

STATE OF NEW YORK

4960

2021-2022 Regular Sessions

IN SENATE

February 19, 2021

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

AN ACT to amend the public service law, in relation to strengthening of utility storm response and compliance

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

1 Section 1. Section 25 of the public service law, as added by chapter
2 665 of the laws of 1980, subdivision 2, paragraph (a) of subdivision 3
3 and paragraph (a) of subdivision 4 as amended by chapter 375 of the laws
4 of 1986, is amended to read as follows:

5 § 25. Penalties. 1. Every public utility company, corporation or
6 person and the officers, agents and employees thereof shall obey and
7 comply with every provision of this chapter and every order or regu-
8 lation adopted under authority of this chapter so long as the same shall
9 be in force.

10 2. Any public utility company, corporation or person and the officers,
11 agents and employees thereof that knowingly fails or neglects to obey or
12 comply with a provision of this chapter or a regulation or [~~an~~] order
13 adopted under authority of this chapter so long as the same shall be in
14 force, shall forfeit to the people of the state of New York a sum [~~not~~
15 ~~exceeding one hundred thousand dollars constituting a civil penalty for~~
16 ~~each and every offense and, in the case of a continuing violation, each~~
17 ~~day shall be deemed a separate and distinct offense]~~ that shall be set
18 by the public service commission after considering the following:

19 (a) the scope of damages caused by the violation to individuals,
20 businesses and the state;

21 (b) each individual act or omission which led to the violation;

22 (c) whether the violation was knowing or willful;

23 (d) whether the violation was recurring, or had been the subject of a
24 previous finding by the commission;

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

LBD02683-07-1

1 (e) whether the violation was of a provision of this chapter, or a
2 regulation or order adopted under the authority of this chapter,
3 adopted specifically for the protection of human safety, including but
4 not limited to the commission's code of gas safety regulations, and
5 whether the violation caused or constituted a contributing factor in
6 bringing about a death or personal injury, as determined by the commis-
7 sion;

8 (f) whether the violation was of a provision of this chapter, or a
9 regulation or order adopted under the authority of this chapter,
10 specifically designed to protect the overall reliability and continuity
11 of service, the duration of any such violation, whether such violation
12 affected the reliability or continuity of service, the duration of any
13 such effect on the reliability or continuity of service, and whether any
14 effect on the reliability or continuity of service was recurring;

15 (g) the economic losses of ratepayers, in the form of increased
16 service rates or otherwise, associated with damage to or weakening of
17 infrastructure in connection with the event out of which the violation
18 arose, including but not limited to investments and costs associated
19 with repairing, improving, or replacing such infrastructure;

20 (h) whether the violation was caused in whole or in part due to the
21 systematic failure of the entity to maintain or replace obsolete or
22 deteriorated materials or equipment;

23 (i) the degree of preparation, including but not limited to the utili-
24 zation of mutual aid or other contingent resources, for a storm event or
25 other event out of which the violation arose for which there was advance
26 warning or notice;

27 (j) with respect to telephone corporations, cable television companies
28 and the officers, agents and employees thereof, whether a loss of
29 commercial electricity caused the violation; and

30 (k) mitigating factors relevant to the seriousness of the violation,
31 as determined by the commission.

32 ~~3. [Notwithstanding the provisions of subdivision two of this section,~~
33 ~~any such public utility company, corporation or person and the officers,~~
34 ~~agents and employees thereof that knowingly fails or neglects to obey or~~
35 ~~comply with a provision of this chapter, or an order or regulation~~
36 ~~adopted under the authority of this chapter, adopted specifically for~~
37 ~~the protection of human safety, including but not limited to the commis-~~
38 ~~sion's code of gas safety regulations shall, if it is determined by the~~
39 ~~commission that such safety violation caused or constituted a contribut-~~
40 ~~ing factor in bringing about a death or personal injury, forfeit to the~~
41 ~~state of New York a sum not to exceed the greater of:~~

42 ~~(a) two hundred and fifty thousand dollars constituting a civil penal-~~
43 ~~ty for each separate and distinct offense, provided, however, that for~~
44 ~~purposes of this paragraph each day of a continuing violation shall not~~
45 ~~be deemed a separate and distinct offense. The total period of a contin-~~
46 ~~uing violation, as well as every distinct violation, shall be similarly~~
47 ~~treated as a separate and distinct offense for purposes of this para-~~
48 ~~graph; or~~

49 ~~(b) the maximum forfeiture determined in accordance with subdivision~~
50 ~~two of this section.~~

51 ~~4. Notwithstanding the provisions of subdivision one or two of this~~
52 ~~section, a public utility company, corporation or person and the offi-~~
53 ~~cers, agents and employees thereof that knowingly fails or neglects to~~
54 ~~obey or comply with a provision of this chapter, or an order or regu-~~
55 ~~lation adopted under authority of this chapter, designed to protect the~~

~~overall reliability and continuity of electric service, shall forfeit to the state of New York a sum not to exceed the greater of:~~

~~(a) five hundred thousand dollars constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation, shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or~~

~~(b) the maximum forfeiture determined in accordance with subdivision two of this section.~~

5.] Penalties provided for pursuant to this section shall be recovered in an action as provided in section twenty-four of this article.

[6] 4. Any payment made by a public utility company, corporation or person and the officers, agents and employees thereof as a result of an action as provided in section twenty-four of this article and the cost of litigation and investigation related to any such action shall not be included by the commission in revenue requirements used to establish rates and charges.

[7] 5. In construing and enforcing the provisions of this chapter relating to forfeitures and penalties, the act of any director, officer, agent or employee of a public utility company, corporation or person acting within the scope of his or her official duties or employment shall be deemed to be the act of such public utility company, corporation or person.

§ 2. Section 25-a of the public service law, as added by section 2 of part X of chapter 57 of the laws of 2013, is amended to read as follows:

§ 25-a. Combination gas and electric corporations; administrative sanctions; recovery of penalties. Notwithstanding sections twenty-four and twenty-five of this article: 1. Every combination gas and electric corporation and the officers thereof shall adhere to every provision of this chapter and every order or regulation adopted under authority of this chapter so long as the same shall be in force.

2. (a) The commission shall have the authority to assess a civil penalty in an amount as set forth in this section and against a combination gas and electric corporation and the officers thereof subject to the jurisdiction, supervision, or regulation pursuant to this chapter ~~[in an amount as set forth in this section. In determining the amount of any penalty to be assessed pursuant to this section, the commission shall consider: (i) the seriousness of the violation for which a penalty is sought; (ii) the nature and extent of any previous violations for which penalties have been assessed against the corporation or officer; (iii) whether there was knowledge of the violation; (iv) the gross revenues and financial status of the corporation; and (v) such other factors as the commission may deem appropriate and relevant].~~

The remedies provided by this subdivision are in addition to any other remedies provided in law.

(b) Whenever the commission has reason to believe that a combination gas and electric corporation or such officers thereof should be subject to imposition of a civil penalty as set forth in this subdivision, it shall notify such corporation or officer. Such notice shall include, but shall not be limited to: (i) the date and a brief description of the facts and nature of each act or failure to act for which such penalty is proposed; (ii) a list of each statute, regulation or order that the commission alleges has been violated; ~~and~~ (iii) the amount of each penalty that the commission proposes to ~~assess and the holding of~~

~~evidentiary hearings, as provided in this chapter~~ be assessed; and (iv) any proposed actions that the commission deems necessary to address such alleged violation or violations. The commission is authorized to undertake any additional administrative or investigatory actions related to such violation or violations, including but not limited to, service of an administrative complaint, implementation of discovery, interviews, depositions, entering into a settlement agreement or other stipulation, and the holding of evidentiary hearings, as provided in this chapter.

(c) Whenever the commission has reason to believe that a combination gas and electric corporation or such officers thereof should be subject to imposition of a civil penalty or penalties as set forth in this subdivision, the commission shall hold a hearing to demonstrate why the proposed penalty or penalties should be assessed against such combination gas and electric corporation or such officers.

3. Any combination gas and electric corporation or such officers thereof determined by the commission to have failed to ~~[reasonably]~~ comply as shown by a preponderance of the evidence, at an evidentiary hearing, with a provision of this chapter, regulation or an order adopted under authority of this chapter so long as the same shall be in force shall forfeit a sum ~~[not exceeding the greater of one hundred thousand dollars or two one hundredths of one percent of the annual intrastate gross operating revenue of the corporation, not including taxes paid to and revenues collected on behalf of government entities, constituting a civil penalty for each and every offense and, in the case of a continuing violation, each day shall be deemed a separate and distinct offense]~~ that shall be set by the public service commission, after considering the following:

(a) the scope of damages caused by the violation to individuals, businesses and the state;

(b) each individual act or omission which led to the violation;

(c) whether the violation was knowing or willful;

(d) whether the violation was recurring, or had been the subject of a previous finding by the commission;

(e) whether the violation was of a provision of this chapter, or a regulation or order adopted under the authority of this chapter, adopted specifically for the protection of human safety, including but not limited to the commission's code of gas safety regulations, and whether the violation caused or constituted a contributing factor in bringing about a death or personal injury, as determined by the commission;

(f) whether the violation was of a provision of this chapter, or a regulation or order adopted under the authority of this chapter, specifically designed to protect the overall reliability and continuity of service, the duration of any such violation, whether such violation affected the reliability or continuity of service, the duration of any such effect on the reliability or continuity of service, and whether any effect on the reliability or continuity of service was recurring;

(g) the economic losses of ratepayers, in the form of increased service rates or otherwise, associated with damage to or weakening of infrastructure in connection with the event out of which the violation arose, including but not limited to investments and costs associated with repairing, improving, or replacing such infrastructure;

(h) whether the violation was caused in whole or in part due to the systematic failure of the entity to maintain or replace obsolete or deteriorated materials or equipment;

1 (i) the degree of preparation, including but not limited to the utili-
2 zation of mutual aid or other contingent resources, for a storm event or
3 other event out of which the violation arose for which there was advance
4 warning or notice;

5 (j) with respect to any telephone corporation or cable television
6 company to which this section applies by reason of the application of
7 section twenty-five-b of this article, and with respect to any officer
8 of any such telephone corporation or cable television company, whether a
9 loss of commercial electricity caused the violation; and

10 (k) mitigating factors relevant to the seriousness of the violation,
11 as determined by the commission.

12 ~~4. [Notwithstanding the provisions of subdivision three of this~~
13 ~~section, any such combination gas and electric corporation determined by~~
14 ~~the commission to have failed to reasonably comply with a provision of~~
15 ~~this chapter, or an order or regulation adopted under the authority of~~
16 ~~this chapter specifically for the protection of human safety or~~
17 ~~prevention of significant damage to real property, including, but not~~
18 ~~limited to, the commission's code of gas safety regulations shall, if it~~
19 ~~is determined by the commission by a preponderance of the evidence that~~
20 ~~such safety violation caused or constituted a contributing factor in~~
21 ~~bringing about: (a) a death or personal injury, or (b) damage to real~~
22 ~~property in excess of fifty thousand dollars, forfeit a sum not to~~
23 ~~exceed the greater of:~~

24 ~~(i) two hundred fifty thousand dollars or three one-hundredths of one~~
25 ~~percent of the annual intrastate gross operating revenue of the corpo-~~
26 ~~ration, not including taxes paid to and revenues collected on behalf of~~
27 ~~government entities, whichever is greater, constituting a civil penalty~~
28 ~~for each separate and distinct offense, provided, however, that for~~
29 ~~purposes of this paragraph, each day of a continuing violation shall not~~
30 ~~be deemed a separate and distinct offense. The total period of a contin-~~
31 ~~uing violation, as well as every distinct violation, shall be similarly~~
32 ~~treated as a separate and distinct offense for purposes of this para-~~
33 ~~graph; or~~

34 ~~(ii) the maximum forfeiture determined in accordance with subdivision~~
35 ~~three of this section.~~

36 ~~5. Notwithstanding the provisions of subdivision three or four of this~~
37 ~~section, a combination gas and electric corporation determined by the~~
38 ~~commission to have failed to reasonably comply by a preponderance of the~~
39 ~~evidence with a provision of this chapter, or an order or regulation~~
40 ~~adopted under authority of this chapter, designed to protect the overall~~
41 ~~reliability and continuity of electric service, including but not limit-~~
42 ~~ed to the restoration of electric service following a major outage event~~
43 ~~or emergency, shall forfeit a sum not to exceed the greater of:~~

44 ~~(a) five hundred thousand dollars or four one-hundredths of one~~
45 ~~percent of the annual intrastate gross operating revenue of the corpo-~~
46 ~~ration, not including taxes paid to and revenues collected on behalf of~~
47 ~~government entities, whichever is greater, constituting a civil penalty~~
48 ~~for each separate and distinct offense, provided, however, that for~~
49 ~~purposes of this paragraph each day of a continuing violation shall not~~
50 ~~be deemed a separate and distinct offense. The total period of a contin-~~
51 ~~uing violation, as well as every distinct violation shall be similarly~~
52 ~~treated as a separate and distinct offense for purposes of this para-~~
53 ~~graph; or~~

54 ~~(b) the maximum forfeiture determined in accordance with subdivision~~
55 ~~three of this section.~~

~~6. Any officer of any combination gas and electric corporation determined by the commission to have violated the provisions of subdivision three, four, or five of this section, and who knowingly violates a provision of this chapter, regulation or an order adopted under authority of this chapter so long as the same shall be in force shall forfeit a sum not to exceed one hundred thousand dollars constituting a civil penalty for each and every offense and, in the case of a continuing violation, each day shall be deemed a separate and distinct offense.~~

~~7. Any such assessment may be compromised or discontinued by the commission.~~ All moneys recovered pursuant to this section, together with the costs thereof, shall be remitted to, or for the benefit of, the ratepayers in a manner to be determined by the commission.

~~[8.]~~ 5. Upon a failure by a combination gas and electric corporation or officer to remit any penalty assessed by the commission pursuant to this section, the commission, through its counsel, may institute an action or special proceeding to collect the penalty in a court of competent jurisdiction.

~~[9.]~~ 6. Any payment made by a combination gas and electric corporation or the officers thereof as a result of an assessment or penalty as provided in this section, and the cost of litigation and investigation related to any such assessment, shall not be recoverable from ratepayers.

~~[10.]~~ 7. In construing and enforcing the provisions of this chapter relating to penalties, the act of any director, officer, agent or employee of a combined gas and electric corporation acting within the scope of his or her official duties or employment shall be deemed to be the act of such corporation.

~~[11.]~~ 8. It shall be a violation of this chapter should a director, officer or employee of a public utility company, corporation, person acting in his or her official duties or employment, or an agent acting on behalf of an employer take retaliatory personnel action such as discharge, suspension, demotion, penalization or discrimination against an employee for reporting a violation of a provision of this chapter ~~[or]~~ or an order or regulation adopted under the authority of this chapter, including, but not limited to, those governing safe and adequate service, protection of human safety or prevention of significant damage to real property, including, but not limited to, the commission's code of gas safety. Nothing in this subdivision shall be deemed to diminish the rights, privileges or remedies of any employee under any other law or regulation, including but not limited to article twenty-C of the labor law and section seventy-five-b of the civil service law, or under any collective bargaining agreement or employment contract.

§ 3. The public service law is amended by adding a new section 25-b to read as follows:

§ 25-b. Administrative actions against other regulated entities. Notwithstanding any other provision of this chapter, section twenty-five-a of this article shall apply in equal force to: 1. an electric corporation as defined in subdivision thirteen of section two of this article; 2. a gas corporation as defined in subdivision eleven of section two of this article; 3. a cable television company or cable television system as defined in subdivisions one and two of section two hundred twelve of this article; 4. a telephone corporation as defined in subdivision seventeen of section two of this article; 5. a steam corporation as defined in subdivision twenty-two of section two of this article; and 6. a water-works corporation as defined in subdivision twenty-

1 seven of section two of this article; as well as the officers or
2 employees of any such corporate entities described above.

3 § 4. Subdivision 21 of section 66 of the public service law, as
4 amended by section 4 of part X of chapter 57 of the laws of 2013, is
5 amended to read as follows:

6 21. (a) Each electric corporation subject to section twenty-five-a of
7 this chapter shall annually, on or before December fifteenth, submit to
8 the commission an emergency response plan for review and approval. The
9 emergency response plan shall be designed for the reasonably prompt
10 restoration of service in the case of an emergency event, defined for
11 purposes of this subdivision as an event where widespread outages have
12 occurred in the service territory of the company due to storms or other
13 causes beyond the control of the company. The emergency response plan
14 shall include, but need not be limited to, the following: (i) the iden-
15 tification of management staff responsible for company operations during
16 an emergency; (ii) a communications plan that includes: (A) a system
17 [~~with~~] that communicates service information to customers during an
18 emergency that extends beyond normal business hours and business condi-
19 tions; [~~(iii)~~] (B) identification of and outreach plans to customers who
20 had documented their need for essential electricity for medical needs;
21 [~~(iv)~~] (C) identification of and outreach plans to customers who had
22 documented their need for essential electricity to provide critical
23 telecommunications, critical transportation, critical fuel distribution
24 services or other large-load customers identified by the commission;
25 [~~(v)~~] (D) designation of company staff to communicate with local offi-
26 cials and appropriate regulatory agencies; [~~(vi)~~] and (E) identifies,
27 tests and verifies redundancies in communications systems; (iii)
28 provisions regarding how the company will assure the safety of its
29 employees and contractors; [~~(vii)~~] (iv) procedures for deploying company
30 and mutual aid crews to work assignment areas; [~~(viii)~~] (v) identifica-
31 tion of additional supplies and equipment needed during an emergency;
32 [~~(ix)~~] (vi) the means of obtaining additional supplies and equipment;
33 [~~(x)~~] (vii) procedures to practice the emergency response plan; [~~(xi)~~]
34 (viii) appropriate safety precautions regarding electrical hazards,
35 including plans to promptly secure downed wires within thirty-six hours
36 of notification of the location of such downed wires from a municipal
37 emergency official; and [~~(xii)~~] (ix) such other additional information
38 as the commission may require. Each such corporation shall, on an annual
39 basis, undertake drills implementing procedures to practice its emergen-
40 cy management plan. The commission may adopt additional requirements
41 consistent with ensuring the reasonably prompt restoration of service in
42 the case of an emergency event.

43 (b) After review of a corporation's emergency response plan, the
44 commission may require such corporation to amend the plan. The commis-
45 sion may also open an investigation of the corporation's plan to deter-
46 mine its sufficiency to respond adequately to an emergency event. If,
47 after hearings, the commission finds a material deficiency in the plan,
48 it may order the company to make such modifications that it deems
49 reasonably necessary to remedy the deficiency.

50 (c) The commission is authorized to open an investigation to review
51 the performance of any corporation in restoring service, implementing
52 communications plans or otherwise meeting the requirements of the emer-
53 gency response plan during an emergency event. If, after evidentiary
54 hearings or other investigatory proceedings, the commission finds that
55 the corporation failed to [~~reasonably~~] implement its emergency response
56 plan or the length of such corporation's outages were materially longer

1 than they would have been, because of such corporation's failure to
2 [~~reasonably~~] implement its emergency response plan, the commission may
3 deny the recovery of any part of the service restoration costs caused by
4 such failure, commensurate with the degree and impact of the service
5 outage; provided, however, that nothing herein limits the commission's
6 authority to otherwise commence a proceeding pursuant to sections twenty-
7 four, twenty-five and twenty-five-a of this chapter.

8 (d) The commission shall certify to the department of homeland security
9 and emergency services that each such corporation's emergency
10 response plan is sufficient to ensure to the greatest extent feasible
11 the timely and safe restoration of energy services after an emergency in
12 compliance with the requirements of this chapter.

13 (e) The filing of each emergency response plan required under paragraph
14 (a) of this subdivision shall also include a copy of all written
15 mutual assistance agreements among utilities.

16 (f) Each electric corporation shall file with the county executive or
17 the chief elected official of a county for each county within its
18 service territory the most recent approved copy of the emergency
19 response plan required pursuant to this section. For the purposes of an
20 electric corporation operating within the city of New York, such corporation
21 shall file the most recent approved emergency response plan with
22 the emergency management office of the city of New York.

23 (g) The commission shall provide access to such emergency response
24 plan pursuant to article six of the public officers law.

25 § 5. Section 94 of the public service law is amended by adding a new
26 subdivision 5 to read as follows:

27 5. (a) Each corporation subject to this article shall annually, on or
28 before December fifteenth, submit to the commission an emergency
29 response plan for review and approval. The emergency response plan shall
30 be designed for the reasonably prompt restoration of service in the case
31 of an emergency event, defined for purposes of this subdivision as an
32 event where widespread outages have occurred in the service territory of
33 the company due to storms or other causes beyond the control of the
34 company. The emergency response plan shall include, but need not be
35 limited to, the following: (i) the identification of management staff
36 responsible for company operations during an emergency; (ii) a communi-
37 cations plan that includes (A) a system that communicates service infor-
38 mation to customers during an emergency that extends beyond normal busi-
39 ness hours and business conditions; (B) designation of company staff to
40 communicate with local officials and appropriate regulatory agencies;
41 and (C) identifies, tests and verifies redundancies in communications
42 systems; (iii) provisions regarding how the company will ensure the
43 safety of its employees and contractors; (iv) procedures for deploying
44 personnel crews to work assignment areas; (v) identification of addi-
45 tional supplies and equipment needed during an emergency; (vi) the means
46 of obtaining additional supplies and equipment; (vii) procedures to
47 practice the emergency response plan; and (viii) such other additional
48 information as the commission may require. Each such corporation shall,
49 on an annual basis, undertake drills implementing procedures to practice
50 its emergency management plan. The commission may adopt additional
51 requirements consistent with ensuring the reasonably prompt restoration
52 of service in the case of an emergency event.

53 (b) After review of a corporation's emergency response plan, the
54 commission may require such corporation to amend the plan. The commis-
55 sion may also open an investigation of the corporation's plan to deter-
56 mine its sufficiency to respond adequately to an emergency event. If,

1 after hearings, the commission finds a material deficiency in the plan,
2 it may order the company to make such modifications that it deems
3 reasonably necessary to remedy the deficiency.

4 (c) The commission is authorized to open an investigation to review
5 the performance of any corporation in restoring service, implementing
6 communications plans or otherwise meeting the requirements of the emer-
7 gency response plan during an emergency event.

8 (d) Each corporation subject to this article shall file with the coun-
9 ty executive or the chief elected official of a county for each county
10 within its service territory the most recent approved copy of the emer-
11 gency response plan required pursuant to this section. For the purposes
12 of a corporation operating within the city of New York, such corporation
13 shall file the most recent approved emergency response plan with the
14 emergency management office of the city of New York.

15 (e) The commission shall provide access to such emergency response
16 plan pursuant to article six of the public officers law.

17 § 6. Section 216 of the public service law is amended by adding a new
18 subdivision 4-a to read as follows:

19 4-a. (a) Each corporation subject to this article shall annually, on
20 or before December fifteenth, submit to the commission an emergency
21 response plan for review and approval. The emergency response plan shall
22 be designed for the reasonably prompt restoration of service in the case
23 of an emergency event, defined for purposes of this subdivision as an
24 event where widespread outages have occurred in the service territory of
25 the company due to storms or other causes beyond the control of the
26 company. The emergency response plan shall include, but need not be
27 limited to, the following: (i) the identification of management staff
28 responsible for company operations during an emergency; (ii) a communi-
29 cations plan which includes: (A) a system that communicates service
30 information to customers during an emergency that extends beyond normal
31 business hours and business conditions; (B) designation of company staff
32 to communicate with local officials and appropriate regulatory agencies;
33 and (C) identifies, tests and verifies redundancies in communications
34 systems; (iii) provisions regarding how the company will ensure the
35 safety of its employees and contractors; (iv) procedures for deploying
36 personnel crews to work assignment areas; (v) identification of addi-
37 tional supplies and equipment needed during an emergency; (vi) the means
38 of obtaining additional supplies and equipment; (vii) procedures to
39 practice the emergency response plan; and (viii) such other additional
40 information as the commission may require. Each such corporation shall,
41 on an annual basis, undertake drills implementing procedures to practice
42 its emergency management plan. The commission may adopt additional
43 requirements consistent with ensuring the reasonably prompt restoration
44 of service in the case of an emergency event.

45 (b) After review of a corporation's emergency response plan, the
46 commission may require such corporation to amend the plan. The commis-
47 sion may also open an investigation of the corporation's plan to deter-
48 mine its sufficiency to respond adequately to an emergency event. If,
49 after hearings, the commission finds a material deficiency in the plan,
50 it may order the company to make such modifications that it deems
51 reasonably necessary to remedy the deficiency.

52 (c) The commission is authorized to open an investigation to review
53 the performance of any corporation in restoring service, implementing
54 communications plans or otherwise meeting the requirements of the emer-
55 gency response plan during an emergency event.

1 (d) Each corporation subject to this article shall file with the coun-
2 ty executive or the chief elected official of a county for each county
3 within its service territory the most recent approved copy of the emer-
4 gency response plan required pursuant to this section. For the purposes
5 of a corporation operating within the city of New York, such corporation
6 shall file the most recent approved emergency response plan with the
7 emergency management office of the city of New York.

8 (e) The commission shall provide access to such emergency response
9 plan pursuant to article six of the public officers law.

10 § 7. Severability. If any clause, sentence, paragraph, section or part
11 of this act shall be adjudged by any court of competent jurisdiction to
12 be invalid and after exhaustion of all further judicial review, the
13 judgment shall not affect, impair or invalidate the remainder thereof,
14 but shall be confined in its operation to the clause, sentence, para-
15 graph, section or part of this act directly involved in the controversy
16 in which the judgment shall have been rendered.

17 § 8. This act shall take effect on the ninetieth day after it shall
18 have become a law. Effective immediately, the department of public
19 service or the public service commission is authorized to promulgate any
20 regulations or orders necessary to implement this act.