

September 23, 2002

Honorable James McGuire, Esq.
Counsel to the Governor
Office of the Counsel to the Governor
State Capital Building
Albany, NY 12224-0341

Dear Mr. McGuire:

The Consumer Federation of America (CFA), Consumers Union (CU), and the National Consumer Law Center (NCLC) on behalf of its low income clients urge Governor Pataki to sign the Energy Consumer Protection Act of 2002 (S. 6778-B) and direct the NY PSC to implement termination rules that protect consumers from unjustified or abusive terminations. This bill extends the residential consumer protections contained in the Home Energy Fair Practices Act (HEFPA), which currently applies only to transactions with incumbent utilities, to the transactions between residential consumers and competitive electric and natural gas suppliers. Gas and electric service are necessities, and the consumer protections that go along with shopping for electricity and natural gas are a necessity as well.

CFA, CU, and NCLC have analyzed this bill and have determined that overall the legislation is a substantial improvement for the residential gas and electric customers in New York who chose to obtain electricity or natural gas from a competitive supplier. We recognize that in New York, HEFPA provides strong statutory protections for residential customers receiving service from regulated utilities. We are particularly supportive of the following provisions in the legislation: requirements to offer budget plans; restrictions on deposits or prepayments for service connection; settling billing disputes and complaints through the Public Service Commission; and capping late fees. In addition, a consumer who falls behind on payments has the right to continue to receive service by agreeing to a deferred payment agreement. HEFPA also provides for continued service to persons experiencing medical emergencies and for the elderly, blind or disabled. These provisions will ensure that consumers who shop for electricity do not become second-class citizens when it comes to the protections they need and deserve. Competitive suppliers who complain that these requirements are too burdensome should not be welcome in the state of New York.

The legislation is an overall improvement because it extends consumer protections to consumers who choose to shop for service. We are very concerned that the legislation also permits the competitive providers to, for the first time, initiate termination of service for nonpayment. Our organizations have long-standing concerns that giving competitive suppliers disconnection authority could result in unjustified and/or abusive terminations, especially if the procedure is poorly implemented and not overseen by regulators. We urge you to direct the PSC to implement termination rules, with input from consumer advocates, that will protect consumers from such unjustified and abusive practices.

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On balance the legislation improves consumer protection in New York and we urge you to sign the Energy Consumer Protection Act.

Sincerely,

Mark Cooper, Ph.D.
Consumer Federation of America

Janee Briesemeister
Consumers Union

Olivia Wein
National Consumer Law
On behalf of its low income
clients

Cc: Honorable James W. Wright, New York State Senate
Honorable Paul Tonko, New York State Assembly
Ms. Kathy Renaldi, Energy Counsel to Governor Pataki
Mr. Douglas Frasier, Assistant Secretary to the Governor for Energy