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:

Section 1. Subdivision (cc) of section 1020-f of the public authorities law, as added by section 7 of part A of chapter 173 of the laws of 2013, is amended to read as follows:

(cc) To prepare an emergency response plan pursuant to this subdivision. 1. The service provider shall, in consultation with the authority, prepare and maintain an emergency response plan [~~(i) to assure 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 due to a storm or other causes beyond the control of the authority and the service provider, (ii) consistent with the requirements of paragraph (a) of subdivision twenty-one of section sixty-six of the public service law and any regulations and orders adopted thereto, and (iii) establishing the separate responsibilities of the authority and service provider.~~

~~2. On or before February third, two thousand fourteen, the authority 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 due to storms or other causes beyond the control 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**

electricity to provide critical telecommunications, critical transportation, critical fuel distribution services or other large-load customers identified by the commission; (v) designation of service provider staff to communicate with local officials and appropriate regulatory agencies; (vi) provisions regarding how the service provider will assure the safety of its employees and contractors; (vii) procedures for deploying service provider and mutual aid crews to work assignment areas; (viii) identification of additional supplies and equipment needed during an emergency; (ix) the means of obtaining additional supplies and equipment; (x) procedures to practice the emergency response plan; (xi) appropriate safety precautions regarding electrical hazards, including plans to promptly secure downed wires within thirty-six hours of notification of the location of such downed wires from a municipal emergency official; (xii) establishing the separate responsibilities of the authority and service provider; and (xiii) such other additional information as the commission may require. Such emergency plan shall be consistent with any regulations and orders adopted hereto. Each such service provider shall, on an annual basis, undertake drills implementing procedures to practice its emergency management plan. The service provider shall notify and allow participation in such drill of all appropriate municipal emergency responders and officials. The commission may adopt additional requirements consistent with ensuring the reasonably prompt restoration of service in the case of an emergency event.

2. After review of a service provider's emergency response plan, the commission may require such service provider to amend the plan. The commission may also open an investigation of the service provider'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 service provider to make such modifications that it deems reasonably necessary to remedy the deficiency.

3. The commission is authorized to open an investigation to review the performance of any service provider 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 service provider failed to reasonably implement its emergency response plan or the length of such service provider's outages were materially longer than they would have been, because of such service provider'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, twenty-five and twenty-five-a of the public service law, provided such action or penalty solely relates to the service provider's performance under the requirements of the service provider's emergency response plan.

4. The commission shall certify to the department of homeland security and emergency services that each such service provider'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.

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

6. The authority and service provider shall file with the county executives of Nassau and Suffolk counties and the mayor of the city of New

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

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

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

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

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

§ 3. This act shall take effect immediately.