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March 11, 2005

VIA EXPRESS MAIL

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

**Re: Inspection and Maintenance Standards Notice of Proposed
Rulemaking, Docket No. L-00040167**

Dear Secretary McNulty:

Enclosed for filing in the above docket please find an original and fifteen copies of the Reply Comments of UGI Utilities, Inc. – Electric Division. A copy of these comments has also been served electronically on Elizabeth Barnes at ebarnes@state.pa.us.

Should you have any questions concerning this filing please feel free to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Mark C. Morrow". The signature is fluid and cursive.

Mark C. Morrow

Counsel for UGI Utilities, Inc. –
Electric Division

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ADVANCE NOTICE OF PROPOSED :
RULEMAKING FOR REVISION OF 52 :
PA. CODE CHAPTER 57 PERTAINING :
TO ADDING INSPECTION AND :
MAINTENANCE STANDARDS FOR THE: Docket No. L-00040167
ELECTRIC DISTRIBUTION COMPANIES:

REPLY COMMENTS OF UGI UTILITIES, INC. – ELECTRIC DIVISION

UGI Utilities, Inc. – Electric Division (“UGI”) appreciates this opportunity to submit replies to certain of the comments filed in the above docket by the Office of Consumer Advocate (“OCA”) and the Pennsylvania AFL-CIO Utility Caucus (“AFL-CIO”). These comments are meant to supplement the reply comments filed by the Energy Association of Pennsylvania at this docket.

**1. THE COMMISSION HAS NOT
BREACHED ITS RESPONSIBILITIES
UNDER 66 Pa.C.S. §2802(20)**

In its comments the AFL-CIO suggests that the Commission has ignored its statutory responsibilities under 66 Pa.C.S. §2802(20) since it has not promulgated prescriptive inspection and maintenance standards of the sort favored by the AFL-CIO. The OCA also asserts that Section 2802(20) requires the adoption of prescriptive inspection and maintenance standards. OCA Comments, p. 1. Section 2802(20), however, does not require the adoption of such prescriptive standards, and the Commission, through the adoption of its Subchapter N Electric Reliability Standards regulations, has clearly already fulfilled its statutory duty.

Section 2802(20) provides:

(20) Since continuing and ensuring the reliability of electric service depends on adequate generation and on conscientious inspection and maintenance of transmission and distribution systems, the independent system operator or its functional equivalent should set, and the commission shall set through regulations, inspection, maintenance, repair and replacement standards and enforce those standards.

In response to this directive, the Commission adopted its Subchapter N Electric Reliability Standards at 52 Pa.Code §§57.191 – 57.197, specifically indicating therein that these regulations were in response to the statutory directives in “66 Pa.C.S. §§2802(12), 2802(20), 2803, 2804(1), 2805(b)(1)(iii), 2807(a).” See Final Rulemaking To Amend 52 Pa.Code Chapter 57 to Ensure Electric Service Reliability, Docket No. L-00970120 (Final Rulemaking Order entered April 24, 1998), at p. 2. More recently, the Commission has modified these regulations to establish comprehensive electric reliability benchmarks and standards. Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code. Chapter 57, Docket No. L-00030161 (Final Order entered May 20, 2004).

Under the Commission’s initial and existing Subchapter N regulations, reliability standards are specified for both transmission¹ and distribution² facilities. In addition, EDCs are required to make periodic inspections of their equipment and facilities in accordance with good practice and in a manner satisfactory to the Commission, 52 Pa.Code §57.194(c), to “strive to prevent interruptions of electric service and, when interruptions occur, restore service within the shortest reasonable time, 52 Pa.Code §57.194(d), and to “design and maintain procedures to

¹ Under 52 Pa.Code §57.193(a), transmission facilities must be installed and maintained “in conformity with the applicable requirements of the National Electric Safety Code” and operated “in conformity with the operating policies, criteria, requirements and standards of the NERC and the appropriate regional reliability council, or successor organizations, and other applicable requirements.”

² Under 52 Pa.Code §57.194(a) and (b), an EDC is required to “install, maintain and operate its distribution facilities in conformity with the applicable requirements of the National Electric Safety Code”, “furnish and maintain adequate, efficient, safe, and reasonable service and facilities”, “make repairs, changes, alterations, substitutions, extensions and improvements in or to service and facilities necessary or proper for the accommodation, convenience

achieve reliability performance benchmarks and minimum performance standards established by the commission.” 52 Pa.Code §57.194(c). Extensive reporting on reliability is required on a quarterly basis, 52 Pa.Code §57.195, and performance benchmarks and standards specified. 52 Pa.Code §57.192.

When the Commission adopted its Subchapter N regulations, the International Brotherhood of Electric Workers (“IBEW”) argued that prescriptive inspection and maintenance standards of the sort advocated by the AFL-CIO and OCA here should be adopted to meet the Commission’s obligations under 66 Pa.C.S. §2802(20). The Commission wisely declined this proposal, however, noting that the prescriptive standards advocated by the IBEW could not take into account evolving inspection and maintenance technologies, and could be seen as excessive micromanagement. April 24, 1998 Order, at p. 20.

Thus, the Commission, contrary to the assertions of the AFL-CIO and OCA, has clearly already met its statutory responsibilities under 66 Pa.C.S. §2802(20). It has simply done so in a way that is not in accord with the proposals advanced by the AFL-CIO and OCA in their comments here.

**2. THE COMMISSION SHOULD NOT ADOPT
THE PRESCRIPTIVE AND UNNECESSARY
INSPECTION AND MAINTENANCE STANDARDS
ADVOCATED BY THE OCA AND AFL-CIO**

Both the OCA and the AFL-CIO argue for the adoption of specific prescriptive inspection and maintenance standards in their comments, although they apparently do not agree on what those standards should be³. This dichotomy is illustrative of the problem with attempting to

and safety of its patrons, employees and the public”, and to provide distribution service that is “reasonably continuous and without unreasonable interruptions or delay.”

³ For example, the OCA proposes a patrol inspection of distribution reclosers once every two years, with a detailed inspection every five years. OCA comments, p. 14. The AFL-CIO recommends that reclosers in substations be

develop inflexible and prescriptive “command and control” regulation of complex electric systems.

No regulator, nor any consulting engineer hired by a regulator, no matter how qualified he or she may be, could develop specific prescriptive inspection and maintenance standards that would be appropriate in all situations that exist or could arise in an electric transmission or distribution system. The adoption of such rules would accordingly lead to the performance of unnecessary functions, and the incurrence of unnecessary costs, that would eventually lead to increased costs to all electric consumers.

In its comments the OCA recognizes the difficulty of establishing prescriptive standards, but suggests that the solution is to adopt both general and company-specific prescriptive standards, and to specify that compliance with the standards would not absolve an EDC from liability if the standards turn out to be inappropriate or insufficient to maintain the desired level of reliability. See e.g., OCA Comments, pp. 8-10. The solution offered by the OCA, however, is not a solution at all, and indicates that prescriptive standards would lead to the performance of unnecessary functions and the incurrence of unnecessary costs, while not guaranteeing the attainment of the desired level of reliability.

Given the ever changing and increasing pace of technological change, and the myriad circumstances and equipment characteristics that exist or which might arise in a complex transmission and distribution system, the appropriate roll of a regulator seeking to maintain electric reliability should be to define the desired result, to monitor performance and to investigate and take appropriate enforcement actions when inappropriate action or inaction

inspected monthly, manual reclosers elsewhere be inspected once per year, and that electronic reclosers elsewhere be inspected once every two years.

results in unacceptable performance. It is then up to the engineers and other professionals employed by the EDCs to determine how best to achieve the desired result given the equipment and circumstances present in each of their systems, applying appropriate NERC, National Electrical Safety Code and other professional standards and guidelines.

The Commission has already taken appropriate action by establishing electric reliability standards and benchmarks, adopting electric reliability reporting requirements to monitor performance and by indicating that it will investigate and take appropriate action when required. No further action is needed.

3. NEITHER DISTRIBUTION RATE CAPS NOR THE BLACKOUT EXPERIENCED ON AUGUST 14, 2003 ARE GROUNDS FOR THE ADOPTION OF PRESCRIPTIVE INSPECTION AND MAINTENANCE STANDARDS

The AFL-CIO suggests in its comments that prescriptive inspection and maintenance standards are needed because the Electricity Generation Customer Choice and Competition Act “created a potentially lethal combination of incentives: the promise of unrestricted profits on generation investments coupled with distribution rate caps that would prohibit utilities from receiving a full return on new distribution investments for an extended period of time.” AFL-CIO Comments, p. 2. The OCA, in turn, suggests that the blackout experienced on August 14, 2003 calls for the adoption of prescriptive standards. OCA Comments, pp. 1-3.

If the Commission believes that rate caps may create incentives for certain EDCs to under-invest in transmission and distribution system reliability, the appropriate remedy is not to adopt prescriptive inspection and maintenance standards of general applicability that will lead to increased costs, and ultimately to higher rates, for all EDCs while not guaranteeing appropriate

levels of reliability. The application of such standards to EDCs, such as UGI, that are not even under distribution rate caps would be particularly inappropriate.

Instead, the appropriate response to a concern about the perverse rate cap incentives would be to establish reliability benchmarks and standards, and to measure compliance with such benchmarks and standards, for all EDCs subject to rate caps. This Commission has adopted such benchmarks and standards in its Subchapter N electric reliability regulations, and has made these regulations applicable to all EDCs, including EDCs, such as UGI, that are not subject to distribution rate caps.

Similarly, the blackout of August 14, 2003 is not a reason for adopting prescriptive inspection and maintenance standards. While the blackout may lead NERC to adopt revised vegetation management guidelines, Pennsylvania EDCs already will be obligated by the Commission's reliability regulations to comply with the newly developed guidelines. Moreover, the Commission's existing electric reliability regulations will enable the Commission to monitor and respond to any condition affecting electric reliability, including vegetation management problems. Thus, the Commission has already taken the appropriate actions expected of it in response to the blackout.

Respectfully submitted,



Mark C. Morrow

Counsel for UGI Utilities, Inc. –
Electric Division

Dated: March 11, 2005