

STATE OF NEW YORK

10165

IN ASSEMBLY

May 10, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. K. Brown) --
read once and referred to the Committee on Corporations, Authorities
and Commissions

AN ACT to amend the public service law, the education law, the executive
law and the public authorities law, in relation to improving public
service commission oversight of the Long Island power authority; and
to repeal certain provisions of the public service law relating there-
to

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

- 1 Section 1. Section 3-b of the public service law is REPEALED.
2 § 2. Section 5 of the public service law is amended by adding a new
3 subdivision 7 to read as follows:
4 7. a. For purposes of this subdivision:
5 i. "Authority" means the Long Island power authority.
6 ii. "Service provider" means the entity under contract with the
7 authority to provide management and operation services associated with
8 the authority's electric transmission and distribution system and any
9 subsidiary of such entity that provides such services under contract.
10 However, the service provider and any affiliate of the service provider
11 with whom the authority or service provider contracts to provide
12 services associated with the authority's electric transmission and
13 distribution system shall not be considered an electric corporation
14 under this chapter.
15 iii. "Operations services agreement" means an agreement and any amend-
16 ments thereto between the Long Island lighting company dba LIPA or the
17 Long Island power authority and the service provider to provide manage-
18 ment and operation services associated with the authority's electric
19 transmission and distribution system.
20 b. i. In undertaking the requirements of this section, subject to
21 subdivisions (u) and (bb) through (hh) of section one thousand twenty-f
22 of the public authorities law, the department shall be empowered and
23 authorized to: Review and make recommendations to the board of the Long
24 Island power authority with respect to the rates and charges, including

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

LBD15038-01-4

1 charges related to energy efficiency and renewable energy programs, to
2 be established by the authority and become applicable on or after Janu-
3 ary first, two thousand sixteen pursuant to subdivision (u) of section
4 one thousand twenty-f of the public authorities law.

5 ii. The purpose of such review is to make recommendations designed to
6 ensure that the authority and the service provider provide safe and
7 adequate transmission and distribution service at rates set at the
8 lowest level consistent with sound fiscal operating practices.

9 iii. The department's recommendations shall be designed to be consist-
10 ent with ensuring that the revenue requirements related to such rate
11 review are sufficient to satisfy the authority's obligations with
12 respect to its bonds, notes and all other contracts.

13 iv. In the context of such review, the department may make recommenda-
14 tions with regard to the compensation or fee structure included within
15 the operations services agreement.

16 v. In undertaking such review and in making recommendations related to
17 the proposed rates and charges, the department shall establish stand-
18 ards, policies and procedures that, at a minimum, provide for public
19 statement and evidentiary hearings and participation of intervenors and
20 other parties, and ensure that any final recommendations related to the
21 proposed rates and charges are provided to the authority within two
22 hundred forty days of the filing with the department of such plan.

23 vi. The parties to any such rate review proceeding shall include, but
24 not be limited to, department staff, the authority, the service provider
25 and, to the extent it deems necessary or appropriate, the utility inter-
26 vention unit.

27 c. Review the annual capital expenditures proposed by the service
28 provider and recommend such improvement in the manufacture, conveying,
29 transportation, distribution or supply of electricity, or in the methods
30 employed by the service provider as in the department's judgment allows
31 for safe and adequate service.

32 d. Annually review the emergency response plan of the authority and
33 the service provider in accordance with the following requirements:

34 i. Examine and determine whether the emergency response plan is
35 consistent with the requirements of paragraph (a) of subdivision twen-
36 ty-one of section sixty-six of this chapter and any regulations or
37 orders promulgated thereto, and to recommend amendments of same; and

38 ii. Review and make recommendations to the authority with respect to
39 the performance of the service provider in restoring service or other-
40 wise meeting the requirements of the emergency response plan during an
41 emergency event, defined for purposes of this section as an event where
42 widespread outages have occurred in the authority's service territory
43 due to a storm or other causes beyond the control of the authority and
44 its service provider, including making determinations with respect to
45 whether the service provider is reasonably able to implement the emer-
46 gency response plan, whether the length of any outages related to such
47 emergency were materially longer than they would otherwise have been
48 because the service provider failed to reasonably implement the emergen-
49 cy response plan, the reasonableness of costs associated with such emer-
50 gency response, the costs, if any, that were unreasonably and imprudent-
51 ly incurred by the service provider, and whether the service provider
52 would be liable for any such costs pursuant to the terms and conditions
53 of the operations services agreement.

54 e. Upon notification to the Long Island power authority, undertake a
55 comprehensive and regular management and operations audit of the author-
56 ity and service provider pursuant to subdivision (bb) of section one

1 thousand twenty-f of the public authorities law. The department shall
2 have discretion to have such an audit performed by its staff, or by an
3 independent contractor. In every case in which an audit is required
4 pursuant to subdivision (bb) of section one thousand twenty-f of the
5 public authorities law performed by an independent auditor, the depart-
6 ment shall have the authority to select the auditor, and to require the
7 authority to enter into a contract with the auditor that is consistent
8 with the contracting-related requirements specified in subdivision nine-
9 teen of section sixty-six of this chapter and the requirements of subdivi-
10 vision (bb) of section one thousand twenty-f of the public authorities
11 law. Such contract shall provide further that the auditor shall work for
12 and under the direction of the department according to such terms as the
13 department may determine are necessary and reasonable.

14 f. Accept, investigate, mediate to resolve and make recommendations to
15 the Long Island power authority and/or the service provider regarding
16 the resolution of complaints from consumers in the authority's service
17 territory relating to, among other things, the provision of electric
18 service provided by the service provider and/or the authority.

19 g. Review the net metering program implemented under subdivision (h)
20 of section one thousand twenty-g of the public authorities law and make
21 recommendations designed to ensure consistency with the requirements of
22 sections sixty-six-j and sixty-six-l of this chapter, and any regu-
23 lations and orders adopted thereto.

24 h. Review and make recommendations with respect to any proposed plan
25 submitted by the Long Island power authority and/or the service provider
26 related to implementation of energy efficiency measures, distributed
27 generation or advanced grid technology programs having the purpose of
28 providing customers with tools to more efficiently and effectively
29 manage their energy usage and utility bills, and improving system reli-
30 ability and power quality.

31 i. Review the data, information and reports submitted pursuant to
32 subdivision (hh) of section one thousand twenty-f of the public authori-
33 ties law and other pertinent information related to the metrics in the
34 operations services agreement, the Long Island power authority's evalu-
35 ation of such data, information and reports, and make recommendations to
36 the authority with respect to the service provider's annual incentive-
37 based compensation within thirty days of receipt of such evaluation and
38 information.

39 j. To undertake the requirements of this subdivision, the department
40 shall be authorized to inspect all premises and facilities owned or
41 operated by the authority and the service provider, review all books and
42 records of the authority and the service provider, interview all appro-
43 priate personnel, and require annual reporting consistent with the
44 requirements of subdivision six of section sixty-six of this chapter and
45 any regulations and orders adopted thereto; provided, however, that this
46 authority shall not extend to affiliates of the service provider.

47 § 3. Subdivision 1 of section 7208 of the education law, as amended by
48 section 15 of part A of chapter 173 of the laws of 2013, is amended to
49 read as follows:

50 1. The practice of engineering or land surveying, or using the title
51 "engineer" or "surveyor" (i) exclusively as an officer or employee of a
52 public service corporation by rendering to such corporation such
53 services in connection with its lines and property which are subject to
54 supervision with respect to the safety and security thereof by the
55 public service commission of this state, the interstate commerce commis-
56 sion or other federal regulatory body and so long as such person is thus

1 actually and exclusively employed and no longer, or (ii) exclusively as
2 an officer or employee of the Long Island power authority or its service
3 provider, as defined under subdivision seven of section [~~three-b~~] five
4 of the public service law, by rendering to such authority or provider
5 such services in connection with its lines and property which are
6 located in such authority's service area and so long as such person is
7 thus actually and exclusively employed and no longer;

8 § 4. Subparagraph (i) of paragraph (b) of subdivision 4 of section
9 94-a of the executive law, as amended by section 12 of part A of chapter
10 173 of the laws of 2013, is amended to read as follows:

11 (i) on behalf of the secretary, initiate, intervene in, or participate
12 in any proceedings before the public service commission or the depart-
13 ment of public service, to the extent authorized by [~~sections three-b,~~
14 subdivision seven of section five or section twenty-four-a, seventy-one,
15 eighty-four or ninety-six of the public service law or any other appli-
16 cable provision of law, where [~~he or she~~] such secretary deems such
17 initiation, intervention or participation to be necessary or appropri-
18 ate;

19 § 5. Paragraph 1 of subdivision (bb) and subdivisions (ee) and (ff) of
20 section 1020-f of the public authorities law, paragraph 1 of subdivision
21 (bb) as amended and subdivisions (ee) and (ff) as added by section 7 of
22 part A of chapter 173 of the laws of 2013, are amended to read as
23 follows:

24 1. The authority and the service provider shall cooperate in the
25 undertaking and completion of a regular and comprehensive management and
26 operations audit conducted pursuant to the requirements of this subdivi-
27 sion and paragraph [~~d~~] e of subdivision [~~three~~] seven of section
28 [~~three-b~~] five of the public service law. Such audit shall review and
29 evaluate the overall operations and management of the authority and
30 service provider, including such operations and management in the
31 context of the authority's duty to set rates at the lowest level
32 consistent with standards and procedures provided in subdivision (u) of
33 this section, and include, but not be limited to: (i) the service
34 provider's construction and capital program planning in relation to the
35 needs of customers for reliable service; (ii) the overall efficiency of
36 the authority's and service provider's operations; (iii) the manner in
37 which the authority is meeting its debt service obligations; (iv) the
38 authority's Fuel and Purchased Power Cost Adjustment clause and recovery
39 of costs associated with such clause; (v) the authority's and service
40 provider's annual budgeting procedures and process; (vi) the applica-
41 tion, if any, of the performance metrics designated in the operations
42 services agreement and the accuracy of the data relied upon with respect
43 to such application; and (vii) the authority's compliance with debt
44 covenants.

45 (ee) On or before July first, two thousand fourteen, and annually
46 thereafter, to submit for review to the department of public service any
47 proposed plan related to implementing energy efficiency measures,
48 distributed generation or advanced grid technology programs for the
49 purpose provided pursuant to paragraph [~~g~~] h of subdivision [~~three~~]
50 seven of section [~~three-b~~] five of the public service law.

51 (ff) To assist and cooperate with the department of public service
52 with respect to any review undertaken pursuant to subdivision seven of
53 section [~~three-b~~] five of the public service law, including providing
54 the department with reasonable access to all facilities and premises
55 owned or operated by the authority or its service provider, allowing
56 review of all books and records of the authority and its service provid-

1 er, providing copies of requested documents, allowing interviews of all
2 appropriate personnel, and responding in a reasonable and timely manner
3 to any inquiries or reporting requests made by the department; provided,
4 however, that the obligations set forth in this subdivision shall not
5 extend to affiliates of the service provider.

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

9 1. The rates, services and practices relating to the electricity
10 generated by facilities owned or operated by the authority shall not be
11 subject to the provisions of the public service law or to regulation by,
12 or the jurisdiction of, the public service commission, except to the
13 extent (a) article seven of the public service law applies to the siting
14 and operation of a major utility transmission facility as defined there-
15 in, (b) article ten of such law applies to the siting of a generating
16 facility as defined therein, (c) section eighteen-a of such law provides
17 for assessment for certain costs, property or operations, (d) to the
18 extent that the department of public service reviews and makes recommen-
19 dations with respect to the operations and provision of services of, and
20 rates and budgets established by, the authority pursuant to subdivision
21 seven of section [~~three-b~~] five of such law, (e) that section seventy-
22 four of the public service law applies to qualified energy storage
23 systems within the authority's jurisdiction, and (f) that section seven-
24 ty-four-b of the public service law applies to Long Island community
25 choice aggregation programs.

26 § 7. Subdivision 1-a of section 18-a of the public service law, as
27 added by section 2 of part A of chapter 173 of the laws of 2013, is
28 amended to read as follows:

29 1-a. All costs and expenses of the department related to the depart-
30 ment's responsibilities under subdivision seven of section [~~three-b~~]
31 five of this chapter shall be paid pursuant to appropriation on the
32 certification of the [~~chairman~~] chairperson of the department and upon
33 the audit and warrant of the comptroller. For the state fiscal year
34 beginning on April first, two thousand fourteen and each state fiscal
35 year thereafter, payments are to be made from all moneys collected from
36 the Long Island power authority pursuant to this section. The total of
37 such costs and expenses shall be assessed on such authority in the
38 manner provided in subdivisions two, three and four of this section.

39 § 8. This act shall take effect immediately.