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***Transparency and Reporting Requirements  
at  
New York State Department of Public Service***

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*Transparency*

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# Transparency

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- For about 70 years, the only records access statute that applied to the Public Service Commission provided: “All proceedings of the Commission and all documents and records in its possession shall be public records.”
- In 1937, language was added to the Public Service Law to make it a crime for any Commission employee or agent to divulge “any fact or information which may come to his knowledge during the course of any inspection or examination” of the property or records of any entity subject to the Commission’s jurisdiction “except . . . as directed by the Commission, by a court or judge, or authorized by law.”
- The scope of the exemption from disclosure was limited to:
  - *privileges recognized in New York Law; and*
  - *information declared to be confidential by another statutory provision.*

# Transparency

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- In 1974, the State Legislature enacted the Freedom of Information Law (FOIL) to apply to all State Agencies. It was reenacted in expanded form in 1977.
  
- To promote open government, FOIL imposes a broad duty on governmental agencies to make their records publicly available; however, it exempts from disclosure records or portions thereof that
  - *are specifically exempted from disclosure by state or federal statute;*
  - *if disclosed would constitute an unwarranted invasion of personal privacy;*
  - *if disclosed would impair present or imminent contract awards or collective bargaining negotiations;*
  - *are trade secrets or confidential commercial information which, if disclosed, would cause substantial injury to the competitive position of the subject enterprise;*

# Transparency

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## FOIL exemptions (continued):

- *are compiled for law enforcement purposes and which, if disclosed, would interfere with law enforcement investigations or judicial proceedings;*
- *if disclosed could endanger the life or safety of any person;*
- *are inter- or intra-agency materials other than statistical or factual data, instructions to staff that affect the public, final agency policy or determinations or external audits;*
- *are examination questions or answers which are requested prior to the final administration of such questions;*
- *if disclosed, would jeopardize an agency's capacity to guarantee the security of its information technology assets, encompassing both electronic information systems and infrastructures;*
- *are certain recorded images prepared pursuant to the vehicle and traffic law.*

# Transparency

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- In reenacting FOIL in 1977, the Legislature, found and declared
  - *The legislature hereby finds that a free society is maintained when government is responsive and responsible to the public, and when the public is aware of governmental actions. . . .As state and local government services increase and public problems become more sophisticated and complex and therefore harder to solve, . . .it is incumbent upon the state and its localities to extend public accountability wherever and whenever feasible. The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. . . .The legislature therefore declares that government is the public's business and that the public . . . should have access to the records of government in accordance with the provisions of this article.*

# Transparency

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- FOIL requires State agencies to promulgate implementing regulations pertaining to the availability of records and the procedures to be followed to obtain records.
- The Commission's implementing regulations provide that
  - *a request for access to a public record may be made to the Records Access Officer (a lawyer in the Office of General Counsel); and*
  - *appeals will be heard by the Deputy Secretary to the Public Service Commission (because the Commission no longer has a Deputy Secretary, the Secretary determines appeals).*

# Transparency

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- The Records Access Officer works with the affected offices to search for requested records and to decide whether to grant or deny access.
- The Secretary may consult with the General Counsel, the Chief Administrative Law Judge, or their designees in reaching an appeals determination.

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# *Reporting Requirements*

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# Reporting Requirements

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- The Commission, through its rules, regulations, and specific orders, requires utilities to file certain reports. Some of the more important ones include:

## Annually

- *Consolidated Financial Data, Sales, Revenues, Income, Plant Reports*
- *Reliability and Power Quality Report*
- *Utility Emergency Restoration Plan Updates*
- *Gas Distribution and Transmission System Reports*
- *Gas Adjustment Clause Reports - Reconciliation of gas purchase expenses with gas costs charged to customers*
- *Projections of forthcoming transmission siting project applications*
- *Right-of-way maintenance reports and plans*

# Reporting Requirements

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## Semi-Annually/Quarterly

- *Status of PCB removals*
- *Quarterly Reports - updates to Annual Report*
- *Off-System Gas Sales Volumes and Revenues Reports*
- *Report of data on gas leaks discovered and repaired*
- *Reports on excavation damage to gas pipeline facilities*
- *Demand Reduction Activity Reports.*
- *Gas Adjustment Reports - Cost of gas to be charged customers*

# Reporting Requirements

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## Monthly/Weekly

- *Tariff Statements, including reports on interruptible rates.*
- *Gas Emergency Response Time Reports*
- *Gas Service Interruption Reports*

## As Necessary

- *Article VII and X Compliance Filings*
- *Gas Capacity Release Reports*
- *Customer Service Reports*
- *Earnings Sharing Reports*
- *Reports of proposed transmission facilities not subject to Article VII*
- *Reports of tax refunds*
- *Reports of use of revenues*
- *Reports of contracts with affiliates*

# Reporting Requirements

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### As Necessary (cont'd)

- *Injuries/Deaths Reports that involve electric utility facilities - Includes motor vehicle accidents*
- *Electric Shock and Monitoring Reports (annual testing and inspection plans)*
- *Major Electric Interruption Reports*
- *Security Event Reports*
- *Load Shedding Event Reports*
- *Voltage Reduction Reports*
- *Nuclear Radiation Release Reports*
- *Media or unusual events involving utility operation*
- *Emergency Crew Response Time Reports for potentially life-threatening events that involve utility facilities (i.e. vehicle pole hits and wires down)*
- *Manhole Explosion Reports*

# Reporting Requirements

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## As Necessary (cont'd)

- *Specific Project Monitoring Reports (e.g., power plant and transmission line construction).*
- *Notification Reports for Proposed Construction of Gas Gathering and Transmission Pipeline Facilities.*
- *Notification Reports for Gas Distribution System Pressure Increases*
- *Notifications for increase in maximum allowable operating pressure of gas transmission pipelines*
- *Notification of modifications to gas transmission pipelines based on class location survey*
- *Gas Facility Incident Reports*
- *Major Gas Service Interruption Reports*

# Reporting Requirements

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- The Commission, in delegating administration of the System Benefits Program to the New York State Energy Research Authority, requires:
  - *Annual and Quarterly Energy Smart Status/Evaluation Reports – Filed by NYSERDA.*
  - *Monthly MW Reduction Report for Demand Reduction Programs – Filed by NYSERDA monthly during the spring and summer months.*
  - *Monthly Technical Evaluation Panel (TEP) Status Reports – Filed by NYSERDA monthly.*