

# STATE OF NEW YORK

11115

## IN ASSEMBLY

November 6, 2020

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Paulin) --  
read once and referred to the Committee on Corporations, Authorities  
and Commissions

AN ACT to amend the public service law, in relation to storm hardening  
and system resiliency plans

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

- 1 Section 1. Legislative findings. 1. The Legislature hereby finds and  
2 declares that, due to the rise in storm intensity, dedicated storm hard-  
3 ening programs need to be developed and implemented throughout New York  
4 State to reduce damage and costs from future weather events. Storm hard-  
5 ening is the process of constructing new, or upgrading old, infrastruc-  
6 ture to increase resiliency and overall reliability during weather  
7 events. In 2018, Winter Storm Riley and Winter Storm Quinn greatly  
8 impacted New York's electric distribution system with nearly 500,000  
9 customers losing power. In August 2020, Tropical Storm Isaias brought  
10 high winds, downed trees and widespread power outages to much of the  
11 state; hundreds of thousands of customers in Long Island, New York City,  
12 Westchester and Rockland counties experienced extensive power outages,  
13 some lasting for more than a week. Legislative hearings following these  
14 storms made it clear that storm hardening efforts are needed to mitigate  
15 some of the impacts to the distribution infrastructure and customers.
- 16 2. An investigation by the Department of Public Service recommended  
17 New York's major electrical utilities create and implement storm harden-  
18 ing and system resiliency plans by July 2019. Plans should detail future  
19 storm hardening measures and include a budget, timeline, and major  
20 performance benchmarks.
- 21 (a) It is in the state's interest to strengthen electric utility  
22 infrastructure to withstand extreme weather conditions by promoting the  
23 hardening of electrical transmission and distribution facilities, the  
24 undergrounding of certain electrical distribution lines, and vegetation  
25 management;
- 26 (b) Protecting and strengthening transmission and distribution elec-  
27 trical utility infrastructure from extreme weather conditions can effec-

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

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1 tively reduce restoration costs and outage times to customers and  
2 improve overall service reliability for customers;

3 (c) It is in the state's interest for each utility to mitigate resto-  
4 ration costs and outage times to utility customers when developing tran-  
5 smission and distribution storm protection plans; and

6 (d) All customers benefit from the reduced costs of storm restoration.

7 § 2. Section 66 of the public service law is amended by adding a new  
8 subdivision 29 to read as follows:

9 29. (a) Each electric corporation subject to section twenty-five-a of  
10 this chapter shall, pursuant to regulation by the commission, submit a  
11 storm hardening and system resiliency plan that covers the immediate  
12 ten-year period to the commission for review and approval. Each plan  
13 shall explain the systematic approach the corporation will follow to  
14 achieve the objectives of reducing restoration costs and outage times  
15 associated with extreme weather events and enhancing reliability, as  
16 well as such other additional objectives the commission may require  
17 consistent with ensuring increased resiliency of utility infrastructure  
18 and overall reliability during extreme weather events. The commission  
19 shall adopt rules to specify the elements that must be included in a  
20 corporation's filing for review of storm hardening and system resiliency  
21 plans.

22 (b) In its review of each storm hardening and system resiliency plan  
23 filed pursuant to this subdivision, the commission shall, at minimum,  
24 consider:

25 (i) the extent to which the plan is expected to reduce restoration  
26 costs and outage times associated with extreme weather events and  
27 enhance reliability, including whether the plan prioritizes areas of  
28 lower reliability performance;

29 (ii) the extent to which storm protection and hardening of trans-  
30 mission and distribution infrastructure is feasible, reasonable, or  
31 practical in certain areas of the corporation's service territory,  
32 including, but not limited to, coastal areas, flood zones, and rural  
33 areas;

34 (iii) the estimated costs and benefits to the corporation and its  
35 customers of making the improvements proposed in the plan;

36 (iv) the timeline for implementation of the plan;

37 (v) whether the plan includes major performance benchmarks that meas-  
38 ure the effectiveness of the implementation of the plan;

39 (vi) the estimated annual rate impact resulting from implementation of  
40 the plan during the first two years addressed in the plan; and

41 (vii) the extent to which the plan considers a multi-pronged strategy  
42 appropriately tailored to reducing restoration costs and outage times  
43 and enhancing infrastructure reliability, including, but not limited to,  
44 vegetation management, improvements to system management practices,  
45 undergrounding of distribution and transmission lines, replacement of  
46 obsolete cables, wires and poles, automation and circuit reconfigura-  
47 tion, and fortifying critical steam production facilities.

48 (c) No later than eleven months after a corporation files a storm  
49 hardening and system resiliency plan that contains all of the elements  
50 required by this subdivision and the commission, the commission shall  
51 determine whether it is in the public interest to approve, modify, or  
52 deny the plan.

53 (d) At least every three years after approval of a corporation's storm  
54 hardening and system resiliency plan, the corporation must file for  
55 commission review an updated storm hardening and system resiliency plan  
56 that addresses each element specified by commission regulation. The

1 commission shall approve, modify, or deny each updated plan pursuant to  
2 the criteria used to review the initial plan.

3 (e) The commission shall conduct an annual proceeding to determine the  
4 corporation's storm hardening and system resiliency plan costs and allow  
5 the corporation to recover such costs through a charge separate and  
6 apart from its base rates, to be referred to as the storm hardening plan  
7 cost recovery clause. If the commission determines that such costs are  
8 just and reasonable, and were prudently incurred, those costs will not  
9 be subject to disallowance or further reasonableness or prudence review  
10 except for fraud, perjury, or intentional withholding of key information  
11 by the corporation. The annual storm hardening plan costs may not  
12 include costs recovered through the corporation's base rates and must be  
13 allocated to customer classes pursuant to the rate design most recently  
14 approved by the commission. If a capital expenditure is recoverable as  
15 a storm hardening plan cost, the corporation may recover the annual  
16 depreciation on the cost, calculated at the corporation's current  
17 approved depreciation rates, and a return on the undepreciated balance  
18 of the costs calculated at the corporation's weighted average cost of  
19 capital using the last approved return on equity.

20 (f) Each corporation shall file with the county executive or the chief  
21 elected official of a county for each county within its service territo-  
22 ry the most recent approved copy of the storm hardening and system resi-  
23 liency plan required pursuant to this subdivision. For the purposes of  
24 an electric corporation operating within the city of New York, such  
25 corporation shall file the most recent approved storm hardening and  
26 system resiliency plan with both the mayor's office and emergency  
27 management office of the city of New York.

28 (g) The commission shall provide access to such storm hardening and  
29 system resiliency plans pursuant to article six of the public officers  
30 law.

31 (h) Beginning December first of the year after the first full year of  
32 implementation of a storm hardening and system resiliency plan and annu-  
33 ally thereafter, the commission shall submit to the governor and the  
34 legislature a report on the status of each corporation's storm  
35 protection activities. The report shall include, but is not limited to,  
36 identification of all storm protection and resiliency activities  
37 completed or planned for completion, the actual costs and rate impacts  
38 associated with completed activities as compared to the estimated costs  
39 and rate impacts for those activities, and the estimated costs and rate  
40 impacts associated with activities planned for completion.

41 (i) The commission shall promulgate any necessary rules and regu-  
42 lations to implement and administer the provisions of this subdivision.

43 § 3. This act shall take effect on the one hundred eightieth day after  
44 it shall have become a law. Effective immediately, the promulgation of  
45 any rules or regulations by the Public Service Commission necessary for  
46 the implementation of this act on its effective date are authorized to  
47 be made and completed on or before such effective date.