OFFICE OF LEGISLATIVE RESEARCH
Objective Research for Connecticut's Legislature

ResearchReport

Storm Legislation and Planning

By: Mary Fitzpatrick, Associate Analyst
August 24, 2020 | 2020-R-0221

Issue

Describe legislation passed after the 2011 storms to address storm planning, communication, and microgrids. What did the legislation require with regard to storm response? Did it include penalties?

Summary

After two severe storms struck Connecticut in 2011, the legislature passed PA 12-148, *An Act Enhancing Emergency Preparedness and Response*. The act contained numerous requirements for electric distribution companies (EDCs, i.e., Eversource and United Illuminating), gas companies, and telecommunications companies, among others. It required the Public Utilities Regulatory Authority (PURA) to establish minimum emergency performance standards for gas and electric company preparation and service restoration during an emergency. In a decision later that year, PURA established performance standards and required companies to incorporate the standards into their emergency response plans (ERP).

Under the act, PURA may 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, if a company fails to comply with the emergency preparation and service restoration standards or any other PURA order (CGS § 16-32i). The act also required PURA to establish standards for restoring intrastate telecommunications services and allows PURA to recommend legislation to establish penalties under certain circumstances (CGS § 16-247v).

While the act's other provisions addressing storm response and planning may not specify a penalty for noncompliance, by law, PURA may impose civil penalties of up to $10,000 per offense to companies they regulate that fail to obey any order, regulation, or statutory requirement, unless a different penalty is specified (CGS § 16-41).

PA 12-148 included numerous other provisions addressing storm planning and response. Among other things, it (1) increased the frequency with which private and municipal utility companies must file emergency service restoration plans; (2) established a pilot program to fund microgrids for onsite electricity generation for critical facilities; and (3) increased communication between the Department of Transportation (DOT), PURA, municipalities, and utilities to coordinate roadwork and utility line undergrounding.

More recently, Special Act 19-15 required PURA to study (1) industry-specific standards for acceptable EDC performance in an emergency and (2) minimum staffing and equipment levels for EDCs based on the number of customers they serve and the infrastructure deployed in an emergency. PURA's study, published in February 2020 (before Tropical Storm Isaias) stated that requirements under PA 12-148 have improved EDC emergency response performance. But PURA also identified additional areas needing review and possible updating, including restoration management priorities and communication with state and local officials.

In response to the recent Tropical Storm Isaias, PURA has begun a proceeding to review the restoration process, including whether restoration periods currently considered acceptable under utility ERPs are reasonable.

2012 Legislation

The legislature passed PA 12-148 after two severe storms struck Connecticut in 2011, Tropical Storm Irene on August 28, 2011, and the Nor'easter on October 29, 2011. Tropical Storm Irene caused 815,000 total peak customer outages for EDCs, while the October storm led to 832,000 such outages. Following the October storm, many customers were without power for 12 days or more. Many customers also experienced a loss of cable television and telecommunications services.

Emergency Response Standards

For EDCs and gas companies, PA 12-148 required PURA to establish minimum emergency performance standards for preparation and service restoration during an emergency in which more than 10% of customers are without service for more than 48 consecutive hours. The act required the standards to include the following requirements, among others:

1. minimum staffing and equipment levels for each company;
2. recovery and restoration targets based on outages affecting over 10%, 30%, 50%, and 70% of customers;
3. the filing of mutual aid agreements and an assessment of each company's ability to rely on assistance from other regional utilities; and

4. timely communications between companies and relevant state and local officials regarding emergency coordination and communication.

In its November 1, 2012, Performance Standards Decision, PURA established performance standards and required companies to incorporate their standards into their ERPs (Docket 12-06-09). By law, each public service company must submit its ERP to PURA for review every two years (CGS § 16-32e). PURA has stated that the next review is scheduled in 2020. In its 2018 review, PURA found most companies filed compliant plans and directed non-compliant companies to revise or resubmit their plans (Docket 18-03-29).

PA 12-148 also required 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. PURA established these standards in Docket 12-06-10.

Performance Review and Penalties

PA 12-148 requires PURA to review each EDC or gas company's performance (1) after an emergency in which over 10% of the company's customers lost service for over 48 consecutive hours or (2) at its discretion. If PURA finds that a company failed to comply with the 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 allows PURA to issue civil penalties against EDCs 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.

Additionally, under the act, if PURA finds a company failed to comply with standards for restoring intrastate telecommunications services, it may submit a report to the Energy and Technology Committee recommending legislation to establish penalties for future noncompliance.

Microgrids

The act required the Department of Energy and Environmental Protection to establish a microgrid grant and loan pilot program to support up to 65 megawatts of onsite electricity generation at critical facilities (e.g., hospitals, police, and fire stations, water and sewage treatment plants, and

public shelters). Subsequent legislation expanded the pilot program and made other changes. For more information, see OLR Report 2016-R-0068.

Other Provisions

Among numerous other provisions on storm response and planning, PA 12-148:

1. increased the frequency with which private and municipal utility companies must file emergency service restoration plans;
2. required certain telecommunications companies to provide liaisons to EDC emergency response centers under certain circumstances;
3. required cell phone service providers to report on the backup power generation capabilities of their cell towers; and
4. increased communication between DOT, PURA, municipalities, and utilities to coordinate roadwork and utility line undergrounding.

For a complete description of the act's provisions, see the OLR Public Act Summary.

Recent Legislation

Enacted last year, Special Act 19-15 required PURA to study (1) industry-specific standards for acceptable EDC performance in an emergency and (2) minimum staffing and equipment levels for EDCs based on the number of customers they serve, and the infrastructure deployed in an emergency. (It limited emergencies to those in which more than 10% of customers are without service for more than 48 consecutive hours.)

The act required the study to review current EDC practices concerning service restoration after an emergency, including the following:

1. estimates of potential damage and service outages before the emergency;
2. damage and service outage assessments after the emergency;
3. restoration management after any emergency, including access to alternate restoration resources through regional and reciprocal aid contracts;
4. plans for at-risk and vulnerable customers;
5. policies concerning communication with state and local officials and customers, including individual customer restoration estimates and whether estimates are timely or useful; and
6. the need for mutual assistance during an emergency.

The act also required the study to review the adequacy of EDC infrastructure, facilities, and equipment, including whether EDCs (1) are following standard industry practices for operation and maintenance and (2) have access to adequate replacement equipment during an emergency.

Under the act, the study had to additionally review the following:

1. any current policies and procedures for coordination efforts between EDCs and telecommunications and cable companies;

2. staffing and equipment levels related to restoring electric service after an outage from January 1, 1990, to present; and

3. other information PURA deems relevant.

The act required PURA to submit the study to the Energy and Technology Committee by January 1, 2020. Neither the act nor the study requirements contemplated new penalties.

PURA published its findings in February 2020, which generally included a review of industry standards for emergency performance, as well as EDC practices, infrastructure, and staffing (Docket 19-06-37).

In its findings, PURA notes that many of the study topics required under SA 19-15 overlap with requirements PURA established in its Performance Standards Decision after the 2011 storms. PURA stated that "the resultant ERPs generally serve well as a roadmap for storm restoration planning and operating procedures" (p. 41). PURA further stated that requirements under PA 12-148 (described above) have improved EDC emergency response performance. PURA identified areas needing further review and possible updating, including restoration management priorities and communication with state and local officials. The study also discussed utility staffing and how increased internal staffing would increase rates.

MF:kl