# STATE OF NEW YORK

7262--A

Cal. No. 1291

# IN SENATE

January 5, 2018

Introduced by Sen. MURPHY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- reported favorably from said committee and committed to the Committee on Energy and Telecommunications -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public service law, in relation to emergency planning and response; in relation to vegetation management and communications during power outages; and relates to the use of penalties towards investments in improving storm restoration

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Paragraph (g) of subdivision 21 of section 66 of the public service law is relettered paragraph (k), and four new paragraphs (g), (h), (i) and (j) are added to read as follows:

**(g) Each year, on or before the first day of April or on such other date as the commission may prescribe, each electric corporation shall (i) file an electric utility emergency plan including any such amendments as it deems necessary, or as the commission may require, to maintain a high level of preparedness, and (ii) certify in a report to the commission that within the past twelve months it has periodically verified telephone and other appropriate contacts, and updated its list of internal and external contact persons necessary to execute the plan, and has conducted one or more emergency exercises involving the management of the corporation and key company personnel assigned service restoration responsibilities. Prior to approving any such plan, the commission shall seek comments from interested state and local agencies and members of the public, and may require modifications or otherwise prescribe conditions for approval. The commission shall ensure that comments are solicited from the state office of emergency management, the division of homeland security and emergency services and other appropriate state and local agencies, and from organizations that provide emergency shelter, warming/cooling stations and other relief efforts. As part of its**

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

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review, the commission shall review the adequacy of any policies for reimbursing customers for losses due to outages or inadvertent intentional shutoffs of electricity. Such review shall include consideration of the appropriateness of any policy of providing for, limiting or denying reimbursement for damages to electrical equipment or other losses attributable to the failure to deliver electricity or to significant reductions in the voltage of electricity delivered, including loss of business opportunities and the appropriateness of any duration standards in such policies. Such review shall also include the sufficiency of any monetary limits in such policies.

(h) Within sixty days following completion of service restoration in an emergency where the restoration period exceeds seventy-two hours, each electric corporation shall submit to the commission a review of system restoration performance. Based on this review or upon its own assessment of the electric corporation's performance in responding to such emergency, the commission may immediately order any modifications or conditions to the corporation's emergency plan that it deems necessary to ensure a high level of preparedness. The commission is authorized to extend the timeframe herein where another emergency event occurs within such timeframe.

(i) The names and contact information of employees and outside contact persons may be deleted from copies of the plan available for public inspection, but such deleted information shall be subject to inspection by the commission. An electric corporation may request that the commission designate as confidential internal security matters and any other information required to be submitted in emergency plans. Such requests shall identify the specific information requested to be treated as confidential and shall explain why confidentiality is sought. Unless the commission directs otherwise, such information shall not be included in the plans available for public inspection.

(j) The commission shall encourage electric corporations to identify and disseminate best practices in emergency planning and response. In addition to overseeing dissemination of best practices on an ongoing basis, the commission shall be authorized to initiate a statewide, collaborative emergency preparedness and storm management planning process involving all electric corporations and other involved organizations.

§ 2. Notwithstanding any law, rule or regulation to the contrary, the public service commission shall order that any penalties or settlements pursuant to the public service law rendered or approved by the public service commission against any electric corporation in connection with the winter storms Quinn and Riley which impacted the counties of Dutchess, Westchester, Putnam and Sullivan, shall be used exclusively for investments by such electric corporations to improve storm restoration through increased resiliency and improved emergency response. Such penalties or settlements shall not be reflected in the aforementioned electric companies' rate bases or operating expenses in establishing future delivery rates.

The electric companies shall invest such penalties and/or settlement funding directly in the areas impacted by the storms Quinn and Riley. Such investments shall target the areas which received the most damage from the foregoing storms. Such investments as ordered by the public service commission shall include, but not be limited to, the following: implementation of communications upgrades; tree trimming costs; funding for training of emergency first responders; upgrade of pole materials to withstand storms; technology upgrades, including, but not limited to,

the use of drones, to increase effectiveness and time for assessment of damages; the use of monitoring devices at critical facilities located in the impacted counties referenced herein and generators for customers with life support assistance.

The public service commission shall provide a list of expenditures proposed for adoption ten days prior to final adoption by the public service commission of such investments to the temporary president of the Senate and the speaker of the Assembly to provide them with the opportunity to comment thereon.

The electric companies shall record the investments as follows: for investments that would not typically be capitalized, the electric companies shall record such expenditures in below-the-line expense accounts, and for investment which would typically be capitalized, the electric companies shall record such expenditures in a non-operating asset account, and the ongoing amortization/depreciation expenses associated with these non-operating assets shall be recorded below-the-line. Every six months, the electric corporations shall make a report to the public service commission on the status of any investments ordered. A failure to comply with any provision of the foregoing may result in judicial or administrative action by the public service commission, including, but not limited to, a proceeding under section 25-a of the public service law.

The public service commission shall review the implementation and effectiveness of these new directives for storm response investment, and within twelve months from the public service commission's order implementing this section, issue a report and make recommendations on the effectiveness of the investments made pursuant to this section.

§ 3. The public service law is amended by adding a new section 66-p to read as follows:

**§ 66-p. Vegetation management. Vegetation management is critical to ensure public safety and a reliable supply of electrical power using integrated vegetation management and arboricultural practices. Electric corporations shall employ a vegetation manager, who is an electric utility arborist. The commission shall promulgate regulations to define hazard trees, which shall include trees which are diseased, or otherwise create danger to energized conductors' reliable supply of electric power whether within the electric corporation's right-of-way or outside of such right-of-way. The electric corporation shall determine if it is permitted to remove or mitigate hazard trees. The electric corporation shall remove or mitigate the hazard trees as soon as possible. If permission is required to remove hazard trees, the electric corporation shall reasonably attempt to obtain permission to remove or mitigate the hazard trees as determined by the commission.**

§ 4. The public service law is amended by adding a new section 66-q to read as follows:

**§ 66-q. Communication during power outages. The commission shall specifically review the communication plans of each electric corporation to evaluate the effectiveness of electric corporation communications with customers, particularly for customers with life support assistance, as well as federal, state, county and municipal and emergency operation center officials during power outages. Communication protocols should also be established for facilities critical to public health and safety. The commission shall make recommendations to the electric corporations on any improvements which should be made to their communications policies.**

§ 5. Non-contiguous service territory study. 1. The public service commission, in connection with the recent storms Quinn and Riley, shall undertake a study to analyze whether the storm restoration efforts of electric corporations are impacted by having non-contiguous service territories. Such study shall examine the ability of electric corporations with non-contiguous service territories to effectively mobilize personnel, equipment and resources to respond to storm damage within reasonable timeframes equivalent to electric corporations with contiguous territories. It shall also consider whether there are any barriers to communication and coordination with local governments, based on a non-contiguous service territory.

2. In addition to the foregoing, such study shall include a review of the mutual aid response during the aforementioned storms to determine whether there are any recommendations related to the effectiveness of the electric corporations' mutual aid agreements.

§ 6. This act shall take effect immediately.