

# STATE OF NEW YORK

2281

2017-2018 Regular Sessions

## IN ASSEMBLY

January 17, 2017

Introduced by M. of A. MAYER, BRAUNSTEIN, BUCHWALD, GALEF, ORTIZ, RAIA, ROZIC, TITONE, OTIS, ABINANTI -- Multi-Sponsored by -- M. of A. COOK, GUNTHER, PERRY, RIVERA, SALADINO, THIELE -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to utility preparedness for outages and disruptions of service

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

1 Section 1. This act shall be known and may be cited as the "utility  
2 preparedness act of 2017".

3 § 2. The public service law is amended by adding a new section 66-o to  
4 read as follows:

5 § 66-o. Utility preparedness for outages and disruptions of service.

6 1. Definitions. As used in this section:

7 (a) "Electric transmission and distribution company" or "transmission  
8 and distribution company" or "company" shall mean: an investor-owned  
9 utility having annual revenues in excess of two hundred million dollars  
10 that transmits and distributes electricity within this state.

11 (b) "Vegetation management" shall mean: programs and practices  
12 designed to prevent electric system disruptions or power outages caused  
13 by the physical interference or collapse of trees, tree branches and  
14 other vegetation on electric transmission and distribution lines.

15 2. Transmission and distribution company performance benchmarks and  
16 standards. (a) No later than one year following the effective date of  
17 this section, the commission shall establish, and each transmission and  
18 distribution company is required to comply with, power restoration  
19 performance benchmarks and standards to reduce the duration of outages  
20 and disruptions and to facilitate restoration of power after outages or  
21 disruptions. Prior to establishing such benchmarks and standards, the  
22 commission may require companies to submit documents and any other

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

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1 information in their possession in order to assist the commission in  
2 establishing such benchmarks and standards.

3 (b) The benchmarks and standards established by the commission shall  
4 be designed for power outages in which more than ten percent of a trans-  
5 mission and distribution company's customers are without power for more  
6 than forty-eight consecutive hours and shall include but not be limited  
7 to, standards for:

8 (i) minimum staffing and equipment levels for each company, based on  
9 the number of customers served by such company and the nature of the  
10 infrastructure deployed to serve such company's customers in the event  
11 of an emerging or wide-spread outage or disruption;

12 (ii) a timetable for restoration of power in outages affecting more  
13 than ten percent, thirty percent, fifty percent and seventy percent of  
14 such company's customers;

15 (iii) a timetable for restoration of power when outages are due to  
16 blackouts of the entire grid;

17 (iv) creation of a communication plan between each company and its  
18 customers, including, but not limited to, communication during time  
19 periods that are not considered normal business hours;

20 (v) safety of companies' employees, work crews and private contrac-  
21 tors;

22 (vi) creation of mutual aid agreements with other utilities in the  
23 region and, as needed, in the United States and Canada, for mutual storm  
24 restoration assistance, which such agreements shall be filed with the  
25 commission;

26 (vii) notification of the commission and the public when a company has  
27 requested aid for storm restoration assistance from other utilities  
28 including the number of workers and/or additional equipment the company  
29 has requested;

30 (viii) communication and coordination between each company and the  
31 relevant state, municipal and/or emergency operations center officials  
32 concerning emergency preparation, road clearing and the establishment of  
33 restoration priorities;

34 (ix) tree trimming, cutting and removal by each transmission and  
35 distribution company to reduce power outages caused by trees and limbs;

36 (x) communication and coordination, after consultation with the New  
37 York state division of homeland security and emergency services, between  
38 each transmission and distribution company and the public including, but  
39 not limited to, standards concerning the use of any emergency notifica-  
40 tion system to notify the public of power restoration status and any  
41 dangerous conditions, including notification methods such as mobile  
42 telephone text messages, electronic mail and any other electronic or  
43 non-electronic means that the commission may require;

44 (xi) reimbursement to residential customers for:

45 (A) actual losses of food spoiled due to lack of refrigeration caused  
46 during a power outage lasting forty-eight or more consecutive hours when  
47 greater than ten percent of a company's residential customers have lost  
48 power, in an amount up to two hundred dollars upon submission of an  
49 itemized list and in an amount over two hundred dollars upon submission  
50 of an itemized list and proof of loss, up to a maximum of four hundred  
51 fifty dollars for any one customer for any one incident, which such  
52 amounts may be periodically reviewed and changed by the commission;

53 (B) actual losses of perishable prescription medicine, spoiled due to  
54 lack of refrigeration, upon submission of an itemized list and proof of  
55 loss and, if requested by the company, submission of authorization to  
56 enable the company to verify the claimed loss;

1 (xii) timely notification of power outages and restoration efforts by  
2 each company to any relevant state or municipal agency or officials  
3 including, but not limited to, any public safety agency or officials;

4 (xiii) the operation of an emergency call center by each company; and  
5 (xiv) any other standards the commission deems necessary.

6 (c) The commission, in developing its power restoration performance  
7 benchmarks and standards pursuant to paragraph (a) of this subdivision,  
8 shall review:

9 (i) each transmission and distribution company's current practices  
10 concerning power restoration after an emergency. Such review shall  
11 include, but not be limited to, an analysis of each such company's: (A)  
12 estimates concerning potential damage and power disruptions made prior  
13 to a potential outage affecting more than ten percent of a company's  
14 customers for a period of more than forty-eight consecutive hours; (B)  
15 damage and power outage assessments after any emergency; (C) restoration  
16 management after any emergency, including access to alternate restora-  
17 tion resources via mutual aid agreements with other utilities for mutual  
18 storm restoration assistance, including those entered into with other  
19 transmission and distribution companies; (D) each company's plan for  
20 at-risk and vulnerable customers including, but not limited to, custom-  
21 ers identified in paragraphs (a) and (b) of subdivision three of section  
22 thirty-two of this chapter; (E) policies concerning communication with  
23 state and local officials and customers, including notification of  
24 customer restoration estimates and the timeliness, accuracy and useful-  
25 ness of such estimates; and (F) need for mutual aid agreements with  
26 other utilities for mutual storm restoration including assistance from  
27 crews serving other utilities or companies;

28 (ii) the adequacy of each transmission and distribution company's  
29 infrastructure, facilities and equipment, including, but not limited to,  
30 electric distribution lines, electric transformers and circuits, which  
31 shall include an analysis of: (A) whether such company is following  
32 standard industry practices for operation and maintenance of such  
33 infrastructure, facilities and equipment; and (B) whether such company  
34 has access to adequate replacement equipment for such infrastructure,  
35 facilities and equipment during the course of a power outage affecting  
36 more than ten percent of a company's customers for more than forty-eight  
37 consecutive hours;

38 (iii) vegetation management policies of each transmission and distrib-  
39 ution company including: (A) expenditures for tree trimming and other  
40 practices to prevent interference of transmission and distribution lines  
41 by vegetation; (B) incidence of power outages caused by vegetation  
42 including falling trees and tree branches caused by weather or other  
43 events; and (C) the amount and duration of power outages during previous  
44 major storms caused by trees and limbs outside the current right of way  
45 management with consideration given to the quantity and effectiveness of  
46 prior tree trimming;

47 (iv) the impact, including, but not limited to, potential reduction of  
48 power outages and potential cost of burying power lines underground were  
49 such effort to be undertaken;

50 (v) the impact of expanding the area adjacent to distribution lines  
51 for tree trimming, including an analysis of the benefits and the costs  
52 of such expansion to ratepayers and the likelihood that such expansion  
53 would decrease damage to infrastructure, facilities and equipment used  
54 to distribute electricity and decrease power outage frequency or dura-  
55 tion; and

1 (vi) any other policy or practice the commission deems necessary to  
2 analyze in order to conduct the review required pursuant to this para-  
3 graph.

4 (d) The commission shall permit each company to recover the reasonable  
5 costs incurred by such company to maintain or improve the reliability of  
6 such company's infrastructure necessary to meet the standards estab-  
7 lished pursuant to this section.

8 (e) The commission may also establish standards for acceptable  
9 performance by each transmission and distribution company in an emergen-  
10 cy, in accordance with this section, upon a determination by the commis-  
11 sion that the changed circumstances of any utility necessitates such  
12 additional standards.

13 (f) No later than one year following the establishment of the bench-  
14 marks and standards pursuant to paragraph (a) of this subdivision and  
15 each year thereafter, each transmission and distribution company shall  
16 provide an emergency response report to the commission. Such report  
17 shall include information and an analysis concerning such company's  
18 ability and performance during the preceding year to meet the emergency  
19 preparedness and response standards established by the commission pursu-  
20 ant to this section. In addition to the annual response report required  
21 in this paragraph, the commission may require any utility to submit a  
22 supplemental emergency response report after any storm, emergency or  
23 event causing significant power disruptions.

24 3. The commission shall review the performance of each transmission  
25 and distribution company after any emergency: (a) in which more than ten  
26 percent of any such company's customers were without power for more than  
27 forty-eight consecutive hours; or (b) at the commission's discretion.  
28 The commission, upon a finding, after a hearing or opportunity to be  
29 heard, that any such company failed to comply with any restoration stan-  
30 dard required by this section or any order of the commission in prepara-  
31 tion for a power outage, or in restoration of a power outage, shall  
32 impose civil penalties against such company, not to exceed a total of  
33 two and one-half percent of such company's gross annual revenues from  
34 electric distribution. In determining the amount of any penalty, the  
35 commission may consider whether such company recovered costs incurred  
36 pursuant to paragraph (d) of subdivision two of this section to meet  
37 infrastructure reliability efforts to improve such company's perform-  
38 ance. Any such penalty imposed shall be paid to the customers or rate-  
39 payers of such company in the form of a credit, which shall be credited  
40 within one hundred twenty days of such order. Any such penalty shall not  
41 be included as an operating expense of such company for the purposes of  
42 ratemaking.

43 § 3. This act shall take effect immediately.