

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17120**

**Diversity Rulemaking of Major  
Jurisdictional Utilities**

**Public Meeting held April 4, 2024  
3017284-CMR**

**JOINT MOTION OF VICE CHAIR KIMBERLY BARROW**  
**AND COMMISSIONER KATHRYN L. ZERFUSS**

On April 14, 2022, the Commission voted to adopt regulations requiring regular reporting on diversity programs and efforts by major jurisdictional utilities providing electric, natural gas, water, and wastewater services.<sup>1</sup> The diversity reporting regulations at Chapter 51 were enacted with publication in the *Pennsylvania Bulletin* at 52 Pa.B. 5934 on September 17, 2022.<sup>2</sup>

The regulation built upon the Commission's policy statement from 1995 which encouraged diversity reporting. Our 2020 update to the policy statement expanded diversity reporting guidelines to include minorities, women, persons with disabilities, LGBTQ, and veterans.

This regulation standardized the definitions and format required for the applicable major jurisdictional utilities,<sup>3</sup> those with net plant in service of \$10 million or more, to annually file:

- (1) A copy of corporate policy committed to improving diversity in the workplace and in the procurement process.
- (2) A description of training implemented on diversity initiatives in employment and in the contract of goods and services.
- (3) The demographic composition of the major jurisdictional utility's workforce, reporting the number of employees by gender, race and ethnicity, LGBTQ, persons with disabilities and veterans.
- (4) A description of diversity recruiting strategies.
- (5) A description of diversity promotion efforts.

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<sup>1</sup> Upon *sua sponte* reconsideration of the April 14, 2022 Order, the Commission issued a Final Rulemaking Order on Reconsideration to address the inclusion of a provision encouraging telecommunications utilities to file diversity reports and to restate the regulation in its entirety. *Diversity Reporting of Major Jurisdictional Utilities*, Docket No. L-2020-3017284 (Order entered June 16, 2022). In short, the Commission determined that inclusion of the telecommunications companies was not appropriate for the regulation.

<sup>2</sup> 52 Pa. Code §§ 51.11- 51.13.

<sup>3</sup> As stated in footnote 1, telecommunication companies are not included in the regulation. However, pursuant to the Final Policy Statement and Order entered on February 1, 2024, Docket No. M-2023-3038267, the Commission encouraged major telecommunications utilities to report their diversity efforts and expressly included major telecommunications companies in the Diversity Policy Statement.

- (6) A description of diversity retention efforts.
- (7) A brief description of involvement with organizations promoting diversity.
- (8) A summary of diverse businesses that the utility contracts with for goods and services, including the percentage of dollars spent with diverse and non-diverse businesses.<sup>4</sup>

Keeping apprised of major jurisdictional utilities' diversity initiatives provides the Commission with valuable insight into how utilities are able to attract the labor force needed to provide safe, reasonable, efficient, and reliable service. Corporate diversity is not just a social justice issue, it is a financial issue. Recent studies have documented the relationship between diversity and improved financial performance.<sup>5</sup> 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, as regulated monopolies, have a unique connection to the communities they serve and should draw on the strengths provided by the diverse citizens of this state. Properly structured, diversity programs can successfully leverage untapped talent pools in this time of increased utility workforce retirements, further supporting workforce development plans.

We believe that the transparency that comes with this reporting requirement is beneficial. As such, we direct our Bureau of Technical Utility Services, in coordination with the Law Bureau, to compile the information filed at this docket and issue reports regarding our utilities' filings that will be published annually on the Commission's website. The annual reports should contain statistics, including whether any trends have been identified in the information the utilities have provided, and shall retain the confidential nature of the information reported so that no specific company is identified. We emphasize that any sensitive information filed, such as LGBTQ specifics, person with disabilities data, and company policies related to procurement and trainings, will not be disclosed. Also, we note that because Pennsylvania is a diverse state, including the census statistics of a given utility service territory, we do not expect our utilities to achieve a certain diversity ratio or quota, nor will lack of diversity be cause for any further Commission action.

**THEREFORE, WE MOVE THAT:**

1. The Bureau of Technical Utility Services, in coordination with the Law Bureau, shall, by May 31, 2024, issue an annual report regarding the diversity efforts of the utilities

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<sup>4</sup> 52 Pa. Code § 51.13(a)(1)-(8).

<sup>5</sup> See Dame Vivian Hunt, Sundiatu Dixon-Fyle, et. al., *Diversity Matters Even More: The Case for Holistic Impact*, McKinsey & Company (December 5, 2023), available at <https://www.mckinsey.com/featured-insights/diversity-and-inclusion/diversity-matters-even-more-the-case-for-holistic-impact>; Cheryl Strauss Einhorn, *How a Diverse Workforce Can Help Company Performance*, Barron's (January 4, 2019), available at <https://www.barrons.com/articles/how-a-diverse-workforce-can-help-company-performance-51546625800>; Rocio Lorenzo and Martin Reeves, *How and Where Diversity Drive Financial Performance*, Harvard Business Review (January 30, 2018), available at <https://hbr.org/2018/01/how-and-where-diversity-drives-financial-performance>.

subject to 52 Pa. Code §§ 51.11-51.13, for the annual reports filed in 2023 and 2024, respectively.

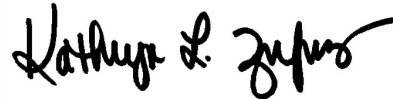
2. The Bureau of Technical Utility Services, in coordination with the Law Bureau, shall, by May 31 of each year, issue the annual report regarding the diversity efforts of the utilities subject to 52 Pa. Code §§ 51.11-51.13.
3. If no responsive Comments to this Motion are filed by April 19, 2024, this matter will be adopted without further Commission action.
4. The Office of Special Assistants shall prepare an Opinion and Order consistent with this Motion.

April 4, 2024



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Kimberly Barrow, Vice Chair



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Kathryn L. Zerfuss, Commissioner