

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17120

DIVERSITY RULEMAKING

Public Meeting held February 6, 2020
3017284-CMR
L-2020-3017284

MOTION OF CHAIRMAN GLADYS BROWN DUTRIEUILLE

Every January, leaders of Commonwealth agencies, such as myself and my fellow Commissioners, pledge to support hiring, compensating, training, and advancing individuals based on merit regardless of their diverse identities while promoting affirmative action steps to eliminate barriers for protected groups.¹

On March 24, 1995, the Commission adopted its Statement of Policy on Diversity at Major Jurisdictional Utility Companies, 52 Pa. Code §§ 69.801-69.809 (Policy Statement). When proposed by Commissioner Lisa Crutchfield, these guidelines were seen as, and were in fact, groundbreaking and progressive for that time. However, twenty-five (25) years later brings us into a new century and, I believe, a timely opportunity to reinvigorate the Commission's efforts to promote and implement effective diversity programs at our major jurisdictional utility companies.

Pennsylvania is a diverse state when it comes to energy production, natural resources, manufacturing, agriculture, and last, but not least, the citizens of the Commonwealth. Our jurisdictional public utilities should draw on the strengths provided by the diverse citizens of this state, whom I might add are also utility customers. As such, jurisdictional utilities should continue to develop and implement company-wide diversity programs for employment and contracting of goods and services. These programs should focus on how to maintain or increase the numbers of qualified minority, women, disabled, LGBTQ, and veteran employees, vendors, and service providers. The Commission launched a utility careers campaign in the Fall of 2017 to address the looming problem of increased utility workforce retirements. Properly structured, diversity programs can successfully leverage untapped talent pools to help fill these critical jobs. Furthermore, as regulated monopolies, our jurisdictional utilities have unique beneficial community relationships which I believe diversity programs have the power to strengthen.

Our current Policy Statement encourages utilities to file a diversity report with the Commission annually. The Policy Statement recommends that the following information be included:

- (1) A description of minority/women/persons with disabilities-owned business program activities engaged in during the previous calendar year. This description includes both internal and external activities.
- (2) A description of progress in meeting or exceeding the proposed levels and an explanation of circumstances that may have caused the utility to fall short of its established minimum improvement levels.

¹ Governor Wolf's Executive Order on Equal Employment Opportunity, No. 2016-04.

(3) A description of innovative approaches to encourage minority/women/persons with disabilities-owned business development, partnering, subcontracting, joint-venturing and venture capital projects.

(4) A summary of prime contractors which report utilization of minority/women/persons with disabilities-owned business subcontractors indicating the number of disability-owned business subcontractors and the associated dollars.

(5) An explanation for the continued classification of exempt procurement for products or services which have been used to set minimum levels of improvement because of the established unavailability of minority/women/persons with disabilities-owned business suppliers.

(6) Sections 69.801—69.808 and this section permit utilities to break specific categories down further than presently suggested—for example, reporting contracts awarded to Filipino Americans separately from those awarded to Asian Pacific-Americans, or reporting male and female results within minority-owned classifications. Data reported for nonminority women, may be reported separately from data reported for minority business enterprises.

(c) Information that is otherwise unobtainable to the major jurisdictional utility company, for example, prime contractor utilization of minority/women/persons with disabilities-owned businesses as subcontractors, should be reported in the annual filings.

52 Pa. Code §§ 69.801-69.809.

In reviewing the information submitted under these reports, staff has found that in many instances, the companies are either including too much information, not enough information, or unnecessary information in the reports. In an attempt to solicit the appropriate information, I have composed a list of suggested revisions for the reporting guidelines:

- 1) Update the definition of diversity to include Minorities, Women, Veterans, LGBTQ, and the Disabled.
- 2) Provide a standard reporting form with the goal of collecting the following information:
 - a) A copy of any corporate policy committed to improving diversity in the workplace and in the procurement process.
 - b) A description of any training implemented on diversity initiatives in employment and in the contract of goods and services.
 - c) A standardized format to account for diverse employee numbers.²
 - d) A description of any diversity recruiting strategies.
 - f) A description of any diversity promotion efforts.
 - g) A description of any diversity retention efforts.
 - h) A brief description of any involvement with organizations promoting diversity.

² Reporting of LGBTQ numbers is exempted consistent with federal and state privacy laws.

- i) A brief summary of diverse owned businesses the company contracts with for goods and services. Include percentage of dollar spent with diverse-owned businesses versus non-diverse businesses.

I believe that this list may streamline the filing process for the reporting utilities, as well as the review process for the Commission. Finally, I believe that the Commission should initiate a rulemaking to change the guidelines found in the Policy Statement, as modified in this proceeding, into mandatory reporting requirements.³

I look forward to reviewing any comments filed by interested stakeholders during the rulemaking process.

THEREFORE, I MOVE THAT:

1. The Law Bureau shall commence an update of the guidelines contained in the policy statement at 52 Pa. Code §§ 69.801-69.809 and issue an amended policy statement. Comments to the amended policy statement will be due within forty-five (45) days of issuance.
2. The Law Bureau shall issue a Notice of Proposed Rulemaking for a diversity reporting requirement by December 31, 2020.

DATE: February 6, 2020


Gladys Brown Dutrieuille
Gladys Brown Dutrieuille, Chairman

³ The commission may require any public utility to file periodical reports, at such times, and in such form, and of such content, as the commission may prescribe, and special reports concerning any matter whatsoever about which the commission is authorized to inquire, or to keep itself informed, or which it is required to enforce. 66 Pa. C.S. § 504.