

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Advanced Notice of Proposed Rulemaking	:	
for Revision of 52 Pa. Code Chapter 57	:	Docket No. L-00040167
pertaining to adding Inspection and	:	
Maintenance Standards for the Electric	:	
Distribution Companies	:	

Comments of PECO Energy Company

PECO Energy Company (“PECO Energy”) hereby submits comments at the above-captioned docket in response to the Pennsylvania Public Utility Commission’s (“Commission”) Advanced Notice of Proposed Rulemaking Order (“ANOPR”) and Request for Comments on the addition of Inspection and Maintenance Standards applicable to Electric Distribution Companies (“EDCs”). The Proposed Order was issued by the Commission on November 18, 2004 and published in the Pennsylvania Bulletin on December 11, 2004 (34 Pa. B. 50).

I. Introduction

PECO Energy appreciates the opportunity to file comments responding to the Commission’s ANOPR on the addition of inspection and maintenance standards. In the ANOPR, the Commission discussed its concerns about reliability as the primary driver for the development of such standards. (ANOPR at 2). Based on the discussion contained in the ANOPR it is clear that the Commission is evaluating the need for inspection and maintenance standards to specifically address reliability concerns and remedy potential problems with regard to particular areas of transmission and distribution system programs, such as vegetation management practices. (See, ANOPR at 2 (citing Final Report on the August 14 Blackout in the U.S. and Canada)).

While PECO Energy agrees with the Commission regarding the importance of reliability and the role inspection and maintenance programs play in reliable service, it is PECO Energy's position that the development of such standards is unnecessary at this time. The recently adopted Reliability Regulations,¹ along with other agency regulations and guidelines, are an ample means for addressing inspection and maintenance programs and their impact on reliability.

Furthermore, the complex nature of transmission and distribution systems and the large number of variables that exist within each individual system (and among each of the EDCs) makes the creation of such standards impractical due to the lack of flexibility inherent in regulatory provisions. In order to effectively manage inspection and maintenance relative to their transmission and distribution systems, EDCs need to be able to make changes on a regular basis and in a real-time manner. Structuring a standard that provides this level of flexibility would be extremely difficult. Once final, amending the standard to accommodate "lessons learned" would be equally problematic. Additionally, such standards would probably conflict with regulations and guidelines currently being developed by the North American Electric Reliability Council ("NERC"), the Federal Energy Regulatory Commission ("FERC") and PJM Interconnection ("PJM"), organizations with significant experience and expertise in the field of reliability of bulk power systems. Finally, if the Commission were to adopt formal standards, the imposition of automatic penalties would be unreasonable even *if* a reasonable period for evaluation could be determined.

Given the dynamic nature of transmission and distribution systems and all the factors outside of the EDC's control that may affect its inspection and maintenance program, stripping

¹ 52 Pa. Code §57.195 et. seq. - Final Rulemaking Order at Docket L-00030161, published in the Pennsylvania Bulletin on September 18, 2004 at 34 Pa.B. 5135.

away the EDC's ability to respond to issues within their programs on an individual basis and the Commission's ability to deal with these programs and the imposition of penalties on such a basis, would be excessive and is unnecessary in light of existing available remedies.

II. Comments

1. Whether it is appropriate for the Commission to adopt specific inspection and maintenance standards.

Adoption of formal regulations establishing inspection and maintenance requirements is unnecessary, redundant of existing Commission and proposed other agency regulations and inappropriate given the lack of flexibility intrinsic to formal regulations. As discussed in more detail below, inspection and maintenance programs are complex and need to be designed in a manner that allows the EDC the ability to balance many variables and address constantly evolving issues affecting the transmission and distribution system. An EDC cannot appropriately manage its inspection and maintenance program if it is subject to rigid standards that can only be changed through a formal rulemaking process.

The creation of specific inspection and maintenance regulations is an excessive measure for dealing with inspection and maintenance as it relates to reliability and is unnecessary. The Commission has existing regulations that provide the more appropriate tools for monitoring and regulating inspection and maintenance and for accomplishing this at the individual EDC level. Further, there are other agencies who have recently drafted guidelines and regulatory provisions in response to the precise issues the Commission cites as its primary concerns – “inspection and maintenance standards with particular regard to vegetation management procedures” and the blackout report raising those issues. (ANOPR at 3). As such, the setting of standards in the form of regulatory requirements would be inappropriate at this time.

2. **Whether standards should be placed in the regulations which are specific to each individual EDC, or whether all EDCs should be held to the same standard, and how would this be monitored and regulated.**

Formal regulations, whether specific to each EDC or one standard applicable to all, are not the best means for monitoring and regulating the inspection and maintenance programs of Pennsylvania EDCs. The former option, to set standards specific to each utility is impractical and does not provide the level of flexibility necessary to a good inspection and maintenance program. The latter option would mandate the creation of too broad a standard to be of any consequence to reliability performance.

The development and maintenance of formal standards applicable to each individual EDC would require an enormous level of resources and such standards could not provide the level of flexibility needed by an EDC to respond to inspection and maintenance issues on a real-time basis. A distribution system is a vast and continuously evolving structure comprised of a collection of diverse systems,² containing numerous components³ and all having a broad range of technical complexity. Many factors affect this structure. Some of these tend to be a little more foreseeable: geography, terrain, usage patterns, system load and capacity. Others tend to be more unpredictable and subject to change on a frequent basis: customer needs/issues, business concerns, changes in technology and methods applicable to both the system and the components, weather and other unforeseen circumstances outside of the EDC's control. In order to operate the structure efficiently it must be frequently reviewed and adjusted. Regulatory standards setting forth the requirements for these programs would not allow for this type of review and adjustment. Regulations, which require a formal effort in order to revise, would bind the EDC to

² Examples of some of the variances between systems include operating voltage, ampacity, load characteristics, number of phases and grounded "Y" vs. delta.

³ There are many distinctions in the components including, type, style, functionality, application, manufacturer and vintage distinctions.

a rigid structure often leaving the EDC in the position of choosing between having an ineffective and/or inefficient program or violating the regulation. The result would likely be inflexible, unmanageable programs where the EDC has no ability to deal with potential unforeseeable emergent issues, let alone to be able to make frequent changes to assure continued improvement.

The latter option, to set one standard to which all EDCs would be held, would be impractical. In order to accommodate all of the variances that exist in each system and among each of the EDCs, the standards would have to be written so broadly that it is unlikely they would have any meaningful effect on reliability. Thus undermining the Commission's objective entirely. Further, there are no historic records that the Commission would be able to use in developing a fair standard applicable to all EDCs across Pennsylvania. A broad standard based on little, if any, historical information could force an EDC with an adequate inspection and maintenance program, meeting all of its reliability goals, to a new rigid standard potentially requiring the creation of an entirely new program. All with no evidentiary record to show that the new standard and/or new program will actually improve reliability.

As is clear, formal regulations for inspection and maintenance programs are an impractical means of dealing with their effect on reliability. Detailed and technical standards would not provide adequate flexibility to allow the EDC or the Commission to deal with real-time changes encountered by EDCs on a daily basis. Such standards would more likely be counter-productive, would only serve to reduce available resources for inspection and maintenance programs and would generate an unnecessary expenditure of Commission, company and other party resources to keep up with the continuously evolving nature of such programs. Conversely, broader standards applicable to all EDCs would likely have sufficient flexibility but would probably not further the reliability objectives of the Commission.

Declining to adopt formal standards in the form of regulations, however, does not mean that the Commission cannot adequately deal with inspection and maintenance programs at each of the Pennsylvania EDCs. Rather than attempt to design formal regulations, the Commission should rely on the more effective and efficient tools that already exist. For example, the recently adopted Reliability Regulations⁴ provide a more appropriate and practical means for addressing inspection and maintenance programs, all the complexities inherent in such programs as well as the differences among the individual EDC's systems. As was noted by the Commission in the ANOPR, the reliability requirements mandate quarterly and annual reporting of several forms of data relevant to the inspection and maintenance programs. Information such as outage causes, inspection and maintenance plans for vegetation management, distribution and substation maintenance activity, status of transmission and distribution inspection and maintenance goals/objectives, capital actual spend vs. budget, and contractor hours and spend vs. budget must all be reported under the new requirement. (ANOPR at 1-2). This regularly reported data provides the Commission an adequate means for evaluating the effectiveness and sufficiency of the EDCs inspection and maintenance programs and does so in the context of real-time activity at an individual EDC and its reliability goals. If an EDC fails to meet those goals and the Commission determines that the inspection and maintenance program is a factor, the existing requirements provide the Commission ample authority to impose a broad range of measures to assure an improved inspection and maintenance program or improvement of the relevant portion of that program. This is the better way to deal with the complex issue of inspection and maintenance programs and their impact on reliability.

⁴ 52 Pa. Code §57.195 et. seq..

Another tool currently available to the Commission is its existing Management Audit program developed under the authority of §516 of the Public Utility Law.⁵ This program provides the Commission an opportunity to review an EDC's inspection and maintenance program on a periodic basis and make determinations at an individual level. Between this option and the reliability requirements, no additional regulations or oversight is required.

As it would be difficult to craft an effective and fair standard, and since the Commission already has sufficient means available for evaluating and regulating inspection and maintenance programs and to promulgate change management specific to an individual utility, the Commission should refrain from adopting formal regulatory standards at this time.

3. **What the standards should be regarding vegetation management practices, pole inspections, transmission and distribution line inspections, substations, transformers, reclosers, and other types of inspection and maintenance practices.**

As was discussed at length in response to question two above, the adoption of formal regulatory standards applicable to inspection and maintenance is impractical and unnecessary. The reporting requirements under the newly promulgated Reliability Regulations, the remedies in response to any perceived problems based on these reports, and the §516 audit authority under the Public Utility Law all provide the Commission the more appropriate tools for the monitoring and regulation of inspection and maintenance issues at each of the EDCs at both the transmission and distribution level.

Further, certain of the areas proposed for regulation, particularly in the area of transmission related issues, are already being addressed by other agency regulations, standards and guidelines. Some of these are still in the development phase (though most are in the late stages of development). The creation of regulatory standards applicable to these areas would be an unnecessary use of resources and could result in confusion and/or conflicting obligations.

⁵ 66 Pa.C.S.A §516

Other agencies have already done a great deal of work in evaluating the state of the industry, drafting proposed standards and guidelines and coordinating with the various utilities to determine the most effective way to deal with the issue.

A perfect example is found in the recent actions of the NERC and the FERC both of whom have recently issued proposed regulations and advisory recommendations related to vegetation management practices at utilities.⁶ In its ANOPR, the Commission specifically referenced concerns around “inspection and maintenance standards with particular regard to vegetation management procedures” as a key reason for the development of regulatory standards in this area. (ANOPR at 3). However, in light of the massive efforts being made by NERC and FERC and all of the already participating utilities, it would be untimely to attempt to create standards that may be duplicative of the other efforts and/or conflict with requirements set forth by these agencies.

Another example of the overlap in the proposed standards with other agency efforts is in PJM development of inspection and maintenance guidelines for transmission owners. Guidelines are currently being prepared by PJM for overhead transmission, underground transmission, and substation components. These guidelines are being written by people with the technical expertise necessary to ensure that the appropriate minimum level of maintenance will be applied by transmission owners to their systems. The adoption of separate standards by this Commission would also be redundant of this effort and could result in requirements that conflict with the PJM imposed guidelines.

⁶ In fact, NERC has three related standards: FAC-003-1 - Transmission Vegetation Management Program; FAC-006-1 - Transmission Vegetation Management Annual Work Plan; FAC-007-1 - Reporting for Vegetation-Related Outages. On February 8, 2005 NERC issued a press release about the adoption of comprehensive reliability standards for the bulk electric system, which are effective April 1, 2005. The press release and the standards can be viewed at <http://www.nerc.com/>

Between the tools and remedies currently available to the Commission through existing Pennsylvania laws and regulations and the efforts being made by other agencies, there is no need for Commission standards regulating inspection and maintenance programs for Pennsylvania EDCs at this time. It would make more sense for the Commission to allow at least some of the reporting cycles to pass in order to accumulate historical data in the form of the newly required reliability reports and to allow the development of the other agency standards to come to fruition.⁷ Once these efforts have been completed, the Commission would be able to review the final guidelines and regulations as well as the reliability reports collected from the EDCs and make a much more informed decision about what, if any, areas are still in need of attention and potential regulation.

4. **Whether standards should be established for repair and maintenance of electric distribution company equipment or facilities that are critical for system reliability.**

While PECO Energy does not think Commission development of standards for inspection and maintenance programs is necessary or timely, if the Commission ultimately chooses to go forward with a rulemaking, it should not attempt to develop standards specific to critical systems.

First, the tremendous number of differences between each of the EDC's distribution systems and relevant factors affecting those systems, as well as the fact that these systems are constantly changing, would make accurately defining "critical" equipment or facilities for distribution system reliability very difficult. Actual system design and configuration for each EDC, specific circuit or component status, current configuration within an EDC's system and a

⁷ With regard to vegetation management standards, the utilities must also deal with local ordinances that may conflict with the newly issued regulations and guidelines. Utilities in each of those locales will need to evaluate the final standards against those local ordinances and make decisions about whether further action will be required at the local level as well. This further supports the idea that the Commission should allow for implementation of the already proposed guidelines and regulations and any other ensuing action prior to attempting to prepare its own standards.

host of other issues⁸ will have to be factored into the consideration of “criticality” for each individual piece of equipment and/or facility. The continuously evolving nature of transmission and distribution systems would not only make it difficult to accurately define “criticality” but also to then specify appropriate repair standards relevant to system configurations because they can change at any given moment. Further, as discussed in response to question three, criticality with regard to transmission system reliability is already being addressed by both NERC and PJM and it would be premature for the Commission to attempt to address this issue prior to the completion of the development of those standards. Finally, equipment and facilities that are critical to system reliability already receive the most attention in terms of design, investment in redundant systems, back-up systems, automated monitoring, inspection, preventive maintenance, priority of corrective maintenance, minor or major upgrades, spares, total replacement, and design changes to reduce risk. To attempt to isolate the inspection and maintenance components of this complex mix could result in reduced reliability performance and higher costs because the EDC may be forced to accept sub-optimum solutions in order to satisfy regulatory requirements. This obviously would not serve to further the objectives here, improved service and reliability.

As such, not only are regulatory standards for inspection and maintenance programs unnecessary and untimely, any attempt to more specifically regulate equipment or facilities that are “critical” to reliability would likely result in ambiguous or conflicting standards which would be difficult to administer and enforce while encouraging less efficient service and reliability. Such standards should not be developed at this time.

5. **Whether there should be automatic civil penalties written into the regulations for failure to meet standards for more than three consecutive**

⁸ Factors including circuit configuration, system loading, status of adjacent components or circuits, and weather forecasts to name a few.

quarters or some other reasonable time period, depending upon the type of inspection and maintenance that is at question.

No there should not be automatic penalties. Should the Commission choose to develop inspection and maintenance standards, it should avoid the imposition of automatic penalties. The remedies available to the Commission under the newly adopted Reliability Regulations give a full range of options, up to and including penalties, while retaining a sufficient level of Commission discretion to make determinations about the appropriate remedial action in the context of the particular problem at issue. Automatic penalties remove that flexibility and are inappropriate in light of the complexities inherent in the adoption and implementation of inspection and maintenance programs applicable to transmission and distribution systems at the various EDCs. The Commission has traditionally and very wisely avoided the imposition of automatic penalties for many reason, and should continue to do so here.⁹

Even more unreasonable than automatic penalties would be automatic penalties assessed upon a failure to meet the standards after some set period of time. Inspection and maintenance program tasks vary greatly and the required completion for these tasks can be anywhere from one month to an entire decade. These programs must also contain a fair amount of flexibility to allow for the rearrangement of tasks necessary to align resources to deal with emergent issues. For example, a significant weather event could impact a maintenance plan for an entire cycle (that may be one month or one year). A fair automatic penalty structure and the maintenance of such a structure under a regulatory scheme would be challenging at best. Even if the Commission incorporated a table listing each and every possible task; the required timeline for completion of

⁹ As recently as 2004 this Commission declined to adopt an automatic penalty structure in the Reliability Rulemaking process. At page 34 of its Order Amending Reliability Benchmarks and Standards for the Electric Distribution Companies, Docket No. M-00991220, the Commission discusses its decision to evaluate violations of benchmarks and standards on a case-by-case basis and make determinations about the necessary action at the end of that evaluation.

each task; a list of all of the various issues that may arise that would impact that timeline; and then provided a list of all the adjustments that could be made to the completion timelines required for each task and the applicable emergent issue, automatic penalties would still be unreasonable. Automatic penalties cannot be applied fairly to an ever-changing issue like inspection and maintenance and in a manner that encourages the continued improvement of such programs.

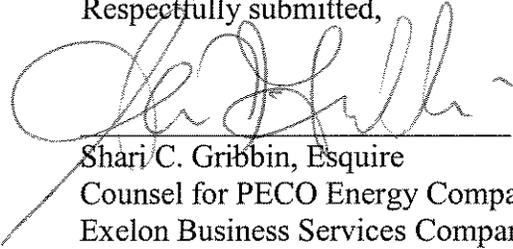
III. Conclusion

Reliability is an important issue to Pennsylvania electric customers, this Commission and each of the EDCs. However, the development of inspection and maintenance standards to deal with this issue is unnecessary at this time. The recently adopted Reliability Regulations, along with other agency regulations and guidelines, are an ample means for addressing inspection and maintenance programs and their impact on reliability. Regulatory requirements are too rigid and do not allow the EDCs much needed flexibility to effectively manage inspection and maintenance relative to their transmission and distribution systems.

The Commission should allow individual EDCs the continued ability to develop their own inspection and maintenance programs in accordance with their specific equipment and facilities and in a manner that allows that EDC to balance all of the factors unique to its system along with its obligations under various regulatory requirements. Rather than developing formal standards regulating inspection and maintenance programs, the Commission should utilize the tools available to it through the existing Reliability Regulations and should only act to set standards on an individual basis as part of a plan designed to address specific inspection and maintenance issues identified through the reporting, audit, inquiry and investigation processes.

Inspection and maintenance standards set forth as part of a regulatory scheme should not be adopted at this time.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Shari C. Gribbin", written over a horizontal line.

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Dated: February 9, 2005

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Distribution Companies :

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a true copy of the Comments of PECO Energy Company on the above-referenced Advanced Notice of Proposed Rulemaking upon the individuals listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant) and have e-mailed a copy of the Comments to Elizabeth Barnes, Pennsylvania Public Utility Commission in accordance with the requirements of the ANOPR.

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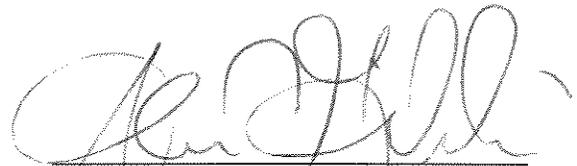
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