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THE MORELAND COMMISSION
ON UTILITY STORM PREPARATION AND RESPONSE

MORELAND COMMISSION

on Utility Storm Preparation
and Response



**Appointed by
Governor Andrew M. Cuomo**

Storm Impact on Electric Service

- ***Hurricane Sandy – October 2012***

- 2.1 million customer outages
- Restoration period: up to 21 days

- ***Hurricane Irene – August 2011***

- 1.1 million customer outages
- Restoration period: up to 9 days

- ***Tropical Storm Lee - September 2011***

- 68,000 customer outages
- Restoration period: up to 10 days

- ***Ice Storm – December 2008***

- 330,000 customer outages
- Restoration period: up to 8 days

** All restoration estimates apply only to customer facilities that could safely receive power*

Moreland Commission on Utility Storm Preparation and Response

- ***Created pursuant to the Moreland Act (Exec Law Section 6) following Hurricane Sandy***
- ***Commission's Mandate is twofold:***
 1. Study, Examine, Investigate, and Review:
 - Emergency Preparedness and Response of Utilities
 - Adequacy of Existing Regulatory Framework
 - Adequacy of Existing Oversight and Enforcement
 2. Make Recommendations for Reform

Summary of Investigation to Date

- Sent Subpoenas to 7 utilities & 40 letter requests seeking documents and information
- Received and reviewed thousands of pages of documents
- Conducted over 20 witness interviews
- Held 3 Public Hearings
- Work will continue, including future public hearings

Utility Companies = Natural Monopolies

The Basic Problem:

- The six utilities operating in NY and LIPA operate as natural monopolies in their own exclusive service areas with no risk of losing all or part of the territory because of toothless government oversight.

Preliminary Moreland Findings and Recommendations

Today the Moreland Commission is presenting preliminary findings and recommendations in three areas:

1. Strengthen State Oversight of Utilities
2. Unify State Energy Programs and Policy
3. Restructure LIPA

Public Service Commission Lacks Power and Oversight

The Public Service Commission is charged with overseeing New York utility companies but lacks real oversight

- Limited performance of required utility operational and management audits
- Scaled back reviews of rate requests and service delivery
- Did not regularly review or approve utility storm plans before Hurricane Sandy
- Weak penalty authority is failing to deter poor utility service
- Does not regulate LIPA rates and service

Strengthen State Oversight of Utilities

1) **Authorize PSC to Impose Administrative Penalties for Violations of its Orders**

- Right now, the maximum PSC fine is only \$100,000 a day total for all violations
- Utilities must be found to have committed a “knowing” violation, which may be difficult to demonstrate

Commission Recommends

- Increase penalties to ensure adequate deterrence - for example base penalty amount on .02% of gross revenue which would equate to about \$2 million per day for Con Ed and about \$750,000 per day for National Grid
- Lower burden of proof to “reasonable business” standard
- Require penalty money to be returned to impacted ratepayers
- Grant PSC explicit power to review fitness of utilities
- Give State explicit authority to revoke operating certificates

Strengthen State Oversight of Utilities

2) Require PSC to regularly review and approve utility storm plans

- Utility storm plans are reviewed by Department of Public Service (DPS) staff, not PSC
- PSC does not approve and does not monitor for compliance

Commission Recommends

- Direct PSC to issue approval orders of utility storm plans with penalties for utilities that do not adhere to PSC recommendations
- Require PSC review of utility compliance with plan

Strengthen State Oversight of Utilities

3) Strengthen PSC oversight and restore regular auditing of utilities management, operations, and rate increase requests

- PSC has made only minimal use of its authority to conduct operational and management audits

Commission Recommends:

- Restore the Management and Operational Audit Unit
- Require management and operational audits at least every five years
- Require PSC to mandate implementation of reasonable audit recommendations
- Create a dedicated enforcement unit to help ensure utility compliance with laws, regulations and orders, which can be enforced through penalties

Strengthen State Oversight of Utilities

4) Hire more trained staff at the Department of Public Service after years of reductions

- Authorize DPS to fill up to 524 FTEs (FY 2012-13 Budget authorization)
- Additional 16 employees (508 to 524) could be deployed as follows:
 - 8 engineers in the Emergency Management Unit (review of and compliance with utility emergency response plans)
 - 6 auditors/engineers in a new Management and Operational Audit Unit
 - 2 attorneys in the Compliance Unit (review utility compliance with laws, regulations, and orders)

Streamline State Energy Oversight and Investment Programs

5) Unify management structure of DPS and NYSERDA

- Right now, DPS and NYSERDA run competing and overlapping green energy programs leading to confusion, duplication, and waste
- NYSERDA and DPS draft separate disaster response plans with little coordination

Commission Recommends:

- Unify management of DPS and NYSERDA
- Synchronize clean energy program administration efforts to bolster both organizations' ability to meet core functions
- Combine staff related to energy markets, policy and planning, and emergency response in a single office

LIPA: Dysfunctional Management Structure

- Separation of ownership and operations leads to confusion, incompetence, and lack of accountability
- Drifted from original mission which was debt management, not power delivery
- Resource/capital investment decisions made by LIPA staff using consultants, not utility managers actually running the system
- Not subject to PSC oversight

LIPA's Substandard Storm Preparation and Response

- Dysfunctional management structure led to operational and communications disconnect between LIPA and National Grid and inadequate response
- Failed to implement past State recommendations:
 - Upgrade Outage Management System (OMS) — LIPA's OMS is unable to deal with large-scale storms
 - Improve communications with the public — LIPA failed to change its communications system, causing it to be unable to provide accurate outage information and restoration estimates

Commission found the only option for change is a complete overhaul of LIPA and how power is delivered on Long Island

LIPA Restructuring Options

1. Investor-Owned Utility:

Qualified private utility purchases LIPA's assets and serves as sole utility manager

Benefits:

- Provides more efficient operation of utility
- Creates cost savings with respect to more efficient operations and maintenance, synergies associated with power supply and fuels management, and reduced need for contractors
- Subject to PSC oversight of rates service quality and rates

Risks:

- Complex transaction that would take time to execute

LIPA Restructuring Options

2. Expand State Authority:

Have LIPA assume authority to Manage System & Operations

Benefits:

- Provides accountability and clarity in management and communication
- Ensures that the Federal Emergency Management Agency financial support would continue to be available in future storms

Risks:

- Highly questionable whether LIPA customers will regain confidence in LIPA
- No incentives for continuous improvement
- Limits ability to recruit qualified executives because of inability to offer competitive market based salaries
- Adds over 2,000 employees to an already overburdened state employee benefit system

LIPA Restructuring Options

3. Alternative Successor:

Existing public authority, such as NYPA, assumes responsibility

Benefits:

- Oversight of the entity would be done by a successful professional energy industry and financial management team

Risks:

- Adds an additional layer of bureaucracy to a complex system
- Managing a full LIPA public power effort could hurt NYPA's ability to perform its own mission
- Limits ability to recruit qualified executives because of inability to offer competitive market based salaries which is compounded by the challenges of an expanded management
- Adds over 2,000 employees to an already overburdened state employee benefit system

Moreland Commission Recommendation

The Moreland Commission favors privatization of LIPA as the best option

- Integrates ownership, management, planning, and operations
- Resolves accountability issues
- Transfers operations from State to private sector
- Improves decision-making process
- More cost effective than the “Expand State Authority” option
- Ends the originally intended transitional role of LIPA
- Ratepayers benefit from an Investor Owned Utility rate structure regulated by the PSC

Moreland's Work Will Continue

- Will continue to look at LIPA and the other utilities operating in NY
- More public hearings in storm area and across the state
- Final report with additional recommendations issued in the coming months

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