

STATE OF NEW YORK

2896

2023-2024 Regular Sessions

IN ASSEMBLY

January 31, 2023

Introduced by M. of A. ALVAREZ -- read once and referred to the Committee on Energy

AN ACT to amend the energy law, the executive law and the public service law, in relation to critical energy infrastructure security and responsibility; and to amend a chapter of the laws of 2022 amending the energy law, the executive law and the public service law relating to critical energy infrastructure security and responsibility, as proposed in legislative bills numbers S. 5579-A and A. 3904-B, in relation to the effectiveness thereof

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

1 Section 1. Subdivisions 14 and 15 of section 1-103 of the energy law,
2 as added by a chapter of the laws of 2022 amending the energy law, the
3 executive law and the public service law relating to critical energy
4 infrastructure security and responsibility, as proposed in legislative
5 bills numbers S. 5579-A and A. 3904-B, are amended to read as follows:
6 14. "Critical energy infrastructure" means systems, including indus-
7 trial control systems, [~~customer electrical or gas consumption data,~~
8 assets, places or things, whether physical or virtual, so vital to the
9 state that the disruption, incapacitation or destruction of such
10 systems, including industrial control systems, [~~customer electrical or~~
11 ~~gas consumption data,~~] assets, places or things could jeopardize the
12 health, safety, welfare, energy distribution, transmission, reliability,
13 or security of the state, its residents or its economy.
14 15. "Industrial control systems" means [~~a combination of control~~
15 ~~components that support operational functions in gas, distribution,~~
16 ~~transmission, and advanced metering infrastructure control centers, and~~
17 ~~act together to achieve an industrial objective, including controls that~~
18 ~~are fully automated or that include a human machine interface]~~ an infor-
19 mation system used to monitor and/or control industrial processes,
20 including supervisory control and data acquisition systems used to moni-

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

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tor and/or control geographically dispersed assets, distributed control systems, human-machine interfaces, and programmable logic controllers that control localized processes.

§ 2. Paragraph (j) of subdivision 2 of section 709 of the executive law, as amended by a chapter of the laws of 2022 amending the energy law, the executive law and the public service law relating to critical energy infrastructure security and responsibility, as proposed in legislative bills numbers S. 5579-A and A. 3904-B, is amended to read as follows:

(j) work with local, state and federal agencies and private entities to conduct assessments of the vulnerability of critical infrastructure to terrorist attack, cyber attack, and other natural and man-made disasters, including, but not limited to, nuclear facilities, power plants, telecommunications systems, mass transportation systems, public roadways, railways, bridges and tunnels, ~~[and attendant industrial control systems as defined by subdivision fifteen of section 1-103 of the energy law]~~ and develop strategies that may be used to protect such infrastructure from terrorist attack, cyber attack, and other natural and man-made disasters;

§ 3. Paragraph (a) of subdivision 19 of section 66 of the public service law, as amended by a chapter of the laws of 2022 amending the energy law, the executive law and the public service law relating to critical energy infrastructure security and responsibility, as proposed in legislative bills numbers S. 5579-A and A. 3904-B, is amended to read as follows:

(a) The commission shall have power to provide for management and operations audits of gas corporations and electric corporations. Such audits shall be performed at least once every five years for combination gas and electric corporations, as well as for straight gas corporations having annual gross revenues in excess of two hundred million dollars. The audit shall include, but not be limited to, an investigation of the company's construction program planning in relation to the needs of its customers for reliable service, an evaluation of the efficiency of the company's operations, an evaluation of customer privacy protections, including but not limited to customer electrical and gas consumption data, and protection of critical energy infrastructure as defined in subdivision fourteen of section 1-103 of the energy law, recommendations with respect to same, and the timing with respect to the implementation of such recommendations. The commission shall have discretion to have such audits performed by its staff, or by independent auditors.

In every case in which the commission chooses to have the audit provided for in this subdivision or pursuant to subdivision fourteen of section sixty-five of this article performed by independent auditors, it shall have authority to select the auditors, and to require the company being audited to enter into a contract with the auditors providing for their payment by the company. Such contract shall provide further that the auditors shall work for and under the direction of the commission according to such terms as the commission may determine are necessary and reasonable.

§ 4. Paragraph (d) of subdivision 19 of section 66 of the public service law, as added by a chapter of the laws of 2022 amending the energy law, the executive law and the public service law relating to critical energy infrastructure security and responsibility, as proposed in legislative bills numbers S. 5579-A and A. 3904-B, is amended to read as follows:

(d) The commission shall have the power to provide for an annual audit of gas corporations and electric corporations relating to the adequacy of cyber-security policies, protocols, procedures and protections including, but not limited to, as such policies, protocols, procedures and protections relate to critical energy infrastructure as defined in subdivision fourteen of section 1-103 of the energy law and ~~[also to]~~ customer privacy including but not limited to customer electric and gas consumption data. The commission shall have the discretion to have such audits performed by its staff or by an independent third party.

§ 5. Subdivisions 30 and 31 of section 66 of the public service law, as added by a chapter of the laws of 2022 amending the energy law, the executive law and the public service law relating to critical energy infrastructure security and responsibility, as proposed in legislative bills numbers S. 5579-A and A. 3904-B, are amended and a new subdivision 32 is added to read as follows:

30. Promulgate rules and regulations to direct electric or gas corporations to develop and implement tools to monitor: (a) operational control networks giving the electric or gas corporation the ability to undertake the detection of unauthorized network behavior related to such corporation's industrial control systems, as defined in subdivision fifteen of section 1-103 of the energy law; and (b) monitor and protect customer privacy, including but not limited to customer electric and gas consumption data from unauthorized disclosure. On or before December thirty-first, two thousand twenty-three and not later than five years after such date, and every five years thereafter, the commission shall provide a report to the governor, the temporary president of the senate, the speaker of the assembly, the chairperson of the assembly standing committee on energy, and the chairperson of the senate standing committee on energy and telecommunications reviewing electric or gas corporation compliance with this section, including, as necessary, recommendations to the legislature if the commission determines that additional measures are required to ensure the effective protection of electric or gas corporation critical infrastructure.

31. Promulgate rules and regulations to direct electric or gas corporations to require the installation of advanced metering infrastructure that connects to the electric or gas distribution network operated by such electric or gas corporation be permitted only so long as access to the advanced meter infrastructure enables two-way communication between utilities and meters through the optimal communications network option, such as a wireless network, that is shared by at least two meter providers operating within the United States of America, if the commission determines that it is cost effective and technically feasible to do so.

32. Customer electric and gas consumption data shall be considered confidential. The commission shall have the authority to promulgate rules and regulations to require gas or electric corporations to take necessary measures to protect such data from unauthorized or unconsented disclosure.

§ 6. Section 8 of a chapter of the laws of 2022 amending the energy law, the executive law and the public service law relating to critical energy infrastructure security and responsibility, as proposed in legislative bills numbers S. 5579-A and A. 3904-B, is amended to read as follows:

§ 8. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the public service commission is authorized and directed to take actions necessary to promulgate rules and regulations related to the implementation of subdi-

1 visions 30 [~~and~~], 31 and 32 of section 66 of the public service law on
2 or before such effective date.
3 § 7. This act shall take effect immediately; provided however, that
4 sections one, two, three, four and five of this act shall take effect on
5 the same date and in the same manner as a chapter of the laws of 2022
6 amending the energy law, the executive law and the public service law
7 relating to critical energy infrastructure security and responsibility,
8 as proposed in legislative bills numbers S. 5579-A and A. 3904-B, takes
9 effect.