

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:

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

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

22 3. Protecting and strengthening transmission and distribution elec-
23 trical utility infrastructure from extreme weather conditions can effec-

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

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

3 4. It is in the state's interest for each utility to mitigate restora-
4 tion costs and outage times to utility customers when developing trans-
5 mission and distribution storm protection plans; and

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

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

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

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

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

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

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

36 (iv) the timeline for implementation of the plan;

37 (v) whether the plan includes major performance benchmarks that meas-
38 ure the effectiveness of the implementation of the plan;

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

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

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

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

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

3 (e) Each corporation shall make an annual filing to recover the corpo-
4 ration's storm hardening and system resiliency plan costs through a
5 charge separate and apart from its base rates, to be referred to as the
6 storm hardening plan cost recovery clause. If the commission determines
7 that such costs are just and reasonable, and were prudently incurred,
8 those costs will not be subject to disallowance or further reasonable-
9 ness or prudence review except for fraud, perjury, or intentional with-
10 holding of key information by the corporation. The annual storm harden-
11 ing plan costs may not include costs recovered through the corporation's
12 base rates and must be allocated to customer classes pursuant to the
13 rate design most recently approved by the commission. If a capital
14 expenditure is recoverable as a storm hardening plan cost, the corpo-
15 ration may recover the annual depreciation on the cost, calculated at
16 the corporation's current approved depreciation rates, and a return on
17 the undepreciated balance of the costs calculated at the corporation's
18 weighted average cost of capital using the last approved return on equi-
19 ty.

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

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

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

41 (i) The commission shall promulgate any necessary rules and regu-
42 lations to implement and administer the provisions of this subdivision.

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