



17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601  
717-731-1970 Main  
717-731-1985 Fax  
www.postschell.com

Christopher T. Wright

cwright@postschell.com  
717-612-6013 Direct  
717-731-1985 Fax  
File #: 2507/140056

RECEIVED  
2010 APR -7 PM 3:47  
PA PUC  
SECRETARY'S BUREAU

April 7, 2010

BY HAND

James J. McNulty  
Secretary  
PA Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
PO Box 3265  
Harrisburg, PA 17105-3265

**RE: Proposed Rulemaking for Revisions of 52 Pa. Code Chapters 57, 59, 65 and 67  
Pertaining to Utilities' Service Outage Response and Restoration Practices  
Docket No. L-2009-2104274**

Dear Secretary McNulty:

Enclosed please find the original and fifteen copies of the Comments of PPL Electric Utilities Corporation for the above-referenced proceeding. Copies have been provided as indicated.

Respectfully Submitted,

Christopher T. Wright

CTW/skr

Enclosures

cc: Elizabeth Barnes (via email - ebarnes@state.pa.us)

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Re: Proposed Rulemaking for Revisions of :  
52 Pa. Code Chapters 57, 59, 65 and 67 : Docket No. L-2009-2104274  
Amending Utilities' Service Outage :  
Response and Restoration Practices. :

SECRETARY'S BUREAU  
PA PUC

2010 APR -7 PM 3:47

RECEIVED

**COMMENTS OF  
PPL ELECTRIC UTILITIES CORPORATION**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

**I. INTRODUCTION**

By Order entered November 10, 2009, the Public Utility Commission (“PUC” or the “Commission”) requested comments on the Proposed Rulemaking for Revisions of 52 Pa. Code Chapters 57, 59, 65 and 67 Amending Utilities’ Service Outage Response and Restoration Practices (hereinafter, “Proposed Regulations”), which are designed to amend the Commission’s regulations regarding service outages and reportable accidents involving utility facilities. The Commission indicates that the intent of the Proposed Regulations is to broaden the scope of reportable accidents involving fixed utility service, establish a uniform reporting period, require the filing of the utility’s internal investigation report, and require that fixed utilities provide a greater level of detail to the Commission regarding outage events. The Proposed Regulations were published in the *Pennsylvania Bulletin* on March 6, 2009, with a 30-day comment period. By Secretarial Letter dated April 1, 2010, the comment period was extended until April 7, 2010.

PPL Electric Utilities Corporation (“PPL Electric” or the “Company”) is a “public utility” and an “electric distribution company” (“EDC”) as those terms are defined under the Public

Utility Code, 66 Pa.C.S. §§ 102 and 2803, subject to the regulatory jurisdiction of the Commission. PPL Electric furnishes electric distribution, transmission, and provider of last resort electric supply services to approximately 1.4 million customers throughout its certificated service territory, which includes all or portions of twenty-nine counties and encompasses approximately 10,000 square miles in eastern and central Pennsylvania.

PPL Electric currently files with the Commission reports of any accidents involving fixed utility facilities and service outages as required by Chapters 57 and 67 of the Commission's regulations, as they currently exist. PPL Electric believes that its familiarity and experience with the Commission's existing regulatory framework regarding service outages and reportable accidents will benefit the Commission and parties in this proceeding. Therefore, PPL Electric appreciates this opportunity to comment on the Commission's Proposed Regulations to revise the existing regulations regarding service outages and reportable accidents involving electric utility facilities.

PPL Electric supports the Commission's continued efforts to ensure that utilities provide safe and reliable service. However, it is PPL Electric's position that the existing regulations regarding service outages and reportable accidents currently provide most of the additional information being sought by the Proposed Regulations. PPL Electric believes that the expanded scope and detail in the Proposed Regulations is not necessary and will provide little or no benefit relative to the additional effort and costs they will impose. Several modifications or clarifications are appropriate, and PPL Electric directs its comments to those issues. To facilitate review by the Commission and other interested parties, the following comments track the organization of the Commission's Proposed Regulations.

## **II. COMMENTS OF PPL ELECTRIC**

### **A. Section 57.11(b). Reportable Accidents.**

#### **1. Subsections (b)(2) and (b)(3).**

The Proposed Regulations seek to modify Subsection 57.11(b)(2) and to eliminate Subsection (b)(3), thereby expanding the definition of a reportable injury by removing the differentiation between employees and the general public, and including any injured person that requires professional medical attention or hospitalization without regard to the severity of the injury. PPL Electric believes that the expanded definition is too broad, could cause an undue burden on EDCs, and will provide little or no benefit.

Currently, Subsection 57.11(b)(2) provides that an EDC must report an occupational injury that is sufficient to incapacitate an employee from performing his ordinary duties for a period longer than 3 days. Subsection 57.11(b)(3) currently provides that an EDC must report an injury to a member of the public that is sufficient to incapacitate a person from his customary vocation or mode of life for more than 1 day.

Subjection (b)(2) of the Proposed Regulations would remove the differentiation between the general public and employees that are injured during and within the scope of their employment. Thus, the Proposed Regulations would effectively treat employees and the general public equally in terms of an EDC's obligation to report injuries. PPL Electric believes that the expanded definition in the Proposed Regulations is too broad in scope and imposes an unnecessary additional regulatory burden on EDCs to report occupational injuries. It is PPL Electric's position that differentiation between employees and the general public in Sections 57.11(b)(2) and 57.11(b)(3) as it currently exists is appropriate. PPL Electric believes that Section 57.11(b)(2) as it currently exists is sufficient to advise the Commission Staff of notable occupational injuries that are related to work on or operation of electric facilities.

Further, Section 57.11(b)(2) of the Proposed Regulations seeks to expand the definition of a reportable injury to include any injury that requires professional medical attention, including minor injuries that would not disrupt a person's customary vocation or mode of life. This could include, for example, any laceration requiring sutures or other minor treatments that, due to an abundance of caution, results in professional medical treatment. PPL Electric believes this definition is too broad in scope and could cause an undue burden on EDCs to report minor injuries that may have little or no relation to interruption of service or the presence of unsafe conditions. PPL Electric believes that Section 57.11(b)(3) as it currently exists is sufficient to advise the Commission Staff of notable injuries to the general public.

Based on the foregoing, PPL Electric believes that Subsections 57.11(b)(2) and (b)(3) as they presently exist are adequate to advise Commission staff of injuries related to work on or operation of electric facilities without imposing an undue burden on EDCs. Accordingly, it is PPL Electric's position that the expanded definition of a reportable injury in the Proposed Regulations, to include any injured person that requires professional medical attention or hospitalization, is not necessary and should not be adopted by the Commission.

## **2. Subsection (b)(5).**

The Proposed Regulations seek to add a new paragraph (5) that would require EDCs to report substantial damage to another utility's facilities or property. Events that involve damage to a utility's property by another utility typically involve excavation or demolition work that results in damage to underground facilities used in providing electricity, communications, gas, propane, oil delivery, oil product delivery, sewage, water or other service. However, each utility facility owner is required by the Underground Utility Line Protection Law, Act 287 of 1974, P.L. 852, *as amended*, 73 P.S. §§ 176 *et seq.*, and the regulations promulgated thereunder, to report such incidents to the Pennsylvania Department of Labor and Industry. To require utilities to

report to another government agency is duplicative and unnecessary. PPL Electric therefore believes that the proposed new paragraph (5) should not be adopted by the Commission. To the extent the Commission adopts the proposed new paragraph (5), PPL Electric believes that the term “substantial damage” should be defined as damage that directly results in a prolonged and serious interruption of the damaged utility’s normal service.

**B. Section 57.11(d). Telephone Reports.**

The Proposed Regulations seek to modify Section 57.11(d) to provide a time period in which EDCs must provide a telephone report of any reportable accidents. Currently, Section 57.11(d) provides that EDCs must make a telephonic report of a reportable accident “at once.” PPL Electric supports the Commission’s proposal to provide a definitive time period in which telephone reports must be made. However, PPL Electric believes that a modification of the proposed time period is appropriate.

Section 57.11(d) of the Proposed Regulations requires EDCs to telephonically report within 24 hours of any reportable injury or substantial damage to another utility’s property as defined by the proposed Subsections (b)(2) and (5). As explained above, PPL Electric believes that the proposed modifications to Subsections (b)(2) and (5) are unnecessary and/or should be further limited. However, to the extent that the proposed Subsections are adopted, PPL Electric believes that the initial report by telephone for any such occurrence should be made within 2 working days, or 48 hours. This will provide EDCs with valuable additional time to properly evaluate the situation before being required to provide an initial report that may be based on incomplete information.

**C. Section 57.11(e). Written Reports.**

The Proposed Regulations seek to modify Section 57.11(e) to require EDCs to submit written reports within 5 days of the occurrence of a reportable accident. Currently, Section

57.11(e) provides that EDCs must submit a written report immediately following the occurrence of a reportable accident. PPL Electric again appreciates the Commission's attempt to provide definitive time periods in which an EDC must submit written reports. However, the Company believes that a modification of the proposed time periods is appropriate.

PPL Electric believes that the proposed time for filing written reports is too short, especially in light of the fact that EDCs are required to submit a telephonic report as set forth in Section 57.11(d). It is PPL Electric's position that any such reports should be based on complete information and should be submitted only after the conclusion of the EDCs investigation. EDCs should be given the opportunity and time to fully conduct an investigation of any reportable accidents. Although some investigations may be concluded within 5 days from the occurrence of the reportable accident, others may take substantially longer. Requiring EDCs to submit a written report within 5 days could result in a written report based on incomplete information.

PPL Electric agrees that reporting certain, appropriate information may be helpful to ensure that EDCs provide safe and reliable service. However, in order for such information to be useful, it should be based on complete and accurate information. For these reasons, PPL Electric believes that it is reasonable and appropriate to require EDCs to submit a written report only after they have had the opportunity to fully conduct their investigation of the reportable accident.

**D. Section 57.11(f). Internal Investigation Reports.**

The Proposed Regulations seek to add a new Section 57.11(f) to require EDCs to submit their internal investigations of reportable accidents. It is PPL Electric's position that this proposed requirement is unnecessary, fails to provide any meaningful benefit, and could potentially have significant legal ramifications beyond the Commission's jurisdiction.

As noted above, PPL Electric believes that it is appropriate for EDCs to submit a written report after they have had the opportunity to conduct a full investigation of the reportable

accident. The written report will provide the Commission Staff with the information necessary to monitor incidents related to the potential interruption of service and safety of electric facilities. Requiring EDCs to submit their internal investigation reports will provide little or no additional benefit. Therefore, PPL Electric believes that the Commission should not adopt Section 57.11(f)

Further, such reports may contain confidential information and may be subject to privileges from discovery, including, but not limited to, the attorney-client privilege. Unlike *confidential or privileged information that may be sought in a Commission proceeding*, the *confidential or privileged information included in an internal investigation report* may not have the benefit of a protective order. Although the proposed section provides that the internal investigation would be treated in accordance with protections provided by 66 Pa.C.S. § 1508, PPL Electric is concerned that such information may still be obtained by subpoena. In short, providing confidential or privileged information to the Commission could be considered a waiver of important legal rights. The protections provided under the proposed language are not adequate to guarantee protection of confidential or privileged information and, therefore, PPL Electric believes that the Commission should not adopt Section 57.11(f) as proposed.

PPL Electric notes that in the event the Commission initiates a formal proceeding to investigate a reportable incident, such information may then be discoverable by Commission Staff subject to the limitations of the Commission's regulations and an appropriate protective order. Accordingly, to the extent that the Commission concludes that EDCs should submit copies of their internal investigation reports of reportable accidents, PPL Electric recommends that the proposed Section 57.11(f) be modified to permit EDCs to redact any confidential or privileged information.



**E. Section 67.1(b). General Provisions.**

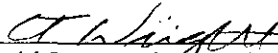
In Section 67.1(b), the Proposed Regulations seek to expand the detail utilities are required to provide to the Commission in service outage reports. PPL Electric believes that the information provided by utilities under Section 67.1(b) as it currently exists is sufficient to advise Commission Staff of the nature of service outages, the number and location of customers affected, the duration of the event, the utility's response time, and the time it took to remedy the event. The information currently provided is adequate for Commission Staff to determine whether an investigation is necessary. Further, in the event that Staff determines an investigation is appropriate, Staff is permitted to obtain any additional information it believes necessary consistent with the Commission's regulations. In the alternative, EDCs could maintain this detailed information in accordance with a reasonable records retention schedule and, upon request, make it available for Commission review.

**III. CONCLUSION**

As stated above, PPL Electric generally supports the Commission's continued efforts to ensure that utilities provide safe and reliable service. However, it is the position of PPL Electric that the existing regulations regarding service outages and reportable accidents provide most of the additional information being requested in the Proposed Regulations. PPL Electric believes that the expanded scope and detail in the Proposed Regulations are not necessary and provide little or no benefit relative to the additional effort and costs they will impose. Accordingly, PPL Electric respectfully requests that the Commission modify its Proposed Regulations consistent with the Company's comments.

Respectfully submitted,

Paul E. Russell (ID # 21634)  
Associate General Counsel  
PPL Services Corporation  
Office of General Counsel  
Two North Ninth Street  
Allentown, PA 18106  
Phone: 610-774-4254  
Fax: 610-774-6726  
E-mail: perussell@pplweb.com

  
David B. MacGregor (ID # 28804)  
Post & Schell, P.C.  
Four Penn Center  
1600 John F. Kennedy Boulevard  
Philadelphia, PA 19103-2808  
Phone: 215-587-1197  
Fax: 215-587-1444  
E-mail: dmacgregor@postschell.com

Of Counsel:

Post & Schell, P.C.

Michael W. Hassell (ID #34851)  
Christopher T. Wright (ID #203412)  
Post & Schell, P.C.  
17 North Second Street  
12<sup>th</sup> Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: mhassell@postschell.com  
E-mail: cwright@postschell.com

Date: April 7, 2010

*Attorneys for PPL Electric Utilities Corporation*