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GOVERNOR ANDREW M. CUOMO

GOVERNOR CUOMO ANNOUNCES BILL DELIVERED TO THE LEGISLATURE TO STRENGTHEN ENFORCEMENT AGAINST UTILITIES THAT FAIL TO EFFECTIVELY ADDRESS POWER OUTAGES

Eliminates Caps on Penalties to Align with the Actual Damages Caused by Specific Violations

Legislation Would Establish a Streamlined Process for Revocation of a Utility's Operating Certificate for Recurring Failures

Ensures Better Service and Communications to Customers in Response to Extreme Weather Events

Governor Andrew M. Cuomo today announced he is [advancing legislation](#) to strengthen the State's enforcement of utilities to address systematic failures to prepare for and respond to extreme weather events, including the unacceptable performance of several electric and telecom providers during Tropical Storm Isaias last year. If adopted, the legislation would hold utilities accountable by eliminating caps on penalties for Public Service Law violations and instead establish a new penalty system that more accurately tailors the penalty to the violation. In addition, the new law would also expedite and clarify the utility franchise revocation process for recurring failures and require the Public Service Commission to cap the amount of money ratepayers contribute to utility executive salaries.

"In the wake of poor performance during last year's destructive storms, it's abundantly clear that many of New York's utilities are not serving the public interest and that our tools to keep them in line are woefully inadequate," **Governor Cuomo said.** "This legislation will allow the state to properly penalize utilities for violating the law and allow us to pursue repeat offenders if we think their licenses should be revoked. Utilities serve the people and collect their money—they should be held accountable."

In addition to the provisions described above, the legislation would:

- Allow PSC to assess separate penalties for the benefit of consumers, including the authority to seek up to \$500 per household for consumer damages like spoiled food and lost medications due to extended outages;

- Apply the new system of penalties to electric corporations, gas corporations, cable television companies or cable television systems, telephone corporations, steam corporations, water-works corporations, as well as their officers or employees;
- Require companies to have a communications plan included in an emergency response plan to ensure better communications to customers by utilities during an outage. The communications plan would have to specifically identify and describe redundancies in the company's communication systems.

The proposed legislation will apply to electric, gas, water, telecommunications and cable services. Utilities that fail to comply will be subject to penalties and revocation, as contemplated under the Governor's bill. Under current rules, electric utilities provide the PSC with emergency response plans and are required under such plans to prepare for service outages as a result of extreme weather. Recent extreme weather events such as Tropical Storm Isaias have illustrated that the penalties in the Public Service Law have not been a sufficient deterrent against actions or inaction that violates such emergency response plans.

These violations jeopardize public health and safety, and ratepayers deserve better service and better communications. This legislation ensures that utilities will be held to higher standards given the franchise they are awarded to provide the service New York State customers deserve.

The bill would amend the Public Service Law to increase penalties by removing existing caps and replacing the current penalty assessment system with a system that tailors penalties to the nature and extent of harm caused by public utilities who violate the law. Currently, penalties related to reliability and continuity of electric service, including restoration following a major outage or event, start at \$100,000 or .02 of 1 percent of annual intrastate gross operating revenue, whichever is greater, for each separate and distinct offense. Penalties rise to \$500,000 or .04 of 1 percent, whichever is greater, for combo gas and electric utilities in the restoration of electric service following a major outage event or emergency.

This proposed legislation is the latest of numerous actions the Governor has taken to hold utilities accountable. On February 3, [Governor Cuomo directed](#) Rory I. Lancman, Special Counsel for Ratepayer Protection at the New York State Department of Public Service, to commence and lead a municipalization feasibility study regarding Long Island's largest privately-owned water company, New York American Water Company, Inc. On January 10, Governor Cuomo announced a [proposal to prohibit utility disconnections](#) in regions that are under a State of Emergency as part of the 2021 State of the State.

The Governor also took numerous actions to hold utilities accountable during Tropical Storm Isaias, which left hundreds of thousands of New Yorkers without power this summer. On November 19, 2020 Governor Cuomo announced that the New York State Public Service Commission had [completed its investigation](#) into the apparent failure of New York's electric utilities to adequately prepare for and respond to Tropical Storm Isaias. As a result of the investigation, the fastest ever conducted by New York's utility

regulator, three of the state's largest utilities - Con Edison, O&R and Central Hudson - now face potential penalties totaling \$137.3 million, with Con Edison and O&R also facing potential license revocation. All three will now be required to explain why penalties should not be imposed by the PSC for such apparent violations of the laws, regulations and orders that are designed to ensure the safety and reliability of the electric system.

Subsequently, the Governor directed the Special Counsel for Ratepayer Protection at the New York State Department of Public Service to hold four virtual public forums in December 2020 and January 2021 to receive public testimony regarding potential damages and harm suffered by ratepayers as a result of electric service providers' performance in response to Tropical Storm Isaias. Finally, in December 2020, the Governor announced [the Long Island Power Authority has filed legal action](#) against PSEG Long Island for breach of contract for its unacceptable performance in response to Tropical Storm Isaias.

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