

6181--A

2011-2012 Regular Sessions

I N A S S E M B L Y

March 9, 2011

Introduced by M. of A. HOYT, BOYLAND, SPANO, MAGNARELLI, JAFFEE, MAISEL, LUPARDO, COLTON, GALEF, GABRYSZAK, SCHROEDER, CASTRO, WEISENBERG, MILLMAN, PERRY, ABINANTI, BENEDETTO, RUSSELL, JEFFRIES, PRETLOW, SCARBOROUGH, P. RIVERA, ENGLEBRIGHT, TITONE, MARKEY, M. MILLER -- Multi-Sponsored by -- M. of A. ABBATE, BURLING, CALHOUN, CAMARA, CASTELLI, CERETTO, CONTE, COOK, DenDEKKER, HIKIND, LANCMAN, LATIMER, LIFTON, MAGEE, McDONOUGH, McENENY, McKEVITT, MONTESANO, MURRAY, PAULIN, PEOPLES-STOKES, RA, RAIA, REILLY, ROSENTHAL, SAYWARD, SIMOTAS, TENNEY, THIELE, TITUS, ZEBROWSKI -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, in relation to requiring a safety and reliability inspection of all telephone poles used by telephone corporations providing telephone service to more than one million subscribers and requiring a safety and reliability inspection of all utility poles used by electric corporations providing electric service to over 300,000 customers and the replacement or removal of deficient poles

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings. The legislature hereby declares that
2 unsafe, inadequate or unreliable telephone and electrical utility poles
3 are a danger to the general public and to telecommunications and elec-
4 trical utility workers; that such telephone and electrical utility poles
5 impair the effective delivery of telecommunications services; and that
6 the public interest requires increased oversight of the safety and reli-
7 ability of jurisdictional telecommunications and electrical utility
8 services carried over or by above ground telephone and electrical utili-
9 ty lines, as such are defined in article 1 of the public service law;
10 and that the public interest requires a set of minimum fines to ensure

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

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1 compliance with this statute by each telephone corporation serving over
2 one million subscribers and each electric corporation serving over
3 300,000 subscribers.

4 S 2. The public service law is amended by adding a new section 98-a to
5 read as follows:

6 S 98-A. SAFETY AND RELIABILITY INSPECTION. 1. THE PUBLIC SERVICE
7 COMMISSION SHALL, WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS
8 SECTION, REQUIRE TELEPHONE CORPORATIONS PROVIDING TELEPHONE SERVICE TO
9 MORE THAN ONE MILLION SUBSCRIBERS, AND ELECTRIC CORPORATIONS SERVING
10 OVER THREE HUNDRED THOUSAND CUSTOMERS, TO CONDUCT A STUDY OF THE SAFETY
11 AND RELIABILITY OF ALL TELEPHONE AND ELECTRIC POLES USED BY SUCH CORPO-
12 RATIONS TO PROVIDE TELEPHONE AND ELECTRIC SERVICE WITHIN THE STATE OF
13 NEW YORK, AND TO REPORT UPON THE FOLLOWING FACTORS:

14 (A) THE TOTAL NUMBER OF TELEPHONE AND ELECTRIC POLES PER COUNTY;

15 (B) THE NUMBER OF TELEPHONE AND ELECTRIC POLES WITHIN EACH COUNTY THAT
16 ARE SPLIT OR SHATTERED FOR MORE THAN FIVE PERCENT OF THE LENGTH OF SUCH
17 POLES;

18 (C) THE NUMBER OF TELEPHONE AND ELECTRIC POLES PER COUNTY THAT ARE
19 SEVERED OR PARTIALLY SEVERED FROM THEIR BASE;

20 (D) THE NUMBER OF TELEPHONE AND ELECTRIC POLES PER COUNTY THAT ARE
21 ATTACHED DIRECTLY TO OTHER TELEPHONE POLES ("STRAPPED") BY MEANS OTHER
22 THAN THE UTILITY LINES CONNECTING SUCH POLES;

23 (E) THE NUMBER OF STRAPPED POLES, OF WHICH EITHER OR BOTH POLES ARE
24 SPLIT OR SHATTERED FOR MORE THAN FIVE PERCENT OF THE LENGTH OF SUCH
25 POLES;

26 (F) ANY POLES THAT NO LONGER COMPLY WITH ANSI SAFETY STANDARD 05.1;
27 AND

28 (G) ANY TELEPHONE AND ELECTRIC POLES FROM WHICH ALL ELECTRICAL, TELE-
29 PHONE AND CABLE EQUIPMENT OR ELECTRICAL, TELEPHONE AND CABLE LINES HAVE
30 BEEN PREVIOUSLY REMOVED FROM THE POLES AND TO WHICH NO NEW TELEPHONE,
31 ELECTRICAL OR CABLE PLANT AND EQUIPMENT HAS BEEN ATTACHED FOR AT LEAST
32 THIRTY DAYS.

33 2. TELEPHONE AND ELECTRIC POLES IDENTIFIED IN SUBDIVISIONS (B), (C),
34 (D), (E), (F) AND (G) OF SUBDIVISION ONE OF THIS SECTION SHALL BE
35 PRESUMED TO BE NO LONGER SAFE, ADEQUATE OR RELIABLE FOR TELECOMMUNI-
36 CATIONS AND ELECTRIC SERVICE AND AN ENDANGERMENT TO THE GENERAL PUBLIC
37 AND TELECOMMUNICATIONS AND ELECTRIC UTILITY WORKERS, AND SHALL BE
38 SUBJECT TO SUCH STANDARDS FOR REPLACEMENT OF UNSAFE POLES, OR FINES, OR
39 BOTH, AS MAY BE REQUIRED BY THIS SECTION.

40 3. THE TELEPHONE AND ELECTRIC POLE SAFETY AND RELIABILITY STUDY
41 REQUIRED BY THIS SECTION SHALL BE COMPLETED BY EACH TELEPHONE CORPO-
42 RATION SERVING MORE THAN ONE MILLION SUBSCRIBERS AND EACH ELECTRIC
43 CORPORATION SERVING MORE THAN THREE HUNDRED THOUSAND SUBSCRIBERS WITHIN
44 ONE HUNDRED TWENTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. THE
45 TELEPHONE AND ELECTRIC POLE SAFETY AND RELIABILITY STUDY REQUIRED BY
46 THIS SECTION SHALL CONTAIN SUCH TELEPHONE AND ELECTRIC CORPORATION'S
47 PLAN (THE "CORRECTIVE PLAN") FOR REPLACING, WITHIN THREE HUNDRED SIXTY-
48 FIVE DAYS OF THE ISSUANCE OF SUCH REPORT (THE CORRECTIVE PLAN
49 "COMPLETION DATE"), ALL POLES SPLIT OR SHATTERED FOR MORE THAN FIVE
50 PERCENT OF THE LENGTH OF SUCH POLES, ALL POLES SEVERED OR PARTIALLY
51 SEVERED FROM THEIR BASE, ALL POLES THAT ARE STRAPPED DIRECTLY TO OTHER
52 TELEPHONE OR ELECTRIC POLES, ALL POLES FROM WHICH ALL ELECTRICAL, TELE-
53 PHONE AND CABLE EQUIPMENT OR ELECTRICAL, TELEPHONE AND CABLE LINES HAVE
54 BEEN PREVIOUSLY REMOVED FROM THE POLES AND TO WHICH NO NEW TELEPHONE,
55 ELECTRICAL OR CABLE PLANT AND EQUIPMENT HAS BEEN ATTACHED FOR AT LEAST
56 THIRTY DAYS, (COLLECTIVELY, "UNSAFE" POLES).

1 4. UPON ITS COMPLETION, THE TELEPHONE AND ELECTRIC POLE SAFETY AND
2 RELIABILITY STUDY REQUIRED BY THIS SECTION SHALL BE SUBMITTED AS A
3 REPORT, BY EACH TELEPHONE CORPORATION SERVING MORE THAN ONE MILLION
4 SUBSCRIBERS AND EACH ELECTRIC CORPORATION SERVING MORE THAN THREE
5 HUNDRED THOUSAND SUBSCRIBERS TO THE PUBLIC SERVICE COMMISSION, THE
6 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
7 ASSEMBLY, AND THE CHAIR OF BOTH THE SENATE AND ASSEMBLY STANDING COMMIT-
8 TEES ON CORPORATIONS, AUTHORITIES AND COMMISSIONS.

9 5. THE STUDY TO BE COMPLETED BY THE TELEPHONE AND ELECTRIC CORPO-
10 RATIONS SHALL INCORPORATE REPORTS OF POLES NONCOMPLIANT WITH THE FACTORS
11 IDENTIFIED IN SUBDIVISION ONE OF THIS SECTION PROVIDED TO THE TELEPHONE
12 AND ELECTRIC CORPORATIONS BY MEMBERS OF THE GENERAL PUBLIC, TELEPHONE
13 CORPORATION UNIONS, AND LOCAL, MUNICIPAL, COUNTY, AND STATE GOVERNMENT
14 AND AGENCIES.

15 6. ALL TELEPHONE AND ELECTRIC POLES IDENTIFIED AS UNSAFE OR NONCOMPLI-
16 ANT WITH ANSI SAFETY STANDARD O5.1, IN THE CORRECTIVE PLAN REQUIRED IN
17 THE TELEPHONE AND ELECTRIC POLE SAFETY AND RELIABILITY STUDY, SHALL BE
18 REPLACED BY THE TELEPHONE OR THE ELECTRIC CORPORATION OWNING SUCH POLES,
19 WITHIN THREE HUNDRED SIXTY-FIVE DAYS OF THE ISSUANCE OF SUCH REPORT.

20 7. REPLACEMENT OF THE POLES IDENTIFIED AS UNSAFE OR NONCOMPLIANT IN
21 THE CORRECTIVE PLAN SHALL BE CONDUCTED BY PROPERLY TRAINED, EXPERIENCED
22 AND EQUIPPED EMPLOYEES OF EACH TELEPHONE CORPORATION SERVING OVER ONE
23 MILLION SUBSCRIBERS AND EACH ELECTRIC CORPORATION SERVING MORE THAN
24 THREE HUNDRED THOUSAND SUBSCRIBERS PREPARING THE STUDY.

25 8. A FINE OF ONE HUNDRED FIFTY DOLLARS PER MONTH PER UN-REPLACED POLE
26 SHALL BE ASSESSED AGAINST EACH TELEPHONE POLE THAT A TELEPHONE CORPO-
27 RATION SERVING MORE THAN ONE MILLION SUBSCRIBERS HAS IDENTIFIED AS
28 UNSAFE OR NONCOMPLIANT IN ITS STUDY, AND HAS NOT REPLACED WITHIN THREE
29 HUNDRED SIXTY-FIVE DAYS OF THE ISSUANCE OF THE TELEPHONE AND ELECTRIC
30 POLE SAFETY AND RELIABILITY REPORT AND FOR EACH ELECTRIC POLE THAT AN
31 ELECTRIC CORPORATION SERVING MORE THAN THREE HUNDRED THOUSAND SUBSCRIB-
32 ERS HAS IDENTIFIED AS UNSAFE OR NONCOMPLIANT IN ITS STUDY, AND HAS NOT
33 REPLACED WITHIN THREE HUNDRED SIXTY-FIVE DAYS OF THE ISSUANCE OF THE
34 TELEPHONE AND ELECTRIC POLE SAFETY AND RELIABILITY REPORT.

35 S 3. The public service commission shall begin, within ninety days of
36 the effective date of this act, a rulemaking proceeding to establish
37 statewide safety and reliability standards for wooden telephone and
38 electric poles, and to establish penalties for the violation of such
39 standards. Penalties for violation of established standards shall not be
40 less than \$150 per month per un-replaced pole. The rulemaking proceeding
41 to establish statewide safety and reliability standards for wooden tele-
42 phone and electric poles and to establish penalties for the violation of
43 such standards shall be completed within one year of its inception.

44 S 4. Severability. If any provision of this act, or the application
45 thereof to any person or circumstance, shall be adjudged by any court of
46 competent jurisdiction to be invalid or unconstitutional, such judgment
47 shall not affect, impair or invalidate the remainder thereof, but shall
48 be confined in its operation to the provision of this act, or in its
49 application to the person or circumstance, directly involved in the
50 controversy in which such judgment shall have been rendered.

51 S 5. This act shall take effect immediately.