

RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

- AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing; or C for first Continuation.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Banking Department

NOTICE OF ADOPTION

Credit Unions

I.D. No. BNK-09-05-00002-A
Filing No. 625
Filing date: June 6, 2005
Effective date: June 22, 2005

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 95, 96 and 97; repeal of Part 113; and addition of Parts 326 and 327 to Title 3 NYCRR.

Statutory authority: Banking Law, sections 14(1), 453(5), 454, 458(9) and 458-a

Subject: Changes in the regulations governing credit unions.

Purpose: To conform the regulations to the provisions of L. 2003, ch. 679 which are intended to provide New York chartered credit unions with powers comparable to, and competitive with, federally chartered credit unions and provide for prior notice of the proposed exercise of new credit union investment powers.

Text or summary was published in the notice of proposed rule making, I.D. No. BNK-09-05-00002-P, Issue of March 2, 2005.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Sam L. Abram, Secretary of the Banking Board, Banking

Department, One State St., New York, NY 10004-1417, (212) 709-1658, e-mail: sam.abram@banking.state.ny.us

Assessment of Public Comment

The Department received one comment regarding the proposed changes from an industry association for credit unions in New York.

The commenter supported the proposed changes, noting that they will ease the regulatory burden on state chartered credit unions and provide parity with federally chartered credit unions in New York State.

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Probationary Terms

I.D. No. CVS-25-05-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: This is a consensus rule making to add section 4.5(b)(1)(viii) to Title 4 NYCRR.

Statutory authority: Civil Service Law, section 63(2)

Subject: Probationary terms.

Purpose: To provide for a probationary term for positions of University Police Officer 1 and University Police Officer 1 (Spanish Language) of not less than 52 weeks nor more than 78 weeks.

Text of proposed rule: RESOLVED, That subject to approval of the Governor, a new paragraph (viii) will be added to subdivision (1) of subsection (b) of section 4.5 of Title 4 of the New York Code of Rules and Regulations (Rules for the Classified Service) to read as follows:

(viii) *The probationary term for positions of "University Police Officer 1" and "University Police Officer 1 (Spanish Language)" shall be not less than 52 weeks nor more than 78 weeks.*

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, State Campus, Albany, NY 12239, (518) 457-6205, e-mail: sjl@cs.state.ny.us

Data, views or arguments may be submitted to: Brian S. Reichenbach, Counsel, Department of Civil Service, State Campus, Albany, NY 12239, (518) 457-3177, e-mail: bsr@cs.state.ny.us

Public comment will be received until: 45 days after publication of this notice.

Consensus Rule Making Determination

Section 63(1) of the Civil Service Law provides that the State Civil Service Commission may provide by rule for the conditions and extent of probationary service for titles in the Classified Service of the State.

Section 4.5(b)(1) of the Rules for the Classified Services provides that except as otherwise prescribed therein, every permanent appointment from an open competitive list shall be subject to a probationary term of not less than 26 nor more than 52 weeks.

University Police Officers 1 (UPO 1s) perform public safety and law enforcement duties at various campuses of the State University of New

York (SUNY). UPO 1s are "police officers" within the meaning of subdivision (34) of section 1.20 of the Criminal Procedure Law. Each SUNY campus acts as its own appointing authority.

Individuals are appointed to positions of UPO 1 and UPO 1 (Spanish Language) from open competitive examinations, and, accordingly, are subject upon hire to a probationary period of 26-52 weeks. However, newly appointed UPO 1s cannot perform police officer duties until they successfully complete a Municipal Police Training Council-approved police officer training program. To obtain such training and certification, SUNY sends new UPO 1s to local police academies held near the campuses where the UPO 1s are employed. A police academy generally requires from four to six months of full-time attendance.

Typically, a newly-hired UPO 1 must wait from several weeks to three months before the next holding of a nearby police academy. Further, local police academies are not administered by SUNY, so appointing campuses cannot directly and continuously monitor the performance and conduct of UPO 1s undergoing academy training.

As a result, appointing authorities may have only a few months of the maximum possible probationary term in which to observe a UPO 1 probationer actually functioning as a police officer on a SUNY campus. Further, UPO 1 incumbents are expected to function with greater independence and assume the full range of job tasks as their probationary terms expire.

Other comparable police officer titles in State service require one to two-year traineeships and include police academies conducted by the appointing agency, so that the probationer may be directly observed and evaluated at all times.

In order provide appointing authorities with the opportunity to thoroughly and sufficiently observe UPO 1s performing actual police duty and provide appropriate on-the-job guidance before conferring competitive class tenure, State University administration, campus Public Safety offices and the Department of Civil Service recommend extending the probationary period for positions of UPO 1 and UPO 1 (Spanish Language) to no less than 52 nor more than 78 weeks.

As no person is likely to object to the rule as written, the proposed rule is advanced as a consensus rule pursuant to State Administrative Procedure Act § 202(1)(b)(i).

Job Impact Statement

By modifying Title 4 of the NYCRR to revise the probationary term for positions of University Police Officer 1 and University Police Officer 1 (Spanish Language), the rule will have no impact on jobs or employment possibilities, as set forth in section 201-a(2)(a) of the State Administrative Procedure Act (SAPA). Therefore, a Job Impact Statement is not required by section 201-a of such Act.

Education Department

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Special Act School Districts

I.D. No. EDU-25-05-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: Addition of Part 105 to Title 8 NYCRR.

Statutory authority: Education Law, sections 101 (not subdivided), 207 (not subdivided), 305(1) and (2), 308 (not subdivided) and 309 (not subdivided) and L. 2004, chs. 628 and 629

Subject: Composition of boards of education of special act school districts.

Purpose: To establish procedures for the appointment by the Commissioner of Education of public members to the board of education of each special act school district.

Text of proposed rule: Part 105 of the Regulations of the Commissioner of Education is added, effective September 29, 2005, as follows:

PART 105

APPOINTMENT OF PUBLIC MEMBERS OF BOARDS OF EDUCATION OF SPECIAL ACT SCHOOL DISTRICTS

§ 105.1 Definitions. Except as otherwise provided herein, as used in this Part, the following terms shall have the following meanings:

(a) Board of education means the board of education of a special act school district.

(b) Child care agency means an authorized agency, as defined in subdivision 1 of section 4001 of the Education Law that operates a child care institution affiliated with a special act school district.

(c) Public member means a member of a board of education appointed by the Commissioner pursuant to this Part.

(d) Special act school district means a special act school district as defined in subdivision 8 of section 4001 of the Education Law.

(e) Supervisory district means the supervisory district of a board of cooperative educational services established pursuant to section 2201 of the Education Law.

§ 105.2 Eligibility for appointment as public member. (a) Any person shall be eligible to apply for appointment by the Commissioner as a public member who:

(i) is eligible to vote in a general election;

(ii) is a resident of a component school district of the supervisory district in which the special act school district is located, of a contiguous supervisory district or of a school district that is not a component school district of any supervisory district but is contiguous to a component school district of the supervisory district in which the special act school district is located;

(iii) submits a letter of intent to the department, in the manner and by the date prescribed by the Commissioner, that specifies the boards of education to which he or she is seeking appointment, with a resume and an application in a form and containing such information as the Commissioner may prescribe; and

(iv) is not disqualified from serving as a public member under subdivision (b) of this section.

(b) A person shall be disqualified from serving as a public member of a special act school district if he or she:

(i) is an officer or employee of the child care agency that appoints members to the board of education of the special act school district;

(ii) serves as an officer or employee of the special act school district other than as a public member;

(iii) has a prohibited interest in a contract with the special act school district within the meaning of Article 18 of the General Municipal Law;

(iv) is an officer or employee of a school district, or a board of cooperative educational services, or a public agency as defined in subdivision 6 of section 4001 of the Education Law that contracts with the special act school district; or

(v) is an officer or employee of an employee organization that represents employees of the special act school district pursuant to article 14 of the Civil Service Law or its parent employee organization.

(c) In appointing public members, preference shall be given to eligible persons with one or more of the following characteristics:

(i) a background and experience in corporate or school finance;

(ii) experience as a member of the governing board of an education corporation, another not-for-profit corporation or a school district; and/or

(iii) a background in the education or treatment of troubled youth.

§ 105.3 Appointment of public members. (a) The Commissioner shall appoint two public members to the board of education of each special act school district pursuant to the provisions of this Part. Appointments shall be made from candidates recommended by a regional interview team appointed by the Commissioner and chaired by a district superintendent of schools. Such regional interview team may include, but need not be limited to, a duly licensed certified public accountant or public accountant and individuals recommended by organizations representing superintendents of schools, boards of education, teachers, and individuals with disabilities and/or parents of individuals with disabilities.

(b) The full term of office of a public member shall be 4 school years, provided that the public members initially appointed in the 2005-06 school year shall be appointed for the balance of the term commencing on July 1, 2005 and ending on June 30, 2009, and provided further that after such initial appointments, the term of public members may be changed in accordance with subdivision 3 of section 2105 of the Education Law upon at least sixty days advance notice to the Commissioner.

(c) In the event a public member vacates his or her office during its term pursuant to section 2112 of the Education Law, the Commissioner may appoint an eligible person in the manner prescribed in this section for the remaining balance of the term of office or may fill such position by

appointment for a full term commencing on July 1 next succeeding the date on which the vacancy occurred.

(d) Upon appointment, the public members shall have all the rights, privileges, powers, duties and responsibilities of members of the board of education of a union free school district under the Education Law and other laws pertaining to such school districts.

Text of proposed rule and any required statements and analyses may be obtained from: Anne Marie Koschnick, Legal Assistant, State Education Department, Office of Counsel, State Education Bldg., Rm. 148, Albany, NY 12234, (518) 473-8296, e-mail: legal@mail.nysed.gov

Data, views or arguments may be submitted to: James A. Kadamus, Deputy Commissioner, Education Department, Rm. 875, Education Bldg. Annex, Albany, NY 12234, (518) 474-5915, e-mail: jkadamus@mail.nysed.gov

Public comment will be received until: 45 days after publication of this notice.

This action was not under consideration at the time this agency's regulatory agenda was submitted.

Regulatory Impact Statement

STATUTORY AUTHORITY:

Education Law section 101 continues the existence of the Education Department, with the Board of Regents at its head, and authorizes the Regents to appoint the Commissioner of Education as the chief administrative officer of the Department, which is charged with the general management and supervision of public schools and the educational work of the State.

Education Law section 207 authorizes the Regents and the Commissioner to adopt rules and regulations to carry out the laws of the State regarding education and the functions and duties conferred on the Department by law.

Education Law section 305(1) and (2) provide that the Commissioner, as chief executive officer of the State system of education and of the Board of Regents, shall have general supervision over all schools and institutions subject to the provisions of the Education Law, or of any statute relating to education, and authorizes the Commissioner to enforce laws relating to the educational system and to execute the Regents' educational policies. Section 305(20) provides that the Commissioner shall have and execute such further powers and duties as he shall be charged with by the Regents.

Education Law section 308 authorizes the Commissioner to enforce and give effect to any provision in the Education Law or in any other general or special law pertaining to the school system of the State or any rule or direction of the Regents.

Education Law section 309 charges the Commissioner with the general supervision of boards of education and their management and conduct of all departments of education.

Chapter 628 of the Laws of 2004, as amended by Chapter 629 of the Laws of 2004, requires the Commissioner of Education to appoint, pursuant to regulations promulgated by the Commissioner, two public members to the board of education of each special act school district for four-year terms, from candidates that submit a letter of intent to the Department.

LEGISLATIVE OBJECTIVES:

The proposed rule is consistent with the above statutory authority and is necessary to implement Chapters 628 and 629 of the Laws of 2004.

NEEDS AND BENEFITS:

The proposed rule is necessary to implement Chapters 628 and 629 of the Laws of 2004 by adding a new Part 105 that establishes requirements for the appointment by the Commissioner of two public members to the board of education of each special act school district. Proposed section 105.1 provides for definitions of terms used in the new Part. Proposed section 105.2 establishes eligibility requirements for appointment as a public member. Proposed section 105.3 establishes appointment procedures, term lengths, procedures to fill vacancies, and provides that public members, upon appointment, shall have all the rights, privileges, powers, duties and responsibilities of members of the board of education of a union free school district.

Consistent with Chapters 628 and 629 of the Laws of 2004, the proposed rule will provide for the appointment of qualified public members to boards of education of each special act school district to ensure public accountability for educational services and use of public funds.

COSTS:

- (a) Costs to the State: none.
- (b) Costs to local government: none.
- (c) Cost to private regulated parties: none.
- (d) Cost to regulating agency for implementation and continued administration of this rule: the proposed rule is necessary to implement Chapters

628 and 629 of the Laws of 2004 and will not impose any costs beyond those inherent in such statutes. It is anticipated that any implementation costs will be absorbed using existing staff and resources.

LOCAL GOVERNMENT MANDATES:

The proposed rule does not impose any additional program, service, duty or responsibility on school districts or other local governments. Consistent with Chapters 628 and 629 of the Laws of 2004, the proposed rule establishes requirements for the appointment by the Commissioner of two public members to the board of education of each special act school district. Proposed section 105.1 provides for definitions of terms used in the new Part. Proposed section 105.2 establishes eligibility requirements for appointment as a public member. Proposed section 105.3 establishes appointment procedures, term lengths, procedures to fill vacancies, and provides that public members, upon appointment, shall have all the rights, privileges, powers, duties and responsibilities of members of the board of education of a union free school district. The Commissioner shall appoint two public members to the board of education of each special act school district. Appointment shall be made from candidates recommended by a regional interview team appointed by the Commissioner and chaired by a district superintendent of schools.

PAPERWORK:

An eligible person, as described in proposed section 105.2, may submit a letter of intent to the State Education Department, in the manner and by a date prescribed by the Commissioner, that specifies the boards of education to which he or she is seeking appointment as a public member, with a resume and an application in a form and containing such information as the Commissioner may prescribe.

DUPLICATION:

The proposed rule does not duplicate existing State or federal requirements and is necessary to implement Chapters 628 and 629 of the Laws of 2004.

ALTERNATIVES:

There were no significant alternatives and none were considered. The proposed rule is necessary to implement Chapters 628 and 629 of the Laws of 2004. Those statutes require the Commissioner of Education to appoint, pursuant to regulations promulgated by the Commissioner, two public members to the board of education of each special act school district for four-year terms, from candidates that submit a letter of intent to the Department.

FEDERAL STANDARDS:

There are no related federal standards.

COMPLIANCE SCHEDULE:

It is anticipated that regulated parties can achieve compliance with the proposed rule by its effective date. The proposed rule is necessary to implement Chapters 628 and 629 of the Laws of 2004 and does not impose any additional costs or compliance requirements. Consistent with those statutes, the proposed rule establishes requirements for the appointment by the Commissioner of two public members to the board of education of each special act school district, including eligibility requirements, appointment procedures, term lengths and procedures to fill vacancies. An eligible person, as described in proposed section 105.2, may submit a letter of intent to the State Education Department, in the manner and by a date prescribed by the Commissioner, that specifies the boards of education to which he or she is seeking appointment as a public member, with a resume and an application in a form and containing such information as the Commissioner may prescribe. The Commissioner shall appoint two public members to the board of education of each special act school district. Appointment shall be made from candidates recommended by a regional interview team appointed by the Commissioner and chaired by a district superintendent of schools. Public members initially appointed in the 2005-06 school year shall be appointed for the balance of the term commencing on July 1, 2005 and ending on June 30, 2009.

Regulatory Flexibility Analysis

Small Businesses:

The proposed rule establishes procedures for the appointment of public members to the boards of education of special act school districts pursuant to Chapters 628 and 629 of the Laws of 2004, and will not impose any adverse economic impact, reporting, recordkeeping or other compliance requirements on small businesses. Because it is evident from the nature of the proposed rule that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

EFFECT OF RULE:

The proposed rule applies to each of the special act school districts in the State. There are currently fourteen special act school districts.

COMPLIANCE REQUIREMENTS:

The proposed rule does not impose any compliance requirements on school districts or other local governments. Consistent with Chapters 628 and 629 of the Laws of 2004, the proposed rule establishes requirements for the appointment by the Commissioner of two public members to the board of education of each special act school district. Proposed section 105.1 provides for definitions of terms used in the new Part. Proposed section 105.2 establishes eligibility requirements for appointment as a public member. Proposed section 105.3 establishes appointment procedures, term lengths, procedures to fill vacancies, and provides that public members, upon appointment, shall have all the rights, privileges, powers, duties and responsibilities of members of the board of education of a union free school district. An eligible person, as described in proposed section 105.2, may submit a letter of intent to the State Education Department, in the manner and by a date prescribed by the Commissioner, that specifies the boards of education to which he or she is seeking appointment as a public member, with a resume and an application in a form and containing such information as the Commissioner may prescribe. The Commissioner shall appoint two public members to the board of education of each special act school district. Appointment shall be made from candidates recommended by a regional interview team appointed by the Commissioner and chaired by a district superintendent of schools.

PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional services requirements on local governments.

COMPLIANCE COSTS:

The proposed rule will not impose any additional costs on local governments.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed amendment does not impose any additional costs or technological requirements on local governments.

MINIMIZING ADVERSE IMPACT:

The proposed rule is necessary to implement Chapters 628 and 629 of the Laws of 2004 and does not impose any additional costs or compliance requirements on local governments. Consistent with Chapters 628 and 629 of the Laws of 2004, the proposed rule establishes requirements for the appointment by the Commissioner of two public members to the board of education of each special act school district, including eligibility requirements, appointment procedures, term lengths and procedures to fill vacancies.

LOCAL GOVERNMENT PARTICIPATION:

The State Education Department provided copies of the draft regulation for review and comment to a consultant firm representing special act school districts, the New York State School Boards Association, the New York State Council of School Superintendents and teacher unions representing teaching staff employed by special act school districts. The proposed rule incorporates revisions to the draft regulation made in response to comments received by the Department.

Rural Area Flexibility Analysis

TYPES AND ESTIMATED NUMBERS OF RURAL AREAS:

The proposed rule applies to each of the special act school districts in the State. There are currently fourteen special act school districts, four of which are located in rural areas.

REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS AND PROFESSIONAL SERVICES:

The proposed rule does not impose any compliance requirements on school districts or other local governments in rural areas. Consistent with Chapters 628 and 629 of the Laws of 2004, the proposed rule establishes requirements for the appointment by the Commissioner of two public members to the board of education of each special act school district. Proposed section 105.1 provides for definitions of terms used in the new Part. Proposed section 105.2 establishes eligibility requirements for appointment as a public member. Proposed section 105.3 establishes appointment procedures, term lengths, procedures to fill vacancies, and provides that public members, upon appointment, shall have all the rights, privileges, powers, duties and responsibilities of members of the board of education of a union free school district. An eligible person, as described in proposed section 105.2, may submit a letter of intent to the State Education Department, in the manner and by a date prescribed by the Commissioner, that specifies the boards of education to which he or she is seeking appointment as a public member, with a resume and an application in a form and containing such information as the Commissioner may prescribe. The Commissioner shall appoint two public members to the board of

education of each special act school district. Appointment shall be made from candidates recommended by a regional interview team appointed by the Commissioner and chaired by a district superintendent of schools.

The proposed rule does not impose any additional professional services requirements on local governments in rural areas.

COSTS:

The proposed rule will not impose any additional costs on local governments in rural areas.

MINIMIZING ADVERSE IMPACT:

The proposed rule is necessary to implement Chapters 628 and 629 of the Laws of 2004 and does not impose any additional costs or compliance requirements on local governments in rural areas. Consistent with Chapters 628 and 629 of the Laws of 2004, the proposed rule establishes requirements for the appointment by the Commissioner of two public members to the board of education of each special act school district, including eligibility requirements, appointment procedures, term lengths and procedures to fill vacancies.

RURAL AREA PARTICIPATION:

The State Education Department provided copies of the draft regulation for review and comment to a consultant firm representing special act school districts, the New York State School Boards Association, the New York State Council of School Superintendents and teacher unions representing teaching staff employed by special act school districts. The proposed rule incorporates revisions to the draft regulation made in response to comments received by the Department.

Job Impact Statement

The proposed rule establishes procedures for the appointment of public members to the boards of education of special act school districts pursuant to Chapters 628 and 629 of the Laws of 2004, and will not have a substantial adverse impact on jobs and employment opportunities. Because it is evident from the nature of the rule that it will not affect job and employment opportunities, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required, and one has not been prepared.

Insurance Department

EMERGENCY RULE MAKING

Healthy New York Program

I.D. No. INS-25-05-00002-E

Filing No. 624

Filing date: June 3, 2005

Effective date: June 3, 2005

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of section 362-2.7 and amendment of sections 362-2.5, 362-3.2, 362-4.1, 362-4.2, 362-4.3, 362-5.1, 362-5.2, 362-5.3 and 362-5.5 (Regulation 171) of Title 11 NYCRR.

Statutory authority: Insurance Law, sections 201, 301, 1109, 3201, 3216, 3217, 3221, 4235, 4303, 4304, 4305, 4318, 4326 and 4327

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: It is estimated that approximately 3 million New York citizens currently do not have health insurance coverage. Access to employer based insurance coverage is heavily impacted by changes in the economy. Many small businesses do not offer health insurance to their employees due to its cost. A significant percentage of the uninsured in this State and Nationwide are employed by small businesses which do not offer health insurance coverage. Chapter 1 of the Laws of 1999 authorized the development of the Healthy New York program for the purpose of bringing affordable health insurance coverage to currently uninsured working people. The program targets uninsured small businesses with a significant percentage of low-wage workers and uninsured individuals at lower income levels. Since the program's commencement in 2001, over 27,000 uninsured workers have already benefited from Healthy New York. After several years of operation, we have

determined that certain changes allowing for choice in health insurance benefit packages, improved and simplified eligibility and recertification requirements, and an increased reduction in premiums will encourage even more uninsured small businesses and uninsured low income individuals to purchase health insurance coverage.

Consequently, it is critical for this regulation to be adopted as promptly as possible. For the reasons stated above, this rule must be promulgated on an emergency basis for the furtherance of the public health and general welfare.

Subject: Amendments to the Healthy New York Program.

Purpose: To reduce cost, lessen complexity, and add a second benefit package.

Substance of emergency rule: The second amendment to regulation 171 makes various changes to the Healthy New York program with respect to providing for choice in benefits, enhanced and simplified eligibility requirements and reduced premium rates.

Subsection 362-2.5(a) is amended to allow health maintenance organization to provide insured individuals with forms necessary for recertification 90 days prior to their due date.

Subsection 362-2.5(b) is amended to eliminate the requirement for supporting documentation with annual recertification.

Subsection 362-2.5(d) is deleted to discontinue the requirement that health plans mail Healthy NY a written reminder of their obligation to recertify sixty days prior to the date coverage would terminate due to a failure to recertify.

Subsection 362-2.5(e) is amended to delete a cross reference to a subsection that has been deleted and relabeled as subsection (d).

Subsection 362-2.5(f) is relabeled as subsection (e).

Subsection 362-2.7(a) is added to delete the copayment applied to well-child visits effective June 1, 2003.

Subsection 362-2.7(b) is added to require health plans to offer an additional Healthy New York benefit package which does not include prescription drugs and to allow qualifying small employers and qualifying individuals to choose among the Healthy New York benefit packages. The subsection also provides that qualifying small employers must elect to provide the same benefit package to all of their employees. The subsection also provides that once enrolled in the program, any change in the selection of a benefit package may occur at the time of annual recertification or at anytime the premium rate changes. Notice of this option must be included with any notice of rate change.

Subsection 362-2.7(c) is added to provide that individuals eligible for a federal tax credit under the Trade Adjustment Act of 2002 shall be deemed to have satisfied the pre-existing condition waiting period within the Healthy NY program in full.

Subsection 362-3.2(h) is revised to clarify that qualifying small employers choosing to offer coverage to part-time workers may choose the level of premium contribution they make on behalf of part-time workers.

Subsection 362-3.2(j) is revised to provide that small employer applicants shall be considered to have provided group health insurance if they have arranged for group health insurance coverage on behalf of their employees and contributed more than a de-minimus amount on behalf of their employees. The subsection also defines de-minimus contributions through January 31, 2005 as those that do not exceed an average of \$50 per employee per month. Beginning February 1, 2005, de-minimus contributions are those that do not exceed an average of \$75 per employee per month for employers in the counties of Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester or an average of \$50 per employee per month for employers in all other counties. De-minimus contributions shall not prevent small employers from qualifying to purchase health insurance coverage through the Healthy NY program.

Subsection 362-3.2(m) is amended to delete the requirement for supporting documentation with annual recertification.

Subsection 362-4.1(a) is revised to change the definition of "employed person" to include any person employed and receiving monetary compensation currently or within the past 12 months.

Subsection 362-4.1(b) is revised to delete the definition of "episodic employment."

Subsection 362-4.1(c) is re-labeled as subsection 362-4.1(b).

Subsection 362-4.2(i) is revised to delete the requirement for supporting documentation at annual recertification.

Subsection 362-4.2(k) is added to provide that applicants for qualifying individual health insurance contracts may meet the Healthy New York eligibility requirement regarding employment by demonstrating that their spouse (residing in their household) is an employed person.

Subsection 362-4.3(b) is amended to delete the requirement that child support be counted as parental income for the purposes of determining income eligibility.

Subsection 362-4.3(d) is revised to recognize that supporting documentation is not required upon annual recertification.

Subsection 362-5.1(b) is revised to amend the claims corridors for the small employer stop loss fund and the qualifying individual stop loss fund to include claims paid on behalf of a covered member in excess of \$5,000 and less than \$75,000, beginning in calendar year 2003.

Subsection 362-5.1(d) is amended to delete an unnecessary description of the prior claims corridor amounts.

Subsection 362-5.2(c) is amended to change a reference to the prior claims corridor from a specific dollar amount to a general reference so that it is applicable regardless of the dollar amount.

Subsection 362-5.2(f) is amended to insert the word "the." This corrects a technical error.

Subsection 362-5.3(e) is amended to change the loss ratio standard for Healthy New York contracts from small group to individual.

Subsection 362-5.3(f) is added to provide that health maintenance organizations and participating insurers may reinsure their Healthy New York business in whole or in part if they determine it would favorably impact premium rates. The subsection also provides that the impact of any such reinsurance shall be factored into the premium rates for affected qualifying group health insurance premiums and individual health insurance premiums.

Subsection 362-5.3(g) is added to provide that no later than 30 days from the effective date of this regulation, health maintenance organizations and participating insurers shall submit the policy form amendments and premium rate adjustments necessitated by these amendments.

Subsection 362-5.5(a) is amended to require that reports pertaining to stop loss reimbursement or loss ratio be certified by an officer of the company that such report is accurate and complete.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire August 31, 2005.

Text of emergency rule and any required statements and analyses may be obtained from: Mike Barry, Insurance Department, 25 Beaver St., New York, NY 10004-2319, (212) 480-5265, e-mail: mbarry@ins.state.ny.us

Regulatory Impact Statement

1. Statutory authority: The authority for the amendment to 11 NYCRR 362 is derived from sections 201, 301, 1109, 3201, 3216, 3217, 3221, 4235, 4303, 4304, 4305, 4318, 4326 and 4327 of the Insurance Law. Sections 201 and 301 authorize the superintendent to prescribe regulations interpreting the provisions of the Insurance Law as well as effectuating any power granted to the superintendent under the Insurance Law, to prescribe forms or otherwise to make regulations. Section 1109 authorizes the superintendent to promulgate regulations in effectuating the purposes and provisions of the Insurance Law and Article 44 of the Public Health Law with respect to the contracts between a health maintenance organization and its subscribers. Section 3201 authorizes the superintendent to approve accident and health insurance policy forms for delivery or issuance for delivery in this state. Section 3216 sets forth the standard provisions to be included in individual accident and health insurance policies written by commercial insurers. Section 3217 authorizes the superintendent to issue regulations to establish minimum standards, including standards of full and fair disclosure, for the form, content and sale of accident and health insurance policies. Section 3221 sets forth the standard provisions to be included in group or blanket accident and health insurance policies written by commercial insurers. Section 4235 defines group accident and health insurance and the types of groups to which such insurance may be issued. Section 4303 sets forth benefits that must be covered under accident and health insurance contracts. Section 4304 includes requirements for individual health insurance contracts written by non-profit corporations. Section 4305 includes requirements for group health insurance contracts written by not-for-profit corporations. Section 4318 sets forth requirements for accident and health insurance contracts that include a pre-existing condition provision. Section 4326 authorizes the creation of a program to provide standardized health insurance to qualifying small employers and qualifying working uninsured individuals. Section 4326(g) authorizes the superintendent to modify the copayment and deductible amounts for qualifying health insurance contracts. Section 4326(g) authorizes the superintendent to establish additional standardized health insurance benefit packages to meet the needs of the public after January 1, 2002. Section 4327 creates

two stop-loss funds and requires the superintendent to promulgate regulations setting forth the procedures for the operation of the stop loss funds and distribution of monies therefrom. Section 4327(b) sets the stop loss corridors for calendar year 2001. Section 4327(d) provides that, except as specified in subsection (b) with respect to calendar year 2001, the level of stop loss coverage need not be the same. Section 2807-v(1)(h) and (i) of the Public Health Law directs the distribution of funds for purposes of services and expenses related to the Healthy New York program.

2. Legislative objectives: A significant number of New York residents are currently uninsured. A large portion of New York State's uninsured population is made up of individuals employed in small businesses. Due in part to the rising cost of health insurance coverage, many small employers are currently unable to provide health insurance coverage to their employees. Additionally, the problem of the uninsured has been exacerbated by national events impacting the labor market and access to employer based health insurance coverage. Chapter 1 of the Laws of 1999 enacted the Healthy New York Program; an initiative designed to encourage small employers to offer health insurance to their employees and to encourage uninsured individuals to purchase health insurance coverage.

3. Needs and benefits: This amendment to Part 362 of 11 NYCRR is necessary to introduce a second Healthy New York benefit package at a reduced premium rate. The second benefit package provides for a lower cost alternative and gives individuals and small businesses choice of a benefit package that meets their needs. Any change in benefit package selection may occur at the time of annual recertification or when the premium rate changes. Any notice of rate change must include notice of this option to change benefit packages. The amendment deletes the well child copayment applicable to Healthy New York in order to enhance access to preventive and primary care for children. The amendment permits Healthy New York to be considered qualifying health insurance under the federal Trade Act of 2002 to allow those qualifying for a federal tax credit to benefit from that credit. The amendment revises the eligibility requirements relating to employment in order to lessen complexity and enhance access. The amendment provides that child support payments shall not be treated as income of the parents for the purpose of determining household income eligibility equitably. The amendment deletes the applicability of certain documentation requirements in connection with the recertification process and facilitates re-certification closer to annual renewal date. This will allow for simplification of the re-certification process to assist in ensuring continuity of coverage for low income individuals. The amendment clarifies that qualifying small employers choosing to offer coverage to part-time workers may choose the level of premium contribution on behalf these workers to encourage employers to extend coverage to part-time workers. The amendment provides that employers making a de-minimus contribution to employee premiums shall not be crowded out of the Healthy New York Program for this reason. Through January 31, 2005, de-minimus contributions are those that do not exceed an average of \$50 per employee per month. Beginning February 1, 2005, de-minimus contributions are those that do not exceed an average of \$75 per employee per month for employers in the counties of Bronx, Kings, Nassau, New York, Orange, Putnam, Queens, Richmond, Rockland, Suffolk, and Westchester or an average of \$50 per employee per month for employers in all other counties. This de-minimus amendment will avoid penalizing vulnerable employers for such premium contributions and will encourage these employers to purchase Healthy New York subject to a 50% premium contribution requirement. The amendment clarifies that health maintenance organizations and participating insurers may reinsure their Healthy New York business if it achieves a favorable premium impact. The amendment also adjusts the stop loss corridors for the program in order to effectuate a level of premium reduction sufficient to encourage more currently uninsured businesses and individuals to purchase comprehensive health insurance coverage. These revisions should provide low-income individuals and vulnerable small businesses with enhanced access to Healthy New York. This amendment changes the loss ratio standard for Healthy New York contracts from small group to individual and requires that insurer's reports pertaining to stop loss reimbursement or loss ratio be certified.

4. Costs: The Health Care Reform Act allocated a fixed amount to the Healthy New York program to encourage uninsured businesses and individuals to purchase health insurance. This amendment will not alter the amounts dedicated to the program. However, this amendment will increase the per head cost to the State to be distributed from the overall allocation for the program for workers enrolled in Healthy New York. The amount of this increase will depend on the actual claims experience of the Healthy New York insured population. Because the amendment enhances access to Healthy New York, we would also expect that the amendment will cause

the program to operate at enrollment levels which are consistent with the program's full funding capacity. At the same time, by bringing affordable insurance protections to the currently uninsured population, this amendment will avert costs to the State resulting from uninsured individuals accessing necessary and emergency health care services. Enhanced access to market based coverage will result in an introduction of private dollars into the New York's healthcare system along with a savings to heavily subsidized State programs. Further, enhanced access to preventive and primary care services should result in cost savings related to improved children's health.

5. Local government mandates: This amendment imposes no new mandates on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: This amendment will not impose any new reporting requirements. This amendment simplifies the recertification process reducing the administrative burden and paperwork requirements for health plans and enrollees. This amendment requires that insurers certify all reports pertaining to stop loss reimbursement and loss ratio but does not require any additional reports.

7. Duplication: There are no known federal or other states' requirements that duplicate, overlap, or conflict with this regulation.

8. Alternatives: Throughout the initial implementation of Healthy New York, input has been obtained from interested parties including consumer groups; health plans; health plan associations; business groups; association groups; local chambers of commerce and academics. In addition, independent reports have been prepared examining the impact of the program on the uninsured population. In developing the reports, the contractor interviewed health plans, brokers, businesses and enrollees. Claims data submitted by the participating health plans has also been analyzed. The alternative to introducing a lower cost benefit package would be continuing the current structure of offering a single benefit package option. This alternative was rejected in order to provide businesses and individuals with choice of the benefit package which best meets their needs and to provide for a lower cost alternative. With respect to the amendment to delete the well child copayment, the alternative would be to retain a copayment on these services. This alternative was rejected because it discourages access to preventive and primary care for children. This change was requested by health plans, providers and consumers. The alternative to changing the pre-existing condition exclusion for those eligible to receive a federal tax credit would leave those covered by Healthy NY unable to benefit from the credit. The alternative to addressing employment standards would be to retain the existing fragmented definition of employment within the eligibility criteria. The amended employment standard will lessen complexity, facilitate the application process, and enhance access to the Healthy New York program. The alternative to providing that child support shall not be counted as the income of the parents in determining household income eligibility would be continuing to count such payments as parental income. Consistent with requests of consumers and health plans, this revision will enhance access to the program while ensuring more equitable consideration of parental income. The alternative to simplifying the re-certification process would be continuing with the current requirements on re-certification. The Department believes the revision will assist in ensuring continuity of coverage for low-income individuals. No alternative was considered on providing clarification of employer's ability to choose the appropriate level of premium contribution on behalf of part-time workers. The program was already administered to allow employers choosing to cover part-time workers to choose the premium contribution on their behalf. With respect to the provision providing a de minimus exception to the program's crowd out requirement for employers which are contributing minimally toward payment of employee premiums, the alternative would be continuing to bar employers contributing minimally to premiums from participation in Healthy New York. We have received feedback from employers, brokers, and health plans that providing for an exception would be most equitable. This amendment will permit such employers to purchase Healthy New York subject to a program requirement that they contribute a full 50% of the Healthy New York premium. Concerning the provision addressing reinsurance, the alternative would be an absence of clarification or guidance on the use of reinsurance mechanisms. The Department wishes to clearly advise of the availability of private reinsurance mechanisms to favorably impact Healthy NY premiums. The alternative to changing the stop loss reimbursement levels would be to continue with the current reimbursement levels. Based upon a review of the program's claims data by the Department, health plans and an independent contractor, we have determined that the adjusted stop loss corridors are the most appropriate for the program. We have received feedback from health plans,

chambers of commerce, business groups, academics, consumer groups and consumers that the Healthy New York small business program would be improved by enhanced price separation between Healthy New York and other small group products. We have also received feedback that the individual program would be improved if the Healthy New York premium constituted a smaller percentage of the member's household income. Adjustment of the stop loss corridors will achieve enhanced price separation in the small group market while reducing the percentage of income Healthy New York subscribers will need to commit to payment of premium. Increase of the loss ratio standard for Healthy New York contracts will increase the percentage of premium dollar that is received in claims by members. After two complete year's experience, the Department believes that the amendments set forth above will best serve the needs of the program.

9. Federal standards: The Federal Trade Adjustment Act of 2002 extends a federal tax credit to certain individuals to be applied towards the purchase of health insurance. This amendment adjusts the pre-existing condition exclusion period within the Healthy NY to bring it into compliance with the requirements of the Trade Adjustment Act in order to enable eligible individuals to obtain the benefit of this credit.

10. Compliance schedule: This rulemaking will be effective upon adoption. HMOs and providers achieved the June 1, 2003 compliance date without problems because this regulation was previously filed on an emergency basis in March, June, and September 2003.

Regulatory Flexibility Analysis

1. Effect of rule: The amendment will affect qualifying small employers, including individual proprietors, by providing them with even greater access to affordable options for comprehensive health insurance. Employers will be provided with choice in the health insurance benefit option that meets their needs, enhanced and simplified eligibility, and improved Healthy New York premium rates. These modifications should encourage the purchase of health insurance coverage through the Healthy New York program. In turn, this will diminish the number of uninsured in New York State. The amendment will not affect local governments. The amendment will affect health maintenance organizations and licensed insurers in New York State, none of which fall within the definition of small business as found in Section 102(8) of the State Administrative Procedure Act.

2. Compliance requirements: Qualifying small employers and individual proprietors must provide health maintenance organizations and insurers with a certification of eligibility on an annual basis for continued participation in the Healthy New York program. There are no compliance requirements for local governments. This amendment eases existing compliance requirements.

3. Professional services: The qualifying small employer and individual proprietor should not require professional services to comply with the amendment.

4. Compliance costs: The implementing legislation requires that small businesses wishing to participate in the Healthy New York program complete an initial form certifying as to their eligibility to participate in the program. There should be no costs associated with completing this form since the information requested in support of an applicant's eligibility certification is readily available to the small employer. This regulatory amendment does not impose any additional costs. The amendment should reduce insurance costs for small businesses. The amendment imposes no costs to local governments.

5. Economic and technological feasibility: The Healthy New York program is designed to make health insurance premiums more affordable to small businesses. Compliance with the amendment should be economically and technologically feasible for small businesses since it requires no action on their part.

6. Minimizing adverse impact: The amendment minimizes the adverse impact on small employers by lowering premium rates and increases access to affordable health coverage.

7. Small business and local government participation: Adjustment of the stop-loss corridors resulting in premium reduction is based on the Department's discussions with Chambers of Commerce, small businesses and providers. Other changes to the program result from concerns expressed to the Department by providers, Chambers of Commerce, business councils, and small businesses. This notice is intended to provide small businesses, local governments, and public and private entities in rural and non-rural areas with an additional opportunity to participate in the rulemaking process.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Health maintenance organizations and insurers to which this regulation is applicable do busi-

ness in every county of the state, including rural areas as defined under Section 102(13) of the State Administrative Procedure Act. Small businesses and working uninsured individuals meeting the eligibility criteria for participation in the Healthy New York program and individuals in need of health insurance coverage are located in every county of the state including rural areas as defined under Section 102(13) of the State Administrative Procedure Act.

2. Reporting, recordkeeping and other compliance requirements; and professional services: Healthy New York requires health maintenance organizations to report enrollment changes on a monthly basis and also requires an annual request for reimbursement of eligible claims. Twice a year, enrollment reports that discern enrollment on a county by county basis are submitted to the Insurance Department by the health maintenance organizations. This revision will not add any new reporting requirements. This amendment does require that a notice of rate change include a notice of the right to change benefit packages. Nothing in this revision distinguishes between rural and non-rural areas.

3. Costs: The Healthy New York program is funded from state monies as part of the Health Care Reform Act of 2000. There are no costs to local governments. Qualifying small businesses and individuals will benefit from the revisions to Part 362 due to the resulting reduced premium rates for Healthy New York insurance. This will benefit those businesses and individuals in both rural and non-rural areas of the State. Additionally, this amendment should facilitate the program's goals of encouraging individuals to purchase insurance on their own behalf and encouraging businesses to purchase insurance on behalf of their employees. This regulation has no impact unique to rural areas.

4. Minimizing adverse impact: Because the same requirements apply to both rural and non-rural entities, the amendment will impact all affected entities the same. Furthermore, the result of the amendment should ultimately be a favorable one since it decreases premium rates and reduces some program complexity.

5. Rural area participation: Adjustment of the stop-loss corridors resulting in premium reduction is based on the Department's discussions with health plans, Chambers of Commerce, small businesses and consumers. Other changes to the program result from concerns expressed to the Department by providers, HMOs, Chambers of Commerce, business councils, small businesses, and consumers. This notice is intended to provide small businesses, local governments, and public and private entities in rural and non-rural areas with further opportunity to participate in the rulemaking process.

Job Impact Statement

This amendment will not adversely affect jobs or employment opportunities in New York State. This amendment is intended to improve access to comprehensive health insurance for individuals, the working uninsured and small employers. This amendment reduces the cost of Healthy New York health insurance, a program for the uninsured, by creating choice in benefit structure, easing confusion regarding eligibility terms, and generally improving access to Healthy New York insurance.

Public Service Commission

NOTICE OF ADOPTION

Retail Access Plan by Central Hudson Gas and Electric Corporation

I.D. No. PSC-02-05-00004-A

Filing date: June 1, 2005

Effective date: June 1, 2005

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The commission, on May 18, 2005, adopted an order in Case 00-M-0504 approving a retail access plan filed by Central Hudson Gas & Electric Corporation (Central Hudson) on Dec. 15, 2004.

Statutory authority: Public Service Law, section 66

Subject: Retail access plan filed in compliance with the commission's Aug. 25, 2004 policy statement.

Purpose: To adopt the terms of Central Hudson's retail access plan.

Substance of final rule: The Commission approved a Retail Access Plan by Central Hudson Gas and Electric Corporation pursuant to the Commission's Statement on Policy on Further Steps toward Competition in Retail Energy Markets issued August 25, 2004, subject to the terms and conditions set forth in the Order.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Central Operations, Public Service Commission, Bldg. 3, 14th Fl., Empire State Plaza, Albany, NY 12223-1350, by fax to (518) 474-9842, by calling (518) 474-2500. An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act. (00-M-0504SA10)

NOTICE OF ADOPTION

Calculation of Franchise Fees by Cablevision Systems Long Island Corporation

I.D. No. PSC-07-05-00021-A

Filing date: June 2, 2005

Effective date: June 2, 2005

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The commission, on April 13, 2005, adopted an order in Case 05-V-0070 granting Cablevision Systems Long Island Corporation d/b/a Cablevision a waiver of 9 NYCRR section 595.1(o) pertaining to the franchising process for the Village of Stewart Manor, Nassau County.

Statutory authority: Public Service Law, section 216(1)

Subject: Calculation of franchise fees.

Purpose: To waive certain preliminary franchising procedures.

Substance of final rule: The Commission approved Cablevision Systems Long Island Corporation d/b/a Cablevision's request for a waiver of 9 NYCRR Part 595.1(o) to permit exclusion of franchise fee collections from calculation of gross receipts for the purpose of determining the franchise fee to be paid to the Village of Stewart Manor (Nassau County).

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Central Operations, Public Service Commission, Bldg. 3, 14th Fl., Empire State Plaza, Albany, NY 12223-1350, by fax to (518) 474-9842, by calling (518) 474-2500. An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act. (05-V-0070SA1)

NOTICE OF ADOPTION

Calculation of Franchise Fees by Cablevision Systems Long Island Corporation

I.D. No. PSC-07-05-00022-A

Filing date: June 2, 2005

Effective date: June 2, 2005

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: The commission, on April 13, 2005, adopted an order in Case 05-V-0076 granting Cablevision Systems Long Island Corporation d/b/a Cablevision a waiver of 9 NYCRR section 595.1(o) pertaining to the franchising process for the Village of South Floral Park, Nassau County.

Statutory authority: Public Service Law, section 216(1)

Subject: Calculation of franchise fees.

Purpose: To waive certain preliminary franchising procedures.

Substance of final rule: The Commission approved Cablevision Systems Long Island Corporation d/b/a Cablevision's request for a waiver of 9 NYCRR Part 595.1(o) to permit exclusion of franchise fee collections from calculation of gross receipts for the purpose of determining the

franchise fee to be paid to the Village of South Floral Park (Nassau county).

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Central Operations, Public Service Commission, Bldg. 3, 14th Fl., Empire State Plaza, Albany, NY 12223-1350, by fax to (518) 474-9842, by calling (518) 474-2500. An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act. (05-V-0076SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Flexible Rate Contract by Orange and Rockland Utilities, Inc.

I.D. No. PSC-25-05-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve, modify, or reject, in whole or in part, a proposal filed by Orange and Rockland Utilities, Inc. to make various changes in the rates, charges, rules and regulations contained in its tariff schedule, P.S.C. No. 2—Electricity to become effective Sept. 1, 2005.

Statutory authority: Public Service Law, section 66(12)

Subject: Flexible rate contract.

Purpose: To update the terms and conditions of electric flexible rate service contracts.

Substance of proposed rule: On May 26, 2005, Orange and Rockland Utilities, Inc. (O&R or the company) filed proposed tariff revisions to update the terms and conditions of electric flexible rate service contracts pursuant to the Commission's Order Approving Guidelines for Flexible Rate Service Contracts, issued April 14, 2005. The tariff provisions are reflective of the Commission's desire to advance the use of flex contracts to promote economic development in keeping with two important criteria recognized with the Department of Public Service – the necessity for attracting or retaining load, and the demonstration of economic benefits to non-participating customers. The proposed effective date of O&R's filing is September 1, 2005. The Commission may approve, reject or modify, in whole or in part, O&R's proposed tariff revisions.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brillong, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(03-E-1761SA2)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Flexible Rate Contract by Rochester Gas and Electric Corporation

I.D. No. PSC-25-05-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve, modify, or reject, in whole or in part, a proposal filed by Rochester Gas and Electric Corporation to make various changes in the rates, charges, rules and regulations contained in its tariff schedule, P.S.C. No. 19—Electricity to become effective Aug. 29, 2005.

Statutory authority: Public Service Law, section 66(12)

Subject: Flexible rate contract.

Purpose: To update the terms and conditions of electric flexible rate service contracts.

Substance of proposed rule: On May 31, 2005, Rochester Gas and Electric Corporation (RG&E or the company) filed proposed tariff revisions to update the terms and conditions of electric flexible rate service contracts pursuant to the Commission's Order Approving Guidelines for Flexible Rate Service Contracts, issued April 14, 2005. The tariff provisions are reflective of the Commission's desire to advance the use of flex contracts to promote economic development in keeping with two important criteria recognized with the Department of Public Service – the necessity for attracting or retaining load, and the demonstration of economic benefits to non-participating customers. The proposed effective date of RG&E's filing is August 29, 2005. The Commission may approve, reject or modify, in whole or in part, RG&E's proposed tariff revisions.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brillig, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act. (03-E-1761SA3)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Flexible Rate Contract by New York State Electric & Gas Corporation

I.D. No. PSC-25-05-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve, modify, or reject, in whole or in part, a proposal filed by New York State Electric & Gas Corporation to make various changes in the rates, charges, rules and regulations contained in its tariff schedule, P.S.C. No. 120—Electricity to become effective Aug. 29, 2005.

Statutory authority: Public Service Law, section 66(12)

Subject: Flexible rate contract.

Purpose: To update the terms and conditions of electric flexible rate service contracts.

Substance of proposed rule: On May 31, 2005, New York State Electric & Gas Corporation (NYSEG or the company) filed proposed tariff revisions to update the terms and conditions of electric flexible rate service contracts pursuant to the Commission's Order Approving Guidelines for Flexible Rate Service Contracts, issued April 14, 2005. The tariff provisions are reflective of the Commission's desire to advance the use of flex contracts to promote economic development in keeping with two important criteria recognized with the Department of Public Service -the necessity for attracting or retaining load, and the demonstration of economic benefits to non- participating customers. The proposed effective date of NYSEG's filing is August 29, 2005. The Commission may approve, reject or modify, in whole or in part, NYSEG's proposed tariff revisions.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brillig, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act. (03-E-1761SA4)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Flexible Rate Contract by Niagara Mohawk Power Corporation

I.D. No. PSC-25-05-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve, modify or reject, in whole or in part, a proposal filed by Niagara Mohawk Power Corporation to make various changes in the rates, charges, rules and regulations contained in its tariff schedule, P.S.C. No. 207—Electricity to become effective Aug. 29, 2005.

Statutory authority: Public Service Law, section 66(12)

Subject: Flexible rate contract.

Purpose: To update the terms and conditions of electric flexible rate service contracts.

Substance of proposed rule: On May 31, 2005, Niagara Mohawk Power Corporation (Niagara Mohawk or the company) filed proposed tariff revisions to update the terms and conditions of electric flexible rate service contracts pursuant to the Commission's Order Approving Guidelines for Flexible Rate Service Contracts, issued April 14, 2005. The tariff provisions are reflective of the Commission's desire to advance the use of flex contracts to promote economic development in keeping with two important criteria recognized with the Department of Public Service -the necessity for attracting or retaining load, and the demonstration of economic benefits to non-participating customers. The proposed effective date of Niagara Mohawk's filing is August 29, 2005. The Commission may approve, reject or modify, in whole or in part, Niagara Mohawk's proposed tariff revisions.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brillig, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act. (03-E-1761SA5)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

New Types of Electricity Meters by Kuhlman Electric Corporation

I.D. No. PSC-25-05-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a petition dated March 24, 2005 by Kuhlman Electric Corporation for commission approval of the Kuhlman Electric Corporation revenue metering instrument transformers types PH-982, BH-001 and BYM.

Statutory authority: Public Service Law, section 67(1)

Subject: Approval of new types of electricity meters, transformers and auxiliary devices – Case 279.

Purpose: To permit electric utilities in New York State to use the Kuhlman instrument transformers types PH-982, BH-001, and BYM.

Substance of proposed rule: The Commission will consider a request from Kuhlman Electric Corporation for the approval and use of the Kuhlman Electric Corporation Current Transformers Type PH-982, Type BH-001, and Type BYM. Consolidated Edison of New York has intent to use the Kuhlman Current Transformer, Type PH-982, Type-BH-001 and Type BYM, for revenue metering purposes. These current transformers are designed as outdoor type devices intended for use in revenue grade metering applications.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(05-E-0373SA1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Submetering of Electricity by Octagon, L.P.

I.D. No. PSC-25-05-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to grant, deny or modify, in whole or in part, the petition filed by Octagon, L.P. to submeter electricity at Octagon Apartments at 888 Main St., Roosevelt Island, NY.

Statutory authority: Public Service Law, sections 2, 4(1), 65(1), 66(1), (2), (3), (4), (5), (12) and (14)

Subject: Submetering of electricity.

Purpose: To submeter electricity at Octagon Apartments, 888 Main St., Roosevelt Island, NY.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or in part, the petition filed by Octagon, L.P. to submeter electricity at Octagon Apartments at 888 Main Street, Roosevelt Island, New York.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(05-E-0621SA1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Lightened Regulation by Neptune Regional Transmission System, LLC

I.D. No. PSC-25-05-00010-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve or reject (in whole or in part) or modify a request by Neptune Regional Transmission System, LLC (Neptune) for an order providing for lightened regulation.

Statutory authority: Public Service Law, sections 4(1), 66(1), 69, 70 and 110

Subject: Request by Neptune for lightened regulation as an electric corporation.

Purpose: To consider Neptune's request in connection with the construction and operation of an electric transmission facility.

Substance of proposed rule: By petition filed June 6, 2005, Neptune Regional Transmission System, LLC (Neptune) seeks a declaratory ruling from the Commission declining jurisdiction over it as the provider of

interstate electric transmission capacity. As an alternative, Neptune seeks an order providing for lightened regulation of it as an electric corporation.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(05-E-0669SA1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Metering, Balancing and Cashout Provisions by Central Hudson Gas & Electric Corporation

I.D. No. PSC-25-05-00011-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering appropriate metering, balancing and cashout provisions for Central Hudson Gas & Electric Corporation's provision of gas transportation service to customers taking service under Service Classification Nos. 8, 9, and 11 as discussed in an order on real time metering and daily balancing and notice soliciting comments issued June 1, 2005 in Case 04-G-0463.

Statutory authority: Public Service Law, sections 5(6), 65(1), (2), (3), 66(1), (2), (3), (5), (8), (10) and (12)

Subject: Metering, balancing and cashout provisions for Central Hudson Gas & Electric Corporation's gas customers taking service under Service Classification Nos. 8, 9, and 11.

Purpose: To establish metering, balancing and cashout provisions.

Substance of proposed rule: The Public Service Commission is considering appropriate metering, balancing and cashout provisions for Central Hudson Gas & Electric Corporation's provision of gas transportation service to customers taking service under Service Classifications 8, 9, and 11 as discussed in an Order on Real Time Metering and Daily Balancing and a Notice Soliciting Comments issued June 1, 2005 in Case 04-G-0463. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(04-G-0463SA2)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Low-Income Gas Customer Energy Efficiency Program by Niagara Mohawk Power Corporation

I.D. No. PSC-25-05-00012-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve, modify or reject, in whole or in part, a petition filed by Niagara

Mohawk Power Corporation for approval to implement a Low-Income Gas Energy Efficiency Program for gas heating customers.

Statutory authority: Public Service Law, section 66(12)

Subject: Low-Income Gas Customer Energy Efficiency Program.

Purpose: To approve the program.

Substance of proposed rule: The Public Service Commission is considering whether to approve, modify or reject, in whole or in part, a petition filed by Niagara Mohawk Power Corporation for approval to implement a low-income gas energy efficiency program for gas heating customers.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(05-G-0668SA1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Charge for Special Services by Consolidated Edison Company of New York, Inc.

I.D. No. PSC-25-05-00013-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve, modify, or reject, in whole or in part, a proposal filed by Consolidated Edison Company of New York, Inc. to make various changes in the rates, charges, rules and regulations contained in its tariff schedule, P.S.C. No. 3—Steam to become effective Sept. 1, 2005.

Statutory authority: Public Service Law, section 66(12)

Subject: Charge for special services.

Purpose: To revise the storeroom handling cost associated with the changes billed to customers when steam repair service is performed at a customer's request.

Substance of proposed rule: On May 26, 2005, Consolidated Edison Company of New York, Inc. (Con Edison or the company) filed proposed tariff amendments to revise the storeroom handling cost associated with the charges billed to customers when steam repair service is performed at a customer's request. The proposed effective date of Con Edison's filing is September 1, 2005. The Commission may approve, reject or modify, in whole or in part, Con Edison's proposed tariff revisions.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(05-S-0653SA1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

New Types of Water Meters and Auxiliary Devices by New York Water Service Corporation

I.D. No. PSC-25-05-00014-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a petition dated March 1, 2005 by New York Water Service Corporation for commission approval of the Mars MUN IV portable tester.

Statutory authority: Public Service Law, section 89(d)(1)

Subject: New types of water meters, and auxiliary devices—Case C 6916.

Purpose: To approve use of the Mars MUN IV portable test standard in New York State.

Substance of proposed rule: The Commission will consider a request filed by New York Water Service Corporation (New York Water) for the approval of the MARS MUN IV portable test standard. New York Water plans to utilize the MARS MUN IV test standard to field test revenue grade commercial type water meters greater than 2 inches in size. The MARS MUN IV is a digital instrument capable of providing test results under various load conditions.

Text of proposed rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 486-2660

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(05-W-0335SA1)