

**SENATE STANDING COMMITTEES ON ENERGY AND
TELECOMMUNICATIONS; ENVIRONMENTAL
CONSERVATION; CORPORATIONS, AUTHORITIES AND
COMMISSIONS; VETERANS, HOMELAND SECURITY AND
MILITARY AFFAIRS; LOCAL GOVERNMENT; and CITIES**

**ASSEMBLY STANDING COMMITTEES ON CORPORATIONS,
AUTHORITIES AND COMMISSIONS; ENERGY;
ENVIRONMENTAL CONSERVATION; GOVERNMENTAL
OPERATIONS; LOCAL GOVERNMENTS; and CITIES**

**Tropical Storm Isaias Electric and Internet Outage
Events**

**Testimony of the New York State
Department of Public Service**

August 20, 2020

Good morning Chairs Paulin, Parker, Cusick, Kaminsky, Englebright, Comrie, Zebrowski, Brooks, Thiele, Gaughran, Braunstein, Jackson, and other distinguished members. My name is John B. Rhodes, CEO of the Department of Public Service and chair of the Public Service Commission. With me is Tom Congdon, Executive Deputy, and Kevin Wisely, Director of Resilience and Emergency Preparedness. We are here today because we all witnessed an unacceptable storm response by utilities. The Governor, and many of you, have been crystal clear that there is a pattern here that is intolerable, and we agree. As the primary regulator with jurisdiction over these matters, today I will summarize how we are moving deliberately to address this situation.

The Department's mission is to ensure safe, reliable, and affordable access to energy, telecommunications, and private water services. In that capacity, the Department advises the Public Service Commission — and in the case of PSEG Long Island, the Long Island Power Authority — on issues including setting rates, resolving customer complaints, meeting performance standards, and advancing the State's clean energy agenda. We also oversee utility compliance with emergency preparedness and outage restoration requirements.

On August 4, Tropical Storm Isaias swept through New York, leading to power outages affecting approximately 1.3 million customers in the Hudson Valley, New York City and Long Island. Hundreds of thousands of New Yorkers experienced multiple days with no electricity or internet service, and thousands remained without service 10 or more days after the storm. Throughout this period, some utilities provided inaccurate information, making it challenging for families and businesses to plan. This was more than inconvenience. It was completely unacceptable and a public health and safety concern.

Shortly after the storm, Governor Cuomo declared a state of emergency, and he directed the Department to fully investigate the utility and telecommunication providers' storm preparedness and response and has also requested that the Department of Financial Services assist us in the investigation. We are two weeks into the investigation, and I will report there were utility failures and apparent violations. As the Governor announced yesterday, the Department moved swiftly to demand the utilities take immediate corrective actions to ensure that they are better prepared in advance of another storm. We have also put the utilities on notice that we will be using all enforcement tools at our disposal, and we are leaving nothing on the table in our efforts to hold the utilities accountable including working on legislative improvements to enhance our already-clear franchise revocation authority.

The Notices of Apparent Violations identified the following problems:

- For PSEG Long Island, Con Edison, and Central Hudson, there were communications systems failures that led to customers receiving inaccurate information about their restoration times or an outright inability to obtain any information when Central Hudson's website crashed at the beginning of the event.
- All the affected utilities (but particularly Con Ed and O&R) did not have sufficient crewing ahead of the storm's arrival, and/or relied too heavily on mutual aid resources that could not be obtained soon enough given the large geographic reach of the storm.
- We know the utilities and telecommunications providers in many cases did not effectively coordinate or communicate with local governments, which is critical to effective restoration, and we have also notified Altice-Optimum of apparent failures in their storm response.

The August 19 Notices demanded immediate corrective action, including:

- Immediately adding crewing capacity via retainer contracts from private contractors or other means, with a goal to be able to double the existing internal capacity of utilities prior to a storm, and providing bi-weekly updates to the Department on their progress;
- Testing capabilities at all command and data centers, call centers and back-up facilities to ensure capability to handle a catastrophic event and provide confirmation back to the Department regarding the results of these tests within 10 days; and
- Refining coordination plans with municipalities tailored to each county (including road clearing and local liaisons) and provide to the Department within 20 days a written confirmation from each county Emergency Operations Center that they understand and accept the plan.

There have been some initial steps taken by utilities that recognize the hardships experienced by customers: PSEG LI responded to our and LIPA's call for them to forfeit \$8 to \$10 million in incentive compensation for 2020 to pay for a food and medicine reimbursement program on Long Island, Con Edison and O&R created a similar shareholder-funded program.

We view these actions as first steps, and I'd like to stress that our investigation is ongoing. We will identify the root causes of the failures, review operating decisions before and during restoration, and review utility communications with customers and government officials. There may be further violations identified at these utilities and potentially other companies as a result of our investigation. From the more complete investigation, we will determine the appropriate enforcement course of action: financial penalties, injunctive relief, or franchise revocation; and we will require further corrective actions if warranted.

In closing, the Department is expecting utilities to respond constructively to our notices of apparent violations so that immediate corrective actions are in place for the remainder of this

hurricane season. With our partners at DFS, we will conduct an intense investigation of the utilities' preparedness, response and recovery from these events. We will determine what went wrong, what went right, and take action accordingly. Utilities will be held accountable to follow their operational procedures and our regulations. Utility violations can result in significant financial penalties to shareholders, and more severe sanctions, as I have outlined.

Thank you. We'd be happy to answer any questions.