

STATE OF NEW YORK

4592--A

2023-2024 Regular Sessions

IN ASSEMBLY

February 17, 2023

Introduced by M. of A. FAHY, SHRESTHA, SIMON, CARROLL, COLTON, GONZALEZ-ROJAS, L. ROSENTHAL, SHIMSKY, SEAWRIGHT, GALLAGHER, ARDILA, BURDICK, STERN, LUNSFORD, DARLING, THIELE, FORREST, REYES, SILLITTI, CRUZ, LEVENBERG, RAMOS, KELLES, MAMDANI, RAJKUMAR, DICKENS, BORES, STECK, BURGOS, DE LOS SANTOS, GIBBS, WEPRIN, EPSTEIN, SIMONE, STIRPE, CLARK, MITAYNES, ANDERSON, FALL, CUNNINGHAM, PAULIN, HUNTER, DINOWITZ, JEAN-PIERRE, OTIS, TAPIA, ZACCARO, KIM, HEVESI, DAVILA, SEPTIMO, RAGA -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public service law, the public authorities 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:

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

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

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

11 2. Buildings are New York's largest source of greenhouse gas emis-
12 sions, accounting for approximately one-third of the greenhouse gas

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

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1 emissions in our state. New York state's buildings also produce more
2 local air pollution than any other state in the country, resulting in
3 negative health outcomes such as increased rates of asthma, particularly
4 among children, and heart disease. Therefore, reducing greenhouse gas
5 emissions and toxic air pollution emitted from New York's buildings,
6 especially in disadvantaged communities, is necessary to meet the CLCPA
7 mandates.

8 3. To meet the state's bold climate and equity mandates, New York will
9 need to update how it regulates gas utility service. Doing so will
10 enable strategic planning and investments in neighborhood-scale building
11 decarbonization and help bring the statewide gas distribution system
12 into alignment with the two thousand thirty and two thousand fifty
13 greenhouse gas emission reduction mandates in the CLCPA through an
14 orderly and equitable process, coordinated with appropriate investments
15 in the electric system to ensure all New Yorkers have non-discriminatory,
16 affordable access to the energy needed for heating, cooling, and
17 powering the buildings in which they live and work.

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

23 a. The gas utility obligation to serve codified in the public service
24 law is a major obstacle to utilities developing neighborhood-scale
25 building decarbonization projects that would facilitate bringing the gas
26 system into alignment with the two thousand thirty and two thousand
27 fifty greenhouse gas emission reduction mandates in the CLCPA in a
28 manner that can mitigate costs for all utility customers, reduces green-
29 house gas emissions and co-pollutants impacting local air quality, and
30 provides a transition for impacted workers.

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

37 c. Gas utilities in New York are on track to collectively spend \$150
38 billion to replace thousands of miles of leak prone pipe in the coming
39 years. These investments pose a risk of becoming stranded assets, with
40 \$77 billion of the total cost coming due after 2050, but can be avoided
41 in many cases by strategically investing in neighborhood-scale decarbon-
42 ization projects.

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

54 6. Fossil fuel price spikes are exacerbating the affordability impacts
55 of the COVID-19 Pandemic. Over a million households in New York now
56 struggle to pay their utility bills. The Public Service Commission has

1 declared, but not yet achieved, a goal that customers should not pay
2 more than 6% of their income for utility energy services, a number based
3 on a nationally accepted standard.

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

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

14 b. to provide the Public Service Commission with the statutory author-
15 ity and direction to align utility regulations and planning with the
16 CLCPA climate justice and emission reduction mandates and to require the
17 Public Service Commission to take a proactive role in the timely iden-
18 tification and amendment of such regulations or rulings as may pose an
19 impediment to achieving CLCPA mandates, and to identify any laws that
20 may pose an impediment;

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

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

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

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

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

36 1. There shall be in the department of public service a public service
37 commission, which shall possess the powers and duties hereinafter speci-
38 fied, and also all powers necessary or proper to enable it to carry out
39 the purposes of this chapter and to enable achievement of the climate
40 justice and emission reduction mandates in chapter one hundred six of
41 the laws of two thousand nineteen, and such successors in law and func-
42 tion as may arise from time to time. The commission shall consist of
43 five members, to be appointed by the governor, by and with the advice
44 and consent of the senate. A commissioner shall be designated as [~~chair-~~
45 ~~man~~] chairperson of the commission by the governor to serve in such
46 capacity at the pleasure of the governor or until his or her term as
47 commissioner expires whichever first occurs. At least one commissioner
48 shall have experience in utility consumer advocacy. No more than three
49 commissioners may be members of the same political party unless, pursu-
50 ant to action taken under subdivision two of this section, the number of
51 commissioners shall exceed five, and in such event no more than four
52 commissioners may be members of the same political party.

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

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

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

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

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

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

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

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

30 [~~h-~~] g. A corporation or person owning or holding a majority of the
31 stock of a common carrier, gas corporation or electrical corporation
32 subject to the jurisdiction of the public service commission shall be
33 subject to the supervision of the public service commission in respect
34 of the relations between such common carrier, gas corporation or elec-
35 trical corporation and such owners or holders of a majority of the stock
36 thereof in so far as such relations arise from or by reason of such
37 ownership or holding of stock thereof or the receipt or holding of any
38 money or property thereof or from or by reason of any contract between
39 them; and in respect of such relations shall in like manner and to the
40 same extent as such common carrier, gas corporation or electrical corpo-
41 ration be subject to examination of accounts, records and memoranda, and
42 shall furnish such reports and information as the public service commis-
43 sion shall from time to time direct and require, and shall be subject to
44 like penalties for default therein.

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

47 2. The commission shall encourage all persons and corporations subject
48 to its jurisdiction to formulate and carry out long-range programs,
49 individually or cooperatively, for the performance of their public
50 service responsibilities, including the achievement of the climate
51 justice and emission reduction mandates in chapter one hundred six of
52 the laws of two thousand nineteen, and such successors in law and func-
53 tion as may arise from time to time, with economy, efficiency, and care
54 for the public safety, the preservation of environmental values and the
55 conservation of natural resources.

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

3 § 30. Residential gas, electric and steam service policy. 1. This
4 article shall apply to the provision of all or any part of the gas,
5 electric or steam service provided to any residential customer by any
6 gas, electric or steam and municipalities corporation or municipality.
7 It is hereby declared to be the policy of this state that the continued
8 provision of [~~all or any part of such gas,~~] electric and steam [~~service~~]
9 services to all residential customers without unreasonable qualifica-
10 tions or lengthy delays is necessary for the preservation of the health
11 and general welfare, is consistent with the achievement of the state's
12 climate justice and emission reduction mandates, and is in the public
13 interest. It is further the policy of this state that gas service for
14 existing residential customers must be provided in a manner that is safe
15 and adequate, not unjustly discriminatory or unduly preferential, and in
16 all respects just and reasonable, while providing for an orderly right-
17 sizing of the gas distribution system to achieve consistency with the
18 climate justice and emission reduction mandates in chapter one hundred
19 six of the laws of two thousand nineteen, and such successors in law and
20 function as may arise from time to time, prioritizing low-to-moderate
21 income customers and disadvantaged communities as defined in section
22 75-0101 of the environmental conservation law, and encouraging neighbor-
23 hood-scale transitions.

24 2. The commission shall regulate for the continued provision of gas
25 service to all existing residential customers who choose to continue
26 service, unless the discontinuance of service is part of a process of
27 orderly right-sizing of the gas distribution system to achieve consist-
28 ency with the climate justice and emission reduction mandates in chapter
29 one hundred six of the laws of two thousand nineteen, and such succes-
30 sors in law and function as may arise from time to time. As part of
31 such process, the commission shall take any such action, after notice
32 and a hearing, as is necessary to facilitate the achievement of consist-
33 ency with the climate justice and emission reduction mandates in chapter
34 one hundred six of the laws of two thousand nineteen, and such succes-
35 sors in law and function as may arise from time to time, but in doing so
36 it shall actively encourage a transition away from fuels with high life-
37 cycle greenhouse gas emissions and on-site co-pollutant emissions,
38 encourage neighborhood-scale transitions, and ensure that all residen-
39 tial customers have access to electricity for heating and cooling
40 services without unreasonable qualifications, unreasonable costs, or
41 lengthy delays, with a goal that low-to-moderate income customers,
42 defined as households with annual incomes at or below eighty percent of
43 the area median income of the county or metro area where they reside,
44 including those who are already eligible for the commission's energy
45 affordability program, are adequately protected from bearing energy
46 burdens greater than six percent of their income, including any undue
47 burdens imposed by the cost to purchase and operate electric equipment
48 needed to facilitate the achievement of the climate justice and emission
49 reduction mandates in chapter one hundred six of the laws of two thou-
50 sand nineteen, and such successors in law and function as may arise from
51 time to time.

52 § 6. Subdivision 1 of section 1020-cc of the public authorities law,
53 as amended by section 11 of part A of chapter 173 of the laws of 2013,
54 is amended to read as follows:

55 1. All contracts of the authority shall be subject to the provisions
56 of the state finance law relating to contracts made by the state. The

1 authority shall also establish rules and regulations with respect to
2 providing to its residential gas, electric and steam utility customers
3 those rights and protections provided in article two and sections one
4 hundred seventeen and one hundred eighteen of the public service law and
5 section one hundred thirty-one-s of the social services law. The
6 authority shall also ensure low-to-moderate income customers are
7 adequately protected from bearing energy burdens greater than six
8 percent of their income pursuant to subdivision two of section thirty of
9 the public service law. The authority shall conform to any safety stand-
10 ards regarding manual lockable disconnect switches for solar electric
11 generating equipment established by the public service commission pursu-
12 ant to subparagraph (ii) of paragraph (a) of subdivision five and
13 subparagraph (ii) of paragraph (a) of subdivision five-a of section
14 sixty-six-j of the public service law. The authority shall let contracts
15 for construction or purchase of supplies, materials, or equipment pursu-
16 ant to section one hundred three and paragraph (e) of subdivision four
17 of section one hundred twenty-w of the general municipal law.

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

21 1. Every gas corporation, electric corporation or municipality shall
22 provide residential service upon the oral or written request of an
23 applicant, provided that any residential gas service shall only be
24 provided in accordance with section thirty of this article and is
25 subject to any orders or regulations limiting or discontinuing gas
26 service that are implemented by the commission to facilitate the
27 achievement of consistency with the climate justice and emission
28 reduction mandates in chapter one hundred six of the laws of two thou-
29 sand nineteen, and such successors in law and function as may arise from
30 time to time, and provided further that the commission may require that
31 requests for service be in writing under circumstances as it deems
32 necessary and proper as set forth by regulation, and provided further
33 that the applicant:

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

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

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

51 (d) receives clear, timely information from the gas corporation, elec-
52 tric corporation, municipality, or retail energy service company, writ-
53 ten in plain language, available in the top twelve most common non-Engl-
54 ish languages spoken by limited English proficient New Yorkers, and
55 approved by the commission after stakeholder input, on incentives and
56 opportunities for installing, energy-efficient electric heating and

1 cooling technologies, weatherization, demand-side management, and
2 distributed energy resource programs.

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

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

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

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

31 § 12. Gas and electricity must be supplied on application in accord-
32 ance with commission rules and regulations. Except in the case of an
33 application for residential utility service pursuant to article two of
34 the public service law, upon written application of the owner or occu-
35 pant of any building [~~within one hundred feet of any main of a gas~~
36 ~~corporation or gas and electric corporation, or a line of an electric~~
37 ~~corporation or gas and electric corporation, appropriate to the service~~
38 ~~requested,~~] and payment by [~~him~~] the applicant of all money due from
39 [~~him~~] the applicant to the corporation, it shall supply [~~gas or~~] elec-
40 tricity as may be required for [~~lighting~~] such building and it may
41 provide gas for such building in accordance with commission regulation,
42 notwithstanding there be rent or compensation in arrears for gas or
43 electricity supplied, or for meter, wire, pipe or fittings furnished, to
44 a former occupant thereof, unless such owner or occupant shall have
45 undertaken or agreed with the former occupant to pay or to exonerate
46 [~~him~~] them from the payment of such arrears, and shall refuse or neglect
47 to pay the same; and if for the space of ten days after such applica-
48 tion, and the deposit of a reasonable sum as provided in the next
49 section, if required, the corporation shall refuse or neglect to supply
50 gas or [~~electric light~~] electricity as required, such corporation shall
51 forfeit and pay to the applicant the sum of ten dollars, and the further
52 sum of five dollars for every day thereafter during which such refusal
53 or neglect shall continue; provided that no such corporation shall be
54 required to lay service pipes or wires for the purpose of supplying gas
55 or electric light to any applicant where the ground in which such pipe
56 or wire is required to be laid shall be frozen, or shall otherwise pres-

1 ent serious obstacles to laying the same; nor unless the applicant, if
2 required, shall deposit in advance with the corporation a sum of money
3 sufficient to pay the cost of [~~his proportion~~] the applicant's portion
4 of the pipe, conduit, duct or wire required to be installed, and the
5 expense of the installation of such portion.

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

9 2. Investigate and ascertain, from time to time, the quality of gas
10 supplied by persons, corporations and municipalities; examine or inves-
11 tigate the methods employed by such persons, corporations and munici-
12 palities in manufacturing, distributing and supplying gas or electricity
13 for light, heat, cooling, or power and in transmitting the same, and
14 have power to order such reasonable improvements as will best promote
15 the public interest, preserve the public health and protect those using
16 such gas or electricity and those employed in the manufacture and
17 distribution thereof, and have power to order reasonable improvements
18 and extensions of the works, wires, poles, lines, conduits, ducts and
19 other reasonable devices, apparatus and property of gas corporations,
20 electric corporations and municipalities; and have power after an inves-
21 tigation and a hearing to order any corporation having authority under
22 any general or special law or under any charter or franchise, to lay
23 down, erect or maintain wires, pipes, conduits, ducts or other fixtures
24 in, over or under the streets, highways and public places of any munici-
25 pality for the purpose of supplying, selling or distributing natural
26 gas, to augment its supply of natural gas, whenever the commission deems
27 necessary and whenever artificial gas can be reasonably obtained, by
28 acquiring by purchase, manufacture or otherwise a supply thereof to be
29 mixed with such natural gas, in order to render adequate service to the
30 customers of such corporation or to maintain a proper and uniform pres-
31 sure; and have power after an investigation and a hearing to order any
32 corporation having authority under any general or special law or under
33 any charter or franchise, to lay down, erect or maintain wires, pipes,
34 conduits, ducts or other fixtures in, over or under the streets, high-
35 ways and public places of any municipality for the purpose of supplying,
36 selling or distributing artificial gas, to augment its supply of artifi-
37 cial gas, whenever the commission deems necessary and whenever natural
38 gas can be reasonably obtained, by acquiring by purchase or otherwise a
39 supply thereof to be mixed with such artificial gas, in order to render
40 adequate service to the customers of such corporation or to maintain a
41 proper and uniform pressure; and to fix such rate for the supplying of
42 mixed gas as shall secure to such corporation a fair return; and may
43 order the curtailment or discontinuance of the use of natural gas for
44 manufacturing or industrial purposes, for periods aggregating not to
45 exceed four months in any calendar year, if it is established to the
46 satisfaction of the commission that the supply of natural gas is not
47 adequate to meet the reasonable demands of domestic consumption and may
48 [~~prohibit the use of natural gas in wasteful devices and practices~~]
49 order the curtailment or discontinuance of the use of the distribution
50 system, where the commission has determined that such curtailment or
51 discontinuance is reasonably required to implement state energy policy,
52 provided that such curtailment or discontinuance shall be consistent
53 with a plan for the phase-out of the use of a gas distribution system to
54 achieve consistency with the climate justice and emission reduction
55 mandates in chapter one hundred six of the laws of two thousand nine-
56 teen, and such successors in law and function as may arise from time to

1 time, encouraging neighborhood-scale transitions for clean heating and
2 cooling, prioritizing disadvantaged communities as defined in section
3 75-0101 of the environmental conservation law, and accompanied by coor-
4 ordination assistance and, where reasonably required, financial assistance
5 in the identification and adoption of alternatives, and may prohibit the
6 use of natural gas in wasteful devices and practices, as defined by the
7 commission, and require conservation and efficiency in gas usage.

8 12-e. The commission shall review the capital construction plan of
9 each gas corporation and establish a process to examine feasible alter-
10 natives to such construction in order to achieve consistency with the
11 climate justice and emission reduction mandates in chapter one hundred
12 six of the laws of two thousand nineteen, and such successors in law and
13 function as may arise from time to time, encouraging neighborhood-scale
14 transitions away from fuels with high life-cycle greenhouse gas emis-
15 sions and on-site co-pollutant emissions, prioritizing low-to-moderate
16 income customers and disadvantaged communities as defined in section
17 75-0101 of the environmental conservation law. Such process shall
18 include thresholds and criteria for the types of projects subject to
19 such examination. The commission shall require participation in such
20 process by each electric corporation with a service area overlapping the
21 service area of the gas corporation; and the commission shall have the
22 power to require any such electric corporation to participate in alter-
23 natives to gas capital construction, including participation in financ-
24 ing. Any costs incurred by such electric corporation for such corpo-
25 ration's participation shall be subject to an opportunity for full
26 recovery, as determined by the commission.

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

31 § 66-a. Conservation of gas, declaration of policy, delegation of
32 power. 1. It is hereby declared to be the policy of this state that
33 when there develops in any area a situation under which a gas corpo-
34 ration supplying gas to such area is unable to meet the reasonable needs
35 of its consumers and of persons or corporations applying for new or
36 additional gas service, the available supply of gas shall be allocated
37 among the customers of such gas corporation, in such manner as may be
38 necessary to protect public health and safety and to avoid undue hard-
39 ship, particularly for low-to-moderate income residential customers,
40 electric generation needed for electric system reliability, and custom-
41 ers with hard-to-electrify industrial and commercial uses, pursuant to
42 rules and regulations as may be adopted by the commission, and that to
43 carry out this declared policy the jurisdiction of the public service
44 commission should be clarified. It is further declared to be the policy
45 of this state that gas service to existing customers must be provided in
46 a manner that is safe and adequate, not unjustly discriminatory or undu-
47 ly preferential, and in all respects just and reasonable.

48 2. Notwithstanding the provisions of any statute or any franchise held
49 by a gas corporation, the commission shall have power, upon the finding
50 that continued gas service is not consistent with the achievement of the
51 climate justice and emission reduction mandates in chapter one hundred
52 six of the laws of two thousand nineteen, and such successors in law and
53 function as may arise from time to time, or that there exists such a
54 shortage of gas in any area in the state, that the gas corporation
55 supplying such area is unable and will be unable to secure or produce
56 sufficient gas to meet the reasonable needs of its customers and of

1 persons or corporations applying for new or additional gas service, to
2 require such corporation to immediately discontinue the supplying of gas
3 to additional customers or of supplying additional service to present
4 customers, for such purpose or purposes as may be designated by the
5 commission, or to customers using gas for a purpose prohibited by the
6 commission pursuant to this act, and that upon the finding that the
7 supply of gas available is and will be insufficient to supply the
8 demands of all consumers receiving service, to require such corpo-
9 ration to curtail or discontinue service to any or all classes of
10 customers of such gas corporation. In imposing such a direction or
11 requirement, the commission shall give consideration first to existing
12 domestic uses and uses deemed to be necessary by the commission to
13 protect public health and safety and to avoid undue hardship [~~and shall
14 be limited to the period of the emergency provided that the gas corpo-
15 ration affected shall make such restriction, curtailing or discontin-
16 uance applicable to all customers or applicants for service in a like
17 class. If the commission determines that good cause exists for supplying
18 service to additional customers or for supplying additional service to
19 some existing customers, notwithstanding the curtailment or discontin-
20 uance of service to other existing customers, it shall, to the extent
21 feasible, allocate gas with equal priority to new or additional domestic
22 uses of gas and commercial or industrial processes which require gas
23 because there is no practical substitute for it in such proportion as
24 the commission determines to be reasonable. Provided that the commis-
25 sion shall be permitted, after public hearing, to authorize any natural
26 gas produced from lands under the waters of Lake Erie to be used for
27 process or feedstock requirements~~]. The commission is authorized to
28 adopt such rules, regulations and orders as are necessary or appropriate
29 to carry out these delegated powers.

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

35 4. The commission shall determine conditions under which new or addi-
36 tional gas service is warranted notwithstanding the need to conserve
37 resources for service to existing gas customers. Such determination
38 shall be consistent with the achievement of the climate justice and
39 emission reduction mandates in chapter one hundred six of the laws of
40 two thousand nineteen, and such successors in law and function as may
41 arise from time to time, and may take into account factors including
42 economic development, impacts on new and existing customers including
43 low-to-moderate income customers, impacts on system safety and adequacy,
44 equity toward existing customers with limited conversion alternatives,
45 and the feasibility of neighborhood-scale alternatives to usage of fuels
46 with high life-cycle greenhouse gas emissions and on-site co-pollutant
47 emissions, including thermal energy networks.

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

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

55 § 12. The public service law is amended by adding a new section 66-w
56 to read as follows:

1 § 66-w. Expansion of gas distribution infrastructure. Except as
2 provided in this section, and notwithstanding any other provision of
3 this chapter, after December thirty-first, two thousand twenty-four, no
4 gas corporation shall commence construction of new gas distribution
5 infrastructure the result of which would be to expand the availability
6 of service into geographic areas where gas service was not available
7 prior to that date as defined by the applicable utility's certificate of
8 public convenience and necessity approved by the commission. No such
9 new gas distribution infrastructure shall be put into service after
10 December thirty-first, two thousand twenty-five. The commission may
11 authorize exceptions on a case-by-case basis, provided that the commis-
12 sion finds that the project qualifying for the exception serves a
13 compelling state interest, alternatives to gas service are either not
14 technically feasible or prohibitively expensive, and that the project
15 will be completed and put into service not later than December thirty-
16 first, two thousand twenty-seven. For the purposes of this section, gas
17 distribution infrastructure shall include all real estate, fixtures and
18 personal property operated, owned, used or to be used for or in
19 connection with or to facilitate the manufacture, conveying, transporta-
20 tion, distribution, sale or furnishing of gas (natural or manufactured
21 or a mixture of both) for light, heat or power, but does not include
22 property used solely for or in connection with the business of selling,
23 distributing or furnishing of gas in enclosed containers.

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

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

27 § 77-a. Aligning utility regulation with climate justice and emission
28 reduction mandates. 1. Within three months of the effective date of
29 this section, the commission shall initiate a proceeding, or multiple
30 proceedings, as it deems appropriate, to consider and act on the matters
31 identified in this section in order to better align its regulation of
32 utility services with the timely achievement, of consistency with the
33 climate justice and emission reduction mandates in chapter one hundred
34 six of the laws of two thousand nineteen, and such successors in law and
35 function as may arise from time to time. If the commission is already
36 engaged in a proceeding addressing one or more of the matters identi-
37 fied in this section, it shall not be required to open a new proceeding
38 on that matter. Following completion of all proceedings initiated
39 pursuant to this section, the commission shall initiate regular subse-
40 quent proceedings, as it deems necessary, to ensure the achieve-
41 ment of the goals outlined in this section. The proceeding or
42 proceedings shall include:

43 (a) Within one year of the effective date of this section, a review of
44 the public service law and its current rules and policy guidance to
45 identify any law, rule, guidance, or lack thereof, that may inhibit
46 timely, equitable achievement of consistency with the climate
47 justice and emission reduction mandates in chapter one hundred six of
48 the laws of two thousand nineteen, and such successors in law and func-
49 tion as may arise from time to time. The commission shall report to the
50 legislature its progress and findings, identify subsequent actions it
51 will take, and make recommendations for any statutory amendments or
52 other actions that may be needed to facilitate the timely achievement
53 of such mandates.

54 (b) Within one year of the effective date of this section, a revision
55 of the commission's rules and regulations for determining appropriate
56 allowances for the extension of gas and electric utility services to

1 ensure that utility service is provided in a manner consistent with the
2 achievement of the climate justice and emission reduction mandates in
3 chapter one hundred six of the laws of two thousand nineteen, and such
4 successors in law and function as may arise from time to time. In estab-
5 lishing rules governing the allowance for the extension of gas service,
6 the commission shall eliminate all main and service line extension
7 allowances for gas service and may increase allowances for electric
8 service. The commission may establish rules that provide for distinct
9 electric allowances for all-electric customers and for dual-fuel custom-
10 ers and may provide additional electric allowances to buildings that are
11 made ready for beneficial electric loads such as those with electric
12 vehicle charging facilities and grid interactive buildings. The commis-
13 sion may also establish allowances for buildings seeking interconnection
14 with thermal energy networks.

15 (c) In order to minimize long-term costs and stranded assets, and
16 maximize savings and benefits for customers, within one year of the
17 effective date of this section the commission shall issue an order
18 requiring each gas corporation, within one hundred eighty days of the
19 issuance of the order, to restructure its plan for addressing the leak-
20 prone gas mains and service lines on its system to facilitate the order-
21 ly right-sizing of the gas distribution system to achieve consistency
22 with the climate justice and emission reduction mandates in chapter one
23 hundred six of the laws of two thousand nineteen, and such successors in
24 law and function as may arise from time to time, while maintaining safe-
25 ty and reliability of the gas system, subject to all relevant federal
26 laws and regulations. To accomplish this, the commission shall require
27 each gas corporation, in coordination with any and all electric corpo-
28 rations with overlapping service areas, to pursue a geographically
29 targeted approach to implementing alternative solutions that minimize
30 the replacement of leak-prone gas mains and service lines while encour-
31 aging neighborhood-scale full building electrification, including
32 through the installation of thermal energy networks, resulting in the
33 decommissioning of the maximum feasible segment of gas main or service
34 line. The commission shall require each gas corporation, after notice
35 and comment, to establish criteria for evaluating whether specific
36 segments of leak-prone mains and service lines are candidates for such a
37 geographically targeted approach and to evaluate their entire inventory
38 of leak-prone pipes to create a strategic decommissioning ranking in
39 which it ranks the segments in terms of the ability to electrify all
40 customers served by the segment and retire the gas distribution infras-
41 tructure. The commission shall require each gas corporation to file an
42 annual report that provides a qualitative and quantitative assessment of
43 the reduction of leak-prone pipe inventory and that updates the strate-
44 gic decommissioning ranking from the prior year. The commission shall
45 establish notice requirements and consumer and affordability protections
46 in accordance with section thirty of the public service law applicable
47 to customers served by segments of the gas distribution system targeted
48 for decommissioning.

49 (d) In order to maximize the cost savings and benefits of the transi-
50 tion of the electric system for the equitable, orderly, and affordable
51 achievement of consistency with the climate justice and emission
52 reduction mandates in chapter one hundred six of the laws of two thou-
53 sand nineteen, and such successors in law and function as may arise from
54 time to time, within one year of the effective date of this section the
55 commission shall issue an order requiring all electric corporations to
56 pursue all available electric energy efficiency and demand flexibility

1 measures that are cost-effective, reliable, and feasible. No less
2 frequently than every three years, the commission shall identify the
3 statewide achievable potential for energy efficiency and demand flexi-
4 bility measures for the subsequent ten-year period and establish annual
5 energy efficiency and demand flexibility targets for each electric
6 corporation that are no lower than its proportional share of the state-
7 wide achievable potential.

8 (e) Within one year of the effective date of this section, the commis-
9 sion shall complete a proceeding to develop and issue a report evaluat-
10 ing and considering rate making strategies to encourage and facilitate
11 achievement of the climate justice and emission reduction mandates in
12 chapter one hundred six of the laws of two thousand nineteen, and such
13 successors in law and function as may arise from time to time. The
14 report shall explore options for developing and assessing the impacts of
15 rates for electric, gas, steam, and thermal energy networks on total
16 customer energy costs, and shall explore options for integrating cost
17 sharing and recovery across utilities and services. The report shall
18 also identify statutory barriers to the implementation of such strate-
19 gies. In considering such rate making strategies, the commission shall
20 have a goal of ensuring that all low-to-moderate income residential
21 customers pay no more than six percent of their income for electricity.

22 (f) Within one year of the effective date of this section, the commis-
23 sion shall determine, based on the best available information, the
24 greenhouse gas emission reductions necessary to bring the statewide gas
25 distribution system into alignment with the statewide two thousand thir-
26 ty and two thousand fifty greenhouse gas emission reduction targets in
27 chapter one hundred six of the laws of two thousand nineteen, and such
28 successors in law and function as may arise from time to time, and set
29 interim emission reduction targets for each gas utility as well as
30 developing a periodic process to review and update such targets;

31 (g) Within one year of the effective date of this section, the commis-
32 sion shall revise its rules and regulations for conducting benefit-cost
33 analyses so that the methodology and the base financial and framework
34 assumptions for the analysis support achievement of the climate justice
35 and emission reduction mandates in chapter one hundred six of the laws
36 of two thousand nineteen, and such successors in law and function as may
37 arise from time to time. Such revisions shall include, but not be
38 limited to:

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

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

48 (3) Consideration of the significant uncertainties and risks associ-
49 ated with different scenarios, including the environmental impact of
50 leaked gas, the prolonged reliance on the gas system that results from
51 long-lived investments in gas infrastructure and gas-consuming equip-
52 ment, the positive option value associated with measures that can elimi-
53 nate or defer the need for investments in gas infrastructure and gas-
54 consuming equipment, and potential challenges associated with full
55 electrification.

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

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

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

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

21 § 15. This act shall take effect immediately.