

STATE OF NEW YORK

6778--B

IN SENATE

April 4, 2002

Introduced by Sens. WRIGHT, MAZIARZ, DeFRANCISCO, FUSCHILLO, JOHNSON, KUHL, LARKIN, LIBOUS, MARCELLINO, MARCHI, McGEE, MORAHAN, NOZZOLIO, PADAVAN, SALAND, SPANO, TRUNZO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to enacting the "energy consumer protection act of 2002"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 "the energy consumer protection act of 2002".
3 § 2. Section 30 of the public service law, as added by chapter 713 of
4 the laws of 1981, is amended to read as follows:
5 § 30. Residential gas, electric and steam service policy. This article
6 shall apply to the provision of all or any part of the gas, electric or
7 steam service provided to any residential [service] customer by any gas,
8 electric [and] or steam [corporations] and municipalities corporation or
9 municipality. It is hereby declared to be the policy of this state that
10 the continued provision of all or any part of such gas, electric and
11 steam service to all residential customers without unreasonable quali-
12 fications or lengthy delays is necessary for the preservation of the
13 health and general welfare and is in the public interest.
14 § 3. Section 31 of the public service law is amended by adding a new
15 subdivision 6 to read as follows:
16 6. In the event the service sought in applications submitted pursuant
17 to this section is comprised of the provision of gas or electricity
18 commodity only, nothing in this section shall require the provision of
19 such service to any and all such applicants; provided, however, that
20 nothing in this subdivision shall prevent or preclude the commission or
21 a court from ordering the provision of such service to all such appli-

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

LBD15565-04-2

1 cants if such order is authorized pursuant to or required to implement a
2 provision of law other than this article.

3 § 4. Section 32 of the public service law is amended by adding two new
4 subdivisions 5 and 6 to read as follows:

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

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

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

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

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

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

34 (vi) Less than one year has elapsed since such termination of commod-
35 ity service has occurred.

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

44 (c) The utility shall make its best efforts to institute such suspen-
45 sion of distribution service promptly and shall receive reasonable
46 compensation from the terminating utility, as determined by the commis-
47 sion, for any costs associated with such suspension of distribution
48 services. Any payments for arrears made by a customer after the termi-
49 nation of service shall be allocated equitably on a pro rata basis
50 between the terminating utility and the utility that provided distrib-
51 ution services, to the extent arrears are owed to both such utilities.

52 (d) Such suspension shall end upon the occurrence of any of the condi-
53 tions identified in paragraphs (a) through (e) of subdivision one of
54 section thirty-five of this article, upon the expiration of one year
55 after such termination of commodity service, or upon the receipt of
56 payments by or on behalf of the customer to the terminating utility such

1 that the amount paid by such customer to the terminating utility plus
2 the amount previously paid the terminating utility plus any other charg-
3 es paid to the utility providing distribution service during the period
4 when such customer's arrears accrued is equal to or greater than the
5 amount such customer would have paid if the entire utility service had
6 been obtained from the utility providing distribution services during
7 such period.

8 6. Implementation of the provisions of this section shall not limit
9 the contractual remedies for damages which might be available to the
10 terminating utility provided that an award of such damages is not incon-
11 sistent with any of the provisions of this article.

12 § 5. Subdivision 1 of section 35 of the public service law, as added
13 by chapter 713 of the laws of 1981, is amended to read as follows:

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

39 § 6. Subdivision 1 of section 37 of the public service law, as added
40 by chapter 713 of the laws of 1981, is amended to read as follows:

41 1. No utility corporation or municipality shall terminate or refuse to
42 take all actions within such corporation or municipality's control and,
43 where applicable, consistent with the provisions of the agreement for
44 commodity service, if any, between the corporation and the customer,
45 provided such provisions are consistent with this article, to restore
46 service to a residential customer, because of arrears owed the utility
47 corporation or municipality, unless the utility or municipality offers
48 such customer a deferred payment agreement for such arrears; provided,
49 however, that a deferred payment agreement under this article shall not
50 be available to any customer who the commission determines has the
51 resources available to pay his bill, and provided further, however, that
52 any such agreement may provide for the customer to make a downpayment of
53 the arrears, provided that no such downpayment shall exceed one-half of
54 the amount of arrears or three months average billing, whichever is
55 less. In addition, the commission shall provide by regulation that (a)
56 all deferred payment agreements authorized by this article be fair and

1 equitable, considering the customer's financial circumstances; ~~[and]~~ (b)
2 that such agreements obligate customers to make timely payment of
3 current charges for service together with payment of arrears during the
4 pendency of the agreements; ~~[and]~~ that such agreements may be renegoti-
5 ated and amended where the customer can demonstrate that there have been
6 significant changes in his or her financial circumstances which have
7 arisen due to conditions beyond the customer's control, and that, if the
8 customer receives a utility service by the receipt of portions of such
9 service from each of two or more utility corporations and is billed for
10 such service through a single bill, the payments pursuant to the
11 deferred payment agreement for current charges shall be allocated to
12 each such utility corporation based on the current charges owing to each
13 and the payments for arrears shall be allocated equitably on a pro-rata
14 basis between such utility corporations based on the amount of arrears
15 owing to each.

16 § 7. Subdivisions 1 and 2 of section 39 of the public service law, as
17 added by chapter 713 of the laws of 1981, are amended to read as
18 follows:

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

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

44 § 8. Section 43 of the public service law is amended by adding a new
45 subdivision 3 to read as follows:

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

49 § 9. Subdivision 3 of section 44 of the public service law, as added
50 by chapter 713 of the laws of 1981 and as renumbered by chapter 79 of
51 the laws of 1992, is amended to read as follows:

52 3. At the time that service is initiated to a residential customer,
53 and at least once every year thereafter, a utility corporation or muni-
54 cipality shall provide each such customer with an additional notice
55 which summarizes the rights and obligations of residential customers
56 relating to the rendition of service. At the time any such notice is

