

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 12-148—sSB 23

Energy and Technology Committee

AN ACT ENHANCING EMERGENCY PREPAREDNESS AND RESPONSE

SUMMARY: This act requires the Public Utilities Regulatory Authority (PURA) to initiate a proceeding to (1) review electric and gas company emergency preparation and service restoration practices, infrastructure adequacy, and coordination efforts; (2) establish electric and gas company emergency performance standards for the companies; and (3) identify the most cost-effective levels of electric company tree trimming and system hardening needed to achieve maximum system reliability and minimize outages. It requires PURA to review the companies' performance after an emergency and issue orders to enforce the standards. It also allows PURA to issue civil penalties for violations. In addition, the companies must submit annual reports on their performance in emergencies.

The act requires PURA to open a proceeding to establish standards for restoring intrastate telecommunications under certain circumstances after an emergency. It also requires telecommunications companies to issue credits to customers who lose service under certain circumstances.

The act also:

1. requires the Department of Energy and Environmental Protection (DEEP), in consultation with the utility companies, the Department of Transportation (DOT), the Department of Emergency Services and Public Protection (DESPP), and an association of municipalities, to develop, by January 1, 2013, a procedure for expedited road clearing for public safety personnel after an emergency;
2. increases the frequency with which private and municipal utility companies must file emergency service restoration plans;
3. requires certain telecommunications companies to provide liaisons to electric company emergency response centers under certain circumstances;
4. requires cell phone service providers to report on the backup power generation capabilities of their cell towers;
5. establishes a pilot program to fund infrastructure (micro-grids) for onsite electricity generation for critical facilities;
6. increases communication between DOT, PURA, municipalities, and utilities to coordinate roadwork and utility line undergrounding; and
7. requires PURA to study the feasibility of creating a program to reimburse residential customers for food and medications lost due to power outages.

It expands the scope of the state's civil preparedness and training requirements by requiring all private utility companies, including electric, gas,

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telephone, water, and cable TV companies, to comply with the state's comprehensive civil preparedness plan. It also requires all state departments, offices, and agencies to participate in civil preparedness planning, training, and exercises when directed to do so by the DESPP commissioner.

The act also expands the scope of activities for which the DEEP commissioner can issue temporary authorizations.

By law, the Office of Consumer Counsel (OCC) advocates for consumer interests in matters regarding the regulated utility companies. The act expands OCC's charge to include rates and related issues, ratepayer-funded programs, and matters related to the utilities' reliability, service quality, infrastructure maintenance, and operations.

EFFECTIVE DATE: Upon passage, except for the provisions regarding civil preparedness planning and training, which are effective July 1, 2012.

STORM PREPARATION AND RESPONSE

The act requires PURA to initiate a proceeding to establish industry specific standards for acceptable performance by electric and gas companies in an emergency (hurricane, tornado, storm, flood, high water, wind-driven water, snowstorm, drought, fire, explosion, or enemy attack). The standards must (1) protect public health and safety; (2) ensure service reliability; (3) prevent and minimize the number and duration of service outages; (4) facilitate restoration after outages; and (5) identify the optimum levels of tree trimming and system hardening, including putting equipment underground, to maximize system reliability and minimize service outages. PURA must submit a report on the standards and any necessary legislation to the Energy and Technology Committee by November 1, 2012.

PURA Review

In preparing the standards, the act requires PURA to review and analyze:

1. each electric and gas company's current restoration practices following an emergency, including (a) damage and outage estimates made before an emergency; (b) damage and outage assessments made after an emergency; (c) restoration management after an emergency, including any access to other restoration resources provided by regional and reciprocal aid contracts; (d) planning for at-risk and vulnerable customers; (e) communication policies with state and local officials and customers, including individual restoration estimates and the timeliness and usefulness of the estimates; and (f) the need for mutual assistance during an emergency;
2. the adequacy of each company's infrastructure, facilities, and equipment, including whether the company (a) follows standard industry practices for their operations and maintenance and (b) can access adequate replacement equipment during an emergency;
3. coordination efforts between electric companies, telecommunications companies, and cable TV companies, including pre-emergency planning;

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4. each electric company's tree trimming policies, including (a) amounts spent on tree trimming since its last rate case; (b) the average length of outages caused by falling trees and limbs; (c) how expanding the trimming zone around the company's distribution lines would affect ratepayers, infrastructure damage, and equipment, and decrease the frequency and length of outages; (d) the percentage of outages during Hurricane Irene and the October 2011 snowstorm that were caused by falling trees and limbs outside current trim areas, based on an analysis of the extent and effectiveness of prior tree trimming; and (e) appropriate standards for roadside tree care, vegetation management practices in utility rights-of-way, "right tree-right place," and any other tree maintenance standards recommended by the State Vegetation Management Task Force; and
5. any other policies, practices, or information relevant to the review.

Electric & Gas Company Performance Standards

The act requires PURA to establish minimum performance standards for an electric or gas company's preparation and service restoration during an emergency in which more than 10% of its customers are without service for more than 48 hours. The standards must include requirements for:

1. minimum staffing and equipment levels for each company, based on the size of its customer base and the nature of its infrastructure;
2. recovery and restoration targets based on outages affecting over 10%, 30%, 50%, and 70% of a company's customers;
3. a communication plan between the company and its customers that includes communications during non-business hours;
4. safety standards for company employees, mutual aid crews, and private contractors;
5. the filing of mutual aid agreements (which the act exempts from disclosure under the Freedom of Information Act) and an assessment of each company's ability to rely on assistance from other regional utilities;
6. communication and coordination protocols between companies and state and local emergency operations centers regarding emergency preparation, road clearing, and restoration priorities;
7. electric company tree trimming, cutting, and removal to reduce outages;
8. communication and coordination, in consultation with DESPP, between each company and the public, including standards for using the emergency notification system to notify the public of service restorations and possible dangerous conditions;
9. timely communications between companies and relevant state and local officials regarding emergency coordination and communication;
10. communication and coordination between appropriate electric, gas, and telephone or telecommunication companies or voice over internet protocol (VOIP) providers; and
11. operations of electric and gas company call centers.

The act requires PURA to establish any other performance standards to (1)

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ensure a gas or electric company's reliability during an emergency, (2) prevent outages from lasting over 48 consecutive hours and affecting over 10% of the company's customers, and (3) promote service restoration after an outage. It also allows PURA to initiate additional dockets to establish emergency performance standards for electric and gas companies if it determines that a company's changed circumstances require it.

In future rate cases, the act requires PURA to allow electric or gas companies to recover the reasonable costs they incur by maintaining or improving their infrastructure's resiliency, pursuant to plans that PURA approves, in order to meet the standards that PURA implements.

By April 15, 2013, and annually thereafter, the act requires electric and gas companies to submit an emergency response report to PURA. The report must include information and analysis regarding how the company complied with the act's emergency preparation and restoration standards in the previous year. PURA can also require any of the companies to submit a supplemental emergency response plan or implementation plan after any storm, emergency, or event that caused significant outages.

PURA Performance Review & Penalties

The act requires PURA to review each electric or gas company's performance (1) after an emergency in which over 10% of the company's customer lost service for over 48 consecutive hours or (2) at its discretion. If PURA finds that a company failed to comply with any of the act's emergency preparation and service restoration standards, or any other PURA order, it must hold a contested case hearing and issue orders to enforce the standards.

The act also allows PURA to issue civil penalties against electric or gas companies of up to \$10,000 per offense, up to a total of 2.5% of their annual distribution revenue, for noncompliance in these emergencies. In determining the penalty, the act requires PURA to consider if it approved the company's efforts and funding allowances to meet infrastructure resiliency standards. The penalties must be paid as a credit to ratepayers and cannot be considered an operating expense that the company may recover in its rates.

Intrastate Telecommunication Restoration Standards

The act requires PURA to initiate a docket to establish standards for restoring intrastate telecommunications services following an emergency for service provided by telephone companies, certified telecommunications providers, and cable TV companies. The standards can only apply when an outage caused by an emergency (1) affects over 10% of a company's access lines for over 48 consecutive hours and (2) was not caused by the equipment, negligence, or willful act of a customer or third party.

In establishing the standards, the act requires PURA to consider:

1. the severity, extent, and duration of an emergency;
2. communication and coordination by each company with the state, municipalities, and any relevant electric company;
3. the operations of any call center operated by each company during an

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- emergency;
4. requirements for each company to assign a representative to staff the emergency operations center of any relevant electric company;
 5. service restoration;
 6. the safety of the company's customers; and
 7. whether restoration of intrastate telecommunications service could not be completed until commercial power was restored.

If PURA finds that a company failed to comply, the act allows it to submit a report to the Energy and Technology Committee recommending legislation to establish penalties for future noncompliance.

Telecommunications Billing Credits

To the extent allowed by federal law, the act requires telephone companies and certified telecommunications providers to issue credits to customers who lose intrastate telecommunications service during an emergency if (1) the outage lasts over 24 consecutive hours and affects over 10% of the company's access lines; (2) the outage was not caused by a commercial power outage or the equipment, negligence, or willful act of the customer or a third party; and (3) the customer notifies the company within 30 days of the end of the emergency. The credit must be prorated to reflect the portion of the billing period during which the customer was without service. The act specifically excludes cable TV companies that are already required to provide a similar customer credit under current law.

Emergency Service Restoration Plans

Prior law required private and municipal utility companies, including water companies, to file emergency service restoration plans with PURA, DESPP, and local municipalities every five years. The act instead requires these plans to be filed every two years, with the next plan due July 1, 2012, and adds VOIP providers to the utilities subject to the mandate. In addition to the items prior law required in the plans, the act requires them to include (1) communication and coordination measures with state officials, municipalities, and other private utilities and telecommunications companies during a major disaster or emergency; (2) participation in training exercises as directed by the DESSP commissioner; and (3) responses for service outages affecting more than 10%, 30%, 50%, and 70% of customers.

Under the act, any information provided in the plans is considered confidential, not subject to the Freedom of Information Act (FOIA), and cannot be transmitted to anyone unless it is needed to comply with the act. The act requires PURA, by September 1, 2012, and biannually thereafter, to summarize the plans in a report to the Energy and Technology Committee.

Emergency Operations Center Representatives

The act requires telephone companies, certified telecommunications providers, and cable TV companies with more than 25,000 subscribers to provide a liaison to an affected electric company's emergency operations center to ensure

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communication and coordination during emergency response and restoration efforts. The companies must provide the liaison (1) when the governor or president declares an emergency or major disaster or (2) at the DESPP commissioner's discretion.

REPORTS ON CELL PHONE SERVICE BACKUP GENERATION

By October 1, 2012, and annually thereafter, the act requires each mobile radio (cell phone) service provider to issue a report to the Connecticut Siting Council and DESPP on its ability and plans to provide backup power to its telecommunications towers and antennae during an electricity outage. Under the act, any information provided in the reports (1) is confidential, (2) is exempt from disclosure under FOIA, and (3) cannot be transmitted to anyone else except to comply with the act's reporting requirement.

Once the initial reports have been submitted, the act requires the Siting Council, in consultation with DEEP, DESPP, and PURA, to study the feasibility of requiring backup power for telecommunications towers and antennas. The study must consider (1) federal, state, and local jurisdictional issues, including siting issues; (2) similar laws or initiative in other states; (3) the technical and legal feasibility of such requirements; (4) related environmental issues; and (5) any other issues PURA considers relevant. PURA (presumably the Siting Council) must report its findings and recommendations to the Energy and Technology Committee by January 1, 2013.

MICRO-GRID GRANT AND LOAN PILOT PROGRAM

The act requires DEEP to establish a microgrid grant and loan pilot program to support up to 65 megawatts of onsite electricity generation (the amount of power needed to serve approximately 50,000 homes) at critical facilities (i.e., hospitals, police and fire stations, water and sewage treatment plants, public shelters, correctional facilities, municipal commercial areas, municipal centers identified by a municipality's chief elected official, or other facilities identified by DEEP). Under the act, a "microgrid" is a group of interconnected electricity users and generators that (1) is within clearly defined electrical boundaries that acts as a single controllable entity in respect to the larger electrical grid and (2) can operate as either a part of the larger grid or independent of it, in "island mode."

The pilot program is open to municipalities, investor-owned electric companies, municipal electric companies that participate in the competitive electricity supply market (none currently do), energy improvement districts, and private entities that propose supporting these facilities by developing micro-grid energy generation or converting existing renewable generation for micro-grid use. Eligible parties can collaborate to submit a proposal.

The program can issue up to \$15 million in total grants and loans and, to the extent possible, the awards must be evenly distributed between small, medium, and large municipalities. The grants and loans can only be used for the costs of microgrid design, engineering services, and interconnection infrastructure. The act does not specify a funding source for the program, but allows DEEP to

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establish a financing mechanism to leverage additional funding that could be used for purposes other than microgrid interconnection infrastructure (PA 12-189 authorizes up to \$25 million in bonds for the microgrid program).

The act requires any entity that receives a grant or loan under the program to issue an annual report on the project's status to PURA, DEEP, the OCC, and the Energy and Technology Committee for five years after receiving the funding. It also requires DEEP, by January 1, 2013, to report to the Energy and Technology Committee on other funding sources needed to expand the program and any necessary legislative changes.

It also requires DEEP, in consultation with the Connecticut Academy of Science and Engineering, to study how to provide reliable electric services to critical facilities. The study must evaluate the costs and benefits of methods, including the use of microgrids, and make recommendations identifying the most cost-effective and reliable methods. DEEP must submit its findings to the Energy and Technology Committee by January 1, 2013.

ROAD WORK COORDINATION

The act requires DOT and any municipality to notify PURA whenever they do road work (1) over five miles long or (2) in a commercial area. PURA must then notify utility companies if it determines that the road work could provide an opportunity to install, replace, upgrade, or bury any of their various infrastructure lines.

ELECTRIC CUSTOMER REIMBURSEMENT STUDY

The act requires PURA to study the feasibility of creating a PURA administered program to reimburse residential electric company customers for the loss of refrigerated food and medications caused by electricity outages lasting over 48 hours. In the program (1) reimbursements cannot exceed \$150 for food and \$200 for medications, (2) customer applications for reimbursement must be filed with electric companies within 30 days after service is restored, and (3) customers must submit an itemized list of their spoiled food or medications and proof of the losses.

Under the act, PURA must submit a report to the Energy and Technology Committee by February 1, 2013, on:

1. how it would establish a reimbursement program;
2. the program's application process;
3. each electric company's role in administering the program;
4. the program's funding mechanism and funding cap;
5. the documents needed to prove losses;
6. whether the program would be limited to customers within certain income levels; and
7. any necessary legislative changes.

DEEP TEMPORARY AUTHORIZATIONS

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By law, the DEEP commissioner can issue a temporary authorization for certain activities that otherwise require general permits if (1) the activity will last for no more than 30 days and will not pose a significant threat to human health and the environment and (2) the authorization is needed to protect the public interest and does not conflict with relevant federal law. Prior law allowed an authorization to be renewed once and prohibited the commissioner from issuing temporary authorizations for the same activity more than once in 12 months.

The act expands the scope of activities for which the commissioner can issue these authorizations to include minor activities in wetlands and water courses and stream channel encroachment lines. It also (1) increases the amount of time allowed for the authorizations to 90 days, which do not have to be consecutive; (2) ends the commissioner's ability to renew an authorization; and (3) requires 12 calendar months to have passed before the commissioner can issue an authorization for the same activity.

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