

STATE OF NEW YORK

97

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. COMRIE, JACKSON -- read twice and ordered printed,
and when printed to be committed to the Committee on Energy and Tele-
communications

AN ACT to amend the public service law, in relation to enacting the
"build to need act"

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

1 Section 1. Short title. This act shall be known as and may be cited as
2 the "build to need act".
3 § 2. Legislative findings and intent. The legislature hereby finds
4 that in order to achieve the targets set forth in the climate leadership
5 and community protection act, zero-emissions vehicle sales targets, and
6 regulations, including the advanced clean truck and advanced clean cars
7 II rules, zero-emissions school bus mandate, and other relevant goals,
8 the interests of the people of the state would be served by:
9 (a) expediting electric grid infrastructure upgrades to facilitate the
10 charging of light-duty, medium-duty, and heavy-duty electric vehicles;
11 (b) aligning a proactive planning process for beneficial electrifica-
12 tion with the current coordinated grid planning process for electric
13 corporations;
14 (c) ensuring the full range of feasible distributed energy resource
15 technologies, load management opportunities, and expected electrified
16 end uses are incorporated into electric utility investment plans;
17 (d) lowering costs to customers through efficient planning, including
18 consideration and deployment of non-wires solutions that reduce or elim-
19 inate the need for distribution system upgrades;
20 (e) ensuring meaningful benefits to communities most affected by
21 large-scale proactive utility projects developed under this framework;
22 and

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

LBD00233-01-5

(f) enhancing speed, flexibility, and ease of customer interconnections (including both loads and distributed generation).

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

§ 77-a. Build to need act. 1. Within sixty days of the effective date of this section, the commission shall commence a proceeding to implement a grid planning process that shall direct electric corporations to:

(a) align planning under this section with existing planning processes, including the coordinated grid planning process implemented pursuant to the climate leadership and community protection act, to the extent feasible;

(b) provide annually to the New York independent system operator updated load projections consistent with the state's electrification and climate related policy mandates;

(c) use a planning horizon of at least ten years for transmission through substation-level investments and a planning horizon of at least five years for other distribution investments;

(d) proactively gather and incorporate data relevant to future electric loads from sources including but not limited to customers operating fleets, state and municipal departments of transportation or their equivalents, other entities that may reasonably be expected to have relevant information concerning location, type, magnitude, or timing of major future loads, available vehicle telematics data, and other sources of information as directed by the commission;

(e) consider customers' activities that may reduce, defer, or otherwise affect the need or extent of grid upgrades, such as customers' reasonably foreseeable load management activities, including but not limited to implementation of automated load management technologies, and deployments of distributed energy resources and ability to enter into flexible interconnections;

(f) identify system needs where the electric corporation, planning in accordance with the state's electrification and climate related policy mandates, finds (i) a reasonable expectation of new load in a specific area based on inputs including fleet electrification commitments, proximity to transportation corridors, ports, airports, other existing transportation or freight hubs and other relevant data sources that would substantiate the projections of new load and the associated timeline; and (ii) a reasonable likelihood of grid constraints that shall impair the electric corporations ability to serve the load absent a solution to address the system need in a timely manner; and

(g) where an electric corporation identifies a system need, such corporation shall develop solutions that proactively address such system need, and consider advanced technologies where appropriate and feasible.

2. (a) The commission shall develop a test for defining larger tier one solutions and smaller tier two solutions. Such test shall:

(i) be applied uniformly to all electric corporations, except where the commission determines such different criteria should apply to a given electric corporation because unique circumstances or hardships, or impracticability of applying the uniform test to such electric corporation exist;

(ii) prohibit electric corporations from segmenting solutions to avoid a tier one designation; and

(iii) specify criteria such as, but not limited to, solution cost as a percentage of the electric corporation's rate base, solution nominal voltage, solution wattage and solution type.

1 (b) The commission may update such test as appropriate to ensure the
2 timely achievement of state electrification mandates and the efficient
3 consideration of solutions development pursuant to this section.

4 (c) The commission shall establish separate requirements for tier one
5 projects for which the electric corporation seeks approval under subdivi-
6 sion four of this section and tier two projects.

7 3. The commission shall develop a framework governing the use of
8 advanced technologies as part of the solutions for which the electric
9 corporation seeks approval under subdivision four of this section. Such
10 framework shall: (a) define advanced technologies to include energy
11 storage, demand response, automated load management, other distributed
12 energy resources, and any other categories as determined by the commis-
13 sion. Such framework shall direct electric corporations to consider
14 where appropriate and feasible at least one alternative technology to
15 address the identified system need fully or partially; and

16 (b) such electric corporation shall demonstrate why advanced technolo-
17 gies were or were not included as part of the project. The commission
18 may establish mandatory targets for deployment of advanced technologies,
19 provide for earnings adjustment mechanisms associated with utilities'
20 deployment of advanced technologies, and include other metrics and guid-
21 ance as appropriate.

22 4. In approving tier one projects for which the electric corporation
23 seeks approval under this subdivision, the commission shall require:

24 (a) electric corporations file with the commission a petition for
25 approval. Such petition shall include a description of project need
26 including data sources to substantiate need, explanation of alternatives
27 considered, description of its community benefit plan as required in
28 subdivision six of this section, projected costs and benefits, a
29 proposed cost recovery method, and any other requirements as established
30 by the commission. Further, such petition shall include an explanation
31 of an electric corporation's reasonable efforts to obtain state or
32 federal funding sources to offset electric corporation customer costs of
33 the project. If the electric corporation does not seek state or federal
34 funding sources, it shall explain why it did not seek such funding.

35 (b) render a decision on such petition within one hundred twenty days,
36 or within the one hundred twenty day period, extend such time to render
37 a decision by sixty days. Failure to render a decision within such time-
38 line prescribed, shall deem such petition approved by operation of law;
39 and

40 (c) to the extent an electric corporation's infrastructure deployment
41 or other costs attributable to this section are not included in its
42 current rate plan as of the effective date of this section, such elec-
43 tric corporation may recover the incremental revenue requirement associ-
44 ated with such costs through a surcharge mechanism until its base rates
45 are reset. A surcharge mechanism may only be used to the extent neces-
46 sary between the effective date of this section and the conclusion of
47 the electric corporation's next rate case.

48 5. (a) All tier one projects for which the electric corporation seeks
49 approval under subdivision four of this section shall include a communi-
50 ty benefit plan. The commission shall develop a community benefit plan
51 framework which shall:

52 (i) define the term "affected communities," which shall include commu-
53 nities in the vicinity of a tier one project as well as other criteria
54 defined by the commission;

55 (ii) consider separate requirements applicable to disadvantaged commu-
56 nities within affected communities;

1 (iii) specify criteria that a reasonable percentage of solution bene-
2 fits are demonstrated to be delivered to affected communities;

3 (iv) consider achievable, measurable workforce development programs
4 and goals designed to expand high-quality job opportunities in affected
5 communities;

6 (v) require such electric corporation provide benefits to affected
7 communities; and

8 (vi) require a description of such electric corporation's past and
9 planned efforts concerning community engagement and its history of
10 incorporating an affected communities feedback into its solution or its
11 willingness to incorporate an affected communities feedback.

12 (b) Reasonable and prudently incurred costs in the implementation of
13 the community benefit plan shall be recoverable by such electric corpo-
14 ration as part of solution costs.

15 6. The commission is authorized to promulgate rules and regulations
16 necessary to determine record keeping requirements for tier two
17 projects, including:

18 (a) records demonstrating project need;

19 (b) analysis of the chosen solution by the electric corporation;

20 (c) alternatives considered;

21 (d) project costs and benefits; and

22 (e) any other requirements determined by the commission.

23 7. Within two hundred eighty days of the effective date of this
24 section, electric corporations shall offer to customers, and update
25 tariffs as necessary to enable both hybrid and flexible intercon-
26 nections. For the purposes of this subdivision, hybrid interconnections
27 include an interconnection, through a single application, of hybrid
28 facilities. Such hybrid facilities shall include those composed of more
29 than one device of different technology types for such production, stor-
30 age, and consumption of electricity that are located on the same site
31 and have a single point of interconnection. Further, for the purposes of
32 this subdivision, flexible interconnections include electric corporation
33 requirements to enable expeditiously energizing new load or intercon-
34 necting a distributed energy resource to an electric corporation's
35 distribution system, including an agreement, supported by the use of
36 software or hardware solutions such as automated load management, for
37 curtailing the import and export of electricity from and to the distrib-
38 ution system.

39 8. Within one year of the effective date of this section, the commis-
40 sion shall establish average and maximum target time periods for load
41 energizations and distributed generation interconnections. The commis-
42 sion may establish targets that vary depending on the size and complexi-
43 ty of such work, as well as factors beyond such electric corporation's
44 control. Further, the commission shall establish a procedure for
45 customers to report energization or interconnection delays to the
46 commission. The commission shall establish an enforcement mechanism to
47 ensure timely interconnection and energization, including but not limit-
48 ed to, earnings adjustment mechanisms with incentives and penalties.

49 9. The commission, in consultation with the New York state energy
50 research and development authority, the department of environmental
51 conservation, the department of transportation, the power authority of
52 New York state, the Long Island power authority, and other agencies
53 charged with administering electric vehicle programs, incentives, or
54 procurements may include provisions for the use of automated load
55 management in such programs, incentives, and procurements when they are
56 determined to be cost effective. For purposes of this subdivision auto-

1 mated load management shall include any required hardware and software
2 and also installation costs.

3 10. (a) Within one year of the effective date of this section, the
4 commission shall adopt reporting requirements under this section for a
5 time period determined by the commission but no less than five years
6 from the effective date of this section. The reporting requirements
7 shall include at a minimum:

8 (i) a summary of tier one and tier two projects deployed, including
9 but not limited to a general categorization of projects, project costs,
10 and for projects that entered service between the effective date of this
11 section and the effective date of the electric corporation's subsequent
12 rate plan, an identification of those projects not included in the elec-
13 tric corporation's prior rate plan;

14 (ii) a comparison of projected and actual loads, including projected
15 loads attributable to electrification and a summary of projected elec-
16 tric corporation system upgrades and costs to serve such loads;

17 (iii) actual and estimated, as practicable, incremental costs and
18 revenues attributable to tier one and two projects;

19 (iv) a summary of community benefit plan implementations and results,
20 as applicable; and

21 (v) energization and interconnection timelines.

22 (b) To the extent an electric corporation's performance fails to meet
23 corresponding target time periods, such report shall explain such fail-
24 ures and shall provide a strategy for meeting the targets in the future.
25 The commission shall monitor each electric corporation's activities
26 related to this section and take appropriate action as needed to address
27 any deficiencies.

28 § 4. This act shall take effect immediately.