

# STATE OF NEW YORK

4592--A

2023-2024 Regular Sessions

## IN ASSEMBLY

February 17, 2023

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 § 15. This act shall take effect immediately.