



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

June 18, 1999

IN REPLY PLEASE
REFER TO OUR FILE

The Honorable John R. McGinley, Jr.
Chairman
Independent Regulatory Review Commission
14th Floor, Harristown II
333 Market Street
Harrisburg, PA 17101

Original: 2028
Bush
cc: Harris
Markham
Sandusky
Legal

Re: L-980136/57-203
Proposed Rulemaking Re Annual
Resource Report Filing Requirements
52 Pa. Code Chapter 57

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OFFICE OF THE
ATTORNEY GENERAL

Dear Chairman McGinley:

Enclosed is one (1) copy of comments received regarding the above regulation as required under Section 5(10)(b.1) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19).

Very truly yours,

Barbara Bruin
Executive Director

Comments submitted by:

Office of Consumer Advocate
Pennsylvania Electric Association

cc: Chief Counsel Pankiw
Regulatory Coordinator DelBiondo
Assistant Counsel Hisiro
Mr. Loper

COPY

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Original: 2028
Bush
cc: Harris
Markham
Sandusky
Legal

RULEMAKING RE: AMENDING :
RESOURCE PLANNING REPORT :
FILING REQUIREMENTS, 52 PA. CODE : Docket No. L-00980136
SECTION 57.141-57.154 :

COMMENTS OF THE
OFFICE OF CONSUMER ADVOCATE

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DATED: June 16, 1999

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I. INTRODUCTION

On April 17, 1999, the Pennsylvania Public Utility Commission's proposed amendments to its Annual Resource Report Filing Requirements at 52 Pa. Code Ch. 57 were published in the *Pennsylvania Bulletin* for comment. *Pennsylvania Bulletin*, Vol. 29, No. 16 at 2025. In its Proposed Rulemaking Order, the Commission proposed amendments to its regulations in light of the enactment of Chapter 28 of the Public Utility Code which introduced competition into the generation sector of the electric industry. Prior to the issuance of the Proposed Rulemaking, the Commission had received Comments from interested parties through an Advanced Notice of Proposed Rulemaking. Comments or Reply Comments were received from the Pennsylvania Electric Association (PEA), the Mid-Atlantic Power Supply Association (MAPSA), NorAm Energy Management, Inc. (NorAm), and the Office of Consumer Advocate (OCA). The Commission's current Proposed Rulemaking discusses these comments and sets forth the proposed amendments to the regulations regarding electric utility Annual Resource Planning Reports.

The OCA is generally supportive of the Commission's proposed amendments. The proposed amendments continue the annual reporting of information, but in a more concise manner. Importantly, the amendments focus the regulations on obtaining the information and data necessary for the Commission to perform its oversight responsibility under Chapter 28 of ensuring reliability of the entire electric generation, transmission, and distribution system. As the OCA set forth in its initial comments to the Advanced Proposed Rulemaking, in a competitive generation market, the reporting of economic data relating to the planning of generation supply and the evaluation and integration of generating resources becomes less necessary as these functions are performed by the

market. The Commission, however, retains responsibility for ensuring the reliability of the electric system and should obtain all data necessary to properly perform this function.

The OCA believes that the Commission's proposed amendments will improve the information which the Commission receives in performing this oversight responsibility. The OCA has identified one area, however, where the Commission may wish to obtain additional information. Specifically, the Commission eliminated Section 57.151 relating to new generating facilities and expansions of existing facilities and incorporated some of these requirements into Section 57.143. As set forth in more detail below, the OCA recommends that the Commission incorporate some additional information requirements into Section 57.143 to assure that it has collected adequate information.

Additionally, at this point, the Commission's regulations only require this reporting for Electric Distribution Companies (EDCs). The OCA is concerned that within the next year, there may be Providers of Last Resort other than the EDC in several utilities service territories. The Commission may need to obtain data from these providers of last resort, particularly regarding their loads and how they expect to meet those loads. The OCA recommends that the Commission require all providers of last resort to provide information under these regulations that is within their control, whether through provision of the data to the EDC to be compiled in the Annual Report or through a separate reporting on an annual basis.¹

¹ In its initial Comments to the Advanced Proposed Rulemaking, the OCA recommended that the Commission consider some reporting by electric generation suppliers (EGS). These amendments do not require reporting by the EGS, but Section 57.148 seeks to obtain some of the data necessary to monitoring reliability. If this information proves inadequate for the Commission to properly monitor reliability, the OCA would recommend that the Commission
(continued...)

The OCA generally supports the Commission's amendments to its regulations at Sections 57.141 through 57.154. Set forth below are the OCA's specific comments on each of the sections.²

II. SPECIFIC COMMENTS

A. Section 57.141: General

The Commission has modified this regulation to utilize current terminology to identify the entity that must submit the Annual Resource Planning Report. The Commission has identified the Electric Distribution Company (EDC) as the entity responsible for the filing. As discussed above, the Commission may wish to require all providers of last resort to submit filings, or, at a minimum, require alternative providers of last resort to provide necessary data to the EDC for the preparation of the Report.

B. Section 57.142: Forecast of energy demand, peak load and number of customers.

The Commission proposes to reduce the historical data and the forecast period for this data. In addition, the Commission proposes to reduce the extent of the information to be provided on energy demand, peak load and number of customers. The OCA believes that these amendments more clearly focus the data and will continue to provide necessary and useful data to the Commission.

¹(...continued)

consider additional reporting requirements by an EGS either through these regulations or through its Licensing Regulations.

² The OCA would like to acknowledge the assistance of MSB Energy Associates in the preparation of these Comments.

C. Section 57.143: Existing and Planned Generating Capability

The Commission has amended Section 57.143, which originally sought information on existing generation capability to also be applicable to planned generation and to include certain additional information. The amendment to include planned generation is in concert with the elimination of Section 57.151 which had separately addressed new generation and upgrades to existing generation. Initially, the OCA would note that the Commission has added a requirement in this section that calls for a synopsis of major occurrences where electric generation suppliers have been unable to supply scheduled loads within the EDC's service territory. The OCA strongly supports the addition of this information requirement. This information will provide important information to the Commission in ensuring reliability and in ensuring compliance with all licensing requirements.

As noted above, the Commission also proposes amendments to Section 57.143 simultaneous with the elimination of Section 57.151. The elimination of Section 57.151 with its focus on economic data is appropriate, but the Commission must assure that it receives sufficient data under Section 57.143 to monitor reliability. The OCA has identified some requirements of Section 57.151 that affect reliability and that should be incorporated into Section 57.143. The OCA recommends the addition of requirements to obtain the following information:

- Information on planned generation plants should include information on the type of operations of the planned facilities. Pattern of operations will have an impact on the transmission system and could affect system reliability.
- For units that are expected to retire in the near term, a detailed economic analysis may not be required for reporting purposes, but the Commission should require an identification of

units that are expected to retire. Retirement of a generating unit could affect system reliability.

- Section 57.151 currently calls for a discussion of the impact of the planned facilities on various local and environmental features. While the level and focus of the discussion may not need to be as detailed as the current requirement, some discussion of the environmental considerations of planned facilities would be useful since it could affect the viability or operation of the planned unit which could affect system reliability.

The OCA believes that this additional information will assist the Commission in ensuring reliability.

D. Section 57.144: Transmission line projection.

The Commission has amended this Section to reduce the forecast period from 10 years to 5 years and has added a section regarding estimates of changes in import and export capability and changes in transmission system constraints as a result of planned transmission construction or modifications. The change in the forecast period should reduce the extent of this reporting requirement. In addition, the OCA supports the addition of the section on import and export capability and changes in transmission constraints due to planned construction or modification. As the competitive market changes the use of the transmission system, this information may become critical to understanding and ensuring the reliability of both transmission and generation.

E. Section 57.145: Cogeneration and Independent Power Production

The Commission has made minor housekeeping type modifications to this regulation.

The substance and intent of the reporting requirement remains the same.

F. Section 57.146: System Cost Data

The Commission proposes to eliminate this entire section which focuses on cost data. The OCA agrees that system cost data is unlikely to be necessary once full generation competition is achieved. As the OCA set forth in its initial comments, though, with respect to the provider of last resort function, some cost information is likely to be needed until the Commission is satisfied that the market is providing a visible price signal. The OCA would also note that the Commission may wish to utilize this section to require a summary from each EDC and each alternative provider of last resort of how much load the supplier is expected to serve and how the supplier intends to meet this load, including any reserve requirements set by the ISO and/or regional reliability organization. If the Commission determines to utilize these regulations to obtain necessary information from each EGS, the OCA would recommend that the same information be provided by the EGS.

G. Section 57.147: Scheduled Imports and Exports.

The Commission has amended this section to require information on scheduled imports and exports in megawatts. The OCA believes that this information will be useful to the Commission and supports this amendment.

H. Section 57.148: Demand, Resource and Energy Data

The Commission has more clearly defined this reporting requirement and the necessary breakdown between the EDC load and the EGS load. The OCA submits that this clarification will result in more useful information being provided to the Commission.

I. Section 57.149: Energy Conservation and Load Management

The Commission has reduced the extent of information that must be reported about energy conservation and load management programs. In light of the competitive market for generation, this reduction in the extent of information required is appropriate.

J. Section 57.150: Reserved

The Commission has eliminated the section regarding evaluation and integration of resources. In essence, this section provided information to the Commission so that it could monitor whether the utility was engaged in least cost integrated resource planning. Since the competitive market for generation will now provide much of the economic aspect of this planning process, the detailed integrated resource plan may no longer be necessary.

K. Section 57.151: Reserved

As discussed above, this section has been eliminated in its entirety with much of the critical information needed for reliability purposes included in Section 57.143. With the expansion of Section 57.143, the elimination of Section 57.151 is appropriate. The OCA comments on Section 57.143 recommend some additional information requirements to be added to that section for completeness.

L. Section 57.152: Formats

The Commission has modified this section to reflect other changes in data requirements. These modifications are necessary and reasonable.

M. Section 57.153: Reserved

The Commission has eliminated this section specifying the evaluation methodology. This modification is appropriate in view of the competitive market which will provide this economic analysis in a manner consistent with the market.

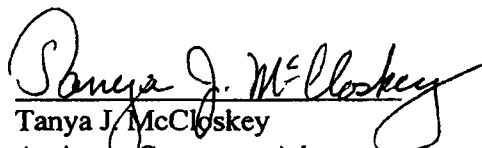
N. Section 57.154: Public Information and Distribution

The Commission has maintained the requirement that the Reports be summarized in a manner suitable for public distribution. The OCA supports the continuing availability of these summaries for public distribution.

III. CONCLUSION

The Office of Consumer Advocate generally supports the Commission's amendments to the reporting requirements for the Annual Resource Planning Report. The Commission's amendments more clearly focus the information requirements on the information necessary for the Commission to ensure reliability. The OCA would recommend, however, that the clarifications and modifications set forth above be adopted by the Commission to assure completeness in the information provided to the Commission.

Respectfully submitted,


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Dated: June 16, 1999
53092

CERTIFICATE OF SERVICE

Re: Rulemaking Re: Amending Annual Resource Planning
Report Filing Requirements, 52 Pa. Code Section 57.141-57.154
Docket No. L-00980136

I hereby certify that I have this day served a true copy of the foregoing document, OCA's Comments, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 16th day of June, 1999.

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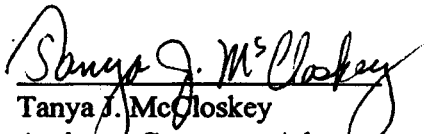
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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COPY

**RE: Comments of Pennsylvania Electric Association in Response to the
Commission's Proposed Rulemaking to Amend Annual Resource Report
Filing Requirements (Docket No. L-00980136)**

Dear Secretary McNulty:

An original and 15 copies, and a diskette, of this letter are submitted for filing in the above-referenced matter as requested in the Pennsylvania Public Utility Commission's ("PaPUC") Proposed Rulemaking to amend Annual Resource Report filing requirements as published in the Pennsylvania Bulletin, Vol. 29, No. 16, April 17, 1999. This filing is made on behalf of the Pennsylvania Electric Association's ("PEA") member companies¹.

The PEA and its members support the effort of the PaPUC to amend the existing regulations to reflect changes taking place in the electric service industry. Attached are the PEA member companies' consensus comments to the proposed rulemaking that recognize the PaPUC correctly amended some parts of the regulations and that request the PaPUC to make additional changes to the proposed rulemaking.

Thank you.

Sincerely,

James M. Cunningham
President

JMC:klm

CC: The Honorable John M. Quain, Chairman
The Honorable Robert F. Bloom, Vice Chairman
The Honorable David W. Rolka, Commissioner
The Honorable Nora Mead Brownell
The Honorable Aaron Wilson, Jr., Commissioner

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¹ Allegheny Power, Duquesne Light Company, Metropolitan Edison Company and Pennsylvania Electric Company, d/b/a GPU Energy, PECO Energy Company, PP&L, Inc., Pennsylvania Power Company, and UGI Utilities, Inc.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rulemaking Regarding Amending	:	
Annual Resource Planning Report	:	Docket No. L-00980136
Filing Requirements, 52 Pa. Code	:	
§§ 57.141 - 57.154	:	

**COMMENTS OF THE PENNSYLVANIA ELECTRIC ASSOCIATION
IN RESPONSE TO THE COMMISSION'S PROPOSED RULEMAKING**

I. Introduction

The Pennsylvania Electric Association ("PEA"), on behalf of its member companies,¹ hereby submits its comments to the Commission's proposed rulemaking regarding amending Annual Resource Planning Report ("ARPR") filing requirements, 52 Pa. Code §§ 57.141-57.154, Docket No. L-00980136. This proposed rulemaking was published in the *Pennsylvania Bulletin* on April 17, 1999, and comments are due within 60 days of such publication.

II. Background

This rulemaking originated from a filing by PEA in February 1998 seeking a waiver of the ARPR regulations. On June 18, 1998, the Commission entered a final order granting a partial waiver of the regulations, and deferring for consideration in a future rulemaking a comprehensive review of how the ARPR requirements should be changed in light of changes in the electric industry.² The Commission also deferred answering

¹ Allegheny Power, Duquesne Light Company, Metropolitan Edison Company and Pennsylvania Electric Company d/b/a GPU Energy, PP&L Inc., Pennsylvania Power Company, PECO Energy Company, and UGI Utilities, Inc.

² On March 4, 1999, the Commission entered an Order at Docket No. P-00991636 granting a partial waiver of the ARPR regulations with regard to the 1999 report. The Order stated "[t]his partial waiver is generally consistent with the ARPR reporting requirements that are contained in our proposed rulemaking." (Order, p. 3).

whether it may forbear from requiring electric distribution companies (“EDCs”) to comply with all of the requirements of § 524 of the Public Utility Code, 66 Pa. C.S. § 524, which is the statutory basis for the ARPR regulations.

On September 4, 1998, the Commission issued an advance notice of proposed rulemaking regarding amendments to its ARPR regulations. This notice was published in the *Pennsylvania Bulletin* on September 19, 1998. The Commission specifically sought comments on how it should monitor the adequacy of electric supply in the Commonwealth. The Commission also sought comment on whether it could forbear from applying 66 Pa. C.S. § 524 to EDCs.

PEA filed comments to the Commission's advance notice of proposed rulemaking. In these comments, PEA asserted (1) that the Commission should change the ARPR regulations to recognize changes in the electric industry, (2) that any reporting requirements should apply equally to the entire supply industry (both EGSs and EDCs), (3) that while EDCs could supply basic data regarding the load they serve, the matching of this load with the sources that will supply electricity to it can only be done at the power pool level, and (4) that the Commission has authority to forbear from requiring EDCs to provide the full range of information set out in 66 Pa. C.S. § 524.

III. Comments

1. PEA Supports the Commission's Efforts to Change the ARPR Regulations to Reflect Changes in the Electric Industry.

In general, PEA supports the Commission's active pursuit of changes in the ARPR regulations to reflect changes in the electric industry. More specifically, PEA supports the following aspects of the proposed rules.

First, the Commission's proposed rulemaking order correctly concluded that the Commission may forbear from requiring EDCs to comply with the full range of reporting requirements set forth in 66 Pa. C.S. § 524. Section 2809(e) of the Public Utility Code, 66 Pa. C.S. § 2809(e), grants the Commission authority to decide what sections of the Public Utility Code it will apply to the electric supply segment of the industry, which includes EDCs to the extent that they are supplying electricity pursuant to their provider of last resort ("PLR") duties. The Commission properly rejected the argument of the Mid-Atlantic Power Supply Association ("MAPSA") that the Commission may not exercise forbearance regarding the supply functions of EDCs, an argument which ignores the clear recognition in the Act that EDCs providing PLR service are functioning as electricity suppliers. *See* 66 Pa. C.S. § 2809(c)(2) ("*If an electricity supplier other than an electric distribution company does not pay the tax imposed upon gross receipts under section 1101 of the Tax Reform Code of 1971....*") (emphasis added).

Second, the proposed rulemaking correctly focused on obtaining information from EDCs regarding the amount of load transported over their transmission and distribution systems. This data will assist the Commission in evaluating the reliability of the transmission and distribution system, and it will provide important baseline data (in combination with electricity supply data obtained at the power pool level) from which the Commission can evaluate the adequacy of the supply of electricity in the EDC's region. The Commission appears to have accepted the comments of PEA and NorAm Energy Services that the matching of supply and demand can only be evaluated at the power pool level (proposed rulemaking order, pp. 8-9).

Third, the proposed rulemaking correctly amended the regulations to delete reporting requirements (previously contained in Section 57.146) concerning the economics of alternatives for supplying electricity. Because generation is now a competitive service, the market place will assure that generators make economically rational decisions in choosing alternatives to supply electricity to customers.

Finally, PEA supports the Commission's continuation in the proposed rules of language allowing EDCs to designate any portion of the ARPR as confidential. In a competitive supply market, it is even more important for EDCs to be able to treat information regarding sales and purchases of electricity as proprietary.

- 2. The Commission should not require EDCs to submit information regarding their sources of supply, because this information will not enable the Commission to determine supply reliability.**
- (a) The Commission should not require EDCs to supply information on how they will procure supply.**

Section 57.143(a) of the proposed regulations states that the ARPR “....shall include a description of existing and planned generating capability which is or will be allocated to serve connected load pursuant to the EDC’s provider-of-last-resort function....” This reporting requirement should be deleted. To determine the adequacy of electricity supply, the Commission must answer two questions: (1) What will the total load be? (2) Will there be enough capacity available to meet the load? EDCs can supply data to assist the Commission in answering the first question, but not the second. To answer the second question, the Commission must obtain information from entities such as the Pennsylvania- New Jersey - Maryland Interconnection L.L.C., the North American Reliability Council, and the Mid-Atlantic Area Council. These organizations have access

to information from the full range of sources, including wholesale generators, necessary to evaluate electricity supply reliability.

Similarly, the Commission should not require EDCs to submit information on scheduled imports and exports. Although PEA indicated in its comments to the Advance Notice of Proposed Rulemaking that it could provide this information, upon further reflection, this information will not assist the Commission in determining the adequacy of supply. Accordingly, EDCs should not be required to file this information. Again, the Commission can only obtain the complete information it needs regarding generation capacity at the power pool level.

(b) The Commission should not require EDCs to supply information regarding the failure of EGSs to supply electricity.

Section 57.143(b) states that the "ARPR shall include a synopsis of major occurrences where electricity generation suppliers were unable to supply scheduled loads within the EDCs service territory during the previous year." PEA asserts that it is inappropriate to require EDCs to report on the failures of EGSs. The Commission issues licenses to EGSs upon a finding that they are fit, willing, and able to provide service. *See* 66 Pa. C.S. § 2809. In addition, 66 Pa. C.S. § 2809(e) gives the Commission authority to determine how it will regulate EGSs. If the Commission believes that it must collect information regarding the failures of EGSs to provide electricity, it should require EGSs to supply this information.

3. The Commission should require that changes in the ARPR forms be consistent with the ARPR regulations, and that such changes be approved by the Commission.

The proposed changes to section 57.152 of the ARPR regulations delete the specific references to the forms that have been used in the ARPR. In its place, the

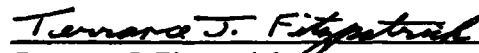
proposed regulations merely state that the "EDC shall use the current forms and schedules specified by the Bureau of Conservation, Economics and Energy Planning".

PEA generally supports this change because of the flexibility it provides to change the forms in light of changing circumstances. However, the proposed language may provide too much flexibility, and limits should be inserted. PEA suggests that the Commission add language to section 57.152 clarifying that any forms and schedules must be consistent with the ARPR regulations. In addition, the regulations should require that any changes in the ARPR forms and schedules must be approved by the Commission.

IV. Conclusion

PEA generally supports the proposed rulemaking, which is designed to change the ARPR regulations in light of changes in the electric industry. The proposed regulations should be revised, however, to delete requirements that EDCs submit information regarding their plans to procure electricity supply, because such information will not assist the Commission in determining the adequacy of electricity supply.

Respectfully submitted,



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