

1937--A

2015-2016 Regular Sessions

I N A S S E M B L Y

January 13, 2015

Introduced by M. of A. MAYER, BRAUNSTEIN, BUCHWALD, GALEF, LAVINE, ORTIZ, RAIK, ROZIC, SCHIMEL, 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 -- 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:

1 Section 1. This act shall be known and may be cited as the "utility
2 preparedness act of 2016".
3 S 2. The public service law is amended by adding a new section 66-o to
4 read as follows:
5 S 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

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

LBD00259-03-6

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

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

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

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

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

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

23 (V) SAFETY OF COMPANIES' EMPLOYEES, WORK CREWS AND PRIVATE CONTRAC-
24 TORS;

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

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

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

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

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

47 (XI) REIMBURSEMENT TO RESIDENTIAL CUSTOMERS FOR:

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

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

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

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

9 (XIV) ANY OTHER STANDARDS THE COMMISSION DEEMS NECESSARY.

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

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

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

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

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

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

1 WOULD DECREASE DAMAGE TO INFRASTRUCTURE, FACILITIES AND EQUIPMENT USED
2 TO DISTRIBUTE ELECTRICITY AND DECREASE POWER OUTAGE FREQUENCY OR DURA-
3 TION; AND

4 (VI) ANY OTHER POLICY OR PRACTICE THE COMMISSION DEEMS NECESSARY TO
5 ANALYZE IN ORDER TO CONDUCT THE REVIEW REQUIRED PURSUANT TO THIS PARA-
6 GRAPH.

7 (D) THE COMMISSION SHALL PERMIT EACH COMPANY TO RECOVER THE REASONABLE
8 COSTS INCURRED BY SUCH COMPANY TO MAINTAIN OR IMPROVE THE RELIABILITY OF
9 SUCH COMPANY'S INFRASTRUCTURE NECESSARY TO MEET THE STANDARDS ESTAB-
10 LISHED PURSUANT TO THIS SECTION.

11 (E) THE COMMISSION MAY ALSO ESTABLISH STANDARDS FOR ACCEPTABLE
12 PERFORMANCE BY EACH TRANSMISSION AND DISTRIBUTION COMPANY IN AN EMERGEN-
13 CY, IN ACCORDANCE WITH THIS SECTION, UPON A DETERMINATION BY THE COMMIS-
14 SION THAT THE CHANGED CIRCUMSTANCES OF ANY UTILITY NECESSITATES SUCH
15 ADDITIONAL STANDARDS.

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

27 3. THE COMMISSION SHALL REVIEW THE PERFORMANCE OF EACH TRANSMISSION
28 AND DISTRIBUTION COMPANY AFTER ANY EMERGENCY: (A) IN WHICH MORE THAN TEN
29 PERCENT OF ANY SUCH COMPANY'S CUSTOMERS WERE WITHOUT POWER FOR MORE THAN
30 FORTY-EIGHT CONSECUTIVE HOURS; OR (B) AT THE COMMISSION'S DISCRETION.
31 THE COMMISSION, UPON A FINDING, AFTER A HEARING OR OPPORTUNITY TO BE
32 HEARD, THAT ANY SUCH COMPANY FAILED TO COMPLY WITH ANY RESTORATION STAN-
33 DARD REQUIRED BY THIS SECTION OR ANY ORDER OF THE COMMISSION IN PREPARA-
34 TION FOR A POWER OUTAGE, OR IN RESTORATION OF A POWER OUTAGE, SHALL
35 IMPOSE CIVIL PENALTIES AGAINST SUCH COMPANY, NOT TO EXCEED A TOTAL OF
36 TWO AND ONE-HALF PERCENT OF SUCH COMPANY'S GROSS ANNUAL REVENUES FROM
37 ELECTRIC DISTRIBUTION. IN DETERMINING THE AMOUNT OF ANY PENALTY, THE
38 COMMISSION MAY CONSIDER WHETHER SUCH COMPANY RECOVERED COSTS INCURRED
39 PURSUANT TO PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION TO MEET
40 INFRASTRUCTURE RELIABILITY EFFORTS TO IMPROVE SUCH COMPANY'S PERFORM-
41 ANCE. ANY SUCH PENALTY IMPOSED SHALL BE PAID TO THE CUSTOMERS OR RATE-
42 PAYERS OF SUCH COMPANY IN THE FORM OF A CREDIT, WHICH SHALL BE CREDITED
43 WITHIN ONE HUNDRED TWENTY DAYS OF SUCH ORDER. ANY SUCH PENALTY SHALL NOT
44 BE INCLUDED AS AN OPERATING EXPENSE OF SUCH COMPANY FOR THE PURPOSES OF
45 RATEMAKING.

46 S 3. This act shall take effect immediately.