

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:

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

3 5. (a) Each corporation subject to this article shall annually, on or
4 before December fifteenth, submit to the commission an emergency
5 response plan for review and approval. The emergency response plan
6 shall be designed for the reasonably prompt restoration of service in
7 the case of an emergency event, defined for purposes of this subdivision
8 as an event where widespread outages have occurred in the service terri-
9 tory of the company due to storms or other causes beyond the control of
10 the company. The emergency response plan shall include, but need not be
11 limited to, the following: (i) the identification of management staff
12 responsible for company operations during an emergency; (ii) a communi-
13 cations system with customers during an emergency that extends beyond
14 normal business hours and business conditions; (iii) designation of
15 company staff to communicate with local officials and appropriate regu-
16 latory agencies; (iv) provisions regarding how the company will assure
17 the safety of its employees and contractors; (v) procedures for deploy-
18 ing personnel crews to work assignment areas; (vi) identification of
19 additional supplies and equipment needed during an emergency; (vii) the
20 means of obtaining additional supplies and equipment; (viii) procedures
21 to practice the emergency response plan; and (ix) such other additional
22 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.

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

5 (b) After review of a corporation's emergency response plan, the
6 commission may require such corporation to amend the plan. The commis-
7 sion may also open an investigation of the corporation's plan to deter-
8 mine its sufficiency to respond adequately to an emergency event. If,
9 after hearings, the commission finds a material deficiency in the plan,
10 it may order the company to make such modifications that it deems
11 reasonably necessary to remedy the deficiency.

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

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

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

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

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

42 4-a. (a) Each corporation subject to this article shall annually, on
43 or before December fifteenth, submit to the commission an emergency
44 response plan for review and approval. The emergency response plan shall
45 be designed for the reasonably prompt restoration of service in the case
46 of an emergency event, defined for purposes of this subdivision as an
47 event where widespread outages have occurred in the service territory of
48 the company due to storms or other causes beyond the control of the
49 company. The emergency response plan shall include, but need not be
50 limited to, the following: (i) the identification of management staff
51 responsible for company operations during an emergency; (ii) a communi-
52 cations system with customers during an emergency that extends beyond
53 normal business hours and business conditions; (iii) designation of
54 company staff to communicate with local officials and appropriate regu-
55 latory agencies; (iv) provisions regarding how the company will assure
56 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.