

# STATE OF NEW YORK

8913

## IN SENATE

August 12, 2020

Introduced by Sen. GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public authorities law, in relation to requiring service providers to annually submit emergency response plans to the public service commission

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

1 Section 1. Subdivision (cc) of section 1020-f of the public authorities law, as added by section 7 of part A of chapter 173 of the laws of 2013, is amended to read as follows:

2 (cc) To prepare an emergency response plan pursuant to this subdivision. 1. The service provider shall, in consultation with the authority, 3 prepare and maintain an emergency response plan [~~(i) to assure the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision as an event where wide-spread outages have occurred in the authority's service territory due to a storm or other causes beyond the control of the authority and the service provider, (ii) consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of the public service law and any regulations and orders adopted thereto, and (iii) establishing the separate responsibilities of the authority and service provider.~~ 4

5 2. ~~On or before February third, two thousand fourteen, the authority and service provider shall submit an emergency response plan to the department of public service for review. Contemporaneously with such submission, the authority shall provide notice of such proposed plan to the secretary of state for publication in the state register, the authority and service provider each shall post such plan on their websites and otherwise make such plan available for review in-person, and afford members of the public an opportunity to submit written comments and oral comments pursuant to at least one hearing to be held each in the county of Suffolk and the county of Nassau. Such written comments must be submitted by March fourteenth, two thousand fourteen. The authority and service provider shall provide a copy of all written comments they receive and a transcript of such public hearings to the~~ 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27

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

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~~department of public service for its consideration in reviewing the emergency response plan. The department shall provide any recommendations to the authority and service provider with respect to such plan on or before April fifteenth, two thousand fourteen. Such plan must be made final by June second, two thousand fourteen. For each year thereafter, the service provider shall submit an emergency response plan to the department of public service, and such department shall provide its recommendations, in accordance with a schedule to be established by such department and that is consistent with the schedule associated with such department's review of similar such plans provided by electric corporations pursuant to subdivision twenty one of section sixty six of the public service law.~~

~~3. By June second, two thousand fourteen, and by June first annually thereafter, the authority and service provider shall jointly certify to the department of homeland security and emergency services that the emergency response plan ensures, to the greatest extent feasible, the timely and safe restoration of energy services after an emergency consistent with the requirements of paragraph (a) of subdivision twenty one of the public service law and the department's recommendations. The filing of such emergency response plan shall also include a copy of all written mutual assistance agreements among utilities. The authority and service provider shall file with the county executives of Nassau and Suffolk county and the mayor of the city of New York the most recent version of the emergency response plan, and make sure that such amended versions are timely filed.~~

~~4. Starting in calendar year two thousand fourteen, the service provider annually shall undertake at least one drill to implement procedures to practice its emergency response plan. The service provider shall notify and allow participation in such drill of all appropriate municipal emergency responders and officials].~~

[5.] The plan shall be submitted to the public service commission annually on or before December fifteenth for review and approval. The emergency response plan shall be designed for the reasonably prompt restoration of service in the case of an emergency event, defined for purposes of this subdivision as an event where widespread outages have occurred in the authority's service territory of the service provider due to storms or other causes beyond the control of the service provider. The emergency response plan shall include, but need not be limited to, the following: (i) the identification of management staff responsible for the service provider's operations during an emergency; (ii) a communications system with customers during an emergency that extends beyond normal business hours and business conditions; (iii) identification of and outreach plans to customers who had documented their need for essential electricity for medical needs; (iv) identification of and outreach plans to customers who had documented their need for essential electricity to provide critical telecommunications, critical transportation, critical fuel distribution services or other large-load customers identified by the commission; (v) designation of service provider staff to communicate with local officials and appropriate regulatory agencies; (vi) provisions regarding how the service provider will assure the safety of its employees and contractors; (vii) procedures for deploying service provider and mutual aid crews to work assignment areas; (viii) identification of additional supplies and equipment needed during an emergency; (ix) the means of obtaining additional supplies and equipment; (x) procedures to practice the emergency response plan; (xi) appropriate safety precautions regarding electrical hazards, including

1 plans to promptly secure downed wires within thirty-six hours of notifi-  
2 cation of the location of such downed wires from a municipal emergency  
3 official; (xii) establishing the separate responsibilities of the  
4 authority and service provider; and (xiii) such other additional infor-  
5 mation as the commission may require. Such emergency plan shall be  
6 consistent with any regulations and orders adopted hereto. Each such  
7 service provider shall, on an annual basis, undertake drills implement-  
8 ing procedures to practice its emergency management plan. The service  
9 provider shall notify and allow participation in such drill of all  
10 appropriate municipal emergency responders and officials. The commission  
11 may adopt additional requirements consistent with ensuring the reason-  
12 ably prompt restoration of service in the case of an emergency event.

13 2. After review of a service provider's emergency response plan, the  
14 commission may require such service provider to amend the plan. The  
15 commission may also open an investigation of the service provider's plan  
16 to determine its sufficiency to respond adequately to an emergency  
17 event. If, after hearings, the commission finds a material deficiency  
18 in the plan, it may order the service provider to make such modifica-  
19 tions that it deems reasonably necessary to remedy the deficiency.

20 3. The commission is authorized to open an investigation to review the  
21 performance of any service provider in restoring service or otherwise  
22 meeting the requirements of the emergency response plan during an emer-  
23 gency event. If, after evidentiary hearings or other investigatory  
24 proceedings, the commission finds that the service provider failed to  
25 reasonably implement its emergency response plan or the length of such  
26 service provider's outages were materially longer than they would have  
27 been, because of such service provider's failure to reasonably implement  
28 its emergency response plan, the commission may deny the recovery of any  
29 part of the service restoration costs caused by such failure, commensu-  
30 rate with the degree and impact of the service outage; provided, howev-  
31 er, that nothing herein limits the commission's authority to otherwise  
32 commence a proceeding pursuant to sections twenty-four, twenty-five and  
33 twenty-five-a of the public service law, provided such action or penalty  
34 solely relates to the service provider's performance under the require-  
35 ments of the service provider's emergency response plan.

36 4. The commission shall certify to the department of homeland security  
37 and emergency services that each such service provider's emergency  
38 response plan is sufficient to ensure to the greatest extent feasible  
39 the timely and safe restoration of energy services after an emergency in  
40 compliance with the requirements of this chapter.

41 5. The filing of each emergency response plan required under paragraph  
42 one of this subdivision shall also include a copy of all written mutual  
43 assistance agreements among utilities.

44 6. The authority and service provider shall file with the county exec-  
45 utives of Nassau and Suffolk counties and the mayor of the city of New  
46 York the most recent approved copy of the emergency response plan  
47 required pursuant to this section.

48 7. The commission shall provide access to such emergency response plan  
49 pursuant to article six of the public officers law.

50 8. If, during an emergency event, electric service is not restored in  
51 three days, the service provider shall within sixty days from the date  
52 of full restoration file with the department a report constituting a  
53 review of all aspects of the preparation and system restoration perform-  
54 ance during the event[~~, and shall thereafter take into consideration any~~  
55 ~~recommendations made by the department associated with such review~~].

1 Recommendations made by the department associated with such review shall  
2 be promptly forwarded to the commission.

3 § 2. Subdivision 1 of section 1020-s of the public authorities law, as  
4 amended by chapter 415 of the laws of 2017, is amended to read as  
5 follows:

6 1. The rates, services and practices relating to the electricity  
7 generated by facilities owned or operated by the authority shall not be  
8 subject to the provisions of the public service law or to regulation by,  
9 or the jurisdiction of, the public service commission, except to the  
10 extent (a) article seven of the public service law applies to the siting  
11 and operation of a major utility transmission facility as defined there-  
12 in, (b) article ten of such law applies to the siting of a generating  
13 facility as defined therein, (c) section eighteen-a of such law provides  
14 for assessment for certain costs, property or operations, (d) to the  
15 extent that the department of public service reviews and makes recommen-  
16 dations with respect to the operations and provision of services of, and  
17 rates and budgets established by, the authority pursuant to section  
18 three-b of such law, [~~and~~] (e) that section seventy-four of the public  
19 service law applies to qualified energy storage systems within the  
20 authority's jurisdiction, and (f) that all emergency management plans  
21 shall be subject to review, approval and enforcement by the commission  
22 pursuant to subdivision (cc) of section one thousand twenty-f of this  
23 title, including but not limited to penalties and remedies provided for  
24 such violations in sections twenty-four, twenty-five and twenty-five-a  
25 of the public service law.

26 § 3. This act shall take effect immediately.