

STATE OF NEW YORK

4592--B

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, LAVINE, SOLAGES, BRONSON, PRETLOW, ALVAREZ, TAYLOR, GLICK, MEEKS, JACKSON, LUPARDO, PHEFFER AMATO, LEE, SAYEGH, JACOBSON, BICHOTTE HERMELYN, EACHUS, VANEL, AUBRY, RIVERA, WILLIAMS, CHANDLER-WATERMAN -- 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 -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Assembly Rule 3, sec. 2 -- 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, the transportation corporations law and the labor 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

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

LBD02688-18-4

1 from all sectors of New York's economy. The CLCPA also emphasizes equity
2 in addressing climate change by requiring all state agencies and author-
3 ities to prioritize reductions of greenhouse gas emissions and co-pollu-
4 tants in disadvantaged communities and by mandating that certain state
5 investments deliver benefits to these communities.

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

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

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

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

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

44 c. Gas utilities in New York are on track to collectively spend \$150
45 billion to replace thousands of miles of leak prone pipe in the coming
46 years. These investments pose a risk of becoming stranded assets, with
47 \$77 billion of the total cost coming due after 2050, but can be avoided
48 in many cases by strategically investing in neighborhood-scale decarbon-
49 ization projects.

50 5. New Yorkers are suffering from dramatic fossil fuel price spikes
51 driven by the increasingly integrated global commodity market, subject
52 to the whims of foreign dictators such as Russia's Vladimir Putin or
53 Saudi Arabia's Prince Mohammed bin Salman. Fossil fuel prices have
54 spiked to historic high levels, making both electricity and gas utility
55 service unaffordable for many New Yorkers. Decarbonizing buildings
56 through the strategic development of neighborhood-scale building decar-

1 bonization projects, along with investing in energy efficiency and
2 renewable electricity, will save New Yorkers money now and in the
3 future, protect against price volatility, and promote true energy inde-
4 pendence for New York state.

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

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

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

21 b. to provide the Public Service Commission with the statutory author-
22 ity and direction to align utility regulations and planning with the
23 CLCPA climate justice and emission reduction mandates and to require the
24 Public Service Commission to take a proactive role in the timely iden-
25 tification and amendment of such regulations or rulings as may pose an
26 impediment to achieving CLCPA mandates, and to identify any laws that
27 may pose an impediment;

28 c. to maintain the affordability of services for all utility custom-
29 ers, create good paying, family sustaining jobs, and facilitate achieve-
30 ment of the CLCPA climate justice and emission reduction mandates by
31 enabling gas utilities to minimize the need for new investments in gas
32 infrastructure;

33 d. to facilitate a well-planned and strategic downsizing of the gas
34 system by redirecting ratepayer funds that would have been spent on
35 costly new investments to maintain or expand the gas system to instead
36 fund job-creating neighborhood-scale decarbonization projects that
37 provide alternative clean energy solutions for efficient heating, cool-
38 ing, cooking, hot water, and other uses that effectively transition
39 customers away from dependence on fuels with greenhouse gas emissions
40 and equipment that produces on-site co-pollutant emissions;

41 e. to end statutorily mandated, ratepayer-subsidized incentives for
42 the expansion of fossil fuel infrastructure while maintaining the equi-
43 table provision of electric service for efficient heating, cooling,
44 cooking, hot water, and other uses;

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

48 g. to clarify that municipal building codes regulating on-site emis-
49 sions are not preempted under New York state law.

50 8. Transitioning gas customers to alternative heating and cooling
51 services is likely to be most cost-effective from the perspective of
52 individual customers and New York state as a whole if undertaken as part
53 of a neighborhood-scale project. Such projects would help minimize
54 stranded costs in gas system infrastructure and support coordinated
55 investments on the part of customers, utilities, and others, potentially

including but not limited to electrification make-ready measures, equipment located on the premises of customers, and thermal energy networks.

9. 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 existing gas customers 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 chapter one hundred six of the laws of two thousand nineteen, 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.

[~~e.~~] 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.

er, 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 chapter one hundred six of the laws of two thousand nineteen, and such successors in law and function as may arise from time to time, 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 electric and steam services to all residential customers, and 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 chapter one hundred six of the laws of two thousand nineteen, and such successors in law and function as may arise from time to time, encouraging neighborhood-scale transitions and the elimination of on-site co-pollutants.

2. The commission shall regulate for the continued provision of gas service to all existing residential customers who choose to continue such service, unless such service is discontinued pursuant to a program approved by the commission. Such programs shall ensure that any transitioning customer has access to:

1 (a) safe and reliable substitutes for heating, cooling, cooking, and
2 water-heating prior to a cessation of gas service; and

3 (b) necessary and appropriate financial and technical support, includ-
4 ing for the purchase and installation of customer-owned equipment.

5 3. (a) It shall be a goal of the commission that all residential
6 customers be adequately protected from bearing an energy burden greater
7 than six percent of their household income, prioritizing low-to-moderate
8 income customers, including those who are already eligible for the
9 commission's energy affordability program. The commission may authorize
10 the use of reasonable per-customer caps on the amount of energy subject
11 to the affordability protections of this subdivision. The commission may
12 also establish a reasonable cap on collections from ratepayers to fund
13 the commission's energy affordability program or similar successor
14 programs provided such cap is not less than 3% of total electric or gas
15 revenues for sales to end-use customers for each utility.

16 (b) Within one year of the effective date of this subdivision, the
17 commission shall develop a plan to implement the goal under paragraph
18 (a) of this subdivision. In developing such plan, the commission shall
19 evaluate available tools, including but not limited to bill discounts,
20 bill credits, redirection of avoided costs of utility infrastructure,
21 rate making strategies, energy efficiency, distributed renewable energy,
22 and potential budgetary measures, prioritizing mitigation of rate
23 increases on residential customers. Beginning in the calendar year
24 following the effective date of this subdivision, and continuing annual-
25 ly on or before October first, the commission shall report to the gover-
26 nor and legislature on the actions it has taken, including the plan
27 developed pursuant to this paragraph, and the progress that has been
28 made toward achieving the goal laid out in paragraph (a) of this subdi-
29 vision. Such report shall include but not be limited to recommendations
30 regarding any additional legislative or budgetary measures necessary to
31 achieve such goal. The annual report shall also be published on the
32 commission's website.

33 4. For the purposes of this section, the term "low-to-moderate income
34 customers" shall mean households with annual incomes at or below eighty
35 percent of the state median income.

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

39 1. All contracts of the authority shall be subject to the provisions
40 of the state finance law relating to contracts made by the state. The
41 authority shall also establish rules and regulations with respect to
42 providing to its residential gas, electric and steam utility customers
43 those rights and protections provided in article two and sections one
44 hundred seventeen and one hundred eighteen of the public service law and
45 section one hundred thirty-one-s of the social services law. It shall
46 be a goal of the authority that all residential customers be adequately
47 protected from bearing an energy burden greater than six percent of
48 their household income pursuant to subdivision three of section thirty
49 of the public service law. The authority shall conform to any safety
50 standards regarding manual lockable disconnect switches for solar elec-
51 tric generating equipment established by the public service commission
52 pursuant to subparagraph (ii) of paragraph (a) of subdivision five and
53 subparagraph (ii) of paragraph (a) of subdivision five-a of section
54 sixty-six-j of the public service law. The authority shall let contracts
55 for construction or purchase of supplies, materials, or equipment pursu-

ant to section one hundred three and paragraph (e) of subdivision four of section one hundred twenty-w of the general municipal law.

§ 7. 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 chapter one hundred six of the laws of two thousand nineteen, and such successors in law and function as may arise from time to time, 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

1 payment agreement honored, and with all rights of such customer and such
2 utility corporation provided by this article unimpaired.

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

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

16 § 12. Gas and electricity must be supplied on application in accord-
17 ance with commission rules and regulations. Except in the case of an
18 application for residential utility service pursuant to article two of
19 the public service law, upon written application of the owner or occu-
20 pant of any building [~~within one hundred feet of any main of a gas~~
21 ~~corporation or gas and electric corporation, or a line of an electric~~
22 ~~corporation or gas and electric corporation, appropriate to the service~~
23 ~~requested,~~] and payment by [~~him~~] the applicant of all money due from
24 [~~him~~] the applicant to the corporation, it shall supply [~~gas or~~] elec-
25 tricity as may be required for [~~lighting~~] such building and it may
26 provide gas for such building in accordance with commission regulation,
27 notwithstanding there be rent or compensation in arrears for gas or
28 electricity supplied, or for meter, wire, pipe or fittings furnished, to
29 a former occupant thereof, unless such owner or occupant shall have
30 undertaken or agreed with the former occupant to pay or to exonerate
31 [~~him~~] them from the payment of such arrears, and shall refuse or neglect
32 to pay the same; and if for the space of ten days after such applica-
33 tion, and the deposit of a reasonable sum as provided in the next
34 section, if required, the corporation shall refuse or neglect to supply
35 gas or [~~electric light~~] electricity as required, such corporation shall
36 forfeit and pay to the applicant the sum of ten dollars, and the further
37 sum of five dollars for every day thereafter during which such refusal
38 or neglect shall continue; provided that no such corporation shall be
39 required to lay service pipes or wires for the purpose of supplying gas
40 or electric light to any applicant where the ground in which such pipe
41 or wire is required to be laid shall be frozen, or shall otherwise pres-
42 ent serious obstacles to laying the same; nor unless the applicant, if
43 required, shall deposit in advance with the corporation a sum of money
44 sufficient to pay the cost of [~~his proportion~~] the applicant's portion
45 of the pipe, conduit, duct or wire required to be installed, and the
46 expense of the installation of such portion.

47 § 9. Subdivision 2 of section 66 of the public service law, as amended
48 by chapter 877 of the laws of 1953, is amended and a new subdivision
49 12-e is added to read as follows:

50 2. Investigate and ascertain, from time to time, the quality of gas
51 supplied by persons, corporations and municipalities; examine or inves-
52 tigate the methods employed by such persons, corporations and munici-
53 palities in manufacturing, distributing and supplying gas or electricity
54 for light, heat, cooling, or power and in transmitting the same, and
55 have power to order such reasonable improvements as will best promote
56 the public interest, preserve the public health and protect those using

1 such gas or electricity and those employed in the manufacture and
2 distribution thereof, and have power to order reasonable improvements
3 and extensions of the works, wires, poles, lines, conduits, ducts and
4 other reasonable devices, apparatus and property of gas corporations,
5 electric corporations and municipalities; and have power after an inves-
6 tigation and a hearing to order any corporation having authority under
7 any general or special law or under any charter or franchise, to lay
8 down, erect or maintain wires, pipes, conduits, ducts or other fixtures
9 in, over or under the streets, highways and public places of any munici-
10 pality for the purpose of supplying, selling or distributing natural
11 gas, to augment its supply of natural gas, whenever the commission deems
12 necessary and whenever artificial gas can be reasonably obtained, by
13 acquiring by purchase, manufacture or otherwise a supply thereof to be
14 mixed with such natural gas, in order to render adequate service to the
15 customers of such corporation or to maintain a proper and uniform pres-
16 sure; and have power after an investigation and a hearing to order any
17 corporation having authority under any general or special law or under
18 any charter or franchise, to lay down, erect or maintain wires, pipes,
19 conduits, ducts or other fixtures in, over or under the streets, high-
20 ways and public places of any municipality for the purpose of supplying,
21 selling or distributing artificial gas, to augment its supply of artifi-
22 cial gas, whenever the commission deems necessary and whenever natural
23 gas can be reasonably obtained, by acquiring by purchase or otherwise a
24 supply thereof to be mixed with such artificial gas, in order to render
25 adequate service to the customers of such corporation or to maintain a
26 proper and uniform pressure; and to fix such rate for the supplying of
27 mixed gas as shall secure to such corporation a fair return; and may
28 order the curtailment or discontinuance of the use of natural gas for
29 manufacturing or industrial purposes, for periods aggregating not to
30 exceed four months in any calendar year, if it is established to the
31 satisfaction of the commission that the supply of natural gas is not
32 adequate to meet the reasonable demands of domestic consumption and may
33 ~~[prohibit the use of natural gas in wasteful devices and practices]~~
34 order the curtailment or discontinuance of the use of the distribution
35 system, where the commission has determined that such curtailment or
36 discontinuance is reasonably required to implement state energy policy,
37 provided that such curtailment or discontinuance shall be consistent
38 with programs approved by the commission pursuant to subdivision two of
39 section thirty of this chapter, and may prohibit the use of natural gas
40 in wasteful devices and practices, as defined by the commission, and
41 require conservation and efficiency in gas usage.

42 12-e. The commission shall review the capital construction plan of
43 each gas corporation and establish a process to examine feasible alter-
44 natives to such construction in order to achieve consistency with the
45 climate justice and emission reduction mandates in chapter one hundred
46 six of the laws of two thousand nineteen, and such successors in law and
47 function as may arise from time to time, encouraging neighborhood-scale
48 transitions and the elimination of on-site co-pollutant emissions. Such
49 process shall include thresholds and criteria for the types of projects
50 subject to such examination. The commission shall require participation
51 in such process by each electric corporation with a service area over-
52 lapping the service area of the gas corporation; and the commission
53 shall have the power to require any such electric corporation to partic-
54 ipate in alternatives to gas capital construction, including partic-
55 ipation in financing. Any costs incurred by such electric corporation

1 for such corporation's participation shall be subject to an opportunity
2 for full recovery, as determined by the commission.

3 § 10. Section 66-a of the public service law, as added by chapter 7 of
4 the laws of 1948, subdivision 1 as amended and subdivision 3 as added by
5 chapter 582 of the laws of 1975, and subdivision 2 as amended by chapter
6 722 of the laws of 1977, is amended to read as follows:

7 § 66-a. Conservation of gas, declaration of policy, delegation of
8 power. 1. It is hereby declared to be the policy of this state that
9 when there develops in any area a situation under which a gas corpo-
10 ration supplying gas to such area is unable to meet the reasonable needs
11 of its consumers and of persons or corporations applying for new or
12 additional gas service, the available supply of gas shall be allocated
13 among the customers of such gas corporation, in such manner as may be
14 necessary to protect public health and safety and to avoid undue hard-
15 ship, particularly for low-to-moderate income residential customers,
16 electric generation needed for electric system reliability, and custom-
17 ers with hard-to-electrify industrial and commercial uses, pursuant to
18 rules and regulations as may be adopted by the commission, and that to
19 carry out this declared policy the jurisdiction of the public service
20 commission should be clarified. It is further declared to be the policy
21 of this state that gas service to existing customers must be provided in
22 a manner that is safe and adequate, not unjustly discriminatory or undu-
23 ly preferential, and in all respects just and reasonable, subject to the
24 provisions of section thirty of this chapter.

25 2. Notwithstanding the provisions of any statute or any franchise held
26 by a gas corporation, the commission shall have power, upon the finding
27 that continued gas service is not consistent with the achievement of the
28 climate justice and emission reduction mandates in chapter one hundred
29 six of the laws of two thousand nineteen, and such successors in law and
30 function as may arise from time to time, or that there exists such a
31 shortage of gas in any area in the state, that the gas corporation
32 supplying such area is unable and will be unable to secure or produce
33 sufficient gas to meet the reasonable needs of its customers and of
34 persons or corporations applying for new or additional gas service, to
35 require such corporation to immediately discontinue the supplying of gas
36 to additional customers or of supplying additional service to present
37 customers, for such purpose or purposes as may be designated by the
38 commission, or to customers using gas for a purpose prohibited by the
39 commission pursuant to this act, and that upon the finding that the
40 supply of gas available is and will be insufficient to supply the
41 demands of all consumers receiving service, to require such gas corpo-
42 ration to curtail or discontinue service to any or all classes of
43 customers of such gas corporation. In imposing such a direction or
44 requirement, the commission shall give consideration first to existing
45 domestic uses and uses deemed to be necessary by the commission to
46 protect public health and safety and to avoid undue hardship [~~and shall~~
47 ~~be limited to the period of the emergency provided that the gas corpo-~~
48 ~~ration affected shall make such restriction, curtailing or discontin-~~
49 ~~uance applicable to all customers or applicants for service in a like~~
50 ~~class. If the commission determines that good cause exists for supplying~~
51 ~~service to additional customers or for supplying additional service to~~
52 ~~some existing customers, notwithstanding the curtailment or discontin-~~
53 ~~uance of service to other existing customers, it shall, to the extent~~
54 ~~feasible, allocate gas with equal priority to new or additional domestic~~
55 ~~uses of gas and commercial or industrial processes which require gas~~
56 ~~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 chapter one hundred six of the laws of two thousand nineteen, and such successors in law and function as may arise from time to time, 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 greenhouse gas emissions and on-site co-pollutants, 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.

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

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

§ 66-w. Expansion of gas company service territories. Except as provided in this section, and notwithstanding any other provision of this chapter, after December thirty-first, two thousand twenty-four, the commission shall not grant an amendment of a gas company's certificate of public convenience and necessity that expands a gas company's service territory in order to extend gas plant and the availability of gas service into geographic areas where gas service was not available prior to such date. The commission may authorize exceptions to the policy set forth in this section on a case-by-case basis, provided that the commission finds that the amendment of the certificate of public convenience and necessity is limited to a project that 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.

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

§ 14. 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

1 utility services with the timely achievement, of consistency with the
2 climate justice and emission reduction mandates in chapter one hundred
3 six of the laws of two thousand nineteen, and such successors in law and
4 function as may arise from time to time. If the commission is already
5 engaged in a proceeding addressing one or more of the matters identi-
6 fied in this section, it shall not be required to open a new proceeding
7 on that matter. Following completion of all proceedings initiated
8 pursuant to this section, the commission shall initiate regular subse-
9 quent proceedings, as it deems necessary, to ensure the achieve-
10 ment of the goals outlined in this section. The proceeding or
11 proceedings shall include:

12 (a) Within one year of the effective date of this section, a review of
13 the public service law and its current rules and policy guidance to
14 identify any law, rule, guidance, or lack thereof, that may inhibit
15 timely, equitable achievement of consistency with the climate
16 justice and emission reduction mandates in chapter one hundred six of
17 the laws of two thousand nineteen, and such successors in law and func-
18 tion as may arise from time to time. The commission shall report to the
19 legislature its progress and findings, identify subsequent actions it
20 will take, and make recommendations for any statutory amendments, or
21 budgetary or other actions that may be needed to facilitate the timely
22 achievement of such mandates.

23 (b) Within one year of the effective date of this section, a revision
24 of the commission's rules and regulations for determining appropriate
25 allowances for the extension of gas and electric utility services to
26 ensure that utility service is provided in a manner consistent with the
27 achievement of the climate justice and emission reduction mandates in
28 chapter one hundred six of the laws of two thousand nineteen, and such
29 successors in law and function as may arise from time to time. In estab-
30 lishing rules governing the allowance for the extension of gas service,
31 the commission shall eliminate all main and service line extension
32 allowances for gas service and may increase allowances for electric
33 service. The commission may establish rules that provide for distinct
34 electric allowances for all-electric customers and for dual-fuel custom-
35 ers and may provide additional electric allowances to buildings that are
36 made ready for beneficial electric loads such as those with electric
37 vehicle charging facilities and grid interactive buildings. The commis-
38 sion may also establish allowances for buildings seeking interconnection
39 with thermal energy networks.

40 (c) In order to minimize long-term costs and stranded assets, and
41 maximize savings and benefits for customers, within one year of the
42 effective date of this section the commission shall issue an order
43 requiring each gas corporation, within one hundred eighty days of the
44 issuance of such order, to restructure its plan for addressing the leak-
45 prone gas mains and service lines on its system to facilitate the order-
46 ly right-sizing of the gas distribution system to achieve consistency
47 with the climate justice and emission reduction mandates in chapter one
48 hundred six of the laws of two thousand nineteen, and such successors in
49 law and function as may arise from time to time, while maintaining safe-
50 ty and reliability of the gas system, subject to all relevant federal
51 laws and regulations. To accomplish this, the commission shall require
52 each gas corporation, in coordination with any and all electric corpo-
53 rations with overlapping service areas, to pursue programs pursuant to
54 subdivision two of section thirty of this chapter that minimize the
55 replacement of leak-prone gas mains and service lines. The commission
56 shall require each gas corporation, after notice and comment, to estab-

lish criteria for evaluating whether specific segments of leak-prone mains and service lines are candidates for such programs 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 this chapter 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 chapter one hundred six of the laws of two thousand nineteen, and such successors in law and function as may arise from time to time, 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 chapter one hundred six of the laws of two thousand nineteen, and such successors in law and function as may arise from time to time. 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 residential customers be adequately protected from bearing an energy burden greater than six percent of their household income pursuant to subdivision three of section thirty of this chapter.

(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 chapter one hundred six of the laws of two thousand nineteen, and such successors in law and function as may arise from time to time, 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

1 assumptions for the analysis support achievement of the climate justice
2 and emission reduction mandates in chapter one hundred six of the laws
3 of two thousand nineteen, and such successors in law and function as may
4 arise from time to time. Such revisions shall include, but not be
5 limited to:

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

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

15 (3) Consideration of the significant uncertainties and risks associ-
16 ated with different scenarios, including the environmental impact of
17 leaked gas, the prolonged reliance on the gas system that results from
18 long-lived investments in gas infrastructure and gas-consuming equip-
19 ment, the positive option value associated with measures that can elimi-
20 nate or defer the need for investments in gas infrastructure and gas-
21 consuming equipment, and potential challenges associated with full
22 electrification.

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

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

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

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

43 § 15. The labor law is amended by adding a new section 224-g to read
44 as follows:

45 § 224-g. Wage requirements for neighborhood-scale decarbonization
46 projects. 1. For purposes of this section, the term "covered neighbor-
47 hood-scale decarbonization project" shall mean projects performed by
48 contractors or subcontractors hired directly by a public utility compa-
49 ny, as defined by subdivision twenty-three of section two of the public
50 service law, to ensure that customers permanently transitioning off
51 utility gas service have access to safe and reliable substitutes for
52 heating, cooling, cooking, and water-heating prior to a cessation of gas
53 service.

54 2. Notwithstanding the provisions of section two hundred twenty-four-a
55 of this article, a covered neighborhood-scale decarbonization project
56 shall be subject to prevailing wage requirements in accordance with

1 sections two hundred twenty and two hundred twenty-b of this article.
2 Provided that a neighborhood-scale decarbonization project which is not
3 considered to be covered by this section may still otherwise be consid-
4 ered a covered project pursuant to section two hundred twenty-four-a of
5 this article if it meets the requirements of such definition.

6 3. For purposes of this section, a covered neighborhood-scale decar-
7 bonization project shall not include:

8 a. projects performed under private contract with an entity other than
9 a public utility company, even if the building owner or the contractor
10 receives financial and technical support from a public utility company,
11 including for the purchase and installation of customer-owned equipment;

12 b. projects that meet exclusion criteria established by the public
13 service commission at its discretion to reasonably ensure the require-
14 ments of this section do not inhibit equitable and orderly achievement
15 of the climate justice and emission reduction mandates in chapter one
16 hundred six of the laws of two thousand nineteen, and such successors in
17 law and function as may arise from time to time; or

18 c. projects performed under a pre-hire collective bargaining agreement
19 between an owner or contractor and a bona fide building and construction
20 trade labor organization which has established itself, and/or its affil-
21 iates, as the collective bargaining representative for all persons who
22 will perform work on such a project, and which provides that only
23 contractors and subcontractors who sign a pre-negotiated agreement with
24 the labor organization can perform work on such a project, or projects
25 performed under a labor peace agreement, project labor agreement, or any
26 other project performed under an enforceable agreement between an owner
27 or contractor and a bona fide building and construction trade labor
28 organization.

29 4. For purposes of this section, the "fiscal officer" shall be deemed
30 to be the commissioner. The enforcement of any covered neighborhood-sca-
31 le decarbonization project pursuant to this section shall be subject to
32 the requirements of sections two hundred twenty, two hundred twenty-a,
33 two hundred twenty-b, two hundred twenty-three, two hundred
34 twenty-four-b and two hundred twenty-seven of this article and within
35 the jurisdiction of the fiscal officer; provided, however, nothing
36 contained in this section shall be deemed to construe any covered neigh-
37 borhood-scale decarbonization project as otherwise being considered
38 public work pursuant to this article.

39 5. The fiscal officer may issue rules and regulations governing the
40 provisions of this section. Violations of this section shall be grounds
41 for determinations and orders pursuant to section two hundred twenty-b
42 of this article.

43 § 16. This act shall take effect immediately.