

STATE OF NEW YORK

4592

2023-2024 Regular Sessions

IN ASSEMBLY

February 17, 2023

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

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

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

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
13 emissions in our state. New York state's buildings also produce more
14 local air pollution than any other state in the country, resulting in
15 negative health outcomes such as increased rates of asthma, particularly
16 among children, and heart disease. Therefore, reducing greenhouse gas
17 emissions and toxic air pollution emitted from New York's buildings,
18 especially in disadvantaged communities, is necessary to meet the CLCPA
19 mandates.

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

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

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

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

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

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

30 c. Gas utilities in New York are on track to collectively spend \$150
31 billion to replace thousands of miles of leak prone pipe in the coming
32 years. These investments pose a risk of becoming stranded assets, with
33 \$77 billion of the total cost coming due after 2050, but can be avoided
34 in many cases by strategically investing in neighborhood-scale decarbon-
35 ization projects.

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

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

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

55 a. to ensure that the public service law regarding regulation and
56 oversight of gas utilities will provide for the timely and strategic

1 decarbonization and right-sizing of the gas distribution system in a
2 just and affordable manner as required to meet the climate justice and
3 emission reduction mandates of the CLCPA, appropriately balancing rate-
4 payers' needs and interests with the maintenance of financially sound
5 utilities, prioritizing low-to-moderate income customers and disadvan-
6 tagged communities, and encouraging neighborhood-scale transitions;

7 b. to provide the Public Service Commission with the statutory author-
8 ity and direction to align utility regulations and planning with the
9 CLCPA climate justice and emission reduction mandates and to require the
10 Public Service Commission to take a proactive role in the timely iden-
11 tification and amendment of such regulations or rulings as may pose an
12 impediment to achieving CLCPA mandates, and to identify any laws that
13 may pose an impediment;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 ~~[h-]~~ **g.** A corporation or person owning or holding a majority of the
24 stock of a common carrier, gas corporation or electrical corporation
25 subject to the jurisdiction of the public service commission shall be
26 subject to the supervision of the public service commission in respect
27 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.

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

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

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

50 § 30. Residential gas, electric and steam service policy. **1.** This
51 article shall apply to the provision of all or any part of the gas,
52 electric or steam service provided to any residential customer by any
53 gas, electric or steam and municipalities corporation or municipality.
54 It is hereby declared to be the policy of this state that the continued
55 provision of ~~[all or any part of such gas,]~~ electric ~~[and steam service]~~
56 **services** to all residential customers without unreasonable qualifica-

tions or lengthy delays is necessary for the preservation of the health and general welfare, is consistent with the achievement of the state's climate justice and emission reduction mandates, and is in the public interest.

It is further the policy of this state that gas service for existing residential customers must be provided in a manner that is safe and adequate, not unjustly discriminatory or unduly preferential, and in all respects just and reasonable, while providing for an orderly right-sizing of the gas distribution system to achieve consistency with the climate justice and emission reduction mandates in article seventy-five of the environmental conservation law, prioritizing low-to-moderate income customers and disadvantaged communities as defined in article seventy-five of the environmental conservation law, and encouraging neighborhood-scale transitions.

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

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

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

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

(b) agrees to make payments under a deferred payment plan of any amounts due for service to a prior account in [~~his~~] the applicant's name

1 and makes a down payment based on criteria to be established by the
2 commission. No such down payment shall exceed one-half of any money due
3 from an applicant for residential utility service, or three months aver-
4 age billing, whichever is less; or

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

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

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

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

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

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

50 § 12. Gas and electricity must be supplied on application in accord-
51 ance with commission rules and regulations. Except in the case of an
52 application for residential utility service pursuant to article two of
53 the public service law, upon written application of the owner or occu-
54 pant of any building ~~[within one hundred feet of any main of a gas~~
55 ~~corporation or gas and electric corporation, or a line of an electric~~
56 ~~corporation or gas and electric corporation, appropriate to the service~~

1 ~~requested,~~] and payment by [~~him~~] the applicant of all money due from
2 [~~him~~] the applicant to the corporation, it shall supply [~~gas or~~] elec-
3 tricity as may be required for [~~lighting~~] such building and it may
4 provide gas for such building in accordance with commission regulation,
5 notwithstanding there be rent or compensation in arrears for gas or
6 electricity supplied, or for meter, wire, pipe or fittings furnished, to
7 a former occupant thereof, unless such owner or occupant shall have
8 undertaken or agreed with the former occupant to pay or to exonerate
9 [~~him~~] them from the payment of such arrears, and shall refuse or neglect
10 to pay the same; and if for the space of ten days after such applica-
11 tion, and the deposit of a reasonable sum as provided in the next
12 section, if required, the corporation shall refuse or neglect to supply
13 gas or [~~electric light~~] electricity as required, such corporation shall
14 forfeit and pay to the applicant the sum of ten dollars, and the further
15 sum of five dollars for every day thereafter during which such refusal
16 or neglect shall continue; provided that no such corporation shall be
17 required to lay service pipes or wires for the purpose of supplying gas
18 or electric light to any applicant where the ground in which such pipe
19 or wire is required to be laid shall be frozen, or shall otherwise pres-
20 ent serious obstacles to laying the same; nor unless the applicant, if
21 required, shall deposit in advance with the corporation a sum of money
22 sufficient to pay the cost of [~~his proportion~~] the applicant's portion
23 of the pipe, conduit, duct or wire required to be installed, and the
24 expense of the installation of such portion.

25 § 8. Subdivision 2 of section 66 of the public service law, as amended
26 by chapter 877 of the laws of 1953, is amended and a new subdivision
27 12-e is added to read as follows:

28 2. Investigate and ascertain, from time to time, the quality of gas
29 supplied by persons, corporations and municipalities; examine or inves-
30 tigate the methods employed by such persons, corporations and munici-
31 palities in manufacturing, distributing and supplying gas or electricity
32 for light, heat, cooling, or power and in transmitting the same, and
33 have power to order such reasonable improvements as will best promote
34 the public interest, preserve the public health and protect those using
35 such gas or electricity and those employed in the manufacture and
36 distribution thereof, and have power to order reasonable improvements
37 and extensions of the works, wires, poles, lines, conduits, ducts and
38 other reasonable devices, apparatus and property of gas corporations,
39 electric corporations and municipalities; and have power after an inves-
40 tigation and a hearing to order any corporation having authority under
41 any general or special law or under any charter or franchise, to lay
42 down, erect or maintain wires, pipes, conduits, ducts or other fixtures
43 in, over or under the streets, highways and public places of any munici-
44 pality for the purpose of supplying, selling or distributing natural
45 gas, to augment its supply of natural gas, whenever the commission deems
46 necessary and whenever artificial gas can be reasonably obtained, by
47 acquiring by purchase, manufacture or otherwise a supply thereof to be
48 mixed with such natural gas, in order to render adequate service to the
49 customers of such corporation or to maintain a proper and uniform pres-
50 sure; and have power after an investigation and a hearing to order any
51 corporation having authority under any general or special law or under
52 any charter or franchise, to lay down, erect or maintain wires, pipes,
53 conduits, ducts or other fixtures in, over or under the streets, high-
54 ways and public places of any municipality for the purpose of supplying,
55 selling or distributing artificial gas, to augment its supply of artifi-
56 cial gas, whenever the commission deems necessary and whenever natural

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

28 12-e. The commission shall review the capital construction plan of
29 each gas corporation and establish a process to examine feasible alter-
30 natives to such construction in order to achieve consistency with the
31 climate justice and emission reduction mandates in article seventy-five
32 of the environmental conservation law, encouraging neighborhood-scale
33 transitions away from fuels with high life-cycle greenhouse gas emis-
34 sions and on-site co-pollutant emissions, prioritizing low-to-moderate
35 income customers and disadvantaged communities as defined in article
36 seventy-five of the environmental conservation law. Such process shall
37 include thresholds and criteria for the types of projects subject to
38 such examination. The commission shall require participation in such
39 process by each electric corporation with a service area overlapping the
40 service area of the gas corporation; and the commission shall have the
41 power to require any such electric corporation to participate in alter-
42 natives to gas capital construction, including participation in financ-
43 ing. Any costs incurred by such electric corporation for such corpo-
44 ration's participation shall be subject to an opportunity for full
45 recovery, as determined by the commission.

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

50 § 66-a. Conservation of gas, declaration of policy, delegation of
51 power. 1. It is hereby declared to be the policy of this state that
52 when there develops in any area a situation under which a gas corpo-
53 ration supplying gas to such area is unable to meet the reasonable needs
54 of its consumers and of persons or corporations applying for new or
55 additional gas service, the available supply of gas shall be allocated
56 among the customers of such gas corporation, in such manner as may be

1 necessary to protect public health and safety and to avoid undue hardship,
2 particularly for low-to-moderate income residential customers,
3 electric generation needed for electric system reliability, and custom-
4 ers with hard-to-electrify industrial and commercial uses, pursuant to
5 rules and regulations as may be adopted by the commission, and that to
6 carry out this declared policy the jurisdiction of the public service
7 commission should be clarified. It is further declared to be the policy
8 of this state that gas service to existing customers must be provided in
9 a manner that is safe and adequate, not unjustly discriminatory or undu-
10 ly preferential, and in all respects just and reasonable.

11 2. Notwithstanding the provisions of any statute or any franchise held
12 by a gas corporation, the commission shall have power, upon the finding
13 that continued gas service is not consistent with the achievement of the
14 climate justice and emission reduction mandates in article seventy-five
15 of the environmental conservation law, or that there exists such a shor-
16 tage of gas in any area in the state, that the gas corporation supplying
17 such area is unable and will be unable to secure or produce sufficient
18 gas to meet the reasonable needs of its customers and of persons or
19 corporations applying for new or additional gas service, to require such
20 corporation to immediately discontinue the supplying of gas to addi-
21 tional customers or of supplying additional service to present custom-
22 ers, for such purpose or purposes as may be designated by the commis-
23 sion, or to customers using gas for a purpose prohibited by the
24 commission pursuant to this act, and that upon the finding that the
25 supply of gas available is and will be insufficient to supply the
26 demands of all consumers receiving service, to require such gas corpo-
27 ration to curtail or discontinue service to any or all classes of
28 customers of such gas corporation. In imposing such a direction or
29 requirement, the commission shall give consideration first to existing
30 domestic uses and uses deemed to be necessary by the commission to
31 protect public health and safety and to avoid undue hardship [~~and shall~~
32 ~~be limited to the period of the emergency provided that the gas corpo-~~
33 ~~ration affected shall make such restriction, curtailing or discontin-~~
34 ~~uance applicable to all customers or applicants for service in a like~~
35 ~~class. If the commission determines that good cause exists for supplying~~
36 ~~service to additional customers or for supplying additional service to~~
37 ~~some existing customers, notwithstanding the curtailment or discontin-~~
38 ~~uance of service to other existing customers, it shall, to the extent~~
39 ~~feasible, allocate gas with equal priority to new or additional domestic~~
40 ~~uses of gas and commercial or industrial processes which require gas~~
41 ~~because there is no practical substitute for it in such proportion as~~
42 ~~the commission determines to be reasonable. Provided that the commis-~~
43 ~~sion shall be permitted, after public hearing, to authorize any natural~~
44 ~~gas produced from lands under the waters of Lake Erie to be used for~~
45 ~~process or feedstock requirements~~]. The commission is authorized to
46 adopt such rules, regulations and orders as are necessary or appropriate
47 to carry out these delegated powers.

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

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

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

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

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

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

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

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

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

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

1 ment of the goals outlined in this section. The proceeding or
2 proceedings shall include:

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

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

29 (c) In order to minimize long-term costs and stranded assets, and
30 maximize savings and benefits for customers, within one year of the
31 effective date of this section the commission shall issue an order
32 requiring each gas corporation, within one hundred eighty days of the
33 issuance of the order, to restructure its plan for addressing the leak-
34 prone gas mains and service lines on its system to facilitate the order-
35 ly right-sizing of the gas distribution system to achieve consistency
36 with the climate justice and emission reduction mandates in article
37 seventy-five of the environmental conservation law while maintaining
38 safety and reliability of the gas system, subject to all relevant feder-
39 al laws and regulations. To accomplish this, the commission shall
40 require each gas corporation, in coordination with any and all electric
41 corporations with overlapping service areas, to pursue a geographically
42 targeted approach to implementing alternative solutions that minimize
43 the replacement of leak-prone gas mains and service lines while encour-
44 aging neighborhood-scale full building electrification, including
45 through the installation of thermal energy networks, resulting in the
46 decommissioning of the maximum feasible segment of gas main or service
47 line. The commission shall require each gas corporation, after notice
48 and comment, to establish criteria for evaluating whether specific
49 segments of leak-prone mains and service lines are candidates for such a
50 geographically targeted approach and to evaluate their entire inventory
51 of leak-prone pipes to create a strategic decommissioning ranking in
52 which it ranks the segments in terms of the ability to electrify all
53 customers served by the segment and retire the gas distribution infras-
54 tructure. The commission shall require each gas corporation to file an
55 annual report that provides a qualitative and quantitative assessment of
56 the reduction of leak-prone pipe inventory and that updates the strate-

1 gic decommissioning ranking from the prior year. The commission shall
2 establish notice requirements and consumer and affordability protections
3 in accordance with section thirty of the public service law applicable
4 to customers served by segments of the gas distribution system targeted
5 for decommissioning.

6 (d) In order to maximize the cost savings and benefits of the transi-
7 tion of the electric system for the equitable, orderly, and affordable
8 achievement of consistency with the climate justice and emission
9 reduction mandates in article seventy-five of the environmental conser-
10 vation law, within one year of the effective date of this section the
11 commission shall issue an order requiring all electric corporations to
12 pursue all available electric energy efficiency and demand flexibility
13 measures that are cost-effective, reliable, and feasible. No less
14 frequently than every three years, the commission shall identify the
15 statewide achievable potential for energy efficiency and demand flexi-
16 bility measures for the subsequent ten-year period and establish annual
17 energy efficiency and demand flexibility targets for each electric
18 corporation that are no lower than its proportional share of the state-
19 wide achievable potential.

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

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

41 (g) Within one year of the effective date of this section, the commis-
42 sion shall revise its rules and regulations for conducting benefit-cost
43 analyses so that the methodology and the base financial and framework
44 assumptions for the analysis support achievement of the climate justice
45 and emission reduction mandates in article seventy-five of the environ-
46 mental conservation law. Such revisions shall include, but not be limit-
47 ed to:

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

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

1 (3) Consideration of the significant uncertainties and risks associ-
2 ated with different scenarios, including the environmental impact of
3 leaked gas, the prolonged reliance on the gas system that results from
4 long-lived investments in gas infrastructure and gas-consuming equip-
5 ment, the positive option value associated with measures that can elimi-
6 nate or defer the need for investments in gas infrastructure and gas-
7 consuming equipment, and potential challenges associated with full
8 electrification.

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

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

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

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

29 § 14. This act shall take effect immediately.