

STATE OF NEW YORK

10472

IN ASSEMBLY

May 29, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Cunningham)
-- read once and referred to the Committee on Energy

AN ACT to amend the public service law, in relation to enacting the
"build to need act"

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 as and may be cited as
2 the "build to need act".
3 § 2. Legislative findings and intent. The legislature hereby finds
4 that in order to achieve the targets set forth in the climate leadership
5 and community protection act, zero-emissions vehicle sales targets, and
6 regulations, including the advanced clean truck and advanced clean cars
7 II rules, zero-emissions school bus mandate, and other relevant goals,
8 the interests of the people of the state would be served by:
9 (a) expediting electric grid infrastructure upgrades to facilitate the
10 charging of light-duty, medium-duty, and heavy-duty electric vehicles;
11 (b) aligning a proactive planning process for beneficial electrifica-
12 tion with the current coordinated grid planning process for electric
13 corporations;
14 (c) ensuring the full range of feasible distributed energy resource
15 technologies, load management opportunities, and expected electrified
16 end uses are incorporated into electric utility investment plans;
17 (d) lowering costs to customers through efficient planning, including
18 consideration and deployment of non-wires solutions that reduce or elim-
19 inate the need for distribution system upgrades;
20 (e) ensuring meaningful benefits to communities most affected by
21 large-scale proactive utility projects developed under this framework;
22 and
23 (f) enhancing speed, flexibility, and ease of customer intercon-
24 nections (including both loads and distributed generation).
25 § 3. The public service law is amended by adding a new section 77-a to
26 read as follows:

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

LBD14561-02-4

1 § 77-a. Build to need act. 1. Within sixty days of the effective date
2 of this section, the commission shall commence a proceeding to implement
3 a grid planning process that shall direct electric corporations to:

4 (a) align planning under this section with existing planning proc-
5 esses, including the coordinated grid planning process implemented
6 pursuant to the climate leadership and community protection act, to the
7 extent feasible;

8 (b) provide annually to the New York independent system operator
9 updated load projections consistent with the state's electrification and
10 climate related policy mandates;

11 (c) use a planning horizon of at least ten years for transmission
12 through substation-level investments and a planning horizon of at least
13 five years for other distribution investments;

14 (d) proactively gather and incorporate data relevant to future elec-
15 tric loads from sources including but not limited to customers operating
16 fleets, state and municipal departments of transportation or their
17 equivalents, other entities that may reasonably be expected to have
18 relevant information concerning location, type, magnitude, or timing of
19 major future loads, available vehicle telematics data, and other sources
20 of information as directed by the commission;

21 (e) consider customers' activities that may reduce, defer, or other-
22 wise affect the need or extent of grid upgrades, such as customers'
23 reasonably foreseeable load management activities, including but not
24 limited to implementation of automated load management technologies, and
25 deployments of distributed energy resources and ability to enter into
26 flexible interconnections;

27 (f) identify system needs where the electric corporation, planning in
28 accordance with the state's electrification and climate related policy
29 mandates, finds (i) a reasonable expectation of new load in a specific
30 area based on inputs including fleet electrification commitments, prox-
31 imity to transportation corridors, ports, airports, other existing
32 transportation or freight hubs and other relevant data sources that
33 would substantiate the projections of new load and the associated time-
34 line; and (ii) a reasonable likelihood of grid constraints that shall
35 impair the electric corporations ability to serve the load absent a
36 solution to address the system need in a timely manner; and

37 (g) where an electric corporation identifies a system need, such
38 corporation shall develop solutions that proactively address such system
39 need, and consider advanced technologies where appropriate and feasible.

40 2. (a) The commission shall develop a test for defining larger tier
41 one solutions and smaller tier two solutions. Such test shall:

42 (i) be applied uniformly to all electric corporations, except where
43 the commission determines such different criteria should apply to a
44 given electric corporation because unique circumstances or hardships, or
45 impracticability of applying the uniform test to such electric corpo-
46 ration exist;

47 (ii) prohibit electric corporations from segmenting solutions to avoid
48 a tier one designation; and

49 (iii) specify criteria such as, but not limited to, solution cost as a
50 percentage of the electric corporation's rate base, solution nominal
51 voltage, solution wattage and solution type.

52 (b) The commission may update such test as appropriate to ensure the
53 timely achievement of state electrification mandates and the efficient
54 consideration of solutions development pursuant to this section.

1 (c) The commission shall establish separate requirements for tier one
2 projects for which the electric corporation seeks approval under subdivi-
3 sion four of this section and tier two projects.

4 3. The commission shall develop a framework governing the use of
5 advanced technologies as part of the solutions for which the electric
6 corporation seeks approval under subdivision four of this section. Such
7 framework shall: (a) define advanced technologies to include energy
8 storage, demand response, automated load management, other distributed
9 energy resources, and any other categories as determined by the commis-
10 sion. Such framework shall direct electric corporations to consider
11 where appropriate and feasible at least one alternative technology to
12 address the identified system need fully or partially; and

13 (b) such electric corporation shall demonstrate why advanced technolo-
14 gies were or were not included as part of the project. The commission
15 may establish mandatory targets for deployment of advanced technologies,
16 provide for earnings adjustment mechanisms associated with utilities'
17 deployment of advanced technologies, and include other metrics and guid-
18 ance as appropriate.

19 4. In approving tier one projects for which the electric corporation
20 seeks approval under this subdivision, the commission shall require:

21 (a) electric corporations file with the commission a petition for
22 approval. Such petition shall include a description of project need
23 including data sources to substantiate need, explanation of alternatives
24 considered, description of its community benefit plan as required in
25 subdivision six of this section, projected costs and benefits, a
26 proposed cost recovery method, and any other requirements as established
27 by the commission. Further, such petition shall include an explanation
28 of an electric corporation's reasonable efforts to obtain state or
29 federal funding sources to offset electric corporation customer costs of
30 the project. If the electric corporation does not seek state or federal
31 funding sources, it shall explain why it did not seek such funding.

32 (b) render a decision on such petition within one hundred twenty days,
33 or within the one hundred twenty day period, extend such time to render
34 a decision by sixty days. Failure to render a decision within such time-
35 line prescribed, shall deem such petition approved by operation of law;
36 and

37 (c) to the extent an electric corporation's infrastructure deployment
38 or other costs attributable to this section are not included in its
39 current rate plan as of the effective date of this section, such elec-
40 tric corporation may recover the incremental revenue requirement associ-
41 ated with such costs through a surcharge mechanism until its base rates
42 are reset. A surcharge mechanism may only be used to the extent neces-
43 sary between the effective date of this section and the conclusion of
44 the electric corporation's next rate case.

45 5. (a) All tier one projects for which the electric corporation seeks
46 approval under subdivision four of this section shall include a communi-
47 ty benefit plan. The commission shall develop a community benefit plan
48 framework which shall:

49 (i) define the term "affected communities," which shall include commu-
50 nities in the vicinity of a tier one project as well as other criteria
51 defined by the commission;

52 (ii) consider separate requirements applicable to disadvantaged commu-
53 nities within affected communities;

54 (iii) specify criteria that a reasonable percentage of solution bene-
55 fits are demonstrated to be delivered to affected communities;

1 (iv) consider achievable, measurable workforce development programs
2 and goals designed to expand high-quality job opportunities in affected
3 communities;

4 (v) require such electric corporation provide benefits to affected
5 communities; and

6 (vi) require a description of such electric corporation's past and
7 planned efforts concerning community engagement and its history of
8 incorporating an affected communities feedback into its solution or its
9 willingness to incorporate an affected communities feedback.

10 (b) Reasonable and prudently incurred costs in the implementation of
11 the community benefit plan shall be recoverable by such electric corpo-
12 ration as part of solution costs.

13 6. The commission is authorized to promulgate rules and regulations
14 necessary to determine record keeping requirements for tier two
15 projects, including:

16 (a) records demonstrating project need;

17 (b) analysis of the chosen solution by the electric corporation;

18 (c) alternatives considered;

19 (d) project costs and benefits; and

20 (e) any other requirements determined by the commission.

21 7. Within two hundred eighty days of the effective date of this
22 section, electric corporations shall offer to customers, and update
23 tariffs as necessary to enable both hybrid and flexible intercon-
24 nections. For the purposes of this subdivision, hybrid interconnections
25 include an interconnection, through a single application, of hybrid
26 facilities. Such hybrid facilities shall include those composed of more
27 than one device of different technology types for such production, stor-
28 age, and consumption of electricity that are located on the same site
29 and have a single point of interconnection. Further, for the purposes of
30 this subdivision, flexible interconnections include electric corporation
31 requirements to enable expeditiously energizing new load or intercon-
32 necting a distributed energy resource to an electric corporation's
33 distribution system, including an agreement, supported by the use of
34 software or hardware solutions such as automated load management, for
35 curtailing the import and export of electricity from and to the distrib-
36 ution system.

37 8. Within one year of the effective date of this section, the commis-
38 sion shall establish average and maximum target time periods for load
39 energizations and distributed generation interconnections. The commis-
40 sion may establish targets that vary depending on the size and complexi-
41 ty of such work, as well as factors beyond such electric corporation's
42 control. Further, the commission shall establish a procedure for
43 customers to report energization or interconnection delays to the
44 commission. The commission shall establish an enforcement mechanism to
45 ensure timely interconnection and energization, including but not limit-
46 ed to, earnings adjustment mechanisms with incentives and penalties.

47 9. The commission, in consultation with the New York state energy
48 research and development authority, the department of environmental
49 conservation, the department of transportation, the power authority of
50 New York state, the Long Island power authority, and other agencies
51 charged with administering electric vehicle programs, incentives, or
52 procurements may include provisions for the use of automated load
53 management in such programs, incentives, and procurements when they are
54 determined to be cost effective. For purposes of this subdivision auto-
55 mated load management shall include any required hardware and software
56 and also installation costs.

1 10. (a) Within one year of the effective date of this section, the
2 commission shall adopt reporting requirements under this section for a
3 time period determined by the commission but no less than five years
4 from the effective date of this section. The reporting requirements
5 shall include at a minimum:

6 (i) a summary of tier one and tier two projects deployed, including
7 but not limited to a general categorization of projects, project costs,
8 and for projects that entered service between the effective date of this
9 section and the effective date of the electric corporation's subsequent
10 rate plan, an identification of those projects not included in the elec-
11 tric corporation's prior rate plan;

12 (ii) a comparison of projected and actual loads, including projected
13 loads attributable to electrification and a summary of projected elec-
14 tric corporation system upgrades and costs to serve such loads;

15 (iii) actual and estimated, as practicable, incremental costs and
16 revenues attributable to tier one and two projects;

17 (iv) a summary of community benefit plan implementations and results,
18 as applicable; and

19 (v) energization and interconnection timelines.

20 (b) To the extent an electric corporation's performance fails to meet
21 corresponding target time periods, such report shall explain such fail-
22 ures and shall provide a strategy for meeting the targets in the future.
23 The commission shall monitor each electric corporation's activities
24 related to this section and take appropriate action as needed to address
25 any deficiencies.

26 § 4. This act shall take effect immediately.