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

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2013-2014 Regular Sessions

I N A S S E M B L Y

April 4, 2013

Introduced by M. of A. MAYER, BRAUNSTEIN, BUCHWALD, GALEF, LAVINE, ORTIZ, RAIA, ROZIC, SCHIMEL, TITONE, OTIS, ABINANTI -- Multi-Sponsored by -- M. of A. COOK, GUNTHER, PERRY, RIVERA, SALADINO, THIELE, WEISENBERG -- read once and referred to the Committee on Corporations, Authorities and Commissions -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. This act shall be known and may be cited as the "utility preparedness act of 2014".

S 2. The public service law is amended by adding a new section 66-n to read as follows:

S 66-N. UTILITY PREPAREDNESS FOR OUTAGES AND DISRUPTIONS OF SERVICE. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "ELECTRIC TRANSMISSION AND DISTRIBUTION COMPANY" OR "TRANSMISSION AND DISTRIBUTION COMPANY" OR "COMPANY" SHALL MEAN: AN INVESTOR-OWNED UTILITY HAVING ANNUAL REVENUES IN EXCESS OF TWO HUNDRED MILLION DOLLARS THAT TRANSMITS AND DISTRIBUTES ELECTRICITY WITHIN THIS STATE.

(B) "VEGETATION MANAGEMENT" SHALL MEAN: PROGRAMS AND PRACTICES DESIGNED TO PREVENT ELECTRIC SYSTEM DISRUPTIONS OR POWER OUTAGES CAUSED BY THE PHYSICAL INTERFERENCE OR COLLAPSE OF TREES, TREE BRANCHES AND OTHER VEGETATION ON ELECTRIC TRANSMISSION AND DISTRIBUTION LINES.

2. TRANSMISSION AND DISTRIBUTION COMPANY PERFORMANCE BENCHMARKS AND STANDARDS. (A) NO LATER THAN ONE YEAR FOLLOWING THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSION SHALL ESTABLISH, AND EACH TRANSMISSION AND DISTRIBUTION COMPANY IS REQUIRED TO COMPLY WITH, POWER RESTORATION PERFORMANCE BENCHMARKS AND STANDARDS TO REDUCE THE DURATION OF OUTAGES

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

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AND DISRUPTIONS AND TO FACILITATE RESTORATION OF POWER AFTER OUTAGES OR DISRUPTIONS. PRIOR TO ESTABLISHING SUCH BENCHMARKS AND STANDARDS, THE COMMISSION MAY REQUIRE COMPANIES TO SUBMIT DOCUMENTS AND ANY OTHER INFORMATION IN THEIR POSSESSION IN ORDER TO ASSIST THE COMMISSION IN ESTABLISHING SUCH BENCHMARKS AND STANDARDS.

(B) THE BENCHMARKS AND STANDARDS ESTABLISHED BY THE COMMISSION SHALL BE DESIGNED FOR POWER OUTAGES IN WHICH MORE THAN TEN PERCENT OF A TRANSMISSION AND DISTRIBUTION COMPANY'S CUSTOMERS ARE WITHOUT POWER FOR MORE THAN FORTY-EIGHT CONSECUTIVE HOURS AND SHALL INCLUDE BUT NOT BE LIMITED TO, STANDARDS FOR:

(I) MINIMUM STAFFING AND EQUIPMENT LEVELS FOR EACH COMPANY, BASED ON THE NUMBER OF CUSTOMERS SERVED BY SUCH COMPANY AND THE NATURE OF THE INFRASTRUCTURE DEPLOYED TO SERVE SUCH COMPANY'S CUSTOMERS IN THE EVENT OF AN EMERGING OR WIDE-SPREAD OUTAGE OR DISRUPTION;

(II) A TIMETABLE FOR RESTORATION OF POWER IN OUTAGES AFFECTING MORE THAN TEN PERCENT, THIRTY PERCENT, FIFTY PERCENT AND SEVENTY PERCENT OF SUCH COMPANY'S CUSTOMERS;

(III) A TIMETABLE FOR RESTORATION OF POWER WHEN OUTAGES ARE DUE TO BLACKOUTS OF THE ENTIRE GRID;

(IV) CREATION OF A COMMUNICATION PLAN BETWEEN EACH COMPANY AND ITS CUSTOMERS, INCLUDING, BUT NOT LIMITED TO, COMMUNICATION DURING TIME PERIODS THAT ARE NOT CONSIDERED NORMAL BUSINESS HOURS;

(V) SAFETY OF COMPANIES' EMPLOYEES, WORK CREWS AND PRIVATE CONTRACTORS;

(VI) CREATION OF MUTUAL AID AGREEMENTS WITH OTHER UTILITIES IN THE REGION AND, AS NEEDED, IN THE UNITED STATES AND CANADA, FOR MUTUAL STORM RESTORATION ASSISTANCE, WHICH SUCH AGREEMENTS SHALL BE FILED WITH THE COMMISSION;

(VII) NOTIFICATION OF THE COMMISSION AND THE PUBLIC WHEN A COMPANY HAS REQUESTED AID FOR STORM RESTORATION ASSISTANCE FROM OTHER UTILITIES INCLUDING THE NUMBER OF WORKERS AND/OR ADDITIONAL EQUIPMENT THE COMPANY HAS REQUESTED;

(VIII) COMMUNICATION AND COORDINATION BETWEEN EACH COMPANY AND THE RELEVANT STATE, MUNICIPAL AND/OR EMERGENCY OPERATIONS CENTER OFFICIALS CONCERNING EMERGENCY PREPARATION, ROAD CLEARING AND THE ESTABLISHMENT OF RESTORATION PRIORITIES;

(IX) TREE TRIMMING, CUTTING AND REMOVAL BY EACH TRANSMISSION AND DISTRIBUTION COMPANY TO REDUCE POWER OUTAGES CAUSED BY TREES AND LIMBS;

(X) COMMUNICATION AND COORDINATION, AFTER CONSULTATION WITH THE NEW YORK STATE DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES, BETWEEN EACH TRANSMISSION AND DISTRIBUTION COMPANY AND THE PUBLIC INCLUDING, BUT NOT LIMITED TO, STANDARDS CONCERNING THE USE OF ANY EMERGENCY NOTIFICATION SYSTEM TO NOTIFY THE PUBLIC OF POWER RESTORATION STATUS AND ANY DANGEROUS CONDITIONS, INCLUDING NOTIFICATION METHODS SUCH AS MOBILE TELEPHONE TEXT MESSAGES, ELECTRONIC MAIL AND ANY OTHER ELECTRONIC OR NON-ELECTRONIC MEANS THAT THE COMMISSION MAY REQUIRE;

(XI) REIMBURSEMENT TO RESIDENTIAL CUSTOMERS FOR:

(A) ACTUAL LOSSES OF FOOD SPOILED DUE TO LACK OF REFRIGERATION CAUSED DURING A POWER OUTAGE LASTING FORTY-EIGHT OR MORE CONSECUTIVE HOURS WHEN GREATER THAN TEN PERCENT OF A COMPANY'S RESIDENTIAL CUSTOMERS HAVE LOST POWER, IN AN AMOUNT UP TO TWO HUNDRED DOLLARS UPON SUBMISSION OF AN ITEMIZED LIST AND IN AN AMOUNT OVER TWO HUNDRED DOLLARS UPON SUBMISSION OF AN ITEMIZED LIST AND PROOF OF LOSS, UP TO A MAXIMUM OF FOUR HUNDRED-FIFTY DOLLARS FOR ANY ONE CUSTOMER FOR ANY ONE INCIDENT, WHICH SUCH AMOUNTS MAY BE PERIODICALLY REVIEWED AND CHANGED BY THE COMMISSION;

(B) ACTUAL LOSSES OF PERISHABLE PRESCRIPTION MEDICINE, SPOILED DUE TO LACK OF REFRIGERATION, UPON SUBMISSION OF AN ITEMIZED LIST AND PROOF OF LOSS AND, IF REQUESTED BY THE COMPANY, SUBMISSION OF AUTHORIZATION TO ENABLE THE COMPANY TO VERIFY THE CLAIMED LOSS;

(XII) TIMELY NOTIFICATION OF POWER OUTAGES AND RESTORATION EFFORTS BY EACH COMPANY TO ANY RELEVANT STATE OR MUNICIPAL AGENCY OR OFFICIALS INCLUDING, BUT NOT LIMITED TO, ANY PUBLIC SAFETY AGENCY OR OFFICIALS;

(XIII) THE OPERATION OF AN EMERGENCY CALL CENTER BY EACH COMPANY; AND

(XIV) ANY OTHER STANDARDS THE COMMISSION DEEMS NECESSARY.

(C) THE COMMISSION, IN DEVELOPING ITS POWER RESTORATION PERFORMANCE BENCHMARKS AND STANDARDS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, SHALL REVIEW:

(I) EACH TRANSMISSION AND DISTRIBUTION COMPANY'S CURRENT PRACTICES CONCERNING POWER RESTORATION AFTER AN EMERGENCY. SUCH REVIEW SHALL INCLUDE, BUT NOT BE LIMITED TO, AN ANALYSIS OF EACH SUCH COMPANY'S: (A) ESTIMATES CONCERNING POTENTIAL DAMAGE AND POWER DISRUPTIONS MADE PRIOR TO A POTENTIAL OUTAGE AFFECTING MORE THAN TEN PERCENT OF A COMPANY'S CUSTOMERS FOR A PERIOD OF MORE THAN FORTY-EIGHT CONSECUTIVE HOURS; (B) DAMAGE AND POWER OUTAGE ASSESSMENTS AFTER ANY EMERGENCY; (C) RESTORATION MANAGEMENT AFTER ANY EMERGENCY, INCLUDING ACCESS TO ALTERNATE RESTORATION RESOURCES VIA MUTUAL AID AGREEMENTS WITH OTHER UTILITIES FOR MUTUAL STORM RESTORATION ASSISTANCE, INCLUDING THOSE ENTERED INTO WITH OTHER TRANSMISSION AND DISTRIBUTION COMPANIES; (D) EACH COMPANY'S PLAN FOR AT-RISK AND VULNERABLE CUSTOMERS INCLUDING, BUT NOT LIMITED TO, CUSTOMERS IDENTIFIED IN PARAGRAPHS (A) AND (B) OF SUBDIVISION THREE OF SECTION THIRTY-TWO OF THIS CHAPTER; (E) POLICIES CONCERNING COMMUNICATION WITH STATE AND LOCAL OFFICIALS AND CUSTOMERS, INCLUDING NOTIFICATION OF CUSTOMER RESTORATION ESTIMATES AND THE TIMELINESS, ACCURACY AND USEFULNESS OF SUCH ESTIMATES; AND (F) NEED FOR MUTUAL AID AGREEMENTS WITH OTHER UTILITIES FOR MUTUAL STORM RESTORATION INCLUDING ASSISTANCE FROM CREWS SERVING OTHER UTILITIES OR COMPANIES;

(II) THE ADEQUACY OF EACH TRANSMISSION AND DISTRIBUTION COMPANY'S INFRASTRUCTURE, FACILITIES AND EQUIPMENT, INCLUDING, BUT NOT LIMITED TO, ELECTRIC DISTRIBUTION LINES, ELECTRIC TRANSFORMERS AND CIRCUITS, WHICH SHALL INCLUDE AN ANALYSIS OF: (A) WHETHER SUCH COMPANY IS FOLLOWING STANDARD INDUSTRY PRACTICES FOR OPERATION AND MAINTENANCE OF SUCH INFRASTRUCTURE, FACILITIES AND EQUIPMENT; AND (B) WHETHER SUCH COMPANY HAS ACCESS TO ADEQUATE REPLACEMENT EQUIPMENT FOR SUCH INFRASTRUCTURE, FACILITIES AND EQUIPMENT DURING THE COURSE OF A POWER OUTAGE AFFECTING MORE THAN TEN PERCENT OF A COMPANY'S CUSTOMERS FOR MORE THAN FORTY-EIGHT CONSECUTIVE HOURS;

(III) VEGETATION MANAGEMENT POLICIES OF EACH TRANSMISSION AND DISTRIBUTION COMPANY INCLUDING: (A) EXPENDITURES FOR TREE TRIMMING AND OTHER PRACTICES TO PREVENT INTERFERENCE OF TRANSMISSION AND DISTRIBUTION LINES BY VEGETATION; (B) INCIDENCE OF POWER OUTAGES CAUSED BY VEGETATION INCLUDING FALLING TREES AND TREE BRANCHES CAUSED BY WEATHER OR OTHER EVENTS; AND (C) THE AMOUNT AND DURATION OF POWER OUTAGES DURING PREVIOUS MAJOR STORMS CAUSED BY TREES AND LIMBS OUTSIDE THE CURRENT RIGHT OF WAY MANAGEMENT WITH CONSIDERATION GIVEN TO THE QUANTITY AND EFFECTIVENESS OF PRIOR TREE TRIMMING;

(IV) THE IMPACT, INCLUDING, BUT NOT LIMITED TO, POTENTIAL REDUCTION OF POWER OUTAGES AND POTENTIAL COST OF BURYING POWER LINES UNDERGROUND WERE SUCH EFFORT TO BE UNDERTAKEN;

(V) THE IMPACT OF EXPANDING THE AREA ADJACENT TO DISTRIBUTION LINES FOR TREE TRIMMING, INCLUDING AN ANALYSIS OF THE BENEFITS AND THE COSTS OF SUCH EXPANSION TO RATEPAYERS AND THE LIKELIHOOD THAT SUCH EXPANSION

WOULD DECREASE DAMAGE TO INFRASTRUCTURE, FACILITIES AND EQUIPMENT USED TO DISTRIBUTE ELECTRICITY AND DECREASE POWER OUTAGE FREQUENCY OR DURATION; AND

(VI) ANY OTHER POLICY OR PRACTICE THE COMMISSION DEEMS NECESSARY TO ANALYZE IN ORDER TO CONDUCT THE REVIEW REQUIRED PURSUANT TO THIS PARAGRAPH.

(D) THE COMMISSION SHALL PERMIT EACH COMPANY TO RECOVER THE REASONABLE COSTS INCURRED BY SUCH COMPANY TO MAINTAIN OR IMPROVE THE RELIABILITY OF SUCH COMPANY'S INFRASTRUCTURE NECESSARY TO MEET THE STANDARDS ESTABLISHED PURSUANT TO THIS SECTION.

(E) THE COMMISSION MAY ALSO ESTABLISH STANDARDS FOR ACCEPTABLE PERFORMANCE BY EACH TRANSMISSION AND DISTRIBUTION COMPANY IN AN EMERGENCY, IN ACCORDANCE WITH THIS SECTION, UPON A DETERMINATION BY THE COMMISSION THAT THE CHANGED CIRCUMSTANCES OF ANY UTILITY NECESSITATES SUCH ADDITIONAL STANDARDS.

(F) NO LATER THAN ONE YEAR FOLLOWING THE ESTABLISHMENT OF THE BENCHMARKS AND STANDARDS PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION AND EACH YEAR THEREAFTER, EACH TRANSMISSION AND DISTRIBUTION COMPANY SHALL PROVIDE AN EMERGENCY RESPONSE REPORT TO THE COMMISSION. SUCH REPORT SHALL INCLUDE INFORMATION AND AN ANALYSIS CONCERNING SUCH COMPANY'S ABILITY AND PERFORMANCE DURING THE PRECEDING YEAR TO MEET THE EMERGENCY PREPAREDNESS AND RESPONSE STANDARDS ESTABLISHED BY THE COMMISSION PURSUANT TO THIS SECTION. IN ADDITION TO THE ANNUAL RESPONSE REPORT REQUIRED IN THIS PARAGRAPH, THE COMMISSION MAY REQUIRE ANY UTILITY TO SUBMIT A SUPPLEMENTAL EMERGENCY RESPONSE REPORT AFTER ANY STORM, EMERGENCY OR EVENT CAUSING SIGNIFICANT POWER DISRUPTIONS.

3. THE COMMISSION SHALL REVIEW THE PERFORMANCE OF EACH TRANSMISSION AND DISTRIBUTION COMPANY AFTER ANY EMERGENCY: (A) IN WHICH MORE THAN TEN PERCENT OF ANY SUCH COMPANY'S CUSTOMERS WERE WITHOUT POWER FOR MORE THAN FORTY-EIGHT CONSECUTIVE HOURS; OR (B) AT THE COMMISSION'S DISCRETION. THE COMMISSION, UPON A FINDING, AFTER A HEARING OR OPPORTUNITY TO BE HEARD, THAT ANY SUCH COMPANY FAILED TO COMPLY WITH ANY RESTORATION STANDARD REQUIRED BY THIS SECTION OR ANY ORDER OF THE COMMISSION IN PREPARATION FOR A POWER OUTAGE, OR IN RESTORATION OF A POWER OUTAGE, SHALL IMPOSE CIVIL PENALTIES AGAINST SUCH COMPANY, NOT TO EXCEED A TOTAL OF TWO AND ONE-HALF PERCENT OF SUCH COMPANY'S GROSS ANNUAL REVENUES FROM ELECTRIC DISTRIBUTION. IN DETERMINING THE AMOUNT OF ANY PENALTY, THE COMMISSION MAY CONSIDER WHETHER SUCH COMPANY RECOVERED COSTS INCURRED PURSUANT TO PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION TO MEET INFRASTRUCTURE RELIABILITY EFFORTS TO IMPROVE SUCH COMPANY'S PERFORMANCE. ANY SUCH PENALTY IMPOSED SHALL BE PAID TO THE CUSTOMERS OR RATEPAYERS OF SUCH COMPANY IN THE FORM OF A CREDIT, WHICH SHALL BE CREDITED WITHIN ONE HUNDRED TWENTY DAYS OF SUCH ORDER. ANY SUCH PENALTY SHALL NOT BE INCLUDED AS AN OPERATING EXPENSE OF SUCH COMPANY FOR THE PURPOSES OF RATEMAKING.

S 3. This act shall take effect immediately.