



This Week in New York

Covering New York State and City Government

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“Every record has been destroyed or falsified, every book rewritten, every picture has been repainted, every statue and street building has been renamed, every date has been altered. And the process is continuing day by day and minute by minute. History has stopped. Nothing exists except an endless present in which the Party is always right.”
-George Orwell, 1984-

In the News – New York State

**Public
Service
Commission**



NY’s Largest Utilities Face Fines Totaling \$137.3 Million & Possible Revocation of Operating Licenses Due to Failure to Prepare for Tropical Storm Isaias

Three of the state's largest utilities - Con Edison, O&R and Central Hudson - face potential penalties totaling \$137.3 million and Con Edison and O&R face potential license revocation following a New York State Public Service Commission (PSC) investigation into the apparent failure of New York's electric utilities to adequately prepare for and respond to Tropical Storm Isaias.

The utilities have 10 days to respond to the PSC's recommendations on how to improve their response and restoration efforts and 30 days to respond regarding a potential penalty action. The potential penalties facing the three utilities include: Con Edison (\$102.3 million for 33 apparent violations); O&R (\$19 million for 38 apparent violations) and Central Hudson (\$16 million for 32 apparent violations).

"... I'm going to do everything I can do to make sure New Yorkers are compensated, and certainly that New Yorkers are not paying for service they're not getting," Governor Andrew Cuomo said. "I asked the PSC to do an investigation and as a result of its swift action the three utilities could be penalized \$137 million, which is one of the most significant penalties. They have a right to contest. Let them contest. We will remain diligent in pursuit of the penalties because we are serious."

On the afternoon of August 4, 2020, Tropical Storm Isaias struck New York, bringing strong winds and heavy rain that particularly impacted the Mid-Hudson, New York City, and Long Island regions. The storm caused extensive damage to electric distribution infrastructure that, in turn, led to lengthy outages for a substantial number of New York utility customers. Peak outages affected approximately 900,000 customers.

Specifics of the PSC's findings against each utility include:

Con Edison: The Department's initial investigation showed that Con Edison's response to the storm was “wholly inadequate” and that Con Edison apparently failed to follow its Commission-ordered Emergency Response Plan's requirements relating to its damage assessment responsibilities; and its published estimated time of restoration notices. Recognizing prior instances where Con Edison's storm event response had fallen short of legal requirements, staff noticed that its investigation would include the determination of whether Con Edison's certificate of public convenience and necessity — the prerequisite legal requirement for exercising franchise rights necessary to provide electric service in New York — should or should not be revoked based on these apparent violations as well as Con Edison's prior failures to adequately prepare and respond to emergencies.

O&R: The Department's initial investigation showed that O&R apparently failed to follow its Commission-ordered Emergency Response Plan's requirements relating to pre-storm crewing assessments. As with Con Edison, and similarly recognizing prior instances where O&R's storm event response had fallen short of legal requirements, staff noticed that its investigation would include the determination of whether O&R's certificate should not be revoked based on these apparent violations as well as O&R's prior failures to adequately prepare and respond to emergencies.

Central Hudson: The Department's initial investigation showed that Central Hudson had apparently failed to follow its Commission-ordered Emergency Response Plan's requirements relating to its damage assessment responsibilities; and internal website failures.

Former New York City Council Member and State Assemblyman Rory Lancman, newly appointed Special Counsel for Ratepayer Protection, will hold public forums and submit evidence to the PSC on the harm the utilities' failures caused residents, businesses and localities.



New York Suspends Jury Trials as Second COVID-19 Wave Builds

Jury trials across New York have been suspended as the second wave of COVID-19 mounts, state Chief Judge Janet DiFiore announced this week.

“Effective today, and until further notice, we are temporarily postponing the scheduling of new jury trials, and temporarily postponing the summoning of new trial jurors,” Judge DiFiore said on November 16th. “Jury trials and bench trials that are now in progress will be allowed to proceed to completion.”

The summoning of new prospective grand jurors has also been suspended.

Any newly-commenced bench trials and hearings will now move forward through virtual hearings “unless authorized by our deputy chief administrative judges,” Judge DiFiore said.

Courts resumed jury trials in September following suspension in March due COVID. The state has brought 47 trials to verdict since September, and another 12 in New York City over the last month.

“We are taking these steps in response to the increasing COVID positivity rate, the growing number of communities experiencing COVID-19 clusters, the advice of our epidemiologist who has reviewed our relevant data, and the governor’s latest directive restricting in-person gatherings in commercial and residential settings,” Judge DiFiore explained.

The state court system will continue to monitor the progress of COVID-19 across New York state before making any “necessary adjustments” to the schedule. All grand jury and petit jury operations will resume once the courts deem it safe to do so.

“As we’ve said all along, our number one priority is the health and safety of our judges, our professional staff and the public we serve,” she added. “We will not put anyone’s health and well-being at risk, and we will do everything in our power to help prevent the further spread and resurgence of COVID-19.”

In the News – City



TWU Rails Against MTA’s “Doomsday” Budget

***Proposed Budget Includes Reductions of 40% Across Subways, Buses and SIR;
50% Across Long Island Rail Road, Metro-North Railroad
Reduction in MTA Workforce by Nearly 9,400 Positions***

Calling the the Metropolitan Transportation Authority (MTA)’s budget proposal “a slap in the face of every transit worker,” TWU Local 100 President Tony Utano urged the Authority to “go back to the drawing board and come up with real solutions.”

On Wednesday, MTA Chairman Pat Foy presented the Board with a plan that includes service cuts, a reduction in the agency’s workforce, and a continued pause on the \$51.5 billion Capital Plan in the absence of \$12 billion in federal aid. Specifically, the MTA is proposing service reductions of 40% for the New York City subways and buses and 50% for the Long Island Rail Road and Metro-North Railroad, for a combined annualized savings of nearly \$1.3 billion. Service reductions are estimated to have a workplace impact of nearly 9,400 positions.

“The MTA's budget proposal is an outrageous and cowardly surrender to the Coronavirus, and a slap in the face of every transit worker,” President Utano charged. “TWU Local 100, and the 40,000 transit workers who have risked life and limb to defeat the virus, reject this budget and demand the MTA withdraw it. Go back to the drawing board and come up with real solutions. Tossing thousands of workers onto the street and leaving entire neighborhoods without service are not answers.”

Under the proposal, the reductions would result in the elimination of 2,400 positions at New York City Transit, nearly 5,900 positions MTA New York City Transit and the MTA Bus Company, and more than 900 positions at MetroNorth and Long Island Railroad. Subway service reduction may result in reduced train frequency, suspension of service on some lines at certain times of day, and/or major weekend changes. Bus routes would be eliminated or consolidated and service reduced on remaining routes. Service on Long Island Railroad and Metro-North may result in peak train frequencies of every 20 to 30 minutes along busier line segments, or hourly at less busy line segments.

“The cuts disproportionately target New York City and in doing so they’re definitely going to disproportionately impact communities of color and essentially the working poor,” TWU International President John Samuelsen explained. “The MTA has sat around waiting for a federal bailout instead of looking for additional sources of revenue. The TWU will not open up our contracts, we will not bankroll the MTA out of the deficit caused by COVID-19. We choose fightback, not surrender.”

Among the potential revenue sources suggested by TWU are ending the stock transfer tax rebate, increasing the gasoline tax, getting rid of consultants and contractors, replacing cleaning contractors with in-house forces, and offering retirement incentives.

The MTA board will be asked to vote to enact a new budget in December.



Bills Signed by the Mayor

Intro. 1947-A (Council Member Constantanides): Increases the threshold for rent-regulated buildings to be exempted from Green New Deal emissions reduction requirements. Under the original law, buildings with one or more rent-regulated units were be exempted. Under this law, buildings that are up to 35 percent rent-regulated will required to meet the Green New Deal standards. The bill provides this newly added universe of buildings an extra two years to comply with the initial requirements.

Intro. 2072-A (Council Member Constantanides): Requires the City to report on its outreach and education efforts and methods buildings use to comply with greenhouse gas emissions limits pursuant to Local Law 97 of 2019, including information about non-compliant buildings, types of retrofits different building types are using, and funding available for these energy investments.

Intro. 2080-A (Council Member Levin): Requires the Department of Social Services provide clients online access to their CityFHEPS rental assistance application. This will help clients track their application status and serve as a way for New Yorkers to get help if they have questions about the application process.

Intro. 1339-A (Council Member Ayala): Requires the Department of Social Services to provide information to CityFHEPS rental assistance applicants about income discrimination at the time an applicant receives a “shopping letter” from DSS. The notice would provide information about protections under the New York City Human Rights Law related to discrimination on the basis of a person’s lawful source of income and use of rental vouchers.

Intro. 2082-A (Council Member Powers): Expands prohibition of income discrimination by landlords of small buildings (1-5 units). The bill also amends the definition of “lawful source of income” to clarify that the term encompasses other types of lawful income that low-income New Yorkers may have access to, including, but not limited to, “child support, alimony, foster care subsidies, income derived from social security, or any form of federal, state, or local public assistance or housing assistance including, but not limited to, Section 8 vouchers.”



Bills Passed by the City Council

Introduction No. 1684-A, sponsored by Council Member Diana Ayala, would require the City Commission on Human Rights (CCHR) to create an anti-discrimination poster that includes age discrimination, and to provide additional age discrimination resources on its website.

Introduction No. 1685-A, sponsored by Council Member Diana Ayala, would require all city agencies to provide age discrimination training to their employees every two years. The training would be developed by the Department of Citywide Administrative Services and the Commission on Human Rights.

Introduction No. 1694-A, sponsored by Council Member Margaret Chin, would create the Center for Older Workforce Development, an office dedicated to combating ageism in the workplace and to developing the older workforce. This legislation would take effect 120 days after it becomes law.

Introduction No. 1693-A, sponsored by Council Member Margaret Chin, would require the Department for the Aging (DFTA) to provide guidance and support to the Center for Older Workforce Development, as created by Introduction No. 1694-A. This bill would also require the DFTA Advisory Council to develop recommendations on how the city can address age discrimination in the workplace and help develop the older adult workforce.

Introduction No. 1695-A, sponsored by Council Member Margaret Chin, would require the New York City Commission on Human Rights (CCHR) to conduct a two-year study related to age discrimination in the workplace. Beginning January 2022, for a period of two years, CCHR would design and implement a variety of methods to assess the presence of age discrimination in the workplace, including workplace and employment practices, technologies, and policies. This legislation would take effect immediately.

Briefs

Uniformed Sanitationmen's Association & City Reach Labor Saving Deal for 2021

Teamsters Local 831, the Uniformed Sanitationmen's Association and the de Blasio Administration reached a labor deal that that saves the City approximately \$27 million in 2021.

The agreement with the Uniformed Sanitationmen's Association includes:

- **Deferred payment:** Payment of retroactive pay, which had been scheduled for October 2020, is deferred to Fiscal Year 2022. There is also an agreement to defer four months of retiree welfare fund contributions until November 2021 and the deferral of a lump sum payment to the annuity fund until December 2021.
- **Commitment on layoffs:** No layoffs through June 30, 2021. If the City receives State and Federal assistance of \$5 billion or more, the no-layoff pledge is extended to June 30, 2022.

The agreement is consistent with those agreed to by the United Federation of Teachers, Council of School Supervisors and Administrators, District Council 37 and the Communication Workers of America Local 1180. According to the Mayor's office, the City still needs a minimum of \$5 billion in federal or state relief in order to avoid drastic action such as layoffs for fiscal year 2022.

Attorney General James Supports Relief Package for Taxi Medallion Owners

New York Attorney General Letitia James this week came out in support of a relief package introduced by the New York Taxi Workers Alliance that will provide New York City's taxi medallion owners with debt forgiveness on outstanding loans on taxi medallions.

“Hardworking taxi medallion individual and owner-drivers entered this industry believing the city would run a fair system. Instead, many of these workers and small business owners were sent down a rabbit hole of financial ruin,” Attorney General James said. “After reviewing the proposal by the New York Taxi Workers Alliance, and understanding that the city’s chief financial officer, Comptroller Scott Stringer, has come out in support of this plan, I believe it is essential that we move forward on this relief package immediately to mitigate the harm already done. This proposal would provide a fiscally fair and responsible way to support the recovery of the taxi medallion industry by guaranteeing loans written down to no more than \$125,000. This relief package not only lays out the best way to support the needs of a community that has been economically devastated but will help to ensure justice is finally delivered.”

New Equitable Ownership Requirement to Strengthen the Role of M/WBEs and Non Profit Developers in Affordable Housing Projects on City-Owned Sites

Mayor Bill de Blasio and the Taskforce on Racial Inclusion & Equity introduced a new equitable ownership requirement to strengthen the role of Minority-and-Women-Owned Business Enterprises (M/WBEs) and non-profits on affordable housing projects developed on City-owned sites. The new equitable ownership requirement, implemented by the New York City Department of Housing Preservation and Development (HPD), will require that an M/WBE or non-profit partner holds a minimum 25 percent ownership stake in any affordable housing project awarded on public land.

According to the Mayor, a forthcoming RFP for the development of vacant land in Bedford Stuyvesant will be one of the first projects to incorporate this new requirement.

Unemployment Claims Rise, as Pandemic Shutdowns Increase Nationwide

The number of new unemployment claims rose last week to 742,000, an increase of 31,000 from the previous week, as rising coronavirus cases have spurred a new wave of restrictions and closures. An additional 320,000 claims were processed for Pandemic Unemployment Assistance, the program for gig and self-employed workers. In total, approximately 20.3 million individuals are claiming some form of unemployment insurance.

According to published reports, there are other warning signs for the economy. Credit card spending is on the decline. In addition, reservations at restaurants, as measured by OpenTable data, have trended down in year-to-year comparisons in recent weeks.

Federal unemployment benefits are set to expire for many in December. An estimated 12 million people could lose unemployment payments on December 26th, if Congress is unable to pass a new stimulus bill before then.

IRS Health Savings Account Contribution Limits

The Internal Revenue Service recently released Revenue Procedure 2020-32 which outlined the inflation adjusted amendments for Health Savings Accounts under a high deductible health plan. For 2021, the annual contribution limit for an individual with self-only coverage is \$3,600. The limit for an individual with family coverage is \$7,200.

A high deductible health plan is defined as “a health plan with an annual deductible that is not less than \$1,400 for self-only coverage or \$2,800 for family coverage, and the annual out-of-pocket expenses (deductibles, co-payments, and other amounts) do not exceed \$7,000 for self-only coverage or \$14,000 for family coverage.

Depending on the utilization, plans may decline to increase the limits with inflation if none of the participants are approaching the annual deductibles at the current levels.

Coming Up

New York State

No hearings scheduled.

New York City

Monday, November 23rd

Committee on Small Business, Remote Hearing (Virtual Room #3), 10 a.m.
Oversight - Preventing Further Business Loss During a COVID-19 Second Wave.

Committee on Land Use, Remote Hearing (Virtual Room #1), 11 a.m.

Committee on Governmental Operations & Immigration, Remote Hearing (Virtual Room #2), 1 p.m.

Tuesday, November 24th

Committee on General Welfare, Remote Hearing (Virtual Room # 1), 10 a.m.

Committee on Environmental Protection, Remote Hearing (Virtual Room # 2), 11 a.m.
Oversight - Offshore Wind Power

Wednesday, November 25th

Committee on Contracts, Remote Hearing (Virtual Room #1), 10 a.m.
Oversight - Reviewing the City's Indirect Cost Rate Funding Initiative During the COVID-19 Pandemic

**“We believe in the ideas of family, mutuality,
the sharing of benefits and burdens
for the good of all, feeling one another’s pain,
sharing one another’s blessing
recognizing that at the heart of the matter
we are bound to each other.”**

-Mario M. Cuomo-

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