STATE OF NEW YORK

4592

2023-2024 Regular Sessions

IN ASSEMBLY

February 17, 2023

Introduced by M. of A. FAHY -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law and the transportation corporations law, in relation to aligning utility regulation with state climate justice and emission reduction targets; to repeal section 66-b of the public service law relating to continuation of gas service; and to repeal section 66-g of the public service law relating to the sale of indigenous natural gas for generation of electricity

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

Section 1. Short title. This act shall be known and may be cited as the "NY Home Energy Affordable Transition Act".

§ 2. Legislative findings. The legislature finds and declares that:

1. The Climate Leadership and Community Protection Act (the "CLCPA") created legal mandates for dramatic greenhouse gas emission reductions from all sectors of New York's economy. The CLCPA also emphasizes equity in addressing climate change by requiring all state agencies and authorities to prioritize reductions of greenhouse gas emissions and co-pollutants in disadvantaged communities and by mandating that certain state investments deliver benefits to these communities.

2. Buildings are New York's largest source of greenhouse gas emissions, accounting for approximately one-third of the greenhouse gas emissions in our state. New York state's buildings also produce more local air pollution than any other state in the country, resulting in negative health outcomes such as increased rates of asthma, particularly among children, and heart disease. Therefore, reducing greenhouse gas emissions and toxic air pollution emitted from New York's buildings, especially in disadvantaged communities, is necessary to meet the CLCPA mandates.

3. To meet the state's bold climate and equity mandates, New York will need to update how it regulates gas utility service. Doing so will

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

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enable strategic planning and investments in neighborhood-scale building decarbonization and help bring the statewide gas distribution system into alignment with the two thousand thirty and two thousand fifty greenhouse gas emission reduction mandates in article seventy-five of the environmental conservation law through an orderly and equitable process, coordinated with appropriate investments in the electric system to ensure all New Yorkers have non-discriminatory, affordable access to the energy needed for heating, cooling, and powering the buildings in which they live and work.

4. The New York public service law not only contains barriers to neighborhood-scale building decarbonization solutions such as thermal energy networks, but also works at cross purposes with the state's climate and affordability goals, by requiring and subsidizing the continued expansion of natural gas infrastructure.

a. The gas utility obligation to serve codified in the public service law is a major obstacle to utilities developing neighborhood-scale building decarbonization projects that would facilitate bringing the gas system into alignment with the two thousand thirty and two thousand fifty greenhouse gas emission reduction mandates in article seventy-five of the environmental conservation law in a manner that can mitigate costs for all utility customers, reduces greenhouse gas emissions and co-pollutants impacting local air quality, and provides a transition for impacted workers.

b. Statutorily mandated utility system extension allowances require existing ratepayers to subsidize gas infrastructure hookups for new customers. According to a recent joint filing with the Public Service Commission by the New York state gas utilities, these required allowances cost gas utilities hundreds of millions of dollars per year. These costs are passed directly to existing gas customers.

c. Gas utilities in New York are on track to collectively spend $150 billion to replace thousands of miles of leak prone pipe in the coming years. These investments pose a risk of becoming stranded assets, with $77 billion of the total cost coming due after 2050, but can be avoided in many cases by strategically investing in neighborhood-scale decarbonization projects.

5. New Yorkers are suffering from dramatic fossil fuel price spikes driven by the increasingly integrated global commodity market, subject to the whims of foreign dictators such as Russia's Vladimir Putin or Saudi Arabia's Prince Mohammed bin Salman. Fossil fuel prices have spiked to historic high levels, making both electricity and gas utility service unaffordable for many New Yorkers. Decarbonizing buildings through the strategic development of neighborhood-scale building decarbonization projects, along with investing in energy efficiency and renewable electricity, will save New Yorkers money now and in the future, protect against price volatility, and promote true energy independence for New York state.

6. Fossil fuel price spikes are exacerbating the affordability impacts of the COVID-19 Pandemic. Over a million households in New York now struggle to pay their utility bills. The Public Service Commission has declared, but not yet achieved, a goal that customers should not pay more than 6% of their income for utility energy services, a number based on a nationally accepted standard.

7. Thus, it is the intent of the legislature to enact the NY Home Energy Affordable Transition Act for the following purposes:

a. to ensure that the public service law regarding regulation and oversight of gas utilities will provide for the timely and strategic decarbonization and right-sizing of the gas distribution system in a just and affordable manner as required to meet the climate justice and emission reduction mandates of the CLCPA, appropriately balancing ratepayers' needs and interests with the maintenance of financially sound utilities, prioritizing low-to-moderate income customers and disadvantaged communities, and encouraging neighborhood-scale transitions;

b. to provide the Public Service Commission with the statutory authority and direction to align utility regulations and planning with the CLCPA climate justice and emission reduction mandates and to require the Public Service Commission to take a proactive role in the timely identification and amendment of such regulations or rulings as may pose an impediment to achieving CLCPA mandates, and to identify any laws that may pose an impediment;

c. to end statutorily mandated, ratepayer-subsidized incentives for the expansion of fossil fuel infrastructure while maintaining the equitable provision of electric service for efficient heating, cooling, cooking, hot water, and other uses;

d. to provide affordable access to electricity for heating and cooling and to protect low-income and moderate-income customers from undue burdens as they decarbonize their buildings; and

e. to clarify that municipal building codes regulating on-site emissions are not preempted under New York state law.

8. This legislation does not establish a ban on the use of gas. It is neither the intent nor would it be the effect of this legislation to require the immediate transition of any existing gas customer to alternative heating and cooling services.

§ 3. Subdivision 1 of section 4 of the public service law, as amended by chapter 594 of the laws of 2021, is amended to read as follows:

1. There shall be in the department of public service a public service commission, which shall possess the powers and duties hereinafter specified, and also all powers necessary or proper to enable it to carry out the purposes of this chapter **and to enable achievement of the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, and such successors in law and function as may arise from time to time**. The commission shall consist of five members, to be appointed by the governor, by and with the advice and consent of the senate. A commissioner shall be designated as [~~chairman~~] **chairperson** of the commission by the governor to serve in such capacity at the pleasure of the governor or until his **or her** term as commissioner expires whichever first occurs. At least one commissioner shall have experience in utility consumer advocacy. No more than three commissioners may be members of the same political party unless, pursuant to action taken under subdivision two of this section, the number of commissioners shall exceed five, and in such event no more than four commissioners may be members of the same political party.

§ 4. Subdivisions 1 and 2 of section 5 of the public service law, subdivision 1 as amended and subdivision 2 as added by chapter 155 of the laws of 1970, paragraph i of subdivision 1 as added by chapter 375 of the laws of 2022, are amended to read as follows:

1. The jurisdiction, supervision, powers and duties of the public service commission shall extend under this chapter:

[~~b.~~] **a.** To the manufacture, conveying, transportation, sale or distribution of gas (natural or manufactured or mixture of both) and electricity for light, heat**, cooling,** or power, to gas plants and to electric plants and to the persons or corporations owning, leasing or operating the same.

[~~c.~~] b. To the manufacture, holding, distribution, transmission, sale or furnishing of steam for heat or power, to steam plants and to the persons or corporations owning, leasing or operating the same.

[~~d.~~] c. To every telephone line which lies wholly within the state and that part within the state of New York of every telephone line which lies partly within and partly without the state and to the persons or corporations owning, leasing or operating any such telephone line.

[~~e.~~] d. To every telegraph line which lies wholly within the state and that part within the state of New York of every telegraph line which lies partly within and partly without the state and to the persons or corporations owning, leasing or operating any such telegraph line.

[~~f.~~] e. To the furnishing or distribution of water for domestic, commercial or public uses and to water systems and to the persons or corporations owning, leasing or operating the same.

[~~g.~~] f. To every stock yard within the state and to the stock yard company owning, leasing or operating the same, to the same extent and in respect to the same objects and purposes as such jurisdiction extends, under this chapter, to depots, freight houses and shipping stations of a common carrier, including the duty of such stock yard company to submit reports and be subjected to investigation as if it were a common carrier, and the powers and duties of such commission to fix charges and make and enforce orders relating to adequate service by such company.

[~~h.~~] g. A corporation or person owning or holding a majority of the stock of a common carrier, gas corporation or electrical corporation subject to the jurisdiction of the public service commission shall be subject to the supervision of the public service commission in respect of the relations between such common carrier, gas corporation or electrical corporation and such owners or holders of a majority of the stock thereof in so far as such relations arise from or by reason of such ownership or holding of stock thereof or the receipt or holding of any money or property thereof or from or by reason of any contract between them; and in respect of such relations shall in like manner and to the same extent as such common carrier, gas corporation or electrical corporation be subject to examination of accounts, records and memoranda, and shall furnish such reports and information as the public service commission shall from time to time direct and require, and shall be subject to like penalties for default therein.

[~~i.~~] h. To thermal energy provided by gas corporations, electric corporations, or combination gas and electric corporations.

2. The commission shall encourage all persons and corporations subject to its jurisdiction to formulate and carry out long-range programs, individually or cooperatively, for the performance of their public service responsibilities, including the achievement of the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources.

§ 5. Section 30 of the public service law, as amended by chapter 686 of the laws of 2002, is amended to read as follows:

§ 30. Residential gas, electric and steam service policy. 1. This article shall apply to the provision of all or any part of the gas, electric or steam service provided to any residential customer by any gas, electric or steam and municipalities corporation or municipality. It is hereby declared to be the policy of this state that the continued provision of [~~all or any part of such gas,~~] electric [~~and steam service~~] services to all residential customers without unreasonable qualifications or lengthy delays is necessary for the preservation of the health and general welfare, is consistent with the achievement of the state's climate justice and emission reduction mandates, and is in the public interest. It is further the policy of this state that gas service for existing residential customers must be provided in a manner that is safe and adequate, not unjustly discriminatory or unduly preferential, and in all respects just and reasonable, while providing for an orderly right-sizing of the gas distribution system to achieve consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, prioritizing low-to-moderate income customers and disadvantaged communities as defined in article seventy-five of the environmental conservation law, and encouraging neighborhood-scale transitions.

2. The commission shall regulate for the continued provision of gas service to all existing residential customers who choose to continue service, unless the discontinuance of service is part of a process of orderly right-sizing of the gas distribution system to achieve consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law. As part of such process, the commission shall take any such action, after notice and a hearing, as is necessary to facilitate the achievement of consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, but in doing so it shall actively encourage a transition away from fuels with high life-cycle greenhouse gas emissions and on-site co-pollutant emissions, encourage neighborhood-scale transitions, and ensure that all residential customers have access to electricity for heating and cooling services without unreasonable qualifications, unreasonable costs, or lengthy delays, with a goal that low-to-moderate income customers, defined as households with annual incomes at or below eighty percent of the area median income of the county or metro area where they reside, including those who are already eligible for the commission's energy affordability program, are adequately protected from bearing energy burdens greater than six percent of their income, including any undue burdens imposed by the cost to purchase and operate electric equipment needed to facilitate the achievement of the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law.

§ 6. Subdivisions 1, 3 and 4 of section 31 of the public service law, as added by chapter 713 of the laws of 1981, are amended to read as follows:

1. Every gas corporation, electric corporation or municipality shall provide residential service upon the oral or written request of an applicant, provided that any residential gas service shall only be provided in accordance with section thirty of this article and is subject to any orders or regulations limiting or discontinuing gas service that are implemented by the commission to facilitate the achievement of consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, and provided further that the commission may require that requests for service be in writing under circumstances as it deems necessary and proper as set forth by regulation, and provided further that the applicant:

(a) makes full payment for residential utility service provided to a prior account in [~~his~~] the applicant's name; or

(b) agrees to make payments under a deferred payment plan of any amounts due for service to a prior account in [~~his~~] the applicant's name and makes a down payment based on criteria to be established by the commission. No such down payment shall exceed one-half of any money due from an applicant for residential utility service, or three months average billing, whichever is less; or

(c) is a recipient of public assistance, supplemental security income or additional state payments pursuant to the social services law, or is an applicant for such assistance, income or payments, and the utility corporation or the municipality receives payment from, or is notified of the applicant's eligibility for utility payments by the social services official of the social services district in which such person resides for amounts due for service to a prior account in the applicant's name, together with guarantee of future payments to the extent authorized by the social services law**; and**

(d) receives clear, timely information from the gas corporation, electric corporation, municipality, or retail energy service company, written in plain language, available in the top twelve most common non-English languages spoken by limited English proficient New Yorkers, and approved by the commission after stakeholder input, on incentives and opportunities for installing, energy-efficient electric heating and cooling technologies, weatherization, demand-side management, and distributed energy resource programs.

(e) nothing in this subdivision shall be construed to prohibit existing gas customers, in accordance with section thirty of this article and subject to any other regulations implemented by the commission, from reconnecting to the gas distribution system following a gas interruption due to emergency repairs or remediation of leaking equipment.

3. Subject to the requirements of subdivisions four and five of this section, **and in accordance with section thirty of this article,** whenever a residential customer moves to a new residence within the service territory of the same utility corporation or municipality, [~~he~~] **the applicant** shall be eligible to receive service at the new residence and such service shall be considered a continuation of service [~~in all respects~~] **as operationally feasible based on infrastructure and commodity availability at the site of the new residence**, with any deferred payment agreement honored, and with all rights of such customer and such utility corporation provided by this article unimpaired.

4. In the case of any application for service to a building which is not supplied with electricity or gas, a utility corporation or municipality shall be obligated to provide **electric** service to such a building, **and to provide gas service for such a building in accordance with commission regulation,** provided however, that the commission may require applicants for service to buildings [~~located in excess of one hundred feet from gas or electric transmission lines~~] to pay or agree in writing to pay material and installation costs relating to the applicant's proportion of the pipe, conduit, duct or wire, or other facilities to be installed.

§ 7. Section 12 of the transportation corporations law, as separately amended by chapters 713 and 895 of the laws of 1981, is amended to read as follows:

§ 12. Gas and electricity must be supplied on application **in accordance with commission rules and regulations**. Except in the case of an application for residential utility service pursuant to article two of the public service law, upon written application of the owner or occupant of any building [~~within one hundred feet of any main of a gas corporation or gas and electric corporation, or a line of an electric corporation or gas and electric corporation, appropriate to the service~~

~~requested,~~] and payment by [~~him~~] **the applicant** of all money due from [~~him~~] **the applicant** to the corporation, it shall supply [~~gas or~~] electricity as may be required for [~~lighting~~] such building **and it may provide gas for such building in accordance with commission regulation**, notwithstanding there be rent or compensation in arrears for gas or electricity supplied, or for meter, wire, pipe or fittings furnished, to a former occupant thereof, unless such owner or occupant shall have undertaken or agreed with the former occupant to pay or to exonerate [~~him~~] **them** from the payment of such arrears, and shall refuse or neglect to pay the same; and if for the space of ten days after such application, and the deposit of a reasonable sum as provided in the next section, if required, the corporation shall refuse or neglect to supply gas or [~~electric light~~] **electricity** as required, such corporation shall forfeit and pay to the applicant the sum of ten dollars, and the further sum of five dollars for every day thereafter during which such refusal or neglect shall continue; provided that no such corporation shall be required to lay service pipes or wires for the purpose of supplying gas or electric light to any applicant where the ground in which such pipe or wire is required to be laid shall be frozen, or shall otherwise present serious obstacles to laying the same; nor unless the applicant, if required, shall deposit in advance with the corporation a sum of money sufficient to pay the cost of [~~his proportion~~] **the applicant's portion** of the pipe, conduit, duct or wire required to be installed, and the expense of the installation of such portion.

§ 8. Subdivision 2 of section 66 of the public service law, as amended by chapter 877 of the laws of 1953, is amended and a new subdivision 12-e is added to read as follows:

2. Investigate and ascertain, from time to time, the quality of gas supplied by persons, corporations and municipalities; examine or investigate the methods employed by such persons, corporations and municipalities in manufacturing, distributing and supplying gas or electricity for light, heat**, cooling,** or power and in transmitting the same, and have power to order such reasonable improvements as will best promote the public interest, preserve the public health and protect those using such gas or electricity and those employed in the manufacture and distribution thereof, and have power to order reasonable improvements and extensions of the works, wires, poles, lines, conduits, ducts and other reasonable devices, apparatus and property of gas corporations, electric corporations and municipalities; and have power after an investigation and a hearing to order any corporation having authority under any general or special law or under any charter or franchise, to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality for the purpose of supplying, selling or distributing natural gas, to augment its supply of natural gas, whenever the commission deems necessary and whenever artificial gas can be reasonably obtained, by acquiring by purchase, manufacture or otherwise a supply thereof to be mixed with such natural gas, in order to render adequate service to the customers of such corporation or to maintain a proper and uniform pressure; and have power after an investigation and a hearing to order any corporation having authority under any general or special law or under any charter or franchise, to lay down, erect or maintain wires, pipes, conduits, ducts or other fixtures in, over or under the streets, highways and public places of any municipality for the purpose of supplying, selling or distributing artificial gas, to augment its supply of artificial gas, whenever the commission deems necessary and whenever natural

gas can be reasonably obtained, by acquiring by purchase or otherwise a supply thereof to be mixed with such artificial gas, in order to render adequate service to the customers of such corporation or to maintain a proper and uniform pressure; and to fix such rate for the supplying of mixed gas as shall secure to such corporation a fair return; and may order the curtailment or discontinuance of the use of natural gas for manufacturing or industrial purposes, for periods aggregating not to exceed four months in any calendar year, if it is established to the satisfaction of the commission that the supply of natural gas is not adequate to meet the reasonable demands of domestic consumption and may [~~prohibit the use of natural gas in wasteful devices and practices~~] **order the curtailment or discontinuance of the use of the distribution system, where the commission has determined that such curtailment or discontinuance is reasonably required to implement state energy policy, provided that such curtailment or discontinuance shall be consistent with a plan for the phase-out of the use of a gas distribution system to achieve consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, including the opportunity for the full recovery of the utility's investment in such system, encouraging neighborhood-scale transitions for clean heating and cooling, prioritizing disadvantaged communities as defined in article seventy-five of the environmental conservation law, and accompanied by coordination assistance and, where reasonably required, financial assistance in the identification and adoption of alternatives, and may prohibit the use of natural gas in wasteful devices and practices, as defined by the commission, and require conservation and efficiency in gas usage**.

12-e. The commission shall review the capital construction plan of each gas corporation and establish a process to examine feasible alternatives to such construction in order to achieve consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, encouraging neighborhood-scale transitions away from fuels with high life-cycle greenhouse gas emissions and on-site co-pollutant emissions, prioritizing low-to-moderate income customers and disadvantaged communities as defined in article seventy-five of the environmental conservation law. Such process shall include thresholds and criteria for the types of projects subject to such examination. The commission shall require participation in such process by each electric corporation with a service area overlapping the service area of the gas corporation; and the commission shall have the power to require any such electric corporation to participate in alternatives to gas capital construction, including participation in financing. Any costs incurred by such electric corporation for such corporation's participation shall be subject to an opportunity for full recovery, as determined by the commission.

§ 9. Section 66-a of the public service law, as added by chapter 7 of the laws of 1948, subdivision 1 as amended and subdivision 3 as added by chapter 582 of the laws of 1975, subdivision 2 as amended by chapter 722 of the laws of 1977, is amended to read as follows:

§ 66-a. Conservation of gas, declaration of policy, delegation of power. 1. It is hereby declared to be the policy of this state that when there develops in any area a situation under which a gas corporation supplying gas to such area is unable to meet the reasonable needs of its consumers and of persons or corporations applying for new or additional gas service, the available supply of gas shall be allocated among the customers of such gas corporation, in such manner as may be necessary to protect public health and safety and to avoid undue hardship, particularly for low-to-moderate income residential customers, electric generation needed for electric system reliability, and customers with hard-to-electrify industrial and commercial uses, pursuant to rules and regulations as may be adopted by the commission, and that to carry out this declared policy the jurisdiction of the public service commission should be clarified. It is further declared to be the policy of this state that gas service to existing customers must be provided in a manner that is safe and adequate, not unjustly discriminatory or unduly preferential, and in all respects just and reasonable.

2. Notwithstanding the provisions of any statute or any franchise held by a gas corporation, the commission shall have power, upon the finding that continued gas service is not consistent with the achievement of the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, or that there exists such a shortage of gas in any area in the state, that the gas corporation supplying such area is unable and will be unable to secure or produce sufficient gas to meet the reasonable needs of its customers and of persons or corporations applying for new or additional gas service, to require such corporation to immediately discontinue the supplying of gas to additional customers or of supplying additional service to present customers, for such purpose or purposes as may be designated by the commission, or to customers using gas for a purpose prohibited by the commission pursuant to this act, and that upon the finding that the supply of gas available is and will be insufficient to supply the demands of all consumers receiving service, to require such gas corporation to curtail or discontinue service to any or all classes of customers of such gas corporation. In imposing such a direction or requirement, the commission shall give consideration first to existing domestic uses and uses deemed to be necessary by the commission to protect public health and safety and to avoid undue hardship [~~and shall be limited to the period of the emergency provided that the gas corporation affected shall make such restriction, curtailing or discontinuance applicable to all customers or applicants for service in a like class. If the commission determines that good cause exists for supplying service to additional customers or for supplying additional service to some existing customers, notwithstanding the curtailment or discontinuance of service to other existing customers, it shall, to the extent feasible, allocate gas with equal priority to new or additional domestic uses of gas and commercial or industrial processes which require gas because there is no practical substitute for it in such proportion as the commission determines to be reasonable. Provided that the commission shall be permitted, after public hearing, to authorize any natural gas produced from lands under the waters of Lake Erie to be used for process or feedstock requirements~~]. The commission is authorized to adopt such rules, regulations and orders as are necessary or appropriate to carry out these delegated powers.

3. In carrying out the delegated powers provided for in this section, the commission shall, to the extent practicable, determine and establish gas conservation measures or standards, including energy efficient electrification of gas end uses. The commission may require compliance with such measures or standards as a condition of receiving service.

4. The commission shall determine conditions under which new or additional gas service is warranted notwithstanding the need to conserve resources for service to existing gas customers. Such determination shall be consistent with the achievement of the climate justice and

emission reduction mandates in article seventy-five of the environmental conservation law, and may take into account factors including economic development, impacts on new and existing customers including low-to-moderate income customers, impacts on system safety and adequacy, equity toward existing customers with limited conversion alternatives, and the feasibility of neighborhood-scale alternatives to usage of fuels with high life-cycle greenhouse gas emissions and on-site co-pollutant emissions, including thermal energy networks.

5. The commission shall require gas and/or electric utilities to provide coordination assistance and financial assistance, in such forms as the commission deems reasonably required to implement state energy policy, to identify and adopt alternatives where applications for new or additional gas service are denied and encourage neighborhood-scale transitions.

§ 10. Section 66-b of the public service law is REPEALED.

§ 11. The public service law is amended by adding a new section 66-u to read as follows:

§ 66-u. Expansion of gas distribution infrastructure. Except as provided in this section, and notwithstanding any other provision of this chapter, after December thirty-first, two thousand twenty-four, no gas corporation shall commence construction of new gas distribution infrastructure the result of which would be to expand the availability of service into geographic areas where gas service was not available prior to that date as defined by the applicable utility's certificate of public convenience and necessity approved by the commission. No such new gas distribution infrastructure shall be put into service after December thirty-first, two thousand twenty-five. The commission may authorize exceptions on a case-by-case basis, provided that the commission finds that the project qualifying for the exception serves a compelling state interest, alternatives to gas service are either not technically feasible or prohibitively expensive, and that the project will be completed and put into service not later than December thirty-first, two thousand twenty-seven. For the purposes of this section, gas distribution infrastructure shall include all real estate, fixtures and personal property operated, owned, used or to be used for or in connection with or to facilitate the manufacture, conveying, transportation, distribution, sale or furnishing of gas (natural or manufactured or a mixture of both) for light, heat or power, but does not include property used solely for or in connection with the business of selling, distributing or furnishing of gas in enclosed containers.

§ 12. Section 66-g of the public service law is REPEALED.

§ 13. The public service law is amended by adding a new section 77-a to read as follows:

§ 77-a. Aligning utility regulation with climate justice and emission reduction mandates. 1. Within three months of the effective date of this section, the commission shall initiate a proceeding, or multiple proceedings, as it deems appropriate, to consider and act on the matters identified in this section in order to better align its regulation of utility services with the timely achievement of consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law. If the commission is already engaged in a proceeding addressing one or more of the matters identified in this section, it shall not be required to open a new proceeding on that matter. Following completion of all proceedings initiated pursuant to this section, the commission shall initiate regular subsequent proceedings, as it deems necessary, to ensure the achievement of the goals outlined in this section. The proceeding or proceedings shall include:

(a) Within one year of the effective date of this section, a review of the public service law and its current rules and policy guidance to identify any law, rule, guidance, or lack thereof, that may inhibit timely, equitable achievement of consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law. The commission shall report to the legislature its progress and findings, identify subsequent actions it will take, and make recommendations for any statutory amendments or other actions that may be needed to facilitate the timely achievement of such mandates.

(b) Within one year of the effective date of this section, a revision of the commission's rules and regulations for determining appropriate allowances for the extension of gas and electric utility services to ensure that utility service is provided in a manner consistent with the achievement of the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law. In establishing rules governing the allowance for the extension of gas service, the commission shall eliminate all main and service line extension allowances for gas service and may increase allowances for electric service. The commission may establish rules that provide for distinct electric allowances for all-electric customers and for dual-fuel customers and may provide additional electric allowances to buildings that are made ready for beneficial electric loads such as those with electric vehicle charging facilities and grid interactive buildings. The commission may also establish allowances for buildings seeking interconnection with thermal energy networks.

(c) In order to minimize long-term costs and stranded assets, and maximize savings and benefits for customers, within one year of the effective date of this section the commission shall issue an order requiring each gas corporation, within one hundred eighty days of the issuance of the order, to restructure its plan for addressing the leak-prone gas mains and service lines on its system to facilitate the orderly right-sizing of the gas distribution system to achieve consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law while maintaining safety and reliability of the gas system, subject to all relevant federal laws and regulations. To accomplish this, the commission shall require each gas corporation, in coordination with any and all electric corporations with overlapping service areas, to pursue a geographically targeted approach to implementing alternative solutions that minimize the replacement of leak-prone gas mains and service lines while encouraging neighborhood-scale full building electrification, including through the installation of thermal energy networks, resulting in the decommissioning of the maximum feasible segment of gas main or service line. The commission shall require each gas corporation, after notice and comment, to establish criteria for evaluating whether specific segments of leak-prone mains and service lines are candidates for such a geographically targeted approach and to evaluate their entire inventory of leak-prone pipes to create a strategic decommissioning ranking in which it ranks the segments in terms of the ability to electrify all customers served by the segment and retire the gas distribution infrastructure. The commission shall require each gas corporation to file an annual report that provides a qualitative and quantitative assessment of the reduction of leak-prone pipe inventory and that updates the strategic decommissioning ranking from the prior year. The commission shall establish notice requirements and consumer and affordability protections in accordance with section thirty of the public service law applicable to customers served by segments of the gas distribution system targeted for decommissioning.

(d) In order to maximize the cost savings and benefits of the transition of the electric system for the equitable, orderly, and affordable achievement of consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, within one year of the effective date of this section the commission shall issue an order requiring all electric corporations to pursue all available electric energy efficiency and demand flexibility measures that are cost-effective, reliable, and feasible. No less frequently than every three years, the commission shall identify the statewide achievable potential for energy efficiency and demand flexibility measures for the subsequent ten-year period and establish annual energy efficiency and demand flexibility targets for each electric corporation that are no lower than its proportional share of the statewide achievable potential.

(e) Within one year of the effective date of this section, the commission shall complete a proceeding to develop and issue a report evaluating and considering rate making strategies to encourage and facilitate achievement of the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law. The report shall explore options for developing and assessing the impacts of rates for electric, gas, steam, and thermal energy networks on total customer energy costs, and shall explore options for integrating cost sharing and recovery across utilities and services. The report shall also identify statutory barriers to the implementation of such strategies. In considering such rate making strategies, the commission shall have a goal of ensuring that all low-to-moderate income residential customers pay no more than six percent of their income for electricity.

(f) Within one year of the effective date of this section, the commission shall determine, based on the best available information, the greenhouse gas emission reductions necessary to bring the statewide gas distribution system into alignment with the statewide two thousand thirty and two thousand fifty greenhouse gas emission reduction targets in article seventy-five of the environmental conservation law, and set interim emission reduction targets for each gas utility as well as developing a periodic process to review and update such targets;

(g) Within one year of the effective date of this section, the commission shall revise its rules and regulations for conducting benefit-cost analyses so that the methodology and the base financial and framework assumptions for the analysis support achievement of the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law. Such revisions shall include, but not be limited to:

(1) Greenhouse gas emission reduction mandates shall be used as a constraint in designing the scenarios to be analyzed such that all the scenarios shall comply with the statutory greenhouse gas emission requirements and any interim targets set by the department of environmental conservation or the commission in order to internalize the cost of achieving such targets in the benefit-cost analysis.

(2) Quantification of public health impacts from improvements in ambient and indoor air quality. When quantitative metrics are not possible, qualitative analysis shall be included.

(3) Consideration of the significant uncertainties and risks associated with different scenarios, including the environmental impact of leaked gas, the prolonged reliance on the gas system that results from long-lived investments in gas infrastructure and gas-consuming equipment, the positive option value associated with measures that can eliminate or defer the need for investments in gas infrastructure and gas-consuming equipment, and potential challenges associated with full electrification.

(4) In instances where an alternative fuel has an environmental attribute, only attribute alternative fuels with emission reduction benefits under the benefit-cost analysis if the environmental attributes are retained by the utility for the benefit of the utility's customers or by the end-use customer.

(5) Use accurate depreciation schedules that assume the full value of any new gas asset is fully depreciated no later than two thousand fifty, absent demonstration that the specific asset will remain in service beyond two thousand fifty, and earlier if it is likely that such asset will need to be phased out or retired before two thousand fifty given any interim greenhouse gas emission reduction targets or geographically targeted strategic asset retirement.

(6) Assess demographic impacts by measuring with as much geographic granularity as possible and considering different levels of exposure and risk factors for impacts on disadvantaged communities and other populations with vulnerability to changes induced by regulation.

2. Nothing in this chapter or any other law of New York state shall be interpreted or otherwise construed as preempting a municipality from adopting building codes or other regulations regarding on-site emissions for new and existing buildings within their localities.

§ 14. This act shall take effect immediately.