds generated from the New York climate action fund climate investment account established pursuant to section ninety-nine-qq of the state finance law may, in his or her sole discretion, provide for in a request for proposal, invitation for bid, or solicitation of proposal, or any other method provided for by law or regulation for soliciting a response from offerors intending to result in a contract in support of a project, a competitive process in which the evaluation of competing bids gives significant consideration in the evaluation process to the procurement of equipment and supplies from businesses located in New York state.

§ 66-w. Finality of charges; small non-residential customers. Notwithstanding any other provision of law if a utility corporation or municipality does not render a small non-residential customer for gas or electric service, with the exception of a seasonal or short-term customer as defined by rule of the commission, a monthly bill for gas and/or electric services used by such customer during that monthly period, or, in the case of bi-monthly meter reads, during that month and the prior month, within three months from the end date of such monthly billing period, then, such small non-residential customer shall not be charged for such gas and electric services which were not billed to the customer as provided herein, unless the failure of the corporation or municipality to bill sooner was not due to the neglect of the corporation or municipality or was due to the culpable conduct of the customer. The commission shall promulgate regulations necessary to effectuate the purposes of this section. For the purposes of this section, "small non-residential customer" means non-residential electric customers that are non-demand billed customers and non-residential gas customers that use less than or equal to 750 dekatherms per year. Such term shall not include street lighting accounts.

*** § 66-x. Energy affordability index.** 1. (a) Beginning January first, two thousand twenty-seven, the commission shall require each gas corporation, electric corporation, or combination gas and electric corporation to submit an annual affordability index showing the energy burden of such corporation's residential customers.

(b) The commission shall promulgate rules and regulations adopting a methodology for gas corporations, electric corporations and combination gas and electric corporations to calculate an affordability index. The methodology may include the consideration of a variety of factors including differentiated income tiers, sources of energy burden, energy cost drivers in the relevant service territory, and such other factors as the commission may determine, and shall to the maximum extent practicable, use publicly available data.

2. On or before July first, two thousand twenty-seven, and annually thereafter, the commission shall issue a report on energy affordability that includes a comparison of the affordability of residential utility service provided by each gas corporation, electric corporation, and combination gas and electric corporation in New York state to affordability data from other states as reported by the United States energy information administration.

3. The commission may refer to such report, including information obtained from the filings of affordability indices in accordance with subdivision one of this section and paragraph (q) of subdivision twelve

of section sixty-six of this article, and information obtained from reports of affordability monitors and investigations of gas corporations, electric corporations, and combination gas and electric corporations pursuant to subdivision thirty-three of section sixty-six of this article when reviewing filings for major changes in rates, and shall further consider the ratepayer affordability of such filing, with a focus on cumulative rate impacts, the interest of low- and middle-income utility customers, and minimizing residential energy burden. The commission shall, in each order approving a major change in rates for a gas corporation, electric corporation, or combination gas and electric corporation explain how such information impacted its determination, and include a written summary of the specific actions taken by the commission or department during the hearing to promote ratepayer affordability.

* NB Effective January 1, 2027

§ 66-aa. Interconnection reforms. 1. (a) Within ninety days of the effective date of this section the commission shall commence a proceeding requiring every electric corporation to file a report with the commission which shall include broken down costs of completed upgrades to the electric distribution system required in order to interconnect new distributed energy resources in the prior calendar year categorized by upgrade type and equipment type annually by March thirty-first of each year. Such reports shall be accompanied by sufficiently detailed supporting documentation as determined by the commission. Costs included in such reports shall be intergrated into electric corporations' efforts to develop distribution upgrade cost estimates.

(b) Electric corporations shall track actual costs of all distribution upgrades they perform and disclose such costs to the department and to the distributed energy resource company that paid for the upgrade.

2. The commission shall consider proposals to create greater cost-certainty for distribution upgrades in order to limit the risk of cost overruns, and the commission shall commence a proceeding to determine whether any such proposal would increase cost certainty for

distribution upgrades, would not negatively impact the operation of the distribution system, and would not increase costs to ratepayers. If the commission so determines, and in response to evidence of cost overruns, it shall issue an order with respect thereto to increase distribution upgrade cost-certainty.

§ 67. Inspection of gas and electric meters. 1. The commission shall appoint inspectors of electric and gas meters whose duty it shall be, when required by the commission, to inspect, examine and ascertain the accuracy of any and all electric and gas meters used or intended to be used for measuring and ascertaining the quantity of electric current or gas furnished for light, heat or power by any person, corporation or municipality to or for the use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of electric and gas meters, and when found to be or made to be correct the inspector shall stamp or mark all such meters and apparatus with some suitable device, which device shall be recorded in the office of the secretary of state. No corporation, person or municipality shall furnish, set or put in use any electric or gas meter the type of which shall not have been approved by the commission.

2. Every gas corporation, electric corporation and municipality shall provide, repair and maintain such suitable premises and apparatus and facilities as may be required and approved by the commission for testing and proving the accuracy of gas and electric meters furnished for use by it, and by which apparatus every meter may be tested.

3. If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested; provided, however, that repeated inspections and tests shall not be mandatory.

4. The commission shall prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary.

§ 67-a. Charges for past services. 1. A gas or electric corporation shall inspect and assure the accuracy of a metering device upon the request of any new commercial customer.

2. No gas corporation or electric corporation shall charge its new commercial customer for past services received if the failure to charge for such services resulted from the faulty operation or inoperation of a metering device which the gas or electric corporation failed to inspect as provided in subdivision one of this section.

3. The provisions of this section shall not apply in the case of a meter which is faulty or inoperable due to the culpable conduct of the customer or one of his agents.

§ 67-b. Excelsior power program. 1. As used in this section, the following terms shall have the following meanings:

(a) "Customer" means a residential recipient of retail electric or gas service from an electric corporation, gas corporation, or combination gas and electric corporation.

(b) "Smart thermostat" means an electronic device that has the capability to be accessed and controlled remotely and also directly regulates heating and/or cooling appliances located within a dwelling to maintain a thermostatic range.

(c) "Utility" means an electric corporation, a gas corporation, or combination electric and gas corporation as such terms are defined in section two of this chapter and shall not include municipalities.

(d) "Program" means the Excelsior power program designed to reduce peak energy demand established by this section.

(e) "Customer information" means the personal information and data of customers.

2. (a) The commission shall establish a program, developed and administered by the department, to reduce peak energy demand through the remote operation of voluntarily customer enrolled smart thermostats or other smart devices that reduce peak energy demand.

(b) Following the establishment of the program, the department shall, subject to appropriation, disburse available funds to utilities participating in the program for the purpose of providing bill credits to customers that have enrolled in the program.

(c) One year after the establishment of the program and annually thereafter, for as long as the program remains active, the department shall prepare a public report on the functioning, efficiency and usefulness of the program in reducing peak energy demand, which shall include enrollment information, information on curtailment events, and potential recommendations to improve the program.

(d) The department shall require that the program include:

(i) a mechanism for customers to override the smart thermostat during extreme heat or cold events. No assessment of a fee, charge, or penalty to a customer or their account may be levied for overriding the smart thermostat during these or other demand response events, except that, any bill credits that are associated with a customer's involvement in the program, may be discounted in a manner to be determined by the commission that reflects the customer's limited involvement in the program; and

(ii) criteria pertaining to the length of temperature adjustments, including taking account of the limited nature of demand response events.

(e) The utility or the commission may authorize a review, analysis, or audit of a utility's implementation of the program.

3. (a) Customer participation in the program shall be voluntary. Customer enrollment in the program shall occur through the utility from which the customer receives service.

(b) No utility shall enroll a customer in the program without the customer's affirmative consent, which shall be confirmed via written consent that shall be maintained by the utility for seven years following the customer's disenrollment in the program. Customer enrollment shall occur only via an opt-in process, and the utility shall inform customers of their rights and protections under the program.

(c) A customer may disenroll from the program in a manner prescribed by the commission, provided that customers shall be offered a method of disenrollment no less convenient than the method of enrollment. No assessment of a fee, charge, or penalty to the customer or their account may be levied for disenrollment, except that, upon such disenrollment, any potential bill credits that may have been associated with a customer's enrollment in the program, shall cease, provided that any credits earned but not yet applied to the customer's bill as of the date of disenrollment shall be applied to the customer's next bill.

4. (a) Customer information related to the program shall be treated as confidential information.

(b) Utilities shall only collect customer information to the extent necessary to effectively administer the program. Utilities shall take all reasonable steps to maintain the confidentiality of customer information related to the program. Utilities shall not sell, lend, lease, share, exchange or provide such customer information to third parties, except pursuant to a lawful subpoena or warrant or as otherwise required by law. Utilities shall safely store and safely encrypt customer information related to the program to protect against unauthorized use or access. Utilities shall also dispose of, destroy, or delete customer information at the end of the provision of services and upon disenrollment, except as necessary to comply with this section, any applicable New York state or federal law or rule or regulation.

(c) Utilities shall take all reasonable steps to protect against unauthorized use or access of customers' smart thermostats or other malicious acts by third parties.

(d) The department shall consider additional cybersecurity protections, and shall establish such protections if the department deems them necessary or appropriate to safeguard customer information and customer smart thermostats.

(e) Utilities shall make available customer information to the department upon request, provided such customer information continues to be treated as confidential information in a manner no less protective than as required by this subdivision, and such customer information is only requested and used for purposes of implementing and enforcing the program.

5. In the development of the program, the commission shall require inclusion of:

(a) customer education requirements, such as examples of when a utility may modify the settings of an enrolled smart thermostat, the minimum and maximum range of temperature adjustments, and the availability of other energy efficiency and affordability programs; and

(b) residential customer outreach efforts, methods to provide advance notice to enrolled customers of potential curtailment events such as forecasted high energy demand events or extreme weather events, identification of smart thermostats eligible to participate in the program, and actions to engage non-residential, commercial, or industrial customers in energy demand reduction efforts before adjusting participating residential customers' energy load.

§ 68. Certificate of public convenience and necessity. 1. Certificate required. No gas corporation or electric corporation shall begin construction of a gas plant or electric plant without first having obtained the permission and approval of the commission. No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first having obtained a certificate of public convenience and necessity issued by the commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities. The commission shall have power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is convenient and necessary for the public service. In making such a determination, the commission shall consider the economic feasibility of the corporation, the corporation's ability to finance improvements of a gas plant or electric plant, render safe, adequate and reliable service, and provide just and reasonable rates, and whether issuance of a certificate is in the public interest. Except as provided in article fourteen-A of the general municipal law, no municipality shall build, maintain and operate for other than municipal purposes any works or systems for the manufacture and supplying of gas or electricity for lighting purposes without a certificate of authority granted by the commission. If the certificate of authority is refused, no further proceedings shall be taken by such municipality before the commission, but a new application may be made therefor after one year from the date of such refusal.

2. Revocation or modification of certificate. The commission may commence a proceeding, conducted in accordance with the commission's rules and regulations, to revoke or modify a combined electric and gas corporation's certificate as it relates to such corporation's service territory or any portion thereof based on findings of repeated violations of this chapter or rules or regulations adopted thereto that demonstrate a failure of such corporation to continue to provide safe and adequate service. Whenever the commission has reason to believe that such corporation's certificate may be subject to revocation or modification, it shall notify such corporation of the facts and nature of each act or failure to act allegedly warranting such revocation or modification, and the statute, regulation or order allegedly violated, and otherwise consider the following factors:

(a) the factors identified in subdivision one of this section for issuance of a certificate of public convenience and necessity;

(b) whether another person, firm or corporation is qualified, available, and prepared to provide alternative service that is adequate to serve the public convenience and necessity, and that the transition to such alternative person, firm or corporation is in the public interest; and

(c) upon any other standards and procedures deemed necessary by the commission to ensure continuity of safe and adequate service, and due process.

§ 68-a. Statements of nature and extent of interests to be filed upon request. Whenever any person or corporation signs or certifies any estimate, appraisal, report, or other statement, to be submitted to the public service commission in relation to any public utility company, in which such person or corporation is or has been financially interested, directly or indirectly, or is or has been employed in any manner or capacity, or of which such person is or has been an officer or employee, the commission in its discretion, may require that such signature or certification shall be accompanied by a specific statement setting forth the nature and extent of such interest or engagement.

§ 69. Approval of issues of stock, bonds and other forms of indebtedness; approval of mergers or consolidations. A gas corporation or electric corporation organized or existing, or hereafter incorporated, under or by virtue of the laws of the state of New York, may issue stocks, bonds, notes or other evidences of indebtedness payable at periods of more than twelve months after the date thereof, or a receiver of such a corporation, if duly authorized by law, may issue receiver's certificates, when necessary for the acquisition of property, including the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business, in this state or any other state, or proposing to operate or operating under a franchise from the same or any other municipality, for the construction, completion, extension or improvement of its plant or distributing system, or for the improvement or maintenance of its service or for the discharge or lawful refunding of its obligations or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the corporation not secured or obtained from the issue of stocks, bonds, notes or other evidences of indebtedness of such corporation, within five years next prior to the filing of an application with the commission for the required authorization, for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditure in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made; provided and not otherwise that there shall have been secured from the commission an order authorizing such issue, and the amount thereof, and stating the purposes to which the issue or proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by the issue of such stock, bonds, notes or other evidences of indebtedness is or has been reasonably required for the purposes specified in the order, and that except as otherwise permitted in the order in the case of bonds, notes and other evidences of indebtedness, such purposes are not in whole or in part reasonably chargeable to operating expenses or to income. Stock may be issued to stockholders as a stock dividend provided that there shall have been secured from the commission an order authorizing such issue and a transfer of surplus to capital in an amount equal to the par or stated value of the stock so authorized and stating that a sum equal to the amount to be so transferred was expended for the purposes enumerated in this section. Stock may be issued to an employee or director of a gas corporation or electric corporation under a stock option plan pursuant to which such corporation grants options to its employees or directors to purchase shares of stock, such options to be exercisable for a stated period of time to purchase shares of stock at the market value of the stock at the time of issuance of the option, provided that there shall have been secured from the commission an order authorizing such issue and that the proceeds from the exercise of the stock options are needed for one of the purposes enumerated in this section. The issue of stocks, bonds or other evidences of indebtedness, within the meaning of this section, shall include the sale by any such corporation of any such securities previously issued in compliance with the provisions of this section and subsequently reacquired by such corporation, provided, however, for good cause shown the commission may exempt from the restriction hereof, stocks, bonds or other evidences of indebtedness. For the purpose of enabling it to determine whether it should issue such an order, the commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. Such corporation shall not without the consent of the commission apply said issue or any proceeds thereof to any purpose not specified in such order. Such gas corporation or electric corporation may issue notes, for proper corporate purposes and not in violation of any provision of this or of any other act, payable at periods of not more than twelve months without such consent; but no such notes shall, in whole or in part, directly or indirectly be refunded by any issue of stock or bonds or by any evidences of indebtedness running for more than twelve months without the consent of the commission. The commission shall have power to require every such corporation to file with the commission after the issuance of stocks, bonds, notes or other evidences of indebtedness issued with or without the approval of the commission as herein provided, a notice of such transaction in such form as the commission may prescribe. Provided, however, that the commission shall have no power to authorize the capitalization of any franchise to be a corporation nor to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to any political subdivision thereof as the consideration for the grant of such franchise or right, nor to authorize the issuance of any stocks or other securities for any purposes other than those enumerated in this section. Nor shall the capital stock of a corporation formed by the merger or consolidation of two or more other corporations, exceed the sum of the capital stock of the corporations, so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger.

A permission or approval by the public service commission of a merger or consolidation shall not be deemed to be an approval of the value of any property or accounts of any company involved in the merger at the time of the merger, nor shall any such permission or approval be construed to be a certification by the public service commission that the bonds and/or capital stock of any such merged, merging or consolidating corporations are represented in value by commensurate physical assets of such corporations, nor shall such approval be evidence as to the value of any such property or account in subsequent rate proceedings or before any court or public body.

§ 69-a. Reorganizations. 1. Reorganizations of gas corporations and electric corporations pursuant to sections ninety-six and ninety-seven of the stock corporation law and such other statutes as may be enacted from time to time shall be subject to the supervision and control of the commission, and no such reorganization shall be had without the authorization of such commission.

2. Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidence of indebtedness, shall be such as is authorized by the commission, which, in making its determination shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication cost, present condition, earning power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash, provided, however, that the commission may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the commission.

§ 70. Transfer of franchises or stocks. 1. No gas corporation or electric corporation shall transfer or lease its franchise, works or system or any part of such franchise, works or system to any other person or corporation or contract for the operation of its works and system, without the written consent of the commission. Notwithstanding the foregoing, any transfer or lease with an original cost of (a) less than one hundred thousand dollars proposed by a gas or electric corporation having annual gross revenues in excess of two hundred million dollars or (b) less than twenty-five thousand dollars proposed by a gas or electric corporation having annual gross revenues of less than two hundred million dollars shall be effective without the commission's written consent within ninety days after such corporation notifies the commission that it plans to complete the transfer or lease and submits a description of the transfer or lease; provided, however, that the commission may determine within such ninety days after such notification and submission that the public interest requires its review and written consent.

2. The permission and approval of the commission, to the exercise of a

franchise under section sixty-eight of this article, or to the assignment, transfer or lease of a franchise under this section shall not be construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture.

3. No gas corporation or electric corporation shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business, in this state or any other state, or proposing to operate or operating under a franchise from the same or any other municipality, neither shall any street railroad corporation acquire the stock or bonds of any electric corporation, unless authorized so to do by the commission.

4. Save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission empowered by this chapter to give such consent, no stock corporation of any description, domestic or foreign, company, including, but not limited to, a limited liability company, association, including a joint stock association, partnership, including a limited liability partnership, or person, other than a gas corporation or electric corporation or street railroad corporation, shall purchase or acquire, take or hold, more than ten per centum of the voting capital stock issued by any gas corporation or electric corporation organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the voting capital stock of any gas corporation or electric corporation may with the consent of the commission acquire and hold the remainder of the voting capital stock of such gas corporation or electric corporation or any portion thereof. Provided, that with the consent of such commission and upon and subject to such terms and conditions as such commission may fix and impose, any such stock corporation, company, association, partnership or person may acquire, take and hold more than ten per centum of the voting capital stock of any gas corporation or electric corporation, organized or existing under or by virtue of the laws of this state.

5. No consent shall be given by the commission to the acquisition of

any stock in accordance with this section unless it shall have been shown that such acquisition is in the public interest. Nothing herein contained shall be construed to prevent the holding of any stock heretofore lawfully acquired, nor to prevent, upon the surrender or exchange of such stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged; but the proportion of the voting capital stock of the new corporation held by a stock corporation, company, association, partnership or person and acquired by it by any such surrender or exchange of stock shall not without the consent of the commission exceed the proportion of the voting capital stock held by it in the former corporation.

6. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, company, association, partnership or person in violation of any provision of this chapter shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such gas corporation, or electric corporation, or shall be recognized as effective for any purpose.

7. No consent, permission or approval otherwise required under this section shall be necessary for the sale of the franchise, works, system, stocks or bonds by a gas or electric corporation to a duly constituted authority of the state.

§ 70-a. Street lights. 1. Any municipality or other government entity proposing to acquire title to and transfer ownership of the complete system of street light luminaires or fixtures, all supporting infrastructure, and associated electric circuitry may file an application with the commission to determine if there is public interest for the commission to commence a proceeding to facilitate an ownership transfer agreement between the owner of the street lights and the petitioning municipality.

2. The municipality shall file an application with the commission identifying or providing:

(a) an inventory form with pole numbers, location, light size, light type and other relevant descriptive information; upon request an electric corporation shall provide such information required based on the actual cost, if any, to prepare the same;

(b) a statement explaining the need for the change in ownership including the anticipated financial impacts to the municipality;

(c) a statement explaining the municipality's plans to retrofit the fixtures to be acquired with energy efficient lighting; and

(d) such other information as the applicant may consider relevant or as the commission may require.

3. Any such application filed with the commission shall be accompanied by proof of service, and shall be served on the owner or owners of the street light equipment and supporting infrastructure which are subject to such proceeding. The applicant shall serve a copy of such application on such other persons or entities as the chair may deem appropriate. The applicant, the commission and those served shall constitute the parties to a proceeding pursuant to this section.

4. The commission shall require any utility named as a party to a proceeding pursuant to this section to have an effective tariff which establishes the process to facilitate the transfer of ownership of street light equipment, including light emitting diodes, supporting infrastructure, any required street lighting attachment provisions, and the rates and charges related to the foregoing.

5. The commission shall require that any agreement between the municipality and the owner of the street lighting system provide that any personnel that work on such street lighting system will be electrically qualified to accommodate the environment within which the street light equipment shall exist and/or be in compliance with established standards associated with work in close proximity to electrical equipment and further provide that any required make-ready work must be performed by the utility or qualified contractor.

6. The commission shall work with the New York state energy research and development authority to identify energy efficiency or of the funding which would be available for municipalities for the purposes of the section.

§ 71. Complaints as to quality and price of gas and electricity; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of a city, the trustees of a village, the town board of a town or the chief executive officer or the legislative body of a county in which a person or corporation is authorized to manufacture, convey, transport, sell or supply gas or electricity for heat, light or power, or upon the complaint in writing of not less than twenty-five customers or purchasers of such gas or electricity, or upon the complaint in writing of the department of state, or upon a complaint of a gas corporation or electrical corporation supplying or transmitting said gas or electricity, as to the illuminating or heating power, purity or pressure or the rates, charges or classifications of service of gas, the efficiency of the electric incandescent lamp supply, the voltage of the current supplied for light, heat or power, or the rates charged or classification of service of electricity sold and delivered in such municipality, or as to the extent or duration of a disruption in gas or electricity service, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such gas or electricity, and may examine or cause to be examined the books and papers of such person, or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas or electricity. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any. The commission shall publish the form and instructions for completing the form on the commission's website.

§ 72. Notice and hearing; order fixing price of gas or electricity or requiring improvement. Before proceeding under a complaint presented as provided in section seventy-one, the commission shall cause notice of such complaint, and the purpose thereof, to be served upon the person or corporation affected thereby. Such person or corporation shall have an opportunity to be heard in respect to the matters complained of at a time and place to be specified in such notice. An investigation may be instituted by the commission of its own motion as to any matter of which complaint may be made, as provided in section seventy-one of this chapter, or to enable it to ascertain the facts requisite to the exercise of any power conferred upon it. After a hearing and after such an investigation as shall have been made by the commission or its officers, agents, examiners or inspectors, the commission may, by order, fix just and reasonable prices, rates and charges for gas or electricity to be charged by such corporation or person, for the service to be furnished notwithstanding that a higher or lower price has been theretofore prescribed by general or special statute, contract, grant, franchise condition, consent or other agreement, and may order such improvement in the manufacture, conveying, transportation, distribution or supply of gas, in the manufacture, transmission or supply of electricity, or in the methods employed by such person or corporation, as will in its judgment be adequate, just and reasonable. Any such change in price shall be upon such terms, conditions or safeguards as the commission may prescribe. If it shall be made to appear to the satisfaction of the commission that the public interest requires a change in the price of gas or electricity charged by any such person or corporation, or that such change is necessary for the purpose of providing adequate and efficient service, or for the preservation of the property, the commission, upon such terms, conditions or safeguards as it deems proper, may authorize an immediate, reasonable, temporary increase or decrease in such price pending a final determination of the price to be thereafter charged by such person or corporation. The terms, conditions or safeguards prescribed may include provisions for the purposes for which the additional revenue derived from any such temporary increase may be expended and for the impounding thereof until the same shall be applied to the purposes so specified. The price fixed by the commission under this section or under subdivision five of section sixty-six shall be the maximum price to be charged by such person, corporation or municipality for gas or electricity for the service to be furnished within the territory and for a period to be fixed by the commission in the order, not exceeding three years except in the case of a sliding scale, and thereafter until the commission shall, upon its own motion or upon the complaint of any corporation, person or municipality interested, fix a higher or lower maximum price of gas or electricity to be thereafter charged. In determining the price to be charged for gas or electricity the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard among other things to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies. At any hearing involving a rate, the burden of proof to show that the change in rate or price if proposed by the person, corporation or municipality operating such utility, or that the existing rate or price, if on motion of the commission or in a complaint filed with the commission it is proposed to reduce the rate or price, is just and reasonable shall be upon the person, corporation or municipality operating such utility; and the commission may give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible. Nothing in this chapter contained shall be deemed to prohibit the commission from fixing a sliding scale upward rate for natural gas, beginning at a fixed price per unit for a small consumption and then increasing the price per unit as the consumption is increased.

§ 72-a. Increased fuel costs. Every gas and electric corporation subject to the jurisdiction of the commission shall file with the commission, on a monthly basis, the following information regarding increased fuel costs:

(a) what services are affected by the fuel increase;

(b) base cost of the fuel;

(c) name and address of supplier;
(d) point of delivery of all fuel purchased;
(e) present average cost of fuel to said corporation;
(f) dates used to determine average;
(g) amount per unit of consumption affected; and
(h) amount of fuel in storage at the end of each monthly period.
(i) and such other relevant information as the commission may require.

§ 73. Compensation to customers experiencing widespread prolonged outages. 1. Notwithstanding any other provision of law, in the event that a residential utility customer or a small business customer experiences a widespread prolonged outage lasting at least seventy-two consecutive hours or more without having been resolved by the utility company, the utility company shall:

(a) Provide a credit of twenty-five dollars on the balance of such residential utility customer's account for each subsequent twenty-four hour period of service outage that occurs for such customers for more than seventy-two consecutive hours after the occurrence of such widespread prolonged outage.

(b) Provide reimbursement of any food spoiled due to lack of refrigeration. Residential utility customers shall provide the utility company an itemized list of all food spoiled or proof of loss of food spoiled within fourteen days of the outage. The utility company shall reimburse the customer within thirty days of the receipt of the itemized list or proof of loss, provided, however, that if the utility company has applied for a waiver pursuant to subdivision three of this section, such utility company shall reimburse the customer within a time period to be determined by the commission after the commission renders a decision on the waiver request. The amount of the reimbursement shall not exceed a total of two hundred thirty-five dollars for customers who provide an itemized list. The amount of the reimbursement for customers who provide proof of loss shall not exceed five hundred forty dollars.

(c) Provide reimbursement of prescription medication spoiled due to lack of refrigeration. Residential utility customers shall provide the utility company with an itemized list and proof of loss of prescription medication due to lack of refrigeration within fourteen days of the outage. The utility company shall reimburse the customer within thirty days of the receipt of the itemized list and proof of loss of prescription medication, provided, however, that if the utility company has applied for a waiver pursuant to subdivision three of this section, such utility company shall reimburse the customer within a time period to be determined by the commission after the commission renders a decision on the waiver request. The amount of the reimbursement shall total no more than the actual loss of perishable prescription medicine.

(d) Provide reimbursement to small business customers for any food spoiled due to lack of refrigeration. Small business customers shall provide the utility company with an itemized list for all food spoiled and proof of loss within fourteen days of the outage. The utility company shall reimburse the small business customer within thirty days of the receipt of the itemized list and proof of loss, provided, however, that if the utility company has applied for a waiver pursuant to subdivision three of this section, such utility company shall reimburse the small business customer within a time period to be determined by the commission after the commission renders a decision on the waiver request. The amount of their imbursement shall not exceed five hundred forty dollars.

2. Any costs incurred by a utility company pursuant to this section shall not be recoverable from ratepayers.

3. Not later than fourteen calendar days after the occurrence of a widespread prolonged outage, a utility company may petition the commission for a waiver of the requirements of this section. The company shall have the burden of demonstrating that granting the waiver is fair, reasonable and in the public interest. In determining whether to grant such waiver, the commission shall consider: (a) whether the company complied with their submitted emergency response plan pursuant to the provisions of subdivision twenty-one of section sixty-six of this article; (b) whether any actions or omissions of the company contributed to the prolonging of the widespread prolonged outage; (c) the hardships endured by said company's customers due to the widespread prolonged outage; (d) the severity of the widespread prolonged outage; (e) conditions on the ground during the widespread prolonged outage and the

subsequent restoration; (f) balancing of the equities; and (g) any other criteria the commission deems in the public interest to consider. The commission shall issue a final decision regarding the grant of the requested waiver no later than forty-five days after submission of the petition.

4. The commission shall promulgate procedures, standards, methodologies and rules necessary to implement the provisions of this section. Such rules and regulations shall define the terms "widespread prolonged outage", "small business customer" and "proof of loss".

§ 73-a. Prioritization of emergency services. 1. If, during a widespread prolonged outage that affects at least twenty thousand customers in the service territory of an electric corporation, and such corporation is not able to restore electric power services within twenty-four hours to any affected police department, fire department, ambulance service or advanced life support first response service facility that is prewired with an appropriate transfer switch for using an alternate generated power source, such electric corporation shall notify the village, town or city in which such facility is located.

2. Towns, cities, and villages shall provide to counties, and counties shall, to the extent practicable, provide the electric corporations and the division of homeland security and emergency services with a list of such police departments, fire departments, ambulance services and advanced life support first response services located within such municipality's territorial boundaries within one year of the effective date of this section, and periodically thereafter as necessary to update such list.

3. For the purposes of this section, "alternate generated power source" shall mean electric generating equipment that is of the capacity that is capable of providing adequate electricity to operate all life safety systems and the basic operations of a police department, fire department, ambulance service or advanced life support first response service.

§ 74. Energy storage deployment policy. 1. As used in this section "qualified energy storage system" shall mean commercially available technology that is capable of absorbing energy, storing it for a period of time, and thereafter dispatching the energy using mechanical, chemical, or thermal processes to store energy that was generated at one time for use at a later time.

2. By December thirty-first, two thousand eighteen, the commission shall, in consultation with the New York state energy research and development authority, the Long Island power authority, and the federally designated electric bulk system operator for New York state, after a hearing held on notice, establish by order, rules and regulations, both a two thousand thirty energy storage goal for the state and a deployment policy to support that goal. The energy storage deployment policy shall assist with and take the following into consideration:

(a) avoided or deferred costs associated with transmission, distribution, and/or generation capacity;

(b) minimization of peak load in constrained areas;

(c) systems that are connected to customer facilities and systems that are directly connected to transmission and distribution facilities;

(d) cost-effectiveness;

(e) the integration of variable-output energy resources;

(f) reducing emissions of greenhouse gases;

(g) reducing demand for peak electrical generation;

(h) improving the reliable operation of the electrical transmission or distribution systems; and

(i) such other issues deemed appropriate by the commission.

3. To the extent that the energy storage deployment policy directs the procurement of qualified energy storage systems to encourage their deployment, such procurements shall be awarded through a competitive process.

4. Annual reports on the achievements and effectiveness of the policy

shall be submitted to the governor, the temporary president of the senate, and the speaker of the assembly.

§ 74-a. Westchester county renewable energy and energy efficiency resources program. 1. Within ninety days of the effective date of this section, the commission shall, in consultation with the New York state energy research and development authority, after a hearing held on notice, establish by order, rules, and regulations, a program to encourage the installation of renewable energy resources and energy efficiencies in the county of Westchester.

2. For the purposes of this section, renewable energy resources and energy efficiency shall have the same meaning as defined by the commission and consistent with the most recent state energy plan pursuant to article six of the energy law.

§ 74-b. Long Island community choice aggregation programs. 1. For the purposes of this section:

(a) a "Long Island community choice aggregation program" or "CCA" means a program serving the interests of its residents and appropriately protecting consumer data, in which an eligible municipality either alone or jointly, after a public hearing held following public notice, exercises its municipal home rule law authority by enacting a local law giving itself the requisite legal authority to enter into competitively-procured contracts with one or more energy service companies in order to act as an aggregator and broker for the sale of electric supply, gas supply, or both, to residents of that municipality wherein all customers, including residential and non-residential, are eligible to participate in the program and shall have the option to opt-out of either, individually. CCA programs may aggregate or otherwise integrate energy efficiency and distributed energy resources into their programs.

(b) "Eligible municipality" means a city, town, or village within the service territory of the Long Island power authority.

(c) "Service provider" means the entity under contract with the Long

Island power authority to provide management and operation services associated with the authority's electric transmission and distribution system and any subsidiary of such entity that provides such services under contract.

2. No later than January first two thousand twenty-two, the commission shall, in consultation with the New York State energy research and development authority and the Long Island power authority, establish by order, rules, and regulations a Long Island community choice aggregation program that includes the following:

(a) the extent to which eligible municipalities may collaborate in the operation of joint CCA programs and any geographic or service area limitations that may exist;

(b) the ability of eligible municipalities to seek the assistance of a non-profit, to work with a consultant, or to otherwise designate a third-party as an administrator of a CCA program;

(c) the development of a data security agreement to be adopted by participating eligible municipalities, energy service companies, the Long Island power authority, and Long Island power authority service providers;

(d) an enrollment process for eligible customers with opt-out provisions for those customers who do not wish to participate;

(e) requirements by which participating eligible municipalities will report on the status of their CCA program to the Long Island power authority; and

(f) such other issues deemed appropriate by the commission.

3. Annual reports on the status of the Long Island community choice aggregation program shall be prepared by the Long Island power authority and shall be submitted to the governor, the temporary president of the senate, and the speaker of the assembly by March thirty-one of each year and must cover the previous calendar year. Annual reports will include, at a minimum: number of customers served; number of customers cancelling during the year; number of complaints received by CCA administrators; commodity prices paid; value-added services provided during the year; and administrative costs collected, if any.

§ 75. Defense in case of excessive charges for gas or electricity. If it be alleged and established in an action brought in any court for the collection of any charge for gas or electricity, that a price has been demanded in excess of that fixed by the commission or by statute in the municipality wherein the action arose, no recovery shall be had therein, but the fact that such excessive charges have been made shall be a complete defense to such action.

§ 76. Rates charged veteran organizations, religious bodies and community residences. No gas corporation, electric corporation or municipality shall, directly or indirectly, charge, demand, collect or receive from any post or hall owned or leased by a not-for-profit corporation that is a veterans' organization, or corporation or association organized and conducted in good faith for religious purposes, including the operation by such corporation or association of a school, notwithstanding that secular subjects are taught at such school, or from a community residence as defined in subdivision twenty-eight, twenty-eight-a or twenty-eight-b of section 1.03 of the mental hygiene law, provided, however, that such residence shall be operated by a not-for-profit corporation and if supervisory staff is on site on a twenty-four hour per day basis, that the residence provides living accommodations for fourteen or fewer residents, a rate, regardless of the type of service offered, for any gas or electric service utilized exclusively in connection with such veteran organization or for such religious purposes or utilized exclusively at such community residence greater than the rates or charges charged, demanded, collected or received by such gas corporation, electric corporation or municipality from domestic consumers receiving single-phase service within the same village, town or municipality.

§ 77. Powers of local officers. If in any city of the first or second class there now exists or shall hereafter be created a board, body or officer having jurisdiction of matters pertaining to gas or electric service, such board, body or officer shall have and may exercise such power, jurisdiction and authority in enforcing the laws of the state and the orders, rules and regulations of the commission as may be prescribed by statute or by the commission.

ARTICLE 4-A.

PROVISIONS RELATING TO STEAM CORPORATIONS; REGULATING PRICE OF STEAM.

§ 78. Application of article. This article shall apply to the manufacture, holding, distributing and furnishing of steam for heat or power.

§ 79. Adequate service; just and reasonable charges; unjust discrimination and unreasonable preference. 1. Every steam corporation 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 corporation for such service rendered or to be rendered shall be just and reasonable and not more than allowed by order of the commission. Every unjust or unreasonable charge made or demanded for such service, or in connection therewith or in excess of that allowed by law or by the commission is prohibited.

2. No such corporation shall directly or indirectly by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for such service rendered or to be rendered or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

3. No such corporation shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

4. Nothing in this chapter shall be taken to prohibit any such corporation from establishing a sliding scale for a fixed period for the automatic adjustment of charges for such service or any service rendered or to be rendered and the dividends to be paid to stockholders of such corporation, provided that the sliding scale shall first have been filed with and approved by the commission; but nothing in this subdivision shall operate to prevent the commission after the expiration of such fixed period from fixing proper, just and reasonable rates and charges to be made for services as authorized in this article.

5. (a) Every steam corporation furnishing service may initiate a civil action to collect a civil penalty against a user of non-residential service in accordance with this subdivision. Upon a showing in such action that a user of non-residential service has knowingly accepted or received the use and benefit of such service which has been prevented from being properly registered by a meter provided therefor, the corporation may be granted a civil penalty, in addition to the value of

the unpaid service, in an amount which the court in its discretion shall deem to be just and reasonable, which in no event shall be more than three times the retail value of the steam service accepted or received. In any action under this subdivision, proof that a meter has been intentionally prevented from properly registering steam service shall be prima facie proof that the user of non-residential service who accepts or receives the use and benefit of such service has done so with knowledge of the condition so existing, if the steam corporation shall first present evidence that such person took possession of the benefitted premises and used the service prior to the creation of the condition.

(b) For the purposes of this subdivision, a user of non-residential service shall be a person benefitting from such service who is in possession of the premises to which the service is delivered.

(c) Any civil penalty recovered pursuant to this section in excess of the actual damages sustained by the corporation shall be taken into account by the public service commission in establishing future steam rates.

§ 80. General powers of commission in respect to steam heating. The commission shall: 1. Have general supervision of all steam corporations having authority under any general or special law or under any charter or franchise to lay down, regulate or maintain pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality, for the purpose of furnishing or transmitting steam for heat or power, and all plants leased or operated by any such corporation.

2. Investigate and ascertain, from time to time, the methods employed by such persons and corporations in manufacturing, distributing and supplying steam for heat or power and have power to order such reasonable improvements as will best promote the public interest, preserve the public health and protecting those using such steam and those employed in the manufacture and distribution thereof, and have power to order reasonable improvements and extensions of the pipes, lines, conduits, ducts and other reasonable devices, apparatus and

property of such corporation.

3. Have power, in its discretion, to prescribe uniform methods of keeping account, records and books, to be observed by such corporation in the manufacture, sale and distribution of steam. It may also in its discretion prescribe, by order, forms of accounts, records and memoranda to be kept by such persons and corporations. Notice of alterations by the commission in the required method or form of keeping a system of accounts shall be given to such persons or corporations by the commission at least six months before the same shall take effect. Any other and additional forms of accounts, records and memoranda kept by such corporation shall be subject to examination by the commission.

4. Examine all persons and corporations under its supervision and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business. The commission shall have power of its own motion to examine and investigate the plants and methods employed in manufacturing, delivering and supplying steam and shall have access through its members or persons employed and authorized by it to make such examinations and investigations to all parts of the manufacturing plants owned, used or operated for the manufacture, transmission, distribution, furnishing or sale of steam for heat or power by any such person or corporation. Whenever the commission shall be of the opinion, after hearing had upon its own motion or upon complaint, that the rates or charges or the acts or regulations of any such person or corporation, are unjust, unreasonable, unjustly discriminatory or unduly preferential or in any wise in violation of any provision of law, the commission shall determine and prescribe in the manner provided by and subject to the provisions of section eighty-five of this chapter the just and reasonable rates and charges thereafter to be enforced for the service to be furnished, and the just and reasonable acts and regulations to be done and observed; and whenever the commission shall be of opinion, after hearing had upon its own motion or upon complaint, that the property, equipment or appliances of any such person or corporation are unsafe, inefficient or inadequate, the commission shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used,

maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters.

5. Require every person and corporation under its supervision and it shall be the duty of every such person and corporation to file with the commission an annual report, verified by the oath of the president, vice-president, treasurer, secretary, general manager or receiver, if any, thereof, or by the person required to file the same. The verification shall be made by said officials holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail:

(a) The amount of its authorized capital stock and the amount thereof issued and outstanding; (b) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (c) its receipts and expenditures during the preceding year; (d) the amount paid as dividends upon its stock and as interest upon its bonds; (e) the name of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; (f) the location of its plant or plants and system, with a full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; (g) such other facts pertaining to the operation and maintenance of the plant and system, and the affairs of such person or corporation as may be required by the commission. Such report shall be in the form, cover the period and be filed at the time prescribed by the commission. The commission may from time to time make changes and additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the person or corporation making such report to amend the same within a time prescribed by the commission. Any such person or corporation which shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file and correct the same, to be sued for in the name of the people of the state of New York. The amount recovered in any such action shall be paid into the state treasury and be credited to the general fund. The commission may extend the time prescribed for cause shown.

6. Have power, either through its members or inspectors or employees duly authorized by it, to enter in or upon and to inspect the property, buildings, plants, power houses, ducts, conduits and offices of any such corporation or person.

7. Have power to examine all accounts, books, contracts, records, documents and papers of any such person or corporation, and have power, after a hearing, to prescribe by order all accounts in which particular outlays and receipts shall be entered, charged or credited. At any such hearing the burden of proof shall be on the person, corporation or municipality to establish the correctness of the accounts in which such outlays and receipts have been entered, and the commission may suspend a charge or credit pending submission of proof by such person, corporation or municipality.

8. Have power to compel, by subpoena duces tecum, the production of any accounts, books, contracts, records, documents, memoranda and papers. In lieu of requiring production of originals by subpoena duces tecum the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers, or parts thereof, to be filed with it. The commission may require of all such corporations, persons or municipalities, specific answers to questions upon which the commission may need information, and may also require such corporations, persons or municipalities to file periodic reports in the form, covering the period and filed at the time prescribed by the commission. If such corporation, person or municipality shall fail to make specific answer to any question or shall fail to make a periodic report when required by the commission as herein provided within the time and in the form prescribed by the commission for the making and filing of any such report or answer, such corporation, person or the officer of the municipality shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in

default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the people of the state of New York. The amount recovered in any such action shall be paid into the state treasury and be credited to the general fund.

9. Have power in all parts of the state, either as a commission or through its members or through an officer or employee specially authorized to conduct an investigation or hearing, to subpoena witnesses, take testimony and administer oaths to witnesses in any proceeding or examination instituted before it, or conducted by it in reference to any matter within its jurisdiction under this article.

10. (a) Have power to require every steam corporation, person or municipality, hereinafter in this subdivision called a utility, to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such utility; but this subdivision shall not apply to state, municipal or federal contracts.

(b) No change shall be made in any rate or charge, or in any form of contract or agreement or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed or published by a utility in compliance with an order of the commission, except after thirty days' notice to the commission and to each county, city, town and village served by such utility, which had filed with such utility, within the prior twelve months, a request for such notice and which shall be affected by such change and the publication for thirty days as required by order of the commission, which shall plainly state the changes proposed to be made and when the change will go into effect. The commission for good cause shown may, except in the case of major changes, allow changes to take effect prior to the end of such thirty-day period and without publication of notice to the public under such conditions as it may prescribe. The commission may delegate to the secretary of the commission its authority to approve a change to a schedule postponing the effective date of such schedule previously filed with the commission and to allow for good cause shown the postponement to take effect prior to the end of such thirty-day period and without publication of notice to the public.

(c) For the purpose of this subdivision, "major changes" shall mean an increase in the rates and charges which would increase the aggregate revenues of the applicant more than the greater of three hundred thousand dollars or two and one-half percent, but shall not include changes in rates, charges or rentals allowed to go into effect by the commission or made by the utility pursuant to an order of the commission after hearings held upon notice to the public.

(d) No utility shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges specified in its schedule filed and in effect; nor shall any utility refund or remit in any manner or by any device any portion of the rates or charges so specified, nor extend to any person any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons under like circumstances.

(e) The commission shall have power to prescribe the form of every such schedule, and from time to time prescribe by order such changes in the form thereof as may be deemed wise. The commission shall also have power to establish such rules and regulations to carry into effect this subdivision as it may deem necessary, and to modify or amend such rules or regulations from time to time.

(f) (i) Whenever there shall be filed with the commission by any utility any schedule stating a new rate or charge, or any change in any form of contract or agreement or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, the commission may, at any time within sixty days from the date when such schedule would or has become effective, either upon complaint or upon its own initiative, and, if it so orders, without answer or other formal pleading by the utility, but upon reasonable notice, hold a hearing concerning the propriety of a change proposed by the filing. If such change is a major change, the commission shall hold such a hearing. Pending such hearing and decision thereon the commission, upon filing with such schedule and delivering to the utility, a statement in writing of its reasons therefor, may suspend the operation of such schedule, but not for a longer period than fourteen months beyond the time when it would otherwise go into effect. After full hearing, whether completed before or after the schedule goes into effect, the commission may make such order in reference thereto as would be proper in a proceeding begun after the rate, charge, form of contract or agreement, rule, regulation, service, general privilege or facility had become effective.

(ii) The commission is authorized to approve, and any hearing involving a major change in rates for a steam corporation may consider, whether as a result of litigation or settlement negotiations, multi-year changes in rates or charges, in addition to the utility's filing. Any such additional multi-year rates or charges which result from a litigated process are authorized to be implemented in a similar manner to those resulting from settlement negotiations. The commission shall, in each order approving a major change in rates for a steam corporation, explain how the information in the record that it received from such corporation and the parties impacted its determination to approve a major change in rates consistent with the public interest either as a result of litigation or from a settlement, and include a written summary of the commission's rationale.

(g) The commission may, as authorized by section eighty-five of this article, establish temporary rates or charges for any period of suspension under this section. At any hearing involving a rate or charge, the burden of proof to show that the change in rate or charge, or proposed change in rate or charge if proposed by the utility, or that the existing rate or charge, if it is proposed to reduce the rate or charge, is just and reasonable shall be upon the utility; and the commission may give to the hearing and decision of such questions preference over all other questions pending before it. The schedule, rates, charges, form of contract or agreement, rule, regulation, service, general privilege or facility in force when the new schedule, rate, charge, form of contract, rule, regulation, service, general privilege or facility was filed shall continue in force during the period of the suspension unless the commission shall establish a temporary rate or charge as authorized by section eighty-five of this article. Provided, however, that whenever the commission shall deny a request by a utility for a major change in rates or charges, the schedule, rate, charge, form of contract or agreement, rule, regulation, general privilege, facility, or service immediately in effect prior to such request being filed shall remain in full force and effect until such time as the commission approves a new schedule of rates or charges, unless the commission established a temporary rate or charge as authorized by section eighty-five of this article.

* (h) (i) The commission shall require each filing for a major change in rates made by a steam corporation to include an executive compensation disclosure. Such executive compensation disclosure shall include: (A) the median of the annual total compensation of all employees of the steam corporation, except for senior management positions; (B) the annual total compensation of the chief executive officer; (C) the annual total compensation for each other senior management position; and (D) the ratio of the amount described in clause (A) of this subparagraph to the amount described in clause (B) of this subparagraph.

(ii) For purposes of this paragraph, "senior management positions" shall include a chief executive officer, chief operations officer, chief financial officer, chief information officer, chief information technology officer, officer responsible for regulatory affairs, general counsel, and any other positions considered to be senior management by the corporation.

* NB Effective January 1, 2027

* (i) (i) The commission shall require each filing for a major change in rates made by a steam corporation to include, in addition to the corporation's recommended proposal, a budget constrained proposal that separately addresses operating expenses, capital expenditures, programmatic or policy expenditures, commodity supply costs, taxes, and other costs not within the control of the corporation. Such budget constrained proposal shall not increase the applicant's aggregate revenues by more than the average of the annual consumer price index increases over the prior three years.

(ii) In each filing for a major change in rates, the corporation shall demonstrate how any increase in the applicant's aggregate revenues by more than the increase set forth in the budget constrained proposal is necessary to ensure safety, reliability, or the continuation of affordability programs.

(iii) The commission shall require the corporation to track expenditures and outcomes and explain all material deviations from the approved rate plan no less frequently than on an annual basis.
* NB Effective January 1, 2027

11. In case any steam corporation is engaged in carrying on any business other than owning, operating or managing a steam plant, which other business is not otherwise subject to the jurisdiction of the commission, and is so conducted that its operations are to be substantially kept separate and apart from the owning, operating, managing or controlling of such steam plant, said corporation in respect of such other business shall not be subject to any of the provisions of this chapter and shall not be required to procure the assent or authorization of the commission to any act in such other business or to make any report in respect thereof. But this subdivision shall not restrict or limit the powers of the commission in respect to the owning, operating, managing or controlling by such corporation of such steam plant, and said powers shall include also the right to inquire as to, and prescribe the apportionment of, capitalization, earnings, debts and expenses fairly and justly to be awarded to or borne by the ownership, operation, management or control of such steam plant as distinguished from such other business. In any such case if the owning, operating, managing or controlling of such steam plant by any such corporation is wholly subsidiary and incidental to the other business carried on by it and is inconsiderable in amount and not general in its character, the commission may by general rules exempt such corporation from making full reports and from the keeping of accounts as to such subsidiary and incidental business.

12. Notwithstanding any other provision of law to the contrary, whenever a city having a population of one million or more provides for a deduction from gross receipts of a steam corporation, pursuant to a local law authorized by the provisions of subdivision (k) of section twelve hundred one of the tax law, the rate or charge imposed by any such corporation within such city upon non-residential users of steam eligible to receive a rebate in accordance with a local law or laws adopted pursuant to article two-G of the general city law shall be set

by the commission so as to reflect fully the decrease in tax liability attributable to such deduction.

§ 81. Approval of incorporation and franchises; certificate. No steam corporation shall begin construction of a steam plant without first having obtained the permission and approval of the commission. No such corporation shall exercise any right or privilege under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first having obtained the permission and approval of the commission. Before such certificate shall be issued a certified copy of the charter of such corporation shall be filed in the office of the commission, together with a verified statement of the president and secretary of the corporation, showing that it has received the required consent of the proper municipal authorities. The commission shall have power to grant the permission and approval herein specified whenever it shall after due hearing determine that such construction or such exercise of the right, privilege or franchise is necessary or convenient for the public service.

No municipality shall build, maintain and operate for other than municipal purposes any works or systems for the manufacture and supplying of steam for purposes without a certificate of authority granted by the commission. If the certificate of authority is refused, no further proceedings shall be taken by such municipality before the commission, but a new application may be made therefor after one year from the date of such refusal.

§ 82. Approval of issues of stock, bonds and other forms of indebtedness. A steam corporation organized or existing, or hereafter incorporated, under or by virtue of the laws of the state of New York, may issue stock, bonds, notes or other evidences of indebtedness payable at periods of more than twelve months after the date thereof, or a receiver of such a corporation, if duly authorized by law, may issue receiver's certificates, when necessary for the acquisition of property, the construction, completion, extension or improvement of its plant or distributing system, or for the improvement or maintenance of its service or for the discharge or lawful refunding of its obligations or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the corporation not secured or obtained from the issue of stock, bonds, notes or other evidences of indebtedness of such corporation, within ten years next prior to the filing of an application with the commission for the required authorization, for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditure in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made; provided and not otherwise that there shall have been secured from the commission an order authorizing such issue, and the amount thereof, and stating the purposes to which the issue or proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by the issue of such stock, bonds, notes or other evidences of indebtedness is or has been reasonably required for the purposes specified in the order, and that except as otherwise permitted in the order in the case of bonds, notes and other evidences of indebtedness, such purposes are not in whole or in part reasonably chargeable to operating expenses or to income. Stock may be issued to stockholders as a stock dividend provided that there shall have been secured from the commission an order authorizing such issue and a transfer of surplus to capital in an amount equal to the par or stated value of the stock so authorized and stating that a sum equal to the amount to be so transferred was expended for the purposes enumerated in this section. Stock may be issued to an employee or director of a steam corporation under a stock option plan pursuant to which such corporation grants options to its employees or directors to purchase shares of stock, such options to be exercisable for a stated period of time to purchase shares of stock at the market value of the stock at the time of issuance of the option, provided that there shall have been secured from the commission an order authorizing such issue and that the proceeds from the exercise of the stock options are needed for one of the purposes enumerated in this section. The issue of stocks, bonds or other evidences of indebtedness, within the meaning of this section, shall include the sale by any such corporation of any such securities previously issued in compliance with the provisions of this section and subsequently reacquired by such corporation, provided, however, for good cause shown the commission may exempt from the restriction hereof stocks, bonds or other evidences of indebtedness. For the purpose of enabling it to determine whether it should issue such an order, the commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. Such corporation shall not without the consent of the commission apply said issue or any proceeds thereof to any purpose not specified in such order. Such steam corporation may issue notes, for proper corporate purposes and not in violation of any provision of this or of any other act, payable at periods of not more than twelve months without such consent; but no such notes shall, in whole or in part, directly or indirectly be refunded by any issue of stock or bonds or by any evidences of indebtedness running for more than twelve months without the consent of the commission. The commission shall have power to require every such corporation to file with the commission after the issuance of stocks, bonds, notes or other evidences of indebtedness issued with or without the approval of the commission as herein provided, a notice of such transaction in such form as the commission may prescribe. Provided, however, that the commission shall have no power to authorize the capitalization of any franchise to be a corporation nor to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount, exclusive of any tax or annual charge, actually paid to the state or to any political subdivision thereof as the consideration for the grant of such franchise or right, nor to authorize the issuance of any stocks or other securities for any purposes other than those enumerated in this section. Nor shall the capital stock of a corporation formed by the merger or consolidation of two or more corporations exceed the sum of the capital stock of the corporations, so consolidated, at the par value thereof, or such sum or any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger.

§ 82-a. Reorganizations. 1. Reorganizations of steam corporations pursuant to sections ninety-six and ninety-seven of the stock corporation law and such other statutes as may be enacted from time to time shall be subject to the supervision and control of the commission, and no such reorganization shall be had without the authorization of the commission.

2. Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidence of indebtedness, shall be such as is authorized by the commission, which, in making its determination shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication cost, present condition, earning power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash, provided, however, that the commission may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the commission.

§ 83. Transfer of franchises, property or stocks. 1. No steam corporation shall transfer or lease its franchise, works or system or any part of such franchise, works or system to any other person or corporation or contract for the operation of its works and system, without the written consent of the commission.

2. The permission and approval of the commission to the exercise of a franchise under section eighty-one of this article, or to the assignment, transfer or lease of a franchise under this section shall not be construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture.

3. No steam corporation shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business, or proposing to operate or operating under a franchise from the same or any other municipality, unless authorized so to do by the commission.

4. Save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission, no stock corporation of any description, domestic or foreign, company, including, but not limited to, a limited liability company, association, including a joint stock association, partnership, including a limited liability partnership, or person, other than a steam corporation, a street railroad corporation, a gas corporation, an electric corporation, or a gas and electric corporation, shall purchase or acquire, take or hold, more than ten per centum of the voting capital stock issued by any steam corporation organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the voting capital stock of any steam corporation may with the consent of the commission acquire and hold the remainder of the voting capital stock of such steam corporation or any portion thereof.

5. No consent shall be given by the commission to the acquisition of any stock in accordance with this section unless it shall have been shown that such acquisition is in the public interest. Nothing herein contained shall be construed to prevent the holding of any stock heretofore lawfully acquired, nor to prevent, upon the surrender or exchange of such stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged; but the proportion of the voting capital stock of the new corporation held by a stock corporation, company, association, partnership or person and acquired by it by any such surrender or exchange of stock shall not without the consent of the commission exceed the proportion of the voting capital stock held by it in the former corporation.

6. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, company, association, partnership or person, in violation of any provision of this chapter, shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such steamheating corporation, or shall be recognized as effective for any purpose.

§ 84. Complaints as to service and price of steam heat; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of the city, the trustees of a village or the town board of a town in which a person or corporation is authorized to manufacture, sell or supply steam for heat or power, or upon the complaint in writing of not less than fifty customers or purchasers of such steam heat in cities of the first or second class, or of not less than twenty-five in cities of the third class, or of not less than ten elsewhere, or upon the complaint in writing of the department of state, as to the price, pressure or efficiency of steam supplied for heat or power, sold and delivered in such municipality, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the work, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such steam, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such steam. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaint shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their place of residence, by street and number, if any.

§ 85. Notice and hearing; order fixing price of steam, or requiring improvement. Before proceeding under a complaint presented as provided in section eighty-four, the commission shall cause notice of such complaint, and the purpose thereof, to be served upon the person or corporation affected thereby. Such person or corporation shall have an opportunity to be heard in respect to the matters complained of at a time and place to be specified in such notice. An investigation may be instituted by the commission on its own motion as to any matter of which complaint may be made, as provided in section eighty-four of this chapter, or to enable it to ascertain the facts requisite to the exercise of any power conferred upon it. After a hearing and after such an investigation as shall have been made by the commission or its officers, agents, examiners or inspectors, the commission may, by order, fix the maximum price of steam to be charged by such corporation or person, for the service to be furnished notwithstanding that a higher or lower price has been theretofore prescribed by general or special statute, contract, grant, franchise condition, consent or other agreement; and may order such improvement in the manufacture, distribution or supply of steam, or in the methods employed by such person or corporation, as will in its judgment be adequate, just and reasonable. Any such change in price shall be upon such terms, conditions or safeguards, as the commission may prescribe. It it shall appear to the satisfaction of the commission that the public interest requires a change in the price of steam charged by any such person or corporation, or that such change is necessary for the purpose of providing adequate and efficient service, or for the preservation of the property, the commission, upon such terms, conditions or safeguards as it deems proper, may authorize an immediate, reasonable, temporary increase or decrease in such price pending a final determination of the price to be thereafter charged by such person or corporation. The terms, conditions or safeguards prescribed may include provisions for the purposes for which the additional revenue derived from any such temporary increase may be expended and for the impounding thereof until the same shall be applied to the purposes so specified. The price fixed by the commission under this section or under subdivision five of section eighty shall be the maximum price to be charged by such person, corporation or municipality for steam for the service to be furnished within the territory and for a period to be fixed by the commission in the order, not exceeding three years except in case of a sliding scale, and thereafter until the commission shall, upon its own motion or upon the complaint of any corporation, person or municipality interested, fix a higher or lower maximum price of steam to be thereafter charged. In determining the price to be charged for steam the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard among other things to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies. At any hearing involving a rate or price, the burden of proof to show that the change in rate, if proposed by the person, corporation or municipality operating such utility, or that the existing rate, if on motion of the commission or in a complaint filed with the commission it is proposed to reduce the rate, is just and reasonable, shall be upon the person, corporation or municipality operating the utility, and the commission may give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

§ 88. Defense in case of excessive charges for steam heat. If it be alleged and established in an action brought in any court for the collection of any charge for steam for heat or power, that a price has been demanded in excess of that fixed by the commission or by statute in the municipality wherein the action arose, no recovery shall be had therein, but the fact that such excessive charges have been made shall be a complete defense to such action.

§ 89. Powers of local officers. If in any city of the first or second class there now exists or shall hereafter be created a board, body or officer having jurisdiction of matters pertaining to steam power service, such board, body or officer shall have and may exercise such power, jurisdiction and authority in enforcing the laws of the state and the orders, rules and regulations of the commission as may be prescribed by statute or by the commission.

ARTICLE 4-B

PROVISIONS RELATING TO WATER

§ 89-a. Application of article. This article shall apply to the sale, furnishing and distribution of water for domestic, commercial and public purposes, not including bottled water.

§ 89-b. Safe and adequate service; just and reasonable charges; unjust discrimination; unreasonable preference; protection of privacy. 1. Every water-works corporation 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 water-works corporation for water, or for equipment furnished or for 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 water or for equipment furnished or for any such service, or in connection therewith, or in excess of that allowed by law or by the order of the commission is prohibited.

2. No water-works corporation shall directly or indirectly, by any special rate, rebate, drawback or other device or method, charge, demand, collect or receive from any person or corporation a greater or less compensation for water, or for equipment or for any service rendered or to be rendered or in connection therewith, except as authorized in this article, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect thereto under the same or substantially similar circumstances or conditions.

3. No water-works corporation shall make or grant any undue or unreasonable preference or advantage to any person, corporation or locality, or to any particular description of service in any respect whatsoever, or subject any particular person, corporation or locality or any particular description of service to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

3-a. No water-works corporation shall discontinue or disconnect the supply of water for non-payment of water rents, rates or charges, unless such water-works corporation shall have first given fifteen days' written notice of its intention so to do to the owner of the premises thereby affected, or in lieu thereof, to the person, firm or corporation to whom or which the last preceding bill has been rendered and from whom or which the water-works corporation has received payment therefor, and to the superintendent or other person in charge of the building or premises thereby affected, if it can be readily ascertained that there is such superintendent or other person in charge. Such notice in every case shall be served either personally on the person, firm or corporation to which it is directed, or by mailing the same in a postpaid wrapper to the address of such person, firm or corporation.

3-b. (a) No water-works corporation can effect the discontinuance of residential service for nonpayment of bills rendered for water service on Friday after twelve noon, Saturday, Sunday, public holiday, or day on which the main business office of the corporation is not open for business.

(b) Discontinuance for nonpayment of bills rendered for water service of residential services can only take place between Monday and Thursday between the hours of eight a.m. and six p.m., and Fridays before twelve noon.

(c) The term public holiday refers to those holidays enumerated in the general construction law.

3-c. It shall be unlawful for any water-works corporation to discontinue the supply of water to any person or entity receiving public assistance, for nonpayment of bills rendered for service, if the payment for such service is to be paid directly by the office of temporary and disability assistance or the social services official in such locality.

4. Nothing in this chapter shall be taken to prohibit a water-works corporation from establishing a sliding scale for a fixed period for the automatic adjustment of charges for water, or any service rendered or to be rendered and the dividends to be paid to stockholders of such corporation, provided the sliding scale shall first have been filed with and approved by the commission; but nothing in this subdivision shall operate to prevent the commission after the expiration of such fixed period from fixing proper, just and reasonable rates and charges to be made for service as authorized in this article.

5. Nothing in this chapter shall be taken to prohibit a water-works corporation from establishing classifications of service based upon the quantity of water used, times when used, purpose for which used, duration of use, or upon any other reasonable consideration, and providing schedules of just and reasonable graduated rates applicable thereto. No such classification, schedule, rate or charge shall be lawful unless it shall be filed with and approved by the commission, and every such classification, rate or charge shall be subject to change, alteration and modification by the commission.

6. No water works corporation shall sell or offer for sale any list of names of its customers. However, upon request by a municipality, a water works corporation shall provide water usage data by property address to such municipality where: (a) such municipality is within the service territory of such water works corporation; (b) such data shall only be used for municipal purposes related to the financing of clean, storm or drinking water infrastructure projects and service; and (c) the provision of such data shall be pursuant to a written agreement between the water works corporation and the municipality which adequately provides for customer privacy safeguards and is approved by the commission. The water works corporation may provide for reimbursement of any nominal administrative costs which result from this provision of data in the written agreement. Property water usage data shall be used solely for the calculation of assessments or bills for municipal services for which water usage is a relevant indicator of the cost of such municipal services and such data information shall not be sold or shared with any other person or corporation. If a private vendor is used by the municipality in association with such municipal purposes, the restrictions related to municipalities on sale or sharing of water usage data shall apply to such private vendor. Upon request by a municipality, the commission may commence a proceeding to: (a) establish a written agreement between the municipality and a water works corporation; or (b) review any written agreement entered into between the municipality and a water works corporation, and make any modifications to such agreement as would be in the public interest. Any agency, as defined under section eighty-six of the public officers law, shall not disclose any personally identifiable information contained within such water usage data to the public. For purposes of this subdivision, "municipality" shall only include the cities of New Rochelle and Rye; the towns of Eastchester, Greenburgh, and Mount Pleasant; and the villages of Ardsley, Bronxville, Dobbs Ferry, Hastings-on-Hudson, Pelham, Pelham Manor, Port Chester, Rye Brook, and Tuckahoe.

7. Every water-works corporation providing service to the residents of a county with a population of one million two hundred fifty thousand or more which is not wholly contained within a city shall meter service to

its customers within two years of the effective date of this subdivision.

12. (a) Every water-works corporation shall provide customers with a convenient option to request that the water-works corporation use their preferred name and/or preferred pronouns in all written or oral communications between the water-works corporation and the customer, as well as all statements or documentation relating to a customer's water service, regardless of whether such customer's preferred name differs from their current legal name.

(b) If a customer's preferred name differs from their current legal name, a water-works corporation may require such customer to provide reasonable proof of identity using their legal name, provided that such information shall be used solely to verify the customer's identity or for other purposes required by law.

(c) No water-works corporation shall:

(i) willfully and repeatedly fail to use a customer's preferred name and/or preferred pronouns after being clearly informed of the preferred name and/or preferred pronouns pursuant to paragraph (a) of this subdivision; or

(ii) require a customer to specify their sexual orientation or gender identity or expression in order to use their preferred name and/or preferred pronouns.

§ 89-c. General powers of commission in respect to water supply. The commission: 1. Shall have general supervision of all water-works corporations, as hereinbefore defined, having authority under any general or special law or under any charter or franchise to lay down, construct or maintain pipes, conduits, ducts or other fixtures in, on or under the streets, highways and public places of any municipality, for the purpose of furnishing or distributing water for domestic, commercial or public uses, and all water systems owned, leased or operated by any such water-works corporation; provided, however, that nothing herein contained shall be construed to delegate the general powers of the state department of health or of the water power and control commission or any of the powers and functions of either as provided by law, nor shall anything herein contained be construed to impair nor to deprive such department or commission of its powers and functions as now provided by law.

2. Shall have power of its own motion to examine and investigate the methods employed by water-works corporations in delivering and supplying water and furnishing equipment, and shall have access through its members or through an officer or employee specially authorized by it to make such examinations and investigations to all parts of the systems owned, used or operated for the distribution of water by any such corporation.

3. Shall have power, in its discretion, to prescribe uniform methods of keeping accounts, records and books to be observed by water-works corporations. It may also, in its discretion, prescribe by order forms of accounts, records and memoranda to be kept by such corporations. Notice of alterations by the commission in the required method or form of keeping a system of accounts shall be given to such corporations by the commission at least six months before the same shall take effect. Any other and additional forms of accounts, records and memoranda kept by such corporations shall be subject to examination by the commission.

4. Shall have power to examine all water-works corporations and keep informed as to the methods, practices, regulations and property employed by them in the transaction of their business. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint, that the rates, charges or classifications or the acts or regulations of any such corporation are unjust, unreasonable, unjustly discriminatory, or unduly preferential, or in any wise in violation of any provision of law, the commission shall determine and prescribe in the manner provided by and subject to the provisions of section eighty-nine-j of this chapter, the just and reasonable rates, charges and classifications thereafter to be enforced for the service to be rendered, notwithstanding that a different rate or charge has heretofore been prescribed by general or special statute, contract, grant, franchise, condition, consent or other agreement, and the just and reasonable acts and regulations to be done and observed; and whenever

the commission shall be of opinion, after a hearing had upon its own motion or upon complaint, that the property, equipment or appliances of any such corporation are unsafe, inefficient or inadequate, the commission shall determine and prescribe the safe, efficient and adequate property, equipment and appliances thereafter to be used, maintained and operated for the security and accommodation of the public and in compliance with the provisions of law and of their franchises and charters; provided, however, that in its determination and prescription of safe, efficient and adequate property, equipment and appliances as herein provided any such property, equipment and appliances theretofore approved by the water power and control commission, or its predecessor, shall be deemed to have been adequate, safe and efficient at the time of such approval. Nothing herein contained shall be deemed to dispense with any approval of work by the water power and control commission required by the conservation law; and if such an approval pertains to work done pursuant to such determination or prescription of the public service commission, such approval shall be conclusive that the work was done in compliance with such determination or prescription.

5. Shall have power to require every water-works corporation, and it shall be the duty of every water-works corporation, as defined by this chapter, to file with the commission an annual report, verified by the oath of the president, vice-president, treasurer, secretary, manager, or receiver, if any, or by the person required to file the same. The verification shall be made by said official holding office at the time of filing said report, and if not made upon the knowledge of the person verifying the same, shall set forth the sources of his information and the grounds of his belief as to any matters not stated to be verified upon his knowledge. The report shall show in detail (a) the amount of its authorized capital stock and the amount thereof issued and outstanding; (b) the amount of its authorized bonded indebtedness and the amount of its bonds and other forms of evidence of indebtedness issued and outstanding; (c) its receipts and expenditures during the preceding year; (d) the amount paid as dividends upon its stock and as interest upon its bonds; (e) the names of its officers and the aggregate amount paid as salaries to them and the amount paid as wages to its employees; (f) the location of its plant or plants and system, with a

full description of its property and franchises, stating in detail how each franchise stated to be owned was acquired; and (g) such other facts pertinent to the operation and maintenance of the plants and system, and the affairs of such person or corporation as may be required by the commission. Such reports shall be in the form, cover the period, and be filed at the time prescribed by the commission. The commission may, from time to time, make changes and additions in such forms. When any such report is defective or believed to be erroneous, the commission shall notify the corporation making such report to amend the same within a time prescribed by the commission. Any such corporation which shall neglect to make any such report or which shall fail to correct any such report within the time prescribed by the commission shall be liable to a penalty of one hundred dollars and an additional penalty of one hundred dollars for each day after the prescribed time for which it shall neglect to file or correct the same, to be sued for in the name of the people of the state of New York, if ordered by the commission. The amount recovered in any such action to be paid to the commission shall be paid into the state treasury and be credited to the general fund. The commission, for cause shown, may extend the time prescribed and, by compromise, may accept less than the amount of such a penalty, in settlement thereof.

6. Shall have power, either through its members or inspectors or employees duly authorized by it, to enter in or upon and to inspect the property, buildings, plants, pump houses, ducts, conduits and offices of any such water-works corporation.

7. Shall have power to examine the accounts, books, contracts, records, documents and papers of any water-works corporation, and have power, after a hearing, to prescribe by order the accounts in which particular outlays and receipts shall be entered, charged or credited. At any such hearing the burden of proof shall be on such corporation to establish the correctness of the accounts in which such outlays and receipts have been entered, and the commission may suspend a charge or credit pending submission of proof by such corporation.

§ 8. Shall have power to compel, by subpoena duces tecum, the production of any accounts, books, contracts, records, documents, memoranda and papers. In lieu of requiring production of originals by subpoena duces tecum the commission or any commissioner may require sworn copies of any such books, records, contracts, documents and papers, or any parts thereof, to be filed with it. The commission may require of all such water-works corporations specific answers to questions upon which the commission may need information, and may also require such corporations to file periodic reports in the form, covering the period and filed at the time prescribed by the commission. If such corporation shall fail to make specific answer to any question or shall fail to make a periodic report when required by the commission as herein provided within the time and in the form prescribed by the commission for the making and filing of any such report or answer, such corporation shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture may be recovered in an action brought by the commission in the name of the people of the state of New York. The amount recovered in any such action, or paid to the commission, shall be paid into the state treasury and be credited to the general fund. The commission, for cause shown, may by compromise accept less than the amount of such forfeiture, in settlement thereof.

9. Shall have power in all parts of the state, either as a commission or through its members, or through an officer or employee specially authorized to conduct an investigation or hearing, to subpoena witnesses, take testimony and administer oaths to witnesses in any proceeding or examination instituted before it, or conducted by it in reference to any matter within its jurisdiction under this article.

10. (a) Shall have power to require every water-works corporation to file with the commission and to print and keep open to public inspection schedules showing all rates and charges made, established or enforced or to be charged or enforced, all forms of contract or agreement and all rules and regulations relating to rates, charges or service used or to be used, and all general privileges and facilities granted or allowed by such corporation; but this subdivision shall not apply to state, municipal or federal contracts.

(b) No change shall be made in any rate or charge, or in any form of contract or agreement or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, which shall have been filed by such a corporation, in compliance with an order of the commission, except after thirty days' notice to the commission and to each county, city, town and village served by such water-works corporation which had filed with such corporation, within the prior twelve months, a request for such notice and which shall be affected by such change and publication of a notice to the public of such proposed change once in each week for four successive weeks in a newspaper having general circulation in the county or counties containing territory affected by the proposed change, which notice shall plainly state the changes proposed and when the change will go into effect. The commission for good cause shown may, except in the case of major changes, allow changes to take effect prior to the end of such thirty-day period and without publication of notice to the public under such conditions as it may prescribe. The commission may delegate to the secretary of the commission its authority to approve a change to a schedule postponing the effective date of such schedule previously filed with the commission and to allow for good cause shown the postponement to take effect prior to the end of such thirty-day period and without publication of notice to the public.

(c) For the purpose of this subdivision, "major changes" shall mean an increase in the rates and charges which would increase the aggregate revenues of the applicant more than the greater of three hundred thousand dollars or two and one-half percent, but shall not include changes in rates, charges or rentals allowed to go into effect by the commission or made by the utility pursuant to an order of the commission after hearings held upon notice to the public.

(d) No such corporation shall charge, demand, collect or receive a greater or less or different compensation for any service rendered or to be rendered than the rates and charges specified in its schedule filed and in effect; nor shall any such corporation refund or remit in any manner or by any device any portion of the rates or charges so specified, nor extend to any person any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are regularly and uniformly extended to all persons under like circumstances.

(e) The commission shall have power to prescribe the form of every such schedule and from time to time prescribe by order such changes in the form thereof as may be deemed wise. The commission shall also have power to establish such rules and regulations to carry into effect this subdivision as it may deem necessary, and to modify or amend such rules or regulations from time to time.

(f) Whenever there shall be filed with the commission by any water-works corporation any schedule stating a new rate or charge, or any change in any form of contract or agreement or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, the commission may, at any time within sixty days from the date when such schedule would or has become effective, either upon complaint or upon its own initiative, and, if it so orders, without answer or other formal pleading by the interested corporation, but upon reasonable notice, hold a hearing concerning the propriety of a change proposed by the filing. If such change is a major change, the commission shall hold such a hearing. Pending such hearing and decision thereon, the commission, upon filing with such schedule and delivering to the corporation affected thereby a statement in writing of its reasons therefor, may suspend the operation of such schedule, but not for a longer period than one hundred and twenty days beyond the time when it would otherwise go into effect. After a full hearing, whether completed before or after the schedule goes into effect, the commission may make such order in reference thereto as would be proper in a proceeding begun after the rate, charge, form of contract or agreement, rule, regulation, service, general privilege or facility had become effective. If any such hearing cannot be concluded within the period of suspension as above stated, the commission may extend the suspension for a further period not exceeding six months.

(g) The commission may, as authorized by section eighty-nine-j of this article, establish temporary rates or charges for any period of suspension under this section.

(h) At any hearing involving a rate, the burden of proof to show that the change or proposed change if proposed by the corporation, or that the existing rate, if it is proposed to reduce the rate, is just and reasonable shall be upon the corporation; and the commission may give to the hearing and decision of such questions preference over all other questions pending before it.

(i) The schedule, rates, charges, form of contract or agreement, rule, regulation, service, general privilege or facility in force when the new schedule, rate, charge, form of contract, rule, regulation, service, general privilege or facility was filed shall continue in force during the period of the suspension unless the commission shall establish a temporary rate or charge as authorized by section eighty-nine-j of this article.

* (j) (i) The commission shall require each application for a major change in rates filed by a water-works corporation to include an executive compensation disclosure. Such executive compensation disclosure shall include: (A) the median of the annual total compensation of all employees of the water-works corporation, except for senior management positions; (B) the annual total compensation of the chief executive officer; (C) the annual total compensation for each other senior management position; and (D) the ratio of the amount described in clause (A) of this subparagraph to the amount described in clause (B) of this subparagraph.

(ii) For purposes of this paragraph, "senior management positions" shall include a chief executive officer, chief operations officer, chief financial officer, chief information officer, chief information technology officer, officer responsible for regulatory affairs, general counsel, and any other positions considered to be senior executive management by the corporation.

* NB Effective January 1, 2027

* (k) (i) The commission shall require each application for a major change in rates filed by a water-works corporation to include, in addition to the corporation's recommended proposal, a budget constrained proposal that separately addresses operating expenses, capital expenditures, and programmatic or policy expenditures, commodity supply costs, taxes, and other costs not within the control of the corporation. Such budget constrained proposal shall not increase the applicant's aggregate revenues by more than the average annual consumer price index increases over the prior three years.

(ii) In each application for a major change in rates, the corporation shall demonstrate how any increase in the applicant's aggregate revenues by more than the increase set forth in the budget constrained proposal is necessary to ensure safety, reliability, or the continuation of affordability programs.

(iii) The commission shall require the corporation to track expenditures and outcomes and explain all material deviations from the approved rate plan no less frequently than on a biennial basis.

* NB Effective January 1, 2027

11. In case any water-works corporation is engaged in carrying on any business other than owning, operating or managing a water system, which other business is not otherwise subject to the jurisdiction of the commission, and is so conducted that its operations are to be substantially kept separate and apart from the owning, operating, managing or controlling of such water system, said corporation in respect of such other business shall not be subject to any of the provisions of this chapter and shall not be required to procure the assent or authorization of the commission to any act in such other business or to make any report in respect thereof. But this subdivision shall not restrict or limit the powers of the commission in respect to the owning, operating, managing or controlling by such corporation of such water system, and said powers shall include also the right to inquire as to, and prescribe the apportionment of, capitalization, earnings, debts and expenses fairly and justly to be awarded to or borne by the ownership, operation, management or control of such water system as distinguished from such other business. In any such case, if the owning, operating, managing or controlling of such water system by any such corporation is wholly subsidiary and incidental to the other business carried on by it and is inconsiderable in amount and not general in its character, the commission may by general rules exempt such corporation from making full reports and from keeping of accounts as to such subsidiary and incidental business.

12. The commission shall have power to require each water-works corporation to establish classifications of service based upon the quantity used, the time when used, the purpose for which used, the duration of use and upon any other reasonable consideration, and to establish in connection therewith just and reasonable graduated rates and charges; and it shall have power, either upon complaint or upon its

own motion, to require such changes in such classifications, rates and charges as it shall determine to be just and reasonable.

13. The commission, of its own motion or upon complaint of any person or corporation aggrieved, may investigate and determine whether the property of any corporation or person actually used within the state in the business of the distribution, sale or furnishing of water for domestic, commercial or public uses, exclusive of property used solely for or in connection with the business of bottling, or selling, distributing or furnishing bottled water, is of a value exceeding ten thousand dollars. Where such value is ten thousand dollars or less, the commission may require such persons and corporations to file with the commission simplified annual reports, in a form and containing such matters as the commission shall prescribe, and may prescribe simplified forms of accounts to be kept by them.

14. (a) Notwithstanding any other provision of law to the contrary, whenever real property owned by a water-works corporation is exempted from taxation pursuant to the provisions of section four hundred eighty-five-d of the real property tax law the rate or charge imposed by such corporation within the taxing jurisdiction providing for such exemption shall be set by the commission so as to reflect fully the reduction in cost of service resulting therefrom.

(b) Notwithstanding any other provision of law to the contrary, whenever a water-works corporation is the recipient of operating assistance provided by a city pursuant to the provisions of section twenty-one-e of the general city law, the rate or charge imposed by such corporation within such city shall be set by the commission so as to reflect fully the revenues to such corporation resulting therefrom.

15. The commission shall provide for management and operations audits of water-works corporations having annual gross revenues in excess of ten million dollars. Such audits shall include, but not be limited to, an investigation of the corporation's construction program planning in relation to the needs of its customers for reliable service and an evaluation of the efficiency of the company's operations. The commission shall have discretion to have such audits performed by its staff, or by

independent auditors.

In every case in which the commission chooses to have the audit provided for in this subdivision performed by independent auditors, it shall have authority to select the auditors and to require the corporation being audited to enter into a contract with the auditors providing for their payment by such corporation. Such contract shall provide further that the auditors shall work for and under the direction of the commission according to such terms as the commission may determine are necessary and reasonable.

The commission shall have authority to direct the corporation to implement any recommendations resulting from such audits that it finds to be necessary and reasonable.

Upon the application of a water-works corporation for a major change in rates as defined in subdivision ten of this section, the commission shall review the corporation's compliance with the directions and recommendations made previously by the commission, as a result of the most recently completed management and operations audit undertaken pursuant to the provisions of this subdivision. The commission shall incorporate the findings of such review in its opinion or order.

16. Notwithstanding any general or special law, rule or regulation, the commission shall have the power to provide for the refund of any revenues received by any water-works corporation which cause the corporation to have revenues in the aggregate in excess of its authorized rate of return for a period of twelve months. The commission may initiate a proceeding with respect to such a refund after the conclusion of any such twelve month period.

17. The commission shall have power to require each water-works corporation to establish a process for residents of any cooperative, condominium or multi-family dwelling with five or more residential units, which uses a master meter to distribute water to such residents, to obtain non-billing related information regarding the delivery of water including but not limited to service updates, water quality

notices and other information deemed essential to water consumers.

§ 89-d. Inspection of meters. 1. The commission shall appoint inspectors of water meters whose duty it shall be, when required by the commission, to inspect, examine, prove and ascertain the accuracy of any and all water meters used or intended to be used for measuring or ascertaining the quantity of water furnished by any water-works corporation to or for the use of any person or corporation, and to inspect, examine and ascertain the accuracy of all apparatus for testing and proving the accuracy of water meters, and, when found to be or made to be correct, the inspector shall stamp or mark all such meters and apparatus with some suitable device, which device shall be recorded in the office of the secretary of state. No water-works corporation shall furnish, set or put in use any water meter the type of which shall not have been approved by the commission.

2. Every water-works corporation shall provide, repair and maintain such suitable premises and apparatus and facilities as may be required and approved by the commission for testing and proving the accuracy of water meters furnished for use by it, and by which apparatus every meter may be tested.

3. If any consumer to whom a meter has been furnished shall request the commission in writing to inspect such meter, the commission shall have the same inspected and tested; provided, however, that repeated inspections and tests shall not be mandatory.

4. The commission shall prescribe such rules and regulations to carry into effect the provisions of this section as it may deem necessary.

§ 89-e. Filing of approval for construction; approval of initial rate schedules; certificate for parallel or duplicate lines. 1. No water-works corporation shall begin construction of a water system or extension thereof or exercise any rights or privileges under any franchise hereafter granted, or under any franchise heretofore granted but not heretofore actually exercised, or the exercise of which shall have been suspended for more than one year, without first filing with the public service commission a certified copy of the order, required by law, of the department of environmental conservation approving the same.

2. No water-works corporation shall begin operation of a water system or extension thereof, supply water or charge for service without first filing with the commission, at least one hundred twenty days prior to the date upon which service is to begin, a schedule of rates, charges, rules, regulations and such further information as the commission may require showing the basis for the corporation's determination of its proposed rate. The commission shall have power to approve or disapprove such proposed rate, or to condition an approval upon the corporation's use of a specific method of cost apportionment, for both rate and accounting purposes, among related enterprises or operations. The commission shall take final action on the proposed schedule of rates within two hundred forty days after it is filed or after information required by the commission is furnished, whichever is later, provided that within one hundred twenty days after the schedule is filed or information received, whichever is later, the schedule of rates filed by the corporation shall be allowed to become effective, either finally or on a temporary basis, on such terms as may be imposed by the commission in accordance with the procedures set forth in section one hundred thirteen of this chapter. A water-works corporation shall provide notice to the public of such proposed schedule of rates once in each week for four successive weeks in a newspaper having general circulation in the county or counties containing territory affected by the proposed schedule of rates, which notice shall plainly state the proposed schedule of rates. Publication must be completed prior to the effective date of the proposed schedule of rates unless the commission shall otherwise order. The commission may, for good cause shown, waive publication of notice to the public under conditions it may prescribe. If such corporation is affiliated with a developer that sells or proposes to sell new homes that would receive service from the water system, notice of the proposed schedule of rates shall be included with other informational materials supplied to potential purchasers of such homes.

3. No main or conduit of an existing water supply company shall be paralleled or duplicated unless and until there shall have first been obtained a certificate of convenience and necessity from the commission.

§ 89-f. Approval of issues of stock, bonds and other forms of indebtedness. A water-works corporation organized or existing, or hereafter incorporated, under or by virtue of the laws of the state of New York, may issue stocks, bonds, notes or other evidences of indebtedness payable at periods of more than twelve months after the date thereof, or a receiver of such a corporation, if duly authorized by law, may issue receiver's certificates, when necessary for the acquisition of property, the construction, completion, extension or improvement of its water system, or for the improvement or maintenance of its service or for the discharge or lawful refunding of its obligations or for the reimbursement of moneys actually expended from income or from any other moneys in the treasury of the corporation not secured or obtained from the issue of stocks, bonds, notes or other evidences of indebtedness of such corporation, within five years next prior to the filing of an application with the commission for the required authorization, for any of the aforesaid purposes except maintenance of service and except replacements in cases where the applicant shall have kept its accounts and vouchers of such expenditure in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditure was made; provided and not otherwise that there shall have been secured from the commission an order authorizing such issue, and the amount thereof, and stating the purposes to which the issue or proceeds thereof are to be applied, and that, in the opinion of the commission, the money, property or labor to be procured or paid for by the issue of such stock, bonds, notes or other evidences of indebtedness is or has been reasonably required for the purposes specified in the order, and that except as otherwise permitted in the order in the case of bonds, notes and other evidences of indebtedness, such purposes are not in whole or in part reasonably chargeable to operating expenses or to income. Stock may be issued to stockholders as a stock dividend provided that there shall have been secured from the commission an order authorizing such issue and a transfer of surplus to capital in an amount equal to the par or stated value of the stock so authorized and stating that a sum equal to the amount to be so transferred was expended for the purposes enumerated in this section. Stock may be issued to an employee or director of a waterworks corporation under a stock option plan pursuant to which such corporation grants options to its employees or directors to purchase shares of stock, such options to be exercisable for a stated period of time to purchase shares of stock at the market value of the stock at the time of issuance of the option, provided that there shall have been secured from the commission an order authorizing such issue and that the proceeds from the exercise of the stock options are needed for one of the purposes enumerated in this section. The issue of stocks, bonds or other evidences of indebtedness, within the meaning of this section, shall include the sale hereafter by any such corporation of its stocks, bonds or other evidences of indebtedness previously issued and reacquired, whether originally issued at, before or after the time this section takes effect, provided, however, for good cause shown the commission may exempt from the restriction hereof stocks, bonds or other evidences of indebtedness. For the purpose of enabling it to determine whether it should issue such an order, the commission shall make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may deem of importance in enabling it to reach a determination. Such corporation shall not without the consent of the commission apply said issue or any proceeds thereof to any purpose not specified in such order. Such corporation may issue notes, for proper corporate purposes and not in violation of any provision of this or of any other act, payable at periods of not more than twelve months without such consent; but no such notes shall, in whole or in part, directly or indirectly be refunded by any issue of stock or bonds or by any evidences of indebtedness running for more than twelve months without the consent of the commission. The commission shall have power to require every such corporation to file with the commission after the issuance of stocks, bonds, notes or other evidences of indebtedness, issued with or without the approval of the commission as herein provided, a notice of such transaction in such form as the commission may prescribe. Provided, however, that the commission shall have no power to authorize the capitalization of any franchise to be a corporation nor to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or to any political subdivision thereof as the consideration for the grant of such franchise or right, nor to authorize the issuance of any stocks or other securities for any purposes other than those enumerated in this section. Nor shall the capital stock of a corporation formed by the merger or consolidation of two or more other corporations, exceed the sum of the capital stock of the corporations, so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger.

§ 89-g. Reorganization. 1. Reorganizations of water-works corporations pursuant to sections ninety-six and ninety-seven of the stock corporation law and such other statutes as may be enacted from time to time shall be subject to the supervision and control of the commission, and no such reorganization shall be had without the authorization of such commission.

2. Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidences of indebtedness, shall be such as is authorized by the commission, which, in making its determination shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication cost, present condition, earning power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash, provided, however, that the commission may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the commission.

§ 89-h. Transfer of franchises or stocks. 1. No water-works corporation shall transfer or lease its franchise, works or system or any part of such franchise, works or system to any other person or corporation or contract for the operation of its works and system, without the written consent of the commission.

2. The permission and approval of the commission to the assignment, transfer or lease of a franchise under this section shall not be construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture.

3. No water-works corporation shall directly or indirectly acquire the stock or bonds of any other corporation incorporated for, or engaged in, the same or a similar business, or proposing to operate or operating under a franchise from the same or any other municipality, unless authorized so to do by the commission.

4. Save where stock shall be transferred or held for the purpose of collateral security only with the consent of the commission empowered by this chapter to give such consent, no stock corporation of any description, domestic or foreign, company, including, but not limited to, a limited liability company, association, including a joint stock association, partnership, including a limited liability partnership, or person, other than a water-works corporation, shall purchase or acquire, take or hold, more than ten per centum of the voting capital stock issued by any water-works corporation organized or existing under or by virtue of the laws of this state, except that a corporation now lawfully holding a majority of the voting capital stock of any water-works corporation may with the consent of the commission acquire and hold the remainder of the voting capital stock of such water-works corporation or any portion thereof. Provided, that with the consent of such commission and upon and subject to such terms and conditions as such commission may fix and impose, any such stock corporation, company, association, partnership or person may acquire, take and hold more than ten per centum of the voting capital stock of any water-works corporation,

organized or existing under or by virtue of the laws of this state.

5. No consent shall be given by the commission to the acquisition of any stock in accordance with this section unless it shall have been shown that such acquisition is in the public interest. Nothing contained in this section shall be construed to prevent the holding of any stock heretofore lawfully acquired, nor to prevent, upon the surrender or exchange of such stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale, the property of any corporation whose stock has been thus surrendered or exchanged; but the proportion of the voting capital stock of the new corporation held by a stock corporation, company, association, partnership or person and acquired by it by any such surrender or exchange of stock shall not without the consent of the commission exceed the proportion of the voting capital stock held by it in the former corporation.

6. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, company, association, partnership or person, in violation of any provision of this chapter shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such water-works corporation, or shall be recognized as effective for any purpose.

§ 89-i. Complaints as to price of water; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of a city, the trustees of a village or the town board of a town in which a person or corporation is authorized to supply or distribute water for domestic, commercial or public uses, or upon the complaint in writing of not less than twenty-five customers or purchasers of such water in such municipality or upon complaint of a water-works corporation supplying such water, as to the rates, charges or classifications of service for water sold and delivered in such municipality, or upon the complaint in writing of the department of state, or as to the methods employed in furnishing such service, the commission shall investigate as to the cause of such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such water-works corporation in supplying and distributing such water, and may examine or cause to be examined the books and papers of such water-works corporation pertaining to the supplying and distributing of such water. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any.

§ 89-j. Notice and hearing; order fixing price of water or requiring improvement. Before proceeding under a complaint presented as provided in section eighty-nine-i, the commission shall cause notice of such complaint, and the purpose thereof, to be served upon the person or corporation affected thereby. Such person or corporation shall have an opportunity to be heard in respect to the matters complained of at a time and place to be specified in such notice. An investigation may be instituted by the commission of its own motion as to any matter of which complaint may be made, as provided in section eighty-nine-i of this chapter, or to enable it to ascertain the facts requisite to the exercise of any power conferred upon it. After a hearing and after such an investigation as shall have been made by the commission or its officers, agents, examiners or inspectors, the commission may, by order, fix just and reasonable prices, rates or charges for water to be charged by such corporation or person, for the service to be furnished notwithstanding that a higher or lower price has been theretofore prescribed by general or special statute, contract, grant, franchise condition, consent or other agreement, and may order such improvement in the supply or distribution of water, or in the methods employed by such person or corporation, as will in its judgment be adequate, just and reasonable. Any such change in price shall be upon such terms, conditions or safeguards as the commission may prescribe. If it shall be made to appear to the satisfaction of the commission that the public interest requires a change in the price of water charged by any such person or corporation, or that such change is necessary for the purpose of providing adequate and efficient service, or for the preservation of the property, the commission, upon such terms, conditions or safeguards as it deems proper, may authorize an immediate, reasonable, temporary increase or decrease in such price pending a final determination of the price to be thereafter charged by such person or corporation. The terms, conditions or safeguards prescribed may include provisions for the purposes for which the additional revenue derived from any such temporary increase may be expended and for the impounding thereof until the same shall be applied to the purposes so specified. The price fixed by the commission under this section or under subdivision four of section eighty-nine-c shall be the maximum price to be charged by such person or corporation for water for the service to be furnished within the territory and for a period to be fixed by the commission in the order, not exceeding three years except in the case of a sliding scale, and thereafter until the commission shall, upon its own motion or upon the complaint of any corporation, person or municipality interested, fix a higher or lower maximum price of water to be thereafter charged. In determining the price to be charged for water the commission may consider all facts which in its judgment have any bearing upon a proper determination of the question although not set forth in the complaint and not within the allegations contained therein, with due regard among other things to a reasonable average return upon capital actually expended and to the necessity of making reservations out of income for surplus and contingencies. At any hearing involving a rate, the burden of proof to show that the change in rate or price if proposed by the person or corporation operating such utility, or that the existing rate or price, if on motion of the commission or in a complaint filed with the commission it is proposed to reduce the rate or price, is just and reasonable shall be upon the person or corporation operating such utility; and the commission may give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

§ 89-l. Municipal water systems. 1. For the purposes of this section, and for the purposes of any jurisdiction conferred by it upon the public service commission, a municipality is one which owns, maintains or operates, or proposes to own, maintain or operate, a water system, or which sells, furnishes or distributes, or proposes to sell, furnish or distribute, water for domestic, commercial or public uses, whether provided by its own system or the system of a water-works corporation or another municipality. As so limited, the term "municipality" for the purposes of this section, means a city, town, village or public district; and a "public district," as here used, is a district or other territorial division, whether incorporated or not, whose affairs are managed by any officer or officers, person or persons, elected by voters or taxpayers or appointed by a public officer or officers, and includes, without excluding others, a water district, water supply district and a fire district. The other provisions of this chapter shall not apply to such a municipality, nor to its said business of owning, maintaining or operating a water system or of selling, furnishing or distributing water, except such provisions as are applied by this section by express reference. The jurisdiction of the public service commission, with respect to such a municipality or its said business, is that, and only that, provided for in this section.

2. Each such municipality shall file with the public service commission a copy of the annual report of its division, bureau or department of water.

§ 89-n. Defense in case of excessive charges for water. If it be alleged and established in an action brought in any court for the collection of any charge for water that a price has been demanded in excess of that fixed by the commission or by statute in the municipality wherein the action arose, no recovery shall be had therein, but the fact that such excessive charges have been made shall be a complete defense to such action.

§ 89-o. Powers of local officers. If in any city having a population of fifty thousand or more there now exists or shall hereafter be created a board, body or officer having jurisdiction of matters pertaining to water supply such board, body or officer shall have and may exercise such power, jurisdiction and authority in enforcing the laws of the state and the orders, rules and regulations of the commission as may be prescribed by statute or by the commission.

§ 89-p. Powers of the department. The department shall, with respect to out of state water-works corporations which are affiliated with in-state water-works corporations and which provide water to such in-state corporations for eventual retail to New York consumers, keep apprised of, attend and monitor, and, where possible, formally intervene in rate cases brought by such out of state corporations before the appropriate regulatory agency of such other state. The commission shall consider and utilize information secured therefrom in determining whether rate increases sought by such affiliated in-state corporations are in the public interest.

ARTICLE 5

PROVISIONS RELATING TO TELEGRAPH AND TELEPHONE LINES AND TO TELEPHONE AND TELEGRAPH CORPORATIONS

§ 90. Application of article. 1. The provisions of this article shall apply to communication by telegraph or telephone between one point and another within the state of New York and to every telegraph corporation and telephone corporation.

2. Application of the provisions of this article to telegraphic communication is suspended unless the commission, no sooner than one year after the effective date of this provision, makes a determination, after notice and hearing, that regulation of a telegraph corporation or some of its services should be reinstituted to the extent found

necessary to protect the public interest because of a lack of effective competition.

3. (1) Except as otherwise provided in this subdivision or section ninety-two-c of this article, a reseller of telephone service by means of a customer owned or leased currency operated telephone (COCOT) shall be exempt from the requirements of this chapter.

(2) The commission shall have power to establish by rule or regulation service, rate, interconnection and location requirements for COCOTs upon a determination that such requirements are in the public interest.

(3) (a) The commission shall have power to assess a penalty not to exceed one thousand dollars against any reseller of COCOT services who knowingly fails or neglects to comply with any provision of this subdivision or section ninety-two-c of this article or any regulation or order of the commission implementing or enforcing the provisions of this subdivision or the provisions of section ninety-two-c of this article which apply to COCOT service providers. In the case of a continuing violation, each day shall be deemed a separate and distinct offense.

(b) Whenever the commission shall be of the opinion that any reseller of COCOT services is violating or about to violate any provision of this subdivision or any regulation or order of the commission implementing or enforcing the provisions of this subdivision, or has failed to pay any penalty assessed pursuant to the provisions of this subdivision, the commission shall have power to bring an action or enforcement proceeding as provided by section twenty-six of this chapter.

§ 91. Adequate service; just and reasonable charges; unjust discrimination; unreasonable preference; protection of privacy. 1. Every telegraph corporation and every telephone corporation shall furnish and provide with respect to its business such instrumentalities and facilities as shall be adequate and in all respects just and reasonable. All charges made or demanded by any telegraph corporation or telephone corporation for any service rendered or to be rendered in connection therewith 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 any such service or in connection therewith or in excess of that allowed by law or by order of the commission is prohibited and declared to be unlawful.

2. (a) No telegraph corporation or telephone corporation shall directly or indirectly or by any special rate, rebate, drawback or other device or method charge, demand, collect or receive from any person or corporation a greater or less compensation for any service rendered or to be rendered with respect to communication by telegraph or telephone or in connection therewith, except as authorized in this chapter, than it charges, demands, collects or receives from any other person or corporation for doing a like and contemporaneous service with respect to communication by telegraph or telephone under the same or substantially the same circumstances and conditions.

(b) The local service area within which calls are made on a local rather than toll basis in a city with a population of one million or more shall not be changed as a result of the establishment of an additional area code.

3. No telegraph corporation or telephone corporation shall make or give any undue or unreasonable preference or advantage to any person, corporation or locality, or subject any particular person, corporation or locality to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

4. Nothing in this chapter shall be construed to prevent any telegraph corporation or telephone corporation from continuing to furnish the use of its lines, equipment or service under any contract or contracts in force at the date this article takes effect or upon the taking effect of any schedule or schedules of rates subsequently filed with the commission, as hereinafter provided, at the rate or rates fixed in such contract or contracts; provided, however, that when any such contract or contracts are or become terminable by notice, the commission shall have power, in its discretion, to direct by order that such contract or contracts shall be terminated by the telegraph corporation or telephone corporation party thereto, and thereupon such contract or contracts shall be terminated by such telegraph corporation or telephone corporation as and when directed by such order.

5. No telegraph corporation or telephone corporation shall sell or offer for sale any names and/or addresses of any of its customers whose listings have been omitted from the telephone company's published directory at the request of the customer.

6. (a) Every local exchange telephone corporation shall include in any directory of telephone numbers it or an affiliated company publishes for general distribution an alphabetical list of interexchange carriers with their federal communications commission assigned identification codes which may be used by the subscribers listed in such directory to access any telephone corporation that originates interexchange service in the local exchange telephone corporation's service area and that agrees to publication of its access code in such directory.

(b) Each interexchange carrier shall be responsible for providing its own identification codes, sorted by geographic area serviced by the individual directories published by each local exchange company or its affiliate. Further, the identification codes for each directory shall be delivered to the local exchange carrier or its affiliate in compliance with the established directory printing closing dates. Those interexchange carriers wishing to be listed in the directory shall bear full responsibility for the accuracy and completeness of the list of their identification codes.

(c) Local exchange telephone corporations and their affiliates shall not be exposed to any greater liability for their failure to include such carrier identification codes in their directories than is present in the provisions of filed and approved tariffs dealing with directory listing errors and omissions.

7. Every telephone corporation, as defined in this chapter shall, at its option: (a) allow a customer to use a modified or alternative name for a directory listing or (b) waive the otherwise applicable charges for a non-published telephone listing, where the customer requests protection of its identity in connection with the customer's purchase of telephone service and the customer is a victim of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, and for whose benefit any order of protection, other than a temporary

order of protection, has been issued by a court of competent jurisdiction. This waiver of charges shall be for the duration of the applicable, non-temporary, order. Any non-published listings provided in this subdivision shall conform to all the same requirements of other non-published listings. A customer requesting such an accommodation shall provide an attestation in writing that they no longer wish to be a party to such contract due to their status as a victim of domestic violence. Such telephone corporation may not require such customer to disclose confidential information or details relating to such customer's status as a victim of domestic violence, as a condition of implementing such accommodation. Any customer requesting an accommodation pursuant to this subdivision may also request and shall be provided, at no cost to the customer, a new telephone number within fifteen days from the request for such accommodation. Such telephone corporation shall dispose of information submitted by such customer no later than thirty days after receiving such information in a manner as to maintain confidentiality of such information.

8. Every telephone corporation, as defined in this chapter, shall allow a person who is under contract including, but not limited to, a multi-year contract or bundle contract with such telephone corporation, to opt-out of such contract without fee, penalty or charge when such person is a victim of domestic violence and provides an attestation in writing that they no longer wish to be a party to such contract due to their status as a victim of domestic violence. Such telephone corporation may not require such person to disclose confidential information or details relating to such person's status as a victim of domestic violence, as a condition of permitting such person to opt-out of such contract. Further, such telephone corporation may not make release from such contract contingent on: (a) maintaining contractual or billing responsibility of a separated line with the provider; (b) approval of separation by the primary account holder, if the primary account holder is not the person making such request; (c) a prohibition or limitation on number portability or a request to change phone numbers; or (d) a prohibition or limitation on the separation of lines as a result of arrears accrued by the account. Such telephone corporation shall release such person from such contract no later than

seven days after receiving such opt-out request. Such telephone corporation shall dispose of information submitted by such person no later than thirty days after receiving such information in a manner as to maintain confidentiality of such information. A claim for opting-out of such contract without charge shall be made in good faith. Such telephone corporation shall waive the otherwise applicable fee, penalty or charge for such person requesting to opt-out of such contract.

13. Every telephone corporation, as defined in this chapter, shall make information about the options and process described in subdivision eight of this section readily available to consumers on the website and any mobile application of the provider, in physical stores, and in other forms of public-facing consumer communication.

14. A covered provider and any officer, director, employee, vendor or agent thereof shall not be subject to liability for any claims arising from an action taken or omission made with respect to compliance with subdivisions seven, eight or thirteen of this section.

§ 91-a. Customer of record for telephonic blocking and restrictions on the removal of telephonic blocks to certain area codes. Where access to telephone numbers in the 800 and/or 900 area codes has been blocked at the request of the customer of record to prevent the completion of the call to numbers in such area codes, the customer of record may provide a personal password to be retained in the customer's record for purposes of preventing the unauthorized removal of the request for blocking. No telephone corporation shall remove such telephonic block except pursuant to the customer of record providing the correct password, or a request of the customer of record made in writing or in person to such telephone corporation.

§ 92. Rate schedules. 1. Every telegraph corporation and every telephone corporation shall print and file with the commission schedules showing all rates, rentals and charges for service of each and every kind by or over its line between points in this state and between each point upon its line and all points upon every line leased or operated by it and between each point upon its line or upon any line leased or operated by it and all points upon the line of any other telegraph or telephone corporation whenever a through service or joint rate shall have been established between any two points. If no joint rate over a through line has been established the several corporations in such through line shall file with the commission the separately established rates and charges applicable where through service is afforded. Such schedule shall plainly state the places between which telephone or telegraph service, or both, will be rendered and shall also state separately all charges and all privileges or facilities granted or allowed and any rules or regulations or forms of contract which may in any wise change, affect or determine any or the aggregate of the rates, rentals or charges for the service rendered. Such schedule shall be plainly printed and kept open to public inspection. The commission shall have the power to prescribe the form of every such schedule and may from time to time prescribe, by order, changes in the form thereof. The commission shall also have power to establish rules and regulations for keeping such schedules open to public inspection and may from time to time modify the same. Every telegraph corporation and telephone corporation shall file with the commission as and when required by it a copy of any contract, agreement or arrangement in writing with any other telegraph corporation or telephone corporation or with any other corporation, association or person relating in any way to the construction, maintenance or use of a telegraph line or telephone line or service by or rates and charges over or upon any such telegraph line or telephone line.

2. (a) No change shall be made in any rate, charge or rental, or joint rate, charge or rental applicable to regulated basic services, switched carrier access services, charges for interconnection between local exchange carriers, and toll services within a local access and transport area which shall have been filed by a telegraph corporation or telephone corporation hereinafter in this subdivision called a utility in compliance with this chapter, except after thirty days' notice to the commission and to each county, city, town and village served by such utility which had filed with such utility within the prior twelve months

a request for such notice and shall be affected by such change and publication of a notice to the public of such proposed change once in each week for four successive weeks in a newspaper having general circulation in each county containing territory affected by the proposed change. No other change shall be made in any rate, charge or rental, or joint rate, charge or rental filed by a utility, except after ten business days' notice to the commission and publication of one notice at least ten business days prior to the effective date of the change in a newspaper of general circulation in each county affected by the proposed change. Such notices shall plainly state the changes proposed and the time when they go into effect. For the purpose of this paragraph, "regulated basic services" are defined as: residential, individual business, and public access line network access, connection charges for such network access, local usage, local coin usage rates, tone dialing, access to emergency services, statewide relay services, operator assistance services, director listings, and provisions that affect privacy protections.

(b) All proposed changes shall be shown by filing new schedules or shall be plainly indicated upon the schedules filed and in force at the time and kept open to public inspection. The commission, for good cause shown, may, except in the case of major changes, allow changes in rates, charges or rentals to take effect prior to the end of such thirty-day period or such ten-day period and without publication of notice to the public under such conditions as it may prescribe. All such changes shall be immediately indicated upon its schedules by such utility. The commission may delegate to the secretary of the commission its authority to approve a change to a schedule postponing the effective date of such schedule previously filed with the commission and for good cause shown to allow the postponement to take effect prior to the end of such thirty-day period or ten-day period and without publication of notice to the public.

(c) For the purpose of this subdivision, "major changes" shall mean an increase in rates, charges and rentals which would increase the aggregate revenues of the applicant more than the greater of five hundred thousand dollars or two and one-half percent, but shall not include changes in rates, charges or rentals allowed to go into effect by the commission or made by the utility pursuant to an order of the commission after hearings held upon notice to the public. If an increase in rates, charges and rentals would increase the aggregate revenues of the applicant by less than five hundred thousand dollars, the commission may hold a hearing pursuant to paragraph (e) of this subdivision and/or provide a statement pursuant to subdivision four of this section.

(d) No utility shall charge, demand, collect or receive a different compensation for any service rendered or to be rendered than the charge applicable as specified in its schedule on file and in effect. Nor shall any utility refund or remit directly or indirectly any portion of the rate or charge so specified, nor extend to any person any form of contract or agreement, or any rule or regulation, or any privilege or facility, except such as are specified in its schedule filed and in effect and regularly and uniformly extended to all persons under like circumstances for the like or substantially similar service.

(e) Whenever there shall be filed with the commission by any utility, any schedule stating a new rate or charge, or any change in any form of contract or agreement or any rule or regulation relating to any rate, charge or service, or in any general privilege or facility, the commission may at any time within sixty days from the date when such schedule would or has become effective, either upon complaint or upon its own initiative, and, if it so orders, without answer or other formal pleading by the utility, but upon reasonable notice, hold a hearing concerning the propriety of a change proposed by the filing. If such change is a major change the commission shall hold such a hearing. Pending such hearing and decision thereon, the commission, upon filing with such schedule and delivering to the utility, a statement in writing of its reasons therefor, may suspend the operation of such schedule, but not for a longer period than one hundred and twenty days beyond the time when it would otherwise go into effect. After full hearing, whether completed before or after it goes into effect, the commission may make such order in reference thereto as would be proper in a proceeding begun after the rate, charge, form of contract or agreement, rule, regulation, service, general privilege or facility has become effective.. If such hearing cannot be concluded within the period of suspension as above stated, the commission may extend the suspension for a further period, not exceeding six months. The commission may, as authorized by section ninety-seven of this article, establish temporary rates, charges or rentals, for any period of suspension under this section.

(f) At any hearing involving a change or a proposed change of rates, the burden of proof to show that the change or proposed change if proposed by the utility, or that the existing rate, if it is proposed to reduce the rate, is just and reasonable shall be upon the utility; and the commission may give to the hearing and decision of such questions preference over all other questions pending before it.

(g) During the suspension by the commission as above provided, the schedule, rates, charges, form of contract or agreement, rule, regulation, service, general privilege or facility in force when the suspended schedule, rate, charge, form of contract, rule, regulation, service, general privilege or facility was filed shall continue in force unless the commission shall establish a temporary rate.

3. No telegraph corporation or telephone corporation subject to the provisions of this chapter shall, directly or indirectly, give any free or reduced service, or any free pass or frank for the transmission of messages by either telephone or telegraph between points within this state, except to its officers, employees, agents, pensioners, surgeons, physicians, attorneys-at-law and their families; to persons or corporations exclusively engaged in charitable and eleemosynary work and ministers of religions; to officers and employees of other telegraph corporations and telephone corporations, railroad corporations and street railroad corporations. But this subdivision shall not apply to state, municipal or federal contracts.

3-a. Notwithstanding the provisions of subdivision three of this section, the division of military and naval affairs, in cooperation with the office of general services, shall negotiate with a telephone corporation or telephone corporations for the provision of telephone service at bulk rates to residents of this state in military service, as defined in section three hundred one of the military law, and their families, which shall include spouses, domestic partners, children, and parents and such others as meet criteria established by the division.

4. The commission shall require each telephone corporation providing local exchange service in the state to provide with any application for

a major rate change, as defined in subdivision two of this section, a statement of the effect the proposed rate change is expected to have on the goal of universal service to residential customers. The commission may require such a statement with respect to any other application for a rate change and shall specifically consider any such statement in its rate determination.

5. (a) Notwithstanding the provisions of subdivision three of this section, the commission may authorize a telephone corporation to offer free or reduced basic service for a limited period of time to introduce a present or potential customer to a service not previously received by the customer.

(b) Notwithstanding the provisions of subdivisions one and three of this section, a telephone corporation may offer free or reduced services other than basic services for a period of time to be determined by the telephone corporation to a new customer or to an existing customer for the purpose of inducing the customer to maintain such services.

6. The commission shall provide that any net decrease in a telephone corporation's real property tax expense resulting from the provisions of a chapter of the laws of nineteen hundred eighty-seven phasing out the taxation of certain property subject to such tax shall inure to the benefit of the ratepayers of such corporation.

7. The commission shall provide that any net decrease in a telephone company's real property tax expense resulting from the provisions of the chapter of the laws of nineteen hundred ninety-five which added this subdivision shall inure to the benefit of the ratepayers of such company.

*** § 92-a. Special telephone equipment for deaf and hard of hearing persons.** 1. The commission shall require any regulated landline telephone corporation providing local exchange service to sell or lease special telecommunication equipment to a person certified as deaf or hard of hearing where the addition of such equipment is necessary to enable such person to access and utilize the local exchange network. The sale of such equipment shall be at an amount not to exceed the actual purchase price by the corporation and the lease of such equipment shall be at a rate to be determined by the commission. Any person who leases such equipment shall be permitted to apply the lease payments toward the equipment's purchase.

2. The commission shall authorize the establishment of the New York telecommunications relay service workforce. In developing a request for proposals to provide telecommunications relay service the commission shall include the following minimum provisions:

(a) The provider of telecommunications relay service shall, in performing services under a contract awarded pursuant to this subdivision, employ or engage a workforce, all of whom shall reside within Onondaga county or an adjoining county within the state of New York;

(b) A minimum of eighty percent of all calls utilizing telecommunications relay service must be routed to and through the New York telecommunications relay service workforce; and

(c) A contract to provide telecommunications relay service shall be renewable for up to five years, and the commission shall be empowered to promulgate and adopt all regulations required to implement the terms of this subdivision.

* NB Effective until June 30, 2030

* § 92-a. Special telephone equipment for deaf and hard of hearing persons. The commission shall require any regulated landline telephone corporation providing local exchange service to sell or lease special telecommunication equipment to a person certified as deaf or hard of hearing where the addition of such equipment is necessary to enable such person to access and utilize the local exchange network. The sale of such equipment shall be at an amount not to exceed the actual purchase price by the corporation and the lease of such equipment shall be at a rate to be determined by the commission. Any person who leases such equipment shall be permitted to apply the lease payments toward the equipment's purchase.

* NB Effective June 30, 2030

§ 92-b. Telephone deposits and payment plans for the elderly. 1. The commission shall require all telephone corporations to exempt the dwelling units of all subscribing individuals who are sixty-two years of age or older from any cash deposit requirement except where the corporation can show that the subscriber is a bad credit risk according to standards set by the commission.

2. The commission shall require all telephone corporations to offer residential customers who are sixty-two years of age or older, as an alternative to monthly billing, a plan for payment on a quarterly basis, of charges for telephone service rendered by such corporations, provided that such customer's average annual billing is not more than one hundred fifty dollars. The commission may establish such terms and conditions for plans required under this section as it deems necessary or proper.

§ 92-c. Customer service requirements for alternate operator service providers and COCOT service providers. 1. For the purposes of this section:

(a) The term "alternate operator service provider" means a telecommunications company, other than a local exchange company, which provides operator assisted service by means of personal or automated call intervention.

(b) The term "COCOT service provider" means any person or corporation which resells service by means of a customer owned or leased currency or credit operated telephone.

2. Every alternate operator service provider shall arrange to have conspicuously displayed on, or in the immediate vicinity of, any telephone or telephone equipment which automatically accesses the alternate operator service provider's network and where its services are made available either to the public or transient end users, information which the commission shall prescribe which shall include, but not be limited to:

(a) The identity of the alternate operator service provider that will make the charge for any calls placed from such telephone or telephone equipment;

(b) A statement that any inter-exchange long distance carrier can be accessed by following dialing instructions or access codes provided by such other carriers;

(c) A toll free number which the caller can use to obtain information on the rates, terms or conditions for a call;

(d) A statement that, upon the request of the caller, the operator servicing the call will provide rate information; and

(e) A toll free number to call for resolution of a billing or service complaint.

3. Every COCOT service provider shall conspicuously display on, or in the immediate vicinity of, its telephones or telephone equipment made available for public use, information which the commission shall prescribe which shall include, but not be limited to:

(a) The identity of the COCOT service provider, and, where applicable, the alternate operator service provider that will make the charge for any calls placed from such telephone or telephone equipment;

(b) A statement that any inter-exchange long distance carrier can be accessed by following dialing instructions or access codes provided by such carriers;

(c) A toll free number which the caller can use to obtain information on the rates, terms or conditions for a call;

(d) A statement that, upon the request of the caller, the operator servicing the call will provide rate information;

(e) A toll free number to call for resolution of a billing or service complaint; and

(f) Where applicable, a notice that additional charges are imposed by the COCOT service provider, or the owner of the place where the COCOT is located, for the use of the telephone or telephone equipment for the placing of a call.

4. If any display or sign, as required by this section, is removed or defaced by vandals, the commission shall consider such facts in determining any penalty provided for in this article.

5. Upon the caller's connection to its service, an alternate operator service provider shall announce to the caller the identity of the

provider handling the operator assisted call and, upon request of the caller, quote the rates, terms or conditions for such call.

6. If an alternate operator service provider is technically unable to complete a call from its point of origin, or transfer a call so that it is billed from its point of origin, such provider shall provide the following options to the caller and then obtain the caller's consent:

(a) offer to transfer the call, upon the caller's request, at no charge to the caller, to another operator service provider, and

(b) offer to terminate the call without charge.

7. No alternate operator service provider or COCOT service provider shall restrict access or enter into any contract or agreement which restricts access to any alternate operator service provider or to a local exchange company operator or to any emergency telephone number, including, where available, 911 or E911.

8. Nothing in this section shall be construed to limit the authority of the commission to impose requirements in addition to those established pursuant to this section for a telephone corporation that is an alternate service provider or a COCOT service provider.

9. Notwithstanding any provision of law to the contrary, a COCOT service provider shall be authorized to establish and collect, directly, or through or on behalf of an alternate operator service provider, in addition to any other charges which may be applicable, a premises or location surcharge applicable to each credit card, third party, collect or operator handled call, which surcharge shall not exceed one dollar and twenty-five cents on any call originated in this state, provided that any such surcharge on a call originated in a city with a population over one million may not exceed one dollar and fifty cents. No such surcharge may be imposed on any call which is not completed. Effective January first, nineteen hundred ninety-eight, the commission shall determine, after notice and hearing, the amount of any increase in such maximum surcharge necessary to protect the public interest in COCOT service. The amount of any such surcharge shall be conspicuously displayed on or in the immediate vicinity of the COCOT in accordance

with paragraph (f) of subdivision three of this section.

10. Notwithstanding any other provision of law, the charge imposed by a COCOT service provider for local coin calls after the initial period has elapsed shall be equal in rate and time period to the initial set rate and time period.

11. Until March thirty-first, two thousand six, a fee of twenty-five cents per month per access line assigned to a COCOT is hereby imposed upon each and every COCOT. The local exchange company shall, act as a collection agent for such fees, and remit the funds collected to the department no later than the fifteenth of each and every month. The department shall deposit the funds as soon as received in the COCOT enforcement fund established pursuant to section ninety-two-w of the state finance law.

§ 92-d. Telephone solicitations. Each local exchange telephone company shall inform its customers of the provisions of section ninety-two-i of this article, sections three hundred ninety-nine-p, three hundred ninety-nine-z and three hundred ninety-nine-pp of the general business law, and article ten-B of the personal property law, as such provisions relate to the rights of consumers with respect to cramming, telemarketers, sellers, the no telemarketing sales call statewide registry and automatic dialing-announcing devices, by means of:

1. Inserting a notice annually in the customers' billing statements; and

2. Publishing a notice in local telephone directories.

§ 92-e. Telephone service; changes in providers. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Hold order or freeze" shall mean a directive to retain the provider of telephone service selected by a customer until the customer provides express authorization for a change to another provider of telephone service.

(b) "Provider of telephone service" shall mean a telephone corporation that provides intrastate interLATA, intraLATA, or local exchange telephone service to end-use customers.

(c) "Service for which there are multiple providers" shall mean a service for which customers have the ability to subscribe or select from more than one provider of telephone service.

2. Unauthorized changes prohibited. No telephone corporation or any person, firm or corporation acting as an agent or representative of a telephone corporation shall on behalf of a customer make any change or direct a different telephone corporation to make any change in a provider of a telephone service for which there are multiple providers, unless such corporation, agent or representative complies with authorization and confirmation procedures established by the commission and by federal law and rules. In construing and enforcing the provisions of this section, the act of any person, firm or corporation acting as an agent or representative of a telephone corporation shall be deemed to be the act of such telephone corporation.

3. Rules and regulations. The commission may adopt rules and regulations relating to unauthorized changes in providers of telephone service that are consistent with federal law which, among other requirements, establish procedures for a customer to confirm a change in a provider of telephone service made by another telephone corporation on behalf of the customer and set forth methods for enforcing such rules and regulations.

4. Hold order or freeze. The commission may, if it determines it to be necessary, require any telephone corporation that owns or operates the network facilities that control routing, selection, or billing functions necessary to implement a hold order or freeze to offer it to end-use customers as a method of reducing incidents of unauthorized changes in providers of telephone service. Such corporation shall perform any hold order or freeze procedure in a non-discriminatory and competitively neutral manner that does not give such corporation an advantage over its

competitors in the telecommunications market.

5. Billing information. When a customer or a new provider of telephone service on behalf of a customer makes a change in a provider of a telephone service, the new provider of telephone service shall be responsible for insertion of a conspicuous notice on or with the customer's first bill for which the change is effective or shall send a separate notice within sixty days informing the customer that such change was made. Any bill for intrastate interLATA, intraLATA, and/or local exchange service shall contain the name of each provider of telephone service for which billing is provided.

6. Penalties. (a) A violation of federal law or rules applicable to intrastate service or of this subdivision relating to changes in providers of telephone service is subject either to the judicial penalty authorized in section twenty-five of this chapter for the failure or neglect to obey or comply with a provision of this chapter or the administrative penalty established in this subdivision. In seeking such judicial penalty or assessing such administrative penalty, the commission shall take into account the nature, circumstances, extent, gravity and number of the violations, and with respect to the violator, the degree of culpability, any history of prior offenses and repeated violations, and such other matters as may be appropriate and relevant. The remedies provided by this subdivision are in addition to any other remedies provided in law.

(b) The commission shall have the authority to assess directly, after an opportunity for hearing, an administrative penalty not to exceed five thousand dollars for each violation associated with a specific access line within the state of federal law and rules applicable to intrastate service or of this subdivision relating to changes in providers of telephone service. All moneys recovered from any administrative penalty shall be paid into the state treasury to the credit of the general fund.

§ 92-f. Prepaid telephone calling card consumer protections. 1. Definitions. For the purposes of this section, unless the context or subject matter otherwise requires, the following terms shall have the following meanings:

a. "Company" means any entity providing prepaid calling services to the public using its own or a resold telecommunications network;

b. "Prepaid calling services" or "services" means any prepaid telecommunications service that allows consumers to originate calls through an access number and authorization code, whether manually or electronically dialed;

c. "Prepaid calling card" or "card" means any object purchased for a sum certain that contains an access number and authorization code that enables a consumer to use prepaid calling services. It does not include any object of that type used for promotional purposes;

d. "Cellular telephone services" means commercial mobile telephone services.

2. Disclosure requirements. Any company that provides prepaid calling services through prepaid calling cards shall be required to print legibly on each card the following information:

a. name of the company;

b. toll-free customer service number;

c. toll-free network access number, if such number is required to access service;

d. authorization code, if such code is required to access service;

e. any expiration date or expiration policy;

f. instructions for use of the card; and

g. in the case of a company that offers prepaid cellular telephone services by means of a prepaid calling card, such prepaid calling card shall have printed on its face, in conspicuous print of a font in bold face print that is at least fourteen-point sized, the expiration date or the expiration policy for the cellular minutes purchased with the card.

3. Any company that provides prepaid calling services through prepaid calling cards shall print legibly on each card or packaging the following information:

a. any surcharges or fees, including monthly fees per-call access fees, or surcharges for the first minute of use that may be applicable to the use of the prepaid calling card or prepaid calling services within the United States;

b. any additional or different prices, rates, or unit values applicable to international usage of the prepaid calling card or prepaid calling services;

c. any minimum charge per call, such as a three minute minimum charge;

d. any charge for calls that do not connect; and,

e. any recharge policy.

4. Customer service requirements. a. Any company that provides prepaid calling services shall establish and maintain a toll-free customer service telephone number with a live operator to answer incoming calls twenty-four hours a day, seven days a week to receive customer complaints and to provide information, including, but not limited to, the following:

i. description of rates, surcharges and fees;

ii. description of the company's recharge, refund, and expiration policies;

iii. if applicable, the amount of value remaining on the consumer's account; and

iv. terms and conditions of service and monthly service charges.

b. Any company offering prepaid cellular telephone services shall be deemed to be in compliance with the requirements of this section if, when a request for information is made outside of normal business hours, that company provides the information requested on the next business day.

5. Return and refund policies. Any company that provides prepaid calling services shall provide a refund to any purchaser of a prepaid calling card or service if the network services associated with the card or service fail to operate in a commercially reasonable manner. The refund required by this section shall be in an amount not less than the value remaining on the card in the form of a replacement card or additional time on the card and shall be provided to the consumer within sixty days from the date of receipt of notification from the consumer that the card has failed to operate in a commercially reasonable manner.

6. Cards without a specific expiration date or policy printed on the card and with a balance of service remaining shall be considered active for a minimum of one year from the date of purchase, or if recharged, from the date of the last recharge.

7. In the case of prepaid calling cards or services utilized at a pay phone, the company may provide a voice prompt notification of any applicable pay phone surcharges, in lieu of providing notice of surcharges as required by subdivision three of this section.

8. Enforcement. The commission shall have the power, consistent with federal law, to assess a penalty not to exceed one thousand dollars against any company that provides prepaid calling cards or services that knowingly fails or neglects to comply with any provision of this section or any regulation or order of the commission implementing or enforcing the provisions of this section. All moneys recovered from any administrative penalty shall be paid into the state treasury to the credit of the general fund.

§ 92-g. De-tariffing of non-basic retail services. 1. Notwithstanding any other provision of this chapter, or any regulation or order issued by the commission pursuant to this chapter, and excluding "regulated basic services" as defined in paragraph (a) of subdivision two of section ninety-two of this article on and after the effective date of this section, a telephone corporation furnishing any services that would otherwise be subject to the rate schedule requirements in section ninety-two of this article may post on its website the rates, terms and conditions of any retail service it offers, renders or furnishes within the state. Section ninety-two of this article shall not apply to any service so posted, and such telephone corporation shall not be required to file with the commission or obtain approval of any tariff or schedule for such service. Nothing in this section shall be construed to affect the authority of the commission under section ninety-seven of this article.

2. Any tariff or schedule for retail services filed by a telephone corporation prior to the effective date of this section may be withdrawn at any time after such date upon thirty days notice to the commission, but shall remain in effect until such withdrawal.

3. Nothing in this section shall affect the authority of the commission over switched access or wholesale services.

4. A telephone corporation shall annually file a copy of the customer service guide or other listing of terms and conditions with the commission. A telephone corporation shall provide a copy of such customer service guide or other listing of terms and conditions to any requesting person. The commission may order additional requirements as they see fit for the customer service guide. The term "customer service guide" and "other listing of terms and conditions" when used in this section shall include but not be limited to a list of non-basic services with a description and rate of sale of such services by a telephone corporation.

5. At least thirty days prior to an increase in rate for a non-basic service, a telephone corporation shall notify any affected person that such person may opt out of such non-basic service at any time within the thirty days prior to the increase becoming effective.

§ 92-h. Participation in the targeted accessibility fund. 1. As used in this section, the term "fund" shall mean the targeted accessibility fund established by the commission for the purpose, among other things, of providing financial support for the provision of lifeline service in the state.

2. Notwithstanding any other provision of this chapter, any provider or reseller of commercial mobile radio service, as defined in 47 C.F.R. § 20.3, in the state that is designated as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e) to offer lifeline service in the state may, but shall not be required to, participate in the fund for the purpose of offering lifeline service. If such a provider elects to participate in the fund, the provider shall assume all rights and obligations associated with such participation under the commission's orders, on the same basis as other participants. Any such provider that has elected to participate in the fund may withdraw from such participation at any time.

3. Except to the extent necessary to supervise or administer the fund, nothing in this section shall confer upon the commission any regulatory jurisdiction over providers or resellers of commercial mobile radio service that elect to participate in the fund.

§ 92-i. Cramming prohibited. 1. For the purposes of this section, "cramming" means the inclusion and imposition of charges on the invoice or bill of a customer from a telephone corporation at the request of a third party or billing aggregator that (a) were not authorized by the customer, or (b) if authorized, were obtained through misleading or deceptive means.

2. A customer shall not be liable for charges appearing on the invoice or bill of a telephone corporation that are the result of cramming. No charges for any products or services, other than those provided by the telephone corporation, its affiliates, a third party video provider with whom a telephone corporation or its affiliate jointly market services, or otherwise permitted by law, shall be included on any bill or invoice of a customer, unless the third party requesting the payment of such charges retains and provides upon request valid proof that:

(a) the customer was provided with clear and conspicuous disclosure of all material terms and conditions of the product or service being offered, including but not limited to all initial and recurring charges and the fact that such charges shall appear on the customer's telephone bill;

(b) after receiving clear and conspicuous disclosure as provided in paragraph (a) of this subdivision, the customer explicitly consented to the nature and amount of such charges; and

(c) the third party offering the product or service or an agent of such third party provided the customer with a toll-free telephone number the customer may call and an address to which the customer may write to resolve any billing dispute.

3. Any charges for third party products or services that are included on a bill or invoice by a telephone corporation without the consent of the customer having been obtained as provided in subdivision two of this section shall be void and unenforceable, and shall be removed from the bill or invoice upon notice from such customer.

4. The commission shall supervise and ensure compliance with the provisions of this section, and may promulgate any rules and regulations it deems necessary or desirable to ensure such compliance, including but not limited to any additional requirements for verification of customer orders and any additional standards that third parties or agents must meet to be authorized to receive payment through the inclusion of charges on bills or invoices of telephone corporations. Any failure by a telephone corporation to comply with the provisions of this section may be redressed as provided in subdivision three of section ninety-six of this article or as otherwise authorized by law.

§ 93. Liability for loss or damage caused by violation of this chapter. In case any telegraph corporation or telephone corporation shall do or cause to be done or permit to be done any act, matter or thing prohibited, forbidden or declared to be unlawful, or shall omit to do any act, matter or other thing required to be done, either by law of the state of New York by this chapter or by any order of the commission, such telegraph corporation or telephone corporation shall be liable to the person or corporation affected thereby for all loss, damage or injury caused thereby or resulting therefrom and in case of recovery if the court shall find that such act or omission was willful it may in its discretion fix a reasonable counsel or attorney's fee, which fee shall be taxed and collected as a part of the costs in the action. An action to recover for such loss, damage or injury may be brought in any court of competent jurisdiction by any such person or corporation.

§ 94. General powers and duties of commission in respect to telegraph corporations and telephone corporations. 1. The commission and each commissioner shall have power and authority to administer oaths in all parts of the state to witnesses summoned to testify in any inquiry, investigation, hearing or proceeding and also to administer oaths in all parts of the state whenever the exercise of such power is incidentally necessary or proper to enable the commission or a commissioner to perform a duty or to exercise a power.

2. The commission shall have general supervision of all telegraph corporations, telephone corporations and telegraph lines and telephone lines within its jurisdiction as hereinbefore defined and shall have power to and shall examine the same and keep informed as to their general condition, their capitalization, their franchises and the manner in which their lines and property are leased, operated or managed, conducted and operated with respect to the adequacy of and accommodation afforded by their service and also with respect to the safety and security of their lines and property, and with respect to their compliance with all provisions of law, orders of the commission,

franchises and charter requirements. The commission shall have power either through its members or inspectors or employees duly authorized by it to enter in or upon and to inspect the property, equipment, buildings, plants, factories, offices, apparatus, machines, devices and lines of any telegraph corporation or telephone corporation.

3. The commission and each commissioner shall have power to examine all books, contracts, records, documents and papers of any telegraph corporation or telephone corporation and by subpoena duces tecum to compel the production thereof, or of duly verified copies of the same or of any of them.

4. The commission shall require, with respect to any charge for the installation or initiation of service of a residential telephone line, or any nonrecurring maintenance service charge with respect to a residential telephone line or equipment, that any telephone corporation imposing such a charge offer a plan for the deferred payment thereof in installments over a period of up to one year. For the purposes of this subdivision, charges for initiation of service are charges for the connection of service including but not limited to charges for central office line, premises visit, inside wire and jacks, and any related service.

§ 95. Reports of telegraph corporations and telephone corporations. 1. Every telegraph corporation and every telephone corporation shall file with the commission an annual report at a time and covering the yearly period fixed by the commission. Such annual reports shall be verified by the oath of the president, vice-president, treasurer, secretary, general manager or receiver if any of such corporations, or by the person required to file the same. Verification shall be made by the official holding office at the time of the filing of said report, and if not made upon the knowledge of the person verifying the same shall set forth in general terms the sources of his information and the grounds for his belief as to any matters not stated to be verified on his knowledge. The commission shall prescribe the form of such reports and the character of the information to be contained therein and may, from time to time make such changes and additions in regard to form and contents thereof as it may deem proper and shall furnish a blank form for such annual reports to every telegraph corporation and every telephone corporation required to make the same. When the report of any telegraph corporation or telephone corporation is defective or erroneous the commission shall notify the corporation to amend the same within a time prescribed by the commission. The said reports shall be preserved in the office of the commission. The commission may require of any telegraph corporation or telephone corporation specific answers to questions upon which the commission may desire information. If any telegraph corporation or telephone corporation shall fail to make and file its annual report as and when required or within such extended time as the commission may allow or shall fail to make specific answers to any question within the period specified by the commission for the making and filing of such answers, such corporation shall forfeit to the state the sum of one hundred dollars for each and every day it shall continue to be in default with respect to such report or answer. Such forfeiture shall be recovered in an action brought by the commission in the name of the people of the state of New York. The amount recovered in any such action shall be paid into the state treasury and shall be credited to the general fund. The commission may, when it deems it advisable, exempt any telegraph corporation or telephone corporation from the necessity of filing annual reports until the further order of the commission.

2. The commission may establish a system of accounts to be used by telegraph corporations and telephone corporations, which are subject to its jurisdiction, and are required to make annual reports to it or classify the said corporations, and prescribe a system of accounts for each class and may prescribe the manner in which such accounts shall be kept. It may also, in its discretion prescribe the form of records to be kept by such corporation. Notice of alterations by the commission in the required method or form of keeping accounts shall be given to such corporations by the commission at least six months before the same are to take effect. The commission shall at all times have access to all accounts, records and memoranda kept by telegraph corporations and telephone corporations, and may designate any of its officers or

employees who shall thereupon be authorized under the order of the commission to inspect and examine any and all accounts, records and memoranda kept by any such corporation; and the commission may, after a hearing, prescribe by order, the accounts in which particular outlays and receipts shall be entered, charged or credited. At any such hearing the burden of proof shall be on the corporation to establish the correctness of the accounts in which such outlays and receipts have been entered and the commission may suspend a charge or credit pending submission of proof by such corporation. Any provision of law prohibiting the disclosure of the contents of telegraph messages or the contents or substance of telephone communications shall not be deemed to prohibit the disclosure of any matter in accordance with the provisions of this chapter.

3. In the case of a telephone corporation having property actually used in the public service within the state of a value of less than ten thousand dollars and operated for profit, the commission may and wherever it deems it practicable shall prescribe a simplified system of accounts and reports suitable to the character and activities of the telephone corporation regulated.

§ 95-a. Statements of nature and extent of interests to be filed upon request. Whenever any person or corporation signs or certifies any estimate, appraisal, report, or other statement, to be submitted to the public service commission in relation to any public utility company, in which such person or corporation is or has been financially interested, directly or indirectly, or is or has been employed in any manner or capacity, or of which such person is or has been an officer or employee, the commission in its discretion, may require that such signature or certification shall be accompanied by a specific statement setting forth the nature and extent of such interest or engagement.

§ 96. Investigations by commission. 1. The commission may of its own motion investigate or make inquiry in a manner to be determined by it as to any act done or omitted to be done by any telegraph corporation or telephone corporation and the commission must make such inquiry in regard to any act done or omitted to be done by any telegraph corporation or telephone corporation in violation of any provisions of law or in violation of any order of the commission.

2. The commission may of its own motion or upon complaint of any person or corporation aggrieved investigate and determine whether the property of any corporation or person actually used within the state in the business of affording telephonic communication for hire is of a value exceeding ten thousand dollars.

3. Complaints may be made to the commission by the department of state or by any person or corporation aggrieved, by petition or complaint in writing, setting forth any act done or omitted to be done by any telegraph corporation or telephone corporation alleged to be in violation of the terms or conditions of its franchise or charter or of any order of the commission. Upon the presentation of such a complaint the commission shall cause a copy thereof to be forwarded to the person or corporation complained of which may be accompanied by an order directed to such person or corporation requiring that the matters complained of be satisfied or that the charges be answered in writing within a time to be specified by the commission. If the person or corporation complained of shall make reparation for any injury alleged and shall cease to commit or permit the violation of law, franchise, charter or order charged in the complaint, if any there be, and shall notify the commission of that fact before the time allowed for answer, the commission need take no further action upon the charges. If, however, the charges contained in such petition be not thus satisfied and it shall appear to the commission that there are reasonable grounds therefor, it shall investigate such charges in such manner and by such means as it shall deem proper and take such action within its powers as the facts in its judgment justify.

4. Whenever the commission shall investigate any matter complained of by any person or corporation aggrieved by any act or omission of a telegraph corporation or telephone corporation under this section, it shall be its duty within sixty days after final submission to make and

file an order either dismissing the petition or complaint or directing the telegraph corporation or telephone corporation complained of to satisfy the cause of complaint in whole or to the extent which the commission may specify and require.

6. a. The commission shall have power to provide for a management and operations audit of any telephone corporation. The commission shall have discretion to have such audits performed by its staff or by independent auditors.

b. In every case in which the commission chooses to have the audit provided for in this subdivision performed by independent auditors, it shall have authority to select the auditors, and to require the corporation being audited to enter into a contract with the auditors providing for their payment by such corporation. Such contract shall provide further that the auditors shall work for and under the direction of the commission according to such terms as the commission may determine are necessary and reasonable. The commission shall not enter into any such contract with an auditor who shall have contracted with the corporation being audited within the last two years and shall require, within the terms of the contract, that such auditor will not contract with the corporation being audited until at least two years have elapsed from the date such audit was completed.

c. The commission shall have authority to direct the company to implement any recommendations resulting from such audits that it finds to be necessary and reasonable and shall commence the first audit on or before the one hundred twentieth day after the date on which this subdivision shall have become a law.

d. Upon the application of a telephone corporation for a major change in rates as defined in subdivision two of section ninety-two of this chapter, the commission shall review that corporation's compliance with the directions and recommendations made previously by the commission, as a result of the most recently completed management and operations audit. The commission shall incorporate the findings of such review in its opinion or order.

§ 97. Rates, rentals and service. 1. Whenever the commission shall be of opinion, after a hearing, had upon its own motion or upon a complaint that the rates, charges, tolls or rentals demanded, exacted, charged or collected by any telegraph corporation or telephone corporation subject to its jurisdiction for the transaction of messages or communications by telegraph or telephone or for the rental or use of any telegraph line, telephone line or any telegraph instrument, wire, appliances, apparatus or device or any telephone receiver, transmitter, instrument, wire, cable, apparatus, conduit, machine, appliance or device or any telephone extension or extention system or that the rules, regulations or practices of any telegraph corporation or telephone corporation affecting such rates, charges, rentals or service are unjust, unreasonable or unjustly discriminatory or unduly preferential or in anywise in violation of law, or that the maximum rates, charges or rentals chargeable by any such telegraph corporation or telephone corporation are insufficient to yield reasonable compensation for the service rendered, the commission shall, with due regard, among other things, to a reasonable average return upon the value of the property actually used in the public service and to the necessity of making reservation out of income for surplus and contingencies, determine the just and reasonable rates, charges and rentals to be thereafter observed and in force as the maximum to be charged, demanded, exacted or collected for the performance or rendering of the service specified notwithstanding that a higher or lower rate, charge or rental has been theretofore prescribed by general or special statute, contract, grant, franchise condition, consent or other agreement and shall fix the same by order to be served upon all telegraph corporations and telephone corporations by which such rates, charges or rentals are thereafter to be observed, and thereafter no increase in any rate, charge or rental so fixed shall be made without the consent of the commission. Any such change in rate, charge or rental shall be upon such terms, conditions or safeguards as the commission may prescribe. At any hearing involving a rate, charge or rental, the burden of proof to show that the change in the rate, charge or rental, if proposed by the person or corporation operating the utility, or that the existing rate, if on motion of the commission or in a complaint filed with the commission it is proposed to reduce the rate, charge or rental, is just and reasonable, shall be upon the person or corporation operating such utility; and the commission may give to the hearing and decision of such question preference over all other questions pending before it and decide the same as speedily as possible. If it shall be made to appear to the satisfaction of the commission that the public interest requires a change in the rate, charge or rental for telephone or telegraph service charged by any such person or corporation, or that such change is necessary for the purpose of providing adequate or sufficient service or for the preservation of the property, the commission may, upon such terms, conditions or safeguards as it deems proper, authorize an immediate, reasonable, temporary increase or decrease in such rate, charge or rental pending a final determination of the rate, charge or rental to be thereafter demanded, exacted or collected by such person or corporation. The terms, conditions or safeguards prescribed may include conditions for the purposes for which additional revenue derived from any such temporary increase may be expended and for the impounding thereof until the same shall be applied to the purpose so specified.

2. Whenever the commission shall be of the opinion, after a hearing had upon its own motion or upon complaint that the rules, regulations or practices of any telegraph corporation or telephone corporation are unjust or unreasonable or that the equipment or service of any telegraph corporation or telephone corporation is inadequate, inefficient, improper or insufficient, the commission shall determine the just, reasonable, adequate, efficient and proper regulations, practices, equipment and service thereafter to be installed, to be observed and used, and to fix and prescribe the same by order to be served upon every telegraph corporation and telephone corporation to be bound thereby and thereafter it shall be the duty of every telegraph corporation and telephone corporation to which such order is directed to obey each and every such order so served upon it and to do everything necessary or proper in order to secure compliance with and observance of every such order by all its officers, agents and employees according to its true intent and meaning. Nothing contained in this chapter shall be construed as giving to the commission power to make any order, direction or

requirement requiring any telegraph corporation or telephone corporation to perform any act which is unjust or unreasonable or in violation of any law of this state or of the United States not inconsistent with the provisions of this chapter.

3. The commission shall have power by order to require any two or more telegraph corporations or any two or more telephone corporations whose lines form a continuous line of communication, or could be made to do so by the construction and maintenance of suitable connections or transfer of messages at common points, between different localities which are not reached by the line of either company alone, to establish through lines within the state between two or more such localities and joint rates or charges for service by or over said lines as the commission may by its order prescribe and in case such through lines and joint rates be not established by the corporations named in any such order within the time therein specified, the commission shall have power by order to establish the same and to fix the just and reasonable rates and charges to be charged for such through service and to declare the portion thereof to which each of the corporations affected thereby shall be entitled and the manner in which the same shall be secured and paid.

§ 98. Power of commission to order repairs or changes. Whenever the commission shall be of opinion, after a hearing had upon its own motion, or upon a complaint, that repairs or improvements to or changes in any telegraph line or any telephone line ought reasonably to be made, or that any additions should reasonably be made thereto, in order to promote the convenience of the public or employees, or in order to secure adequate service or facilities for telegraphic or telephonic communications, the commission shall make and serve an order directing that such repairs, improvements, changes or additions be made within a reasonable time and in a manner to be specified therein and every telegraph corporation and telephone corporation is hereby required and directed to make all repairs, improvements, changes and additions required of it by any order of the commission served upon it.

§ 99. Franchises and privileges. 1. No telegraph corporation or telephone corporation hereafter formed shall begin construction of its telegraph line or telephone line without first having obtained the permission and approval of the commission and its certificate of public convenience and necessity and the required consent of the proper municipal authorities. Notwithstanding the foregoing, any such certificate shall be deemed to be granted by the commission ninety days after such corporation applies to the commission for a certificate, unless the commission, or its designee, determines within such ninety day period that the public interest requires the commission's review and its written order.

2. No franchise nor any right to or under any franchise to own or operate a telegraph line or telephone line shall be assigned, transferred or leased, nor shall any contract or agreement hereafter made with reference to or affecting any such franchise or right be valid or of any force or effect whatsoever, unless the assignment, transfer, lease, contract or agreement shall have been approved by the commission. No telephone corporation shall transfer or lease its works or system or any part of such works or system to any other person or corporation or contract for the operation of its works or system, without the written consent of the commission. Notwithstanding the foregoing, any such transfer or lease between affiliated corporations with an original cost of (a) less than one hundred thousand dollars proposed by a telephone corporation having annual gross revenues in excess of two hundred million dollars, (b) less than twenty-five thousand dollars proposed by a telephone corporation having annual gross revenues of less than two hundred million but more than ten million dollars or (c) less than ten thousand dollars proposed by a telephone corporation having annual gross revenues of less than ten million dollars and any other transfer or lease between non-affiliates regardless of cost shall be effective without the commission's written consent within ninety days after such corporation notifies the commission that it plans to complete such transfer or lease and submits a description of the transfer or lease, unless the commission, or its designee, determines within such ninety days that the public interest requires the commission's review and written consent.

3. The approval of the commission to the exercise of a franchise or to the assignment, transfer or lease of a franchise shall not be construed to revive or validate any lapsed or invalid franchise or to enlarge or add to the powers and privileges contained in the grant of any franchise or to waive any forfeiture.

§ 100. Transfer and ownership of stock. 1. No telegraph corporation or telephone corporation, domestic or foreign, shall hereafter purchase or acquire, take or hold any part of the capital stock of any telegraph corporation or telephone corporation organized or existing under the laws of this state unless authorized so to do by the commission.

2. Save where stock shall be transferred or held for the purpose of collateral security, no stock corporation, domestic or foreign, company, including, but not limited to, a limited liability company, association, including a joint stock association, partnership, including a limited liability partnership, or person, other than a telegraph corporation or telephone corporation, shall, without the consent of the commission, purchase or acquire, take or hold more than ten per centum of the voting capital stock issued by any telegraph corporation or telephone corporation organized or existing under or by virtue of the laws of this state. Any corporation now lawfully holding a majority of the voting capital stock of any telegraph corporation or telephone corporation may, without the consent of the commission, acquire and hold the remainder of the voting capital stock of such telegraph corporation or telephone corporation, or any portion thereof.

3. No consent shall be given by the commission to the acquisition of any stock in accordance with this section unless it shall have been shown that such acquisition is in the public interest; provided, however, that any such consent shall be deemed to be granted by the commission ninety days after such corporation applies to the commission for its consent, unless the commission, or its designee, determines and informs the applicant in writing within such ninety day period that the public interest requires the commission's review and its written

consent. Nothing herein contained shall be construed to prevent the holding of any stock heretofore lawfully acquired, nor to prevent, upon the surrender or exchange of such stock pursuant to a reorganization plan, the purchase, acquisition, taking or holding of a proportionate amount of stock of any new corporation organized to take over, at foreclosure or other sale the property of any corporation whose stock has been thus surrendered or exchanged; but the proportion of the voting capital stock of the new corporation held by a stock corporation, company, association, partnership or person and acquired by it by any such surrender or exchange of stock shall not without the consent of the commission exceed the proportion of the voting capital stock held by it in the former corporation.

4. Every contract, assignment, transfer or agreement for transfer of any stock by or through any person or corporation to any corporation, company, association, partnership or person, in violation of any provision of this chapter shall be void and of no effect, and no such transfer or assignment shall be made upon the books of any such telegraph corporation or telephone corporation, or shall be recognized as effective for any purpose.

§ 101. Authority to issue stock, bonds and other forms of indebtedness. A telegraph or telephone corporation may, when authorized by the commission, issue stock, bonds, notes or other evidences of indebtedness payable at periods of more than twelve months after the date thereof, or a receiver of such a corporation, if duly authorized by law, may issue receiver's certificates, when necessary for the acquisition of property, the construction, completion, extension or improvement of its facilities or the improvement or maintenance of its service within the state, or for the discharge or lawful refunding of its obligations, or reimbursement of moneys actually expended from the income from any source, within five years next prior to the filing of the application therefor, or for any of such purposes, provided, however, that no authority shall be granted authorizing such issue for reimbursement of moneys expended from income for betterments or replacements unless the applicant shall have kept its accounts and vouchers of such expenditures in such manner as to enable the commission to ascertain the amount of moneys so expended and the purposes for which such expenditures were made. Stock may be issued to stockholders as a stock dividend provided that there shall have been secured from the commission authority for such issuance and for a transfer of surplus to capital in an amount equal to the par or stated value of the stock so authorized and that the applicant has certified in the application for authority that a sum equal to the amount to be so transferred was expended for the purposes enumerated in this section. Stock may be issued to an employee or director of a telegraph or telephone corporation under a stock option plan pursuant to which such corporation grants options to its employees or directors to purchase shares of stock, such options to be exercisable for a stated period of time to purchase shares of stock at the market value of the stock at the time of issuance of the option, provided that there shall have been secured from the commission authority for such issuance and that the applicant has certified in the application for authority that the proceeds from the exercise of the stock options are needed for one of the purposes enumerated in this section. The issue of stocks, bonds or other evidences of indebtedness, within the meaning of this section, shall include the sale by any such corporation of any such securities previously issued in compliance with the provisions of this section and subsequently reacquired by such corporation, provided, however, for good cause shown the commission may exempt from the restriction hereof stocks, bonds or other evidences of indebtedness. The application for authority shall state the amount of any such issue and the purposes to which it or its proceeds are to be applied and shall certify that the money, property or labor procured or to be procured or paid for by such issue or its proceeds has been or is reasonably required for the purposes specified in the application for authority, and that such purposes are in no part reasonably chargeable to operating expenses or to income except in the case of bonds, notes or other evidences of indebtedness as may be specifically identified in the application for authority. For the proceeds from a federal loan, a telegraph or telephone corporation shall provide notice to the public service commission of receipt of such issue but shall not be required to file an application for authority. For the purpose of enabling the commission to determine whether it should authorize such issuance, the commission shall have the power to make such inquiry or investigation, hold such hearings and examine such witnesses, books, papers, documents or contracts as it may determine of importance in enabling it to reach a determination. Except in instances where a telegraph or telephone corporation has notified the commission it is engaged in securing a federal loan for the expansion of broadband services, no such corporation shall, without the consent of the commission, apply any such issue or its proceeds to any purpose not specified in the application for authority. Such telegraph corporation or telephone corporation may issue notes for proper corporate purposes and not in violation of any provision of this chapter or of any other act, payable at periods of not more than twelve months without the consent of the commission; but no such note shall, in whole or in part, directly or indirectly, be refunded by any issue of stock or bonds, or by any evidences of indebtedness running for more than twelve months, without the consent of the commission. No telegraph corporation or telephone corporation shall be required, however, to apply to the commission for authority to issue stocks, bonds, notes or other evidence of indebtedness except for the acquisition of property, the construction, completion, extension or improvement of its facilities, or the improvement or maintenance of its service within the state, or the discharge or refunding of obligations, or reimbursement of moneys actually expended for such purposes. The commission shall have power to require every such corporation to file with the commission after the issuance of stocks, bonds, notes or other evidences of indebtedness issued with or without the approval of the commission as provided in this section, a notice of such transaction in such form as the commission may prescribe. The commission shall have no power to authorize the capitalization of any franchise or right to be a corporation, nor to authorize the capitalization of any franchise or the right to own, operate or enjoy any franchise whatsoever in excess of the amount (exclusive of any tax or annual charge) actually paid to the state or any political subdivision thereof, as the consideration of the grant of such franchise or right, nor to authorize the issuance of any stocks or other securities for any purposes other than those enumerated in this section. Nor shall the corporate stock of the corporation formed by the merger or consolidation of two or more other corporations exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof, or such sum and any additional sum actually paid in cash; nor shall any contract for consolidation or lease be capitalized in the stock of any corporation whatever; nor shall any corporation hereafter issue any bonds against or as a lien upon any contract for consolidation or merger. Notwithstanding the foregoing provisions of this section, any application for approval under this section shall be deemed granted by the commission forty-five days after such application is filed for approval, unless the commission, or its designee, determines and informs the applicant in writing within such forty-five day period that the public interest requires the commission's review and its written order.

§ 101-a. Reorganization. 1. Reorganization of telegraph and telephone corporations pursuant to sections ninety-six and ninety-seven of the stock corporation law and such other laws as may be enacted from time to time shall be subject to the supervision and control of the commission and no such reorganization shall be had without the authorization of such commission.

2. Upon all such reorganizations the amount of capitalization, including therein all stocks and bonds and other evidence of indebtedness, shall be such as is authorized by the commission, which, in making its determination shall not exceed the fair value of the property involved, taking into consideration its original cost of construction, duplication cost, present condition, earning power at reasonable rates and all other relevant matters and any additional sum or sums as shall be actually paid in cash, provided, however, that the commission may make due allowance for discount of bonds. Any reorganization agreement before it becomes effective shall be amended so that the amount of capitalization shall conform to the amount authorized by the commission.

§ 102. IntraLATA presubscribed interexchange carrier-change charge study. 1. As used in this section, the following terms have the following meanings:

(a) "Provider of telephone service" means a telephone corporation that provides intraLATA or local exchange telephone service to end-use customers.

(b) "Customer change of use charges" means intraLATA presubscribed interexchange carrier-change charges, that any provider of residential or single-line business telephone service levies upon the customer for the customer's change in intraLATA presubscribed interexchange carrier service or complete termination of that service.

(c) "Customer local calling plan" means any residential or single-line business telephone plan, exclusively for the purpose of completing regional intraLATA calls, offered by any telegraph corporation or telephone corporation, subject to section ninety of this article.

2. The commission shall conduct a study to analyze trends associated with customer change of use charges related to changes of a customer's local calling plan and determine the extent to which these changes take place and the actual cost for a provider of telephone service to make all the necessary changes associated with such a change. From its findings, the commission shall publish a report regarding the activity related to changes in local calling plans and the costs associated with the changes of such plans. The report must be published within one hundred twenty days of the effective date of this section. A copy of the report must be furnished to the temporary president of the senate, the speaker of the assembly, the chairperson of the senate standing committee on energy and telecommunications, and the chairperson of the assembly standing committee on corporations, authorities and commissions.

3. In cases where the customer's calling plan was altered by, or on behalf of, a telegraph corporation and/or telephone corporation subject to section ninety of this article, other than the customer's provider of telephone service, the telegraph corporation or telephone corporation shall pay the customer change of use charges to the provider of telephone service.

4. The commission shall notify customers of its findings on its

official world wide web website.

§ 103. Commercial landlord-tenant relationship. 1. No landlord of a commercial property shall (a) interfere with the installation of telephone corporation facilities upon such property or premises, except that a landlord of a commercial property may require:

(1) that the installation of telephone corporation facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well-being of other tenants;

(2) that the telephone corporation bear the entire cost of the installation, operation or removal of such facilities; and

(3) that the telephone corporation agree to indemnify the landlord of the commercial property for any damage caused by the installation, operation or removal of such facilities;

(b) demand or accept payment from any commercial tenant, in any form, in exchange for permitting telephone corporation services on or within such commercial property or premises, or from any telephone corporation in exchange therefor in excess of any amount which the commission shall, by regulation, determine to be reasonable; or

(c) discriminate in rental charges or otherwise, between commercial tenants who receive telephone corporation services and those who do not.

2. No telephone corporation may enter into any agreement with the owners, lessees or persons controlling or managing commercial buildings served by a telephone corporation, or do or permit any act, that would have the effect, directly or indirectly of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself or herself of telecommunications services.

§ 104. Fiber-based services. 1. Where a telephone line, as such term is defined in subdivision eighteen of section two of this chapter, or a portion of a telephone line, has previously been placed by a telephone corporation in or on a building or other property of an owner other than the telephone corporation and remains in place in or on such building or other property, the telephone corporation may, without any additional compensation to the owner, replace or supplement the line or portion of such line with fiber optic facilities for purposes of providing any telephone, broadband, cable or other video service that the telephone corporation or its affiliate may lawfully provide, provided that the provision of such services over those facilities does not result in a significant increase in the physical size of the facilities placed at those locations.

2. If the owner would be entitled to compensation for such replacement under existing law, the owner of the property may seek such compensation under the mechanism and pursuant to the substantive and procedural rules utilized by the public service commission for resolving claims for just compensation under section two hundred twenty-eight of this chapter, but the pendency of such proceedings shall not affect the right of the telephone company to make the replacement or supplementation authorized by this section.

3. A landlord or property owner may require: (a) that the telephone corporation or the tenant or a combination thereof bear the entire cost of the installation, operation or removal of such facilities; (b) that the telephone corporation agrees to indemnify the landlord or property owner for any damage caused by the installation, operation or removal of such facilities; and (c) that the installation of the fiber optic facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well-being of other tenants.

4. No landlord shall: (a) demand or accept payment from any tenant, in any form, in exchange for permitting fiber optic service on or within such landlord's property or premises; or (b) discriminate in rental charges or otherwise, between tenants who receive fiber optic service and those who do not.

§ 104-a. Notice to customers on fiber optic-based telephone lines. 1. The commission shall require each telephone corporation that provides local exchange service to provide a notice containing information to customers on the differences between copper-based telephone lines and fiber optic-based telephone lines prior to when such telephone corporation initiates a change in such customer's telephone service from copper-based telephone lines to fiber optic-based telephone lines. Except (i) in cases of an emergency, including but not limited to restoration or repair of service, or (ii) upon the request of the customer, such notice shall be provided to the customer at least forty-five days before such telephone corporation initiates a change in such customer's telephone service from copper-based telephone lines to fiber optic-based telephone lines. Such notice shall include, but not be limited to the following: a description of the differences between copper-based telephone lines and fiber optic-based telephone lines; the differences between the effect a power outage would have on the telephone service provided by copper-based and fiber optic-based telephone lines, including the availability of battery back-up options; an explanation of whether the service will continue to be regulated by the commission; and a phone number and contact information for customers who seek additional information or wish to make a complaint to the commission.

2. The commission shall have the power to prescribe the form and content of the notice established pursuant to this section. The commission may from time to time prescribe, by order, changes in the notice thereof. The commission shall also have power to establish rules and regulations for such notice and may from time to time modify the same.

3. Every telephone corporation shall file with the commission the notice established pursuant to this section and obtain approval as to the form and content thereof prior to providing such notice to customers. Notwithstanding the foregoing, any such notice shall be deemed to be approved by the commission ninety days after such corporation applies to the commission for approval, unless the commission, or its designee, rejects the notice and requires specific changes within such ninety day period. Upon a material change to the form and content of an approved notice, a telephone corporation shall

again file with the commission such notice and obtain approval pursuant to this section. The commission may establish what shall constitute a material change to the form and content of the notice that would necessitate commission approval.

ARTICLE 6

PROVISIONS AFFECTING TWO OR MORE KINDS OF THE PUBLIC SERVICE AND THE PERSONS AND CORPORATIONS FURNISHING SUCH SERVICE

§ 105. Purposes of article. This article prescribes additional provisions affecting two or more kinds of the public service regulated by this chapter and affecting the persons and corporations furnishing such service.

§ 106. Approval of loans. Except with the consent and approval of the public service commission first had and obtained, no public utility shall loan moneys, stocks, bonds, notes or other evidences of indebtedness, to any corporation, company, association, partnership or individual, owning or holding, directly or indirectly, any stock of said public utility.

§ 107. Approval of the use of revenues. 1. Except with the consent and approval of the commission first had and obtained, no public utility shall use revenues received from the rendition of public service within the state for any purpose other than its operating, maintenance and depreciation expenses, the construction, extension, improvement or maintenance of its facilities and service, the payment of its indebtedness and interest thereon, and the payment of dividends to its stockholders.

2. Notwithstanding subdivision one of this section, such consent and approval requested by a telephone corporation shall be deemed granted by the commission ninety days after the corporation applies to the commission for such consent and approval, unless the commission, or its designee, determines within such ninety day period that the public interest requires the commission's review and written consent.

§ 108. Approval of dissolution and of certificates of merger or consolidation, certificates of amendment of certificates of incorporation, and restated certificates of incorporation of public utility corporations. 1. No public utility corporation shall deliver to the department of state for filing, nor shall the department of state file, a certificate of dissolution, a certificate of merger or consolidation, or a certificate of amendment of a certificate of incorporation under section eight hundred five of the business corporation law or a restated certificate of incorporation under section eight hundred seven of the business corporation law which makes any amendment specified in subparagraphs eight, nine, ten, eleven and twelve of paragraph (b) of section eight hundred one of the business corporation law, unless such certificate shall have endorsed thereon the consent and approval of the commission.

2. No public utility corporation shall be dissolved pursuant to the provisions of article eleven of the business corporation law until the commission shall have first approved such dissolution.

3. The provisions of this section shall not apply to a public utility corporation subject to regulation by the commission only as a contract carrier of passengers by motor vehicle, nor to a certificate of amendment or restated certificate of incorporation of a public utility corporation subject to regulation by the commission only as a motor carrier of property.

§ 109. Appearances of municipal corporations. Each municipal corporation shall have the right to appear as a party before the commission or before any court in any action or proceeding involving rates, service or other matters affecting the municipal corporation or any of its residents. Any city, village, county or town may appropriate and expend such an amount as the governing body of such municipality may determine to be necessary for the purpose of paying the expenses of the employment of expert and technical advisors, engineers, accountants, appraisers, attorneys, and other persons in connection with any matter to be presented to the commission in any action or proceeding involving electric, gas and water rates, service or other matters to which it is a party.

§ 110. Control of holding companies and of transactions between affiliated interests. 1. The public service commission shall have jurisdiction over holders of the voting capital stock of all public utility companies under the jurisdiction of the commission to such extent as may be necessary to enable the commission to require the disclosure of the identity in respective interests of every owner of any substantial interest in such voting capital stocks. One per centum or more is a substantial interest, within the meaning of this subdivision.

2. The commission shall have jurisdiction over affiliated interests having transactions, other than ownership of stock and receipt of dividends thereon, with utility corporations and other utility companies under the jurisdiction of the commission, to the extent of access to all accounts and records of such affiliated interests relating to such transactions, including access to accounts and records of joint or general expenses, any portion of which may be applicable to such transactions; and to the extent of authority to require such reports to be submitted by such affiliated interests, as the commission may prescribe. For the purposes of this section only, "affiliated interests" include the following:

a. Every corporation and person owning or holding directly or indirectly five per centum or more of the voting capital stock of such utility corporation.

b. Every corporation and person in any chain of successive ownership of five per centum or more of voting capital stock.

c. Every corporation five per centum or more of whose voting capital stock is owned by any person or corporation owning five per centum or more of the voting capital stock of such utility corporation or by any person or corporation in any such chain of successive ownership of five per centum or more of voting capital stock.

d. Every person who is an officer or director of such utility corporation or of any corporation in any chain of successive ownership of five per centum or more of voting capital stock.

e. Every corporation which has one or more officers or one or more directors in common with such utility corporation.

f. Every corporation or person which the commission may determine as a matter of fact after investigation and hearing is actually exercising any substantial influence over the policies and actions of such utility corporation even though such influence is not based upon stockholding, stockholders, directors or officers to the extent specified in this section.

g. Every person or corporation who or which the commission may determine as a matter of fact after investigation and hearing is actually exercising such substantial influence over the policies and actions of such utility corporation in conjunction with one or more other corporations and/or persons with which or whom they are related by ownership and/or blood relationship or by action in concert that together they are affiliated with such utility corporation within the meaning of this section even though no one of them alone is so affiliated. The word "corporation," when used in this subdivision and for the purpose thereof, includes a trustee or trustees under any trust agreement, including a voting trust agreement.

3. No management, construction, engineering or similar contract, hereafter made, with any affiliated interest, as hereinbefore defined, shall be effective unless it shall first have been filed with the commission, and no charge for any such management, construction, engineering or similar service, whether made pursuant to contract or otherwise, shall exceed the reasonable cost of performing such service. In any proceeding to determine the reasonable cost of such charge or service the burden of proof shall be on the company. If it be found that any such contract is not in the public interest, the commission, after

investigation and a hearing, is hereby authorized to disapprove such contract.

4. All written contracts and all arrangements, hereafter made, effected through corporate resolutions or otherwise, and verified summaries of all unwritten contracts and arrangements, including such contracts and arrangements with any affiliated interest as hereinbefore defined, for the purchase of electric energy, gas (natural or manufactured or a mixture of both), and/or water before the same shall be effective, shall first be filed with the commission, and no charge for such electric energy, gas, and/or water whether made pursuant to contract or otherwise, shall exceed the just and reasonable charge for such electric energy, gas and/or water. In any proceeding to determine the reasonable cost of any such electricity, gas or water so sold and delivered or to be delivered to such purchaser the burden of proof shall be on the utility company purchasing the same. If it be found that any such contract or arrangement is not in the public interest, the commission, after investigation and hearing, is hereby authorized to disapprove such contract or arrangement.

§ 111. Additional information in annual reports; disclosure of stockholdings. 1. Every annual report of any utility corporation reporting under this chapter to the public service commission shall contain, in addition to any other information required to be included by or pursuant to law, the following information:

a. It shall state the name and address of, and the number of shares held by each holder of one per centum or more of the voting capital of the reporting corporation, according to its records.

b. Where one per centum or more of the voting capital stock of the reporting corporation is held by a trustee or trustees, or other intermediate agency, for the beneficial interest of an owner or owners, other than the holder of record, or where one per centum or more of the voting capital stock of the reporting corporation is held by another corporation, such annual report shall state, if the information is available from the records of the reporting corporation, the names and addresses and respective interests of such beneficial owners, and the names and addresses of the officers and directors of any such other corporation and the total number of shares of capital stock thereof held by each, showing separately the number of shares of the voting capital stock, and the names and addresses and respective stockholdings of every stockholder of such other corporation holding one per centum or more of its voting capital stock. Such report shall be accompanied by a certified copy of each trust agreement or other instrument under which any voting capital stock of the reporting corporation is held.

2. Where the information specified in paragraph "b" of the foregoing subdivision is not available from the records of the reporting corporation, any such holder, of record, of one per centum or more of the voting capital stock of the reporting corporation, if ordered so to do by the commission, shall file with the commission, a sworn statement, in such form and to be filed within such time as the commission shall prescribe, setting forth whether or not any of such stock held by him or it is so held for the beneficial ownership of any person, firm or corporation other than the record holder thereof, and, if stated to be so held, the names, addresses and respective interests of such beneficial owners. If such stockholder is a trustee, he or it also shall file with such statement a certified copy of the trust agreement or other instrument under which such stock is held. A corporation which is the holder, of record, of one per centum or more of the voting capital stock of the reporting corporation, if ordered so to do by the commission, and regardless of whether the information is or is not available or apparently available from the records of the reporting corporation, also shall file with the commission a sworn statement, in such form and to be filed within such time as the commission shall prescribe, or shall include in the sworn statement, if any, required to be filed by it pursuant to other provisions of this subdivision a statement setting forth the names and addresses of its officers and directors and the total number of shares of its capital stock, held by each, showing separately the number of shares of the voting capital stock, and the names and addresses and respective stockholdings of every stockholder thereof holding one per centum or more of its voting capital

stock.

3. If the annual report, or the sworn statements provided for in subdivision two, do not furnish the information desired, because of any chain of successive ownership or of stockholdings, or because of any intermediate agency or agencies, or for any other reason, the commission, by order, may require similar sworn statements from any person or corporation who or which can give the necessary information, as the commission may have discovered from its investigations, to the end that the commission may obtain a complete disclosure of the natural persons, firms or corporations, and their respective interests, who or which own or control directly or indirectly one per centum or more of the voting capital stock of the reporting corporation.

§ 111-a. Additional information in annual reports; disclosure of compensation. 1. Every gas corporation, electric corporation, steam corporation, and water-works corporation whose rates are regulated by the commission, and having a gross annual operating revenue of more than one million dollars shall prepare and include in its annual report filed with the department a compensation statement showing for the preceding calendar year:

a. the names, titles, and duties of all executive officers and directors and the compensation received by each such executive officer and director; and

b. the estimated proportion of the compensation disclosed in accordance with this subdivision, that is paid, directly or indirectly, by the ratepayers to the extent such proportion is reasonably calculable.

2. For purposes of this section:

a. "Compensation" means salary, deferred compensation, incentive pay, stock options, life insurance premiums and any change in actuarial value of accumulated pension benefits for the reporting period.

b. "Executive officer" means the president, secretary, treasurer, and vice president in charge of a principal business unit, division or function of such gas corporation, electric corporation, water-works corporation or steam corporation, and any other officer who performs similar policy-making functions for such gas corporation, electric corporation, water-works corporation, or steam corporation and who receives compensation at the rate of one hundred seventy-five thousand dollars or more per annum.

3. The compensation statement for each such gas corporation, electric corporation, steam corporation and water-works corporation shall be made publicly available on the department's website not later than thirty days after the date of the filing of the annual report required by subdivision one of this section. The department shall post a compensation statement for the Long Island power authority's service provider containing the information listed in subdivision one of this section annually on or before May first of each year. The department is authorized to request and collect any information necessary from the service provider to comply with the requirements of this subdivision.

§ 112. Judicial enforcement of rate-fixing orders of the commission. 1. When a suit is brought in the federal district court praying for an interlocutory injunction to restrain the enforcement of an order of the public service commission or transit commission fixing the maximum rates, fares, prices, charges or rentals to be charged and collected by a person or corporation subject, under this chapter, to the jurisdiction of the commission, the commission may bring an action in the appellate division of the supreme court for an injunction restraining such person or corporation from charging or collecting greater rates than those so fixed by its said order, provided that the bringing of such action is accompanied by a stay of proceedings, as herein provided, under such order of the commission pending the determination of the action. Before service of the summons, the commission shall exhibit to the court the complaint and at the same time apply, without notice, for such stay. If, in the judgment of the court, the complaint is sufficient on its face to entitle the plaintiff to the relief prayed for, such stay must be ordered by the court; and in case of a judgment or order thereafter, on a motion on the pleadings, holding the complaint insufficient but permitting amendment thereof, such stay shall continue during the period allowed for such amendment. The complaint and the order for such stay shall be filed and entered forthwith. The action is pending from the time such order is granted; but not after the expiration of sixty days therefrom unless, within that time the court shall have acquired jurisdiction of the defendant, by service of summons or voluntary appearance. Notice by the plaintiff's attorney of the granting of such stay shall be served on the defendant when the summons is served, and in the same manner. Forthwith upon the service of the summons and such notice, proof of service thereof, in the manner prescribed by law and rules for proof of service of a summons, shall be filed. Thereupon, the clerk of the appellate division forthwith shall issue, and the counsel to the commission shall transmit to such federal district court, the certificate of such clerk setting forth, with respect to such action in the appellate division, the title of the action, a copy of the prayer for relief, as set forth in the complaint, a copy of the stay order, and a statement that the papers filed in his office include proofs, made in accordance with the laws of this state and court rules, of service of the summons and of the notice required by this section to be served therewith. An action under this section by the public service commission shall be brought in the third department and by the transit commission in the first department.

2. Original jurisdiction of such an action is hereby conferred upon such appellate division of the supreme court. It may hear, try and determine it and render judgment according to law, except that no order for a temporary injunction against the defendant shall be granted. Provisions of law relating to reference of issues or any of them, for decision or report of findings of specific questions of fact, in an action triable without a jury, shall apply. The action must be prosecuted by the commission with diligence and good faith. If application is made to the court to vacate such stay and notice of the application, pursuant to federal law, is served upon the attorney-general, he shall give immediate notice of such application,

and of his receipt of the notice therefor, to counsel for the commission, but the attorney-general shall be entitled to participate with such counsel in opposing the application, if he deems it advisable. An appeal may be taken by the aggrieved party to the court of appeals from the judgment of the appellate division in the manner and subject to the limitations provided in the civil practice act.

§ 112-a. Appointment of temporary operator. (a) The commission may appoint a temporary operator of a gas corporation with twenty thousand or fewer customers or water-works corporation with one thousand or fewer customers if the commission, after notice and an opportunity to be heard, makes a determination that such gas corporation or water-works corporation exhibits one or more of the following criteria:

(i) a failure to provide safe, adequate, or reliable service;

(ii) a lack of technical, financial, or managerial capacity or ability to provide the service; or

(iii) actual or effective abandonment of any service or portion thereof.

(b) In making a determination under this section, the commission may take into consideration:

(i) the financial, managerial, and technical ability of the gas corporation or water-works corporation;

(ii) the financial, managerial, and technical ability of persons or entities providing the same type of service;

(iii) expenditures necessary to make improvements to assure compliance with applicable statutory and regulatory standards; and

(iv) any other matter that the commission deems relevant.

(c) For the purposes of this section, a "temporary operator" shall mean any person or entity that:

(i) is not an affiliated interest of the gas corporation or water-works corporation;

(ii) agrees to operate the gas corporation or water-works corporation under the terms and conditions established by the commission; and

(iii) is financially, managerially, and technically capable of operating the gas corporation or water-works corporation in compliance with applicable standards.

(d) The gas corporation or water-works corporation shall have the burden of demonstrating that it is supplying and has the ability to continue to supply safe, adequate, and reliable service at just and reasonable rates, or that abandonment of service by its system is in the public interest.

(e) The appointment of a temporary operator shall be in addition to any other remedies provided by law.

§ 113. Reparations and refunds. 1. Whenever a public utility company, on its own initiative, shall file with the commission a schedule stating an increased rate or charge, and the commission shall enter upon a hearing concerning the propriety of such increased rate or charge, the commission shall by order require the interested company to keep accurate account during the pendency of the hearing, in detail, of all amounts received by reason of such increase, or by reason of an increase received as a result of the establishment of temporary rates by the commission specifying by whom and in whose behalf such amounts are paid, and upon completion of the hearing and decision shall, by order require the interested company to refund or issue a credit in a manner prescribed by the commission, with interest, on or before a day fixed in the order, to the customers in whose behalf such amounts were paid to the extent practicable and otherwise to the class of customers in whose behalf such amounts were paid, such portion of such increased rates or charges as by its decision shall be found not justified, provided, however, that the commission may waive such refund requirement where the cost of making such refund exceeds the total amount of such refund or upon a finding that requiring such refunds would impair the financial integrity of the company. In the case of temporary rates, the commission may by order authorize appropriate reparation to the company if such temporary rates were found inadequate. If the corporation does not comply with such order within the time limited therein, any person or persons for whose benefit such order was made may, within one year from the date of the order but not after, bring action in a court of competent jurisdiction to recover the money to which he or they are entitled under said order. In any such action a copy of the order of the commission duly certified shall be prima facie evidence of the facts set forth in the order. The commission after reasonable notice to the company interested may, by order, direct the company to issue and deliver to shippers or consumers, tickets, printed slips or tokens specifying the excess received by the company over rates existing prior to the filing of the schedule.

2. Whenever any public utility company or municipality, whose rates are subject to the jurisdiction of the commission, shall receive any refund of amounts charged and collected from it by any source, the commission shall have power after a hearing, upon its own motion, upon complaint or upon the application of such public utility company or municipality, to determine whether or not such refund should be passed on, in whole or in part, to the consumers of such public utility company or municipality and to order such public utility company or municipality to pass such refunds on to its consumers, in the manner and to the extent determined just and reasonable by the commission.

§ 114. Temporary rates. To facilitate prompt action by the commission in proceedings involving the reasonableness of the rates of any public utility and to avoid delay in any such rate proceeding, the commission is hereby authorized to require any public utility company to establish, provide and maintain continuing property records, including a list or inventory of all of the physical property actually used in the public service, and to require any public utility company to keep its books, accounts and records in such manner as to show currently the original cost of said physical property and the reserves accumulated to provide for the retirement or replacement of said physical property.

The commission may, in any such proceeding, brought either on its own motion or upon complaint, upon notice and after hearing, if it be of opinion that the public interest so requires, immediately fix, determine and prescribe temporary rates to be charged by said utility company pending the final determination of said rate proceeding. Said temporary rates so fixed, determined and prescribed shall be sufficient to provide a return of not less than five per centum upon the original cost, less accrued depreciation, of the physical property of said public utility company used and useful in the public service, and if the duly verified reports of said utility company to the commission do not show the original cost, less accrued depreciation, of said property, the commission may estimate said cost less depreciation and fix, determine and prescribe rates as hereinbefore provided.

Temporary rates so fixed, determined and prescribed under this section shall be effective until the rates to be charged, received and collected by said utility company shall finally have been fixed, determined and prescribed. The commission is hereby authorized in any proceeding in which temporary rates are fixed, determined and prescribed under this section, to consider the effect of such rates in fixing, determining and prescribing rates to be thereafter charged and collected by said public utility company on final determination of the rate proceeding.

*** § 114-a. Rates not to include cost of legislative lobbying.** In determining rates to be charged customers, the commission shall not include the cost of legislative lobbying on behalf of any public utility as part of any such utility's operational costs and the commission shall not include the cost of membership dues for any organization, association, institution, corporation or any other entity that engages in legislative lobbying as part of any such utility's operational costs. As used in this section, legislative lobbying shall mean and include any attempt by any person on behalf of a public utility to influence the passage or defeat of any legislation by either house of the legislature or the congress, or the approval or disapproval of any legislation by the governor; provided however, legislative lobbying shall not include any appearance by any person on behalf of a public utility before a committee of either house of the legislature or the congress where any such appearance is at the request of any such committee.

* NB Effective until January 1, 2027

* § 114-a. Costs not to be included in rates. In determining rates to be charged customers, the commission shall not include as part of any public utility's operational costs:

1. Any direct or indirect costs associated with lobbying.

(a) Lobbying shall include any attempt to influence:

(i) the passage or defeat of any legislation or resolution by the state legislature or the congress of the United States including but not limited to the introduction or intended introduction of such legislation or resolution or approval or disapproval of any legislation by the governor or the president of the United States;

(ii) the adoption, issuance, rescission, modification or terms of an executive order issued by the governor or the president of the United States;

(iii) the passage or defeat of any local law, ordinance, resolution, or regulation by any municipality or subdivision thereof;

(iv) the adoption, issuance, rescission, modification or terms of an executive order issued by the chief executive officer of a municipality; or

(v) the adoption or rejection of any rule, regulation, or resolution having the force and effect of a local law, ordinance, resolution, or regulation.

(b) Lobbying shall not include:

(i) any appearance by any person on behalf of a public utility before a committee of either house of the state legislature or the congress of the United States where any such appearance is at the request of any such legislative committee;

(ii) preparing or submitting a response on behalf of a public utility to a request for information or comments by the congress of the United States, the president of the United States, the state legislature, the governor, the legislative or executive body or officer of a municipality, or a federal, state or local agency; or

(iii) applications for licenses, certificates, and permits authorized by statutes or local laws or ordinances.

2. The cost of membership dues for any organization, association, institution, corporation or any other entity that engages in lobbying.

3. Contributions or gifts to political candidates, political parties, political or legislative committees or any committee or organization working to influence referendum petitions or elections.

4. Contributions to a chamber of commerce or a charity, including but not limited to a charity managed by the public utility. For the purposes of this subdivision a "charity" shall mean an entity formed primarily for charitable purposes, including but not limited to:

(a) a corporation formed under the business corporation law, the limited liability company law, or the not-for-profit corporation law primarily for charitable purposes;

(b) a charitable trust as defined by article eight of the estates, powers, and trusts law; and

(c) any charitable foundation registered within the state that submits financial disclosures to the attorney general.

5. Any direct or indirect costs associated with: (a) travel, lodging, food, or beverage expenses that exceed the most recent federal per diem rates published by the general services administration; (b) entertainment or gifts; and (c) any owned, leased or chartered aircraft for such public utility's board of directors and officers or the board of directors and officers of such public utility's parent company.

6. Expenditures for public relations campaigns and advertising. Public relations campaigns and advertising include expenditures relating to information delivered to the public or to the public utility's customers by radio, television, the internet, print and other media, or through sponsorships, paid endorsements that bear the name of the public utility or an organization that receives funds from a public utility, that is primarily intended to enhance the public image of the public utility or is intended to solicit goodwill towards the public utility and that does not include the offer of goods or services to actual or potential ratepayers. This subdivision does not include communications with the person's stockholders, employees, board members, or officers.

* NB Effective January 1, 2027

§ 115. Public letting of contracts. The commission is hereby authorized, whenever it is of opinion that the public interest so requires, to direct any public utility subject to the jurisdiction of the commission to award contracts or agreements for the construction, improvement or extension of its plant, works or system, exceeding in amount twenty-five thousand dollars in any calendar year, to the lowest responsible bidder, after a public offering has been made and after advertisement and notice of such offering have been given, and the commission may prescribe rules and regulations relative to such advertisement, notice and public letting.

§ 116. Discontinuance of water service to multiple dwellings. 1. Notwithstanding any other provisions of law, no public utility company shall discontinue water service to an entire multiple dwelling (as defined in the multiple dwelling law or the multiple residence law) located anywhere in this state for nonpayment of bills rendered for service unless such utility shall have given fifteen days' written notice of its intention so to discontinue as follows:

(a) Such notice shall be served personally on the owner of the premises affected, or in lieu thereof, to the person, firm, or corporation to whom or which the last preceding bill has been rendered and from whom or which the utility has received payment therefor, and to the superintendent or other person in charge of the building or premises affected, if it can be readily ascertained that there is such superintendent or other person in charge.

(b) In lieu of personal delivery to the person or persons, firm or corporation specified in (a) above, such notice may be mailed in a postpaid wrapper to the address of such person or persons, firm or corporation.

(c) In addition to the notice prescribed by (a) or (b) above, fifteen days' written notice shall be (i) posted in the public areas of such multiple dwelling, (ii) mailed to the "Occupant" of each unit in that multiple dwelling, (iii) mailed to the local health officer and the director of the social services district for the political subdivision in which the multiple dwelling is located, (iv) if the multiple dwelling is located in a city or a village, mailed to the mayor thereof, or if there be none, to the manager, or, if the multiple dwelling is located in a town, then mailed to the town supervisor, and (v) mailed to the county executive of the county in which the multiple dwelling is located, or if there be none, then to the chairman of such county's legislative body. Notice required by (iv) and (v) of this paragraph may be mailed to the persons specified therein or to their respective designees. The notice required by this paragraph shall state the intended date of discontinuance of service, the amount due for such service, and the procedure by which any tenant or public agency may make such payment and thereby avoid discontinuance of service.

(d) The written notice required by clauses (iii), (iv) and (v) of paragraph (c) above shall be repeated not more than four days nor less than two days prior to such discontinuance.

1-a. Whenever a notice of intention to discontinue utility service has been made pursuant to the provisions of this section and obligations owed the utility have been satisfied, the utility shall notify, in the same manner as it gave such notice of intention, the occupant of each unit that the intention to discontinue utility service no longer exists.

2. For the purposes of this section, the department charged with enforcing the multiple dwelling law shall prepare a schedule of all multiple dwellings within its jurisdiction and shall provide a copy of such schedule to any water corporation subject to the provisions of this section. Such schedule shall be revised semi-annually and a revised copy provided to such corporation. Every county, and every municipality to which the multiple dwelling law does not apply, which county or municipality has compiled or hereafter may compile a listing of all multiple dwellings within its jurisdiction shall make such listing available without charge to any water corporation providing service in such county or municipality.

3. Any water corporation which willfully fails to comply with the provisions of this section shall be liable for a penalty of twenty-five dollars for each occupied unit of the multiple dwelling for each day during which service is unlawfully discontinued; provided, however, that when the only non-compliance with this section is failure to mail notice to each "Occupant" as required by clause (ii) of paragraph (c) of subdivision one above the penalty shall be twenty-five dollars for each occupied unit of the multiple dwelling to which notice was not mailed for each day during which service is unlawfully discontinued. An action

to recover a penalty under this section may be brought by the counsel to the commission in any court of competent jurisdiction in this state in the name of the people of the state of New York. Any monies recovered in such action shall be paid to the state treasury to the credit of the general fund.

4. Any person who willfully interferes with the posting of the notice specified in clause (i) of paragraph (c) of subdivision one above by any water corporation, willfully defaces or mutilates any such notice, or willfully removes the same from the place where it is posted by such company prior to the date specified therein for the discontinuance of service shall be guilty of a violation and, upon conviction, shall be punished by a fine not exceeding twenty-five dollars.

5. The commission shall maintain rules and regulations for the payment by tenants of utility bills for water service in a multiple dwelling to which this section applies where the owner of any such multiple dwelling, or the person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility has received payment therefore, has failed to pay such utility bills. Such rules and regulations shall (i) provide that utility service may not be discontinued to any such multiple dwelling as long as the tenants continue to make timely payments in accordance with established procedures; (ii) include designation of an office to advise tenants of the rights and procedures available pursuant to such rules and regulations; (iii) assure that tenants shall not be liable for bills more than two months in arrears; and (iv) require the commission upon petition of twenty-five percent of the tenants of such multiple dwelling to meet with representatives of such tenants and the owner, person, firm or corporation to whom or which the last preceding bill has been rendered or from whom or which the utility has received payment therefore.

§ 117. Consumer deposits. Except as the right to require deposits is further limited by section thirty-six of this chapter, a gas corporation, an electric corporation, a gas and electric corporation, a water corporation, a steam corporation, a telegraph corporation, a telephone corporation or a municipality rendering equivalent utility services may, unless prohibited by the commission, require any person to whom such corporation or municipality shall supply gas, electric, water, steam, telegraph or telephone services to deposit a reasonable sum of money according to the estimated quantity of such services necessary to supply the same for two calendar months, to secure payment for such services actually rendered, or for the rental of fixtures, instruments and facilities actually supplied, but every such corporation and municipality shall allow to every such depositor interest at a rate per annum to be prescribed from time to time, at least annually, by the commission in the light of current economic conditions and current charges paid for other moneys borrowed by such corporation or municipality, and the expenses incurred by such corporation or municipality in obtaining, handling and returning or crediting the sum deposited, on the sum or sums so deposited, payable upon the return of the deposit or at earlier intervals as hereinafter prescribed. Whenever such deposit has been held for a period of one year, the interest accrued on such deposit shall be credited to the depositor on the first billing for utility service rendered after the next succeeding first day of October. If the depositor was not delinquent in the payment of any bill in such one year period, the deposit shall be refunded promptly at the end thereof, but without prejudice to the right to require a deposit thereafter in the event of a delinquency or where it can be shown that the financial condition of a business customer is such that it is likely that the customer may default in the future, and to retain such deposit for a prudent period; except that subject to such regulations as the commission may establish, if the deposit is for utility service rendered to a business, the deposit may be retained for a prudent period beyond such a one year period. No provider of utility services shall require of its customer within its service area a new security deposit where such customer was not required to post a security deposit or had a security deposit returned pursuant to this section and such customer establishes a new residence and continues service with the same provider of utility services.

§ 118. Payment to an authorized payment agency. 1. In any case where a public utility company or municipality rendering equivalent utility services permits its customers to pay their bills to a payment agency authorized by the corporation or the municipality for collection of bills, the date of payment to such authorized payment agency shall be the effective date of payment of such bill, and the payment shall be regarded as if it were paid directly to the corporation or municipality on such date. Where a customer of such corporation or municipality has paid a bill to an authorized payment agency on or before a designated due date, no penalty or extra charge shall accrue on such bill for the reason that the payment did not reach the corporation or municipality on or before the designated due date. Notwithstanding the provision of this section, payments to authorized payment agencies by residential customers shall be governed by article two of this chapter.

2. Backbilling. Except as provided for residential utility service pursuant to article two of this chapter, no public utility company or municipality may render a bill for previously unbilled service, or adjust upward a bill previously rendered, to a residential customer after the expiration of twenty-four months from the time service to which the bill or adjustment pertains was provided. This provision shall not apply when the culpable conduct of a customer caused or contributed to the failure of the company or municipality to have rendered timely or accurate billing.

3. Credit or refund of overpayments. (a) The commission shall have the power to require a public utility company or municipality to provide a refund or credit to a customer when a payment has been made in excess of the correct charge for actural service rendered to the customer.

(b) If a residential customer becomes eligible for a lower rate because he or she changes the character of the service received and if excess payment resulted from the failure of the customer to notify the utility or municipality providing service of a change in the character of service received or from the failure of the utility or municipality to change the rate after such notification by the customer, such a customer will be entitled to such lower rate from the date the change occurs but such a customer shall not be entitled to such lower rate for more than twenty-four months prior to the giving of actual notice to the utility or municipality providing service.

§ 119. Reorganization of public utility corporations under the national bankruptcy act. Upon determining, after hearing and investigation, that the outstanding liabilities of a public utility corporation exceed its assets and that the public interest requires that such corporation be reorganized in order to enable it to make necessary improvements and additions to its property and facilities, and in order to enable it to render adequate public service at reasonable rates, or otherwise to promote the public interest, and that the officers and directors of the corporation have failed and neglected to cause the corporation to be reorganized, the commission may, by order, direct the officers and directors of the corporation to file a petition, under the provisions of the act of congress of July first, eighteen hundred ninety-eight, entitled "An act to establish a uniform system of bankruptcy throughout the United States," as amended, for the reorganization of the corporation, and to perform such other acts and to take such proceedings as may be required in such reorganization proceeding. Upon the failure or refusal of the officers or the directors of the corporation to comply with the said order, the commission may institute a summary proceeding in the supreme court for the enforcement thereof, in accordance with the procedure provided in this chapter for the enforcement of orders of the commission.

§ 119-a. Attachments to utility poles; use of utility ducts, trenches and conduits. 1. The commission shall prescribe just and reasonable rates, terms and conditions for attachments to utility poles and the use of utility ducts, trenches and conduits. A just and reasonable rate shall assure the utility of the recovery of not less than the additional cost of providing a pole attachment or of using a trench, duct or conduit nor more than the actual operating expenses and return on capital of the utility attributed to that portion of the pole, duct, trench or conduit used. With respect to cable television and broadband internet attachments and use, such portion shall be the percentage of total usable space on a pole or the total capacity of the duct or conduit that is occupied by the facilities of the user. Usable space shall be the space on a utility pole above the minimum grade level which can be used for the attachment of wires and cables. With respect to cable television and broadband internet attachments and use, a contract for attachments to utility poles and the use of utility ducts, trenches and conduits shall include all such poles, ducts, trenches and conduits located within a given village, town or city, pursuant to a negotiated site license and any applicable commission requirements, provided that such contract shall not impede the right of a pole owner to issue licenses based on inspections undertaken on a pole-specific basis.

2. In connection with a new pole attachment, in no instance shall a pole owner avoid responsibility for pole replacement costs by unreasonably postponing replacement until receiving a new attachment request, nor may a pole owner require a requesting attacher to pay the entire cost of such pole replacement or for bringing a pole or third-party equipment into compliance with current safety and construction standards when replacement or compliance upgrades are not necessitated solely by the new attacher.

3. Where a pole owner performs a pole replacement to accommodate an attachment request, the pole owner may not require the attacher, or any existing attacher, to pay any portion of the cost of such replacement, except where there is insufficient capacity, clearance or loading to accommodate the request.

4. The public service commission, in cooperation with the state broadband program office, shall initiate a proceeding to examine a process for streamlining actions related to utility pole attachments. The matters the commission shall consider in such proceeding shall include: (a) dispute resolution models related to utility pole attachments; (b) cost sharing models related to utility pole attachments; (c) impact on the expansion of broadband into unserved and underserved areas associated with alternative cost allocation scenarios; (d) requiring new, less expensive pole attachment methods; and (e) existing rules regarding the cost obligations associated with new pole

attachments and an assessment of the utility ratepayer and broadband subscriber impacts associated with alternative cost allocation scenarios, including but not limited to if a pole replacement is necessitated because of insufficient vertical space or clearance to accommodate an attachment request, or the attachment will exceed loading, making the requesting attacher liable for the following costs in connection with the replacement: (a) the remaining net book value of the pole being replaced that, but for the new attachment, could have remained in service until such time as it was fully depreciated and/or reached the end of its service life or used and useful life to the pole owner, whichever would come first; and (b) the incremental costs associated with the pole owner installing a pole beyond what said owner would have installed in its normal course of pole replacement, if applicable to the request. The commission shall invite participation in the proceeding by diverse stakeholders, including electric utilities, municipal utilities, incumbent local exchange carriers, competitive local exchange carriers, telecommunications providers, broadband internet providers, municipalities, economic development corporations, and an association of counties that represents at least ninety percent of the counties in New York. On or before September thirtieth, two thousand twenty-two, the commission shall issue an order adopting the new or revised rules associated with the matters examined in the proceeding provided for in this subdivision.

5. Nothing in this section shall be construed to authorize the public service commission to interfere in any manner with provisions of collective bargaining agreements relating to pole attachment work between a utility corporation, telephone corporation, cable television corporation or any entity subject to article eleven of this chapter and its employees.

§ 119-b. Protection of underground facilities. 1. As used in this section, the following terms shall have the following meanings:

a. "Person" means any individual, firm, corporation, association or partnership, cooperative association, joint venture, joint stock association, business trust, their lessees, trustees or receivers, governmental unit or public authority whether or not incorporated.

b. "Excavation" means an operation for the purpose of movement or removal of earth, rock or other materials in or on the ground by use of mechanized equipment or by blasting, and includes, but is not limited to, auguring, backfilling, boring, drilling, grading, plowing in, pulling in, trenching and tunneling; provided, however, that the movement of earth by tools manipulated only by human or animal power and the tilling of soil for agricultural purposes shall not be deemed excavation.

c. "Demolition" means the wrecking, razing, rending, moving or removing of any structure.

d. "Underground facilities" means pipelines, conduits, ducts, cables, wires, manholes, vaults or other such facilities or their attachments, which have been installed underground by an operator to provide services or materials. Such term shall not include oil and gas production and gathering pipeline systems used primarily to collect oil or gas production from wells.

e. "Excavator" means a person who is engaged in a trade or business which includes the carrying out of excavation or demolition; provided, however, that an individual employed by an excavator, and having no supervisory authority, other than the routine direction of employees, over an excavation or demolition, shall not himself or herself be deemed an excavator for the purposes of this article. In construing and enforcing the provisions of this article, the act of any employee or agent of any excavator acting within the scope of his or her official duties or employment shall be deemed to be the act of such excavator.

f. "Operator" means a person who operates an underground facility or facilities to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone or telegraph communications, cable television, sewage removal, traffic control systems, or water.

g. "Damages" means an impact upon or removal of support from an underground facility consequent to excavation or demolition which, according to the operating practices of the operator, would necessitate repair of such facility, destruction of any underground facility or its protective coating, housing or other protective device, and impact with or severance of an underground facility.

h. "One-call notification system" means an organization among whose purposes is establishing and carrying out procedures and programs to protect underground facilities from damage due to excavation and demolition, including but not limited to, receiving notices of intent to perform excavation and demolition, and transmitting the notices to one or more of its member operators of underground facilities in the specified area.

2. The commission shall adopt rules and regulations to implement and carry out the requirements of article thirty-six of the general business law established for the protection of underground facilities. Such rules and regulations shall include, but not be limited to, requirements for notice, one-call notification systems, participation of operators in such systems, designation and marking of the location of underground facilities and the verification of the designated or marked location of underground facilities, support for underground facilities and obligations of excavators to protect underground facilities under such article, including the use of hand-dug test holes at underground facilities furnishing gas or liquid petroleum products and such other matters as may be appropriate for the protection and security of property, life or public health, safety or welfare.

3. Such rules and regulations relating to one-call notification systems shall establish qualifications for the operation of such systems.

4. The rules and regulations adopted pursuant to this section shall be in accordance with the provisions of article thirty-six of the general business law.

5. Any person operating a one-call system in the state shall register with and obtain certification from the commission. The commission shall have the power to grant, amend, or revoke certificates of any such system. Any one-call system engaged in business on or before the effective date of this subdivision, after registration with the commission, shall be registered, certified and authorized to continue its business operations.

6. The commission shall have power, through the inspectors or duly authorized employees of the department, to examine and inspect excavation and demolition methods used by any person within fifteen feet in any direction of any underground pipeline used for conveying natural gas or of any underground telephone, electric, steam or water facility used for providing service and to order compliance with the standards for excavation and demolition near underground facilities contained in regulations adopted by the commission to implement and carry out the requirements of article thirty-six of the general business law established for the protection of underground facilities.

7. Notwithstanding any inconsistent provisions of this chapter, the enforcement procedure for rules and regulations adopted by the commission shall be as follows:

a. any violation of any provisions of such rules and regulations is a violation of the provisions of article thirty-six of the general business law and the attorney general may bring and prosecute an action to recover penalties for such violations as provided in paragraph c of subdivision one of section seven hundred sixty-five of such law;

b. any penalties, fines and financial liability resulting from violations of such rules and regulations shall be those specified in section seven hundred sixty-five of the general business law.

8. In the event a violation of such rules and regulations occurs and such violation is subject to a civil penalty pursuant to article thirty-six of the general business law, the commission shall determine

the amount of the penalty after consideration of the nature, circumstances and gravity of the violation, history of prior violations, effect on public health, safety or welfare, and such other matters as may be required and shall send a copy of its determination to the excavator, operator, commissioner of labor and attorney general. Upon receipt of such determination, the attorney general may commence an action to recover such penalty.

9. Any entity which leases excavation equipment to the public shall provide a notice to lessees of such excavation equipment that informs such lessees about their responsibilities under state law to protect underground facilities and the existence, operation, programs, and telephone number of the one-call notification system.

§ 119-c. Tax reduction benefit to ratepayers. The commission shall provide that any net decrease in a utility corporation's tax expense resulting from the amendments made to sections one hundred eighty-four, one hundred eighty-six-a and one hundred eighty-six-e of the tax law by the chapter of the laws of nineteen hundred ninety-seven which enacted this section shall inure to the benefit of the ratepayers of such corporation.

§ 119-d. Maintenance of utility poles. On or before April first, two thousand twenty-four, the commission shall promulgate rules and regulations to require, in addition to other maintenance procedures, the trimming of vines on utility poles throughout the state by the utility company or cable television company that owns such utility pole where such vine growth is likely to disrupt safe and reliable service.

§ 119-e. Utility pole attachment report. 1. All utility pole owners and attachers shall be required to submit an annual report on pole attachments. Such report shall include (a) the number of pole attachment requests received; (b) for each request received: (i) the processing time; and (ii) whether make-ready is required; (c) the number of pole attachment requests completed in the reporting year; (d) for each completed request: (i) the number of poles sought for attachment; (ii) the number of new attachments licensed resulting from the request; (iii) the contractor or subcontractor responsible for completing the pole attachment work; and (iv) the number of poles replaced associated with each licensed attachment request, differentiated by payment source (e.g., the number of poles funded by the pole owner, those funded by the third-party attacher, or a combination of the two); (e) for each request licensed: (i) the time to complete make-ready; and (ii) make-ready charges to third-party attacher(s); and (f) any other information the commission deems necessary. Such information shall be submitted electronically to the commission.

2. (a) The department may develop a means for interested persons to report the following: (i) telecommunications equipment moved in alleged violation of applicable laws and regulations including but not limited to regulations established by the commission related to pole attachments and the use of one touch make ready, (ii) an attachment that does not meet industry standards including but not limited to the National Electrical Safety Code (NESC) and Telcordia Standards, (iii) an unsafe attachment, telecommunications or electrical equipment, or a pole that presents a safety hazard, and (iv) anything else the department deems necessary to protect workers and the public and ensure safe pole attachment work.

(b) Such complaints shall include, at minimum, (i) the date and time of the complaint, (ii) the location of the alleged violation, (iii) a description of the alleged violation, and (iv) information regarding the pole owner, attacher or contractor, if available. Such complaints may allow for the submission of photographs.

ARTICLE VII

SITING OF MAJOR UTILITY TRANSMISSION FACILITIES

§ 120. Definitions. Where used in this article, the following terms, unless the context otherwise requires, shall have the following meanings.

1. "Municipality" means a county, city, town or village in the state.

2. "Major utility transmission facility" means: (a) an electric transmission line of a design capacity of one hundred twenty-five kilovolts or more extending a distance of one mile or more, or of one hundred kilovolts or more and less than one hundred twenty-five kilovolts, extending a distance of ten miles or more, including associated equipment, but shall not include any such transmission line located wholly underground in a city with a population in excess of one hundred twenty-five thousand or a primary transmission line approved by the federal energy regulatory commission in connection with a hydro-electric facility; and (b) a fuel gas transmission line extending a distance of one thousand feet or more to be used to transport fuel gas at pressures of one hundred twenty-five pounds per square inch or more, excluding appurtenant facilities, but shall not include any such transmission line which is located wholly underground in a city or wholly within the right of way of a state, county or town highway or village street as those terms are defined in article one of the highway law and article six of the village law, or which replaces an existing transmission line, including appurtenant facilities, and extends a distance of less than one mile.

3. "Person" means any individual, corporation, public benefit corporation, political subdivision, governmental agency, municipality, partnership, co-operative association, trust or estate.

4. "Appurtenant facilities" means installations (excluding gas compressors) which are merely auxiliary or appurtenant to a fuel gas transmission line such as: valves; drips; measuring and regulating equipment; yard and station piping; cathodic protection equipment; gas cleaning; cooling and dehydration equipment; residual refining equipment; water pumping; treatment and cooling equipment; electrical and communication equipment; and buildings.

5. "Landowner" means the holder of any right, title, or interest in real property subject to a proposed site or right of way as identified from the most recent tax roll of the appropriate city or county.

§ 121. Certificate of environmental compatibility and public need. 1. No person shall, after July first, nineteen hundred seventy, commence the preparation of the site for the construction of a major utility transmission facility in the state without having first obtained a certificate of environmental compatibility and public need (hereafter in this article called a "certificate") issued with respect to such facility by the commission. The replacement of existing with like facilities, as determined by the commission, shall not constitute the construction of a major utility transmission facility. Any facility with respect to which a certificate is required shall thereafter be built, maintained and operated in conformity with such certificate and any terms, limitations or conditions contained therein. A certificate may only be issued pursuant to this article.

2. A certificate may be transferred, subject to the approval of the commission, to a person who agrees to comply with the terms, limitations and conditions contained therein.

3. A certificate issued hereunder may be amended as herein provided.

4. This article shall not apply to any major utility transmission facility:

a. For which, on or before July first, nineteen hundred seventy an application has been made for a license, permit, consent or approval from any federal, state or local commission, agency, board or regulatory body, in which application the location of the major utility transmission facility has been designated by the applicant;

b. The construction of which has been approved by a municipality or public benefit corporation which has sold bonds or bond anticipation notes on or before July first, nineteen hundred seventy, the proceeds or part of the proceeds of which are to be used in payment therefor; or

c. Over which any agency or department of the federal government has exclusive jurisdiction, or has jurisdiction concurrent with that of the state and has exercised such jurisdiction, to the exclusion of regulation of the facility by the state.

5. Any person intending to construct a major utility transmission facility excluded from this article pursuant to subdivision four may elect to waive such exclusion by delivering notice of such waiver to the commission. This article shall thereafter apply to each major utility transmission facility identified in such notice from the date of its receipt by the commission.

§ 121-a. Procedures with respect to certain fuel gas transmission lines. 1. All persons who intend to construct fuel gas transmission lines as described in this section shall file with the commission for its approval the standards and practices which will be applied to environmental management and construction of all such lines or shall file a certified statement agreeing to construct such lines in accordance with standards and practices on file and approved by the commission.

2. A notice of intention to construct a fuel gas transmission line as described in subdivision two of section one hundred twenty of this article, which extends a distance of less than five miles and which is six inches or less in nominal diameter, shall be filed with the commission and shall contain:

(a) the date on or about which the applicant intends to begin construction of the line;

(b) a brief statement describing and locating the line;

(c) an indication of the approved environmental management and construction standards and practices that will be followed in an effort to minimize or avoid adverse environmental impacts to the maximum extent practicable.

A copy of such notice shall be served on each municipality in which any portion of such line is to be located and proof of service shall accompany the notice filed with the commission.

To the greatest extent practicable, each landowner of land on which any portion of such fuel gas transmission line is proposed to be located shall be served by first class mail with a notice that such landowner's property may be impacted by a project, including a description of the project and an explanation of how to file with the commission a notice of intent to be a party to the certification proceedings and the timeframe for filing such application.

3. An application to construct a fuel gas transmission line as described in subdivision two of section one hundred twenty of this article, which extends a distance of less than ten miles, other than a line described in subdivision two of this section, shall be filed with the commission and shall contain:

(a) the information required by paragraphs (a), (b), (d) and (f) of subdivision one of section one hundred twenty-two of this article;

(b) the description of the ecosystem, land use, visual and cultural resources which would be affected by the line; and

(c) an indication of the approved environmental management and construction standards and practices that will be followed in an effort to minimize or avoid adverse environmental impacts to the maximum extent practicable.

A copy of such application shall be served on: (i) the department of environmental conservation; (ii) the department of agriculture and markets; and (iii) each municipality in which any portion of such line is to be located; and proof of service shall accompany the application filed with the commission. The commission shall serve a copy of such application on such other person or entities as the commission may deem appropriate. Such action shall be deemed compliance with the applicable provisions of section one hundred twenty-two of this article. The applicant, the commission and those served shall constitute the parties notwithstanding the provisions of section one hundred twenty-four of this article.

To the greatest extent practicable, each landowner of land on which any portion of such fuel gas transmission line is proposed to be located shall be served by first class mail with a notice that such landowner's property may be impacted by a project, including a description of the project and an explanation of how to file with the commission a notice of intent to be a party to the certification proceedings and the timeframe for filing such application.

4. If the notice or the application filed pursuant to subdivisions two or three of this section respectively does not comply with the requirements of such subdivision, the commission or its designee shall, promptly, but in no event more than fourteen days from the date on which it receives the notice or application, advise the person in writing of noncompliance and how to comply.

5. Any person may file comments on an application with the commission. The record of the certification proceeding under subdivision seven of this section may be limited to the application, any comments filed by the parties and any report prepared by the staff of the department of public service, whether or not it acts as a party.

6. Upon receipt of a notice with respect to a fuel gas transmission line that complies with subdivision two of this section, the commission

shall, within thirty days or less, determine whether there is a substantial public interest requiring that the facility be reviewed in accordance with the provisions of subdivision seven of this section. If the commission determines that such review is not required it shall issue a certificate authorizing such construction. Failure to act within such thirty day period shall constitute a certificate for the purpose of this article. If the commission determines that such review is required, the commission shall serve a copy of the notice which shall constitute the application, on such person or entities as the commission may deem appropriate and which shall be deemed compliance with the applicable provisions of section one hundred twenty-two of this article. The applicant and such persons or entities shall constitute the parties, the provisions of section one hundred twenty-four of this article notwithstanding.

7. The commission shall render a decision upon the record within sixty days from the date on which it receives an application complying with subdivision three of this section or within sixty days from the date on which it receives a notice complying with subdivision two of this section on which it has made a determination that review under this subdivision is in the public interest. Where the commission has required a hearing it may extend the time required to render a decision. In rendering its decision on a notice filed pursuant to subdivision two of this section and reviewed under this subdivision, the commission is required to find and determine only that the construction of a fuel gas transmission line will minimize or avoid adverse environmental impacts to the maximum extent practicable. In rendering its decision on an application filed pursuant to subdivision three of this section, the commission shall make only the determinations required by paragraphs (a), (b), (e), (f) and (g) of subdivision one of section one hundred twenty-six of this article.

§ 122. Application for a certificate. 1. An applicant for a certificate shall file with the commission an application, in such form as the commission may prescribe, containing the following information: (a) the location of the site or right-of-way; (b) a description of the transmission facility to be built thereon; (c) a summary of any studies which have been made of the environmental impact of the project, and a description of such studies; (d) a statement explaining the need for the facility; (e) a description of any reasonable alternate location or locations for the proposed facility, a description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility; and (f) such other information as the applicant may consider relevant or the commission may by regulation require. Copies of all the studies referred to in (c) above shall be filed with the commission and shall be available for public inspection.

2. Each application shall be accompanied by proof of service of: (a) a copy of such application on:

i. each municipality in which any portion of such facility is to be located, both as primarily proposed and in the alternative locations listed. Notice to a municipality shall be addressed to the chief executive officer thereof and shall specify the date on or about which the application is to be filed;

ii. the commissioner of environmental conservation, the commissioner of economic development, the secretary of state, the commissioner of agriculture and markets and the commissioner of parks, recreation and historic preservation;

iii. each member of the legislature through whose district the facility or any alternate proposed in the application would pass;

iv. in the event such facility or any portion thereof is located within its jurisdiction, the Tug Hill commission;

v. in the event such facility or any portion thereof is located within the Adirondack park, as defined in subdivision one of section 9--0101 of the environmental conservation law, the Adirondack park agency.

(b) a notice of such application on persons residing in municipalities entitled to receive notice under subparagraph i of paragraph a of this subdivision. Such notice shall be given by the publication of a summary of the application and the date on or about which it will be filed, to be published under regulations to be promulgated by the commission, in such form and in such newspapers as will serve substantially to inform the public of such application.

(c) to the greatest extent practicable, each landowner of land on which any portion of such proposed facility is to be located shall be served by first class mail with a notice that such landowner's property may be impacted by a project, including a description of the project and an explanation of how to file with the commission a notice of intent to be a party to the certification proceedings and the timeframe for filing such application.

3. Inadvertent failure of service on any of the municipalities, persons, agencies, bodies or commissions named in subdivision two may be cured pursuant to regulations of the commission designed to afford such persons adequate notice to enable them to participate effectively in the proceeding. In addition, the commission may, after filing, require the applicant to serve notice of the application or copies thereof or both upon such other persons and file proof thereof as the commission may deem appropriate.

4. An application for an amendment of a certificate shall be in such form and contain such information as the commission shall prescribe. Notice of such an application shall be given as set forth in subdivision two.

5. (a) For every application deemed complete by the commission after the effective date of this subdivision, each application shall be accompanied by a fee in an amount equal to: for electric major utility transmission facilities of one hundred twenty-five kilovolts or more extending a distance of over one hundred miles, four hundred fifty thousand dollars; for electric major utility transmission facilities of one hundred twenty-five kilovolts or more extending a distance of over fifty miles to one hundred miles, three hundred fifty thousand dollars; for electric major utility transmission facilities, requiring a new right of way and one hundred twenty-five kilovolts or more extending a

distance of ten miles to fifty miles, one hundred thousand dollars; for electric major utility transmission facilities utilizing an existing right of way and one hundred twenty-five kilovolts or more extending a distance of ten miles to fifty miles, fifty thousand dollars. All such fees shall be deposited in the intervenor account, established pursuant to section ninety-seven-tt of the state finance law, to be disbursed at the commission's direction, to defray expenses incurred by municipal and other parties to the proceeding (except a municipality which is the applicant) for expert witness, consultant, administrative and legal fees, provided, however, such expenses shall not be available for judicial review. If at any time subsequent to the filing of the application, the application is amended in a manner that warrants substantial additional scrutiny, the commission may require an additional intervenor fee in an amount not to exceed one hundred twenty-five thousand dollars. The commission shall provide for transcripts, the reproduction and service of documents, and the publication of required notices, for municipal and other local parties, in all appropriate languages. Any moneys remaining in the intervenor account after the commission's jurisdiction over an application has ceased shall be returned to the applicant.

(b) Notwithstanding any other provision of law to the contrary, the commission shall provide by rules and regulations for the management of the intervenor account and for disbursements from the account, which rules and regulations shall be consistent with the purpose of this section to make available to municipal parties at least one-half of the amount of the intervenor account and for uses specified in paragraph (a) of this subdivision. In addition, the commission shall provide other parties up to one-half of the amount of the intervenor account, provided, however, that the commission shall assure that the purposes for which moneys in the intervenor account will be expended will contribute to an informed decision as to the appropriateness of the site and facility and are made available on an equitable basis in a manner which facilitates broad public participation.

§ 123. Hearing on application for certificate. 1. Upon the receipt of an application with respect to an electric transmission line that complies with section one hundred twenty-two, the commission shall promptly fix a date for the commencement of a public hearing thereon not less than sixty nor more than ninety days after such receipt. Except as otherwise provided in section one hundred twenty-one-a of this article upon the receipt of an application with respect to a fuel gas transmission line that complies with section one hundred twenty-two, the commission shall promptly fix a date for the commencement of a public hearing thereon not less than twenty nor more than sixty days after such receipt. The testimony presented at such hearing may be presented in writing or orally, provided that the commission may make rules designed to exclude repetitive, redundant or irrelevant testimony. The commission shall make a record of all testimony in all contested hearings.

2. On an application for an amendment of a certificate, the commission shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the change in the facility to be authorized would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility other than as provided in the alternates set forth in the application.

* 3. Unless otherwise stipulated by the applicant:

(a) proceedings on an application for a major utility transmission facility as defined in paragraph a of subdivision two of section one hundred twenty of this article shall be completed in all respects, including a final decision by the commission, within twelve months from the date of a determination by the secretary of the commission that an application complies with section one hundred twenty-two of this article; provided, however, the commission may extend the deadline in reasonable circumstances by no more than six months in order to give consideration to specific issues necessary to develop an adequate record, because the applicant has been unable to obtain necessary approvals and/or consents related to highway crossings or for other reasons deemed in the public interest. The commission shall render a final decision on the application by the aforementioned deadlines unless such deadlines are waived by the applicant or if the applicant notices the application for settlement, in which case the timeframes established in this paragraph are tolled until such time that settlement discussions are suspended. If, at any time subsequent to the commencement of the hearing, there is a substantive and significant amendment to the application, the commission shall promptly fix a date for commencement of a public hearing thereon, such public hearing to commence no later than sixty days after receipt of such amendment. The commission shall issue a final decision thereon no later than six months after the conclusion of the public hearing, unless such deadline is waived by the applicant.

(b) the commission shall, for the purpose of meeting the goals of chapter one hundred six of the laws of two thousand nineteen, promulgate rules or regulations to establish an expedited process for proceedings on applications for a major utility transmission facility as defined in paragraph a of subdivision two of section one hundred twenty of this article that (i) would be constructed within existing rights-of-way, (ii) the commission determines in consultation with the department of environmental conservation would not result in any significant adverse environmental impacts considering current uses and conditions existing at the site, or (iii) would necessitate expanding the existing rights-of-way but such expansion is only for the purpose of complying with law, regulations, or industry practices relating to electromagnetic fields.

(c) for purposes of this subdivision, the following terms shall have the following meanings:

(i) "Expedited process" shall mean a process for proceedings on applications for a major electric transmission facility that is completed in all respects, including a final decision by the commission, within nine months from the date of a determination by the secretary of the commission that an application complies with section one hundred twenty-two of this article; provided, however, that if the applicant notices the application for settlement, the timeframe established in this paragraph shall be tolled until such time that settlement discussions are suspended.

(ii) "Right-of-way" shall mean (a) real property that is used or authorized to be used for electric utility purposes, or (b) real property owned or controlled by or under the jurisdiction of the state, a distribution utility, or a state public authority including by means of ownership, lease or easement, that is used or authorized to be used for transportation or canal purposes.

* NB Effective until December 31, 2030

* 3. Unless otherwise stipulated by the applicant, a final determination regarding an application for a certificate to construct transmission facilities for interconnection with a wind energy production facility located in the county of Lewis shall be rendered within six months from the date of receipt of a compliant application.

* NB Effective December 31, 2030

§ 124. Parties to certification proceedings. 1. The parties to the certification proceedings shall include:

(a) the applicant

(b) the department of environmental conservation

(c) the department of commerce

(d) the secretary of state.

(e) the department of agriculture and markets.

(f) the office of parks, recreation and historic preservation.

(g) where the facility or any portion thereof or of any alternate is to be located within its jurisdiction, the Tug Hill commission.

(h) where the facility or any portion thereof or any alternate is to be located within the Adirondack park, as defined in subdivision one of section 9--0101 of the environmental conservation law, the Adirondack park agency.

(i) a municipality entitled to receive notice under paragraph (a) of subdivision two of section one hundred twenty-two, if it has filed with the commission a notice of intent to be a party, within thirty days after the date given in the notice as the date for filing of the application.

(j) any individual resident in a municipality entitled to receive notice under paragraph (a) of subdivision two of section one hundred twenty-two, if he has filed with the commission a notice of intent to be a party, within thirty days after the date given in the published notice as the date for filing of the application.

(k) any domestic non-profit corporation or association, formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial and industrial groups or to promote the orderly development of the areas in which the facility is to be located, if it has filed with the commission a notice of intent to become a party, within thirty days after the date given in the published notice as the date for filing of the application.

(l) such other persons or entities as the commission may at any time deem appropriate.

2. The commission shall designate such members of its staff as may be desirable to represent the public interest in such proceedings.

3. Any person may make a limited appearance in the proceeding, entitling such person to file a statement in writing, by filing a copy of such statement within sixty days after the date given in the published notice as the date for filing the application. All papers and matters filed by a person making a limited appearance shall become part of the record. No person making a limited appearance shall be a party or shall have the right to present oral testimony or cross-examine witnesses or parties.

4. The commission may, for good cause shown, permit a municipality entitled to become a party under subdivision one, but which has failed to file the requisite notice of intent within the time required, to become a party, and to participate in all subsequent stages of the proceeding.

5. Notwithstanding the time limits set forth in paragraphs (i), (j) and (k) of subdivision one and in subdivision three of this section, a person shall file the notice or statement described in those subdivisions within fifteen days after the date given in the published notice as the date for filing the application, when the application is one with respect to a fuel gas transmission line as defined in section one hundred twenty.

§ 125. Conduct of the hearing. A record shall be made of the hearing and of all testimony taken and the cross-examinations thereon. The rules of evidence applicable to proceedings before a court shall not apply. The commission may provide for the consolidation of the representation of parties, other than governmental bodies or agencies, having similar interests.

§ 126. The decision. 1. The commission shall render a decision upon the record either granting or denying the application as filed or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the commission may deem appropriate. If the commission denies the application, it shall file, with its order, an opinion stating in full its reasons for the denial. Except as provided in subdivision two of this section, the commission may not grant a certificate for the construction or operation of a major utility transmission facility, either as proposed or as modified by the commission, unless it shall find and determine:

(a) the basis of the need for the facility;

(b) the nature of the probable environmental impact;

* (c) that the facility avoids or minimizes to the extent practicable any significant adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations including but not limited to, the effect on agricultural lands, wetlands, parklands and river corridors traversed;

* NB Effective until December 31, 2030

* (c) that the facility represents the minimum adverse environmental impact, considering the state of available technology and the nature and economics of the various alternatives, and other pertinent considerations including but not limited to, the effect on agricultural lands, wetlands, parklands and river corridors traversed;

* NB Effective December 31, 2030

* (d) that the facility avoids or minimizes to the extent practicable any significant adverse impact on active farming operations that produce crops, livestock and livestock products, as defined in section three hundred one of the agriculture and markets law, considering the state of available technology and the nature and economics of various

alternatives, and the ownership and easement rights of the impacted property;

* NB Effective until December 31, 2030

* (d) that the facility represents a minimum adverse impact on active farming operations that produce crops, livestock and livestock products, as defined in section three hundred one of the agriculture and markets law, considering the state of available technology and the nature and economics of various alternatives, and the ownership and easement rights of the impacted property;

* NB Effective December 31, 2030

(e) in the case of an electric transmission line, (1) what part, if any, of the line shall be located underground; (2) that such facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving this state and interconnected utility systems, which will serve the interests of electric system economy and reliability;

(f) in the case of a gas transmission line, that the location of the line will not pose an undue hazard to persons or property along the area traversed by the line;

(g) that the location of the facility as proposed conforms to applicable state and local laws and regulations issued thereunder, all of which shall be binding upon the commission, except that the commission may refuse to apply any local ordinance, law, resolution or other action or any regulation issued thereunder or any local standard or requirement which would be otherwise applicable if it finds that as applied to the proposed facility such is unreasonably restrictive in view of the existing technology, or of factors of cost or economics, or of the needs of consumers whether located inside or outside of such municipality;

(h) that the facility will serve the public interest, convenience, and necessity, provided, however, that a determination of necessity made by the power authority of the state of New York pursuant to section ten hundred five of the public authorities law for a major utility transmission facility for which an application has been filed prior to July first, nineteen hundred seventy-eight pursuant to section one hundred twenty-two of this chapter, shall be conclusive on the commission.

2. In the case of an electric transmission line to be constructed by the power authority of the state of New York and located in part under the waters of Long Island Sound and for the remaining part underground, the commission shall make only the findings and determinations required by paragraphs (b), (c) and (f) of subdivision one of this section and, on the basis of such findings and determinations, shall grant, grant in part, or deny the certificate.

3. If the commission determines that the location of all or a part of the proposed facility should be modified, it may condition its certificate upon such modification, provided that the municipalities and persons residing in such municipalities affected by the modification shall have had notice of the application as provided in subdivision two of section one hundred twenty-two.

4. A copy of the order and any opinion issued therewith pursuant to section one hundred twenty-seven shall be served upon each party.

§ 127. Opinion to be issued with decision. In rendering a decision on an application for a certificate, the commission may issue an opinion stating its reasons for the action taken. If the commission has found that any local ordinance, law, resolution, regulation, or other action issued thereunder or any other local standard or requirement which would be otherwise applicable is unreasonably restrictive pursuant to paragraph b of subdivision one of section one hundred twenty-six, it shall state in its opinion the reasons therefor.

§ 128. Judicial review. 1. Any party aggrieved by any order issued on an application for a certificate may apply for a rehearing under section twenty-two within thirty days after issuance of the order and thereafter obtain judicial review of such order in a proceeding as provided in this section. Such proceeding shall be brought in the appellate division of the supreme court of the state in the judicial department embracing the county wherein the proposed facility is located. If such facility is located in more than one judicial department, such proceeding may be brought in any one but only one of such departments. Such proceeding shall be initiated by the filing of a petition in such court within thirty days after the issuance of a final order by the commission upon the application for rehearing, together with proof of service of a demand on the commission to file with said court a copy of a written transcript of the record of the proceeding before it and a copy of its order and opinion, if any. The commission's copy of said transcript, order and opinion, if any, shall be available at all reasonable times to all parties for examination without cost. Upon receipt of such petition and demand, the commission shall forthwith deliver to the court a copy of the record and a copy of its order and opinion, if any. Thereupon the court shall have jurisdiction of the proceeding and shall have power to grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying, and enforcing as so modified, remanding for further specific evidence or findings or setting aside in whole or in part such order. The appeal shall be heard on the record without requirement of reproduction. No objection that has not been urged by the party in his application for rehearing before the commission shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of fact on which such order is based shall be conclusive if supported by substantial evidence on the record considered as a whole or by information set forth in the opinion. The jurisdiction of the appellate division of the supreme court shall be exclusive and its judgment and order shall be final, subject to review by the court of appeals in the same manner and form and with the same effect as provided for appeals in a special proceeding. All such proceedings shall be heard and determined by the appellate division of the supreme court and by the court of appeals as expeditiously as possible and with lawful precedence over other matters.

2. The grounds for and the scope of review of the court shall be limited to whether the order of the commission and opinion, if any, is

(a) in conformity with the constitution and the laws of the state and the United States.

(b) supported by substantial evidence in the record or by information properly considered in the opinion.

(c) within the commission's statutory jurisdiction or authority.

(d) made in accordance with procedures set forth in this article or established by rule or regulation of the commission.

(e) arbitrary, capricious or an abuse of discretion.

3. Except as herein provided article seventy-eight of the civil practice law and rules shall apply to appeals taken hereunder.

§ 129. Jurisdiction of courts. Except as expressly set forth in section one hundred twenty-eight and except for review by the court of appeals of a decision of the appellate division of the supreme court as provided for therein, no court of this state shall have jurisdiction to hear or determine any matter, case or controversy concerning any matter which was or could have been determined in a proceeding under this article or to stop or delay the construction or operation of a major facility except to enforce compliance with this article or the terms and conditions of a certificate issued hereunder.

§ 130. Powers of municipalities and state agencies. Notwithstanding any other provision of law, no state agency, municipality or any agency thereof may require any approval, consent, permit, certificate or other condition for the construction or operation of a major facility with respect to which an application for a certificate hereunder has been issued, other than those provided by otherwise applicable state law for the protection of employees engaged in the construction and operation of such facility, and provided that in the case of a municipality or an agency thereof, such municipality has received notice of the filing of the application therefor.

Neither the Tug Hill commission nor the Adirondack park agency shall hold public hearings for a major utility transmission facility with respect to which an application hereunder has been filed, provided that such commission or agency has received notice of the filing of such application.

ARTICLE VII-A

HOME INSULATION AND CONSERVATION

§ 135-a. Short title. This article shall be known as the "home insulation and energy conservation act".

§ 135-b. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Commission" means the public service commission of the state of New York.

2. "Utility" means an investor-owned gas or electrical corporation regulated by the commission whose gross revenues for the preceding calendar year exceeded three hundred fifty million dollars.

3. "Eligible customer" means any person who:

(a) holds legal title to a one, two, three, or four family home constructed prior to January first, nineteen hundred eighty which receives electric or gas service from a utility other than a person who is the original contractor or builder of any such home unless he lives in such home, or

(b) is in rightful possession under a lawful lease of a one, two, three, or four family home constructed prior to January first, nineteen hundred eighty who (i) receives at such home and pays for electric or gas services, from a utility, (ii) has the written permission of the holder of legal title to such home to enter into a financing contract and security agreement pursuant to this article, and has the consent of such holder for the financing utility to obtain a security interest in and lien upon the premises, (iii) if the financing utility so requests, provides security of a type and in an amount approved by the commission, and (iv) does not present an undue credit risk as determined in accordance with rules and regulations promulgated for this purpose by the commission.

4. "Energy conservation measures" means:

(a) caulking and weatherstripping of all exterior doors and windows;

(b) furnace efficiency modifications including but not limited to:

(i) replacement burners designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(ii) devices for modifying flue openings which will increase the efficiency of the heating system, and

(iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(c) furnace and boiler retrofits, including but not limited to burner and system derating;

(d) furnace and boiler replacements regardless of the fuel used, provided that such replacement furnaces or boilers shall meet minimum efficiency standards established by the commission;

(e) heat pumps provided that such heat pumps shall meet such minimum efficiency standards for heating and cooling purposes established by the commission in the absence of any provision establishing such standards in the energy law;

(f) clock thermostats;

(g) ceiling, attic, wall, foundation, air duct, heating pipe and floor insulation;

(h) hot water heater insulation;

(i) storm and thermal windows and doors;

(j) solar and wind systems; and

(k) load management devices and energy use meters, together with associated wiring; and

(l) such other measures that the commission shall specify.

5. "Home conservation plan" means the general program administered and established by each utility pursuant to this article, which sets forth the framework for individual home energy conservation programs for eligible customers.

6. "Solar or wind energy system" shall have the same meaning as in section four hundred eighty-seven of the real property tax law.

7. "Landlord" means any person (i) who is the owner or managing agent of a multifamily dwelling with five or more residential units or (ii) who is authorized to act for either the board of directors of a cooperative apartment building or board of managers of a multifamily dwelling which is owned as a condominium under article nine-B of the real property law, who receives at such building or dwelling and pays for electric or gas service.

§ 135-c. Home conservation plans; eligibility; approval by the commission. 1. After hearing upon reasonable notice, the commission shall establish home conservation plans for each utility in accordance with the provisions of this article. Such plans shall be open to participation by all eligible customers meeting the criteria set forth in this article. Such eligibility shall cease June first, nineteen hundred ninety-six.

2. Participation shall be open to all eligible customers, regardless

of type of fuel or energy used for space or water heating or cooling.

3. Participation shall be limited to individual projects wherein the amount to be financed is in excess of two hundred dollars. In addition, the estimated cost of such projects must be recovered within seven years from the savings generated by reduced energy consumption resulting from such projects; provided however, in the case of heat pumps, solar and wind systems, the estimated cost of such projects must be recovered within fifteen years.

§ 135-d. Scope of plan. 1. Each utility shall adopt and implement a home conservation plan as approved by the commission, and shall offer participation to its customers. The availability of the plan shall be publicized by the utility to encourage customer participation.

2. The commission may provide that any such plan shall provide participating customers with the opportunity to enter into a financing contract and security agreement with the sponsoring utility for the amount financed. If such an agreement is entered into, the commission shall require the payment of interest by each participant on the amount financed by such participant in accordance with the provisions of this article.

3. Each plan shall provide for the installation and financing of one or more types of energy conservation measures and provide for the performance of energy audits.

4. Where any plan includes financing by a utility, any such plan shall include the maximum rate of interest chargeable by the utility on any amounts financed hereunder; allowable repayment periods; probable sources of and methods by which the utility will raise funds to carry out the plan; and such other information and matters as the commission deems necessary and appropriate to effectuate the purposes of this article.

5. The chairman, with the assistance of such public and private

entities as he shall select, shall prepare, administer and finance a program to promote wide public awareness of the availability and benefits of the home conservation plans, energy conservation measures and energy audits authorized by this article. Such programs may include, but not be limited to, promotion of the plans, measures and audits through the media and through the utilities. Funds for financing any such program shall be made available to the chairman from moneys provided the department pursuant to the assessment provisions of section eighteen-a of this chapter, provided however, that such funds shall not exceed two million dollars in any state fiscal year and the authorization for using assessment funds to finance any such program shall expire June first, nineteen hundred ninety-six.

6. Each plan shall include a training program and experience requirements for auditors so they are familiar with the energy conservation criteria and energy conservation measures provided by this article. In addition, each plan shall assure that utility employees who regularly deal with the public can provide information about the scope and benefits of the plans.

7. Each plan may include provision for the participation of not-for-profit neighborhood preservation or development organizations in order to promote energy audits and to explain methods of conserving energy to the community.

§ 135-e. Energy conservation criteria. 1. Participation shall be denied to any eligible customer whose proposed installation of energy conservation measures fails to meet minimum criteria established by the commission for purposes of home conservation plans. The commission shall establish criteria for each energy conservation measure after consultation with the New York State Energy Office and the New York State Building Code Council and after requesting written comment from interested parties.

2. The commission may upon its own motion or upon request of an eligible customer grant an exception to such a customer from any such

criteria upon a showing that compliance is not technically feasible or would result in severe economic hardship.

§ 135-f. Energy audits. 1. Upon the request of either an eligible customer or a landlord, each utility shall conduct an energy audit of the customer's residential premises or the landlord's multiple dwelling and promptly provide the results of the audit to such customer or landlord in a manner prescribed by the chairman. No charge shall be made for such audits. In addition, on or before March first, nineteen hundred eighty-two, each utility shall, as part of the promotional program established by the chairman, (i) inform each of its eligible customers in writing that an energy audit of the customer's residential premises is available without charge, and (ii) inform each landlord in writing that an energy audit of his multifamily dwelling is available at a charge which shall be set by the chairman and not exceed five hundred dollars for each building; except in multiple building complexes, heated by a single, central boiler system. In such cases, the commission shall set fair and reasonable audit fees. A customer or landlord shall only be eligible for one audit under this section, provided however, that a customer who received an audit prior to the inclusion of solar or wind energy systems within the home conservation plans authorized by this article shall be entitled to a second limited audit to consider the energy savings and costs that would result from adding solar or wind energy systems to his premises.

2. Each audit shall include:

(a) estimates of the energy conservation measures, if any, needed to comply with applicable minimum criteria;

(b) estimates of available options for meeting such criteria, together with their relative costs and pay-back periods, and relative potential energy and cost savings on a monthly and yearly basis, a comparison of initial cost and pay-back periods for customer installation and for contractor installation and the price of fuel on which any comparison is based;

(c) for the purposes of this section, the term "energy conservation measures" shall mean, when used with respect to audits provided landlords, those measures set forth for multifamily dwellings in Title VII of the National Energy Conservation Policy Act together with such other measures consistent with the standards of this article as the chairman shall specify.

§ 135-g. Financing. 1. Where any home conservation plan is approved by the commission and requires utility financing, any such plan shall provide that upon entering into a financing contract and security agreement with an eligible customer, the utility shall reimburse such eligible customer, or pay directly to an authorized contractor and/or supplier a sum of money to cover the costs of installing energy conservation measures, subject to the maximum amount set forth in subdivision four hereof. Such sum shall be referred to as "the amount financed".

2. Any such home conservation plan shall contain several options for period of repayment; provided, however, the maximum repayment period shall be seven years and it shall be offered in each plan.

3. Each participant shall repay to the utility the total amount financed plus allowable interest charges on such amounts, through charges separately set forth and identified, on such participant's periodic bill for gas or electric service from the financing utility, or may be separately billed as provided in the plan.

4. The total amount financed by a participant shall not exceed two thousand five hundred dollars in the case of a single family home, three thousand five hundred dollars in the case of a two family home, four thousand dollars in the case of a three family home, and four thousand five hundred dollars in the case of a four family home.

The total amount financed by a participant for paragraph (j) of subdivision four of section one hundred thirty-five-b of this chapter shall not exceed four thousand dollars in the case of a single family home, five thousand dollars in the case of a two family home, five thousand five hundred dollars in the case of a three family home, and six thousand dollars in the case of a four family home.

5. In the event an eligible customer takes both electric service and gas service from different utilities, the customer may choose to participate in one plan offered by either the gas company or the electric company, but not both. The total amount financed shall become an added portion of the bill from the one utility in whose plan the customer participates and shall become a debt due such utility.

6. Any financing utility shall be entitled to receive interest from each participating, eligible customer on the amount financed by that customer at a maximum rate to be determined by the commission in approving the utility's home conservation plan. In determining the maximum rate of interest, the commission shall consider the cost of borrowing to the utility from all available sources, the cost of financing generally available to potential participating customers from other sources, the maximum use of funds available to a utility, efforts by the utility to minimize interest costs, and shall endeavor to set the rate in a manner which will assist customers in installing energy conservation measures at the lowest possible cost. In no event shall the interest rate exceed the overall rate of return awarded to the utility in its last general rate case. The commission and any financing utility shall develop and adopt means for minimizing the cost to utilities for providing financing under this article.

7. In adopting any such home conservation plan the commission shall set maximum aggregate amounts to be available for financing by each utility in the year of its plan.

§ 135-h. Installation. 1. A utility shall afford each participant in its home conservation plan the option of installing energy conservation measures either (a) by performing the work on a "do-it-yourself" basis, where deemed safe and feasible by the commission, under guidelines set by the commission for assuring quality and conformance with applicable criteria; (b) through the use of services provided by the utility itself, if the utility decides to offer such services provided, however, that in offering such services, the utility shall contract, through the use of prevailing competitive bidding processes, with persons, firms and corporations not owned or operated by such utility for the installation of energy conservation measures; or, (c) through the use of the services of a contractor and/or supplier of the customer's choice, whose name appears on a list of qualified contractors and/or suppliers maintained and periodically updated by the utility.

2. In implementing paragraph (a) of subdivision one of this section, the utilities, in consultation with the commission, shall prepare a "do-it-yourself" manual for the customers it serves, detailing the materials capable of being used, their manner of effective installation, and the criteria used in inspection to determine the degree of effectiveness. With reference to all installations to be made pursuant to paragraphs (a) and (c) of subdivision one of this section, the utility shall prepare and maintain a list of qualified and participating suppliers and contractors in a non-discriminatory manner. The decision as to which option, supplier, or contractor to use is the choice of the customer.

§ 135-i. Default. In the event that a participating customer defaults in respect to payment under a financing agreement and security contract entered into pursuant to this article, the utility shall employ reasonable efforts to collect all amounts due from the customer.

§ 135-j. Administration by public service commission; application by utilities; approval. 1. The commission shall issue such orders, rules and regulations as may be necessary or appropriate for interpretations, implementation or administration of this article.

2. Within ninety days of the effective date hereof, every utility shall submit its proposed home conservation plan in accordance with the terms of this act to the commission for approval by the commission. Within sixty days thereafter, the commission shall approve, approve with modifications, or reject each such submission.

§ 135-k. Reports; miscellaneous. 1. During the first three years of operation of an approved home conservation plan, each utility shall submit to the commission annually a summary report setting forth such information as the commission may deem relevant to monitor and evaluate the progress of the program.

2. On or before the thirty-first day of May, nineteen hundred eighty-seven and annually on that day thereafter, up to and including May thirty-first, nineteen hundred ninety-six, the commission shall report to the governor and the legislature on the progress of the program regarding the effect of the program on conservation of fuel and energy, cost savings to customers, expense to rate payers, environmental benefits, and estimated effects on the state's economy. The reports furthermore, shall detail any problems encountered in administration of the program and its implementation and shall include recommendations for its improvement and possible extension.

3. It is the purpose of this article, to the maximum extent permitted, to incorporate into the home conservation program established by this article any advantages to be secured by integration of federal and state home conservation programs, to secure maximum federal assistance to the program, when and if available, for such purposes, and to the customers and utilities participating therein.

4. No utility shall utilize its home conservation program to influence a customer to convert from one energy source to another, except with the consent of the customer.

§ 135-l. Alternate financing method. Notwithstanding the provisions of sections one hundred thirty-five-d and one hundred thirty-five-g of this article, a utility may satisfy its obligation to provide financing to eligible customers by concluding financial arrangements with two or more lending institutions in this state engaged in making home improvement loans to provide loans to eligible customers for home conservation programs pursuant to this article, provided that such loans shall be under such terms and conditions as are consistent with the terms and conditions of section one hundred thirty-five-g. The utility may guarantee such loans where the commission determines that such action is in furtherance of the public interest. If the commission determines it to be necessary, to facilitate the home improvement loans authorized by this article, it may require a utility to maintain a supply of loan application forms for such loans.

§ 135-m. Applicability to prior installations. In the event any eligible customer installs energy conservation measures subsequent to the effective date of this act, but prior to the adoption of a home conservation plan by his gas or electric utility, and the work performed or obtained by such eligible customer would qualify for financing under a subsequently adopted plan, such eligible customer shall be eligible for retroactive financing and participation in the plan adopted by his utility in accordance with the provisions of this article.

§ 135-n. Nonresidential energy audits. 1. The commission shall be authorized to require a utility, upon the request of an owner of a farm, small business or nonprofit organization, to conduct an energy audit of a farm or a farmstead, or of a commercial building occupied by such business or organization and promptly provide the results of the audit and any information and technical assistance that is necessary to implement the audit's recommendations to the owner, small business or non-profit organization. No charge shall be made for such audits. In addition, each utility shall inform its customers in writing that an energy audit is available without charge for eligible farms, small businesses and nonprofit organizations. Such owner shall be eligible for only one energy audit for each farm or commercial building; provided however, that a second limited audit may be provided if new conditions justify a second audit, including but not limited to, a change in the purpose for which the farm or commercial building is used.

2. A utility may contract with a qualified not-for-profit organization

to promote and perform energy audits; provided, however that a utility shall be prohibited from compensating such organization in an amount in excess of what the utility's own costs would be of performing such services. In addition, such energy audits shall be promoted and performed, to the extent feasible, through or in coordination with other existing federal, state and local programs designated for farms, small businesses and nonprofit organizations.

3. Any criteria established by the commission for the energy audits and eligibility for audits required under this section shall be adopted after consultation with the state energy office and opportunity for comment by other interested parties.

§ 135-o. Recovery of costs. A utility shall be allowed to recover as normal operating expenses through rates the just and reasonable costs of carrying out its responsibilities and home conservation plan under this article, as determined by the commission after public hearing upon reasonable notice.

* ARTICLE VIII

SITING OF RENEWABLE ENERGY AND ELECTRIC TRANSMISSION

* NB Repealed December 31, 2040

*** § 136. Purpose.** It is the purpose of this article to consolidate the environmental review, permitting, and siting in this state of major renewable energy facilities and major electric transmission facilities subject to this article, and to provide ORES as a single forum for the coordinated and timely review of such projects to meet the state's renewable energy goals and ensure the reliability of the electric transmission system, while also ensuring the protection of the environment and consideration of all pertinent social, economic and environmental factors in the decision to permit such projects as more specifically provided in this article.
* NB Repealed December 31, 2040

*** § 137. Definitions.** Where used in this article, the following terms shall have the following meanings:

1. "CLCPA targets" shall mean the public policies established in the climate leadership and community protection act enacted in chapter one hundred six of the laws of two thousand nineteen, including but not limited to the requirement that a minimum of seventy percent of the statewide electric generation be produced by renewable energy systems by two thousand thirty, that by the year two thousand forty the statewide electrical demand system will generate zero emissions, and the procurement of at least nine gigawatts of offshore wind electricity generation by two thousand thirty-five, six gigawatts of photovoltaic solar generation by two thousand twenty-five and to support three gigawatts of statewide energy storage capacity by two thousand thirty.

2. "Dormant electric generating site" shall mean a site at which one or more electric generating facilities produced electricity but has permanently ceased operating.

3. "Major electric transmission facility" means an electric transmission line of a design capacity of one hundred twenty-five kilovolts or more extending a distance of one mile or more, or of one hundred kilovolts or more and less than one hundred twenty-five kilovolts, extending a distance of ten miles or more, including associated equipment, but shall not include any such transmission line located wholly underground in a city with a population in excess of one hundred twenty-five thousand or a primary transmission line approved by the federal energy regulatory commission in connection with a hydro-electric facility.

4. "Major renewable energy facility" means any renewable energy system, as such term is defined in section sixty-six-p of this chapter, with a nameplate generating capacity of twenty-five thousand kilowatts or more, and any co-located system storing energy generated from such a renewable energy system prior to delivering it to the bulk transmission system, including all associated appurtenances to electric plants, including electric transmission facilities less than ten miles in length in order to provide access to load and to integrate such facilities into the state's bulk electric transmission system.

5. "Landowner" means the holder of any right, title, or interest in real property subject to a proposed site or right of way as identified from the most recent tax roll of the appropriate municipality.

6. "Local agency" means any local agency, board, district, commission or governing body, including any city, county, and other political subdivision of the state.

7. "Local agency account" or "account" shall mean the account established in subdivision seven of section ninety-four-c of the executive law now repealed and continued in section one hundred

forty-five of this article.

8. "Municipality" shall mean a county, city, town, or village.

9. "Right-of-way" shall mean:
(a) real property that is used or authorized to be used for electric utility purposes; or
(b) real property owned or controlled by or under the jurisdiction of the state, a distribution utility, or a state public authority including by means of ownership, lease or easement, that is used or authorized to be used for transportation or canal purposes.

10. "ORES" shall mean the office of renewable energy siting and electric transmission established pursuant to section three-c of this chapter.

11. "Executive director" or "director" shall mean the executive director of the office of renewable energy siting and electric transmission.

12. "Major renewable energy facility siting permit" shall mean the siting permit issued to a major renewable energy facility by the executive director pursuant to this article, and the rules and regulations promulgated by ORES and the department and approved by the commission.

13. "Major electric transmission facility siting permit" shall mean the siting permit issued to a major electric transmission facility by the executive director pursuant to this article, and the rules and regulations promulgated by ORES and the department.
* NB Repealed December 31, 2040

*** § 138. General provisions related to establishing standards related to siting major renewable energy facilities.** 1. (a) ORES shall be authorized to establish and amend, subject to the approval of the commission, a set of uniform standards and conditions for the siting, design, construction and operation of each type of major renewable energy facility subject to this article relevant to issues that are common for particular classes and categories of major renewable energy facilities, in consultation with other offices within the department, the New York state energy research and development authority, the department of environmental conservation, the department of agriculture and markets, and other relevant state agencies and authorities with subject matter expertise.

(b) The uniform standards and conditions established pursuant to this subdivision shall be designed to avoid or minimize, to the maximum extent practicable, any potential significant adverse environmental impacts related to the siting, design, construction and operation of a major renewable energy facility. Such uniform standards and conditions shall apply to those environmental impacts ORES determines are common to each type of major renewable energy facility.

(c) In its review of an application for a permit to develop a major-renewable energy facility, ORES, in consultation with the department of environmental conservation, shall identify those site-specific adverse environmental impacts, if any, that may be caused or contributed to by a specific proposed major renewable energy facility and are unable to be addressed by the uniform standards and conditions. ORES shall draft, in consultation with the department of environmental conservation, site-specific permit terms and conditions for such impacts, including provisions for the avoidance or mitigation thereof, taking into account the CLCPA targets and the environmental benefits of the proposed major renewable energy facility; provided, however, that ORES shall require that the application of uniform standards and conditions and site-specific conditions shall achieve a net conservation benefit to any impacted endangered and threatened species.

2. To the extent that adverse environmental impacts are not completely addressed by uniform standards and conditions and site-specific major renewable energy facility siting permit conditions proposed by ORES, and ORES determines that mitigation of such impacts may be achieved by off-site mitigation, ORES may require payment of a fee by the applicant to achieve such off-site mitigation. If ORES determines, in consultation with the department of environmental conservation, that mitigation of

impacts to endangered or threatened species that achieves a net conservation benefit can be achieved by off-site mitigation, the amount to be paid for such off-site mitigation shall be set forth in the final major renewable energy facility siting permit. ORES may require payment of funds sufficient to implement such off-site mitigation into the endangered and threatened species mitigation bank fund established pursuant to section ninety-nine-hh of the state finance law.

3. ORES, in consultation with the department, shall promulgate rules and regulations with respect to all necessary requirements to implement the siting permit program established in this article and promulgate modifications to such rules and regulations as it deems necessary; provided that ORES shall promulgate regulations requiring the service of applications on affected municipalities and political subdivisions simultaneously with submission of an application. Any such rules and regulations, or any amendments or modifications thereto, shall be subject to the approval of the public service commission before they become effective.

4. The uniform standards and conditions established pursuant to this section shall be designed to avoid, minimize, or mitigate to the maximum extent practicable, potential significant adverse impacts to land used in agricultural production, with additional consideration for land within an agricultural district or land that contains mineral soil groups 1-4. The provisions of this subdivision shall not apply in the consideration of any permits for siting, design, construction, or operation of a major renewable energy facility for which a completed application has been received by the office of renewable energy siting and electric transmissions prior to the adoption of amended uniform standards and conditions consistent with this subdivision.

5. The office of renewable energy siting and electric transmission pursuant to section three-c of this chapter, in consultation with the department, shall post, maintain, and regularly update on its website a statewide map with the location, approximate acreage, and generation capacity of each approved and proposed facility pursuant to this article or renewable electric generating facility pursuant to article ten of

this chapter for which permitted, complete, or incomplete applications or notices of intent have been received by such office or the public service commission. Such statewide map may include any additional information such office deems necessary. The information required pursuant to this subdivision shall be updated upon the completion of each new or updated application for a proposed facility.

* NB Repealed December 31, 2040

*** § 139. General provisions related to establishing standards related to siting major electric transmission facilities.** 1. (a) Within twelve months of the effective date of this section, ORES shall, subject to the approval of the commission, in consultation with other offices within the department, the New York state energy research and development authority, the department of environmental conservation, the department of agriculture and markets, and other agencies with subject matter expertise, establish a set of uniform standards and conditions for the siting, design, construction, and operation of major electric transmission facilities subject to this article relevant to issues that are common to such projects. Prior to adoption of uniform standards and conditions, the office of renewable energy siting and electric transmissions shall hold four public hearings in different regions of the state to solicit comment from municipal, or political subdivisions, and the public on proposed uniform standards and conditions to avoid, minimize or mitigate potential adverse environmental impacts from the siting, design, construction and operation of a major electric transmission facility.

(b) The uniform standards and conditions established pursuant to this section shall be designed to avoid or minimize, to the maximum extent practicable, any potential significant adverse environmental impacts related to the siting, design, construction, and operation of a major electric transmission facility. Such uniform standards and conditions shall apply to those environmental impacts ORES determines are common to major electric transmission facilities.

(c) The uniform standards and conditions established pursuant to this section shall be designed to avoid, minimize, or mitigate to the maximum extent practicable, potential significant adverse impacts to land used in agricultural production, with additional consideration for land within an agricultural district or land that contain mineral soil groups 1-4 as defined by the department of agriculture and markets.

(d) In its review of an application for a major electric transmission facility siting permit to develop a major electric transmission facility, ORES, in consultation with the department of environmental conservation, shall identify those adverse site-specific environmental impacts, if any, that may be caused or contributed to by a specific proposed major electric transmission facility and are unable to be addressed by the uniform standards and conditions. ORES shall draft in consultation with the department of environmental conservation site-specific major electric transmission facility siting permit terms and conditions for such impacts, including provisions for the avoidance or mitigation thereof, taking into account the CLCPA targets, the environmental benefits of, and public need for the proposed major electric transmission facility; provided, however, that ORES shall require that the application of uniform standards and conditions and site-specific conditions shall achieve a net conservation benefit to any impacted endangered and threatened species.

(e) Upon the establishment of uniform standards and conditions required by this section and the promulgation of regulations specifying the content of an application for a major electric transmission facility siting permit, an application for a major electric transmission facility siting permit shall only be made pursuant to this article.

2. To the extent that adverse environmental impacts are not completely addressed by uniform standards and conditions and site-specific major electric transmission facility siting permit conditions proposed by ORES, and ORES determines that mitigation of such impacts may be achieved by off-site mitigation, ORES may require payment of a fee by the applicant to achieve such off-site mitigation. If ORES determines, in consultation with the department of environmental conservation, that mitigation of impacts to endangered or threatened species that achieves a net conservation benefit can be achieved by off-site mitigation, the amount to be paid for such off-site mitigation shall be set forth in the final major electric transmission facility siting permit. ORES may require payment of funds sufficient to implement such off-site

mitigation into the endangered and threatened species mitigation bank fund established pursuant to section ninety-nine-hh of the state finance law.

3. ORES shall identify and make public the basis of the public need for a major electric transmission facility in a written finding and shall grant permits to such projects that demonstrate a qualified public need, so long as the adverse environmental impacts of the facility are identified and addressed by the uniform standards and conditions promulgated pursuant to this article and any site-specific permit conditions applied to the facility. The written finding of a basis of a public need for a major electric transmission facility shall, at a minimum, include whether the proposed project conforms to plans relating to the expansion or upgrade of the electric power grid and interconnected utility systems or was included or considered in the power grid study required pursuant to section seven of part JJJ of chapter fifty-eight of the laws of two thousand twenty for a major electric transmission facility. Notwithstanding any other provision of this article to the contrary, ORES shall only grant major electric transmission facility siting permits to such projects that: (i) demonstrate a qualified public need; (ii) are in the public and ratepayer interest; and (iii) identify and address the adverse environmental impacts of the facility pursuant to the uniform standards and conditions promulgated pursuant to this article and any site-specific major electric transmission facility siting permit conditions, or otherwise mitigated as provided in this article.

4. ORES, in consultation with the department, shall promulgate rules and regulations with respect to all necessary requirements to implement the siting permit program established in this article and promulgate modifications to such rules and regulations as it deems necessary; provided that ORES shall promulgate regulations requiring the service of applications on affected municipalities and political subdivisions simultaneously with submission of an application. Any such rules and regulations, or any amendments or modifications thereto, shall be subject to the approval of the commission before they become effective.

5. The office of renewable energy siting and electric transmission shall include within its regulations a framework to ensure potentially affected state- and federally-recognized indigenous nations are informed and consulted with, as appropriate, when a facility is proposed within the ancestral territories of such nations.

6. After the effective date of this section, any person intending to construct a major electric transmission facility excluded from this section pursuant to paragraph (c) of subdivision five of section one hundred forty-one of this article may elect to become subject to the provisions of this section by filing an application for a siting permit pursuant to the regulations of ORES governing such applications.
* NB Repealed December 31, 2040

*** § 140. Applicability related to siting major renewable energy facilities.** 1. No person shall commence the preparation of a site for, or begin the construction of, a major renewable energy facility in the state, or increase the capacity of an existing major renewable energy facility, without having first obtained a major renewable energy facility siting permit pursuant to this article. Any major renewable energy facility subject to this article with respect to which a siting permit is issued shall not thereafter be built, maintained, or operated except in conformity with such major renewable energy facility siting permit and any terms, limitations, or conditions contained therein, provided that nothing in this subdivision shall exempt such facility from compliance with federal laws and regulations.

2. A major renewable energy facility siting permit issued by ORES may be transferred or assigned, subject to the prior written approval of the office of renewable energy siting and electric transmissions, to a person that agrees to comply with the terms, limitations and conditions contained in such major renewable energy facility siting permit.

3. ORES or a permittee may initiate an amendment to a major renewable energy facility siting permit under this section. An amendment initiated by ORES or a permittee that is likely to result in any material increase

in any adverse environmental impact or involves a substantial change to the terms or conditions of a major renewable energy facility siting permit shall comply with the public notice and hearing requirements of this section.

4. Any hearings or dispute resolution proceedings initiated under this article or pursuant to rules or regulations promulgated pursuant to this section may be conducted by the executive director of ORES or any person to whom the executive director shall delegate the power and authority to conduct such hearings or proceedings in the name of ORES at any time and place.

5. This section shall not apply:

(a) to normal repairs, maintenance, replacements, non-material modifications and improvements of a major renewable energy facility subject to this article, whenever built, which are performed in the ordinary course of business and which do not constitute a violation of any applicable existing permit; and

(b) to a major renewable energy facility if, on or before the effective date of this article, an application has been made or granted for a license, permit, certificate, consent or approval from any federal, state or local commission, agency, board or regulatory body.

* NB Repealed December 31, 2040

*** § 141. Applicability related to siting major electric transmission facilities.** 1. Except as provided in paragraph (b) of subdivision five of this section, no person shall commence the preparation of a site for, or begin the construction of, a major electric transmission facility in the state without having first obtained a siting permit pursuant to this article. Any major electric transmission facility subject to this article with respect to which a siting permit is issued shall not thereafter be built, maintained, or operated except in conformity with such siting permit and any terms, limitations, or conditions contained therein, provided that nothing in this subdivision shall exempt such facility from compliance with federal laws and regulations.

2. A major electric transmission facility siting permit issued by ORES may be transferred or assigned, subject to the prior written approval of the office of renewable energy siting and electric transmissions, to a person that agrees to comply with the terms, limitations and conditions contained in such siting major electric transmission facility permit.

3. ORES or a permittee may initiate an amendment to a major electric transmission facility siting permit under this section. An amendment initiated by ORES or a permittee that is likely to result in any material increase in any adverse environmental impact or involves a substantial change to the terms or conditions of a major electric transmission facility siting permit shall comply with the public notice and hearing requirements of this section.

4. Any hearings or dispute resolution proceedings initiated under this article or pursuant to rules or regulations promulgated pursuant to this section may be conducted by the executive director of ORES or any person to whom the executive director shall delegate the power and authority to conduct such hearings or proceedings in the name of ORES at any time and place.

5. This section shall not apply:

(a) to any major electric transmission facility over which any agency or department of the federal government has exclusive jurisdiction, or has jurisdiction concurrent with that of the state and has exercised such jurisdiction, to the exclusion of regulation of the facility by the state; provided, however, that nothing herein shall be construed to expand federal jurisdiction;

(b) to normal repairs, maintenance, replacements, non-material modifications and improvements of a major electric transmission facility subject to this article, whenever built, which are performed in the ordinary course of business and which do not constitute a violation of any applicable existing permit; and

(c) to a major electric transmission facility for which an application pursuant to article VII of this chapter and its implementing regulations is submitted on or before the establishment of the uniform standards and conditions required pursuant to subdivision one of section one hundred forty-one of this article.

6. After the effective date of this section, any person intending to construct a major electric transmission facility excluded from this section pursuant to paragraph (c) of subdivision five of this section may elect to become subject to the provisions of this section by filing an application for a major electric transmission facility siting permit pursuant to the regulations of ORES governing such applications.

* NB Repealed December 31, 2040

*** § 142. Application, notice, and review relating to major renewable energy facility siting.** 1. Notwithstanding any law to the contrary, ORES shall, within sixty days of its receipt of an application for a siting permit with respect to a major renewable energy facility subject to this article determine whether the application is complete and notify the applicant of its determination. If ORES does not deem the application complete, ORES shall set forth in writing delivered to the applicant the reasons why it has determined the application to be incomplete. If ORES fails to make a determination within the foregoing sixty-day time period, the application shall be deemed complete; provided, however, that the applicant may consent to an extension of the sixty-day time period for determining application completeness. Provided, further, that no application may be complete without proof of consultation with the municipality or political subdivision where the project is proposed to be located, or an agency thereof, prior to submission of an application to ORES, related to procedural and substantive requirements of local law.

2. No later than sixty days following the date upon which an application has been deemed complete, and following consultation with any relevant state agency or authority, ORES shall publish for public comment draft permit conditions prepared by the office, which comment period shall be for a minimum of sixty days from public notice thereof, or notice of intent to deny with reasons thereof. Such public notice shall include, but shall not be limited to: (i) written notice to the municipalities or political subdivisions in which such project is

proposed to be located; (ii) publication in a newspaper or in electronic form, having general circulation in such municipalities or political subdivisions; (iii) posting the notice on the office of renewable energy siting and electric transmissions and the department's website; and (iv) written notice to each member of the legislature through whose district the facility proposed in the application would be located.

3. For any municipality, political subdivision or an agency thereof that has received notice of the filing of an application, pursuant to regulations promulgated in accordance with this article, the municipality or political subdivision or agency thereof shall within the timeframes established by this subdivision submit a statement to ORES indicating whether the proposed project is designed to be sited, constructed and operated in compliance with applicable local laws and regulations, if any, concerning the environment, or public health and safety. In the event that a municipality, political subdivision or an agency thereof submits a statement to ORES that the proposed project is not designed to be sited, constructed or operated in compliance with local laws and regulations and ORES determines not to hold an adjudicatory hearing on the application, ORES shall hold a non-adjudicatory public hearing in or near one or more of the affected municipalities or political subdivisions. In any such adjudicatory hearing, ORES or the department, shall designate members of its staff to represent the public interest, including with respect to the application of local and state laws.

4. If public comments on a draft permit condition published by ORES pursuant to this section, including comments provided by a municipality or political subdivision or agency thereof, landowners, or members of the public, raise a substantive and significant issue, as defined in regulations adopted pursuant to this article, that requires adjudication, ORES shall promptly fix a date for an adjudicatory hearing to hear arguments and consider evidence with respect thereto.

5. Following the expiration of the public comment period set forth in this section, and following the conclusion of a hearing undertaken pursuant to subdivision four of this section, ORES shall, in the case of

a public comment period, issue a written summary of public comments and an assessment of comments received, and in the case of an adjudicatory hearing, the executive director or any person to whom the executive director has delegated such authority shall issue a final written hearing report. A final siting permit may only be issued if ORES makes a finding that the proposed project, together with any applicable uniform and site-specific standards and conditions, would comply with applicable laws and regulations. In making a final siting permit determination with respect to a major renewable energy facility, ORES may elect not to apply, in whole or in part, any local law or ordinance that would otherwise be applicable if it makes a finding that, as applied to the proposed facility, it is unreasonably burdensome in view of the CLCPA targets, and the environmental benefits.

6. Notwithstanding any other deadline made applicable by this section, ORES shall make a final decision on a major renewable energy facility siting permit within one year from the date the application was deemed complete, or within six months from the date the application was deemed complete if such application relates to a major renewable energy facility that is proposed to be sited on an existing or abandoned commercial use, including without limitation, brownfields, landfills, former commercial or industrial sites, dormant electric generating sites, and abandoned or otherwise underutilized sites, as further defined by the regulations promulgated by or in effect under this article. Unless ORES and the applicant have agreed to an extension and if a final siting permit decision has not been made by ORES within such time period, then such siting permit shall be deemed to have been automatically granted for all purposes set forth in this article and all uniform conditions or site specific permit conditions issued for public comment shall constitute enforceable provisions of the siting permit; provided, however, any portion of which is to be located on the land of a landowner for which the applicant lacks an existing right-of-way agreement or valid and enforceable lease or easement for use of such relevant property, no such permit shall be automatically granted. The final siting permit related to a major renewable energy facility shall include a provision requiring the permittee to provide a host community benefit, which may be a host community benefit as determined by the

commission pursuant to section eight of part JJJ of chapter fifty-eight of the laws of two thousand twenty or such other project as determined by ORES or as subsequently agreed to between the applicant and the host community.

* NB Repealed December 31, 2040

*** § 143. Application, notice, and review relating to major electric transmission facility siting.** 1. Notwithstanding any law to the contrary, ORES shall, within one hundred twenty days after its receipt of an application for a siting permit with respect to a major electric transmission facility, determine whether the application is complete and notify the applicant of its determination. If ORES does not deem the application complete, it shall set forth in writing delivered to the applicant the reasons why it has determined the application to be incomplete. If ORES fails to make a determination within the foregoing one hundred twenty day time period, the application shall be deemed complete; provided, however, that the applicant may consent to an extension of the one hundred twenty day time period for determining application completeness. Provided, further, that no application may be complete without proof of consultation with the municipality or political subdivision where the project is proposed to be located, or an agency thereof, prior to submission of an application to ORES, related to procedural and substantive requirements of local law.

2. In addition to addressing uniform standards and conditions, the application for a siting permit with respect to a major electric transmission facility shall include, in such form as ORES may prescribe, the following information: (i) the location of the site or right-of-way; (ii) a description of the transmission facility to be built thereon; (iii) a summary of any studies which have been made of the environmental impact of the project, and a description of such studies; (iv) a statement explaining the public need for the facility; (v) copies of any studies of the electrical performance and system impacts of the facility performed by the state grid operator pursuant to its tariff; (vi) such other information as the applicant may consider relevant or ORES may by regulation require; and (vii) a description of any reasonable

alternative location or locations for the proposed facility, a description of the comparative merits and detriments of each location submitted, and a statement of the reasons why the primary proposed location is best suited for the facility.

3. To the greatest extent practicable, each landowner of land on which any portion of such proposed facility is to be located shall be served by first class mail with a notice that such landowner's property may be impacted by a project and an explanation of how to file with ORES a notice of intent to be a party in the permit application proceedings and the timeframe for filing such application.

4. No later than sixty days following the date upon which an application has been deemed complete, and following consultation with any relevant state agency or authority, ORES shall publish for public comment draft permit conditions prepared by the office of renewable energy siting and electric transmissions, which comment period shall be for a minimum of sixty days from public notice thereof. Such public notice shall include, but shall not be limited to: (i) written notice to the municipalities and political subdivisions, in which the major electric utility transmission is proposed to be located and to landowners notified of the application pursuant to subdivision three of this section; (ii) publication in a newspaper or in electronic form, having general circulation in such municipalities or political subdivisions; (iii) posting on the office's and the department's website; and (iv) written notice to each member of the legislature through whose district the facility or any alternate proposed in the application would pass and in the event that such facility or any portion thereof is located within the Adirondack Park or Tug Hill, the Adirondack Park Agency and Tug Hill commission respectively.

5. For any municipality, political subdivision or an agency thereof that has received notice of the filing of an application, pursuant to regulations promulgated in accordance with this section or otherwise in effect on the effective date of this article, the municipality or political subdivision or agency thereof shall within the timeframes established by this act submit a statement to ORES indicating whether

the proposed facility is designed to be sited, constructed and operated in compliance with applicable local laws and regulations, if any, concerning the environment, or public health and safety. In the event that a municipality, political subdivision or an agency thereof submits a statement to ORES that the proposed facility is not designed to be sited, constructed or operated in compliance with local laws and regulations and ORES determines not to hold an adjudicatory hearing on the application, ORES shall hold a non-adjudicatory public hearing in the affected municipality or political subdivision.

6. If public comments on a draft permit condition published by ORES pursuant to this section, including comments provided by a municipality or political subdivision or agency thereof, landowners, or members of the public, raise a substantive and significant issue, as defined in regulations adopted pursuant to this article, that requires adjudication, ORES shall promptly fix a date for an adjudicatory hearing to hear arguments and consider evidence with respect thereto; provided, however, that with respect to an application for a siting permit for a major electric transmission facility, any portion of which is to be located on the land of a landowner for which the applicant lacks a right-of-way agreement, ORES shall provide such landowner with an opportunity to challenge the explanation for the public need given in such application. In any such adjudicatory hearing, ORES or the department, shall designate members of its staff to represent the public interest, including with respect to the application of local and state laws.

7. Following the expiration of the public comment period set forth in this section, and following the conclusion of a hearing undertaken pursuant to subdivision six of this section, ORES shall, in the case of a public comment period, issue a written summary of public comments and an assessment of comments received, and in the case of an adjudicatory hearing, the executive officer or any person to whom the executive director has delegated such authority shall issue a final written hearing report. A final siting permit may only be issued if ORES makes a finding that the proposed project, together with any applicable uniform and site-specific standards and conditions, would comply with applicable

laws and regulations. In making a final siting permit determination with respect to a major renewable energy facility or a major electric transmission facility, ORES may elect not to apply, in whole or in part, any local law or ordinance that would otherwise be applicable if it makes a finding that, as applied to the proposed facility, it is unreasonably burdensome in view of the CLCPA targets, the environmental benefits, and in the case of a transmission facility, the public need for the proposed project.

8. Notwithstanding any other deadline made applicable by this section, ORES shall make a final decision on a siting permit within one year from the date the application was deemed complete. Unless ORES and the applicant have agreed to an extension and if a final siting permit decision has not been made by ORES within such time period, then such siting permit shall be deemed to have been automatically granted for all purposes set forth in this article and all uniform conditions or site specific permit conditions issued for public comment shall constitute enforceable provisions of the siting permit; provided, however, that with respect to a final siting permit decision related to a major electric transmission facility, any portion of which is to be located on the land of a landowner for which the applicant lacks an existing right-of-way agreement and in which ORES has not made a public need determination, no such permit shall be automatically granted.

9. For a major electric transmission facility that would be constructed substantially within existing rights-of-way that possess existing major electric transmission infrastructure, the office of renewable energy siting and electric transmission may include within its regulations a framework that relieves certain requirements of this article, provided that such relief is reasonable and does not impair any rights of municipalities established under this article or limit requirements relating to public notice or the finding of public need.

* NB Repealed December 31, 2040

*** § 144. Powers of municipalities and state agencies and authorities.**

1. Applicants shall, prior to filing an application, conduct meetings

with the respective chief executive officer of all municipalities in which the proposed major renewable generation facility or major electric transmission facility will be located. The applicant shall provide as part of the application presentation materials and a summary of questions raised, and responses provided during such meetings with municipalities. In the event the applicant is unable to secure a meeting with a relevant municipality the application shall contain a detailed explanation of all of the applicant's best efforts and reasonable attempts to secure such meeting, including, but not limited to, written communications between the applicant and the municipality.

2. Notwithstanding any other provision of law, including without limitation article eight of the environmental conservation law and article VII of this chapter, no other state agency, department or authority, or any municipality or political subdivision or any agency thereof may, except as expressly authorized under this article or the rules and regulations promulgated under this article, require any approval, consent, permit, certificate, contract, agreement, or other condition for the development, design, construction, operation, or decommissioning of a major renewable energy facility or a major electric transmission facility with respect to which an application for a siting permit has been filed, provided in the case of a municipality, political subdivision or an agency thereof, such entity has received notice of the filing of the application therefor. Notwithstanding the foregoing, the department of environmental conservation shall be the permitting agency for permits issued pursuant to federally delegated or federally approved programs.

3. This section shall not impair or abrogate any federal, state or local labor laws or any otherwise applicable state law for the protection of employees engaged in the construction and operation of a major renewable energy facility or major electric transmission facility.

4. ORES and the department shall monitor, enforce and administer compliance with any terms and conditions set forth in a siting permit issued pursuant to this article and in doing so may use and rely on authority otherwise available under this chapter.

* NB Repealed December 31, 2040

*** § 145. Fees; local agency account.** 1. Each application for a siting permit shall be accompanied by a fee in an amount equal to the following:

(a) for a major renewable energy facility, one thousand dollars for each thousand kilowatts of capacity of the proposed major renewable energy facility;

(b) for a major electric transmission facility of one hundred twenty-five kilovolts or more extending a distance of over one hundred miles, four hundred fifty thousand dollars;

(c) for a major electric transmission facility of one hundred twenty-five kilovolts or more extending a distance of over fifty miles to one hundred miles, three hundred fifty thousand dollars;

(d) for a major electric transmission facility requiring a new right-of-way and one hundred twenty-five kilovolts or more extending a distance of ten miles to fifty miles, one hundred thousand dollars; and

(e) for a major electric transmission facility utilizing an existing right-of-way and one hundred twenty-five kilovolts or more extending a distance of ten miles to fifty miles, fifty thousand dollars.

2. Such fee is to be deposited in an account to be known as the local agency account established by subdivision seven of former section ninety-four-c of the executive law for the benefit of local agencies and community intervenors by the New York state energy research and development authority and maintained in a segregated account in the custody of the commissioner of taxation and finance. ORES, in consultation with the department, may update the fee periodically solely to account for inflation. The proceeds of such account shall be disbursed by the office of renewable energy siting and electric transmissions, in accordance with eligibility and procedures established by the rules and regulations promulgated by ORES or the department pursuant to this article or in effect as of the effective date of this article, for the participation of local agencies and community intervenors in public comment periods or hearing procedures established by this article, including the rules and regulations promulgated hereto;

provided that fees must be disbursed for municipalities, political subdivisions or an agency thereof, to determine whether a proposed project is designed to be sited, constructed and operated in compliance with the applicable local laws and regulations.

3. All funds so held by the New York state energy research and development authority shall be subject to an annual independent audit as part of such authority's audited financial statements, and such authority shall prepare an annual report summarizing account balances and activities for each fiscal year ending March thirty-first and provide such report to the office of renewable energy siting and electric transmissions no later than ninety days after commencement of such fiscal year and post on the authority's website.

4. To the extent an applicant submitted intervenor funds pursuant to article VII or X of this chapter and has now filed an application for a siting permit pursuant to this article, any amounts held in an intervenor account established pursuant to articles VII and X of this chapter for that project shall be applied to the intervenor account established by this section.

5. In addition to the fees established pursuant to this section, ORES or the department, pursuant to regulations adopted pursuant to this article, may assess a fee on applicants for the purpose of recovering costs incurred by the office of renewable energy siting and electric transmissions; provided, however, that public utilities that are subject to section eighteen-a of this chapter shall not be assessed a fee for such costs.

* NB Repealed December 31, 2040

*** § 146. Judicial review.** 1. Any party aggrieved by the issuance or denial of a siting permit under this article may seek judicial review of such decision as provided in this section.

2. A judicial proceeding shall be brought in the third department of the appellate division of the supreme court of the state of New York.

Such proceeding shall be initiated by the filing of a petition in such court within ninety days after the issuance of a final decision by ORES together with proof of service of a demand on ORES to file with said court a copy of a written transcript of the record of the proceeding and a copy of ORES's decision and opinion. ORES's copy of said transcript, decision and opinion, shall be available at all reasonable times to all parties for examination without cost. Upon receipt of such petition and demand ORES shall forthwith deliver to the court a copy of the record and a copy of ORES's decision and opinion. Thereupon, the court shall have jurisdiction of the proceeding and shall have the power to grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying and enforcing as so modified, remanding for further specific evidence or findings or setting aside in whole or in part such decision. The appeal shall be heard on the record, without requirement of reproduction, and upon briefs to the court. The findings of fact on which such decision is based shall be conclusive if supported by substantial evidence on the record considered as a whole and matters of judicial notice set forth in the opinion. The jurisdiction of the appellate division of the supreme court shall be exclusive and its judgment and order shall be final, subject to review by the court of appeals in the same manner and form and with the same effect as provided for appeals in a special proceeding. All such proceedings shall be heard and determined by the appellate division of the supreme court and by the court of appeals as expeditiously as possible and with lawful precedence over all other matters.

3. The grounds for and scope of review of the court shall be limited to whether the decision and opinion of ORES are:

(a) In conformity with the constitution, laws and regulations of the state and the United States;

(b) Supported by substantial evidence in the record and matters of judicial notice properly considered and applied in the opinion;

(c) Within the statutory jurisdiction or authority of ORES and the department;

(d) Made in accordance with procedures set forth in this section or established by rule or regulation pursuant to this article;

(e) Arbitrary, capricious or an abuse of discretion; or

(f) Made pursuant to a process that afforded meaningful involvement of citizens affected by the facility or project regardless of age, race, color, national origin and income.

4. Except as herein provided article seventy-eight of the civil practice law and rules shall apply to appeals taken hereunder.

* NB Repealed December 31, 2040

*** § 147. Farmland protection working group.** 1. There is hereby created in the executive department a farmland protection working group consisting of appropriate stakeholders, including but not limited to:

(a) the commissioner of the department of agriculture and markets;

(b) the commissioner of the department of environmental conservation;

(c) the executive director of ORES;

(d) the chief executive officer of the department of public service;

(e) the president of the New York state energy research and development authority;

(f) local government officials or representatives from municipal organizations representing towns, villages, and counties; and

(g) representatives from at least two county agricultural and farmland protection boards.

2. The working group shall, no later than one year after the effective date of this article, recommend strategies to encourage and facilitate input from municipalities in the siting process of major renewable energy facilities and major electric transmission facilities and to develop recommendations that include approaches to recognize the value of viable agricultural land and methods to minimize adverse impacts to any such land resulting from the siting of major renewable energy facilities and major electric transmission facilities.

3. The working group, on call of the commissioner of the department of agriculture and markets, shall meet at least three times each year and at such other times as may be necessary.

* NB Repealed December 31, 2040

*** § 148. Reports of the office of renewable energy siting and electric transmissions.** No later than one year after the effective date of this article and annually thereafter, the office of renewable energy siting and electric transmissions shall submit to the governor, the temporary president of the senate and the speaker of the assembly, a report on the activities of such office. The report shall, without limitation, include:

1. the number of applications received and permits approved by such office for each type of major renewable energy facility or major electric transmission facility;

2. description of the project of each permit granted by such office for the preceding year including scale, location and capacity;

3. average time taken to make a decision on an application;

4. the number of cases that require dispute resolution or judicial review;

5. the executive director's evaluation of overall public need for major renewable generation facilities and major electric transmission facilities;

6. the potential adverse environmental impacts of the facility are identified and addressed by the uniform standards and conditions promulgated pursuant to this article;

7. the number and description of projects where site-specific permit conditions were applied to the facility or where off-site mitigation was needed; and

8. total fees collected by such office and any fees collected specifically for off-site mitigation.

* NB Repealed December 31, 2040

ARTICLE 9

COMMISSIONS AND OFFICES ABOLISHED; SAVING CLAUSE; REPEAL

§ 150. Board of railroad commissioners abolished; effect thereof. The board of railroad commissioners was abolished on July first, nineteen hundred and seven. All the powers and duties of such board conferred and imposed by any statute of this state shall hereafter be exercised and performed by the public service commission.

§ 151. Commission of gas and electricity abolished; effect thereof. The commission of gas and electricity was abolished on July first, nineteen hundred and seven. All the powers and duties of such commission conferred and imposed by any statute of this state shall hereafter be exercised and performed by the public service commission.

§ 152. Inspector of gas meters abolished; effect thereof. The offices of inspector and deputy inspectors of gas meters were abolished on July first, nineteen hundred and seven. All the powers and duties of such inspector conferred and imposed by any statute of this state shall hereafter be exercised and performed by the public service commission. But any meter inspected, proved and sealed, by the said inspector of gas meters, prior to July first, nineteen hundred and seven, shall be deemed to have been inspected by the commission.

§ 153. Construction. Wherever the terms board of railroad commissioners, or commission of gas and electricity or inspector of gas meters or board of rapid transit railroad commissioners or transit construction commissioner or public service commission or public service commission of the first district or public service commission of the second district occur in any law, contract or document or whenever in any law, contract or document reference is made to such boards, commissions, commissioners or inspector, such terms or reference shall be deemed to refer to the public service commission as established by this chapter, so far as such law, contract or document pertains to matters which are within the jurisdiction of such commission.

§ 154. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is hereby repealed. All other acts and parts of acts otherwise in conflict with this act are hereby repealed.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter	Section
1890..............	565..............	38, 104, 150-172
1890..............	566..............	62-64
1891..............	4..............	1-3
1892..............	534..............	All
1892..............	676..............	Part amending L. 1890, Ch. 565, §§ 105, 162
1893..............	385..............	All
1894..............	452..............	All
1894..............	752..............	1-3
1895..............	972..............	All
1896..............	456..............	All
1897..............	486..............	All
1898..............	364..............	All
1899..............	732..............	All
1901..............	639..............	All
1902..............	373..............	All
1904..............	158..............	All
1905..............	728..............	All
1905..............	737..............	All

1907.............. 429.............. All

ARTICLE 10

SITING OF MAJOR ELECTRIC GENERATING FACILITIES

§ 160. Definitions. Where used in this article, the following terms, unless the context otherwise requires, shall have the following meanings:

1. "Municipality" means a county, city, town or village located in this state.

* 2. "Major electric generating facility" means an electric generating facility with a nameplate generating capacity of twenty-five thousand kilowatts or more, including interconnection electric transmission lines that are not subject to review under article VIII of this chapter and fuel gas transmission lines that are not subject to review under article seven of this chapter.

* NB Effective until December 31, 2040

* 2. "Major electric generating facility" means an electric generating facility with a nameplate generating capacity of twenty-five thousand

kilowatts or more, including interconnection electric transmission lines and fuel gas transmission lines that are not subject to review under article seven of this chapter.

* NB Effective December 31, 2040

3. "Person" means any individual, corporation, public benefit corporation, political subdivision, governmental agency, municipality, partnership, co-operative association, trust or estate.

4. "Board" means the New York state board on electric generation siting and the environment, which shall be in the department and consist of seven persons: the chair of the department, who shall serve as chair of the board; the commissioner of environmental conservation; the commissioner of health; the chair of the New York state energy research and development authority; the commissioner of economic development and two ad hoc public members, both of whom shall reside within the municipality in which the facility is proposed to be located, except if such facility is proposed to be located within the city of New York, then all ad hoc members shall reside within the community district in which the facility is proposed to be located. One ad hoc member shall be appointed by the president pro tem of the senate and one ad hoc member shall be appointed by the speaker of the assembly, in accordance with subdivision two of section one hundred sixty-one of this article. The term of the ad hoc public members shall continue until a final determination is made in the particular proceeding for which they were appointed.

5. "Certificate" means a certificate of environmental compatibility and public need authorizing the construction of a major electric generating facility issued by the board pursuant to this article.

6. "Fuel waste byproduct" shall mean waste or combination of wastes produced as a byproduct of generating electricity from a major electric generating facility in an amount which requires storage or disposal and, because of its quantity, concentration, or physical, chemical or other characteristics, may pose a substantial present or potential hazard to human health or the environment.

7. "Nameplate" means a manufacturer's designation, generally as affixed to the generator unit, which states the total output of such generating facility as originally designed according to the manufacturer's original design specifications.

8. "Public information coordinator" means an office created within the department which shall assist and advise interested parties and members of the public in participating in the siting and certification of major electric generating facilities. The duties of the public information officer shall include, but not be limited to: (a) implementing measures that assure full and adequate public participation in matters before the board; (b) responding to inquiries from the public for information on how to participate in matters before the board; (c) assisting the public in requesting records relating to matters before the board; (d) ensuring all interested persons are provided with a reasonable opportunity to participate at public meetings relating to matters before the board; (e) ensuring that all necessary or required documents are available for public access on the department's website within any time periods specified within this article; and (f) any other duties as may be prescribed by the board, after consultation with the department.

9. "Local parties" shall mean persons residing in a community who may be affected by the proposed major electric generating facility who individually or collectively seek intervenor funding pursuant to sections one hundred sixty-three and one hundred sixty-four of this article.

§ 161. General provisions relating to the board. 1. The board, exclusive of the ad hoc members, shall have the power to adopt the rules and regulations relating to the procedures to be used in certifying facilities under the provisions of this article, including the suspension or revocation thereof, and shall further have the power to seek delegation from the federal government pursuant to federal regulatory programs applicable to the siting of major electric facilities. The chairperson, after consultation with the other members of the board exclusive of the ad hoc members, shall have exclusive jurisdiction to issue declaratory rulings regarding the applicability of, or any other question under, this article and rules and regulations adopted hereunder and to grant requests for extensions or amendments to or transfers of certificate terms and conditions, provided that no party to the proceeding opposes such request for extensions or amendments within thirty days of the filing of such request. Regulations adopted by the board may provide for renewal applications for pollutant control permits to be submitted to and acted upon by the department of environmental conservation following commercial operation of a certified facility. The board shall not accept any pre-application preliminary scoping statement or application for a certificate, or exercise any powers or functions until the department of environmental conservation has promulgated rules and regulations required by paragraphs (f) and (g) of subdivision one of section one hundred sixty-four of this article and section 19-0312 of the environmental conservation law; provided however that the board shall be authorized to adopt rules and regulations required by this article.

2. Upon receipt of a pre-application preliminary scoping statement under this article, the chair shall promptly notify the governor, the president pro tem of the senate, the speaker of the assembly, the chief executive officers representing the municipality and the county in which the facility is proposed to be located, and, if such facility is proposed to be located within the city of New York, the mayor of the city of New York, as well as the chairperson of the community board and the borough president representing the area in which the facility is proposed to be located. One ad hoc member shall be appointed by the president pro tem of the senate and one ad hoc member shall be appointed by the speaker of the assembly from a list of candidates submitted to them, in the following manner. If such facility is proposed to be located outside of the city of New York, the chief executive officer representing the municipality shall nominate four candidates and the chief executive officer representing the county shall nominate four candidates for consideration. If such facility is proposed to be located outside of the city of New York and in a village located within a town, the chief executive officer representing the town shall nominate four

candidates, the chief executive officer representing the county shall nominate four candidates, and the chief executive officer representing the village shall nominate four candidates for consideration. If such facility is proposed to be located in the city of New York, the chairperson of the community board, the borough president, and the mayor of the city of New York shall each nominate four candidates for consideration. Nominations shall be submitted to the president pro tem of the senate and the speaker of the assembly within fifteen days of receipt of notification of the pre-application preliminary scoping statement. In the event that the president pro tem of the senate does not appoint one of the candidates within thirty days of such nominations, the governor shall appoint the ad hoc member from the list of candidates. In the event that the speaker of the assembly does not appoint one of the candidates within thirty days of such nominations, the governor shall appoint the ad hoc member from the list of candidates. In the event that one or both of the ad hoc public members have not been appointed within forty-five days, a majority of persons named to the board shall constitute a quorum.

3. In addition to the requirements of the public officers law, no person shall be eligible to be an appointee to the board who holds another state or local office. No member of the board may retain or hold any official relation to, or any securities of an electric utility corporation operating in the state or proposed for operation in the state, any affiliate thereof or any other company, firm, partnership, corporation, association or joint-stock association that may appear before the board, nor shall either of the appointees have been a director, officer or, within the previous ten years, an employee thereof. The ad hoc appointees shall receive the sum of two hundred dollars for each day in which they are actually engaged in the performance of their duties pursuant to this article plus actual and necessary expenses incurred by them in the performance of such duties. The chairperson shall provide such personnel, hearing examiners, subordinates and employees and such legal, technological, scientific, engineering and other services and such meeting rooms, hearing rooms and other facilities as may be required in proceedings under this article. The board under the direction of the chairperson, may provide for its

own representation and appearance in all actions and proceedings involving any question under this article. The department of environmental conservation shall provide associate hearing examiners. Each member of the board other than the ad hoc appointees may designate an alternate to serve instead of the member with respect to all proceedings pursuant to this article. Such designation shall be in writing and filed with the chairperson.

§ 162. Board certificate. 1. Following the promulgation of rules and regulations pursuant to paragraphs (f) and (g) of subdivision one of section one hundred sixty-four of this article, and section 19-0312 of the environmental conservation law, no person shall commence the preparation of a site for, or begin the construction of a major electric generating facility in the state, or increase the capacity of an existing electric generating facility by more than twenty-five thousand kilowatts without having first obtained a certificate issued with respect to such facility by the board. Any such facility with respect to which a certificate is issued shall not thereafter be built, maintained or operated except in conformity with such certificate and any terms, limitations or conditions contained therein, provided that nothing herein shall exempt such facility from compliance with federal, state and local laws and regulations except as otherwise provided in this article. A certificate for a major electric generating facility, or an increase in the capacity of an existing electric generating facility by more than twenty-five thousand kilowatts, may be issued only pursuant to this article.

2. A certificate may be transferred, subject to the approval of the board, to a person who agrees to comply with the terms, limitations and conditions contained therein.

3. A certificate issued under this article may be amended pursuant to this section.

4. This article shall not apply: (a) To a major electric generating facility over which any agency or department of the federal government

has exclusive siting jurisdiction, or has jurisdiction concurrent with that of the state and has exercised such jurisdiction to the exclusion of regulation of the facility by the state;

(b) To normal repairs, replacements, modifications and improvements of a major electric generating facility, whenever built, which do not constitute a violation of any certificate issued under this article and which do not result in an increase in capacity of the facility of more than twenty-five thousand kilowatts;

* (c) To a major electric generating facility (i) constructed on lands dedicated to industrial uses, (ii) the output of which shall be used solely for industrial purposes, on the premises, and (iii) the generating capacity of which does not exceed two hundred thousand kilowatts;

* NB Effective until December 31, 2030

* (c) To a major electric generating facility (i) constructed on lands dedicated to industrial uses, (ii) the output of which shall be used solely for industrial purposes, on the premises, and (iii) the generating capacity of which does not exceed two hundred thousand kilowatts; or

* NB Effective December 31, 2030

* (d) To a major electric generating facility if, on or before the effective date of the rules and regulations promulgated pursuant to this article and section 19-0312 of the environmental conservation law, an application has been made for a license, permit, certificate, consent or approval from any federal, state or local commission, agency, board or regulatory body, in which application the location of the major electric generating facility has been designated by the applicant; or if the facility is under construction at such time; or

* NB Effective until December 31, 2030

* (d) To a major electric generating facility if, on or before the effective date of the rules and regulations promulgated pursuant to this article and section 19-0312 of the environmental conservation law, an application has been made for a license, permit, certificate, consent or approval from any federal, state or local commission, agency, board or regulatory body, in which application the location of the major electric generating facility has been designated by the applicant; or if the facility is under construction at such time.

* NB Effective December 31, 2030

* (e) To a major renewable energy facility as such term is defined in article VIII of this chapter; provided, however, that any person intending to construct a major renewable energy facility, that has a draft pre-application public involvement program plan pursuant to section one hundred sixty-three of this article and the regulations implementing this article, which is pending with the siting board as of the effective date of this paragraph may remain subject to the provisions of this article or, may, by written notice to the secretary of the commission, elect to become subject to the provisions of article VIII of this chapter.

* NB Effective until December 31, 2040

* (e) To a major renewable energy facility as such term is defined in section ninety-four-c of the executive law; provided, however, that any person intending to construct a major renewable energy facility, that has a draft pre-application public involvement program plan pursuant to section one hundred sixty-three of this article and the regulations implementing this article, which is pending with the siting board as of the effective date of this paragraph may remain subject to the provisions of this article or, may, by written notice to the secretary of the commission, elect to become subject to the provisions of section ninety-four-c of the executive law.

* NB Repealed December 31, 2030

5. Any person intending to construct a major electric generating facility excluded from this article pursuant to paragraph (b), (c), or (d) of subdivision four of this section may elect to become subject to the provisions of this article by delivering notice of such election to the chair of the board. This article shall thereafter apply to each electric generating facility identified in such notice from the date of its receipt by the chair of the board. For the purposes of this article, each such facility shall be treated in the same manner as a major electric generating facility as defined in this article.

§ 163. Pre-application procedures. 1. Any person proposing to submit an application for a certificate shall file with the board a preliminary scoping statement containing a brief discussion, on the basis of available information, of the following items:

(a) description of the proposed facility and its environmental setting;

(b) potential environmental and health impacts resulting from the construction and operation of the proposed facility;

(c) proposed studies or program of studies designed to evaluate potential environmental and health impacts, including, for proposed wind-powered facilities, proposed studies during pre-construction activities and a proposed period of post-construction operations monitoring for potential impacts to avian and bat species;

(d) measures proposed to minimize environmental impacts; and

(e) where the proposed facility intends to use petroleum or other back-up fuel for generating electricity, a discussion and/or study of the sufficiency of the proposed on-site fuel storage capacity and supply; and

(f) reasonable alternatives to the facility that may be required by paragraph (i) of subdivision one of section one hundred sixty-four of this article;

(g) identification of all other state and federal permits, certifications, or other authorizations needed for construction, operation or maintenance of the proposed facility; and

(h) any other information that may be relevant or that the board may require.

2. Such person shall serve copies of the preliminary scoping statement on persons enumerated in paragraph (a) of subdivision two of section one hundred sixty-four of this article and provide notice of such statement as provided in paragraph (b) of such subdivision in plain language, in English and in any other language spoken as determined by the board by a significant portion of the population in the community, that describes the proposed facility and its location, the range of potential environmental and health impacts of each pollutant, the application and review process, and a contact person, with phone number and address, from whom information will be available as the application proceeds.

3. To facilitate the pre-application and application processes and

enable citizens to participate in decisions that affect their health and safety and the environment, the department and such person shall provide opportunities for citizen involvement. Such opportunities shall encourage consultation with the public early in the pre-application and application processes, especially before any parties enter a stipulation pursuant to subdivision five of this section. The primary goals of the citizen participation process shall be to facilitate communication between the applicant and interested or affected persons. The process shall foster the active involvement of the interested or affected persons.

4. (a) Each pre-application preliminary scoping statement shall be accompanied by a fee in an amount equal to three hundred fifty dollars for each thousand kilowatts of generating capacity of the subject facility, but no more than two hundred thousand dollars, to be deposited in the intervenor account established pursuant to section ninety-seven-kkkk of the state finance law, to be disbursed at the hearing examiner's direction to defray pre-application expenses incurred by municipal and local parties (except for a municipality submitting the pre-application scoping statement) for expert witness, consultant, administrative and legal fees. If at any time subsequent to the filing of the pre-application the pre-application is substantially modified or revised, the board may require an additional pre-application intervenor fee in an amount not to exceed twenty-five thousand dollars. No fees made available under this paragraph shall be used for judicial review or litigation. Any moneys remaining in the intervenor account upon the submission of an application for a certificate shall be made available to intervenors according to paragraph (a) of subdivision six of section one hundred sixty-four of this article.

(b) Pre-application disbursements from the intervenor account shall be made in accordance with rules and regulations established pursuant to paragraph (b) of subdivision six of section one hundred sixty-four of this article which rules shall provide for an expedited pre-application disbursement schedule to assure early and meaningful public involvement, with at least one-half of pre-application intervenor funds becoming available through an application process to commence within sixty days of the filing of a pre-application preliminary scoping statement.

5. After meeting the requirements of subdivisions one through three of this section, and after pre-application intervenor funds have been allocated by the pre-hearing examiner pursuant to paragraph (b) of subdivision four of this section, such person may consult and seek agreement with any interested person, including, but not limited to, the staff of the department, the department of environmental conservation and the department of health, as appropriate, as to any aspect of the preliminary scoping statement and any study or program of studies made or to be made to support such application. The staff of the department, the department of environmental conservation, the department of health, the person proposing to file an application, and any other interested person may enter into a stipulation setting forth an agreement on any aspect of the preliminary scoping statement and the studies or program of studies to be conducted. Any such person proposing to submit an application for a certificate shall serve a copy of the proposed stipulation upon all persons enumerated in paragraph (a) of subdivision two of section one hundred sixty-four of this article, provide notice of such stipulation to those persons identified in paragraph (b) of such subdivision, and afford the public a reasonable opportunity to submit comments on the stipulation before it is executed by the interested parties. Nothing in this section, however, shall bar any party to a hearing on an application, other than any party to a pre-application stipulation, from timely raising objections to any aspect of the preliminary scoping statement and the methodology and scope of any stipulated studies or program of studies in any such agreement. In order to attempt to resolve any questions that may arise as a result of such consultation, the department shall designate a hearing examiner who shall oversee the pre-application process and mediate any issue relating to any aspect of the preliminary scoping statement and the methodology and scope of any such studies or programs of study. Upon completion of the notice provisions provided in this section, such hearing examiner shall, within sixty days of the filing of a preliminary scoping statement, convene a meeting of interested parties in order to initiate the stipulation process.

§ 164. Application for a certificate. 1. An applicant for a certificate shall file with the board an application, in such form as the board may prescribe containing the following information and materials:

(a) A description of the site and a description of the facility to be built thereon; including available site information, maps and descriptions, present and proposed development, source and volume of water required for plant operation and cooling, anticipated emissions to air, including but not limited to federal criteria pollutants and mercury, anticipated discharges to water and groundwater, pollution control equipment, and, as appropriate, geological, visual or other aesthetic, ecological, tsunami, seismic, biological, water supply, population and load center data;

(b) An evaluation of the expected environmental and health impacts and safety implications of the facility, both during its construction and its operation, including any studies, identifying the author and date thereof, used in the evaluation, which identifies (i) the anticipated gaseous, liquid and solid wastes to be produced at the facility including their source, anticipated volumes, composition and temperature, and such other attributes as the board may specify and the probable level of noise during construction and operation of the facility; (ii) the treatment processes to reduce wastes to be released to the environment, the manner of disposal for wastes retained and measures for noise abatement; (iii) the anticipated volumes of wastes to be released to the environment under any operating condition of the facility, including such meteorological, hydrological and other information needed to support such estimates; (iv) conceptual architectural and engineering plans indicating compatibility of the facility with the environment; (v) how the construction and operation of the facility, including transportation and disposal of wastes would comply with environmental health and safety standards, requirements, regulations and rules under state and municipal laws, and a statement why any variances or exceptions should be granted; (vi) water withdrawals from and discharges to the watershed; (vii) a description of the fuel interconnection and supply for the project; and (viii) an electric interconnection study, consisting generally of a design study and a system reliability impact study;

(c) Such evidence as will enable the board and the commissioner of environmental conservation to evaluate the facility's pollution control systems and to reach a determination to issue therefor, subject to appropriate conditions and limitations, permits pursuant to federal recognition of state authority in accordance with the federal Clean Water Act, the federal Clean Air Act and the federal Resource Conservation and Recovery Act, and permits pursuant to section 15-1503 and article nineteen of the environmental conservation law;

(d) Where the proposed facility intends to use petroleum or other back-up fuel for generating electricity, evidence and an evaluation on the adequacy of the facility's on-site back-up fuel storage and supply;

(e) A plan for security of the proposed facility during construction and operation of such facility and the measures to be taken to ensure the safety and security of the local community, including contingency, emergency response and evacuation control, to be reviewed by the board in consultation with the New York state division of homeland security and emergency services and in cities with a population over one million, such plan shall also be reviewed by the local office of emergency management;

(f) In accordance with rules and regulations that shall be promulgated by the department of environmental conservation for the analysis of environmental justice issues, including the requirements of paragraphs (g) and (h) of subdivision one of this section, an evaluation of significant and adverse disproportionate environmental impacts of the proposed facility, if any, resulting from its construction and operation, including any studies identifying the author and dates thereof, which were used in the evaluation;

(g) A cumulative impact analysis of air quality within a half-mile of the facility, or other radius as determined by standards established by department of environmental conservation regulations, that considers available data associated with projected emissions of air pollutants, including but not limited to federal criteria pollutants and mercury, from sources, including, but not limited to, the facility, facilities that have been proposed under this article and have submitted an application determined to be in compliance by the board, existing sources, and sources permitted but not yet constructed that were permitted sixty or more days prior to the filing of the application under title V of the clean air act, provided that such analysis and standards shall be in accordance with rules and regulations that shall be promulgated by the department of environmental conservation pursuant to this paragraph;

(h) A comprehensive demographic, economic and physical description of the community within which the facility is located, within a half-mile radius of the location of the proposed facility, compared and contrasted with the county in which the facility is proposed and with adjacent communities within such county, including reasonably available data on population, racial and ethnic characteristics, income levels, open space, and public health data, including available department of public health data on incidents of asthma and cancer provided that such description and comparison shall be in accordance with rules and regulations promulgated pursuant to paragraph (f) of this subdivision;

(i) A description and evaluation of reasonable and available alternate locations to the proposed facility, if any; a description of the comparative advantages and disadvantages as appropriate; and a statement of the reasons why the primary proposed location and source, as appropriate, is best suited, among the alternatives considered, to promote public health and welfare, including the recreational and other concurrent uses which the site may serve, provided that the information required pursuant to this paragraph shall be no more extensive than required under article eight of the environmental conservation law;

(j) For proposed wind-powered facilities, the expected environmental impacts of the facility on avian and bat species based on pre-construction studies conducted pursuant to paragraph (c) of subdivision one of section one hundred sixty-three of this article; and a proposed plan to avoid or, where unavoidable, minimize and mitigate any such impacts during construction and operation of the facility based on existing information and results of post-construction monitoring proposed in the plan;

(k) An analysis of the potential impact that the proposed facility will have on the wholesale generation markets, both generally and for the location-based market in which the facility is proposed, as well as the potential impact of the proposed facility on fuel costs;

(l) A statement demonstrating that the facility is reasonably consistent with the most recent state energy plan, including, but not limited to, impacts on fuel diversity, regional requirements for capacity, electric transmission and fuel delivery constraints and other issues as appropriate, including the comparative advantages and disadvantages of reasonable and available alternate locations or properties identified for power plant construction, and a statement of the reasons why the proposed location and source is best suited, among the alternatives identified, to promote public health and welfare;

(m) Such other information as the applicant may consider relevant or as may be required by the board. Copies of the application, including the required information, shall be filed with the board and shall be available for public inspection; and

2. Each application shall be accompanied by proof of service, in such manner as the board shall prescribe, of:

(a) A copy of such application on (i) each municipality in which any portion of such facility is to be located as proposed or in any alternative location listed. Such copy to a municipality shall be addressed to the chief executive officer thereof and shall specify the date on or about which the application is to be filed;

(ii) each member of the board;

(iii) the department of agriculture and markets;

(iv) the secretary of state;

(v) the attorney general;

(vi) the department of transportation;

(vii) the office of parks, recreation and historic preservation;

(viii) a library serving the district of each member of the state legislature in whose district any portion of the facility is to be located as proposed or in any alternative location listed;

(ix) in the event that such facility or any portion thereof as proposed or in any alternative location listed is located within the Adirondack park, as defined in subdivision one of section 9-0101 of the environmental conservation law, the Adirondack park agency; and

(x) the public information coordinator for placement on the website of the department; and

(b) A notice of such application on (i) persons residing in municipalities entitled to receive a copy of the application under subparagraph (i) of paragraph (a) of this subdivision. Such notice shall be given by the publication of a summary of the application and the date on or about which it will be filed, to be published under regulations to be promulgated by the board, in such form and in such newspaper or newspapers, including local community and general circulation newspapers, as will serve substantially to inform the public of such application, in plain language, in English and in any other language spoken as determined by the board by a significant portion of the population in the community, that describes the proposed facility and its location, the range of potential environmental and health impacts of each pollutant, the application and review process, and a contact person, with phone number and address, from whom information will be available as the application proceeds;

(ii) each member of the state legislature in whose district any portion of the facility is to be located as proposed or in any alternative location listed; and

(iii) persons who have filed a statement with the secretary within the past twelve months that they wish to receive all such notices concerning facilities in the area in which the facility is to be located as proposed or in any alternative location listed.

3. Inadvertent failure of service on any of the municipalities, persons, agencies, bodies or commissions named in subdivision two of this section shall not be jurisdictional and may be cured pursuant to regulations of the board designed to afford such persons adequate notice to enable them to participate effectively in the proceeding. In addition, the board may, after filing, require the applicant to serve notice of the application or copies thereof or both upon such other persons and file proof thereof as the board may deem appropriate.

4. The board shall prescribe the form and content of an application for an amendment of a certificate to be issued pursuant to this article. Notice of such an application shall be given as set forth in subdivision two of this section.

5. If a reasonable and available alternate location not listed in the application is proposed in the certification proceeding, notice of such proposed alternative shall be given as set forth in subdivision two of

this section.

6. (a) Each application shall be accompanied by a fee in an amount (i) equal to one thousand dollars for each thousand kilowatts of capacity, but no more than four hundred thousand dollars, (ii) and for facilities that will require storage or disposal of fuel waste byproduct an additional fee of five hundred dollars for each thousand kilowatt of capacity, but no more than fifty thousand dollars shall be deposited in the intervenor account, established pursuant to section ninety-seven-kkkk of the state finance law, to be disbursed at the board's direction, to defray expenses incurred by municipal and other local parties to the proceeding (except a municipality which is the applicant) for expert witness, consultant, administrative and legal fees, provided, however, such expenses shall not be available for judicial review or litigation. If at any time subsequent to the filing of the application, the application is amended in a manner that warrants substantial additional scrutiny, the board may require an additional intervenor fee in an amount not to exceed seventy-five thousand dollars. The board shall provide for notices, for municipal and other local parties, in all appropriate languages. Any moneys remaining in the intervenor account after the board's jurisdiction over an application has ceased shall be returned to the applicant.

(b) Notwithstanding any other provision of law to the contrary, the board shall provide by rules and regulations for the management of the intervenor account and for disbursements from the account, which rules and regulations shall be consistent with the purpose of this section to make available to municipal parties at least one-half of the amount of the intervenor account and for uses specified in paragraph (a) of this subdivision. In addition, the board shall provide other local parties up to one-half of the amount of the intervenor account, provided, however, that the board shall assure that the purposes for which moneys in the intervenor account will be expended will contribute to an informed decision as to the appropriateness of the site and facility and are made available on an equitable basis in a manner which facilitates broad public participation.

§ 165. Hearing schedule. 1. After the receipt of an application filed pursuant to section one hundred sixty-four of this article, the chair of the board shall, within sixty days of such receipt, determine whether the application complies with such section and upon finding that the application so complies, fix a date for the commencement of a public hearing. The department of environmental conservation shall advise the board within said sixty day period whether an application filed pursuant to paragraph (b) of subdivision four of this section contains sufficient information meeting the requirements specified under subparagraphs (i) through (iv) of such paragraph to qualify for the expedited procedure provided for in such paragraph. No later than the date of the determination that an application complies with section one hundred sixty-four of this article, the department of environmental conservation shall initiate its review pursuant to federally delegated or approved environmental permitting authority. The chair of the board may require the filing of any additional information needed to supplement an application before or during the hearings.

2. Within a reasonable time after the date has been fixed by the chair for commencement of a public hearing, the presiding examiner shall hold a prehearing conference to expedite the orderly conduct and disposition of the hearing, to specify the issues, to obtain stipulations as to matters not disputed, and to deal with such other matters as the presiding examiner may deem proper. Thereafter, the presiding examiner shall issue an order identifying the issues to be addressed by the parties provided, however, that no such order shall preclude consideration of additional issues or requests for additional submissions, documentation or testimony at a hearing which warrant consideration in order to develop an adequate record as determined by an order of the board. The presiding examiner shall be permitted a reasonable time to respond to any and all interlocutory motions and appeals, but in no case shall such time extend beyond forty-five days.

3. All parties shall be prepared to proceed in an expeditious manner at the hearing so that it may proceed regularly until completion, except that hearings shall be of sufficient duration to provide adequate opportunity to hear direct evidence and rebuttal evidence from residents

of the area affected by the proposed major electric generating facility. To the extent practicable, the place of the hearing shall be designated by the presiding examiner at a location within two miles of the proposed location of the facility.

4. (a) Except as provided in paragraph (b) of this subdivision, proceedings on an application shall be completed in all respects in a manner consistent with federally delegated or approved environmental permitting authority, including a final decision by the board, within twelve months from the date of a determination by the chair that an application complies with section one hundred sixty-four of this article; provided, however, the board may extend the deadline in extraordinary circumstances by no more than six months in order to give consideration to specific issues necessary to develop an adequate record. The board must render a final decision on the application by the aforementioned deadlines unless such deadlines are waived by the applicant. If, at any time subsequent to the commencement of the hearing, there is a material and substantial amendment to the application, the deadlines may be extended by no more than six months, unless such deadline is waived by the applicant, to consider such amendment.

(b) Proceedings on an application by an owner of an existing major electric generating facility to modify such existing facility or site a new major electric generating facility adjacent or contiguous to such existing facility, shall be completed in all respects in a manner consistent with federally delegated or approved environmental permitting authority, including a final decision by the board, within six months from the date of a determination by the chair that such application complies with section one hundred sixty-four of this article, whenever such application demonstrates that the operation of the modified facility, or of the existing facility and new facility in combination, would result in:

(i) a decrease in the rate of emission of each of the relevant siting air contaminants. For facilities that are partially replaced or modified, the percentage decrease shall be calculated by comparing the potential to emit of each such contaminant of the existing unit that is to be modified or replaced as of the date of application under this article to the future potential to emit each such contaminant of the modified or replacement unit as proposed in the application. For facilities that are sited physically adjacent or contiguous to an existing facility, the percentage decrease shall be calculated by comparing the potential to emit of each such contaminant of the existing facility as of the date of application under this article, to the future potential to emit each such contaminant of the existing and new facility combined as proposed in the application;

(ii) a reduction of the total annual emissions of each of the relevant siting air contaminants emitted by the existing facility. The percentage reduction shall be calculated by comparing (on a pounds-per-year basis) the past actual emissions of each of the relevant siting air contaminants emitted by the existing facility averaged over the three years preceding the date of application under this article, to the annualized potential to emit each such contaminant of the modified facility or of the combined existing and new facility as proposed in the application;

(iii) introduction of a new cooling water intake structure where such structure withdraws water at a rate equal to or less than closed-cycle cooling; and

(iv) a lower heat rate than the heat rate of the existing facility.

The applicant shall supply the details of the analysis in the application and such supporting information, as may be requested by the board or, in the exercise of federally delegated or approved environmental permitting authority, the department of environmental conservation, necessary to show compliance with the requirements of subparagraphs (i) through (iv) of this paragraph. The board may extend the deadline in extraordinary circumstances by no more than three months in order to give consideration to specific issues necessary to develop an adequate record. The board shall render a final decision on the application by the aforementioned deadlines unless such deadlines are waived by the applicant. If, at any time subsequent to the commencement of the hearing, there is a material and substantial amendment to the application, the deadlines may be extended by no more than three months, unless such deadline is waived by the applicant, to consider such amendment.

5. If an application for an amendment of a certificate proposing a change in the facility is likely to result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility, a hearing shall be held in the same manner as a hearing on an application for a certificate. The board shall promulgate rules, regulations and standards under which it shall determine whether hearings are required under this subdivision and shall make such determinations.

§ 166. Parties to a certification proceeding. 1. The parties to the certification proceedings shall include:

(a) The applicant;

(b) The department of environmental conservation;

(c) The department of economic development;

(d) The department of health;

(e) The department of agriculture and markets;

(f) The New York state energy research and development authority;

(g) The department of state;

(h) The office of parks, recreation and historic preservation;

(i) Where the facility or any portion thereof or of any alternate is to be located within the Adirondack park, as defined in subdivision one of section 9-0101 of the environmental conservation law, the Adirondack park agency;

(j) A municipality entitled to receive a copy of the application under paragraph (a) of subdivision two of section one hundred sixty-four of this article, if it has filed with the board a notice of intent to be a party, within forty-five days after the date given in the published notice as the date for the filing of the application; any municipality entitled to be a party herein and seeking to enforce any local ordinance, law, resolution or other action or regulation otherwise applicable shall present evidence in support thereof or shall be barred from the enforcement thereof;

(k) Any individual resident in a municipality entitled to receive a copy of the application under paragraph (a) of subdivision two of section one hundred sixty-four of this article if he or she has filed with the board a notice of intent to be a party, within forty-five days after the date given in the published notice as the date for filing of the application;

(l) Any non-profit corporation or association, formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or other biological values, to preserve historical sites, to promote consumer interests, to represent commercial and industrial groups or to promote the orderly development of any area in which the facility is to be located, if it has filed with the board a notice of intent to become a party, within forty-five days after the date given in the published notice as the date for filing of the application;

(m) Any other municipality or resident of such municipality located within a five mile radius of such proposed facility, if it or the resident has filed with the board a notice of intent to become a party, within forty-five days after the date given in the published notice as the date for filing of the application;

(n) Any other municipality or resident of such municipality which the board in its discretion finds to have an interest in the proceeding because of the potential environmental effects on such municipality or person, if the municipality or person has filed with the board a notice of intent to become a party, within forty-five days after the date given in the published notice as the date for filing of the application, together with an explanation of the potential environmental effects on such municipality or person; and

(o) Such other persons or entities as the board may at any time deem appropriate, who may participate in all subsequent stages of the proceeding.

2. The department shall designate members of its staff who shall participate as a party in proceedings under this article.

3. Any person may make a limited appearance in the proceeding by filing a statement of his or her intent to limit his or her appearance in writing at any time prior to the commencement of the hearing. All papers and matters filed by a person making a limited appearance shall become part of the record. No person making a limited appearance shall

be a party or shall have the right to present testimony or cross-examine witnesses or parties.

4. The presiding officer may for good cause shown, permit a municipality or other person entitled to become a party under subdivision one of this section, but which has failed to file the requisite notice of intent within the time required, to become a party, and to participate in all subsequent stages of the proceeding.

§ 167. Conduct of hearing. 1. (a) The hearing shall be conducted in an expeditious manner by a presiding examiner appointed by the department. An associate hearing examiner shall be appointed by the department of environmental conservation prior to the date set for commencement of the public hearing. The associate examiner shall attend all hearings as scheduled by the presiding examiner and shall assist the presiding examiner in inquiring into and calling for testimony concerning relevant and material matters. The conclusions and recommendations of the associate examiner shall be incorporated in the recommended decision of the presiding examiner, unless the associate examiner prefers to submit a separate report of dissenting or concurring conclusions and recommendations. In the event that the commissioner of environmental conservation issues permits pursuant to federally delegated or approved authority under the federal Clean Water Act, the federal Clean Air Act and the federal Resource Conservation and Recovery Act, or section 15-1503 and article nineteen of the environmental conservation law, the record in the proceeding and the associate examiner's conclusions and recommendations shall, insofar as is consistent with federally delegated or approved environmental permitting authority, provide the basis for the decision of the commissioner of environmental conservation whether or not to issue such permits.

(b) The testimony presented at a hearing may be presented in writing. Oral testimony may be presented at any public statement hearing conducted by the board for the taking of unsworn statements. The board may require any state agency to provide expert testimony on specific subjects where its personnel have the requisite expertise and such testimony is considered necessary to the development of an adequate record. All testimony and information presented by the applicant, any state agency or other party shall be subject to discovery and cross-examination. A record shall be made of the hearing and of all testimony taken and the cross-examinations thereon. The rules of evidence applicable to proceedings before a court shall not apply. The presiding examiner may provide for the consolidation of the representation of parties, other than governmental bodies or agencies, having similar interests. In the case of such a consolidation, the right to counsel of its own choosing shall be preserved to each party to the proceeding provided that the consolidated group may be required to be heard through such reasonable number of counsel as the presiding examiner shall determine. Appropriate regulations shall be issued by the board to provide for prehearing discovery procedures by parties to a proceeding, consolidation of the representation of parties, the exclusion of irrelevant, repetitive, redundant or immaterial evidence, and the review of rulings by presiding examiners.

2. A copy of the record including, but not limited to, testimony, briefs and hearing testimony shall be made available by the board within thirty days of the close of the evidentiary record for examination by the public, and shall be made available on the department's website.

3. The chair of the board may enter into an agreement with an agency or department of the United States having concurrent jurisdiction over all or part of the location, construction, or operation of a major electric generating facility subject to this article with respect to providing for joint procedures and a joint hearing of common issues on a combined record, provided that such agreement shall not diminish the rights accorded to any party under this article.

4. The presiding examiner shall allow testimony to be received on reasonable and available alternate locations for the proposed facility, alternate energy supply sources and demand-reducing measures, provided notice of the intent to submit such testimony shall be given within such period as the board shall prescribe by regulation, which period shall be not less than thirty nor more than sixty days after the commencement of the hearing. Nevertheless, in its discretion, the board may thereafter

cause to be considered other reasonable and available locations for the proposed facility, alternate energy supply sources and, where appropriate, demand-reducing measures.

5. Notwithstanding the provisions of subdivision four of this section, the board may make a prompt determination on the sufficiency of the applicant's consideration and evaluation of reasonable alternatives to its proposed type of major electric generating facility and its proposed location for that facility, as required pursuant to paragraph (i) of subdivision one of section one hundred sixty-four of this article, before resolution of other issues pertinent to a final determination on the application; provided, however, that all interested parties have reasonable opportunity to question and present evidence in support of or against the merits of the applicant's consideration and evaluation of such alternatives, as required pursuant to paragraph (i) of subdivision one of section one hundred sixty-four of this article, so that the board is able to decide, in the first instance, whether the applicant's proposal is preferable to alternatives.

§ 168. Board decisions. 1. The board shall make the final decision on an application under this article for a certificate or amendment thereof, upon the record made before the presiding examiner, including any briefs or exceptions to any recommended decision of such examiner or to any report of the associate examiner, and after hearing such oral argument as the board shall determine. Except for good cause shown to the satisfaction of the board, a determination under subdivision five of section one hundred sixty-seven of this article that the applicant's proposal is preferable to alternatives shall be final. Such a determination shall be subject to rehearing and review only after the final decision on an application is rendered.

2. The board shall not grant a certificate or amendment thereof for the construction or operation of a facility, either as proposed or as modified by the board, without making explicit findings regarding the nature of the probable environmental impacts of the construction and operation of the facility, including the cumulative environmental

impacts of the construction and operation of related facilities such as electric lines, gas lines, water supply lines, waste water or other sewage treatment facilities, communications and relay facilities, access roads, rail facilities, or steam lines, including impacts on:

(a) ecology, air, ground and surface water, wildlife, and habitat;

(b) public health and safety;

(c) cultural, historic, and recreational resources, including aesthetics and scenic values; and

(d) transportation, communication, utilities and other infrastructure. Such findings shall include the cumulative impact of emissions on the local community including whether the construction and operation of the facility results in a significant and adverse disproportionate environmental impact, in accordance with regulations promulgated pursuant to paragraph (f) of subdivision one of section one hundred sixty-four of this article by the department of environmental conservation regarding environmental justice issues.

3. The board may not grant a certificate for the construction or operation of a major electric generating facility, either as proposed or as modified by the board, unless the board determines that:

(a) the facility is a beneficial addition to or substitution for the electric generation capacity of the state; and

(b) the construction and operation of the facility will serve the public interest; and

(c) the adverse environmental effects of the construction and operation of the facility will be minimized or avoided to the maximum extent practicable; and

(d) if the board finds that the facility results in or contributes to a significant and adverse disproportionate environmental impact in the community in which the facility would be located, the applicant will avoid, offset or minimize the impacts caused by the facility upon the local community for the duration that the certificate is issued to the maximum extent practicable using verifiable measures; and

(e) the facility is designed to operate in compliance with applicable state and local laws and regulations issued thereunder concerning, among other matters, the environment, public health and safety, all of which shall be binding upon the applicant, except that the board may elect not to apply, in whole or in part, any local ordinance, law, resolution or other action or any regulation issued thereunder or any local standard or requirement, including, but not limited to, those relating to the interconnection to and use of water, electric, sewer, telecommunication, fuel and steam lines in public rights of way, which would be otherwise applicable if it finds that, as applied to the proposed facility, such is unreasonably burdensome in view of the existing technology or the needs of or costs to ratepayers whether located inside or outside of such municipality. The board shall provide the municipality an opportunity to present evidence in support of such ordinance, law, resolution, regulation or other local action issued thereunder.

4. In making the determinations required in subdivision three of this section, the board shall consider:

(a) the state of available technology;

(b) the nature and economics of reasonable alternatives;

(c) environmental impacts found pursuant to subdivision two of this section;

(d) the impact of construction and operation of related facilities, such as electric lines, gas lines, water supply lines, waste water or other sewage treatment facilities, communications and relay facilities, access roads, rail facilities, or steam lines;

(e) the consistency of the construction and operation of the facility with the energy policies and long-range energy planning objectives and strategies contained in the most recent state energy plan;

(f) the impact on community character and whether the facility would affect communities that are disproportionately impacted by cumulative levels of pollutants; and

(g) such additional social, economic, visual or other aesthetic, environmental and other considerations deemed pertinent by the board.

5. The department or the commission shall monitor, enforce and administer compliance with any terms and conditions set forth in the board's order.

6. A copy of the board's decision and opinion shall be served on each party electronically or by mail.

7. Following any rehearing and any judicial review of the board's decision, the board's jurisdiction over an application shall cease, provided, however, that the permanent board shall retain jurisdiction with respect to the amendment, suspension or revocation of a certificate.

§ 169. Opinion to be issued with decision. In rendering a decision on an application for a certificate, the board shall issue an opinion stating its reasons for the action taken. If the board has found that any local ordinance, law, resolution, regulation or other action issued thereunder or any other local standard or requirement which would be otherwise applicable is unreasonably burdensome pursuant to paragraph (e) of subdivision three of section one hundred sixty-eight of this article, it shall state in its opinion the reasons therefor.

§ 170. Rehearing and judicial review. 1. Any party aggrieved by the board's decision denying or granting a certificate may apply to the board for a rehearing within thirty days after issuance of the aggrieving decision. Any such application shall be considered and decided by the board and any rehearing shall be completed and a decision rendered thereon within ninety days of the expiration of the period for filing rehearing petitions, provided however that the board may extend the deadline by no more than ninety days where a rehearing is required if necessary to develop an adequate record. The applicant may waive such deadline. Thereafter such a party may obtain judicial review of such decision as provided in this section. A judicial proceeding shall be brought in the appellate division of the supreme court of the state of New York in the judicial department embracing the county wherein the facility is to be located or, if the application is denied, the county wherein the applicant has proposed to locate the facility. Such proceeding shall be initiated by the filing of a petition in such court within thirty days after the issuance of a final decision by the board upon the application for rehearing together with proof of service of a demand on the board to file with said court a copy of a written transcript of the record of the proceeding and a copy of the board's decision and opinion. The board's copy of said transcript, decision and opinion, shall be available at all reasonable times to all parties for examination without cost. Upon receipt of such petition and demand the board shall forthwith deliver to the court a copy of the record and a copy of the board's decision and opinion. Thereupon, the court shall have jurisdiction of the proceeding and shall have the power to grant such relief as it deems just and proper, and to make and enter an order enforcing, modifying and enforcing as so modified, remanding for further specific evidence or findings or setting aside in whole or in part such decision. The appeal shall be heard on the record, without requirement of reproduction, and upon briefs to the court. No objection that has not been urged by the party in his or her application for rehearing before the board shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of fact on which such decision is based shall be conclusive if supported by substantial evidence on the record considered as a whole and matters of judicial notice set forth in the opinion. The jurisdiction of the appellate division of the supreme court shall be exclusive and its judgment and order shall be final, subject to review by the court of appeals in the same manner and form and with the same effect as provided for appeals in a special proceeding. All such proceedings shall be heard and determined by the appellate division of the supreme court and by the court of appeals as expeditiously as possible and with lawful precedence over all other matters.

2. The grounds for and scope of review of the court shall be limited to whether the decision and opinion of the board are:

(a) In conformity with the constitution, laws and regulations of the state and the United States;

(b) Supported by substantial evidence in the record and matters of judicial notice properly considered and applied in the opinion;

(c) Within the board's statutory jurisdiction or authority;

(d) Made in accordance with procedures set forth in this article or established by rule or regulation pursuant to this article;

(e) Arbitrary, capricious or an abuse of discretion; or

(f) Made pursuant to a process that afforded meaningful involvement of citizens affected by the facility regardless of age, race, color, national origin and income.

3. Except as herein provided article seventy-eight of the civil practice law and rules shall apply to appeals taken hereunder.

§ 171. Jurisdiction of courts. Except as expressly set forth in section one hundred seventy of this article and except for review by the court of appeals of a decision of the appellate division of the supreme court as provided for therein, no court of this state shall have jurisdiction to hear or determine any matter, case or controversy concerning any matter which was or could have been determined in a proceeding under this article or to stop or delay the construction or operation of a major electric generating facility except to enforce compliance with this article or the terms and conditions issued thereunder.

§ 172. Powers of municipalities and state agencies. 1. Notwithstanding any other provision of law, no state agency, municipality or any agency thereof may, except as expressly authorized under this article by the board, require any approval, consent, permit, certificate or other condition for the construction or operation of a major electric generating facility with respect to which an application for a certificate hereunder has been filed, including pursuant to paragraph (e) of subdivision three of section one hundred sixty-eight of this article, any such approval, consent, permit, certificate or condition relating to the interconnection to or use of water, electric, sewer, telecommunication, fuel and steam lines in public rights of way, provided that this article shall not impair or abrogate any federal, state or local labor laws or any otherwise applicable state law for the protection of employees engaged in the construction and operation of such facility; provided, however, that in the case of a municipality or an agency thereof, such municipality has received notice of the filing of the application therefor; and provided further, however, that the department of environmental conservation shall be the permitting agency for permits issued pursuant to federally delegated or approved authority under the federal Clean Water Act, the federal Clean Air Act and the federal Resource Conservation and Recovery Act. In issuing such permits, the commissioner of environmental conservation shall follow procedures established in this article to the extent that they are consistent with federally delegated or approved environmental permitting authority. The commissioner of environmental conservation shall provide such permits to the board prior to its determination whether or not to issue a certificate. The issuance by the department of environmental conservation of such permits shall in no way interfere with the required review by the board of the anticipated environmental and health impacts relating to the construction and operation of the facility as proposed, or its authority to deny an application for certification pursuant to section one hundred sixty-eight of this article, and, in the event of such a denial, any such permits shall be deemed null and void.

2. The Adirondack park agency shall not hold public hearings for a major electric generating facility with respect to which an application hereunder is filed, provided that such agency has received notice of the filing of such application.

§ 173. Applicability to public authorities. The power authority of the state of New York, the Green Island power authority and the Long Island power authority shall be subject to all provisions of this article for major electric generating facilities which any such authority builds or causes to be built. For generating facilities which are not major electric generating facilities, none of the above named authorities shall be permitted to serve as lead agency for purposes of environmental review pursuant to the provisions of the environmental conservation law.

*** § 174. Major steam electric generating facilities certificates.** Any certificate of environmental compatibility and public need issued to a major steam electric generating facility under the former article VIII of this chapter shall be treated for purposes of compliance and enforcement as if such certificate was issued under this article.

* NB Repealed December 31, 2040

ARTICLE 11

PROVISIONS RELATING TO CABLE TELEVISION COMPANIES

§ 211. Statement of policy. While cable television serves in part as an extension of interstate broadcasting, its operations involve public rights-of-way, municipal franchising, and vital business and community service, and, therefore, are of state concern; while said operations must be subject to state oversight, they also must be protected from undue restraint and regulation so as to assure cable systems with optimum technology and maximum penetration in this state as rapidly as economically and technically feasible; municipalities and the state would benefit from valuable educational and public services through cable television systems; the public and the business community would benefit if served by cable channels sufficient to meet the needs of producers and distributors of program and other communication content services; many municipalities lack the necessary resources and expertise to plan for and secure these benefits and to protect subscribers and other parties to the public interest in franchise negotiations; the cable television industry is in a period of rapid growth and corporate consolidation and should proceed in accord with regional and statewide service objectives; and the cable television industry, notwithstanding its unique attributes, is part of an increasingly integrated communications industry, the soundness of which is essential to the state's economic growth and general welfare.

There is, therefore, a need for a state agency to determine state communications policy; to ensure that cable television companies provide adequate, economical and efficient service to their subscribers, the municipalities within which they are franchised and other parties to the public interest; to oversee the development of a cable television industry responsive to community and public interest, consonant with federal regulations and statutes; and to oversee the development of the communications industry as a whole and to encourage the endeavors of public and private institutions, municipalities, associations and organizations in developing programming for the public interest.

The public service commission is the agency best suited to oversee development of the cable television industry in this state in accordance with a statewide service plan and consistent with state communications policy generally; to review the suitability of practices for franchising cable television companies to protect the public interest; to set standards for cable television systems and franchise practices; to assure channel availability for municipal services, educational television, program diversity, local expression and other program and communications content services; to provide consultant services to community organizations and municipalities and franchise negotiations; and, to stimulate the development of diverse instructional, educational, community interest and public affairs programming with full access thereto by cable television companies, educational broadcasters and public and private institutions operating closed circuit television systems and instructional television fixed services.

§ 212. Definitions. The words and phrases used in this article shall have the following meanings unless a different meaning clearly appears in the context.

1. "Cable television company," shall mean any person owning, controlling, operating, managing or leasing one or more cable television systems within the state.

2. "Cable television system" shall mean any system which operates for hire the service of receiving and amplifying programs broadcast by one or more television or radio stations or any other programs originated by a cable television company or by any other party, and distributing such programs by wire, cable, microwave or other means, whether such means are owned or leased, to persons in one or more municipalities who subscribe to such service. Such definition does not include: (a) any system which serves fewer than fifty subscribers; or (b) any master antenna television system.

3. "Franchise" shall mean and include any authorization granted by a municipality in terms of a franchise, privilege, permit, license or other municipal authorization to construct, operate, maintain, or manage a cable television system in any municipality.

4. "Gross annual receipts" shall mean any and all compensation

received directly or indirectly by a cable television company from its operations within the state, including but not limited to sums received from subscribers or users in payment for programs received and/or transmitted, advertising and carrier service revenue and any other moneys that constitute income in accordance with the system of accounts approved by the commission.

Gross annual receipts shall not include any taxes on services furnished by a cable television company imposed directly on any subscriber or user by any municipality, state, or other governmental unit and collected by the company for such governmental unit.

5. "Master antenna television system" shall mean any system which serves only the residents of one or more apartment dwellings under common ownership, control or management, unless such system uses facilities located in a public right of way to provide service.

6. "Municipality" shall mean any village, town, city or county not wholly contained within a city in the state.

7. "State agency" shall mean any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state.

8. "Person" shall mean any individual, trustee, partnership, association, corporation or other legal entity.

9. "Program" shall mean any broadcast type program, signal, message, graphics, data, or communication content service.

10. "Downgrade" shall mean a change in service initiated by the subscriber to a less expensive service tier than the one currently subscribed to.

11. "Network" shall mean a group of programs distributed, packaged, promoted or sold to subscribers as the offering of a single entity, including but not limited to, a channel or station.

12. "Service tier" shall mean a category of cable television services or other services provided by a cable television company and for which a rate or fee is charged by the cable television company, including, but not limited to, basic services, premium networks or services, recurring pay-per-view services and other categories of cable services for which there are additional charges.

13. "Network change" shall mean the removal of a network from a service tier whether or not added to another tier or a substantial alteration of the character of a network by a cable television company or an affiliate it controls. Notwithstanding the foregoing, the addition of a network to a service tier for promotional purposes where such purpose is clearly disclosed to the subscriber and is for a period of time not exceeding thirty-one days, the subsequent deletion of such network after the termination of the promotion, shall not be a "network change".

14. "Significant programming change" shall mean the removal or alteration of recurring programming which materially changes the quality or level of programming on a network, provided however, such term shall not include deletions of programs mandated by the regulations of the federal communications commission, nor shall it include deletions of programs that are distributed by the cable television company in lieu of such programs deleted pursuant to such regulations of the federal communications commission.

§ 213. Application of article. 1. Except as provided in subdivision two of this section, the provisions of this article shall apply to every cable television system and every cable television company including a cable television company which constructs, operates and maintains a cable television system in whole or in part through the facilities of a person franchised to offer a common or contract carrier service. Persons possessing franchises for any of the purposes contemplated by this article, shall be deemed to be subject to the provisions of this article although no property may have been acquired, business transacted or franchises exercised.

2. The provisions of this article shall not apply to any cable television company with at least fifty but fewer than one thousand subscribers, provided however, such company shall comply with the requirements imposed by the commission concerning technical performance and safety standards, billing practices and consumer complaints. Such company shall file an affidavit with the commission on or before April first of each year stating its number of subscribers as of December thirty-first of the previous year. Failure to file the affidavit shall subject the company to the provisions of this article and all applicable rules and regulations of the commission.

§ 215. Duties of the commission in respect to cable television companies. The commission shall:

1. Develop and maintain a statewide plan for development of cable television services, setting forth the objectives which the commission deems to be of regional and state concern;

2. To the extent permitted by, and not contrary to applicable federal law and rules and regulations:

(a) prescribe standards for procedures and practices which municipalities shall follow in granting franchises, which standards shall provide for (i) the issuance of a public invitation to compete for the franchise; (ii) the filing of all franchise applications and related documents as public records, with reasonable notice to the public that such records are open to inspection and examination during reasonable business hours; (iii) the holding of a public hearing, upon reasonable notice to the public and the commission, at which the applicants and their proposals shall be examined and members of the public and interested parties are afforded a reasonable opportunity to express their views thereon; (iv) the rendition of a written report by the municipality, made available to the public, setting forth the reasons for its decision in awarding the franchise; and (v) such other procedural standards as the commission may deem necessary or appropriate to assure maximum public participation and competition and to protect the public interest;

(b) prescribe minimum standards for inclusion in franchises, including maximum initial and renewal terms; minimum channel capacity; provisions regarding access to, and facilities to make use of, channels for education and public service programs; a requirement that no such franchise may be exclusive; standards necessary or appropriate to protect the interests of viewers of free broadcast television and the public generally, which prohibit or limit cable television companies from prohibiting or entering into agreements prohibiting the sale or other transfer of rights for the simultaneous or subsequent transmission over free broadcast television of any program originated or transmitted over cable television; and such other standards for inclusion in franchises as the commission shall deem necessary or appropriate to protect the public interest;

(c) prescribe standards by which the franchising authority shall determine whether an applicant possesses (i) the technical ability, (ii) the financial ability, (iii) the good character, and (iv) other qualifications necessary to operate a cable television system in the public interest;

(d) prescribe standards for the construction and operation of cable television systems, which standards shall be designed to promote (i) safe, adequate and reliable service to subscribers, (ii) the construction and operation of systems consistent with most advanced state of the art, (iii) a construction schedule providing for maximum penetration as rapidly as possible within the limitations of economic feasibility, (iv) the construction of systems with the maximum practicable channel capacity, facilities for local program origination, facilities to provide service in areas conforming to various community interests, facilities with the technical capacity for interconnection with other systems within regions as established in the commission's statewide plan and facilities capable of transmitting signals from subscribers to the cable television company or to other points; and (v) the prompt handling of inquiries, complaints and requests for repairs;

3. Provide advice and technical assistance to municipalities and community organizations in matters relating to cable television

franchises and services;

4. Establish minimum specifications for equipment, service and safety of cable television systems for use by municipalities;

5. Review and act upon applications for certificates of confirmation in accordance with such standards as hereinafter provided;

6. Represent the interests of the people of the state before the federal communications commission and other appropriate federal agencies and make available information on communications developments at the federal level;

7. Stimulate and encourage cooperative arrangements among organizations, institutions and municipalities in the development of regional, educational, instructional and public affairs programming services;

8. Cooperate with municipalities to facilitate undertaking of multiple community cable television systems;

9. Encourage the creation of public and community groups, to organize, seek chartering when appropriate, and request franchising for the establishment of public, nonprofit and not-for-profit cable television operations;

10. Maintain liaison with the communications industry and parties both public and private, having an interest therein, other states and agencies of this state to promote the rapid harmonious development of cable television services as set forth in the legislative findings and intent;

11. Undertake such studies as may be necessary to meet the responsibilities and objectives of this article;

12. Implement the provisions of this article in a manner which is cognizant of the differing financial and administrative capabilities of

companies of different sizes;

13. Encourage and cooperate with other state agencies that collect information from cable television companies serving fewer than one thousand subscribers to eliminate duplicative reporting requirements.

§ 216. Powers of the commission in respect to cable television companies. 1. The commission may promulgate, issue, amend and rescind such orders, rules and regulations as it may find necessary or appropriate to carry out the purposes of this article. Such orders, rules and regulations may classify persons and matters within the jurisdiction of the commission and prescribe different requirements for different classes of persons or matters. A copy of any order, rule or regulations promulgated hereunder shall be subject to public inspection during reasonable business hours.

2. The commission may require cable television companies to maintain and file such reports, contracts and statements, including but not limited to ownership, accounting, auditing and operating statements, engineering reports and other data as the commission may deem necessary or appropriate to administer the provisions of this article. The commission, including members of its staff, may make reasonable inspections of the records and facilities of any cable television company.

3. The commission may examine, under oath, all officers, agents, employees and stockholders of any cable television company, municipal officials and any other persons and compel the production of papers and the attendance of witnesses to obtain the information necessary to administer the provisions of this article.

4. (a) The commission may require and receive from any agency of the state or any political subdivision thereof such assistance and data as may be necessary to enable the commission to administer the provisions of this article.

(b) The commission may enter into such cooperative arrangements with the board of regents, the council on the arts, other state agencies and municipalities, each of which is hereby authorized to enter into such cooperative arrangements, as shall be necessary or appropriate to assure that there will be maximum utilization of existing expertise in communications technology, cable television operations and programming and that the purposes of this article will be effectively accomplished. Upon request of the commission, any state agency may transfer to the commission such officers and employees as the commission may deem necessary from time to time to assist the commission in carrying out its functions and duties. Officers and employees so transferred shall not lose their civil service status or rights.

5. The commission shall have and may exercise all other powers necessary or appropriate to carry out the purposes of this article.

§ 217. Costs and expenses of the commission and department and assessment thereof related to the regulation of cable television companies. 1. All costs and expenses of the department and commission related to cable television companies shall be paid pursuant to appropriation in the first instance from the state treasury, on the certification of the chairman of the department and upon the audit and warrant of the comptroller. The state treasury shall be reimbursed therefor by payments to be made thereto from moneys collected pursuant to this article.

2. Notwithstanding the provisions of subdivision one of this section, by February first of each year, the chairman of the department shall estimate the total direct and indirect costs and expenses necessary to operate and administer the powers and duties of the commission and department relating to cable television companies for the ensuing state fiscal year. The chairman shall, prior to March first, bill and collect from each cable television company an amount computed by multiplying such total estimated operating expenses of the commission by a fraction the numerator of which is the gross annual receipts of such cable television company during the last preceding calendar year or other twelve month period as determined by the chairman, and the denominator

of which is the total gross annual receipts of all cable television companies operating in the state during such period. A cable television company may elect to make partial payments equal to one quarter of the total amount billed, by March tenth of the preceding fiscal year and June tenth, September tenth, and December tenth of the fiscal year to which the billing relates, or on such other dates as the director of the budget may require. On or before September thirtieth of each year, the chairman shall compute the actual direct and indirect costs and expenses of the commission for cable television regulation for the preceding state fiscal year and shall compute the amount actually received as reimbursement for the preceding state fiscal year. If such amount collected by the department as reimbursement for the preceding fiscal year is less than the direct and indirect costs and expenses incurred by the commission and the department for cable television regulation during such preceding fiscal year, the chairman shall, on or before October fifteenth of each year, bill each cable television company for its proportionate share of the deficit. Any amount owing by any cable television company shall be payable not later than thirty days following the date of such bill. Any amount owing by any cable television company which remains unpaid by May first of the following year shall be included in the estimate of the total direct and indirect costs and expenses necessary to operate and administer the powers and duties of the commission and the department related to cable television regulation for the current state fiscal year. If the amount collected for a fiscal year is more than the direct and indirect costs and expenses related to cable television regulation incurred by the commission and department during such fiscal year, the chairman shall, on or before October fifteenth of the following fiscal year, refund or credit each cable television company for its proportionate share of the surplus. Any amount standing to the credit of any cable television company shall be applied as a credit against any succeeding payment due. In no event shall the amount billed to or collected from any cable television company pursuant to this section exceed two percent of the gross annual receipts of such company during the twelve month period designated by the commission.

§ 218. Municipal fees; taxes or charges. Nothing in this article shall be construed to limit the power of any municipality to impose upon any cable television company, a fee, tax or charge, provided that any such fee, tax or charge when added to the amount payable to the commission pursuant to section two hundred seventeen does not exceed the maximum amount permitted by applicable federal law, rules or regulations.

§ 219. Franchise requirement. 1. Notwithstanding any other law, no cable television system, whether or not it is deemed to occupy or use a public thoroughfare, may commence operations or expand the area it serves unless it has been franchised by each municipality in which it proposes to provide or extend service.

2. A municipality shall have the power to require a franchise of any cable television system providing service within the municipality, notwithstanding that said cable television system does not occupy, use or in any way traverse a public street. The provision of any municipal charter or other law authorizing a municipality to require and grant franchises is hereby enlarged and expanded, to the extent necessary, to authorize such franchises.

3. Nothing in this article shall be construed to prevent franchise requirements in excess of those prescribed by the commission, unless such requirement is inconsistent with this article, any regulation, policy or procedure of the commission, or federal law.

§ 220. Construction of systems. Every cable television system constructed after April first, nineteen hundred seventy-three shall comply with such construction standards as the commission may prescribe pursuant to subdivision two of section two hundred fifteen.

§ 221. Certificate of confirmation. 1. Except as provided in this section, no person shall exercise a franchise, and no such franchise shall be effective, until the commission has confirmed such franchise. A person wishing to exercise a franchise shall file with the commission an application for a certificate of confirmation in such form and containing such information and supportive documentation as the commission may require. The application shall be accompanied by proof of service thereof upon the franchisor and by such fee as the commission may set.

2. The commission may hold a public hearing on any application for a certificate of confirmation if it determines that such a hearing is in the public interest. The commission shall fix the time and place for such a hearing and cause notice thereof to be given to the applicant, the chief executive officer of the municipality issuing the franchise and such other persons as the commission may deem appropriate. Testimony may be taken and evidence received at such a hearing pursuant to such rules and procedures as the commission may establish.

3. The commission shall issue a certificate of confirmation of the franchise unless it finds that (a) the applicant, (b) the proposed cable television system, or (c) the proposed franchise does not conform to the standards established in the regulations promulgated by the commission pursuant to subdivision two of section two hundred fifteen, or that operation of the proposed cable television system by the applicant under the proposed cable television system by the applicant under the proposed franchise would be in violation of law, any regulation or standard promulgated by the commission or the public interest.

4. The commission may issue a certificate of confirmation contingent upon compliance with standards, terms or conditions set by the commission which it determines would not have been met by the applicant, system or franchise as proposed.

5. In the event the commission refuses to issue a certificate of confirmation, it shall set forth in writing the reasons for its decision.

6. Any cable television company which, pursuant to any existing franchise, (i) was lawfully engaged in actual operations for (ii) had

commenced substantial construction (as such term is defined by the commission) of a cable television system on January first, nineteen hundred seventy-two may continue to exercise said franchise pursuant to the terms thereof, provided such company files with the commission, on or before July first, nineteen hundred seventy-three an application in such form and containing such information and supporting documentation as the commission may require. The commission shall issue a certificate of confirmation to such a cable television company valid for five years without further proceedings, which certificate may be renewed by the commission on application for five year terms pursuant to the provisions of section two hundred twenty-two.

7. Notwithstanding any other provisions of this article, any cable television company engaged in actual and lawful nonfranchised cable television operations on April first, nineteen hundred seventy-three, that applied for a certificate of confirmation on or before September first, nineteen hundred seventy-four and received a certificate, valid for a five year period, may continue to operate within the limits of the area in which it was actually rendering service on April first, nineteen hundred seventy-three, as determined by the commission. Such a certificate of confirmation may be renewed by the commission on application for five year terms pursuant to the provisions of section two hundred twenty-two of this article. Any such company which failed to file an application pursuant to this section on or before September first, nineteen hundred seventy-four, shall thereafter be prohibited from continuing operation of a nonfranchised cable television system, provided however, that the commission may authorize such continued nonfranchised operation in extraordinary circumstances for such periods as the commission may deem appropriate.

8. Nothing in this section shall be deemed to validate a franchise not granted in accordance with law or affect any claims in litigation on January first, nineteen hundred seventy-three. No confirmation under this section shall preclude invalidation of any franchise illegally obtained.

9. Confirmation by the commission and duties performed by the

commission with respect to its regulation of cable television providers under this article shall not be deemed to constitute "supervision of the state department of public service" for the purpose of the meaning of such phrase as it is used in describing those utilities which are subject to tax on a gross income basis under section one hundred eighty-six-a of the tax law or pursuant to section twenty-b of the general city law and subdivision one of section five hundred thirty of the village law.

§ 222. Transfer, renewal or amendment of franchises and transfer of control over franchises and system properties. 1. No transfer, renewal or amendment of any franchise, or any transfer of control of a franchise or certificate of confirmation or of facilities constituting a significant part of any cable television system shall be effective without the prior approval of the commission. Such approval shall be required in addition to any municipal approval required under the franchise or by law. For the purposes of this section, a merger or consolidation of two or more cable television companies shall be deemed to be a transfer of the franchises or certificates granted to such companies.

2. A person wishing to transfer, renew or amend a franchise, or to transfer control of a franchise or of a substantial part of the facilities thereof shall file with the commission an application for approval of such change, in such form and containing such information and supporting documents as the commission may require. The application shall be accompanied by proof of service thereof upon the franchisor, if any, and by such fee as the commission may set. The commission may hold a public hearing on any such application as set forth in subdivision two of section two hundred twenty-one of this article.

3. The commission shall approve the application unless it finds that the applicant, the proposed transferee or the cable television system does not conform to the standards established in the regulations promulgated by the commission pursuant to section two hundred fifteen of this article or that approval would be in violation of law, any

regulation or standard promulgated by the commission or the public interest, provided however, that a failure to conform to the standards established in the regulations promulgated by the commission shall not preclude approval of any such application if the commission finds that such approval would serve the public interest.

4. The commission may approve the application contingent upon compliance with standards, terms or conditions set by the commission which it determines would not have been met by the proposed transfer, renewal or amendment.

5. In the event the commission refuses to approve the application, it shall set forth in writing the reasons for its decision.

6. Approval of a transfer, renewal or amendment under this section shall not preclude invalidation of a franchise illegally obtained.

§ 223. Interconnection and system coordination. Whenever the commission finds it to be in the public interest, the commission may, either upon application of an interested party or on its own initiative, and after public notice and opportunity for hearing, order the interconnection of cable television systems and facilities or the coordinated operation of such systems and facilities. The commission may append to such order such reasonable terms and conditions as will best promote the public interest.

§ 224. Requirement for adequate service. 1. Every cable television company shall provide safe, adequate and reliable service in accordance with applicable laws, regulations, and franchise requirements.

2. Whenever, upon complaint or upon its own motion, and after public notice and opportunity for hearing, the commission finds that, despite its economic feasibility, the construction or operation of a franchised or certificated cable television system has been unreasonably delayed or that the extension of service to any persons or areas within a cable

television company's territory has been unreasonably withheld, it may order such construction, operation or extension on such terms and conditions as it deems reasonable and in the public interest.

3. Whenever, upon complaint or upon its own motion and after public notice and opportunity for hearing, the commission finds that a cable television company is not meeting the service requirements and obligations imposed by this article, by the regulations promulgated hereunder or by its franchise, it may order compliance therewith on such terms and conditions as it deems reasonable and in the public interest.

4. In a city with a population of more than one million, the commission shall designate areas where significant inconsistent installations of cable television systems may be proposed, and, as appropriate, conduct public hearings in such areas. The commission shall also conduct such other proceedings as are necessary to determine whether such inconsistent installations will have an adverse impact on the character of said areas and are warranted by economic and technical circumstances. The commission may order or permit construction by a cable television company of its facilities in an inconsistent manner only upon such terms and conditions as shall ensure the availability of cable television service to the largest number of potential subscribers consistent with the character of the community and economic and technical feasibility. The commission shall enjoin construction which it determines is contrary to the intent of this subdivision.

5. Failure to comply with an order of the commission issued under subdivisions two, three or four of this section shall be grounds for denial, suspension or revocation of the right to exercise a franchise or to operate pursuant to a certificate of confirmation.

§ 224-a. Consumer protection. 1. Notification of commission. Every cable television company shall notify the commission of any network change or significant programming change no later than the later occurring of forty-five days prior to the network change or significant programming change or five business days after the cable television company first knows of such change.

2. Notification of subscribers. (a) Every cable television company shall notify each of its subscribers who are receiving the network of programming subject to change or are affected by a network change or significant programming change of such change no later than the later occurring of thirty-days prior to such change or thirty days after the cable television company first knows of such change.

(b) Such notice shall be given to each affected subscriber in any one of the following forms:

(1) (i) by the mailing of separate written notice to the subscriber's billing address of record;

(ii) by a written notation printed on the subscriber's regular billing statement; or

(iii) by a written notice accompanying the subscriber's regular billing statement.

(2) Such notice shall also promptly be given by a written on-screen visual message prominently displayed on the affected television program channel or channels, and on the program listing channel of the cable system, if one is provided, at least once each hour for no less than a thirty-day period.

(c) Upon application of a cable television company, the commission may order that no notice need be provided pursuant to this subdivision upon a written finding under standards to be promulgated by the commission that a change was not a network change or significant programming change as defined in subdivisions thirteen and fourteen of section two hundred twelve of this article.

(d) Upon application of a cable television company, the commission may order that an applicable form of notice as defined in paragraph (b) of this subdivision or notice period as provided for in paragraph (a) of this subdivision be changed for a particular notice, upon a written finding that such an order is in the best interests of the subscribers or is otherwise warranted for reasons of practicality. Upon a written finding that a cable television company's compliance with subparagraph two of paragraph (b) of this subdivision is technically unfeasible, the commission may grant to such company a general waiver of compliance. Any cable television company granted a general waiver pursuant to this paragraph shall notify the commission within three days if compliance becomes technically feasible.

(e) Upon application of a subscriber or upon its own motion, the commission may order that a particular notice be sent to subscribers as the commission shall determine to be appropriate. The commission shall make such order only upon finding that the subscribers who shall receive notice thereunder are receiving the network or programming subject to the change or will be affected by the network change or significant programming change.

(f) Notification under this subdivision shall include a description of the subscriber's rights under this section, as applicable.

3. Failure to give notice. If a cable television company fails to comply with the notice requirements of subdivision two of this section, any subscribers affected thereby may downgrade or terminate their service without charge at any time up to thirty-days after the date on which proper notice of such change is provided and such downgrade or termination shall be deemed effective for billing purposes on the date of such change.

4. Rate, programming, service and equipment information. (a) Each cable television company shall provide to each of its subscribers at the time of the initial subscription and at least semi-annually thereafter a written description, materially accurate as of the first day of the previous month, of all programming and other services offered on the cable television system and of the rates and charges relating to such programming and other services; provided however, that with respect to the provision of such description to new subscribers the cable television company shall also provide any notices required by this article not included in such written description that have been provided to current subscribers as of the date of the initial subscription. Such written description shall, in addition, contain a statement of significant rights accorded the subscriber pursuant to this article and any other law, or rules and regulations promulgated pursuant thereto, such statement to be in a form approved by, or at the option of the cable television company, prepared and revised as appropriate on a quarterly basis, by the commission. The commission may extend the time

within which a cable television company must make its semi-annual mailing where such an extension is in the interest of such company's subscribers or is otherwise warranted for reasons of practicality. Upon a finding that a cable television company bills its subscribers only on an annual basis by use of a coupon book, and makes no other regular mailing to subscribers more often than quarterly, the commission shall allow such cable television company to mail such written description to its subscribers annually.

(b) Each cable television company shall provide to each person who requests information concerning rates, programming, service charges or procedures, or who requests any change of service, a written description, materially accurate as of the first day of the previous month, of the programs and services offered and of the rates and charges relating to such programs and services. Such written description shall, in addition, contain a statement of significant rights accorded the subscriber pursuant to this article and any other law, or rules and regulations promulgated pursuant thereto, such statement to be in a form approved by, or at the option of the cable television company, prepared and revised as appropriate on a quarterly basis, by the commission. Any person who makes such a request in person to a cable television customer service representative or salesperson must immediately be supplied with a copy of such written description. Any person who makes a request by telephone must be supplied with such written description sent by first class mail within ten business days of such request.

(c) Each cable television company shall provide each customer service representative and each salesperson with copies of the most current written description and shall advise them of the requirements of this section.

5. Downgrade and termination following notice of a network change or a significant programming change. Where an affected subscriber, following receipt of the notice required under paragraph (a) of subdivision two of this section, elects in person, in writing or by telephone within forty-five days of receiving such notice to have service terminated or to downgrade, no charge may be imposed by the cable television company for such downgrade or termination.

6. Discontinuance of significantly promoted programming. (a) All cable television companies shall maintain for one year or such longer period, not to exceed three years, as the commission shall deem necessary for the enforcement of this section, and make available to the commission on request, copies of all advertisements, lists or other notifications regarding programming sent to or made available to the public.

(b) Any cable television company which promotes repeatedly, and in a significant manner, the availability of a network on its basic service tier and within a period of six months following such promotion, makes a network change by moving such network from the basic service tier to a more expensive service tier, shall:

(1) for a period of ninety days immediately following such network change, provide oral and written notification prior to any commitment to subscribe and prior to installation, that such network is not available, or is not offered at the service tier where it was previously available, or was advertised as being available; and

(2) offer to all affected subscribers who request modification of service within thirty days following notification pursuant to subdivision two of this section and who commenced their subscription to the basic service tier within the ninety day period immediately preceding the final day of such promotion or immediately preceding the date on which such network was moved to the premium tier, whichever is earlier, or who commenced their subscription prior to the date on which such network was moved but within the ninety day period immediately following the final day of such promotion and provide to all such subscribers: either (i) refunds of all installation, upgrade, and other one time charges, imposed on such subscribers within six months prior to such moving of such network, upon request by an affected subscriber for termination of service, or (ii) (A) an upgrade at no charge to the premium service tier which carries such network, and (B) the premium service tier which carries such network at no charge for the time period between the last day of the promotion and six months hence.

(c) Where any cable television company promotes repeatedly, and in a significant manner, the availability on the basic service tier of a network which is subject to the notice requirements of subdivision two of this section and, within six months of such promotion, fails, except in circumstances described in paragraph (b) of this subdivision, to make available such network as promoted, and the discontinued network was (1) a substantial inducement to a significant number of subscribers, and (2) continues to be reasonably available to the cable television company, such cable television company shall, within thirty days following notification pursuant to subdivision two of this section, offer to all affected subscribers who commenced their subscription to the basic service tier within the ninety day period immediately preceding the final day of such promotion or immediately preceding the date on which such network was discontinued, whichever is earlier, or who commenced their subscription prior to the date on which such network was discontinued but within the ninety day period immediately following the final day of such promotion, and upon the request of such subscribers provide: either (i) a termination of service and the refund of all installation, upgrade, and other one time charges, imposed on such subscribers within six months prior to the discontinuance of such network, or (ii) the continuation of service and a credit to all subscribers who request such credit equal to a portion of the subscriber's basic service tier charges for each month or portion of a month that such network is not available in the period of time between the last day of the promotion and six months hence, provided however, that any such subscriber who elects to receive such a credit of basic service tier changes and who disputes the amount of such credit may petition the commission for a higher amount of credit within thirty days of the offer of credit made by the cable television company. Upon any such petition the commission shall determine the amount of credit, if any, which shall be provided to all qualified subscribers unless such group relief is unreasonable in the circumstances. In determining the amount of the credit, if any, to be provided to such subscribers by a cable television company, the commission shall fix a fair and equitable amount.

In fixing such fair and equitable amount the commission shall consider:

(I) the nature, type, frequency and impact of any notices provided subscribers that may have provided warning that such a network might be removed or replaced or lack of such notice, (II) the value to the affected subscribers of such network, (III) the relative cost to the cable television company of such network as determined from published network rate cards, (IV) the value to subscribers, and the cost to the cable television company, of any network which has been substituted for the terminated network or provided in lieu of such network, (V) the availability or nonavailability, at no additional cost to the subscriber, of any continuing program or network offerings which may be similar in type or nature to that provided by the terminated network, and (VI) the nature, type, frequency and impact of the promotion by the cable television company of the terminated network and, (VII) any other factor which the commission shall expressly find to be fairly applicable. Notwithstanding any other provision of this subdivision, in no event shall the commission require that such a credit be made by a cable television company in an amount to exceed thirty-three and one-third percent of the basic service tier charges billed or billable to the subscriber who requests such credit for each month or portion of a month that the subject network is not available in the period of time between the last day of the promotion and six months hence. If the commission is prevented by law from considering some or all of these factors the remainder of this subdivision shall continue in effect. For purposes of this paragraph, the term "credit" shall mean an amount of money payable to a subscriber under the terms of this paragraph, which amount may be paid, at the option of the cable television company, in the form of a reduction in monthly service charges over a period of time not to exceed six months.

(d) Where an affected subscriber following receipt of any written notice required under subdivision two of this section that concerns change of a network on a premium service tier, elects in writing, by telephone or in person no later than thirty days after receiving such notice to have service terminated or to downgrade, such subscriber may demand (1) a rebate of all installation, upgrade, and other one time charges relating to such premium service tier, imposed on such subscriber within six months prior to the subject network change or programming change, and (2) a rebate of monthly service charges that already have been paid by such subscriber for, and only for, each such cable television service or subscription tier or level affected by a network change or programming change, provided however, that such rebate shall be limited to the prorated amount already paid for the period following the date of such network change or programming change.

(e) (1) For purposes of this subdivision, the term "promotes repeatedly and in a significant manner" and the term "reasonably available" shall have such meanings as the commission shall by regulation determine.

(2) In any proceeding before the commission to determine whether the provisions of this subdivision have been complied with, where the question of whether the availability or promotion of a network constituted a substantial inducement to subscribers is raised, the commission shall consider: (i) the nature, type, frequency and impact of the promotion of such network, and (ii) the nature, type, frequency and impact of any reasonably prominent notices provided to subscribers that may have provided warning that such network might be deleted or replaced.

(3) In addition to any other defenses that may be available under statutory or common law, it shall be an affirmative defense to any claim of rebate pursuant to paragraph (b) or (c) of this subdivision that the notification or advertisement that is claimed to have substantially induced the subscriber: (i) was on a national or regional network and did not mention any specific cable company, and (ii) that such cable television company did not authorize, request, suggest, foster or cooperate in making such notification or advertisement, and (iii) there was no material relationship between the cable television company, any of its officers, or any shareholders owning ten percent or more of its stock and the company making the advertising, any of its officers, or any shareholders owning ten percent or more of its stock except for relationships between or among such companies, officers, or shareholders for the purchasing of programming.

(4) In any determination made by the commission pursuant to this subdivision, the commission shall set forth the factors it considered and the significance given to such factors, including, where relevant, those factors listed in this subdivision, and the reasons for its decision. Such requirement may not be waived by any party or counsel.

7. (a) Whenever, upon complaint or upon its own motion, and after giving public notice and an opportunity for a public evidentiary hearing, which accords due process to the cable television company, the

commission finds that a cable television company has not complied with any provision of this section, the commission shall order such compliance therewith and may order such penalty as is hereinafter provided.

(b) A determination of the commission, after the procedures set forth in paragraph (a) of this subdivision have been complied with, that a cable television company has failed to comply with any provision of this section shall be considered a violation of subdivision one of section two hundred twenty-seven-a of this article, and shall subject such company to the imposition of a money forfeiture pursuant to said subdivision. Upon a determination by the commission, upon adequate record evidence, that a cable television company has willfully or intentionally violated the provisions of this section, or that such a company has repeatedly violated such provisions so as to permit a fair inference of a willful or intentional violation by such company, the commission may direct such company to forfeit to the state of New York a sum to be set by the commission not to exceed three thousand dollars for each such violation. If, in any twenty-four month period, a cable television company violates subdivision two or six of this section on two separate occasions, such conduct shall constitute prima facie evidence of repeated, willful violations.

(c) Nothing in this subdivision shall be construed to impair, alter, limit, modify, enlarge, abrogate or restrict any right granted by statutory or common law to the attorney general or any other person.

8. Other consumer protection regulations. The commission shall adopt such other rules and regulations, providing consumer protections to customers of cable television companies, as the commission deems necessary and proper. The regulations shall include, but not be limited to, provisions governing applications for service, termination, reconnection of service, customer notice, late payment charges and customer complaints.

§ 224-b. Cable bills. 1. At the time service is initiated to a residential customer and at least once a year thereafter, every telephone corporation, as defined in subdivision seventeen of section two of this chapter, and every cable television company, as defined in section two hundred twelve of this article that provides cable service to customers in New York shall provide its customers with a notice that billing statements are available in a large print format. Upon written request by a customer, every telephone corporation and cable television company shall provide the customer's billing statements in large print format no later than sixty days after the date upon which the request is received by the telephone corporation and cable television company. The provisions of this section shall apply only to printed statements. For the purposes of this section, "large print" means a font size of sixteen or larger to illuminate billing information.

2. Upon customer request, every telephone corporation and cable television company shall provide copies of previous billing statements and/or statements verifying that such person requesting the document is a customer of such telephone corporation or television company. Telephone corporations and television companies shall not impose any fee, charge or surcharge for such requests.

§ 224-c. Broadband and fiber optic services. 1. For the purposes of this section:

(a) The term "served" means any location with at least two internet service providers and at least one such provider offers high-speed internet service.

(b) The term "underserved" means any location which has fewer than two internet service providers, or has internet speeds of at least 25 megabits per second (mbps) download but less than 100 mbps download available.

(c) The term "unserved" means any location which has no fixed wireless service or wired service with speeds of less than 25 mbps download available.

(d) The term "high-speed internet service" means internet service of at least 100 mbps download and at least 10 mbps upload.

(e) The term "broadband service" shall mean a mass-market retail service that provides the capability to transmit data to and receive data from all or substantially all internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but shall not include dial-up service.

(f) The term "location" shall mean a geographic area smaller than a census tract.

(g) The term "internet service provider" shall mean any person, business or organization qualified to do business in this state that provides individuals, corporations, or other entities with the ability to connect to the internet.

2. The commission shall study the availability, reliability, and cost of high-speed internet and broadband services in New York state. The commission shall, to the extent practicable:

(a) identify areas at a census block level that are served by a sole provider and assess any state regulatory and statutory barriers related to the delivery of comprehensive statewide access to high-speed internet;

(b) review available technology to identify solutions that best support high-speed internet service in underserved or unserved areas, and make recommendations on ensuring deployment of such technology in underserved and unserved areas;

(c) identify instances during the study period where local governments have notified the commission of alleged non-compliance with franchise agreements and instances of commission or department enforcement actions that have had a direct impact on internet access;

(d) identify locations where insufficient access to high-speed internet and/or broadband service, and/or persistent digital divide, is causing negative social or economic impact on the community; and

(e) produce and publish on its website, a detailed internet access map of the state, indicating access to internet service by location. Such map shall include, but not be limited to, the following information for each location:

(i) download and upload speeds advertised and experienced;

(ii) the consistency and reliability of download and upload speeds including latency;

(iii) the types of internet service and technologies available including but not limited to dial-up, broadband, wireless, fiber, coax, or satellite;

(iv) the number of internet service providers available, the price of internet service available; and

(v) any other factors the commission may deem relevant.

3. The commission shall submit a report of its findings and recommendations from the study required in subdivision two of this section, to the governor, the temporary president of the senate and the speaker of the assembly no later than one year after the effective date of this section, and an updated report annually thereafter. Such report shall include, but not be limited to, the following, to the extent such information is available:

(a) the overall number of residences with access to high-speed internet identifying which areas are served, unserved and underserved;

(b) a regional survey of internet service prices in comparison to county-level median income;

(c) any relevant consumer subscription statistics;

(d) any other metrics or analyses the commission deems necessary in order to assess the availability, cost, and reliability of internet service in New York state; and

(e) the map maintained pursuant to paragraph (e) of subdivision two of this section.

4. The commission shall hold at least one public hearing in an upstate region and one in a downstate region within one year of the effective date of this section, to solicit input from the public and other stakeholders including but not limited to internet service providers, telecommunications concerns, labor organizations, public safety organizations, healthcare, education, agricultural and other businesses or organizations.

5. To effectuate the purposes of this section, the commission may request and shall receive from any department, division, board, bureau, commission or other agency of the state or any state public authority such assistance, information and data as will enable the commission to carry out its powers and duties under this section. Additionally, internet service providers shall provide any information and data requested by the commission that is related to the study required under

this section.

§ 225. Rates. 1. Except as otherwise provided in this section, and by federal law and regulation, the rates charged by a cable television company shall be those specified in the franchise which may establish, or provide for the establishment of reasonable classifications of service and categories of subscribers, or charge different rates for differing services or for subscribers in different categories.

2. Such rates may not be changed except by amendment of the franchise.

3. Notwithstanding subdivision one of this section, (a) no rate provision in any franchise shall bind a municipality for more than ten years and no rate provision in any renewed franchise shall bind a municipality for more than five years. In the event that an existing franchise purports to bind a municipality with respect to rates for a period to expire after January first, nineteen hundred eighty-three, such provision shall have no further force or effect after January first, nineteen hundred eighty-three; and (b) any rate or rates found by the commission, after public notice and opportunity for hearing, to be discriminatory or preferential as between subscribers similarly situated shall thereafter be void. Reduced rates or free service to government, educational or charitable institutions shall not be considered unduly discriminatory or preferential.

4. In the event the commission finds that any rate is discriminatory or preferential pursuant to paragraph (b) of subdivision three of this section or that any cable television company is in violation of an order issued by the commission pursuant to section two hundred twenty-four of this article requiring adequate service, it may issue an order requiring the municipality and the cable television company to provide for new rates which are nondiscriminatory or nonpreferential or reduced to reflect the inadequate service, as the case may be.

5. In addition to other powers, the commission may, after public notice and opportunity for hearing, prescribe rates for cable television

service whenever:

(a) existing rates have been found discriminatory or preferential and, after reasonable opportunity, the municipality and the cable television company have not provided for new rates which are nondiscriminatory or nonpreferential, as provided in subdivision four of this section;

(b) a cable television company is in violation of an order issued by the commission pursuant to section two hundred twenty-four of this article requiring adequate service and, after reasonable opportunity, the municipality and the cable television company have not provided for new rates reduced to reflect the inadequate service, in which case the commission may require appropriate rate reductions;

(c) having reduced rates pursuant to paragraph (b) of this subdivision, the commission finds that the cable television company has substantially remedied the deficiencies, in which case the commission shall return the rates to those rates stipulated in the franchise;

(d) upon complaint by any interested party and after reasonable opportunity for negotiation between the municipality and the franchise, it finds that rates are not established by or pursuant to the terms of the franchise, in which event, the commission shall fix rates at a level comparable to rates fixed in comparable franchises requiring comparable service for comparable service areas; and

(e) upon request by a municipality and cable television company that the commission prescribe applicable rates, made in such manner as the commission by regulation may prescribe and certifying that they are unable to agree upon rates to include any franchise or renewal thereof, in which event the commission shall fix rates at a level comparable to rates currently being fixed in cable television franchises for comparable service in comparable service areas; provided that if the municipality and the company thereafter agree upon rates, such rates shall become effective.

6. Any cable television company may initiate a civil proceeding within the appropriate courts of this state to collect any rates, charges, or fees duly imposed in accordance with applicable law, or to enjoin the procurement or reception of cable television services from the facilities of such cable television company without its consent, or to enjoin the sale or distribution, to anyone other than the provider of a

telecommunications service for its own use in the provision of its service, of any electronic decoder or descrambler, a principal function of which defeats a mechanism of electronic signal encryption, jamming or individually addressed switching imposed by such company to restrict the delivery of its service and to seek appropriate monetary damages for such procurement or reception of cable television services, or the sale or distribution of such equipment. Upon a showing by a cable television company in such a proceeding that such cable television service has been obtained without its consent, or that such equipment has been offered for sale or distribution to anyone other than the provider of a telecommunications service for its own use in the provision of its service, such cable television company shall be granted an injunction prohibiting the continuation of such practices and, upon a showing by such cable television company in such a proceeding that such cable television service has been obtained under circumstances evincing a knowledge that such service would be obtained without payment of the proper charges therefor, or that such equipment has been offered for sale or distribution, such company may be awarded such monetary damages and such punitive award as the court in its discretion shall deem to be just and appropriate for the purposes of this subdivision, (a) every cable television company is deemed to have consented to the attachment to an authorized outlet of its facilities by a cable television service subscriber of such company, of one television receiver which is type-accepted by the federal communications commission; and (b) the phrase "electronic decoder or descrambler, a principal function of which defeats a mechanism of electronic signal encryption, jamming, or individually addressed switching imposed by such company to restrict the delivery of its service" shall not include any television receiver type accepted by the Federal Communications Commission. No person shall sell, offer for sale, or distribute to anyone other than the provider of a telecommunications service for such service provider's own use in the provision of its service any electronic decoder or descrambler, a principal function of which defeats a mechanism of electronic signal encryption, jamming or individually addressed switching imposed by a cable television company to restrict the delivery of its service. The proceeding authorized by this subdivision shall be initiated and conducted pursuant to the provisions of the civil practice law and rules.

§ 226. Abandonment of service. 1. No cable television company, notwithstanding any provision in a franchise, may abandon any service or portion thereof without giving six months' prior written notice to the commission and to the franchisor, if any, and to the municipalities it serves.

2. When abandonment of any service is prohibited by a franchise, no cable television company may abandon such service without written consent of the franchisor, if any, and the commission. In granting such consent, the commission may impose such terms, conditions or requirements as in its judgment are necessary to protect the public interest.

§ 227. Termination of franchises. 1. A franchise shall terminate at the expiration of its term or otherwise in accordance with the provisions thereof, unless, prior thereto, the commission otherwise orders. The commission may so order only if it finds, after public notice and opportunity for a hearing, that the franchisee:

(a) has committed a material breach of its franchise or any applicable provision of this article or of the regulations promulgated hereunder and has failed, without reasonable justification, to cure said breach within sixty days after having received written notice thereof from the commission, or

(b) has been adjudicated a bankrupt or has filed a voluntary petition for bankruptcy or reorganization or for an order protecting its assets from the claims of creditors and the commission finds that termination of the franchise or certificate of confirmation under such conditions is in the best interest of the public.

2. Upon termination of a franchise or certificate of confirmation, the cable television company shall dispose of its facilities in accordance with the provisions of the franchise or certificate. However, on motion of any interested party or upon its own motion, and after public notice

and opportunity for hearing, if the commission finds that the continued presence of the facilities in any public thoroughfare would pose a nuisance to the municipality or its residents, the cable television company shall remove its facilities within such period as the commission shall order. In the absence of any applicable franchise or certificate provision or order by the commission to the contrary, the cable television company may abandon its facilities.

§ 227-a. Forfeiture. 1. Every cable television company, and all officers, agents and employees of any cable television company shall obey, observe and comply with every order, direction or requirement made by the commission, under authority of this article, so long as the same shall be and remain in force. Except as provided in subdivision two of this section, any cable television company which shall violate any provision of this article or section three hundred ninety-bb of the general business law, or which fails, omits or neglects to obey, observe or comply with any order or any direction or requirement of the commission, shall forfeit to the people of the state of New York a sum to be set by the commission not to exceed one thousand dollars for each and every offense; every violation of any such order or direction or requirement, or of this article or section three hundred ninety-bb of the general business law, shall be a separate and distinct offense, and, in case of a continuing violation, every day's continuance thereof shall be a separate and distinct offense.

2. Notwithstanding subdivision one of this section, any cable television company which (a) shall fail to make and file its annual report as and when required or within such extended time as the commission may allow, or (b) shall fail to make specific answers to any question within the period specified by the commission for the making and filing of such answers, or (c) shall fail to submit such special reports as the commission may from time to time require, within the period specified by the commission for the submission thereof, shall forfeit to the state the sum of one hundred dollars for each and every day such company shall continue to be in default with respect to such annual report, answer or special report.

3. An action to recover a forfeiture under subdivision one or two of this section may be brought at any time within one year after the cause of action accrues, in any court of competent jurisdiction in this state, in the name of the people of the state of New York, and shall be commenced and prosecuted to final judgment by the commission. In any such action all forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture. All monies recovered in any such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund.

§ 228. Landlord-tenant relationship. 1. No landlord shall (a) interfere with the installation of cable television facilities upon his property or premises, except that a landlord may require:

(1) that the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the premises, and the convenience and well being of other tenants;

(2) that the cable television company or the tenant or a combination thereof bear the entire cost of the installation, operation or removal of such facilities; and

(3) that the cable television company agree to indemnify the landlord for any damage caused by the installation, operation or removal of such facilities.

(b) demand or accept payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or premises, or from any cable television company in exchange therefor in excess of any amount which the commission shall, by regulation, determine to be reasonable; or

(c) discriminate in rental charges or otherwise, between tenants who receive cable television service and those who do not.

2. Rental agreements and leases executed prior to January first, nineteen hundred seventy-three may be enforced notwithstanding this

section.

3. No cable television company may enter into any agreement with the owners, lessees or persons controlling or managing buildings served by a cable television company, or do or permit any act, that would have the effect, directly or indirectly of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself of master or individual antenna equipment.

§ 229. Censorship prohibited. 1. The commission may not prohibit or limit any program or any class or type of program or otherwise censor the communications or signals transmitted by any cable television company or over any cable television system, and may not promulgate any regulation or condition which would interfere with the right of free speech by means of cable television.

2. No municipality may prohibit or limit any program or class or type of program or impose discriminatory or preferential franchise fees in any manner that would tend to encourage or discourage programming of any particular nature, directly or indirectly.

3. No cable television company may prohibit or limit any program or class or type of program presented over a leased channel or any channel made available for public access or educational purposes.

§ 229-a. Subscriber limitation on television reception. 1. To the extent technologically feasible, every cable television company shall offer to each of its subscribers a locking program control device which enables the subscriber to limit the reception in the subscriber's residence, of any channel which displays public access programs or for which a specific, optional premium charge is imposed.

2. Such program control devices need only be installed in cases where they are requested by the subscriber. Any subscriber requesting such a device may be charged by the cable television company, on a one time or

recurring basis, no more than fifteen percent above the actual cost to the company for the manufacture, purchase and installation of such device.

3. Every cable television company shall notify each of its subscribers, in writing of the availability of the device described in subdivision one of this section. Such notice shall be printed in prominent type face and shall include information concerning the cost to the subscribers. Such notice may be included with other materials distributed by the company. Notice shall be given to all new subscribers at the time of initial subscription, to each subscriber who requests a change in service, and to all subscribers annually thereafter.

§ 230. Liability for obscenity, defamation and invasion of privacy. Neither the cable television company whose facilities are used to transmit a program produced by a person other than such cable television company pursuant to the provisions of this article or of federal law or of applicable regulations, nor the officers, directors or employees of any such cable television company shall be liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when such company does not originate or produce such program.