STATE OF NEW YORK

138

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. MAYER, COMRIE, FELDER, HARCKHAM, HOYLMAN, KAPLAN, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to expanding the types of entities required to prepare and submit an emergency response plan

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

Section 1. Section 94 of the public service law is amended by adding a new subdivision 5 to read as follows:

5. (a) Each corporation subject to this article shall annually, on or before December fifteenth, submit to the commission an emergency response plan 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 service territory of the company due to storms or other causes beyond the control of the company. The emergency response plan shall include, but need not be limited to, the following: (i) the identification of management staff responsible for company operations during an emergency; (ii) a communications system with customers during an emergency that extends beyond normal business hours and business conditions; (iii) designation of company staff to communicate with local officials and appropriate regulatory agencies; (iv) provisions regarding how the company will assure the safety of its employees and contractors; (v) procedures for deploying personnel crews to work assignment areas; (vi) identification of additional supplies and equipment needed during an emergency; (vii) the means of obtaining additional supplies and equipment; (viii) procedures to practice the emergency response plan; and (ix) such other additional information as the commission may require. Each such corporation shall,

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

LBD02685-01-1

on an annual basis, undertake drills implementing procedures to practice its emergency management plan. The commission may adopt additional requirements consistent with ensuring the reasonably prompt restoration of service in the case of an emergency event.

(b) After review of a corporation's emergency response plan, the commission may require such corporation to amend the plan. The commission may also open an investigation of the corporation's plan to determine its sufficiency to respond adequately to an emergency event. If, after hearings, the commission finds a material deficiency in the plan, it may order the company to make such modifications that it deems reasonably necessary to remedy the deficiency.

(c) The commission is authorized to open an investigation to review the performance of any corporation in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event. If, after evidentiary hearings or other investigatory proceedings, the commission finds that the corporation failed to reasonably implement its emergency response plan or the length of such corporation's outages were materially longer than they would have been, because of such corporation's failure to reasonably implement its emergency response plan, the commission may deny the recovery of any part of the service restoration costs caused by such failure, commensurate with the degree and impact of the service outage; provided, however, that nothing herein limits the commission's authority to otherwise commence a proceeding pursuant to sections twenty-four and twenty-five of this chapter.

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

(e) Each corporation subject to this article shall file with the county executive or the chief elected official of a county for each county within its service territory the most recent approved copy of the emergency response plan required pursuant to this section. For the purposes of a corporation operating within the city of New York, such corporation shall file the most recent approved emergency response plan with the emergency management office of the city of New York.

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

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

4-a. (a) Each corporation subject to this article shall annually, on or before December fifteenth, submit to the commission an emergency response plan 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 service territory of the company due to storms or other causes beyond the control of the company. The emergency response plan shall include, but need not be limited to, the following: (i) the identification of management staff responsible for company operations during an emergency; (ii) a communications system with customers during an emergency that extends beyond normal business hours and business conditions; (iii) designation of company staff to communicate with local officials and appropriate regulatory agencies; (iv) provisions regarding how the company will assure the safety of its employees and contractors; (v) procedures for deploy-

ing personnel crews to work assignment areas; (vi) identification of additional supplies and equipment needed during an emergency; (vii) the means of obtaining additional supplies and equipment; (viii) procedures to practice the emergency response plan; and (ix) such other additional information as the commission may require. Each such corporation shall, on an annual basis, undertake drills implementing procedures to practice its emergency management plan. The commission may adopt additional requirements consistent with ensuring the reasonably prompt restoration of service in the case of an emergency event.

(b) After review of a corporation's emergency response plan, the commission may require such corporation to amend the plan. The commission may also open an investigation of the corporation's plan to determine its sufficiency to respond adequately to an emergency event. If, after hearings, the commission finds a material deficiency in the plan, it may order the company to make such modifications that it deems reasonably necessary to remedy the deficiency.

(c) The commission is authorized to open an investigation to review the performance of any corporation in restoring service or otherwise meeting the requirements of the emergency response plan during an emergency event. If, after evidentiary hearings or other investigatory proceedings, the commission finds that the corporation failed to reasonably implement its emergency response plan or the length of such corporation's outages were materially longer than they would have been, because of such corporation's failure to reasonably implement its emergency response plan, the commission may deny the recovery of any part of the service restoration costs caused by such failure, commensurate with the degree and impact of the service outage; provided, however, that nothing herein limits the commission's authority to otherwise commence a proceeding pursuant to sections twenty-four and twenty-five of this chapter.

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

(e) Each corporation subject to this article shall file with the county executive or the chief elected official of a county for each county within its service territory the most recent approved copy of the emergency response plan required pursuant to this section. For the purposes of a corporation operating within the city of New York, such corporation shall file the most recent approved emergency response plan with the emergency management office of the city of New York.

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

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

§ 4. This act shall take effect immediately.