

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

**Rulemaking for Diversity Reporting  
of Major Jurisdictional Utilities**

**Public Meeting April 4, 2024**  
**3017284-CMR**  
**Docket No. L-2020-3017284**

**STATEMENT OF COMMISSIONER JOHN F. COLEMAN, JR.**

The Commission adopted a policy statement in 1995 to encourage jurisdictional utilities to adopt employee and vendor diversity programs. Public utilities were encouraged to file annual reports documenting actions taken in response to the policy statement. In February 2020, I supported the motion of former Chairman Gladys Brown Dutrieuille to undertake a review of and update the policy statement. After this review was completed and the policy statement revised, I then supported the Commission’s rulemaking to codify the guidelines found in the policy statement. I agreed that it was appropriate to revise certain definitions, to establish consistency, and to streamline the reporting and review process. In doing so, the Commission communicated its support for diverse and inclusive workforces and supply chains with respect to the major jurisdictional utilities.

Before us today is a Joint Motion seeking to make public certain information filed in response to the diversity reporting regulation. Based on the exclusions set forth in the Joint Motion, only the workforce demographics on gender, race, ethnicity, and veteran status are to be published. It is my understanding that this data will be published in the aggregate by industry (i.e. electric, natural gas, water, and wastewater) and by utility company within each industry without identifying the specific utility company (e.g. EDC Company A, EDC Company B, etc.) I do not believe this action is appropriate. Historically, this confidential information has been subject to review by the Commission and its staff only. The regulation I supported relied, in part, on the Commission’s authority under Section 504 of the Public Utility Code to require reports “to keep *itself* informed.”<sup>1</sup>

Further, I do not believe this action is prudent. There is no provision in the Public Utility Code or other law that empowers the Commission to impose or enforce workforce and supplier diversity requirements.<sup>2</sup> By publishing this information on the Commission’s website, we may mislead stakeholders or the public into thinking the Commission has any jurisdiction over utility workforce and supplier diversity. It does not. By presenting this information for public scrutiny, we are inviting questions and comments which do not fall under the Commission’s jurisdiction.

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<sup>1</sup> *Diversity Reporting of Major Jurisdictional Utilities*, Docket No. L-2020-3017284 (Order entered June 16, 2022), at 6.

<sup>2</sup> The Commission “is a creature of statute” and “has only those powers which are expressly conferred upon it by the Legislature and those powers which arise by necessary implication.” *Feingold v. Bell Tel. Co. of Pa.*, 383 A.2d 791, 794 (Pa. 1977) (citing *Allegheny Cnty. Port Auth. v. Pa. Pub. Util. Comm’n*, 237 A.2d 602 (Pa. 1967); *Del. River Port Auth. v. Pa. Pub. Util. Comm’n*, 145 A.2d 172 (Pa. 1958)).

I would avoid creating a public expectation that the Commission can take any action with respect to the diversity information provided by the utility companies. As we acknowledged in the Final Rulemaking Order, "...the PUC cannot compel major jurisdictional utilities to implement diversity programs."<sup>3</sup> In the Final Rulemaking Order, we also stated, "[t]he PUC would have no further recourse to compel the major jurisdictional utility to take further diversity efforts."<sup>4</sup>

The workforce demographics on gender, race, ethnicity, and veteran status are simply data points. Since the utility companies will not be identified by name, there will be no context such as the number of employees, service territory, or diversity policies to accompany the data. Sharing data without context does not allow for any meaningful conclusions to be reached. I do note that fewer than 20 utility companies filed diversity reports for 2022. It may be a fairly easy exercise to match the utility companies with their data, which would unintentionally provide context, but further degrade the confidential nature of these filings.

I continue to encourage workforce and supplier diversity within all of our utility companies, and this Commission. I appreciate and applaud the efforts of the state and federal entities who assess, research, and enforce compliance in this arena. However, this Commission's focus is better placed on regulatory matters that ensure safe and reliable utility service at reasonable rates. While I do not support the Joint Motion, I look forward to reviewing comments that address whether this next step, of publishing confidential workforce demographics, is appropriate for the Commission.

For these reasons, I am voting "no" on the Joint Motion.

Date: April 4, 2024



**JOHN F. COLEMAN, JR.**  
**COMMISSIONER**

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<sup>3</sup> *Diversity Reporting of Major Jurisdictional Utilities*, Docket No. L-2020-3017284 (Order entered June 16, 2022), at 21.

<sup>4</sup> *Id.* At 21.