

STATE OF NEW YORK

968

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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

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 authori-
2 ties law, as added by section 7 of part A of chapter 173 of the laws of
3 2013, is amended to read as follows:

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

15 2. ~~On or before February third, two thousand fourteen, the authority~~
16 ~~and service provider shall submit an emergency response plan to the~~
17 ~~department of public service for review. Contemporaneously with such~~
18 ~~submission, the authority shall provide notice of such proposed plan to~~
19 ~~the secretary of state for publication in the state register, the~~
20 ~~authority and service provider each shall post such plan on their~~
21 ~~websites and otherwise make such plan available for review in-person,~~
22 ~~and afford members of the public an opportunity to submit written~~

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

LBD03823-01-1

~~1 comments and oral comments pursuant to at least one hearing to be held
2 each in the county of Suffolk and the county of Nassau. Such written
3 comments must be submitted by March fourteenth, two thousand fourteen.
4 The authority and service provider shall provide a copy of all written
5 comments they receive and a transcript of such public hearings to the
6 department of public service for its consideration in reviewing the
7 emergency response plan. The department shall provide any recommenda-
8 tions to the authority and service provider with respect to such plan on
9 or before April fifteenth, two thousand fourteen. Such plan must be made
10 final by June second, two thousand fourteen. For each year thereafter,
11 the service provider shall submit an emergency response plan to the
12 department of public service, and such department shall provide its
13 recommendations, in accordance with a schedule to be established by such
14 department and that is consistent with the schedule associated with such
15 department's review of similar such plans provided by electric corpo-
16 rations pursuant to subdivision twenty-one of section sixty-six of the
17 public service law.~~

~~18 3. By June second, two thousand fourteen, and by June first annually
19 thereafter, the authority and service provider shall jointly certify to
20 the department of homeland security and emergency services that the
21 emergency response plan ensures, to the greatest extent feasible, the
22 timely and safe restoration of energy services after an emergency
23 consistent with the requirements of paragraph (a) of subdivision twen-
24 ty-one of the public service law and the department's recommendations.
25 The filing of such emergency response plan shall also include a copy of
26 all written mutual assistance agreements among utilities. The authority
27 and service provider shall file with the county executives of Nassau and
28 Suffolk county and the mayor of the city of New York the most recent
29 version of the emergency response plan, and make sure that such amended
30 versions are timely filed.~~

~~31 4. Starting in calendar year two thousand fourteen, the service
32 provider annually shall undertake at least one drill to implement proce-
33 dures to practice its emergency response plan. The service provider
34 shall notify and allow participation in such drill of all appropriate
35 municipal emergency responders and officials].~~

~~36 [5.] The plan shall be submitted to the public service commission
37 annually on or before December fifteenth for review and approval. The
38 emergency response plan shall be designed for the reasonably prompt
39 restoration of service in the case of an emergency event, defined for
40 purposes of this subdivision as an event where widespread outages have
41 occurred in the authority's service territory of the service provider
42 due to storms or other causes beyond the control of the service provid-
43 er. The emergency response plan shall include, but need not be limited
44 to, the following: (i) the identification of management staff responsi-
45 ble for the service provider's operations during an emergency; (ii) a
46 communications system with customers during an emergency that extends
47 beyond normal business hours and business conditions; (iii) identifica-
48 tion of and outreach plans to customers who had documented their need
49 for essential electricity for medical needs; (iv) identification of and
50 outreach plans to customers who had documented their need for essential
51 electricity to provide critical telecommunications, critical transporta-
52 tion, critical fuel distribution services or other large-load customers
53 identified by the commission; (v) designation of service provider staff
54 to communicate with local officials and appropriate regulatory agencies;
55 (vi) provisions regarding how the service provider will assure the safe-
56 ty of its employees and contractors; (vii) procedures for deploying~~

1 service provider and mutual aid crews to work assignment areas; (viii)
2 identification of additional supplies and equipment needed during an
3 emergency; (ix) the means of obtaining additional supplies and equip-
4 ment; (x) procedures to practice the emergency response plan; (xi)
5 appropriate safety precautions regarding electrical hazards, including
6 plans to promptly secure downed wires within thirty-six hours of notifi-
7 cation of the location of such downed wires from a municipal emergency
8 official; (xii) establishing the separate responsibilities of the
9 authority and service provider; and (xiii) such other additional infor-
10 mation as the commission may require. Such emergency plan shall be
11 consistent with any regulations and orders adopted hereto. Each such
12 service provider shall, on an annual basis, undertake drills implement-
13 ing procedures to practice its emergency management plan. The service
14 provider shall notify and allow participation in such drill of all
15 appropriate municipal emergency responders and officials. The commission
16 may adopt additional requirements consistent with ensuring the reason-
17 ably prompt restoration of service in the case of an emergency event.

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

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

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

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

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

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

55 8. If, during an emergency event, electric service is not restored in
56 three days, the service provider shall within sixty days from the date

1 of full restoration file with the department a report constituting a
2 review of all aspects of the preparation and system restoration perform-
3 ance during the event[~~, and shall thereafter take into consideration any~~
4 ~~recommendations made by the department associated with such review~~].
5 Recommendations made by the department associated with such review shall
6 be promptly forwarded to the commission.

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

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

30 § 3. This act shall take effect immediately.