STATE OF NEW YORK

2457

2023-2024 Regular Sessions

IN SENATE

January 20, 2023

Introduced by Sens. COMRIE, HARCKHAM, HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public service law, in relation to storm hardening and system resiliency plans

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

Section 1. Legislative findings. 1. The Legislature hereby finds and declares that, due to the rise in storm intensity, dedicated storm hardening programs need to be developed and implemented throughout New York State to reduce damage and costs from future weather events. Storm hardening is the process of constructing new, or upgrading old, infrastructure to increase resiliency and overall reliability during weather events. In 2018, Winter Storm Riley and Winter Storm Quinn greatly impacted New York's electric distribution system with nearly 500,000 customers losing power. In August 2020, Tropical Storm Isaias brought high winds, downed trees and widespread power outages to much of the state; hundreds of thousands of customers in Long Island, New York City, Westchester and Rockland counties experienced extensive power outages, some lasting for more than a week. Legislative hearings following these storms made it clear that enhanced storm hardening efforts are needed to mitigate some of the impacts to the distribution infrastructure and customers.

2. It is in the state's interest to strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and enhanced vegetation management, including the removal of danger trees;

3. Protecting and strengthening transmission and distribution electrical utility infrastructure from extreme weather conditions can effec-

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

LBD02124-01-3

tively reduce restoration costs and outage times to customers and improve overall service reliability for customers;

4. It is in the state's interest for each utility to mitigate restoration costs and outage times to utility customers when developing transmission and distribution storm protection plans; and

5. All customers benefit from the reduced costs of storm restoration.

§ 2. Section 66 of the public service law is amended by adding a new subdivision 32 to read as follows:

32. (a) Each electric corporation subject to section twenty-five-a of this chapter shall, pursuant to regulation by the commission, submit a storm hardening and system resiliency plan to the commission for review and approval. Each plan shall propose storm hardening and resiliency measures for the next ten years and shall explain the systematic approach the corporation will follow to achieve the objectives of mitigating restoration costs and reducing outage times associated with extreme weather events and enhancing reliability, as well as such other additional objectives the commission may require consistent with ensuring increased resiliency of utility infrastructure and overall reliability during extreme weather events. The commission shall adopt rules to specify the elements that must be included in a corporation's filing for review of storm hardening and system resiliency plans.

(b) In its review of each storm hardening and system resiliency plan filed pursuant to this subdivision, the commission shall, at minimum, consider:

(i) the extent to which the plan is expected to mitigate restoration costs and reduce outage times associated with extreme weather events and enhance reliability, including whether the plan examines areas of lower reliability performance;

(ii) the extent to which storm protection and hardening of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the corporation's service territory, including, but not limited to, coastal areas, flood zones, and rural areas;

(iii) the estimated costs and benefits to the corporation and its customers of making the improvements proposed in the plan;

(iv) the timeline for implementation of the plan;

(v) whether the plan includes major performance benchmarks that measure the effectiveness of the implementation of the plan;

(vi) the estimated annual rate impact resulting from implementation of the plan during the first three years addressed in the plan; and

(vii) the extent to which the plan considers a multi-pronged strategy appropriately tailored to reducing restoration costs and outage times and enhancing infrastructure reliability, including, but not limited to, vegetation management, improvements to system management practices, undergrounding of distribution and transmission lines, replacement of obsolete cables, wires and poles, automation and circuit reconfiguration, and fortifying critical facilities.

(c) No later than eleven months after a corporation files a storm hardening and system resiliency plan that contains all of the elements required by this subdivision and the commission, the commission shall determine whether it is in the public interest to approve or modify the plan.

(d) At least every five years after approval of a corporation's storm hardening and system resiliency plan, the corporation must file for commission review an updated storm hardening and system resiliency plan that addresses each element specified by commission regulation. The

commission shall approve, modify, or deny each updated plan pursuant to the criteria used to review the initial plan.

(e) Each corporation shall make an annual filing to recover the corporation's storm hardening and system resiliency plan costs through a charge separate and apart from its base rates, to be referred to as the storm hardening plan cost recovery clause. If the commission determines that such costs are just and reasonable, and were prudently incurred, those costs will not be subject to disallowance or further reasonableness or prudence review except for fraud, perjury, or intentional withholding of key information by the corporation. The annual storm hardening plan costs may not include costs recovered through the corporation's base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the commission. If a capital expenditure is recoverable as a storm hardening plan cost, the corporation may recover the annual depreciation on the cost, calculated at the corporation's current approved depreciation rates, and a return on the undepreciated balance of the costs calculated at the corporation's weighted average cost of capital using the last approved return on equity.

(f) Each corporation shall provide to the county executive or the chief elected official of a county for each county within its service territory the most recent approved copy of the storm hardening and system resiliency plan required pursuant to this subdivision. For the purposes of an electric corporation operating within the city of New York, such corporation shall provide the most recent approved storm hardening and system resiliency plan with both the mayor's office and emergency management office of the city of New York.

(g) The commission shall provide access to such storm hardening and system resiliency plans pursuant to article six of the public officers law.

(h) Beginning December first of the year after the first full year of implementation of a storm hardening and system resiliency plan and annually thereafter, the commission shall submit to the governor and the legislature a report on the status of each corporation's storm protection activities. The report shall include, but is not limited to, identification of all storm protection and resiliency activities completed or planned for completion, the actual costs and rate impacts associated with completed activities as compared to the estimated costs and rate impacts for those activities, and the estimated costs and rate impacts associated with activities planned for completion.

(i) The commission shall promulgate any necessary rules and regulations to implement and administer the provisions of this subdivision.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the promulgation of any rules or regulations by the Public Service Commission necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.