

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

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

**COMMENTS ON BEHALF OF THE
OFFICE OF SMALL BUSINESS ADVOCATE**

INTRODUCTION

By Order entered November 29, 2004, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) provided advance notice of a proposed rulemaking regarding the establishment of inspection, repair, and replacement standards to assure electric distribution reliability. By ordering paragraphs 3 and 4, the Commission invited comments from electric distribution companies (“EDCs”) and other interested parties on five specific issues. Ordering paragraph 3 required submission of those comments within 60 days from the date of publication of the Order in the *Pennsylvania Bulletin*. Because the Order was published on December 11, 2004, at *Pennsylvania Bulletin*, Vol. 34, No. 5, the deadline for the filing of comments is February 9, 2005.

The Office of Small Business Advocate (“OSBA”) hereby submits the following comments in response to the Commission’s invitation.

COMMENTS

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

The Commission has already adopted 52 Pa. Code §§ 57.191-57.197 in an effort to establish standards and procedures for ensuring and measuring distribution system safety and reliability. Pursuant to those regulations, the Commission has also calculated historical

performance levels and acceptable future performance levels for each EDC. *See Amended Reliability Benchmarks and Standards for the Electric Distribution Companies*, Docket No. M-00991220 (Order entered May 11, 2004). An EDC's success or failure in achieving a safe and reliable system is determined primarily by whether the EDC meets the Commission-set standards as measured by reliability indices.¹ In effect, the Commission has told EDCs *what* must be accomplished but has not told EDCs *how* it must be accomplished.

The Commission might be able to improve reliability by adopting prescriptive requirements (e.g., how often trees are to be trimmed, poles and lines are to be inspected, etc.). Unfortunately, unless there is some nationally-recognized standard for inspection frequency which the Commission could adopt, the promulgation process would likely be lengthy and might result in a compromise based on relatively weak requirements. Even if the promulgation process were to produce relatively stringent prescriptive requirements, those requirements might result in an increase in distribution rates without raising the quality of service appreciably above what each EDC would already be achieving if it were in compliance with the currently applicable standards as measured by SAIFI, CAIDI, and SAIDI.

Therefore, the OSBA recommends that the Commission concentrate on holding each EDC accountable for meeting the SAIFI, CAIDI, and SAIDI standards which are already in place and use the imposition of prescriptive requirements only as part of corrective action ordered under Section 57.197.

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 this would be monitored and regulated.

The focus of 52 Pa. Code §§ 57.191-57.197 is on assuring that the quality of distribution service for each individual EDC does not fall below what it was prior to electric industry restructuring. The Commission's next step should be to determine whether each EDC's pre-

¹ The Commission has set pre-restructuring benchmarks and future performance standards, based on the System Average Interruption Frequency Index ("SAIFI"), the Customer Average Interruption Duration Index ("CAIDI"), and the System Average Interruption Duration Index ("SAIDI").

restructuring reliability really was adequate and how the service quality of one Pennsylvania EDC compares to the service quality of other EDCs in the Commonwealth.

Although there are geographic and other differences among the EDC service territories, there is no justification for allowing one or more EDCs to provide a quality of service which falls significantly short of the quality of service provided by other EDCs in the Commonwealth. To address this issue, the OSBA recommends that the Commission adopt one of the following alternatives.

First, if there are levels of SAIFI, CAIDI, and SAIDI which are nationally recognized as evidence of satisfactory reliability, the Commission should require each Pennsylvania EDC to achieve those levels.

Second, if there is not a nationally recognized standard, the Commission should require each EDC to achieve results on the SAIFI, CAIDI, and SAIDI which are no worse than the average of the standards for all Pennsylvania EDCs which the Commission set at Docket No. M-00991220. Under such an approach, each EDC would be required to achieve the higher of its own SAIFI, CAIDI, and SAIDI standards or the statewide average standards for SAIFI, CAIDI, and SAIDI.

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.

See the OSBA's comments on Issues ## 1 and 2.

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

See the OSBA's comments on Issues ## 1 and 2.

5. Whether there should be automatic civil penalties written into the regulations for failure to meet standards for more than three consecutive quarters or some other reasonable time period, depending upon the type of inspection and maintenance that is at question.

As set forth in the OSBA's comments on Issues ## 1 and 2, the OSBA believes that the Commission should focus on holding each EDC accountable for achieving an appropriate level of performance on SAIFI, CAIDI, and SAIDI rather than setting prescriptive requirements which EDCs must meet.

The OSBA recommends that, if an EDC fails to achieve the required levels of performance on the reliability indices for a calendar year, the Commission should automatically initiate an investigation under 52 Pa. Code § 57.197(a). If the EDC is unable to justify its failure to meet the required levels of performance, the Commission should order that EDC to implement a corrective action plan. If the EDC fails to adhere to that plan, the Commission should then impose civil penalties in accordance with 66 Pa. C.S. § 3301. Under no circumstances should the EDC be permitted to recover those penalties from ratepayers.

WHEREFORE, the OSBA respectfully recommends that the Commission promulgate regulations consistent with the foregoing comments.

Respectfully submitted,

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