

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:

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

4 (g) Each year, on or before the first day of April or on such other
5 date as the commission may prescribe, each electric corporation shall
6 (i) file an electric utility emergency plan including any such amend-
7 ments as it deems necessary, or as the commission may require, to main-
8 tain a high level of preparedness, and (ii) certify in a report to the
9 commission that within the past twelve months it has periodically veri-
10 fied telephone and other appropriate contacts, and updated its list of
11 internal and external contact persons necessary to execute the plan, and
12 has conducted one or more emergency exercises involving the management
13 of the corporation and key company personnel assigned service restora-
14 tion responsibilities. Prior to approving any such plan, the commission
15 shall seek comments from interested state and local agencies and members
16 of the public, and may require modifications or otherwise prescribe
17 conditions for approval. The commission shall ensure that comments are
18 solicited from the state office of emergency management, the division of
19 homeland security and emergency services and other appropriate state and
20 local agencies, and from organizations that provide emergency shelter,
21 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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1 review, the commission shall review the adequacy of any policies for
2 reimbursing customers for losses due to outages or inadvertent inten-
3 tional shutoffs of electricity. Such review shall include consideration
4 of the appropriateness of any policy of providing for, limiting or deny-
5 ing reimbursement for damages to electrical equipment or other losses
6 attributable to the failure to deliver electricity or to significant
7 reductions in the voltage of electricity delivered, including loss of
8 business opportunities and the appropriateness of any duration standards
9 in such policies. Such review shall also include the sufficiency of any
10 monetary limits in such policies.

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

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

31 (j) The commission shall encourage electric corporations to identify
32 and disseminate best practices in emergency planning and response. In
33 addition to overseeing dissemination of best practices on an ongoing
34 basis, the commission shall be authorized to initiate a statewide,
35 collaborative emergency preparedness and storm management planning proc-
36 ess involving all electric corporations and other involved organiza-
37 tions.

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

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

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

5 The public service commission shall provide a list of expenditures
6 proposed for adoption ten days prior to final adoption by the public
7 service commission of such investments to the temporary president of the
8 Senate and the speaker of the Assembly to provide them with the opportu-
9 nity to comment thereon.

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

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

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

30 § 66-p. Vegetation management. Vegetation management is critical to
31 ensure public safety and a reliable supply of electrical power using
32 integrated vegetation management and arboricultural practices. Electric
33 corporations shall employ a vegetation manager, who is an electric util-
34 ity arborist. The commission shall promulgate regulations to define
35 hazard trees, which shall include trees which are diseased, or otherwise
36 create danger to energized conductors' reliable supply of electric power
37 whether within the electric corporation's right-of-way or outside of
38 such right-of-way. The electric corporation shall determine if it is
39 permitted to remove or mitigate hazard trees. The electric corporation
40 shall remove or mitigate the hazard trees as soon as possible. If
41 permission is required to remove hazard trees, the electric corporation
42 shall reasonably attempt to obtain permission to remove or mitigate the
43 hazard trees as determined by the commission.

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

46 § 66-q. Communication during power outages. The commission shall
47 specifically review the communication plans of each electric corporation
48 to evaluate the effectiveness of electric corporation communications
49 with customers, particularly for customers with life support assistance,
50 as well as federal, state, county and municipal and emergency operation
51 center officials during power outages. Communication protocols should
52 also be established for facilities critical to public health and safety.
53 The commission shall make recommendations to the electric corporations
54 on any improvements which should be made to their communications poli-
55 cies.

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

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

16 § 6. This act shall take effect immediately.