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May 20, 2010

HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street - Filing Room (2 North)
Harrisburg, PA 17120

Re: Proposed Policy Statement Regarding Utility Service Outage Notification Guidelines
Docket No. M-2008-2065532

Dear Secretary McNulty:

Pursuant to Ordering Paragraph 4 of the Proposed Policy Statement entered November 10, 2009, in the above-captioned matter, enclosed for filing please find an original and fifteen (15) copies of the Pennsylvania Telephone Association Replies to Comments.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By

Regina L. Matz

Enclosures

cc: Elizabeth Barnes, Esquire, Law Bureau (w/encl. via electronic and first class mail)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Policy Statement Regarding :
Utility Service Outage Public : Docket No. M-2008-2065532
Notification Guidelines :

**PENNSYLVANIA TELEPHONE ASSOCIATION
REPLIES TO COMMENTS**

I. Introduction

On November 10, 2009, the Pennsylvania Public Utility Commission (“Commission”) entered a proposed policy statement currently structured to apply to all electric distribution companies (“EDCs”) operating in Pennsylvania. The proposed policy statement was issued following a substantial investigation by the Commission of the EDCs’ responses and public service notice practices implemented following the extensive electric service interruptions experienced in Pennsylvania as a result of Hurricane Ike in September 2008. The proposed policy statement considered three distinct proposals to affect public notification processes and utility responses during a period of emergency.

Comments were filed on or around April 5, 2010,¹ by the Pennsylvania Emergency Management Agency (“PEMA”), the Verizon companies (“Verizon”),² the Office of Consumer Advocate (“OCA”), the UGI companies (“UGI”),³ National Fuel Gas Distribution Corporation (“NFGDC”), West Penn Power Company d/b/a Allegheny Power (“Allegheny Power”), Philadelphia Gas Works, PPL Electric Utilities Corporation (“PPL”), the Energy Association of Pennsylvania (“EAP”), PECO Energy Company

¹ Some parties requested and were granted a minimal extension for filing comments.

² Verizon companies participating in the comments include Verizon Pennsylvania Inc., Verizon North Inc., and MCImetro Access Transmission Services, LLC, d/b/a Verizon Access Transmission Services.

³ The UGI companies participating in the comments include UGI Utilities, Inc., UGI Penn Natural Gas, Inc., and UGI Central Penn Gas, Inc.

(“PECO”), Duquesne Light Company (“Duquesne”), the FirstEnergy companies Metropolitan Edison, Pennsylvania Electric, and Pennsylvania Power (“FirstEnergy”), and the Pennsylvania Telephone Association (“PTA”).⁴ The PTA specifically addressed the Commission’s inquiry whether the current proposed policy statement, written specifically to apply to the electric distribution market should also apply to the regulated telephone industry.

The PTA timely files these replies to comments pursuant to the Commission’s order. The PTA continues to strongly discourage the Commission from applying this statement to its Member Companies. As PTA noted in its comments, Act 183⁵ prohibits the imposition of new reporting requirements on regulated incumbent local exchange companies (“ILECS”) such as PTA members absent the Commission’s conduct of an express cost/benefit analysis.⁶ Act 183 also encourages the Commission to reduce the regulatory obligations of regulated wireline telecommunications carriers to levels more consistent with competing alternative service providers.⁷ The PTA submits that there is no evidence that imposition of the policy on the regulated telecommunications carriers is necessary. For this public utility sector, the Commission should consider the continued use of existing emergency response reports as are currently required. In the alternative, if any change is contemplated, the Commission should recognize and coordinate those changes to accept emergency reports such as those filed by ILECs at the Federal Communication Commission (“FCC”).

⁴ The PTA is the state’s oldest trade organization for the local exchange carrier industry. PTA represents more than 30 telecommunications companies that provide a full array of services over wire line networks. PTA members support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities.

⁵ Act 183 of 2004, 66 Pa.C.S. §§3011-3019.

⁶ 66 Pa.C.S. §3015(f).

⁷ 66 Pa.C.S. §3011(13).

II. Summary of Comments

The degree of support for the Commission's proposed policy statement varied not only across industries, but also within industries. Generally only one utility, Duquesne, supported adoption of the policy statement. Within the electric industry, support for the policy statement was light absent a further cost/benefit analysis of imposition of a specific state-wide plan, when each EDC already appeared to have a comprehensive plan in place. Many of those filing comments noted the additional consideration the Commission should give to the implications of its policy statement, not just across industries, but also within the electric industry itself for which the policy statement was drafted. Almost uniformly, commentators opposed imposition of the policy statement outside the electric industry.

A. Electric Distribution Companies

EAP questioned the additional burdens that would be imposed on EDCs, for example due to required training, drilling, review of existing written procedures, certification of equipment, and the establishment of a Joint Information Center, that could result from required conformity to the Natural Incident Management System ("NIMS") and its Incident Command System. These concerns, as well as others, were also echoed by Allegheny Power, which noted that its current Crisis Communications Manual already conforms to NIMS standards. Consequently, prior to imposition on EDCs, EAP requested further analysis of the costs/benefits of applying the policy statement to EDCs, which EAP noted already have existing plans, procedures and processes in place.

FirstEnergy urged the Commission to avoid a "one size fits all" approach, noting that what is effective for water and wastewater may not be best suited for the electric industry. FirstEnergy cautioned against implementing a Joint Information System if the

result would be to drain EDC personnel and resources away from the EDC in times of emergencies. FirstEnergy also asserted that it already has in place a written emergency response plan that largely incorporates main components of NIMS. Similarly, PECO⁸ also contended that it has an effective crisis communication plan in place, and opposed implementation of the policy statement on a generic EDC basis until a cost/benefit analysis could be conducted.

Duquesne and PPL were the only utility commentators recommending that the proposed policy statement be applied to all fixed utilities. PPL generally opposed the proposed policy statement on the grounds that it already has effective “command and control” policies in place,⁹ and change would require substantial resources with little or no benefit. It offered no support for extending the policy statement outside the EDC industry other than the statement that it would be “appropriate and reasonable” to do so.

Duquesne, while recognizing without elaboration that there are operational differences among the fixed utility industries, nonetheless contended that service disruptions in each industry should be subject to “solid processes and effective communication plans.”¹⁰ Duquesne generally supported the policy statement as drafted because it coincides in large part with Duquesne’s current practices. Duquesne opposed implementation of a Joint Information Center among EDCs because there generally is insufficient outage-specific information common among the utilities, though it would agree to be a support component of a PEMA-run Joint Information Center.

B. Natural Gas Utilities

⁸ Although addressed under the “EDC” header, PECO is both an electric and natural gas utility subsidiary of Exelon Corporation.

⁹ PPL Comments at 2.

¹⁰ Duquesne Comments at 2.

Recognizing the differences in facilities between electric and gas utilities, and the different impact on outages experienced in the gas industry because of those differences, the gas providers NFGDC, UGI, and Philadelphia Gas Works, generally recommended not applying the policy statement to natural gas utilities. UGI and NFGDC also noted concerns with the consequences of the NIMS standard, such as the need to unify a message across the macro-system wide level when a micro-local or individual customer level might be more appropriate and efficient. EAP also recommended not applying the policy statement to natural gas utilities at this time.

C. Regulated Telecommunications Carriers

Like the PTA, Verizon opposed implementation of the proposed policy statement on regulated wireline carriers. Verizon cited to the FCC and Department of Homeland Security reporting obligations under the FCC's *New Part 4 Rules*¹¹ and the resulting federal regulations at 47 C.F. R. §4.1 et seq. as sufficient reporting requirements currently imposed on wireline carriers and upon which the Commission should rely instead of enlarging reporting and crisis management requirements under the proposed rulemaking and proposed policy statement. Under the *New Part 4 Rules*, communications carriers are obliged to submit outage reports electronically via the FCC's Network Outage Reporting System ("NORS") database. Verizon submitted that in lieu of expanding wireline obligations under the proposed rulemaking or policy statement orders, that the Commission afford ILECs the option of providing to the Commission, on a proprietary and confidential basis, copies of the FCC's NORS reports.

D. Other Parties

¹¹ *In the Matter of new Part 4 of the Commission's Rules Concerning Disruptions to Communications, Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Red. 16830, ¶ 1 (2004).

The OCA submitted that the policy statement should apply to all utilities “to the extent possible,”¹² although the OCA did not elaborate further on what “extent” was “possible.” While OCA supported all the identified means of public notification, it noted that automatic dialers (which should be used to the maximum extent possible) might not be effective because “many phones and answering machines do not operate during an electric outage[.]”¹³ OCA also fully supported use of the NIMS system and a Joint Information Center.

PEMA sought a policy on the impact of service outages on the telephone industry. PEMA claimed, without providing specifics, that both wireline and wireless telephone service were affected by loss of power during Hurricane Ike. PEMA claimed that the loss of power to critical telephone central offices, end offices, and tower sites disrupted not only dial-tone service, but also created 9-1-1 network outages. This, PEMA claimed, was due to lack of power and lack of power redundancy at critical telecommunications infrastructure sites. PEMA suggested requiring county radio infrastructures to register with utility providers as priority restoration sites, consider categorizing priority sites for restoration, directing the utility's Joint Information Center to communicate with the county emergency management agencies and PEMA, and requiring corrective actions as soon as possible, including the submission of a report of a utility investigation in a three-month period.

III. PTA’s Replies to Comments

The PTA continues to have serious concerns about the burdens, both financial and work-force related, that the proposed policy statement would impose upon its Member

¹² OCA Comments at 3.

¹³ OCA Comments at 4.

Companies. These burdens are particularly disconcerting since they would impact only one sector of a largely competitive and deregulated (except for the ILECs) industry when the Commission has been presented no specific evidence that Hurricane Ike, or any other major event, caused vast outages or massive consumer disruptions within the regulated telecommunications industry.

A. Lack of Evidence of Outages

Contrary to PEMA's allegations, the PTA Companies, from the smallest to the largest, did not experience vast or serious disruptions to regulated telecommunications services in Pennsylvania following Hurricane Ike. To the extent any PTA Companies at any recent time experienced any weather-related or other incidents, they were largely very much contained to small, specific pockets, due to very local conditions, and unlike Ike, did not present wide-spread or lingering outage issues. Further, they were subject to specific targeted and immediate remediation efforts implemented pursuant to existing crisis plans as soon as the extent of the outage was recognized, and did not have long-lasting effects as were experienced in the electric industry following Hurricane Ike.¹⁴

The PTA is unaware of any Member Company that does not have power redundancy in the event of a major electric outage, or that has suffered loss of power to critical telephone central offices and end offices as PEMA claims.¹⁵ On the contrary, PTA Companies maintain both generator and battery back up at all necessary equipment

¹⁴ Specifically with regard to the effects of Hurricane Ike, one PTA Company reported damage to two small and one medium cabinet sites. Outages related to this damage were minimal, with none exceeding 24 hours, and most restored in less than 6 hours. Despite the loss of commercial electricity that extended for days, this Company had personnel on site 24/7 to ensure back up generators and batteries remained in place and fully functional until all commercial electricity was restored. Since Hurricane Ike, this Company has invested in longer life batteries in several locations, purchased additional stationary and portable generators to sustain on-site power longer, and incorporated improved power management systems for its internal network operations center.

¹⁵ PEMA's claims that loss of power to tower sites also disrupted telecommunications service is, of course, a claim that would have to be answered by the wireless industry, which is not a party to this proposal. This is precisely why the Commission should avoid imposing on the regulated telecommunications sector a proposal that cannot be imposed on all telecommunications providers.

buildings. Even among the smallest regulated telecommunications providers, remote cabinets without fixed generators have back up batteries that are rechargeable, as necessary, with portable generators available during power outages that exceed as few as eight hours. For example, Windstream has a central network operations center that maintains a list of portable generators that are available by type and location, and coordinates their deployment during major events. Smaller companies have arrangements with neighboring telephone companies for loan of equipment if circumstances would ever necessitate going outside the carrier's own plant.

B. Existing Emergency Preparedness Plans

All PTA Companies also have individual written emergency preparedness plans that provide detailed information for operations during emergencies. On a Pennsylvania-state level, these companies also participate, either through the PTA or individually, in the Commission's Emergency Assistance Physical and Cyber Security process. Companies with more extensive service territories have centralized systems in place to ensure that communications during emergencies, both internally and externally, are consistent and current.

Windstream's network operations center, for example, requires each market to develop and submit a disaster plan that explains in detail the arrangements in place for contingency planning for any type of local emergency (weather, loss of equipment, etc.). This information is published internally on a website that is kept current 24/7 so that all personnel are provided access to and required to report from the same information. All plans are required to be updated annually.

Hancock Telephone Company, a small company on the Pennsylvania/New York border with only one Pennsylvania exchange, complies with written preparedness plans

in both New York and Pennsylvania, as well as at the FCC. This small company tests its power systems under a full load on a routine basis, usually weekly as recommended by the Network Reliability and Interoperability Council (“NRIC”) Best Practices Guidelines (Part 6-5-0062), and replaces back up power as recommended by the NRIC in order to enhance standby capabilities during outages.

The PTA Companies also, like Verizon, have registered and are compliant with the FCC’s Network Outage Reporting System (“NORS”) database. Given the mandates of Act 183 for parity of regulatory burdens across the regulated and unregulated telecommunications industry, and the need for the Commission to expressly conduct a cost/benefit analysis before imposing further reporting burdens on the PTA Companies, the PTA believes that any Commission concern regarding extended outages may be addressed by adherence to these existing systems, particularly the FCC’s NORS. Specifically the PTA Companies are amenable to providing to the Commission, on a confidential basis, a copy of any FCC-generated report that may be necessary as a result of an outage. The PTA submits that such a process is the extent to which all parties’ interests for ensuring comprehensive and coherent action during outages may be reconciled with Act 183’s limitations on the imposition of new regulatory burdens. It will avoid the waste or duplication of valuable resources that would result from the mandatory application of a general process, including implementation of NIMS, across the public utility spectrum without regard for or consideration of an individual sector’s lack of similar outage experiences or the efficacy of their current response plans.

C. Differences in Utility Industries

Further, as stated in the PTA’s comments and recognized by other commentors, several distinctions exist among the Commission’s different regulated utility markets –

electric, gas, water, and telecommunications – such that uniform application of an outage policy is not justified. While the Commission’s research to date might support imposition of the policy statement on the EDCs, it clearly does not support extrapolation of Hurricane Ike’s electric disruptions as justification for imposition of the policy statement across all fixed utilities.

Even Duquesne, which supports the policy statement mostly because it already largely mirrors Duquesne’s own existing internal crisis response system, recognized the differences among fixed utilities. Duquesne’s comments, that the policy statement should be applied to all public utilities in order to ensure “solid processes and effective communication plans,” were made without the benefit of knowledge of the very existence of those plans already in place in other industries. They were also made in spite of Duquesne’s recognition that there are differences among fixed utilities and generally insufficient outage-specific information common among utilities. Given this lack of commonality, adoption of the proposed policy statement for application to the EDC sector is insufficient, by itself, to justify application to all fixed utilities.

PPL, the only other utility commentator recommending blanket application of the policy statement across industries, appeared to do so simply out of an “if-we-have-to-you-have-to-too” philosophy, and not because of any demonstrated need or benefit within any one regulated sector.

The OCA prefers application across all utility sectors “to the extent possible” to “provide consistency for customers of all utilities[.]”¹⁶ However, no evidence is provided that customers of regulated telecommunications providers either endured the same type of outages that were experienced in the electric industry, or that the information provided

¹⁶ OCA Comments at 3.

by the telecommunications carriers themselves was not sufficient. While OCA correctly notes that some answering machines do not operate during an electrical outage, the OCA's concomitant statement that "many phones" also do not operate is factually unsupported and inaccurate.¹⁷ Moreover, the OCA does not discuss the limitations of Act 183 and the Commission's need to strive for regulatory parity between regulated and unregulated carriers, a goal that cannot be reached if only the regulated carriers are subject to this new policy statement. Similarly, PEMA's suggestions of mass telecommunications outages are simply not supported by the facts.

For all of these reasons, the PTA believes that there has been no demonstration within the regulated public utility industry that a broad service outage policy statement needs to be adopted. In light of the comments received, it remains true that a policy statement appropriate for some is not by automatic application necessary or appropriate for others simply because they share regulated public utility status. Obligations imposed under the proposed policy statement should not be imposed on the regulated telecommunications market when the Commission has not had the same experience with that market as it has with electric and water. Further, since the Commission cannot impose such service obligations on the large part of the telecommunications market that is unregulated (wireless, cable, VoIP), it should forbear from imposing it on the regulated market.

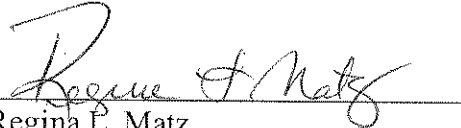
IV. Conclusion

The PTA appreciates the opportunities to file comments and replies to comments on the Commission's proposed policy statement. The PTA does not believe that the

¹⁷ OCA Comments at 3.

Commission should implement its proposed policy statement upon the regulated telecommunications industry absent hard evidence that customers of the regulated telecommunications industry will benefit from such policies, or that those customers even suffer the same type of critical mass disruptions that were the genesis of the proposed policy statement for the EDC industry.

Respectfully submitted,



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