

STATE OF NEW YORK

968--A

Cal. No. 520

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. GAUGHRAN, BROOKS, HINCHEY, KAPLAN, PALUMBO -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications -- recommitted to the Committee on Energy and Telecommunications in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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~~

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 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 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. 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

1 electricity to provide critical telecommunications, critical transporta-
2 tion, critical fuel distribution services or other large-load customers
3 identified by the commission; (v) designation of service provider staff
4 to communicate with local officials and appropriate regulatory agencies;
5 (vi) provisions regarding how the service provider will assure the safe-
6 ty of its employees and contractors; (vii) procedures for deploying
7 service provider and mutual aid crews to work assignment areas; (viii)
8 identification of additional supplies and equipment needed during an
9 emergency; (ix) the means of obtaining additional supplies and equip-
10 ment; (x) procedures to practice the emergency response plan; (xi)
11 appropriate safety precautions regarding electrical hazards, including
12 plans to promptly secure downed wires within thirty-six hours of notifi-
13 cation of the location of such downed wires from a municipal emergency
14 official; (xii) establishing the separate responsibilities of the
15 authority and service provider; and (xiii) such other additional infor-
16 mation as the commission may require. Such emergency plan shall be
17 consistent with any regulations and orders adopted hereto. Each such
18 service provider shall, on an annual basis, undertake drills implement-
19 ing procedures to practice its emergency management plan. The service
20 provider shall notify and allow participation in such drill of all
21 appropriate municipal emergency responders and officials. The commission
22 may adopt additional requirements consistent with ensuring the reason-
23 ably prompt restoration of service in the case of an emergency event.

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

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

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

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

55 6. The authority and service provider shall file with the county exec-
56 utives of Nassau and Suffolk counties and the mayor of the city of New

1 York the most recent approved copy of the emergency response plan
2 required pursuant to this section.

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

5 8. If, during an emergency event, electric service is not restored in
6 three days, the service provider shall within sixty days from the date
7 of full restoration file with the department a report constituting a
8 review of all aspects of the preparation and system restoration perform-
9 ance during the event[~~, and shall thereafter take into consideration any~~
10 ~~recommendations made by the department associated with such review~~].
11 Recommendations made by the department associated with such review shall
12 be promptly forwarded to the commission.

13 § 2. Subdivision 1 of section 1020-s of the public authorities law, as
14 amended by chapter 681 of the laws of 2021, is amended to read as
15 follows:

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

38 § 3. This act shall take effect immediately.