

1537

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. PERKINS, ADDABBO, AVELLA, CARLUCCI, DILAN, HASSELL-THOMPSON, LANZA, MONTGOMERY, PERALTA, RIVERA, SAVINO, STAVISKY, STEWART-COUSINS -- 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 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  
11 compliance with this statute by each telephone corporation serving over  
12 one million subscribers and each electric corporation serving over  
13 300,000 subscribers.

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

16 S 98-A. SAFETY AND RELIABILITY INSPECTION. 1. THE PUBLIC SERVICE  
17 COMMISSION SHALL, WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS

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

LBD04233-01-3

1 SECTION, REQUIRE TELEPHONE CORPORATIONS PROVIDING TELEPHONE SERVICE TO  
2 MORE THAN ONE MILLION SUBSCRIBERS, AND ELECTRIC CORPORATIONS SERVING  
3 OVER THREE HUNDRED THOUSAND CUSTOMERS, TO CONDUCT A STUDY OF THE SAFETY  
4 AND RELIABILITY OF ALL TELEPHONE AND ELECTRIC POLES USED BY SUCH CORPO-  
5 RATIONS TO PROVIDE TELEPHONE AND ELECTRIC SERVICE WITHIN THE STATE OF  
6 NEW YORK, AND TO REPORT UPON THE FOLLOWING FACTORS:

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

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

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

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

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

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

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

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

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

50 4. UPON ITS COMPLETION, THE TELEPHONE AND ELECTRIC POLE SAFETY AND  
51 RELIABILITY STUDY REQUIRED BY THIS SECTION SHALL BE SUBMITTED AS A  
52 REPORT, BY EACH TELEPHONE CORPORATION SERVING MORE THAN ONE MILLION  
53 SUBSCRIBERS AND EACH ELECTRIC CORPORATION SERVING MORE THAN THREE  
54 HUNDRED THOUSAND SUBSCRIBERS TO THE PUBLIC SERVICE COMMISSION, THE  
55 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE

1 ASSEMBLY, AND THE CHAIR OF BOTH THE SENATE AND ASSEMBLY STANDING COMMIT-  
2 TEES ON CORPORATIONS, AUTHORITIES AND COMMISSIONS.

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

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

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

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

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

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

45 S 5. This act shall take effect immediately.