S T A T E O F N E W Y O R K

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:

Section 1. Legislative findings. The legislature hereby declares that unsafe, inadequate or unreliable telephone and electrical utility poles are a danger to the general public and to telecommunications and electrical utility workers; that such telephone and electrical utility poles impair the effective delivery of telecommunications services; and that the public interest requires increased oversight of the safety and reliability of jurisdictional telecommunications and electrical utility services carried over or by above ground telephone and electrical utility lines, as such are defined in article 1 of the public service law; 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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compliance with this statute by each telephone corporation serving over one million subscribers and each electric corporation serving over 300,000 subscribers.

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

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

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

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

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

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

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

(F) ANY POLES THAT NO LONGER COMPLY WITH ANSI SAFETY STANDARD O5.1; AND

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

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

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

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

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

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

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

8. A FINE OF ONE HUNDRED FIFTY DOLLARS PER MONTH PER UN-REPLACED POLE SHALL BE ASSESSED AGAINST EACH TELEPHONE POLE THAT A TELEPHONE CORPORATION SERVING MORE THAN ONE MILLION SUBSCRIBERS HAS IDENTIFIED AS UNSAFE OR NONCOMPLIANT IN ITS STUDY, AND HAS NOT REPLACED WITHIN THREE HUNDRED SIXTY-FIVE DAYS OF THE ISSUANCE OF THE TELEPHONE AND ELECTRIC POLE SAFETY AND RELIABILITY REPORT AND FOR EACH ELECTRIC POLE THAT AN ELECTRIC CORPORATION SERVING MORE THAN THREE HUNDRED THOUSAND SUBSCRIBERS HAS IDENTIFIED AS UNSAFE OR NONCOMPLIANT IN ITS STUDY, AND HAS NOT REPLACED WITHIN THREE HUNDRED SIXTY-FIVE DAYS OF THE ISSUANCE OF THE TELEPHONE AND ELECTRIC POLE SAFETY AND RELIABILITY REPORT.

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

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

S 5. This act shall take effect immediately.