

Cuomo Forms Moreland Commission to Investigate Utilities

Posted on Nov 13, Posted by [David Howard King](#) Category [State](#)

Gov. Andrew Cuomo has made it clear he is angry at utility companies for their response to Hurricane Sandy. Thousands of people have been without power and heat for weeks and Cuomo has questioned whether the utilities were prepared for the storm despite fair warning. Now Cuomo has officially acted on his anger by issuing an executive order under the Moreland Act to form a commission to investigate all of the utilities that were charged with maintaining their infrastructure in the wake of Sandy.

Cuomo has [repeatedly threatened](#) the Legislature with the Moreland Act to get them to move on ethics legislation but he never used the authority in that case. Now Cuomo has chosen to invoke the power in the wake of Sandy. Utility companies are likely the only group more disliked by the Legislature, and the move is almost certain to boost Cuomo's already staggering approval ratings.

Here is the make up of the commission that will have the power to subpoena and examine witnesses under oath:

Co-Chair Robert Abrams, former Attorney General of New York State
Co-Chair Benjamin Lawsky, Superintendent of the Department of Financial Services
Peter Bradford, former Chair of the Public Service Commission
Tony Collins, President of Clarkson University
John Dyson, former Chairman of the New York Power Authority
Rev. Floyd Flake, Senior Pastor of Greater Allen African Methodist Episcopal Cathedral
Mark Green, former New York City Public Advocate
Joanie Mahoney, Onondaga County Executive
Kathleen Rice, Nassau County District Attorney
Dan Tishman, Vice Chairman at AECOM Technology Corporation, and Chairman and CEO of Tishman Construction Corporation

And here is the Executive Order that Cuomo signed:

EXECUTIVE ORDER

DESIGNATION PURSUANT TO SECTION 6 OF THE EXECUTIVE LAW

WHEREAS, beginning on October 29, 2012, Hurricane Sandy caused massive power outages throughout Long Island, New York City, Westchester, Rockland and surrounding counties, affecting over two million customers, including ninety percent of customers on Long Island; and

WHEREAS, storm emergencies have effected, as well as thousands of businesses and private and public services providers charged with the protection of the health and safety of New Yorkers, including hospitals, adult homes, nursing homes and other residences serving persons with disabilities and other special needs; and

WHEREAS, storm emergencies crippled major public transportation systems, including mass transportation, bridges, tunnels, roads and several waterways, throughout the region; and

WHEREAS, the loss of power adversely affected a variety of other critical systems including communications services, gasoline terminals and stations, natural gas delivery to residences and steam delivery to large residential and commercial complexes, and

WHEREAS, on November 7, 2012, a Nor'easter with snow exacerbated the suffering, property damage and power outages sustained in some of the same areas affected by Hurricane Sandy; and

WHEREAS, such sustained disruption of the power supply and its cascading damage to other critical systems in many communities, neighborhoods and industrial areas, as well as the continued prevalence of downed utility lines, has jeopardized the health and safety of New Yorkers and undermined public confidence in the public utility service system; and

WHEREAS, in August and September of 2011, as a result of Hurricane Irene and Tropical Storm Lee over one million customers in New York State lost power and some communities

suffered prolonged power outages which not only impacted Long Island, New York City, Westchester, Rockland and surrounding counties, but also the counties of Albany, Broome, Chenango, Chemung, Clinton, Columbia, Delaware, Dutchess, Essex, Franklin, Fulton, Greene, Hamilton, Herkimer, Montgomery, Oneida, Otsego, Rensselaer, Saratoga, Schenectady, Schoharie, Tioga, Tompkins, Warren and Washington; and

WHEREAS, in December 2008, an ice storm caused over 300,000 power outages in New York State, and many customers were still without power a week after the storm; and

WHEREAS, these recent and past events indicate that utility emergency response planning and procedures must anticipate future emergencies and be prepared.

WHEREAS, utilities are required to provide safe, adequate and reliable services to the public; and

WHEREAS, while the New York State Public Service Commission is the regulatory agency charged with oversight of private utilities in the State of New York, there exists a labyrinth of other regulatory bodies, state agencies, authorities and quasi-governmental bodies including but not limited to the New York Power Authority, the Long Island Power Authority, and the New York State Energy and Research Development Authority, whose overlapping mandates, jurisdiction and responsibilities have contributed to a dysfunctional utility system; and

WHEREAS, serious questions have been raised about the adequacy of utility management, structures, resources, the current regulatory framework and oversight to ensure effective preparation for and response to natural disasters by utilities in this State, particularly in light of the increasing frequency and intensity of such disasters as well as the licensing, certification, supervision and regulation of the power industry in New Yorker under existing law; and

WHEREAS, to maintain public confidence in the provision of vital services by utilities, it is manifestly in the public interest to study, examine, investigate and review each and every component of the provision of power to New York State: and

WHEREAS, Article IV, Section 3, of the New York Constitution vests the Governor with the obligation to take care that the laws are faithfully executed;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and laws of the State of New York, do hereby order as follows:

1. Pursuant to Section 6 of the Executive Law, I hereby appoint a Commission to: (A) study, examine, investigate and review: (i) the emergency preparedness and response of utilities during and following emergency weather events, including the performance of the utilities during and following emergency weather events; (ii) the adequacy of present laws, rules, regulations, practices and procedures with respect to utilities' emergency preparedness and response; (iii) the adequacy of existing oversight and enforcement mechanisms; (iv) the structure, organization, ownership, financing, control, management and practices of the utilities as they affect emergency preparedness and response; and (v) the provision of utility services to New York State under the existing legal regulatory framework, including but not limited to the jurisdiction, responsibilities and missions of the New York Power Authority, the Long Island Power Authority, the New York State Energy and Research Development Authority, as well as the Public Service Commission; (B) report and make recommendations for legislative, policy and regulatory changes, as well as reforms as deemed appropriate in utility structure, management and practices, to best protect and serve the public's interest with respect to emergency preparedness and response, and the provision of safe, reliable, responsive utility services; and (C) review any other matters or activities which may affect the issues herein before specified;
2. The Commission is hereby empowered to subpoena and enforce the attendance of witnesses; to administer oaths or affirmations and examine witnesses under oath; to require the production of any books, records or papers deemed relevant or material to any investigation, examination or review; and to perform any other functions that are necessary or appropriate to fulfill the duties and responsibilities of office, and I hereby give and grant to the Commission all powers and authorities which may be given or granted to persons appointed by me for such purpose under authority of Section 6 of the Executive Law. The Commission may exercise any such powers in cooperation with any other body or government agency.
3. The Commission shall provide a report and recommendations at the conclusion of its work, and may issue interim, preliminary and periodic reports and recommendations.
4. Within this Executive Order, "utilities" refers to the entities engaged in the provision of electric, gas and steam.
5. Every State department, agency, office, division, board, bureau, council, authority and public benefit corporation shall cooperate with the Commission and shall furnish such information and assistance as the Commission determines is reasonably necessary to fulfill its duties.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this thirteenth day of November in the year two thousand twelve.

BY THE GOVERNOR

Secretary to the Governor

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