

## Harckham - S5632 vs Parker - S404

### Brief Definitions:

**Analog Utility Meter** - A non-flammable, purely mechanical utility meter that contains no electronic components.

**Digital Utility meter** - (AMI, ERT, AMR, "Smart, "radio-off opt-out" digital meter, etc.) A flammable, radiofrequency (RF) transmitting or non-transmitting utility meter that contains computerized and electronic components, including antennae, switch mode power supply, batteries, etc.

S5632 - Introduced by Senator Harckham during the 2021-22 session. This bill would protect the public health, safety and privacy of utility customers by requiring electric, gas and water utility corporations to provide a no-fee, mechanical analog utility meter choice.

S404 - There have been many versions of S404 since 2011. Although edits have been made, this bill remains a utility industry-leaning and unpopular bill. It simply reinforces the utility industry's already improper methods of forcing utility customers to have unsafe digital electric and gas utility meters. This bill would eliminate the rights of utility customers to recover or retain safe, mechanical analog utility meters and force them to accept every type of digital utility meter, except two-way meters.

### S404

STATE OF NEW YORK  
404  
2023-2024 Regular Sessions  
IN SENATE  
(Prefiled)  
January 4, 2023

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Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to advanced metering infrastructure devices for residential services

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

1 Section 1. The public service law is amended by adding a new section

2 67-b to read as follows:

3 § 67-b. Advanced metering infrastructure devices for electric and gas

4 services.

**S404 - Covers only electric and gas utility meters**

**S5632 - Includes electric, gas and water utility meters**

1. The commission shall not allow for the installation of any advanced metering infrastructure (AMI) device by an electric and/or gas corporation unless such device meets or exceeds the following standards for AMI performance and safety, which shall include:

**FLAW - S404 - This is deceptive. There are no federal or state health, electrical fire safety or privacy standards for AMI digital meters. Digital meters were rushed into use 15 years ago having never been properly tested. They are not Underwriters Laboratories (UL) approved.**

8 (a) Federal Communications Commission standards for intentional and unintentional radio frequency emissions and any other relevant standards related to radio frequency exposure;

**FLAW - S404 - The FCC provides no health-related RF emissions or electrical fire safety standards for digital meters. It issues license numbers for RF transmitting electronic devices relating to interference. For this, an FCC accredited lab performs Part 15.247 Certification, mentioned above in S404. This procedure is used by the FCC for digital meters but it is not designed to test utility meters. To fit this test modality, the lab alters the meter and adds a power cord to it and then plugs that into a wall outlet. This test fails to replicate the conditions in which these meters are actually used and is therefore fatally flawed and irrelevant.**

11 (b) American National Standards Institute (ANSI) specifications for meter accuracy and performance; and  
13 (c) any other standards, requirements and guidelines established by the commission to protect customer health and safety and ensure, to the

**FLAW - S404 - The New York State Public Service Commission has never established any health, electrical fire safety or privacy standards, requirements or guidelines for digital meters. For the approval of digital meters, the Commission relies only on the 2003 Operating Manual 92, a protocol for testing mechanical analog meters for accuracy. This is comparable to testing the safety of motorcycles using the same**

methods designed for testing the safety of bicycles.

15 fullest extent possible, the protection and encryption of  
customer  
16 personal, financial and energy usage information. The  
commission shall  
17 promulgate regulations necessary to effectuate this  
subdivision.

**S404 - To date, the Commission has not established any utility regulations for extracting customers' private utility usage data. As a result, customers have no rights to protect their private utility usage data. There are no limits on the data utility corporations can collect from customers and sell to third parties.**

**S5632 - By nature of their design, mechanical analog meters cannot collect customer utility usage data. Therefore, S5632 ensures customers' rights to safeguard their data.**

18 2. For purposes of this section advanced metering  
infrastructure shall  
19 include:  
20 (a) a one-way smart meter, which shall mean a device designed  
to  
21 utilize one-way communications systems, including but not  
limited to:  
22 (i) power line carrier; (ii) radio frequency; (iii) wireless  
fidelity  
23 network; (iv) telephony; and (v) the internet to transmit  
customer usage

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

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1 data to an electric and/or gas corporation for the purposes of  
billing;  
2 and be designed to be capable of measuring and storing  
customer electric  
3 and/or gas usage data, including time of use in real time; or  
4 (b) two-way smart meter, which shall mean a device that is  
designed to  
5 utilize two-way communications systems, including but not  
limited to:  
6 (i) radio frequency; (ii) wireless fidelity network; or (iii)  
the inter-  
7 net to transmit electric usage and pricing data between an  
electric  
8 and/or gas corporation and its customers, where such device is

capable

9 of (A) measuring usage data and transmitting such data in intervals of

10 at least once per day; (B) receiving in real-time, per-kilowatt hour

11 (kWh) and/or per (therm) gas and electric supply and delivery rates; (C)

12 detecting customer service disruptions and transmitting such information

**Flaw - S404 - There is no evidence that digital utility meters detect service disruptions.**

13 to an electric and/or gas corporation; and (D) storing customer usage

14 data.

15 3. It shall be the right of every customer of an electric and/or gas

16 corporation, at no penalty, fee or service charge to decline the permis-

17 sion of his or her electric and/or gas corporation, (a) to replace an

18 existing meter at such customer's premises that is assigned to such

19 customer's account with a two-way smart meter or (b) to install any

20 two-way smart meter device at his or her property without such custom-

21 er's consent.

**S404 - This bill does not offer an analog meter choice to any utility customer.**

**S5632 - This bill allows all utility customers the right to choose a safe analog meter.**

22 4. An electric and/or gas corporation may not install a two-way smart

23 meter on a customer's premises that is assigned to such customer's

24 account unless it shall provide written notice to the customer no less

25 than ninety days prior to the scheduled installation of such meter. Such

26 notice shall provide that:

27 (a) the customer shall have the right to decline his or her electric

28 and/or gas corporation from installing a two-way smart meter with no

29 fee, penalty or service charge;

30 (b) the customer may, at any point during a period of three  
hundred  
31 sixty-five days following the installation of a two-way smart  
meter,  
32 require the removal of such device with no fee, penalty or  
service  
33 charge;  
34 (c) the customer may be liable for a fee to be determined by  
the  
35 commission for the removal of a two-way smart meter device if  
the  
36 customer requests the removal more than three hundred sixty-  
five days  
37 following the installation of such meter at his or her  
premises.

**S404 - S404 allows utilities to charge customers for opting out of (only) two-way meters after one year. Penalizing customers for opting out of any harmful digital meters is unjust. In the past, customers were never charged for any utility meters.**

**S5632 - S5632 gives customers the right to retain or recover analog meters at no fee with no time limit. Utility customers who are harmed by digital meters or learn about the hazards should not be penalized for requesting safe analog meters at any time.**

38 § 2. This act shall take effect immediately.

### **Conclusion:**

For over a decade, utilities have been removing safe and reliable analog meters and employing bullying tactics to force customers to have digital meters. Digital meters can cause fires and do transmit and conduct unprecedented and harmful levels of electromagnetic frequencies. Since 2010, in NYSPSC proceedings, New York State residents have pleaded for their rights to retain or recover analog meters.

Assembly Member DenDekker previously introduced the same bill as S404. Other Assembly Members co-sponsored it, thinking it was what their constituents wanted but withdrew their names once their constituents informed them that the bill was flawed and would not protect utility consumers. Recently, Assembly Member Barrett introduced A6300, which is the same as S404, and other members have co-sponsored it. This is again a mistake that benefits the utility industry and ignores consumers' rights.

In the 2021-22 session, Assembly Member Abinanti introduced legislation that is the same as what is now S5632. Mr. Abinanti is no longer a member of the Assembly. S5632 now needs to be introduced in the Assembly.

**Please act now to protect the people of this state and sponsor S5632 in the Assembly. Support S5632 in the Senate and Assembly and vote NO on S404.**