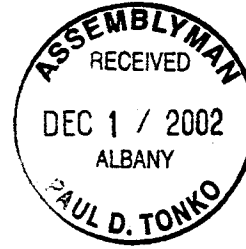




THE CITY OF NEW YORK
OFFICE OF THE MAYOR
NEW YORK, N.Y. 10007



December 11, 2002

S.6778-B - by Senator Wright

AN ACT to amend the public service law, in relation to extending the provisions of the home energy fair practices act to energy services companies providing service in New York state

APPROVAL RECOMMENDED

Hon. George E. Pataki
Governor of the State of New York
Executive Chamber
Albany, New York 12224

Dear Governor Pataki:

The above-referenced bill is now before you for executive action.

This bill would extend the provisions of the Home Energy Fair Protection Act to customers using energy services companies (ESCOs) to obtain residential gas, electric or steam services. The legislation establishes the termination notification, payment and reconnection rights of customers. It clarifies ownership rights between multiple utility companies providing services to a single customer. Finally, it provides for the equitable allocation of payment between two or more private utility companies.

The City of New York supports enactment of this legislation with an important caveat. We feel strongly that the current regulatory framework needs to be amended to provide adequate protections for low income and public assistance customers. This is an important issue for public assistance recipients since some are currently experiencing situations where ESCOs may be refusing the City's offer to pay up to four months of arrears and guarantee future payments.

It is our understanding that the legislative intent of this bill is to extend existing protections currently afforded low income and public assistance customers using utility companies to those low income and public assistance customers using ESCOs. These protections do not lie in statute alone, but also in regulations.

Currently, the Public Service Law and the corresponding regulations put in place by the Home Energy Fair Practices Act of 1992 (*NYCLS Pub Ser §§30-52; Title 16 NYCRR, §11*) provide public utility consumers in New York with basic consumer protections. Generally, these include basic regulation of prices and protection against unfair or discriminatory application, termination, or reconnection procedures. The special interests of low income and public assistance customers are protected by these general provisions, as well as by specific provisions contained in the regulations.

The Public Service Law also permits utilities to terminate services for non-payment except as constrained by regulation. (*NY CLS Pub Ser §32.1 (a)*) The applicable regulations, contained in *Title 16 NYCRR, §11*, contain a special notification provision pertaining specifically to low income and public assistance customers. (*Title 16 NYCRR, §11.4(i)*). Essentially, the regulation does not permit energy corporations to terminate services to customers known to be on public assistance without first notifying the appropriate social service official and requesting payment. In cases where the utility has received a guarantee of future payment from social service district prior to the nonpayment, the utility must request payment from the social service district instead of terminating services. In cases where the utility has not received a guarantee of future payment, it may notify the recipient of termination, but must also notify the social service district of non-payment and allow time for payment, before termination of services. Social service districts are required by law to guarantee payment of utilities for two years, as well as up to four months of arrears. (*NYCLS SSL §131-s (1) - (3)*) This effectively protects public assistance recipients from termination of their utility services.

Should this legislation be approved, the City recommends that regulations pertaining to it provide the following:

- a) the requirement that social service districts pay arrears and guarantee future payment for services for low income and public assistance customers, and
- b) the requirement that ESCOs accept such payments and guarantees, as is the case with public utilities.
- c) Assurance that Public Service Commission's regulatory power over ESCOs is explicit so as to require ESCOs to ensure that protections afforded by regulation are not undermined, and
- d) Assurance that ESCOs are not able to deny services to low income and public assistance customers.

In this age of expanding consumer choice, it is imperative that low income and public assistance customers, like others, have the option to choose energy services companies. With that option, however, should go the protections that are currently afforded them through regulations governing the behavior of utility companies.

Accordingly, it is urged that this bill be approved.

Very truly yours,

MICHAEL R. BLOOMBERG, Mayor

Anthony P. Piscitelli

By: Anthony P. Piscitelli
Legislative Representative