

STATE OF NEW YORK

3904

2021-2022 Regular Sessions

IN ASSEMBLY

January 28, 2021

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

AN ACT to amend the energy law, the executive law and the public service law, in relation to critical energy 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 energy infrastructure as defined in
7 subdivision fourteen of section 1-103 of this chapter, and to accelerate
8 development and use within the state of renewable energy sources, all in
9 order to promote the state's economic growth, to create employment with-
10 in the state, to protect its environmental values and agricultural
11 heritage, to husband its resources for future generations, and to
12 promote the health and welfare of its people;

13 § 2. Section 1-103 of the energy law is amended by adding two new
14 subdivisions 14 and 15 to read as follows:

15 14. "Critical energy infrastructure" means systems, including indus-
16 trial control systems, customer electrical or gas consumption data,
17 assets, places or things, whether physical or virtual, so vital to the
18 state that the disruption, incapacitation or destruction of such
19 systems, including industrial control systems, customer electrical or
20 gas consumption data, assets, places or things could jeopardize the
21 health, safety, welfare, energy distribution, transmission, reliability,
22 or security of the state, its residents or its economy.

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

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

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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 § 3. 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, and other natural and man-made disas-
10 ters, including, but not limited to, nuclear facilities, power plants,
11 telecommunications systems, mass transportation systems, public road-
12 ways, railways, bridges and tunnels, and attendant industrial control
13 systems as defined by subdivision fifteen of section 1-103 of the energy
14 law and develop strategies that may be used to protect such infrastruc-
15 ture from terrorist attack, cyber attack, and other natural and man-made
16 disasters;

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

20 (a) The commission shall have power to provide for management and
21 operations audits of gas corporations and electric corporations. Such
22 audits shall be performed at least once every five years for combination
23 gas and electric corporations, as well as for straight gas corporations
24 having annual gross revenues in excess of two hundred million dollars.
25 The audit shall include, but not be limited to, an investigation of the
26 company's construction program planning in relation to the needs of its
27 customers for reliable service, an evaluation of the efficiency of the
28 company's operations and protection of critical energy infrastructure as
29 defined in subdivision fourteen of section 1-103 of the energy law,
30 recommendations with respect to same, and the timing with respect to the
31 implementation of such recommendations. The commission shall have
32 discretion to have such audits performed by its staff, or by independent
33 auditors.

34 In every case in which the commission chooses to have the audit
35 provided for in this subdivision or pursuant to subdivision fourteen of
36 section sixty-five of this article performed by independent auditors, it
37 shall have authority to select the auditors, and to require the company
38 being audited to enter into a contract with the auditors providing for
39 their payment by the company. Such contract shall provide further that
40 the auditors shall work for and under the direction of the commission
41 according to such terms as the commission may determine are necessary
42 and reasonable.

43 § 5. Paragraph (a) of subdivision 21 of section 66 of the public
44 service law, as added by section 4 of part X of chapter 57 of the laws
45 of 2013, is amended to read as follows:

46 (a) Each electric corporation subject to section twenty-five-a of this
47 chapter shall annually, on or before December fifteenth, submit to the
48 commission an emergency response plan for review and approval. The emer-
49 gency response plan shall be designed for the reasonably prompt restora-
50 tion of service in the case of an emergency event, defined for purposes
51 of this subdivision as an event where widespread outages have occurred
52 in the service territory of the company due to storms, cyber attack, or
53 other causes beyond the control of the company. The emergency response
54 plan shall include, but need not be limited to, the following: (i) the
55 identification of management staff responsible for company operations
56 during an emergency; (ii) a communications system with customers during

1 an emergency that extends beyond normal business hours and business
2 conditions; (iii) identification of and outreach plans to customers who
3 had documented their need for essential electricity for medical needs;
4 (iv) identification of and outreach plans to customers who had docu-
5 mented their need for essential electricity to provide critical telecom-
6 munications, critical transportation, critical fuel distribution
7 services or other large-load customers identified by the commission; (v)
8 designation of company staff to communicate with local officials and
9 appropriate regulatory agencies; (vi) provisions regarding how the
10 company will assure the safety of its employees and contractors; (vii)
11 procedures for deploying company and mutual aid crews to work assignment
12 areas; (viii) identification of additional supplies and equipment needed
13 during an emergency; (ix) the means of obtaining additional supplies and
14 equipment; (x) procedures to practice the emergency response plan; (xi)
15 appropriate safety precautions regarding electrical hazards, including
16 plans to promptly secure downed wires within thirty-six hours of notifi-
17 cation of the location of such downed wires from a municipal emergency
18 official; and (xii) such other additional information as the commission
19 may require. Each such corporation shall, on an annual basis, undertake
20 drills implementing procedures to practice its emergency management
21 plan. The commission may adopt additional requirements consistent with
22 ensuring the reasonably prompt restoration of service in the case of an
23 emergency event.

24 § 6. Section 66 of the public service law is amended by adding two new
25 subdivisions 29 and 30 to read as follows:

26 29. Promulgate rules and regulations to direct electric or gas corpo-
27 rations to develop and implement tools to continuously monitor opera-
28 tional control networks giving the electric or gas corporation the abil-
29 ity to undertake the immediate detection of unauthorized network
30 behavior related to such corporation's industrial control systems, as
31 defined in subdivision fifteen of section 1-103 of the energy law. On or
32 before December thirty-first, two thousand twenty-three and not later
33 than five years after such date, and every five years thereafter, the
34 commission shall provide a report to the governor, the temporary presi-
35 dent of the senate, the speaker of the assembly, the chairperson of the
36 assembly standing committee on energy, and the chairperson of the senate
37 standing committee on energy and telecommunications reviewing electric
38 or gas corporation compliance with this section, including, as neces-
39 sary, recommendations to the legislature if the commission determines
40 that additional measures are required to ensure the effective protection
41 of electric or gas corporation critical infrastructure.

42 30. Promulgate rules and regulations to direct electric or gas corpo-
43 rations to require the installation of advanced metering infrastructure
44 that connects to the electric or gas distribution network operated by
45 such electric or gas corporation be permitted only so long as access to
46 the advanced meter infrastructure is granted via a wireless mesh inter-
47 operability standard that is shared by at least two advanced metering
48 infrastructure providers operating within the United States of America.

49 § 7. This act shall take effect on the one hundred eightieth day after
50 it shall have become a law. Effective immediately, the public service
51 commission is authorized and directed to take actions necessary to
52 promulgate rules and regulations related to the implementation of subdi-
53 visions 29 and 30 of section 66 of the public service law on or before
54 such effective date.