

# STATE OF NEW YORK

7682

2019-2020 Regular Sessions

## IN ASSEMBLY

May 16, 2019

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the energy law, the public officers law, the executive law, and the public service law, in relation to critical utility infrastructure security and responsibility

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

1 Section 1. Subdivision 1 of section 3-101 of the energy law, as  
2 amended by chapter 253 of the laws of 2013, is amended to read as  
3 follows:

4 1. to obtain and maintain an adequate and continuous supply of safe,  
5 dependable and economical energy for the people of the state, including  
6 through the protection of critical infrastructure as defined in subdivi-  
7 sion five of section eighty-six of the public officers law, and to  
8 accelerate development and use within the state of renewable energy  
9 sources, all in order to promote the state's economic growth, to create  
10 employment within the state, to protect its environmental values and  
11 agricultural heritage, to husband its resources for future generations,  
12 and to promote the health and welfare of its people;

13 § 2. Subdivision 5 of section 86 of the public officers law, as added  
14 by chapter 403 of the laws of 2003, is amended to read as follows:

15 5. "Critical infrastructure" means systems, including industrial  
16 control systems, assets, places or things, whether physical or virtual,  
17 so vital to the state that the disruption, incapacitation or destruction  
18 of such systems, including industrial control systems, assets, places or  
19 things could jeopardize the health, safety, welfare or security of the  
20 state, its residents or its economy.

21 § 3. Section 86 of the public officers law is amended by adding a new  
22 subdivision 6 to read as follows:

23 6. "Industrial control systems" means a combination of control compo-  
24 ponents that support operational functions in gas, distribution, trans-

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

LBD08666-04-9

1 mission, and advanced metering infrastructure control centers, and act  
2 together to achieve an industrial objective, including controls that are  
3 fully automated or that include a human-machine interface.

4 § 4. Paragraph (j) of subdivision 2 of section 709 of the executive  
5 law, as amended by section 14 of part B of chapter 56 of the laws of  
6 2010, is amended to read as follows:

7 (j) work with local, state and federal agencies and private entities  
8 to conduct assessments of the vulnerability of critical infrastructure  
9 to terrorist attack, cyber attack, criminal behavior, and other natural  
10 and man-made disasters, including, but not limited to, nuclear facili-  
11 ties, power plants, telecommunications systems, mass transportation  
12 systems, public roadways, railways, bridges and tunnels, and attendant  
13 industrial control systems as defined by subdivision six of section  
14 eighty-six of the public officers law and develop strategies that may be  
15 used to protect such infrastructure from terrorist attack, cyber attack,  
16 criminal behavior, and other natural and man-made disasters;

17 § 5. Subdivision 1 and paragraph (a) of subdivision 2 of section 713  
18 of the executive law, as amended by section 16 of part B of chapter 56  
19 of the laws of 2010, are amended to read as follows:

20 1. Notwithstanding any other provision of law, the commissioner of the  
21 division of homeland security and emergency services, in coordination  
22 with the state office of information technology services, shall conduct  
23 a review and analysis of measures being taken by the public service  
24 commission and any other agency or authority of the state or any poli-  
25 tical subdivision thereof and, to the extent practicable, of any federal  
26 entity, to protect the security of critical infrastructure related to  
27 energy generation and transmission located within the state. The commis-  
28 sioner of the division of homeland security and emergency services and  
29 the director of the state office of information technology services  
30 shall have the authority to review any audits or reports related to the  
31 security of such critical infrastructure, including audits or reports  
32 conducted at the request of the public service commission or any other  
33 agency or authority of the state or any political subdivision thereof  
34 or, to the extent practicable, of any federal entity. The owners and  
35 operators of such energy generating or transmission facilities shall, in  
36 compliance with any federal and state requirements regarding the dissem-  
37 ination of such information, provide access to the commissioner of the  
38 division of homeland security and emergency services and the director of  
39 the state office of information technology services to such audits or  
40 reports regarding such critical infrastructure provided, however, that  
41 exclusive custody and control of such audits and reports shall remain  
42 solely with the owners and operators of such energy generating or trans-  
43 mission facilities. For the purposes of this article, the term "critical  
44 infrastructure" has the meaning ascribed to that term in subdivision  
45 five of section eighty-six of the public officers law.

46 (a) On or before December thirty-first, two thousand four, and not  
47 later than three years after such date, and every five years thereafter,  
48 the commissioner of the division of homeland security and emergency  
49 services, in coordination with the state office of information technolo-  
50 gy services, shall report to the governor, the temporary president of  
51 the senate, the speaker of the assembly, the chairperson of the assembly  
52 standing committee on energy, the chairperson of the senate standing  
53 committee on energy and telecommunications, the chairperson of the  
54 public service commission and the chief executive of any such affected  
55 generating or transmission company or his or her designee. Such report  
56 shall review the security measures being taken regarding critical

1 infrastructure related to energy generating and transmission facilities  
2 in consultation with the most recent version of the National Institute  
3 of Standards and Technology "Framework for Improving Critical Infras-  
4 tructure Cybersecurity" and the North American Electrical Reliability  
5 Corporation's Critical Infrastructure Protection Standards, assess the  
6 effectiveness thereof, and include recommendations to the legislature or  
7 the public service commission if the commissioner of the division of  
8 homeland security and emergency services and the director of the state  
9 office of information technology services determines that additional  
10 measures are required to be implemented, considering, among other  
11 factors, the unique characteristics of each energy generating or trans-  
12 mission facility.

13 § 6. The public service law is amended by adding a new section 54 to  
14 read as follows:

15 § 54. Electric or gas consumption data protection. 1. An electric or  
16 gas corporation or municipality shall not share, sell, disclose, or  
17 otherwise make accessible to any third party a customer's electric or  
18 gas consumption data, except where the customer has consented and as  
19 provided in subdivision two of this section.

20 2.(a) Nothing in this section shall preclude an electric or gas corpo-  
21 ration or municipality from disclosing a customer's electric or gas  
22 consumption data for analysis, reporting, or program management as long  
23 as all information has been anonymized regarding the individual identity  
24 of a customer.

25 (b) Nothing in this section shall preclude an electric or gas corpo-  
26 ration or municipality from disclosing electric or gas consumption data  
27 as required or permitted under state or federal law or by an order of  
28 the commission.

29 (c) Nothing in this section shall preclude an electric or gas corpo-  
30 ration or municipality from disclosing a customer's electric or gas  
31 consumption data to a third party that contracts with such corporation  
32 or municipality to provide services on behalf of the corporation.

33 3. An electric or gas corporation shall establish: (a) minimum cyber-  
34 security and safety standards and (b) minimum cyber-security insurance  
35 requirements, which shall be applicable to third parties seeking to  
36 connect to any such corporation's systems to receive consumption or  
37 other data. Any third party not contracted by such a corporation that  
38 seeks to connect to such corporation's systems to receive consumption or  
39 other data shall meet any such established cyber-security and safety  
40 standards and insurance requirements.

41 4. The commission shall promulgate rules and regulations by January  
42 first, two thousand twenty-one to ensure the implementation and enforce-  
43 ment of this section.

44 § 7. Paragraph (a) of subdivision 19 of section 66 of the public  
45 service law, as amended by section 4 of part X of chapter 57 of the laws  
46 of 2013, is amended to read as follows:

47 (a) The commission shall have power to provide for management and  
48 operations audits of gas corporations and electric corporations. Such  
49 audits shall be performed at least once every five years for combination  
50 gas and electric corporations, as well as for straight gas corporations  
51 having annual gross revenues in excess of two hundred million dollars.  
52 The audit shall include, but not be limited to, an investigation of the  
53 company's construction program planning in relation to the needs of its  
54 customers for reliable service, an evaluation of the efficiency of the  
55 company's operations and use of customer electric or gas consumption  
56 data as provided for in section fifty-four of the public service law,

1 recommendations with respect to same, and the timing with respect to the  
2 implementation of such recommendations. The commission shall have  
3 discretion to have such audits performed by its staff, or by independent  
4 auditors.

5 In every case in which the commission chooses to have the audit  
6 provided for in this subdivision or pursuant to subdivision fourteen of  
7 section sixty-five of this article performed by independent auditors, it  
8 shall have authority to select the auditors, and to require the company  
9 being audited to enter into a contract with the auditors providing for  
10 their payment by the company. Such contract shall provide further that  
11 the auditors shall work for and under the direction of the commission  
12 according to such terms as the commission may determine are necessary  
13 and reasonable.

14 § 8. This act shall take effect on the one hundred eightieth day after  
15 it shall have become a law; provided, however, that section six of this  
16 act shall take effect thirty days after it shall have become a law.  
17 Effective immediately, the public service commission is authorized and  
18 directed to take actions necessary to promulgate rules and regulations  
19 related to the implementation of subdivision 3 of section 54 of the  
20 public service law on or before such effective date.