Original: 2363

Energy Association of Pennsylvania
800 North Third Street, Suite 301 • Harrisburg, Pennsylvania 17102
Telephone (717) 901-0600 • Fax (717) 901-0611 • www.energypa.org

2003 DEC 11 AM 11: 28
REVIEW COMMISSION

December 8, 2003

COPY

RECEIVED
2003 DEC -8 PM 4:27
SECRETARY'S BUREAU

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17120-3265

RE: Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code Chapter 57
Docket No. L-00030161

Dear Secretary McNulty:

Enclosed for filing are an original and fifteen (15) copies of the **"Response of the Energy Association of Pennsylvania to the Commission's Proposed Rulemaking Order on Electric Reliability"** in the above-captioned docket.

Please note that service of this filing has been made in accordance with the attached service list.

Sincerely,

J. Michael Love
President and CEO

David T. Evrard
Vice President & Secretary

Before The
Pennsylvania Public Utility Commission

RECEIVED
2003 DEC -8 PM 4: 27
PA PUC
SECRETARY'S BUREAU

Rulemaking Re Amending Electric Service Reliability Regulations At 52 Pa. Code Chapter 57 : Docket No. L-00030161

Response of The Energy Association of Pennsylvania to the Commission's Proposed Rulemaking Order on Electric Reliability

The Energy Association of Pennsylvania ("Energy Association") on behalf of the eleven investor-owned electric distribution companies[1] ("EDCs") in the Commonwealth files this response to the Commission's Proposed Rulemaking Order on Electric Reliability, published in the *Pennsylvania Bulletin* on October 4, 2003, (hereafter "Reliability Rulemaking").

Summary of Argument

The Energy Association would ask the Commission to recognize the success already achieved through the cooperative efforts of the Staff Internal Working Group, and the rest of the participants in this docket. There have been a number of areas of agreement that have resulted in the Commission being able to implement more consistent language and requirements across EDC's of the same size.

The proposed changes agreed to with the Staff Internal Working Group and those agreed to in our Comments filed in Response to the Tentative Order, demonstrate that there have been some fundamental changes in the Commission's approach to reliability. Yet there are some instances related to these proposed final rules that either (1) lack the clarity of the

[1] Allegheny Power, Citizens' Electric Company, Duquesne Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, PECO Energy Company, Pennsylvania Power Company, Pike County Light & Power Company, PPL Electric Utilities Corp., UGI Utilities Inc.-Electric Division, and Wellsboro Electric Company

Commission's previous changes, and/or (2) are not designed to impact reliability or the decision-making process surrounding reliability.

As the Energy Association noted in its comments related to the Tentative Order, the standard being proposed in the rulemaking is confusing or inconsistent. For example, the proposed rules in §57.194 are at odds with both the Tentative Order (page 11) and the Rulemaking Opinion (page 10). As such, the exact standard being applied to the industry is uncertain because the language contained in the Commission's Reliability based opinions and its proposed rules are inconsistent.

Some of the proposals have been previously rejected by the Commission, (5% worst-performing circuits), others such as budgeting by FERC account are simply not done by anyone in the industry, while still other proposals for quarterly financial data incorrectly suggest that somehow one can assess reliability, which is a long term effort, by short-term budget comparisons, statistics and reports. [2]

Other suggestions and premises are not supportable when compared to, and analyzed against, actual operations. For example, a decreasing trend in operation and maintenance ("O&M") expenses does not automatically indicate a decreasing emphasis on reliability. The Commission's own analyses demonstrate the accuracy of this statement.

In the Commission's docket on Inspection and Maintenance Study of EDCs, Docket No. M-00021619[3] the Commission attached its internal inspection and maintenance study dated August 27, 2002. In that study, the Commission's own staff found that transmission and distribution maintenance expenses, without tree-trimming, decreased for two companies, PECO and Duquesne, while increasing for all the other larger companies. As the Commission's

---

[2] As has been noted regarding service reliability that by its very nature, the statutory standard is not capable of definition with mathematical precision. Colonial Products Company v. Pa PUC 188 Pa. Super. 163,146A.2d 657.661 (1958).

[3] Order Entered August 29, 2002

Appendices for the Tentative Order[4] demonstrate, these two entities have some of the better achievements of the industry during the measured time period. Therefore, the Commission's own data does not support the underlying premise offered for increased reporting of financial information.

Another example of how changes in O&M can be impacted without negatively impacting reliability is the installation of a major capital improvement. Capital improvements often are justified by their reduction in O&M expenses. Furthermore, when installing major capital upgrades, the labor force will have a greater level of its time capitalized rather than expensed. Therefore, both during and after the installation of a capital project addressing reliability, the O&M expense levels may well decline, but the purpose is, nonetheless, to improve reliability.

The Commission seeks to obtain a tremendous amount of quarterly data which tends to fluctuate due to factors such as pressure from other projects, capital deployment, weather and a host of other variables that fail to demonstrate any reliability concerns that can be addressed. If the Commission is going to insist on such quarterly reports, the information must not be made available to the public, or the cost of providing electric service will increase as the EDCs compromise the ability to competitively negotiate and hold down costs. Furthermore, to do so would lead to erroneous conclusions, and easily misinterpreted information.

Finally, the October 17, 2003 letter from the Bureau of Consumer Services ("BCS"), unilaterally changes BCS's process for investigating informal complaints relating to reliability or quality of service. At best, this letter creates unnecessary confusion. At worst, this letter undermines the Commission's proposed rulemaking by establishing new rules, new standards, new reporting requirements, and new costs all without awaiting the results of this proceeding.

[4] Tentative Order Docket M-00991220

The judicial decisions and philosophy reflected in DER v. Rushton Mining Company[5] and Pennsylvania Human Relations Commission v. Norristown Area School[6] clearly establish that a rulemaking is binding upon all of an agency's staff. BCS must await the outcome of the Rulemaking and then apply the Agency's adopted rules, regulations and standards to the customer complaint process. The BCS October 17, 2003, letter is premature and should be withdrawn.

The Proposed Revisions to 52 Pa. Code §57.194 Which Adds the Term "Performance Benchmarks" Should be Stricken or Amended to Clearly Distinguish the Consequences of a Failure to Meet the Performance Benchmarks from a Failure to Meet the Standards

The proposed revisions to §57.194(e) and (h) add the phrase "performance benchmarks" requiring that EDCs design and maintain procedures and take steps to achieve the benchmarks as well as the standards. In discussing these revisions, the Commission is clear that in the long term, performance trending toward the benchmark is the objective, but at the same time it should make clear that a failure to meet the benchmarks does not equate to a failure to meet the performance standard.[7]

The EAP agrees with the Commission that EDCs should manage their business to meet the long-term performance benchmarks. However, the distinction between the consequences of a failure to meet the standards and the failure to meet benchmarks is significant, however. Given the numerous variables outside the EDCs' control that can affect their respective

---

[5] DER v. Rushton Mining Co., 139 Pa. Cmwlth. 648, 591 A.2d 1168, (1991)

[6] 473 Pa. 334, 374A.2d 671 (1977)

[7] "While clarifying our language to emphasize long-term performance at the benchmark level, we acknowledge that performance in a given year or so may vary from the benchmark. Therefore, we continue to find the concept of a performance standard to be a useful tool for monitoring performance in the near term. When performance on any measure falls outside the standard, Commission staff will engage in an additional review with the EDC to determine whether reliability performance is deteriorating, which could contribute to an EDC not maintaining benchmark performance in the long term." Reliability Rulemaking at 10.

reliability performance, it is critical to maintain the distinction between the performance standards and benchmarks targets. Yet with the proposed addition of the term "performance benchmarks," Sections 57.194(e) and (h) could be reasonably interpreted to equate the benchmarks with the standard, thus eliminating this important distinction. Yet, the Commission clearly indicates its intent that the standards represent the minimal performance requirement. An EDC's failure to meet the minimum threshold represented by the statutory standard constitutes non-compliance by the EDC, which may result in further investigation, fines or penalties. The benchmark, on the other hand, provides EDCs with an important and meaningful long-term performance target, while at the same time appropriately allowing a margin within which their performance is deemed acceptable. Thus, a failure to meet the long-term benchmark targets should not have the same consequences as non-compliance with a standard. Adding the phrase "performance benchmark" to Sections 57.194(e) and (h), however, eliminates the distinction between the consequences of a failure to meet the benchmark targets and a failure to meet the standard. The Commission noted with approval the Staff Internal Working Group recommendation to develop minimum performance standards -- Tentative Order, pages 3-4, Staff Recommendation III – 1, p.7. The Commission's language in the Tentative Order[8] is directly contrary to the proposed amendment to rule §57.194. In the Tentative Order, the Commission speaks to the need for greater review and additional reporting for failure to meet a performance standard. The Commission further emphasized the need to "*allow for some variability from the benchmarks because reliability performance is influenced by weather conditions and other factors that are inherently variable in nature.*" [9] EAP respectfully suggests that the language be revised to clarify the distinction between a failure to meet the benchmarks and a failure to meet the standards.

[8] Page 11
[9] Ibid.

The Proposed 5% Worst Performing Circuit Requirements is Unsustainable

The Commission has proposed to amend §57.192 to include a requirement for EDCs to report by circuit instead of by operating area.[10] Specifically, the EDCs are being required to report on a quarterly basis their 5% worst performing circuits as calculated based upon the reliability indices and "other relevant factors".[11] The Energy Association would respectfully suggest that the proposed amendment to the rule is impermissibly vague, has already been ruled by this Commission to be of little or no value and has also been interpreted as such by other Commissions as well.

"Other relevant factors" is vague. Its impact is clouded by the broadening of the reliability test, processes, procedures and concerns set forth in the BCS letter of October 17, 2003. It is unclear to the industry whether the focus of the Commission is on the entire system, the 5% worst-performing circuits or random, individual complaints.

Providing a list of 5% of the worst performing circuits quarterly was rejected by this Commission in 1998.[12] As the Commission noted previously: "adding an identification of worst-performing circuits adds unnecessary complications to the regulations **without increasing** our ability to ensure the maintenance or improvement of system reliability."[13] As the Commission eloquently stated, "For example, if only 1% of a utility's circuits fails to meet the reliability standard, focusing on the 5% worst-performing circuits is not useful. The concept is similarly inapt if 10% of a utility's circuits do not meet the performance standards. Thus, the concept of "worst-performing circuits" has been deleted from the regulations."[14]

---

[10] Pennsylvania Bulletin, Volume 33 No. 40, page 4923, October 4, 2003
[11] Ibid
[12] Final Rulemaking to Amend 52 Pa Code Chapter 57, to ensure Electric Service Reliability, Docket No. L-00970120, Order entered April 24, 1998 (hereafter "Final Order")
[13] Ibid, page 9
[14] Ibid, page 9

The Commission in its first Final Rulemaking Order buttressed its rejection of worst-performing circuits reporting by noting that New York had utilized this requirement for a while but their conclusion was that this reporting requirement had become something of a post-review exercise in that utilities were merely compiling and documenting corrective actions that had already been taken. As such, the requirement had become a time consuming exercise of little benefit to the companies.[15]

As this Commission stated in its previous Final Order:

> **"We hesitate to impose excessive requirements upon the EDCs and to engage in what may be considered micromanagement."[16]**

Whereas this Commission has previously rejected the reporting of quarterly statistics on worst-performing circuits much less permitting excessive micromanagement and paper compilation on remedial action already taken, the issue squarely before the Commission is what argument or evidence exists that supports resurrecting this expensive record keeping mechanism that does not address reliability? The Energy Association would suggest that there is no rationale provided to support a departure from the Commission's previous precedent or that this so called remedy will address anything that has arisen regarding reliability since that decision.

Quarterly Reports Do Not Provide Meaningful Insight Into An EDC's Performance Reliability and Should Be Eliminated From the Reporting Requirements

The Commission has proposed several amendments to the regulations governing electric service reliability, including revisions to the annual reporting requirements in Section 57.195 as well as the addition of quarterly reporting requirements as 57.195(e) and (f). Regarding the

---

[15] Ibid, page 15, citing Order adopting Changes to Standards in Reliability and Quality of Service, Case 96-E-0979, issued February 26, 1997 (NYPSC)

[16] Ibid, page 20

addition of the quarterly reporting requirement, the Commission stated that the quarterly reports will "provide more frequent information to the Commission about service reliability." The Commission's stated purpose in requiring such information is to "enable [it] to identify potential problems in a timely manner and monitor the EDC's response to problems which may arise between annual reports" and to allow it to monitor the EDC's activities, expenses and staffing levels to "ensure that sufficient resources are being devoted to the reliability of electric service." Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code Chapter 57, Proposed Rulemaking Order Published Pa Bulletin October 4, 2003 ("Reliability Rulemaking") at 15. However, the monitoring of certain EDC activities on a quarterly basis does not provide meaningful insight into the EDC's reliability performance.

Many of the additional reporting requirements set forth in Section 57.195(e) request information that, when reported on a quarterly basis, is an unreliable means of gauging reliability performance. Generally the primary measure of performance is an annual target, which is why reporting such information on an annual basis, rather than a quarterly basis, is the more appropriate practice.

Reporting the reliability data that would be required by §§57.195(e)(3&5) on a quarterly basis applies statistical information, in some instances, using a smaller population of averages and values. Data reported using such small sample sizes is of little value in analyzing reliability performance in that it produces results that have high variability which can lead to potentially alarming, but nonetheless statistically invalid references. In its Tentative Order[17] discussion, the Commission properly notes that smaller sample sizes result in higher standards of

[17] Tentative Order and Request For Comments on the Proposed Guidelines and Policies regarding Standards for Electric Service Performance Reliability issued by the Commission at its Public Meeting held on June 26, 2003 ("Tentative Order").

deviation.[18] Hence, reliability data reported on an annual basis using the larger sample pool of an EDC's service territory, and including all the causes, is the more appropriate and useful means of monitoring reliability performance.

Another example of the ineffectiveness of quarterly reporting are the budget and resource allocation data requirements. Budget and maintenance targets are generally created for an annual period. This is generally to assist in the management of business activities. Quarterly budget information is not driven solely or even predominantly by reliability assumptions. Rather, comparison of budget and resource allocations numbers from quarter to quarter increases the potential for misinterpretations, invalid conclusions and false alarms, rather than any meaningful analysis of reliability performance. The focus should be the reliability, and not the accuracy, of budgeting.

Quarterly reporting of budget and resource allocation information (such as that required by §57.195(e)(6-11)) relates more to the EDC's management of the business as a whole, than to its management of reliability performance and as such, requesting this information is unwarranted because it will not *actually* assist the Commission in meeting its stated objectives. Having information available on targeted budget and maintenance performance for a particular quarter will not provide the Commission meaningful insight into whether an EDC is designating adequate resources to reliability. Nor will it provide the Commission information as to the impact of that budget or maintenance performance on the reliability measures.

Micromanagement of overall EDC operating decisions can only be justified by identification by the Commission of an actual problem with reliability performance and therefore belongs not in a quarterly report but in an audit process designed to address identified problems.

[18] See Tentative Order at 10 discussing the impact on deviation of smaller sample sizes; and Tentative Order at 15 discussing variances and accurate trend analysis.

Quarterly reports which reflect rolling 12-month indices and major outages in terms of the indices of CAIDI, SAIFI and SAIDI are satisfying. Those provisions contained in §57.195 (e) and (f) focusing on budgetary, financial and personnel information should be eliminated, or in the alternative, moved to §57.195 (g).

Much of the Information Required by the Proposed Revisions to 52 Pa. Code §57.195 is Confidential and Proprietary in Nature and Should Not be Made Available to the Public

The Energy Association supports some of the amendments to the *annual* reporting requirements. As proposed however, the reporting revisions require several new items, such as contractor terms, many of which are confidential and proprietary in nature. Additionally, while the Energy Association believes that *quarterly* financial/budgetary reporting is unnecessary to the Commission's ability to more closely monitor reliability performance, if the quarterly reporting requirements are ultimately approved as part of the final regulation, certain portions of this information should not be available to the public.

Specifically, information regarding budgets, performance relative to those budgets, use of contractors and resources in general, staffing levels and call-out rates (the information required by §§57.195(b) 4-12; corresponding items in §57.195(c); and §§57.195(e)(4-11) and (f) relating to worst circuit performance) should not be made available to the public. For example, if contract-spend information is made available to the public, the result likely will be higher construction and maintenance costs because it will undermine the individual EDCs' effective bargaining. Also, staffing levels and call-out rates are often items of negotiation in labor contracts. Having the Commission or the public privy to such data negotiations does not provide any benefit to reliability.

Regarding the issue of staffing levels, there has been no establishment of a direct link between the number of staff and reliability. For example, technology and better equipment have led to greater reliability. The installation of reclosers reduces the scope of outages. SCADA Systems and other technology allow EDCs to pinpoint where outages have occurred in a far more expedited time-frame than the older procedure of sending manpower out into an area to locate an outage. Therefore, technology and advancements in its deployment often replace staff. The technology and equipment employed are to achieve greater reliability and lower O&M expenses.

Thus, the Energy Association requests that language providing for the appropriate protection of such items should be added to the regulations to assure that such information is not made available to the public. Designating the information to be confidential/proprietary in nature and assigning protection from publication to such information does not undermine the Commission's plan to issue an annual statement of reliability report in that the Commission can still report such information in the aggregate.

Publication of such information is fraught with the potential for distortion, misinterpretation and the possibility of harm to the utility. Absolute numbers can never give a complete picture. The numbers alone do not tell the reader anything about the appropriateness of the business decisions behind those numbers. Publication of such information allows the public the opportunity to casually draw completely invalid inferences and conclusions from the information about the EDC's business practices and the Commission's regulation of such. Where there has been no previously identified problem with the EDC's provision of service, this information is not needed by the Commission. The exposure of the EDC's business decisions, practices, staffing and finances to unwarranted scrutiny, evaluation and comment puts the EDC in the defensive position, irrespective of good performance and is especially unfair to EDCs who consistently meet their reliability targets.

The potential for abuse, should this information be made public, is illustrated by a recent Washington Post article. The article discusses the impact of resource allocation by local utilities on the total number of outages resulting from Hurricane Isabel.[19] The author of the article used reported budget, resource and maintenance allocation information to draw invalid conclusions about the utilities' reliability performance, to criticize the utilities' management of resources and to question the actions of the relevant administrative authorities in their regulation of such utilities. The information utilized by the author was precisely the type of information requested by the Commission in its annual and quarterly amendments to Section 57.195 (worst circuit information, staffing levels, monetary budget and expenditures on certain maintenance activities). Many of the conclusions drawn by the author and his quoted analysts were based on a simple comparison of spend or staffing levels as reported by the utilities over as long as a ten-year period. The article essentially postulated in a highly political manner that reductions in staffing levels and maintenance spending (especially tree-trimming) significantly contributed to the outages related to the hurricane. However, it appears that the only information used in drawing these conclusions was the information reported to the Commission, which provided very basic statistics regarding the reductions. The author does not appear to have had any other information as to what may have precipitated the reductions or any insight into why these management decisions were made, information that cannot be gleaned from reports of this nature. So, even though the reductions could have been the result of efficiencies created by other changes (such as better technology, or more efficient use of other resources),

---

[19] Matthew Mosk, Peter Whoriskey, *Utilities Held Down Spending on Upkeep, Regulators didn't order Upgrades Before Isabel*, Washington Post, October 17, 2003 at A01. http://www.washingtonpost.com/ac2/wp-dyn?pagename=article&node=&contentId=A38385-2003Oct16&notFound=true

the utility was subject to nationwide public scrutiny and criticism because information contained in the reports like the one that would be required by the newly revised §57.195 was made available to the public.[20]

This example illustrates how publication of information such as this, containing the final but basic management decisions made by a utility, could very easily result in the misinterpretation, abuse, or manipulation of such information to the detriment of the utility industry and potential ripple effect upon the Commission's ability to properly perform its function. It also demonstrates why it is imperative that this information be given confidential treatment and not be made available to the public.[21]

It would be unnecessarily problematic for each EDC, every time it filed its annual report, to also file a request pursuant to 52 Pa. Code §5.423 asking that this information be given protection and not be available for public inspection. Therefore, the Energy Association requests that this Commission add language to Section 57.195 providing that the information required by §§57.195(b) 4-12; corresponding items in §57.195(c), will not be available for public inspection or review and will not be made part of any report available to the public except to the extent that such information is reported in the aggregate as part of the Commission's annual report on the state of reliability.

Further, if it is ultimately determined that the quarterly reports will be required, the Energy Association would request that this Commission add language providing that this information also will not be available for public inspection or review and will not be made part of any report available to the public.

---

[20] A classis example of the problems caused by having a little knowledge was the articles focus on so called reduction in tree trimming to somehow show negligence when the problems were largely caused by the uprooting of trees both inside and outside the utility right-of-way.

[21] This Commission correctly observed that "No utility can guard against live trees outside of its maintained right-of-way being uprooted during severe weather conditions and falling upon electric lines." Baker v. Penelec, p. 14.

The Commission should amend its rulemaking or postpone the effective date of the BCS letter of October 17, 2003, as there are contradictions between the Letter and Rule §57.197.

The use of a rulemaking proceeding is to put a number of issues before the public and the regulated industry and through comment and openness to achieve a furthering of the public interest. The Commission has chosen this regulatory course regarding electric reliability. This pleading and that of others are being offered in response to the Commission's request to modify its **existing** regulations at 52 Pa. Code §57.191-57.197.

BCS filed a letter dated October 17, 2003 which seeks to impose certain reporting requirements, certain categories for perceived shortfalls in reliability and the establishment of a new process for the processing of informal complaints that assert a relationship to reliability.

Certainly BCS has certain oversight responsibilities regarding consumer complaints. However, the October 17th letter does create some confusion with this rulemaking proceeding. Furthermore, the fact that BCS is a part of the Staff Internal Working Group which was the source of the information gathering and proposed rules in this rulemaking suggests that their concerns were included in the proposed rules.

The Commission proposed that there would be no adjustment to its Rule §57.197, yet it is clear to the Energy Association that the proposed BCS process and requirements relate to the very reliability investigations and enforcement covered by the proposed non-amended Rule §57.197 The October 17, 2003 letter sets forth categories of reporting which differ from those required in the rules proposed in this docket:

A BCS categorization of something as ill defined as "excessive/numerous service outages or, for example, persistent service delivery problems" causes difficulty. The outage could be caused by a major event, it could be already addressed by the focus on the 5% worst-performance circuits or the situation could have arisen from circumstances beyond the EDCs control.[22] All of these difficulties arise because BCS was premature in its October 17th letter. The BCS requirement for action plans on individual complaints occurs at a time when the Commission is moving the reliability focus to first the entire EDC system, as opposed to operating areas, and then to 5% worst-performing circuits, rather than individual complaints. Another difference is evidenced in the BCS suggestion that an infraction finding could result under 66 Pa. C.S.A. Section 1501 when the Commission is encouraging an approach of filing additional information rather than finding an infraction for the mere non-compliance of one index in one quarter.

The language in the October 17, 2003 letter, therefore, sets forth standards, rules, procedures and processes that are new and extremely vague. The Energy Association is concerned that individual EDCs are being held to multiple vague and potentially inconsistent standards at least as to remediation and reporting. BCS forbearance until post-rulemaking is in order.

Conclusion

The Commission's proposed rule change in §57.194 is at odds with its language in both the Tentative Order and Proposed Rulemaking. In a rulemaking, the regulated entity is entitled to know exactly what standard is being proposed. This clarity of purpose and direction is absent, where as here, there is confusing and at times contradictory language that goes to the fundamental cornerstone measurement of reliability.

The information requested in §57.194 could lead to a higher level of costs because it may undercut an EDC's ability to negotiate effectively with contractors and employees. The

[22] Examples include: an automobile accident, a man-made disaster, a terrorist attack, a flood, a tornado, an earthquake, a fire, or an act of war.

EDCs have endeavored to work with the Commission's staff to improve the consistency of information provided to the Commission. Some of the Commission's requested data, such as the aforementioned contractor and employee data, become negative if provided openly to all concerned.

Our concern over the public availability of some of the proposed documentation relates to either the additional cost arising from the limitation of our discretion or the likelihood that data will be taken out of context in the public arena. In either event, neither the public interest nor reliability is improved.

Reliability performance is a long-term proposition that is not appropriately evaluated in quarterly increments. In quarterly filings there is an increased potential for misapplying data to reach invalid conclusions. Accuracy in budgeting is not a measure of reliability.

The release of quarterly information to the public has complications for all in that easily misinterpreted information will be revealed to the detriment of the EDCs, the Commission, and the public at large.

Finally, the new definitions, new processes, new criteria and new standards proposed by BCS in their October 17, 2003 letter are being applied in an inappropriate fashion outside the rulemaking process thereby complicating the actual rules being applied and raising the specter of sanctioning or worse for ill defined or contradicting standards. The BCS' proposals are squarely against the Commission's decision not to amend §57.197.

Respectfully submitted,

J. Michael Love
President & CEO

David T. Evrard
Vice President & Secretary

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking Re Amending Electric : Service Reliability Regulations : At 52 Pa. Code Chapter 57 : Docket No. L-00030161 :	Docket No. L-00030161

Certificate of Service

I hereby certify that I have this day served a copy of the Response of the Energy Association of Pennsylvania to the Commission's Proposed Rulemaking Order on Electric Reliability in the above matter upon the parties listed below by mailing a copy thereof, properly addressed and postage prepaid in accordance with 52 Pa. Code §1.54.

Via First Class Mail:

Hon. Terrance J. Fitzpatrick
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Hon. Glen R. Thomas
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Hon. Wendell F. Holland
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Tanya J. McCloskey
Office of Consumer Advocate
555 Walnut Street, 5th Floor
Harrisburg, PA 17101

Scott J. Rubin, Esquire
3 Lost Creek Drive
Selinsgrove, PA 17870

Alan Michael Seltzer, Esquire
Ryan Russell Ogden & Seltzer
1105 Berkshire Blvd Suite 330
Wyomissing, PA 19610-1222

Hon. Robert K. Bloom
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Hon. Kim Pizzingrilli
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Charles F. Hoffman
PA Public Utility Commission
P.O. Box 3265
Harrisburg, PA 17105

Hon. William R. Lloyd
Small Business Advocate
300 N. 2nd Street, Suite 1102
Harrisburg, PA 17101

Eric Winslow, President
Citizens' Electric Company
P.O. Box 551
Lewisburg, PA 17837

John L. Munsch, Esq.
Allegheny Energy
800 Cabin Hill Drive
Greensburg, PA 15601-1689

Delia W. Stroud, Esq.
PECO Energy company
2301 market Street, S26-2
Philadelphia, PA 19101

Paul E. Russell, Esq.
PPL Electric Utilities Corp.
Two North Ninth Street
Allentown, PA 18101-1179

Mark C. Morrow, Esq.
UGI Utilities, Inc. – Electric Div
460 North Gulph Road
King of Prussia, PA 19406

Angelo M. Regan, P.E.
Pike County Light & Power
390 West Route 59
Spring Valley, NY 10977-5300

Robert S. McCarthy
Wellsboro Electric Company
33 Austin Street
Wellsboro, PA 16901

John A. Kelchner
Citizens' Electric Company
1775 Industrial Blvd.
Lewisburg, PA 17837

Date: December 8, 2003

David T. Evrard

David T. Evrard, Vice President & Secretary
Energy Association of Pennsylvania
800 N. Third Street, Suite 301
Harrisburg, PA 17102
(717-901-0600)

Original: 2363

COPY

CITIZENS' ELECTRIC COMPANY

1775 INDUSTRIAL BLVD • P.O. BOX 551 • LEWISBURG, PA 17837-0551 • (570) 524-2231 • FAX: (570) 524-5887

RECEIVED

2003 DEC -8 AM 12:55

SECRETARY'S BUREAU

December 4, 2003

RECEIVED
2003 DEC 11 AM 11:23
INDEPENDENT REGULATORY REVIEW COMMISSION

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
PO Box 3265
Harrisburg, PA 17105-3265

Ref: Comments of Citizens' Electric Company on the Commission's Proposed Rulemaking Re Amending Electric Service Reliability Regulations Docket No. L-00030161

Dear Secretary McNulty:

Enclosed please find an original and three copies of the above comments.

If you have any questions, please contact me.

Sincerely,

John A Kelchner

John A. Kelchner, PE
Sr. Director of Engineering & Operations

Cc: Elizabeth Barnes (via email)

RECEIVED

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

2003 DEC -9 PM 1:55

SECRETARY'S BUREAU

Proposed Rulemaking Re Amending Electric Service Reliability Regulations Request for Comments	: : : :	Docket No. L-00030161

COMMENTS OF CITIZENS' ELECTRIC COMPANY ON THE COMMISSION'S PROPOSED RULEMAKING RE AMENDING ELECTRIC SERVICE RELIABILITY REGULATIONS

Citizens' Electric Company files these comments in response to the Pennsylvania Public Utility Commission's (Commission) Proposed Rulemaking order concerning amended reliability regulations , published in the *Pennsylvania Bulletin* on October 4, 2003.

SUMMARY OF ARGUMENT

While we understand and agree with the need to track and report reliability statistics, it is our belief that quarterly reporting is excessive and provides little meaningful information. System reliability can have significant short-term variations based upon isolated local events such as, vehicle accidents, stormy weather patterns, etc. We respectfully suggest that annual reporting provides a more appropriate method to monitor performance.

The commission proposed that quarterly reporting for small EDCs be limited to a number of quantifiable measurements. Specifically, these items include: a description of major events that occurred during the quarter, rolling 12-month SAIFI, SAIDI, and

CAIDI values, and a breakdown of outage causes with proposed solutions. We recognize the value of these items, and respectfully suggest that it would be appropriate to limit the information required in the annual report to the same items. It is our belief that the additional data requested in the annual report (progress toward meeting maintenance goals, budget vs. actual maintenance expenditures, staffing levels, contractor hours and dollars, and callout acceptance rate) presents an unduly burdensome (and relatively uninformative) reporting requirement. While we agree it is important to assign a cost to efforts aimed at improving reliability, it does not necessarily follow that increasing expenditures or manpower will have a direct correlation on reliability. Focusing directly on actual performance measures is the best way to ascertain current reliability, and to determine the effectiveness of our maintenance programs.

Further, in addition to callout acceptance rate, many other aspects contribute to overall restoration time. These include response time, travel time, weather conditions, etc. Focusing solely on callout acceptance rate will not necessarily lead to meaningful conclusions regarding reliability or restoration effectiveness. Again, the best assessment of restoration is the standard CAIDI measure.

Finally, we agree with the Commission's position that it is not necessary for small EDCs to report on the 5% worst performing circuits. The nature of our operation is such that we are inherently aware of the condition of all circuits, and can respond quickly to any problems.

CONCLUSION

Reliability is very important to us, and we are proud of the record of service we have established. We are pleased to work with the Commission to continue the history of low-cost, reliable electricity our customers have enjoyed for many years.

Respectfully submitted

John A. Kelchner
Sr. Director of Engineering & Operations
Citizens' Electric Company
1775 Industrial Blvd
Lewisburg, PA 17837

Original : 23163

RECEIVED

2003 DEC 11 AM 11:23

COPY

REVIEW COMMISSION

Paul E. Russell
Associate General Counsel

PPL
Two North Ninth Street
Allentown, PA 18101-1179
Tel. 610.774.4254 Fax 610.774.6726
perussell@pplweb.com

ppl

RECEIVED

DEC 0 8 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

FEDERAL EXPRESS

December 8, 2003

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, Pennsylvania 17120

Re: Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code Chapter 57 Docket No. L-00030161

Dear Mr. McNulty:

Enclosed for filing on behalf of PPL Electric Utilities Corporation ("PPL Electric") are an original and fifteen (15) copies of PPL Electric's comments in the above-captioned proceeding.

Copies of PPL Electric's comments have been served upon the Office of Consumer Advocate ("OCA") and the Office of Small Business Advocate ("OSBA").

Pursuant to 52 Pa. Code § 1.11, the enclosed document is to be deemed filed on December 8, 2003, which is the date it was deposited with an overnight express delivery service as shown on the delivery receipt attached to the mailing envelope.

In addition, please date and time-stamp the enclosed extra copy of this letter and return it to me in the envelope provided.

If you have any questions regarding the enclosed comments, please call.

Very truly yours,

Paul E. Russell /ajc

Paul E. Russell

Enclosures

cc: Irwin A. Popowsky, Esquire
William R. Lloyd, Esquire
Mr. Thomas Sheets

125

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code Chapter 57	: : :	Docket No. L-00030161

RECEIVED
DEC 08 2003
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COMMENTS OF
PPL ELECTRIC UTILITIES CORPORATION

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

1. Introduction

On June 27, 2003, the Pennsylvania Public Utility Commission (the "Commission") entered a proposed Rulemaking Order to amend its existing reliability regulations at 52 Pa. Code Chapter 57. The order sets forth proposed amendments to the electric reliability standards for Electric Distribution Companies ("EDCs") operating within the Commonwealth of Pennsylvania. Specifically, the Commission has proposed amendments that will: (1) alter the definition of a "major event"; (2) require EDCs to file quarterly reliability reports, as well as annual reliability reports; (3) require EDCs to report information on 5% of their worst performing circuits; and (4) require EDCs to report on standards and plans for inspection and maintenance of their electric delivery systems.

PPL Electric Utilities Corporation ("PPL Electric" or the "Company") is an EDC located in the Commonwealth of Pennsylvania which provides delivery service and Provider of Last Resort service to over 1.3 million retail customers. PPL Electric is a strong proponent of providing a high level of customer satisfaction and, as such, the Company consistently ensures that the reliability of its delivery system is a top priority.

PPL Electric appreciates the opportunity to submit comments in this docket. The Company generally supports the Commission's initiative to amend its existing reliability regulations at 52 Pa. Code Chapter 57. However, the Company has specific comments to several of the proposed revisions, which are addressed below.

2. Specific Comments

A. Definitions

The Commission proposes to amend the definition of a "Major Event" set forth in Section 57.192 by substituting the term "service territory" for the term "operating area."

PPL Electric supports the Commission's proposed amendment to the definition of a "Major Event." The use of a single geographic area for calculation of an EDC's reliability metrics will reduce the variability of determining which service interruptions constitute a "major event."

In addition, PPL Electric believes that the Commission should revise the proposed definition of "Performance Benchmark" to identify the time period that was used to establish the benchmark. Specifically, PPL Electric recommends that the definition read: "the average historical performance based on reliability data for the five-year period, 1994 through 1998."

B. <u>Distribution System Reliability</u>

First, the Commission proposes to amend language in Section 57.194 to clarify that EDCs must meet both the performance benchmarks and the performance standards. Second, the Commission proposes to amend this section so that: (1) the performance standard is only a short-term minimum level of performance; and (2) performance that does not meet the standard for any reliability metric will trigger additional PUC scrutiny, including possible remedial review and reporting activities. Third, the Commission proposes to amend this section to clarify that an EDC must inspect, maintain and operate its distribution system to achieve the performance benchmark.

PPL Electric generally supports the Commission's proposed amendments to the language of Section 57.194. However, PPL Electric recommends that those amendments clearly state that, in order to meet the applicable two-tiered performance standards, an EDC's performance, as measured on a rolling three-year average basis, must be within 10% of the benchmark level, and that its performance, as measured on a rolling 12-month average basis, must be within the 20% of the benchmark level for large EDCs. Moreover, because the performance standard is a short-term objective, the Company also recommends that the Commission identify what criteria it will use to determine whether an EDC is meeting the requirement to inspect, maintain and operate its electric delivery system so as to achieve the performance benchmark on a long-term basis.

C. Reporting Requirements

The Commission proposes to amend Section 57.195 to change the date for submission of an EDC's annual reliability report from May 31 of each year to March 31 of each year. The Commission also proposes to amend this section to add new annual reporting requirements for EDCs. Those new requirements for the reporting year are: (1) a description of each "major event" that occurred; (2) the average number of customers served; and (3) additional detailed information regarding the operation and maintenance ("O&M") of an EDC's electric delivery system. This detailed information includes: a breakdown and analysis of outage causes; a list of remedial efforts taken and planned for those circuits on the list of 5% of the worst performing circuits; a comparison of established transmission and distribution ("T&D") goal/objectives to actual results, including an explanation of variances; a comparison of actual to budgeted T&D O&M expenses and capital expenditures; detail by system area of quantified T&D goals/objectives; detail by FERC account of budgeted T&D O&M expenses and capital expenditures; and any significant changes to the T&D inspection and maintenance programs previously provided.

In addition, the Commission proposes to add a requirement for EDCs to submit quarterly reliability reports. Those reports would include the following information for the reporting period: (1) a description of each "major event" that occurred; including the time and duration, number of customers affected, the cause of the event, and any procedures modified to avoid or minimize similar events in the future; (2) rolling 12-month reliability indices (SAIFI, CAIDI, SAIDI and MAIFI, if available), including the applicable data to calculate the indices; (3) rolling 12-month reliability indices for those circuits set forth in the list of 5% of the worst performing circuits; (4) remedial efforts taken and planned for the EDC's worst performing circuits; (5) a breakdown and analysis of outage causes; (6) quarterly and year-to-date information regarding progress toward meeting T&D inspection and maintenance goals/objectives; (7) quarterly and year-to-date information for budgeted versus actual O&M expenses and capital expenditures; (8) staffing levels for T&D O&M at end of the quarter, in total and by specific category; (9) quarterly and year-to-date information of contractor hours and dollars for T&D O&M; and (10) monthly call-out acceptance rates for T&D maintenance workers.

PPL Electric supports the Commission's proposal to advance the date for submission of the annual reliability report. However, because of the need to compile, analyze and thoroughly review the service interruption data used to prepare the annual reliability report, PPL Electric recommends that the Commission modify its proposed date for submission of this report from March 31 to April 30.

PPL Electric recognizes the Commission's desire to obtain more information regarding an EDC's system reliability and to receive that information in a more timely manner. However, the Company believes that, in some respects, the proposed annual and quarterly reporting requirements are overly burdensome, redundant and costly. If enacted in their present form, those proposed requirements could consume valuable, but limited resources. For example, the Commission would require EDCs to submit a description of each "major event" in their annual and quarterly reliability reports. Currently, the EDCs must submit a Service Interruption Report, pursuant to 52 Pa. Code § 67.1, describing each service interruption which affects 2,500 or 5% (whichever is less) of their total customers due to a single unscheduled interruption of six or more hours duration. Under the proposed annual and quarterly reporting requirements, the EDCs will be required to submit the same information for a "major event" in three separate reports. Therefore, PPL Electric recommends that the Commission revise its proposed reporting requirements under Section 57.195 to eliminate this unnecessary and time-consuming redundancy, and limit the reporting in Section 57.195 to only the dates of the "major events" and the number of customers interrupted.

The Commission proposes that EDCs' annual reliability reports contain the average number of customers served over the year. PPL Electric historically has based and reported its reliability metrics on the number of customers served at the end of each reporting year. For consistency of data, PPL Electric recommends that the Commission modify this proposed reporting requirement to reflect the number of customers served at the end of each reporting year.

The Commission proposes that EDCs' annual and quarterly reliability reports contain a breakdown and analysis of outage causes. PPL Electric recognizes the Commission's desire for this information in the context of an EDC's reliability performance. However, because outage definitions differ among the EDCs, caution should be used if comparisons among EDCs are being considered.

The Commission proposes that EDCs' annual and quarterly reliability reports contain a list of remedial efforts taken and planned for circuits on the list of 5% of their worst performing circuits. PPL Electric's circuit improvement program focuses on improving the performance of each of those individual circuits by ranking each circuit's performance. Each of the worst performing circuits is inspected, trouble locations identified, and a list of remedial actions prepared. The Company continues to evaluate the circuit's performance and tracks the performance results to assure that the corrective action taken has improved the performance of the circuit. Although the Company tries to identify all repair work performed, there may be situations where additional work is performed because a crew identifies a specific problem while on routine patrol. That work, because of its general nature, may not be tracked. However, the work would result in a performance improvement of the circuit. Therefore, PPL Electric recommends that the Commission revise this proposed reporting requirement, as follows: "A list of the major remedial efforts taken to date and planned for circuits that have been on the worst performing 5% of circuits list for a year or more."

The Commission proposes that EDCs' annual and quarterly reliability reports contain a comparison of: (1) established T&D inspection and maintenance goal/objectives and actual results; (2) budgeted and actual T&D O&M expenses; and (3) budgeted and actual T&D capital expenditures. In addition, explanations of "any variances" must be included. PPL Electric believes that the phrase "any variances" is overly broad and will require unnecessary explanation of insignificant deviations. Therefore, the Company recommends that the Commission revise these reporting requirements by setting a threshold for variance explanation, such as: an explanation of a material change in a T&D inspection and maintenance goal/objective, or a variance in excess of $1 million in T&D O&M expenses, or a variance in excess of $5 million in capital expenditures, would be appropriate.

The Commission proposes that EDCs' annual reliability reports contain a breakdown of budgeted T&D O&M expenses and capital expenditures by FERC account. PPL Electric does not budget either O&M expenses or capital expenditures by FERC account. Rather, the Company budgets by functional activity and conversion of that data into FERC account data would be difficult and time-consuming. Therefore, PPL Electric recommends that the Commission modify these reporting requirements as follows: "Budgeted T&D O&M expenses and T&D capital expenditures for the current year in total and detailed by FERC account, if readily available, or by functional activity.

The Commission proposes that EDCs' quarterly reliability reports contain: (1) dedicated staffing levels for T&D O&M at the end of the quarter, in total and by category; (2) quarterly and year-to-date information of contractor hours and dollars for T&D O&M workers. PPL Electric believes that this information is competitively sensitive and proprietary, and that, if this information were made available to the public, the Company's ability to negotiate contracts with third-party vendors and others could be adversely affected. Therefore, PPL Electric strongly recommends that the Commission either eliminate these proposed reporting requirements or, in the alternative, permit EDCs to retain this information at their main business office, and make it available for Commission review and inspection, as necessary.

3. Conclusion

Accordingly, PPL Electric Utilities Corporation recommends that the proposed amendments to the Commission's electric service reliability regulations at 52 Pa. Code Chapter 57 for EDCs, as set forth in the Rulemaking Order, be modified consistent with these comments.

Respectfully submitted,

Paul E. Russell/gmk

Paul E. Russell
PPL Electric Utilities Corporation
Two North Ninth Street
Allentown, PA 18101-1179
(610) 774-4254

Dated: December 8, 2003
at Allentown, Pennsylvania

COMMONWEALTH OF PENNSYLVANIA

COPY

Original: 2363

OFFICE OF CONSUMER ADVOCATE
555 Walnut Street, 5th Floor, Forum Place
Harrisburg, Pennsylvania 17101-1923
(717) 783-5048
800-684-6560 (in PA only)

IRWIN A. POPOWSKY
Consumer Advocate

FAX (717) 783-7152
consumer@paoca.org

2003 DEC 11 AM 11: 23
REVIEW COMMISSION
RECEIVED

December 8, 2003

James J. McNulty, Secretary
PA Public Utility Commission
Room B-20, North Office Bldg.
Harrisburg, PA 17105-3265

Re: Rulemaking Re: Amended Reliability Benchmarks and Standards for the Electric Distribution Companies
Docket No. L-00030161

Dear Secretary McNulty:

Enclosed please find for filing an original and ten (10) copies of the Office of Consumer Advocate's Comments in the above-captioned proceeding.

Copies have been served upon all parties of record as shown on the attached Certificate of Service.

Sincerely,

Tanya J. McCloskey

Tanya J. McCloskey
Senior Assistant Consumer Advocate

RECEIVED
2003 DEC -8 PM 12: 21
PA PUC
SECRETARY'S BUREAU

Enclosures
cc: Parties of record
Terrance J. Fitzpatrick, Chairman
Robert K. Bloom, Vice-Chairman
Glen R. Thomas, Commissioner
Kim Pizzengrilli, Commissioner
Wendall J. Holland, Commissioner
Tom Sheets, Bureau of Audits

77136

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking Re: Amended Reliability Benchmarks and Standards for the Electric Distribution Companies	: : : :	Docket No. L-00030161

OFFICE OF CONSUMER ADVOCATE'S
COMMENTS

Tanya J. McCloskey
Senior Assistant Consumer Advocate
Lori A. Herman
Assistant Consumer Advocate

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street, Forum Place, 5th Floor
Harrisburg, PA 17101-1923
(717) 783-5048

Dated: December 8, 2003

TABLE OF CONTENTS

I. INTRODUCTION

On October 4, 2003, the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Proposed Rulemaking Order ("Rulemaking Order") in the above-captioned case was published in the *Pennsylvania Bulletin* for comment. The Rulemaking Order was issued by the Commission in conjunction with a Tentative Order at M-00991220 ("Tentative Order") that proposed amended reliability benchmarks and standards for electric distribution companies ("EDCs"). The intent of the Commission in issuing the Rulemaking Order and the Tentative Order is to tighten the standards for performance reliability and significantly improve the monitoring of reliability performance in the electric distribution industry.

The Office of Consumer Advocate ("OCA") is in agreement with the Commission's intent, but the OCA submits that the Commission must significantly improve the EDCs' compliance with the standards and benchmarks through aggressive enforcement. Only then will the requirements of the Electric Generation Customer Choice and Competition Act ("Act") be met. A comparison of recent performance of the EDCs to their pre-restructuring performance set forth in the OCA's Comments at Docket No. M-00991220 showed that reliability has been worse than pre-restructuring performance for most EDCs. Even under the Commission's recomputed benchmarks set forth in its Tentative Order, which allow for worse performance than the original benchmarks for some EDCs, most EDCs fail to achieve historic performance on most measures. Only PPL joins PECO and Duquesne in showing recent performance that is now better than the recomputed benchmarks for some measures. Compare, Tentative Order, Appendix B, Columns E and K. The following Table illustrates this point:

TABLE 1

EDC Performance Compared to Recomputed Benchmarks
Three Year Rolling Average for 2000 - 2002

Company	SAIFI	CAIDI	SAIDI
Allegheny Power	worse	worse	worse
Duquesne Light	worse	better	better
Met-Ed	worse	worse	worse
Penelec	worse	worse	worse
Penn Power	worse	worse	worse
PECO	better	better	better
PPL	worse	better	better

key: better - below benchmark; worse - above benchmark)

It is clear that changes are needed in the Commission's regulations to achieve the mandate of the Act that reliability be maintained at least at pre-restructuring levels.

The Legislative Budget and Finance Committee Report (LB&FC Report) recognized these very points and explained the consequences of deteriorated reliability as follows:

> When the reliability of the transmission and distribution systems is allowed to degrade, service disturbances and interruptions occur more often; and customers may be without service for longer periods.
>
> Problems with the transmission and distribution systems can also result in public safety issues such as forest fires and explosions and public exposure to "down wires." They may require local emergency officials to provide emergency housing when families must be evacuated from their homes, and arrange for specialized services for technology dependent disabled children and adults cared for at home. Delayed responses to service interruptions can also result in public highways remaining closed for longer periods than necessary and families and businesses experiencing financial losses.

LB&FC Report at 1.

The OCA submits that although the Commission's proposals in this Proposed Rulemaking and in its Tentative Order are an improvement over its current regulations, performance benchmarks, and performance standards, the proposed modifications still fall short of ensuring compliance with the requirements of the Act. In particular, neither the Tentative Order nor the Proposed Rulemaking actually require an EDC to achieve its pre-restructuring performance. Although encouraged to do so over an undefined "long-term," the Commission's proposals do not require that reliability be maintained at the same level as before the Act. The Commission's regulations must implement such a requirement and must be accompanied by an enforcement mechanism that ensures compliance with the Act. The Commission's proposed regulations do not achieve these requirements.

The OCA recommends five modifications and enhancements to the Commission's regulations so that the requirements of the Act are better met. First, the OCA recommends that the regulations establish the historic, pre-restructuring performance benchmark as the minimum acceptable level of performance over the rolling 3-year average period for SAIFI, CAIDI, and SAIDI. Second, the OCA proposes that the regulations include an enforcement mechanism that requires the development of a formal improvement plan with enforceable commitments and timetables if an EDC does not achieve the historic performance levels. Although the Commission may wish to consider a move to automatic penalties at some point in the future for failure to meet the required standards and benchmarks, at this juncture, the OCA recommends the development of an improvement plan as a first step. The improvement plan must include mandatory penalties for failure of an EDC to meet the commitments and timetables in the plan. Through this mechanism, the Commission can more closely work with EDCs to restore reliability to historic levels and ensure that the commitments in the plan are achieved.

Third, the OCA recommends that the Commission further enhance its reporting requirements. The OCA recommends that the Commission retain the reporting of operating area reliability metrics for monitoring purposes so that the Commission can ensure that a utility is properly deploying its resources within its service territory. Reliability of the system should not come at the expense of one or two operating areas. Additionally, the OCA recommends that the Commission require each EDC to file a T&D Maintenance Plan on an annual basis for Commission review.

Fourth, the OCA recommends that the regulations include a requirement that each EDC issue a report in the form of a bill insert to customers on an annual basis concerning their reliability performance. Customers are interested in their individual EDC's performance and the performance within their area. Such an annual report, similar to the Consumer Confidence Reports where water utilities report on water quality, will further encourage EDCs to perform reliably and will inform customers of the efforts of the EDC to meet reliability goals.

Fifth, the OCA recommends some other changes to the definitions, including a more detailed definition of performance benchmark and performance standard, to fully operationalize the OCA's other recommendations.

The OCA strongly urges the Commission to adopt the OCA's modifications and enhancements to the proposed regulations contained herein and as set forth in its Comments at M-00991220. Safe, adequate, efficient, and reasonable service that is reasonably continuous and without unreasonable interruption or delay must be provided to all Pennsylvania consumers. 66

II. COMMENTS

A. <u>The Commission's Regulations Must Require An EDC to Improve On Or Meet Its Pre-Restructuring Level of Reliability.</u> (Section 57.192, 57.194(h)(3) and 57.194(h)(4))

In proposing amended reliability benchmarks, standards, and regulations, the Commission notes that it intends to "clarify the Commission's expectations for reliability performance in relation to the performance benchmarks and performance standards." Rulemaking Order at 8. The Commission then sets forth its expectations when it states:

> We do not want to send the message that long-term reliability performance that just meets the performance standard is acceptable. Long-term performance that only meets the standard could be significantly worse than the benchmark and thus worse than the historical performance level that existed prior to the introduction of Electric Choice. Such performance would clearly not be consistent with the intent or the language of the Act and the Commission's policy objective for maintaining reliability performance after the introduction of Electric Choice at least as good as it was prior to Electric Choice. Therefore, the Commission emphasizes that long-term reliability performance should be at least equal to the benchmark performance.

Rulemaking Order at 10. Unfortunately, despite the Commission's "message" or "intent," the proposed modifications to the Commission's regulations fall short of carrying out this intent. The Commission's proposed regulations are flawed in two respects. First, the regulations do not contain definitions or provisions sufficient to determine how the regulations will ensure that reliability is maintained at or better than historic levels. As the OCA discusses below in Section II.E., the Commission must amend its definition of performance benchmark and performance standards to include the methodology for establishing the benchmarks and standards, an explanation as to where the information is located, and an explanation as to the role each plays in the regulations. The OCA provides some recommended definitions here and in Section II.E. to carry out the Commission's intent.

Second, and more fundamentally, as the OCA explained in its Comments regarding the calculation of the reliability benchmarks and standards, neither the Commission's Tentative Order nor the proposed regulations ever require an EDC to meet its historic, pre-restructuring performance benchmark over any period of time. See, OCA Comments, Docket No. M-00991220 (October 10, 2003), p. 9-11. Without such a requirement, the Commission's regulations cannot satisfy the Act's mandate to maintain pre-restructuring reliability.

The Commission's proposed regulations at Section 57.194(e) and (h) are an improvement over the existing regulations in that the proposed regulations require an EDC to maintain procedures and take measures necessary to achieve both the historic performance benchmarks and the performance standards. While the Commission encourages EDCs to achieve historic benchmark performance, there is no requirement that historic benchmarks be met and there is no enforcement mechanism related to achieving the historic benchmark. The Commission's requirement and enforcement approach (which needs to be strengthened as discussed below) is only triggered by the failure to meet the performance standards – the rolling 3-year average standard and the rolling 12-month average standard – both of which accept performance below historic levels under the Commission's proposals. As the OCA discussed in its previous Comments, if the Commission does not at least establish the rolling 3-year average minimum standard equal to the historic benchmark, there will be no assurance that pre-restructuring levels of reliability are maintained.[1] OCA Comments at Docket No. M-00991220, p. 9-11.

If the Commission intends for an EDC to meet its historic performance benchmark, the Commission must require an EDC to do so in its regulations. To accomplish this end, the OCA recommends that the rolling 3-year average minimum performance standard be established equal to the historic benchmark level. An EDC's failure to achieve this minimum performance standard should then trigger appropriate enforcement activity by the Commission to ensure that the mandate of the Act is met.

For the reasons set forth in the OCA's Comments at Docket No. M-00991220 and above, the OCA submits that the Commission should establish the rolling 3-year average performance standard at the historic performance benchmark. To achieve this result, the Commission's regulations at 52 Pa. Code §§57. 192, 57.194(h)(3) and (h)(4) should be amended to read as follows:

> 57.192: Performance Standard – The minimum performance allowed. The performance standard will be at least equal to the performance benchmark over the period of time specified and for each index specified by the Commission in its orders establishing the numerical performance standards.
>
> 57.194(h)(3): An EDC shall, at a minimum, demonstrate that it has met the performance standard(s) for SAIFI, CAIDI, and SAIDI, for each calendar year. Performance that does not meet the performance standard(s) for any reliability index shall require an improvement plan as set forth in Section 57.194(h)(5).
>
> 57.194(h)(4): An electric distribution company shall inspect, maintain and operate its distribution system, analyze reliability results, and take corrective measures as

---

[1] As the OCA noted in its prior Comments, the standards can be established to require performance better than historic levels if the Commission determines that to be appropriate. OCA Comments in Docket No. M-00991220 at 21-23.

> necessary to achieve the benchmark performance for each reliability index each year. Failure to achieve the performance benchmark on the reliability indices as specified in the Commission's orders establishing numerical standards shall require an improvement plan as set forth in Section 57.194(h)(5).

The OCA has attached as Appendix A all of the revisions to the proposed regulations recommended by the OCA in these Comments and the Comments at Docket No. M-00991220. The Commission's proposed changes are shown in bold for additions and brackets for deletions. The OCA's additional modifications are shown in underline for additions and strikeout for deletions.

B. <u>The Commission's Regulations Must Identify A Stronger Enforcement Response For Failure To Meet The Benchmarks And Standards</u>. (Section 57.194(h) and Section 57.195(g))

1. <u>The Enforcement Response For Failure To Achieve The Minimum Standards Is Insufficient To Ensure That The Mandates Of The Act Are Met</u>.

In its Tentative Order at Docket No. M-00991220, the Commission described its enforcement approach as follows:

> Consistent with the proposed changes to the language of the Commission's Electric Reliability Standards at 57.194(h)(3), the role of the standard is being revised. A failure on the part of an EDC to meet the first tier standard [rolling 3-year average] is a trigger for additional involvement of Commission staff in the form of remedial review and perhaps additional reporting by the EDC until performance is within the standard or Commission staff is satisfied that performance over time is not significantly deteriorating. Repeated violations of the 2-tiered standard shall result in the Commission staff pursuing an enforcement action including fines and other remedies available.

Tentative Order at 11. The Commission then proposes the following language for Section 57.194(h)(3):

> The performance standard shall be the short term, minimal level of performance for each measure for all electric distribution companies.

> Performance that does not meet the standard for any reliability measure shall be the threshold for triggering additional scrutiny by the Commission. When performance does not meet the standard, the Commission will contact the electric distribution company regarding possible remedial review and reporting activities.

Rulemaking Order, Annex A, p. 2, Proposed 52 Pa. Code §57.194(h)(3). The Commission further requires in proposed Section 57.195(g) that if an EDC's performance does not meet the established performance standards, the Commission *may* require a report that includes the reasons for the failure to meet the standards, a description of the corrective measures the EDC is taking, and target dates of completion. Rulemaking Order, Annex A, p. 7, Proposed Section 52 Pa. Code §57.195(g).

The OCA submits that the Commission's proposal through these regulations for enforcement is inadequate to accomplish the mandates of the Act. Indeed, the approach of the Commission in the regulations undermines its statements that the Commission expects reliability to be maintained at least at pre-restructuring levels. For example, the Commission described the proposed revisions to Section 57.195(g) as follows:

> Language has been revised in subsection (g), which was formerly subsection (d), to make it clear that performance which does not meet the Commission's established performance standards is not necessarily indicative of unacceptable performance.

Rulemaking Order at 16. A Commission statement that it is not unacceptable to fail to meet a minimum standard -- which the Commission would set at a level allowing a 10% to 20% deterioration in reliability from historic performance -- weakens the effectiveness of the regulations. Additionally, the Commission's suggestion in its Tentative Order at Docket No. M-00991220 that formal enforcement action under Section 57.197 will be delayed until there is "repeated" failure by an EDC further confuses the Commission's message and intent. Tentative Order at 11. A delay in enforcement until there are repeated failures to satisfy the standards could delay necessary repair measures, make repairs or remedies more expensive, and delay the receipt of reasonable service by customers.

The OCA does not dispute that the remedy for unacceptable performance may vary depending on the circumstances encountered by the EDC, but if the Commission wishes to meet the mandates of the Act, it must start by stating that failure to maintain pre-restructuring reliability is not acceptable and not permitted. The OCA submits that the Commission must then vigorously enforce compliance with the benchmarks and standards. Without vigorous enforcement and real consequences for the EDC's failings, consumers have no assurance that the mandate of the Act will be met.

In this rulemaking, the OCA proposes a more stringent regulatory response, described below, which should improve the effectiveness of the Commission's enforcement approach. Initially, though, the OCA would note as a point of reference that in many states, an EDC is subject to automatic penalties for failure to achieve specific *annual*, numerical performance standards based on CAIDI, SAIFI, and other metrics. Maine, New York, Massachusetts, Illinois, Colorado, Washington, Rhode Island, Vermont, Connecticut, Idaho, California, and Oregon have adopted this approach for some or all of their utilities. A summary of some of these programs is presented in Appendix B (attached hereto) and can also be found in the LB&FC Report at 102-110, Appendix C. Such penalties are assessed on the utility for performance that does not meet the established baselines on an annual basis. The level of the penalties are often pre-determined so that the utility is aware of the consequences of a failure to meet baseline performance. Some programs require that the penalty revenue be provided to customers as a rebate on the bill for poor performance. In some states, the rebate is accompanied by a statement on the bill such as: "This month's bill includes a rebate to customers of $___ for failure to achieve acceptable service quality standards in the area of ____." See, Appendix C (Washington Utilities and Transportation Commission, Docket No. UE-960195 February 5, 1997 Service Quality Index)(attached).[2]

If penalties are set at appropriate levels, this type of system can provide the right signal to the utility to achieve appropriate reliability. The utility experiences very real and known financial consequences for failure, and must further acknowledge this failure to customers. For example, in Massachusetts, several utilities have recently paid penalties for non-compliance to their customers in the form of a customer credit. See, *e.g.*, Investigation by the Department of Telecommunications and Energy into Service Quality of Boston Edison Company, Commonwealth Electric Company and Cambridge Light Company d/b/a/ NSTAR Electric, Docket No. D.T.E. 01-71A (Massachusetts DTE 2001) and Investigation by the Department of Telecommunications and Energy into Service Quality of Massachusetts Electric Company and Nantucket Electric Company, Docket No. D.T.E. 01-71B (Massachusetts DTE 2001). As a result of these investigations, Boston Edison was ordered to refund $3.2 million to customers and Massachusetts Electric was ordered to refund $5.7 million. Id.

The OCA strongly urges the Commission to establish a system of enforcement to better ensure that reliability is maintained in the Commonwealth. The OCA would recommend that if the Commission chooses to pursue an approach of automatic penalties now or in the future, it solicit specific comments on such an approach. Comments should be obtained on the proper level

---

[2] The attachment is a portion of a Stipulation in a merger of a natural gas and electric utility. The attached portion sets forth the Service Quality Index, the automatic penalties under the SQI, and the bill message language.

of penalties, how penalty revenue should be returned to customers, how to match predetermined penalties to the degree of failure, and the like.

At this juncture, the OCA is not arguing for the adoption of a mechanism with automatic penalties designed to reflect the degree of failure to meet reliability benchmarks or standards. Instead, the OCA is proposing that the Commission's regulations regarding enforcement be strengthened by adding an enforcement mechanism that requires the development of a formal improvement plan when an EDC fails to meet the required benchmarks and standards. The improvement plan must be enforceable and include mandatory penalties for failure to achieve the commitments and timetables contained in the plan.

The OCA will describe its enforcement proposal in more detail below. As can be seen, however, the Commission's proposed regulations do not provide a sufficient response to the failure of an EDC to maintain its pre-restructuring level of performance.

2. The OCA's Recommended Enforcement Approach.

The OCA submits that the Commission's regulations should set forth specifically the minimum regulatory response for whenever an EDC fails to meet its performance benchmarks and standards in any year. The regulations should require, at a minimum, that whenever an EDC does not meet the performance benchmark on a rolling 3-year average basis, the EDC enter into a formal improvement plan with enforceable commitments and timetables. The improvement plan should be developed between the EDC and Commission staff, but should be published for comment, such as through a Tentative Order process. The improvement plan must contain mandatory penalties for failure to achieve any of the performance commitments and timetables set forth in the plan. The OCA recommends that any such penalty revenue be returned to customers in some manner. For failure to meet the rolling 3-year average on the quarterly reports, or the rolling 12-month average on a quarterly or annual basis, the OCA recommends that the Commission Staff work with the EDC for development of specific plans to correct any problems. The enforceable improvement plan with mandatory penalties should be utilized for a failure to meet the performance benchmark on a rolling 3-year average basis at the annual report review.[3]

The OCA submits that this approach reflects the LB&FC Report recommendations. The LB&FC Report recommended that the Commission work closely with companies with deteriorating reliability and "assure that they are taking aggressive steps to prevent degradation of their transmission and distribution systems, and it should closely monitor company implementation of improvement plans." LB&FC Report at S-15. Specifically, the LB&FC Report recommended:

> Failure of a company to successfully implement an agreed upon improvement plan should result in the PUC initiating an informal investigation and, if necessary, the imposition of fines for failure to implement improvements agreed to in a timely manner.

LB&FC Report at S-15.

The trend in reliability in the Commonwealth has not been positive. As shown in the OCA's Comments at Docket No. M-00991220 and herein, current performance of EDCs on a rolling 3-year average basis has generally been worse than their historic, pre-restructuring performance. Only PECO and Duquesne have shown performance that is consistently better than historic levels by either the original benchmarks or the recomputed benchmarks. It is clear that the Commission needs to pursue aggressive enforcement of compliance with the benchmarks and standards. The

---

[3] As noted in the OCA's Comments at Docket No. M-00991220, data quality issues should be considered and addressed in the development of the improvement plans. Information necessary to evaluate the impact of these issues on the improvement plan should be provided upon release of the plan for comment.

Commission's proposed regulations, which call only for staff contact with EDCs that fail to meet the standards and the possibility of some additional reporting, fall short.

As such, the OCA recommends that the Commission adopt a more stringent regulatory response to an EDC's failure to maintain reliability. The following points should be included in the regulations:

- The regulations should describe a mandatory process if the EDC's annual report demonstrates non-compliance with the performance standards or benchmarks on a rolling 3-year average basis. The mandatory process should, at a minimum, require that the EDC enter into a formal improvement plan within 60 days of the submission of an annual report that shows failure to achieve the benchmarks or standards. The improvement plan must include enforceable steps and timetables. The improvement plan should be adopted by Commission Order after notice and an opportunity for comment by interested parties.
- The improvement plan should set forth the mandatory penalties that will be assessed for the failure to meet the plan's performance commitments. These penalties should vary with the nature and severity of the failure to comply with the improvement plan.
- Any revenues from penalties assessed under the improvement plan should be distributed to customers in some manner with a bill message explaining the purpose of the rebate.
- Section 57.197 regarding reliability investigations should remain in place and should be utilized when appropriate, not just in response to repeated failures.

To achieve these goals, the OCA recommends that the Commission's regulations at 52 Pa. Code §57.194(h) be amended as recommended in Section II.A. and that an enforcement provision be added. The enforcement provision would read as follows:

> 57.194(h)(5): Within 60 days of the annual report required by this Chapter, an EDC that has failed to meet the requirements of Section 57.194(h)(3) or Section 57.194(h)(4) shall enter into an enforceable improvement plan with specific performance requirements and timetables to achieve compliance with the performance benchmark(s) and standard(s) as soon as reasonably possible, but no later than one year. The improvement plan shall identify mandatory penalties for the failure to achieve the plan's performance requirements and timetables. The amount of any penalty should reflect the degree and severity of the failure to achieve the plan's performance requirements and timetables. Any penalties incurred as a result of the failure to comply with an improvement plan shall be returned to customers with a bill message that explains the reason for the customer rebate. The Commission shall issue the improvement plan in the form of a Tentative Order and seek public comment prior to the final adoption of the plan.

See, Appendix A. The Commission should also amend Section 57.195(g) to require a mandatory report when an EDC's performance does not meet the benchmarks and standards. Section 57.195(g) should be amended to read as follows:

> 57.195(g): When an electric distribution company's reliability performance is found to not meet the Commission's established performance benchmarks or performance standard(s), as defined in § 57.194(h) (relating to distribution system reliability), the Commission shall require a report to include the following:
>
> > (1) The underlying reasons for not meeting the established benchmarks and standard(s).
> >
> > (2) A description of the corrective measures the electric distribution company is taking and target dates for completion.

See, Appendix A.

The OCA submits that requiring the development of formal, enforceable improvement plans when an EDC is unable to maintain historic levels of reliability is a necessary step to meet the mandate of the Act. Without such an enforcement mechanism, the regulations cannot ensure compliance with the Act and cannot assure that the deterioration in reliability experienced in the Commonwealth will come to an end.

C. The Commission's Reporting Requirements Should Be Further Improved. (Section 57.195(b)(3) and Section 57.195(b)(9))

The Commission's proposed regulations vastly improve the reporting requirements. The amended reporting requirements mandate both annual and quarterly reporting and require that far more information be provided in the reports. For example, in addition to the reporting of SAIFI, CAIDI, SAIDI and if available, MAIFI[4] indices, the regulations require such information as a breakdown and analysis of outage causes; remedial efforts taken; a comparison of transmission and distribution inspection and maintenance goals with actual results achieved; a comparison of budgeted versus actual transmission and distribution expenses; a comparison of budgeted versus actual transmission and distribution capital expenditures; and an explanation of any significant variations in budgeted to actuals.

The OCA strongly supports the Commission's efforts to obtain more information from the EDCs on their reliability measures. This additional information will greatly assist the Commission in its monitoring responsibilities. The OCA submits, however, that the Commission's reporting requirements could be further improved in two ways. First, as the OCA recommended in Comments in 1997, the Commission should require each EDC to develop and present its T&D Maintenance Plan to the Commission on an annual basis. Advanced Notice of Proposed Rulemaking Regarding Electric Reliability Standards, Docket No. L-00970120, OCA Comments, p. 19-20 (March 17, 1997). The Commission has not required the submission of such comprehensive plans. Although the reporting requirements provide much necessary information, the Commission should still require each EDC to provide a comprehensive Maintenance Plan for review by the Commission.

---

4 MAIFI is the Momentary Average Interruption Frequency Index. MAIFI represents that average frequency of momentary interruptions per customer.

This is similar to the Commission requirement that EDCs provide Annual Resource Plans each year for Commission review.

Second, the Commission should also continue to require the reporting of the SAIFI, CAIDI, SAIDI, and if available, MAIFI indices for the operating areas. The OCA does not recommend that operating area information be used for enforcement, but that reporting of the information continue so that the Commission can ensure that an EDC's resources are being appropriately deployed throughout its service territory. As the OCA explained in its Comments on the Tentative Order at Docket No. M-00991220, operating area information reflects how an EDC manages reliability throughout its distribution system. See, OCA Comments at 23-25. The reporting of the worst performing circuit information, although valuable, does not provide the Commission with the information necessary to ensure that reliability for the system is not coming at the expense of one or two operating areas.

The OCA strongly urges the Commission to adopt the July 2002 Staff Report Recommendation IV-3 and require the continued reporting of operating area reliability metrics using operating areas consistent with those used for an EDC's internal operations and monitoring. The operating area information should be used to monitor an EDC's performance in various regions and to ensure that resources are properly deployed throughout the service territory.

The OCA supports the Commission's improved reporting requirements and recommends the two modifications discussed herein. With these additions, the reporting requirements should greatly assist the Commission in monitoring EDC compliance with the regulations.[5] To achieve these goals, the OCA recommends that the Commission regulations at 52 Pa. Code §57.195(b)(3) and (b)(9) be amended to read as follows:

> 57.195(b)(3): A table showing the actual values of each of the reliability indices (SAIFI, CAIDI, SAIDI, and if available, MAIFI) for the electric distribution company's service territory and for each of the company's operating areas as those areas are defined internally for operation and monitoring of reliability performance for each of the preceding 3 calendar years. The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer minutes of interruptions, the number of customers affected, and the minutes of interruption. If MAIFI values are provided, the number of customer momentary interruptions shall also be reported.
>
> 57.195(b)(9): The EDC's Transmission and Distribution Maintenance Plan, which shall include quantified transmission and distribution inspection and maintenance goals/objectives for the current calendar year detailed by system area (i.e., transmission, substation, and distribution).

See, Appendix A.

D. Each EDC Should Be Required To Provide A Report To Its Customers On An Annual Basis On The EDC's Reliability. (Section 57.195)

In Proposed Section 57.195(i), the Commission sets forth a requirement that the Commission prepare an annual reliability report and make it available to the public. The OCA agrees that the Commission should prepare such a Report for the public as well as the General Assembly. This requirement is responsive to the recommendation of the LB&FC Report that the Commission prepare a Report for the General Assembly and the public that provides information on such things as performance trends, the causes of service interruptions, comparisons of current

[5] In its Comments on the Tentative Order, the OCA also recommended that the Commission continue to require the reporting of MAIFI data. The reporting requirements do require this information if available, but this information does not seem to be included in the report issued by the Commission. The Commission should report all of the reliability index information that it receives in its Reports.

performance to past performance for each company, and information on major events. LB&FC Report at S-15.

The OCA submits that in addition to this Report, the Commission should require each EDC to issue an annual report to its customers on its reliability performance. Customers are typically most interested in their own EDC's performance, particularly within the area where they live. Although a statewide report is useful, it may not reach significant numbers of customers, and it may not provide relevant information to customers about their circumstances. A report sent to an EDC's customers relating the EDC's specific reliability performance can provide useful information to the customers and an appropriate incentive to the EDC to maintain and improve its performance. Such a customer report would be similar to the Consumer Confidence Reports now issued by water companies to their customers concerning various water quality measures. See, 40 CFR §141.153.

The customer report could be in the form of a bill insert and should inform customers of the applicable performance benchmarks and standards, the current system-wide performance reported to the Commission, performance in the operating area of the customer (if feasible), causes of outages, and actions taken to correct or address reliability. The bill insert must include plain language explanations of the reliability measures and if all operating areas are reported, sufficient designation so that customers can readily determine their operating area. The bill insert should be designed with input from interested parties and must be approved by appropriate Commission staff personnel.

The OCA recommends the inclusion of an additional subsection in 57.195 to reflect this requirement. The subsection would read as follows:

> 57.195(j): Each EDC shall prepare an annual report to its customers concerning the performance benchmarks, performance standards, and actual annual performance for all reliability measures. This report shall describe any improvement plans or other enforcement actions initiated by the Commission concerning the EDC's reliability performance, as well as the status of such improvement plans, and whether any mandatory penalties were incurred and their amount.

See, Appendix A. Through this requirement, customers will be better informed of the EDC's reliability performance and the steps being taken to ensure reliable service.

E. The Commission's Proposals Regarding Definitions Require Modification. (Section 57.192)

The Commission proposes several changes to the definition section of its regulations. Of particular note, the Commission proposes to amend the definition of "major event," delete the definition of "operating area," add definitions of "EDC" and "FERC," and add definitions of "performance benchmark" and "performance standard." See, Proposed Section 57.192. As discussed in the OCA's Comments at Docket No. M-00991220, the OCA supports the amendment to the regulations that clarifies the definition of "major event." This clarification will better ensure consistent application of the major event criteria by EDCs. The addition of definitions of "EDC" and "FERC," which are acronyms used in the regulations, will also add clarity to the regulations. The OCA opposes the deletion of the term "operating area" and recommends that the definition of the terms "performance benchmark" and "performance standard" include more substantive description of the role of each measure in the regulations.

The Commission proposes to eliminate the definition of the term "operating area" since the Commission has eliminated the concept of operating areas from the regulations. As the OCA has discussed herein, and in its Comments at Docket No. M-00991220, elimination of monitoring by operating areas is not appropriate. See, Section II.C. and OCA Comments at 23-25.

The Commission should retain the use of operating area information for monitoring purposes and should retain the definition.

The proposed definitions of the terms "performance benchmark" and "performance standard" are incomplete. In essence, the Commission leaves the crucial requirements of these regulations to another docket, M-00991220. There is no indication in the regulations that the crucial benchmarks and standards with which an EDC must comply are actually set forth in a separate docket or order. Additionally, there is no indication in the definition as to the role of the performance benchmark and performance standard within the regulations and no indication of the new two-tiered performance standards.[6]

The OCA submits that under the proposed regulations, it would be very difficult to determine how the Commission is measuring reliability to assure compliance with the Act. As a general matter, the regulations which implement the requirements of the Act should be sufficiently detailed so that the public can determine how the requirements of the Act are being met. The OCA recommends that the Commission's regulations contain a more detailed definition of the terms "performance benchmark" and "performance standard" including a definition of the methodology used to determine the performance metrics and where the numerical values for the metrics can be found. The OCA recommends that Section 57.192 be amended to include the following definitions:

---

6 The Commission's new two-tiered minimum performance standard is only described in the Tentative Order at Docket No. M-00991220 and the actual performance standard values are only reported in that docket. Although this approach may provide the Commission with some flexibility in establishing standards, it creates a void in the regulations when attempting to determine if the standards are consistent with the Act. Additionally, since the performance benchmark represents the historic, pre-restructuring performance level, it will not change. The benchmarks for each index should be included in the regulations such as in an Appendix.

Performance Benchmark--The average historical performance for each performance measure required by this chapter, calculated as the average of annual performance for period 1994-1998. The performance benchmark for each performance measure is shown in Appendix A of these regulations.

Performance Standard--The minimum performance allowed. The performance standard will be at least equal to the performance benchmark over the period of time specified and for each index specified by the Commission in its orders establishing the numerical performance standards.

Operating area--A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations.

See, Appendix A.

F. Conclusion

The OCA supports the Commission's message that reliability in the Commonwealth must be improved and must be maintained at least at historic, pre-restructuring levels. Through its Tentative Order and Proposed Rulemaking, the Commission has taken some steps to improve reliability. The Commission's regulations, however, need to be significantly strengthened and aggressively enforced to achieve the requirement of the Act. The OCA submits that its proposed modifications to the Commission's regulations seek to better ensure that customers receive the reliable service that is required by the Public Utility Code.

III. CONCLUSION

For the reasons set forth above, and for the reasons set forth in the OCA's Comments and Reply Comments at Docket No. M-00991220, the OCA urges the Commission to modify its proposed regulations to ensure compliance with the mandate of the Act. The Commission must establish performance requirements that meet the Act's mandate and must develop an aggressive enforcement mechanism to ensure compliance. The OCA's proposals here are designed to move the regulations toward that goal.

Respectfully submitted,

Tanya J. McCloskey
Senior Assistant Consumer Advocate
Lori A. Herman
Assistant Consumer Advocate

Counsel for:
Irwin A. Popowsky
Consumer Advocate

Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

Dated: December 8, 2003
76972

Appendix A

PROPOSED CHANGES OF THE OFFICE OF CONSUMER ADVOCATE
TO
ANNEX A

TITLE 52. PUBLIC UTILITIES
Part I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 57. ELECTRIC SERVICE
Subchapter N. ELECTRIC RELIABILITY STANDARDS

PROPOSED CHANGES OF THE OFFICE OF CONSUMER ADVOCATE TO ANNEX A

TITLE 52. PUBLIC UTILITIES
Part I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 57. ELECTRIC SERVICE
Subchapter N. ELECTRIC RELIABILITY STANDARDS

NOTE: The Commission's proposed changes are shown in bold for additions and in brackets for deletions. The OCA's proposed changes are shown in redline with underlining for additions and redline with strikeout for deletions.

* * * * *

§ 57.192. Definitions.
The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:
* * * * *

Major event –
(i) Either of the following:

(A) An interruption of electric service resulting from conditions beyond the control of the electric distribution company which affects at least 10% of the customers in [an operating area] **the electric distribution company's service territory** during the course of the event for a duration of 5 minutes each or greater. The event begins when notification of the first interruption is received and ends when service to all customers affected by the event is restored. [When one operating area experiences a major event, the major event shall be deemed to extend to all other affected operating areas of that electric distribution company.]

(B) An unscheduled interruption of electric service resulting from an action taken by an electric distribution company to maintain the adequacy and security of the electrical system, including emergency load control, emergency switching and energy conservation procedures, as described in § 57.52 (relating to emergency load control and energy conservation by electric utilities), which affects at least one customer.

(ii) A major event does not include scheduled outages in the normal course of business or an electric distribution company's actions to interrupt customers served under interruptible rate tariffs.

* * * * *

~~[*Operating area* – A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations.]~~

***Performance Benchmark* – The average historical performance~~.~~ for each performance measure required by this chapter, calculated as the average of annual performance for the period 1994-1998. The performance benchmark for each performance measure is shown in Appendix A of these regulations.**

***Performance Standard* – Minimum performance allowed. The performance standard will be at least equal to the performance benchmark over the period of time specified and for each index specified by the Commission in its orders establishing the numerical performance standards.**

* * * * *

§ 57.194. Distribution system reliability.

* * * * *

(e) An electric distribution company shall design and maintain procedures to achieve the reliability **performance benchmarks and** performance standards established under subsection (h).

* * * * *

(h) An electric distribution company shall take measures necessary to meet the reliability **performance benchmarks and** performance standards adopted under this subsection.

(1) In cooperation with an electric distribution company and other affected parties, the Commission will, from time to time, establish numerical values for each reliability index or other measures of reliability performance that identify the benchmark performance of an electric distribution company, and performance standards.

(2) The benchmark will be based on an electric distribution company's historic performance [for each operating area] for that measure **for the entire service territory.** [In establishing the benchmark, the Commission may consider historic superior or inferior performance or system-wide performance.]

(3) ~~The performance standard shall be the short term, minimal level of performance for each measure for all electric distribution companies [,regardless of the benchmark established].~~ ~~**Performance that does not meet the standard for**~~

~~any reliability measure shall be the threshold for triggering additional scrutiny by the Commission. When performance does not meet the standard, the Commission will contact the electric distribution company regarding possible remedial review and reporting activities.~~ <u>An EDC shall, at a minimum, demonstrate that it has met the performance standard(s) for SAIFI, CAIDI, and SAIDI, for each calendar year. Performance that does not meet the performance standard(s) for any reliability index shall require an improvement plan as set forth in Section 57.194(h)(5).</u>

(4) An electric distribution company shall inspect, maintain and operate its distribution system, analyze [performance] **reliability results,** and take corrective measures **as** necessary to achieve [the performance standard] **benchmark performance** <u>for each reliability index each year. Failure to achieve the performance benchmark on the reliability indices as specified in the Commission's orders establishing numerical standards shall require an improvement plan as set forth in Section 57.194(h)(5).</u> [An electric distribution company with a benchmark establishing performance superior to the performance standard shall maintain benchmark performance, except as otherwise directed by the Commission.]

<u>(5) Within 60 days of the annual report required by this Chapter, an EDC that has failed to meet the requirements of Section 57.194(h)(3) or Section 57.194(h)(4) shall enter into an enforceable improvement plan with specific performance requirements and timetables to achieve compliance with the performance benchmark(s) and standard(s) as soon as reasonably possible, but no later than one year. The improvement plan shall identify mandatory penalties for the failure to achieve the plan's performance requirements and timetables. The amount of any penalty should reflect the degree and severity of the failure to achieve the plan's performance requirements and timetables. Any penalties incurred as a result of the failure to comply with an improvement plan shall be returned to customers with a bill message that explains the reason for the customer rebate. The Commission shall issue the improvement plan in the form of a Tentative Order and seek public comment prior to final adoption of the plan.</u>

§ 57.195. Reporting requirements.

(a) An electric distribution company shall submit **an annual reliability report** to the Commission, on or before [May] **March** 31 [,1999, and May 31] of each [succeeding] year [a reliability report which includes, at a minimum, the information prescribed in this section].

(1) An original and [5] **6** copies of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

(2) The name,[and telephone number] **title, telephone number, and e-mail address** of the persons [having] **who have** knowledge of the matters, and [to whom inquiries should be addressed,] **can respond to inquiries,** shall be included.

(b) The **annual reliability** report **for larger electric distribution companies (those with 100,000 or more customers)** shall include [an assessment of electric service reliability in the electric distribution company's service territory, by operating area and system wide], **at a minimum, the following elements:**

(1) [The] **An overall current** assessment **of the state of the system reliability in the electric distribution company's service territory** [shall include] **including** a discussion of the electric distribution company's **current** programs and procedures for providing reliable electric service.

(2) [The assessment shall include a] **A** description of each major event **that occurred during the year being reported on,** including the time and duration of the event, the number of customers affected, the cause of the event and any modified procedures adopted in order to avoid or minimize the impact of similar events in the future.

[(c) The report shall include a] **(3) A** table showing the actual values of each of the reliability indices [, and other performance measures required by this subchapter or Commission order, for each operating area and] **(SAIFI, CAIDI, SAIDI, and if available, MAIFI)** for the electric distribution **company's service territory** [company as a whole] **<u>and for each of the company's operating areas as those areas are defined internally for operation and monitoring of reliability performance</u>** for each of the preceding [5] 3 calendar years. **The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer minutes interruptions, the number of customers affected, and the minutes of interruption. If MAIFI values are provided, the number of customer momentary interruptions shall also be reported.**

(4) A breakdown and analysis of outage causes during the year being reported on, including the number and percentage of service outages and customer interruption minutes categorized by outage cause such as equipment failure, animal contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported.

(5) A list of remedial efforts taken to date and planned for circuits that have been on the worst performing 5% of circuits list for a year or more.

(6) A comparison of established transmission and distribution inspection and maintenance goals/objectives versus actual results achieved during the year being reported on. Explanations of any variances shall be included.

(7) A comparison of budgeted versus actual transmission and distribution operation and maintenance expenses for the year being reported on. Explanations of any variances shall be included.

(8) A comparison of budgeted versus actual transmission and distribution capital expenditures for the year being reported on. Explanations of any variances shall be included.

(9) The EDC's Transmission and Distribution Maintenance Plan, which shall include ~~Q~~quantified transmission and distribution inspection and maintenance goals/objectives for the current calendar year detailed by system area (i.e., transmission, substation, and distribution).

(10) Budgeted transmission and distribution operation and maintenance expenses for the current year in total and detailed by FERC account.

(11) Budgeted transmission and distribution capital expenditures for the current year in total and detailed by FERC account.

(12) Significant changes, if any, to the transmission and distribution inspection and maintenance programs previously submitted to the Commission.

(c) The annual reliability report for smaller electric distribution companies (those with less than 100,000 customers) shall include all items in (b) above except for requirement (5).

(d) An electric distribution company shall submit a quarterly reliability report to the Commission, on or before May 1, August 1, November 1, and February 1.

(1) An original and 6 copies of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

(2) The name, title, telephone number and e-mail address of the persons who have knowledge of the matters, and can respond to inquiries, shall be included.

(e) The quarterly reliability report for larger companies (those with 100,000 or more customers) shall, at a minimum, include the following elements:

(1) A description of each major event that occurred during the preceding quarter, including the time and duration of the event, the number of customers affected, the cause of the event and any modified procedures adopted in order to avoid or minimize the impact of similar events in the future.

(2) Rolling 12-month reliability index values (SAIFI, CAIDI, SAIDI, and if available, MAIFI) for the electric distribution company's service territory for the preceding quarter. The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer interruptions, the number of customers affected, and the customer minutes of interruption. If MAIFI values are provided, the report shall also include the number of customer momentary interruptions.

(3) Rolling 12-month reliability index values (SAIFI, CAIDI, SAIDI, and if available, MAIFI) and other pertinent information such as customers served, number of interruptions, customer minutes interrupted, number of lockouts, and so forth, for the worst performing 5% of the circuits in the system. An explanation of how the electric distribution company defines its worst performing circuits shall be included.

(4) Specific remedial efforts taken and planned for the worst performing 5% of the circuits as identified in (3) above.

(5) A breakdown and analysis of outage causes during the preceding quarter, including the number and percentage of service outages and customer

interruption minutes categorized by outage cause such as equipment failure, animal contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported.

(6) Quarterly and year-to-date information on progress toward meeting transmission and distribution inspection and maintenance goals/ objectives.

(7) Quarterly and year-to-date information on budgeted versus actual transmission and distribution operation and maintenance expenditures. (For first, second, and third quarter reports only.)

(8) Quarterly and year-to-date information on budgeted versus actual transmission and distribution capital expenditures. (For first, second, and third quarter reports only.)

(9) Dedicated staffing levels for transmission and distribution operation and maintenance at the end of the quarter, in total and by specific category (e.g., linemen, technician, and electrician).

(10) Quarterly and year-to-date information on contractor hours and dollars for transmission and distribution operation and maintenance.

(11) Monthly call-out acceptance rate for transmission and distribution maintenance workers.

(f) The quarterly reliability report for smaller companies (those with less than 100,000 customers) shall, at a minimum, include items (1), (2) and (5) identified in (e) above.

[(d)]**(g)** When an electric distribution company's reliability performance [within an operating area] is found to [be unacceptable,] **not meet the Commission's established performance standard(s),** as defined in § 57.194(h) (relating to distribution system reliability), the **Commission ~~may~~ shall require a** report [shall] **to include the following:**

(1) [An analysis of the service interruption patterns and trends.] **The underlying reasons for not meeting the established standard(s).**

[(2) An analysis of the service interruption patterns and trends.

(3) A description of the causes of the unacceptable performance.]

[(4)] **(2)** A description of the corrective measures the electric distribution company is taking and target dates for completion.

(h) An electric distribution company shall, within thirty (30) calendar days, report to the Commission any problems it is having with its data gathering system used to track and report reliability performance.

(i) The Commission shall prepare an annual reliability report and make it available to the public.

<u>(j) Each EDC shall prepare an annual report to its customers concerning the performance benchmarks, performance standards, and actual performance for all reliability measures. This report shall describe any improvement plans of other enforcement actions initiated by the Commission concerning theEDC's reliability performance, as well as the status of such improvement plans, and whether any mandatory penalties were incurred and their amount.</u>

* * * * *

Appendix B

SUMMARY OF RECENT SERVICE QUALITY AND RELIABILITY PERFORMANCE MECHANISMS: ELECTRIC AND NATURAL GAS UTILITIES

SUMMARY OF RECENT SERVICE QUALITY AND RELIABILITY PERFORMANCE MECHANISMS: ELECTRIC AND NATURAL GAS UTILITIES

Barbara R. Alexander
Consumer Affairs Consultant

September, 2001

California: The California PUC[1] has adopted a combination of both minimum statewide standards and utility-specific performance standards (coupled with automatic penalties for failure to maintain these standards) to address reliability and customer service. The Commission has routinely required Service Quality and Reliability Performance Plans as part of multi-year and alternative rate plans since the early 1990's. In a recent decision involving the rates and rate structure for Pacific Gas and Electric Co. (PG&E)[2], the Commission adopted a Quality Assurance Program directed to the distribution function of this electric utility and specifically linked this program to the forthcoming PBR proceeding, in which SAIDI and SAIFI would be addressed. The elements of the Quality Assurance Program approved in the rate case set specific standards in areas affecting customer service and a set of compensatory rebates for customers if standards are not met. Standards were set for Missed Appointments, Non-Emergency Service Investigations or Repairs; Emergency Service Investigations/Repairs; Complaint Resolution; New Installations; Response to Service Disruptions; Restoring Service (24 hours). The customer-specific rebates for failure to perform range from $25 to $100 (failure to respond to emergency service calls within 2 hours). With regard to Southern California Edison's Distribution PBR[3], the PUC re-affirmed the previous measures of system reliability, customer satisfaction with six most frequent customer service requests; and telephone response standards (75% calls answered within 50 seconds for 90% of weeks). Among other service quality requirements imposed on San Diego Gas and Electric Co. is a requirement that if the company fails to keep an appointment within four hours, a credit ranging from free installation of service to $50 will be credited to the customer's next bill. The PUC has also adopted an extensive series of reporting and inspection cycle requirements for distribution equipment and tree trimming cycles and standards. California's General Order 166 also imposed Standards for Operation, Reliability and Safety During Emergencies and Disasters on all electric utilities.

Oregon: In its consideration of the merger between Scottish Power and PacifiCorp[4], the PUC of Oregon approved an extensive Customer Service Performance Program which requires Network Performance Standards (SAIDI, SAIFI, Worst Performing Circuits, and Supply Restoration), Customer Service Performance Standards and Customer Performance Guarantees relating to missed appointments, response to billing inquiries, restoration of service, connecting new service, and prompt investigation of power quality complaints, all of which will result in an automatic payment of $50 to customers when the performance guarantees are not met. As part of the agreement, Scottish Power agreed to achieve a 10% improvement by 2005 in SAIDI and SAIFI, with associated revenue reductions, as well as cooperate in the development of improved methods of measuring and tracking MAIFI. Finally, within 120 days of the merger, Scottish Power committed to answer 80% of the customer calls to its business centers within 30 seconds, and, by January 1, 2002, 80% within 10 seconds.

Idaho: As part of the same merger involving Scottish Power and PacifiCorp, the Idaho PUC[5] approved performance standards for SAIDI, SAIFI, MAIFI, worst circuits and restoration of power within the five-year period following the merger transaction. For each of the standards not achieved at the end of this period, Scottish Power will pay a financial penalty equal for $1 for every customer in the affected jurisdiction. If the network performance standards are not met in all jurisdictions, this would equate to a total penalty of $7 million. The telephone response time promised was also 80% of calls answered within 30 seconds and answered within 10 seconds by January 1, 2002. The same customer service guarantees noted above in the Oregon decision were also accepted in Idaho.

Washington: As a condition of a merger between a natural gas and an electric utility, the Washington Utilities and Transportation Commission approved a stipulation regarding a Service Quality Index for Puget Sound Energy. The Index is composed of 10 performance areas: Overall Customer Satisfaction; WUTC Complaint Ratio; SAIDI, SAIFI, Telephone Center Answering Performance (75% calls answered within 30 seconds), Telephone Customer Center Customer Satisfaction; Gas Safety Calls Response Time; Field Operations Customer Satisfaction; Disconnection Ratio; Missed Appointments. Each performance area is worth 10 points and a mandatory penalty is imposed (up to a total of $7.5 million) according to a sliding scale if any one baseline performance standard is missed. In addition, the Company must issue a Service Quality Report card to its customer annually.

Massachusetts: The Massachusetts DTE has also adopted statewide service quality standards and has historically required a service quality index as part of an alternative rate plan or merger application for electric and gas utilities. This trend has been accelerated with the merger activity in Massachusetts. The DTE has required that all companies that file for approval for mergers or acquisitions include a service quality plan as an essential part of the filing. In a recent merger between Eastern Enterprises (Boston Gas) and Colonial Gas, the DTE required the company to collect and integrate the service quality performance data of the two companies and set baseline performance standards within 18 months in the following areas: Telephone call handling (Boston Gas historical performance is 86% of calls within 40 seconds); Gas Emergency Response Time; Incidence Rate for Lost-Time Accidents; Appointments Met; Meter Reading; DTE Customer Complaints and Billing Adjustments. Following the data collection phase, the Department will establish penalties as a disincentive to or safeguards against deterioration of service. A prior Service Quality Index required for Boston Gas[6] established baseline performance standards for Safety (gas safety calls response time; lost time accidents); Service (80% calls answered within 30 seconds; Kept Appointments; DTE Complaint statistics; on-cycle meter reads). The total penalty was set at $4.9

million or $700,000 per performance area for a company with revenues of approximately $300 million. The statewide standards address both reliablity (SAIDI, SAIFI and MAIFI), telephone answering service, service appointments, on-cycle meter reading, customer satisfaction and complaint handling, and gas safety requirements for natural gas utilities. Penalties are imposed on allowed revenues when the actual results exceed (or are below, as applicable) the recent average minus one standard deviation. Customer credits are also required in some cases. In a recent filing before the DTE, Massachusetts Electric Co. reported its 1999 Service Quality Performance Results in which SAIDI results were 117, resulting in a customer credit of $250,000 (the required performance was 105 minutes). For 1999, Eastern Edison incurred a penalty of $187,000 for failure to meet the SAIDI requirement of 81 minutes (98.41 minutes reported).

Colorado: As part of a merger settlement involving Public Service Company's (New Century Energies) merger with North States Power Co., the PUC of Colorado approved an extensive service quality program.[7] Performance benchmarks were established for Customer Complaint Ratio; Telephone Response at call centers (70% calls answered within 45 seconds); reliability of service (SAIDI, CAIDI, SAIFI). Penalties in the form of customer bill credits escalate with the severity and duration of the deterioration in service in any category. The maximum amount of the customer bill credits range from $5 million in year one to $11 million.

New York: The New York Commission has adopted Service Quality and Reliability Standards (SAIFI and CAIDI for each operating area with objective and minimum performance levels).[8] The Commission has also included utility-specific service quality plans in revenue requirement or alternative rate plans for all electric utilities for almost 10 years. These plans measure a variety of service quality performance areas, including the SAIFI and CAIDI standards. Monetary penalties are assigned to each category and annual customer rebates for poor performance are routinely calculated. In some cases, utilities have been awarded incentive performance dollars for above average performance. In the 1995 revenue requirement review for Niagara Mohawk Power Co., the Commission established a $2 million penalty if the Company failed to perform in the service reliability area and a $20 million penalty if it fails to meet customer service quality goals. In 1998, the Commission approved a settlement agreement for an extension of the alternative rate plan that doubled the potential service quality and reliability penalties.[9] The Commission recently adopted a settlement with modifications in its consideration of the application of Consolidated Edison for merger with Northeast Utilities in which an extensive "reliability mechanism" was ordered.[10] Threshold standards consisting of area performance targets and a major outage penalty mechanism was established for a four-year period. A total of $22 million is at risk for the failure to meet the threshold standards. In addition, objective standards are applicable to a future three year period and the Company is allowed to increase the cap on earnings if these standards are met.

Illinois: The Illinois Commerce Commission Electric Reliability rules[11] require all utilities to annually report reliability and outage information, the results of an annual customer satisfaction survey, and customer complaints concerning reliability of service. These rules also establish reliability targets based on the voltage level of the distribution circuit (e.g., for customers whose primary source of service operates between 15,000 –69,000 volts, no more than 4 controllable interruptions in each of the last three consecutive years). Illinois' recent electric restructuring legislation requires large electric utilities to provide customer rebates when customers suffer extended outages.

Nevada: The Nevada PUC has required, by rule, that any utility which files a merger request must include a proposal for measuring and reporting customer satisfaction, service reliability, safety and business office performance and imposing penalties for shortfalls in such performance.[12]

Ohio: The Ohio has recently amended its electric and service quality standards[13] as part of its rule revisions associated with the implementation of retail electric competition. Ohio electric utilities must adopt service quality and performance targets for CAIDI, SAIDI, SAIFI and ASAI (Average system reliability index) for the entire service area as well as circuit performance information. Minimum customer service levels are also established as follows: (1) 99% of new service installations (without construction) must be completed within three business days; (2) 90% of new service installations (with construction) and service upgrades must be accomplished within 10 business days; (3) average telephone answer time must not exceed 60 seconds each month.

Maine recently considered the renewal of an alternative rate plan for Central Maine Power Co. in light of its merger with Energy East.[14] Building on a prior Service Quality Index, the Commission approved a settlement that continued the SQI, added additional performance mechanisms, and increased the penalty dollars at risk to $3.6 million for failure to maintain performance at the established baseline levels. The performance areas include: CAIDI, SAIFI, the PUC Complaint Ratio, Call Center Performance (80% calls answered within 30 seconds for both business and outage calls), New Service Installation, Call Center Service Quality (survey), and Market Responsiveness (processing of switch orders from suppliers). The Company will issue a Customer Report Card on Service Quality annually. These measures are in addition to the Company's Customer Service Guarantee program which provides specific restitution to customers for failure to keep appointments or install service on the agreed upon date.

Connecticut recently approved an incentive rate plan for Southern Connecticut Gas Co. in light of its recent merger with Energy East.[15] This proceeding, which was litigated, resulted in a Service Quality Plan consisting of five measurement areas, benchmarks and penalties for failure to perform.

The following Internet links are provided for the major decisions listed above:

California: See fn. 1, Exhibit B
Oregon: http://www.puc.state.or.us/orders/1999ords/99-616.pdf
Idaho: http://www.puc.state.id.us/orders/28213.htm
Massachusetts (Boston Gas): http://www.state.ma.us/dpu/electric/99-19/order.htm

Colorado: http://www.dora.state.co.us/puc/Decisions/2000/C00-0393_99A-377EG.doc
New York Reliability Standards: http://www.dps.state.ny.us/fileroom/doc716.pdf
New York Consolidated Edison merger order: http://www.dps.state.ny.us/fileroom/doc8899.pdf
Illinois: http://www.icc.state.il.us/icc/doclib/rules/83iac411.pdf
Nevada: http://puc.state.nv.us/electric/85001pr2.htm
Ohio: http://www.puc.state.oh.us/ohioutil/energy/erindustry/4901%5F1%2D10.doc
Maine: http://www.state.me.us/mpuc/orders/99/99666oas.pdf (order) and
http://www.state.me.us/mpuc/orders/99/99666stip.pdf (stipulation) and
http://www.state.me.us/mpuc/orders/99/99666stipatt5.pdf (Appendix 5--calculation of service quality penalty)

Connecticut:
http://www.dpuc.state.ct.us/FINALDEC.NSF/2b40c6ef76b67c438525644800692943/475c51d2c845eb29852569af00668ace/$FILE/990418d.doc

END NOTES:

1 The California PUC orders relating to reliability and service quality are available on the Commission's website under the Energy Division: http://nic.cpuc.ca.gov/divisions/energy/sections/reliability_section/program.htm.

[2] California PUC, Decision 00-02-046, February 17, 2000.

[3] California PUC, Decision 98-07-077, July 23, 1998.

[4] PUC of Oregon, Order No. 99-616, Docket UM 918, October 6, 1999.

[5] Idaho PUC, Case No. PAC-E-99-1, Order No. 28213, November 15, 1999.

[6] Massachusetts DPU 96-50 (Phase I), December 2, 1996.

[7] Colorado PUC, Decision No. C00-393, Docket No. 99A-377EG, February 16, 2000.

[8] New York PSC, Order Adopting Changes to Standards on Reliability and Quality of Service, Case 96-E-0979, February 26, 1997.

9 New York PSC, Opinion and Order Adopting Terms of Settlement Agreement Subject to Modifications and Conditions, Case 94-E-0098, Opinion No. 98-8, March 20, 1998.

10 New York PSC, Opinion and Order Adopting Terms of Settlement, Subject to Modification, Cases 00-m-0095, et al., November 30, 2000.

[11] Illinois ICC, Title 83, Part 411., adopted in Docket 98-0036, November 5, 1998.

[12] Nevada PUC, Temporary Regulation, PUCN Docket No. 98-5001, September 17, 1998, adding Chapter 704, NAC, Sections 2-9.

13 Rule 4901:1-10-07 - 4901:1-10-10, adopted in Case No. 99-1613-EL-ORD (June 8, 2000).

14Maine PUC, Central Maine power Co. Request for Approval of Alternative Rate Plan (Post-Merger), Order Approving Stipulation, Docket No. 99-666, November 16, 2000.

15Department of Public Utility Control, DPUC Review of the Southern Connecticut Gas Company's Rates and Charges–Phase III, Docket No. 99-04-18, November 8, 2000.

Appendix C

WASHINGTION UTILITIES AND
TRANSPORTATION COMMISSION
DOCKET NO. UE-960195
FEBRUARY 5, 1997

been consistently reaffirmed in several Commission decisions since 1972. If PSE requests interim rate relief, it will apply under the *Pacific Northwest Bell* standard or whatever Commission standard exists for such relief at the time of PSE's request. The process for seeking interim relief is as follows (subject to modification by Commission order or rulemaking): PSE would file a general rate case under WAC 480-09-330, but with tariffs supportive only of the amount requested as interim rate relief; PSE would file testimony and other evidence that supports the amount of the requested interim rate relief; and PSE would propose to spread the requested interim rate relief among customer classes based on an equal percentage of margin (gas) and on equal percentage of revenues (electric).

B. Quality of Customer Service

The parties recognize that during a multi-year rate plan, such as proposed in this Stipulation, it is critical to provide a specific mechanism to assure customers that they will not experience a deterioration in quality of service. The Parties have therefore agreed upon the following service quality program including a Customer Service Guarantee ("Guarantee") and a Service Quality Index ("SQI").

1. **Guarantee.** PSE will provide specific compensation to individual customers. The general terms of the Guarantee are set forth in Exhibit B to this Stipulation, attached hereto and incorporated herein by reference. Compensation will be provided to customers automatically with a credit to customers' bills. PSE will file the necessary tariff revisions with the Commission to implement the Guarantee.

2. **Service Quality Index.** During the Rate Plan Period, the quality of service which PSE provides to its customers will be measured by a Service Quality Index composed of the following ten individual indices:

(1) Overall Customer Satisfaction[1]

(2) WUTC Complaint Ratio

(3) SAIDI (System Average Interruption Duration Index)

(4) SAIFI (System Average Interruption Frequency Index)

(5) Telephone Center Answering Performance

(6) Telephone Center Transactions Customer Satisfaction

(7) Gas Safety Response Time

(8) Field Service Operations Transactions Customer Satisfaction

(9) Disconnection Ratio

(10) Missed Appointments

3. **Methodology.** The specific terms of the Service Quality Index, benchmarks, and calculation methodology are set forth in Exhibit C to this Stipulation. PSE will continue to collect data necessary to calculate these indices as each Joint Applicant has in the past.

4. **Financial Penalties.** PSE shall be assessed a financial penalty if any service quality index, other than index No. 1, Overall Customer Satisfaction, falls below its benchmark. For each full point below a benchmark for index numbers 2, 3, 4, 7, 9 and 10 a penalty of $200,000 shall be applied, not to exceed $833,000 per index. For each full point below a benchmark for index number 5 a penalty of $30,000 shall be applied, not to exceed $833,000. For each full point below a benchmark for index number 6 a penalty of $50,000 shall be applied, not to exceed $833,000. For each full point below a benchmark for index

[1] This index is optional, and as explained in Section III.B.4 below, is not subject to financial penalties.

number 8 a penalty of $30,000 to $50,000 (the exact amount to be set as part of the compliance filing) shall be applied, not to exceed $833,000. The maximum annual aggregate penalty for all nine indices is $7.5 million. For the initial reporting period, ending September 30, 1997 (which report shall be filed October 15, 1997), the penalties (maximum and per point) set forth herein shall be reduced by fifty percent, to reflect the limited period during which data are collected. Any amounts paid by PSE under the Guarantee shall reduce any financial penalties imposed and otherwise payable under this section for index No. 10, Missed Appointments. In its report to the Commission filed October 15 of each year, PSE shall include the calculation of a penalty, if any, as provided herein. The report may include a mitigation petition for relief from such penalty. The standard to be applied for such petition is that the penalty is due to unusual or exceptional circumstances for which PSE's level of preparedness and response was reasonable. PSE will not file a mitigation petition unless it believes, in good faith, that it meets this standard. The Parties contemplate that, following a procedure to be established by the Commission, a Commission order will issue assessing any penalties and resolving any mitigation petition. Any penalties imposed by such Commission order will be allocated between gas and electric operations as set forth in Section III.C.3 below, and implemented in rates by offsetting the electric rate increases provide for in Section III.A.3 above, and by applying a uniform percentage of margin adjustment to gas sales and transportation rates.

5. **Service Quality Report.** PSE will report its results to the Commission and the Parties twice each year, on or about April 15 and October 15. The report card will include a discussion of changes in service quality that have occurred since the preceding report. At least once per year when rates are changed, PSE will report the annual results for all items in the Service Quality Index and Service Guarantee to all of its customers. The report will be

distributed to customers only after adequate consultation with Staff and Public Counsel. If there is any penalty imposed as a result of its performance, PSE shall identify the specific indice(s) for which performance was below the baseline, the dollar amount of any penalty and the effect on the customer's bill as a result of the penalty. The score card or other notice to customers shall include the following statement, if applicable: "This month's bill includes a rebate to customers of $____ for failure to achieve acceptable service quality standards in the area of ________________."

C. **Other Matters**

1. **Amortization of Transaction and Transition Costs.** The merger-related transaction costs and costs to achieve shall be deferred and amortized, for regulatory purposes, over the Rate Plan Period.

2. **Transfer Pricing.** Intra-company transfers of natural gas shall be priced at the higher of market or the cost of incremental supplies with flexible take provisions, as agreed to by Joint Applicants and Staff and illustrated in Exhibit No. 199.

3. **Cost Allocation Methodology.** During the Rate Plan Period, costs shall be allocated between gas and electric operations in accordance with the four-factor allocation method set forth in Exhibit No. T-21. PSE will continue to asses the reasonableness of the allocation factors used for reporting PSE's financial results during the Rate Plan Period, and it will provide all relevant information to Commission Staff regarding the allocation factors in order to determine whether future adjustments may be necessary to ensure a fair allocation of common costs to each service.

4. **Reporting Requirements.** During calendar year 1997, Joint Applicants shall work with Staff to develop the following reports proposed by Staff in its testimony in this proceeding: annual market concentration studies; reporting on joint utility services, such as

EXHIBIT C

SERVICE QUALITY INDEX

The Service Quality Index shall be composed of ten measurements of performance, as follows:

(1) **Overall Customer Satisfaction**: Percentage of customers rating overall satisfaction with the company very satisfied to completely satisfied on a seven-point scale, based on a survey of customers. Benchmark: To be developed.

(2) **WUTC Complaint Ratio** (Complaints per 1,000 customers): This includes all complaints filed with the WUTC, including high bill complaints. Benchmark: 0.50 complaints per 1,000 customers.

(3) SAIDI (System Average Interruption Duration Index): Number of minutes the average customer is without power per year. Benchmark: To be developed.

(4) SAIFI (System Average Interruption Frequency Index): Number of times the average customer is without power per year. Benchmark: To be developed.

(5) **Telephone Center Answering Performance:** Percentage of calls answered by a live company representative within 30 seconds. Benchmark: 75%.

(6) **Telephone Center Transactions Customer Satisfaction:** Percentage of customers rating transaction with the telephone center very satisfied to completely satisfied on a seven-point scale, based on a survey of customers who have had a recent transaction with the telephone center. Benchmark: 90%.

(7) **Gas Safety Response Time:** Minutes from customer call to arrival of gas field technician. Benchmark: 55 minutes.

(8) **Field Service Operations Customer Satisfaction:** Percentage of customers rating transaction with field service personnel very satisfied to completely satisfied on a seven-point scale, based on a survey of customers who have had a recent transaction (including customers who have had outage restoration) with field service personnel. Benchmark: To be developed (likely to be in the range of 75% to 90%).

(9) **Disconnection Ratio:** Percentage of customers disconnected for non-payment of amounts due when WUTC disconnection policy would permit service curtailment. Benchmark: .038%.

(10) **Missed Appointments:** Percentage of appointments for installation of new service, additional service, or restoration of service not kept as promised. Benchmark: To be determined.

Calculation of Service Quality Index

1. Each individual index shall be calculated as an annual average based on the 12 month reporting period from October 1 through September 30. The initial reporting period shall be the six month period ending September 30, 1997. For the initial reporting period, the penalties (maximum and per point) shall be reduced by fifty percent (50%) to reflect the limited period during which data are collected.

2. Separate point calculations shall be prepared for each index listed. The method of calculation shall be as follows:

For index numbers 2, 3, 4, 7, 9 and 10, the following formula applies:

(Actual Performance - Benchmark)/Benchmark = Percent Deviation

Percent Deviation x 10 = Demerit Points.

For index numbers 5, 6 and 8, the following formula applies:

(Actual Performance - Benchmark) * 100 = Demerit Points.

3. Any penalty regarding index numbers 3 and 4 will be provided to electric customers only; any penalty regarding index number 7 will be provided to gas customers only. Other penalties will be provided to all customers.

Establishing Remaining Benchmarks

1. Certain benchmarks remain to be determined by negotiations among the Parties. It is agreed that the intent of those negotiations is to set these benchmarks at levels consistent with current and historical actual performance, regulatory precedents in other jurisdictions with service quality indices, and industry experience and standards.

2. The Parties shall consult on the details of the service guarantee program and the Overall Customer Satisfaction, the Field Service Operations Customer Satisfaction, SAIDI and SAIFI baselines and the Joint Applicants will make a filing with the WUTC reflecting this consultation within 90 days of a final Commission order in this matter ("Compliance Filing"). The Compliance Filing shall include a preliminary proposal regarding the Missed Appointments baseline. (If the Missed Appointments baseline has not been resolved prior to the October 15, 1997, service quality report filing, the baseline will be resolved as part of that filing and shall be effective for the annual reporting period ending September 30, 1998, and thereafter.) The Compliance Filing may also include proposed recalibration of the survey instrument to be used for index number 6, Telephone Center Transactions Customer Satisfaction.

3. The baseline for SAIDI and SAIFI shall be developed by the Parties to eliminate extreme weather events causing severe and widespread impact throughout the service territory using a methodology similar to that used by the Maine PUC for Central Maine Power Company, (see Exhibit No. 152).

4. Company performance in index numbers 1, Overall Customer Satisfaction, 6, Telephone Center Transactions Customer Satisfaction, and 8, Field Service Operational Customer Satisfaction Transactions, will be measured by the results of a customer satisfaction survey instrument to be mutually agreed upon by PSE, Staff and Public Counsel. The survey will be developed in consultation with the Parties and an independent survey company. The survey will be conducted by an independent survey company mutually agreed upon by PSE, Staff and Public Counsel. The Company will make a filing reflecting the consultation of the Parties. If the Parties are unable to reach agreement on the survey instrument or the identity of the independent survey company, those issues will be resolved by the Commission as part of the filing.

CERTIFICATE OF SERVICE

Re: Rulemaking Re: Amended Reliability Benchmarks
and Standards for the Electric Distribution Companies
Docket No. L-00030161

I hereby certify that I have this day served a true copy of the foregoing document, Office of Consumer Advocate'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 8th day of December, 2003.

SERVICE BY E-MAIL AND INTER-OFFICE MAIL

Elizabeth Barnes, Esq.
Law Bureau
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

Charles Hoffman, Esq.
Office of Trial Staff
PA Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

SERVICE BY E-MAIL AND FIRST CLASS MAIL, POSTAGE PREPAID

Carol Pennington, Esq.
Office of Small Business Advocate
Suite 1102, Commerce Bldg.
300 North Second Street
Harrisburg, PA 17101

David M. Kleppinger, Esq.
Pamela Polacek, Esq.
McNees, Wallace & Nurick
100 Pine Street
P. O. Box 1166
Harrisburg, PA 17108-1166

John Povalaitis, Esq.
Ryan, Russell, Ogden & Seltzer, LLP
Suite 101
800 North Third Street
Harrisburg, PA 17102-2025

Alan Seltzer, Esq.
Ryan, Russell, Ogden & Seltzer, LLP
1100 Berkshire Blvd - Suite 301
Reading, PA 19610

Harry S. Geller, Esq.
PA Utility Law Project
118 Locust Street
Harrisburg, PA 17101

Paul E. Russell, Esq.
Pennsylvania Power & Light Co.
Two North Ninth Street
Allentown, PA 18101-1179

John L. Munsch, Esq.
Allegheny Power Company
800 Cabin Hill Drive
Greensburg, PA 15601

Mark R. Dingman, VP & General Manager
Hanover Industrial Estates
400 Stewart Road
P. O. Box 3200
Wilkes-Barre, PA 18773-3200

Anthony DeCusatis, Esq.
Morgan, Lewis & Bockius
1701 Market Street
Philadelphia, PA 19103-2921

John A. Ketchner
Bonnie L. Shadle
Citizens Electric Company
1775 Industrial Blvd.
P. O. Box 551
Lewisburg, PA 17837-0551

Scott J. Rubin, Esq.
Public Utility Consulting
3 Lost Creek Drive
Selinsgrove, PA 17870

J. Michael Love, Esq.
David Epple, Esq.
Energy Association of Pennsylvania
800 North Third Street, Suite 300
Harrisburg, PA 17102

Richard Herskovitz, Esq.
Duquesne Light Company
P. O. Box 1930
Pittsburgh, PA 15230-1930

Mark Morrow, Esq.
UGI Utilities, Inc.
400 Stewart Road
P. O. Box 3200
Wilkes-Barre, PA 18773-3200

Renardo Hicks, Esq.
PUC Consumer Advisory Council
Anderson, Gulotta & Hicks, P.C.
4229 Elmerton Avenue
Harrisburg, PA 17109

Pennsylvania Power Company
1 East Washington Street
New Castle, PA 16103

Mark C. Morrow, Esq.
UGI Corp.
The Erwin Building
460 N. Gulph Road
King of Prussia, PA 19406

Angelo Regan, Esq.
Pike County Light & Power Co.
One Blue Hill Plaza
Pearl, River, NY 10965

Shari Gribbon, Esq.
PECO Energy
2301 Market Street
P. O. Box 8699
Philadelphia, PA 19101-8699

Robert McCarthy
Scot Boyce, Sr., Treasurer
Wellsboro Electric Company
19 Walnut Street
Wellsboro, PA 16901

Tanya J. McCloskey

Tanya J. McCloskey
Senior Assistant Consumer Advocate
Lori A. Herman
Assistant Consumer Advocate

Counsel for
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum Place
Harrisburg, PA 17101-1923
(717) 783-5048

77137

Original: 2363

RECEIVED

2003 DEC 11 AM 11:23

REVIEW COMMISSION

COPY

LEGAL SERVICES

Allegheny Energy

800 Cabin Hill Drive
Greensburg, PA 15601-1689
Phone: (724) 837-3000
FAX: (724) 838-6177

Writer's Direct Dial No.

724-838-6210

E-mail: jmunsch@alleghenyenergy.com

December 8, 2003

RECEIVED

DEC 08 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

VIA FEDERAL EXPRESS

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Rulemaking Re Amending Electric Service Reliability Regulations at 52 Pa. Code Chapter 57; Docket No. L-00030161

Dear Secretary McNulty:

Enclosed for filing please find the original and fifteen (15) copies of the Comments of Allegheny Power on the Commission's Tentative Order of June 26, 2003, published in the Pennsylvania Bulletin October 4, 2003, proposing amended performance standards for electric distribution companies. Copies of the Comments have been provided to the Energy Association of Pennsylvania, the Office of Consumer Advocate, and the Office of Small Business Advocate.

A copy of Allegheny Power's Comments has been filed electronically with the Commission by e-mail to Elizabeth H. Barnes at ebarnes@state.pa.us.

This filing is made by Federal Express and the filing date is deemed to be today, December 8, 2003.

Very truly yours,

John L. Munsch

John L. Munsch
Attorney

cc: J. Michael Love, Energy Assoc. of Pa.
Irwin A. Popowsky, Consumer Advocate
Carol Pennington, Acting Small Business Advocate
Thomas Sheets – PUC – Bureau of Audits

Via e-mail: Elizabeth H. Barnes – ebarnes@state.pa.us.

123

U:\Shared\ctrice\JLM\AP Comments L-00030161 Elec Serv Rel cov ltr.doc

RECEIVED

DEC 0 8 2003

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking Re Amending Electric Service Reliability Regulations At 52 Pa. Code Chapter 57	:	**Docket No. L-00030161**

COMMENTS OF ALLEGHENY POWER

I. INTRODUCTION

Allegheny Power submits comments in response to the Pennsylvania Public Utility Commission's (Commission) Proposed Rulemaking Order and Request For Comments on the proposed monitoring of reliability performance of electric distribution companies (EDCs). The Proposed Rulemaking Order was issued by the Commission June 26, 2003, and published in the Pennsylvania Bulletin October 4, 2003. (33 Pa.B. 4921).

II. SUMMARY

Allegheny Power (AP) endorses the Commission's efforts to monitor distribution reliability and to achieve uniform reporting content and frequency. Quarterly and annual reporting of common reliability statistics, such as SAIFI and CAIDI, should be adequate to track reliability trends. AP is concerned, however, that short-term statistics and reports on the EDCs' operations might be used to judge reliability, which is best evaluated over a longer term. There will be significant statistical variability in quarterly data, which could lead to misinterpretation of reliability trends. The variability is caused by common and seasonal events including storms, underground dig-ins, vehicles hitting poles, and animal interference. AP is also concerned about the proprietary nature of some of the data proposed to be collected and the frequency of such requests. AP believes that the Commission should request information such as cost and expense data, staffing levels, and call-out acceptance only if the EDC is not meeting long-term reliability targets. This information is proprietary and is not needed to monitor reliability. As currently proposed, the simultaneous reporting to outside parties of proprietary data could lead to data being used out of context. For example, storm damage repair or unexpected new connection work can cause non-critical maintenance to be rescheduled – one reason that accurate quarterly data can be misleading.

III. COMMENTS ON REPORTING REQUIREMENTS

The following sections address key points in the Proposed Rulemaking Order.

A. Annual Report

The Rulemaking proposes to change the due date of the annual report from May 31 to March 31. AP proposes that the annual report be due April 30. In support of its proposal, AP points out that April 30 is also the due date of the Federal Energy Regulatory Commission Form 1. A due date of March 31 may not allow sufficient time for EDCs to collect all necessary cost and reliability data in the format requested by the Commission. The additional month should not hinder the Commission's ability to monitor reliability since the Commission will be receiving quarterly reports.

B. Proprietary Data

The Rulemaking proposes to require reporting information that is used for business operations and not entirely correlated to reliability statistics. AP concurs with the reporting of the commonly used reliability statistics, such as SAIFI, CAIDI and SAIDI. Once appropriate benchmarks are established, trends can be identified for each of the accepted statistics. But AP contends that much of the proposed requested data is proprietary and not needed to monitor reliability. Examples are quarterly and year-to-date transmission and distribution operation and maintenance (O&M) budget and expenses, capital budgets and expenditures, staffing levels, contractor hours, circuit remedial actions, transmission and distribution inspection/maintenance goals/objectives, and call-out acceptance rates. Reporting such information is inappropriate for the following reasons:

i. The information is not necessary for monitoring reliability trends and should not be required as long as the EDC is meeting its performance standards. If an EDC is not meeting its long-term reliability targets, then certain information might be appropriate for the Commission to evaluate as part of its audit or remedial review.

ii. Data is extremely variable depending upon the time of year and business conditions. For instance, weather affects reliability statistics to a greater degree during summer storm season. Also, spending on maintenance and capital projects is not uniform throughout the year and varies because of weather. The timing of projects can change based on new business requirements, storm restoration and other influences. A quarterly view is simply not useful. The information could be subject to misinterpretation and lead to improper conclusions even if the EDC is meeting its reliability targets.

iii. Budgeted and actual expenses will vary by EDC as far as uniformity of work included. Few, if any, EDCs currently budget by FERC account.

iv. A downward trend in O&M expenses does not necessarily indicate decreasing emphasis on reliability. The opposite might be true. Efficiency improvements have yielded better productivity and reliability gains at reduced cost. Strategic investments in technology have provided opportunities to report, track, and respond to outages more efficiently than in the past.

C. Quarterly Reporting

The Rulemaking proposes quarterly reporting for reliability statistics and other data. Although AP agrees with the quarterly reporting of common reliability statistics such as SAIFI and CAIDI, AP notes that reporting information quarterly further creates a tendency to analyze reliability, best evaluated over the long term, on a short-term horizon. Statistical variability in the data as described could lead to misinterpretation of reliability trends.

D. MAIFI Reporting

The Commission proposes that EDCs submit MAIFI data on an "as available" basis. AP agrees that MAIFI data should only be required where it is available. MAIFI statistics are not recorded and not readily available at AP. As AP has disclosed in prior filings, AP's field equipment does not provide meaningful data for momentary interruptions.

E. Five Percent "Worst Performing" Circuits

The Rulemaking proposes that EDCs submit a list of their five percent worst-performing circuits on a quarterly basis. Providing a list of the five percent worst-performing circuits more frequently than annually is not practical. Action plans are established for circuit reliability on an annual basis based upon trends. Quarterly statistics, especially with seasonal variations, are not useful. Further, a circuit will in all likelihood remain on a worst-performing circuit list for up to one year until its statistics are removed from the 12-month rolling index. Consequently, remedial action may only need to be addressed if a circuit remains on the list for at least five consecutive quarters.

F. Major Event Reporting

The Rulemaking proposes a description of each major event on a quarterly basis. AP believes that quarterly reporting of major events on a detailed level duplicates the current process of providing reports to the

Commission as the events occur and adds undue administration to the reporting process.

IV. CONCLUSION

AP appreciates the opportunity to comment on the Proposed Rulemaking Order. AP understands and respects the importance of the Commission's responsibility to monitor reliability performance. AP's primary concern is the reporting of proprietary information not useful in monitoring reliability trends. Much of proposed information would be more appropriate for Commission remedial review when an EDC is not meeting its performance standards. AP also believes it is important that all parties recognize the factors -- weather, vehicle accidents, and trees falling from outside the utility's right-of-way -- that affect reliability in the short term and contribute to considerable variability in reliability statistics. Short-term and seasonal variations could lead to misinterpretation of long-term reliability trends.

Respectfully submitted,

Date: December 8, 2003

By: John L. Munsch

John L. Munsch
800 Cabin Hill Drive
Greensburg, PA 15601

Attorney for
Allegheny Power

U:\Shared\ctrice\JLM\AP Comments L-00030161 Elec Service Reliab.doc

COPY

Scott J. Rubin
Attorney ❖ Consultant
3 Lost Creek Drive ❖ Selinsgrove, PA 17870 ❖ (570)743-2233 ❖ Fax: (570)743-8145 ❖ scott@publicutilityhome.com

Original: 2363

03 NOV 25 AM 9:23
SECRETARY'S BUREAU

November 24, 2003

James McNulty, Secretary
Pa. Public Utility Commission
P.O. Box 3265
Harrisburg PA 17105-3265

2003 DEC -4 PM 3:20
RECEIVED
INDEPENDENT REGULATORY REVIEW COMMISSION

Re: Electric Service Reliability Proposed Rulemaking
Docket No. L-00030161

Dear Secretary McNulty:

Enclosed for filing please find the original and fifteen (15) copies of the Comments of Pennsylvania AFL-CIO Utility Caucus on Proposed Rulemaking.

In addition, I have enclosed an extra copy of the Comments that I would appreciate having time-stamped and returned in the enclosed envelope.

If you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

Scott J. Rubin

cc: Elizabeth Barnes, Esq. by email

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Electric Service Reliability	:	Docket No. L-00030161

COMMENTS OF
PENNSYLVANIA AFL-CIO UTILITY CAUCUS
ON PROPOSED RULEMAKING

On October 4, 2003, the Pennsylvania Public Utility Commission ("Commission") published a Proposed Rulemaking concerning electric reliability. 33 Pa. B. 4921 (Oct. 4, 2003), as amended at 33 Pa. B. 5201 (Oct. 18, 2003). The Pennsylvania AFL-CIO Utility Caucus ("AFL-CIO") files these Comments on that proposal.

The proposed rulemaking is the second part of a Commission initiative to ensure the safety and reliability of electric service in Pennsylvania. The other part of the initiative takes the form of a Tentative Order on which the AFL-CIO has filed Comments and Reply Comments. Amended Reliability Benchmarks and Standards for the Electric Distribution Companies, Docket No. M-00991220.

At the outset, AFL-CIO commends the Commission for continuing to evaluate its electric reliability benchmarks and standards. The on-going assurance of the safety and reliability of electric service is one of the most critical responsibilities of the Commission. Indeed, the Electricity Generation Customer Choice and Competition Act, 66 Pa. C.S. Ch. 28 ("Choice Act"), provides that "the commission shall ensure continuation of safe and reliable electric service to all consumers in the Commonwealth" (66 Pa. C.S. § 2804(1)) and directs the Commission to "set through regulations inspection, maintenance, repair and replacement standards and enforce those standards" (66 Pa. C.S. § 2802(20)). The Choice Act also sets an important, specific goal: "Electric industry restructuring should ensure the reliability of the interconnected electric system by maintaining the efficiency of the transmission and distribution system." 66 Pa. C.S. § 2802(12).

The revisions to the Commission's electric service reliability regulations, 52 Pa. Code §§ 57.191, *et seq.*, represent an improvement over the existing regulations. In particular, AFL-CIO strongly supports the following aspects of the new regulations:

- Eliminating the artificial "operating area" reporting requirements;
- Requiring specific data and plans for each utility's worst-performing circuits;
- Making clear that the goal should be utility performance that equals or exceeds the benchmark; and
- Improving the timeliness of, and public accessibility to, utility reliability data.

AFL-CIO has three concerns with the specific provisions of the proposed regulations.

1. Inspection, Maintenance, Repair, and Replacement Standards

First, and most importantly, the Commission has failed to propose specific inspection and maintenance standards that are required by law. Section 2802 of the Public Utility Code states: "the commission shall set through regulations, inspection, maintenance, repair and replacement standards and enforce those standards" 66 Pa. C.S. § 2802(20) (emphasis added). This is not simply a grant of authority to the Commission; it is a non-discretionary requirement. The statute requires the Commission to set inspection, maintenance, repair, and replacement standards for electric distribution companies (EDCs). The law became effective on January 1, 1997, and after seven years the Commission still has not met its obligation to establish these standards.

In direct violation of its statutory responsibility, the Commission proposes to only require EDCs to report on their inspection and maintenance practices, goals, and budgets. Proposed § 57.195(b)(6)-(12). These reporting requirements would supplement the existing requirement of Section 57.194(c) that requires only that an EDC "shall make periodic inspections of its equipment and facilities in accordance with good practice and in a manner satisfactory to the Commission." The Commission is not proposing to change the latter section.

It appears that the Commission considered the possibility of setting inspection and maintenance standards, but rejected it in favor of reporting requirements. Thus, the Commission states:

> [In 1998,] CEEP was directed to conduct a study of the issue of whether specific inspection and maintenance standards should be developed for electric distribution systems. The staff study recommended that, in lieu of standards, the EDCs be required to submit documentation on inspection and maintenance activities. Further reporting requirements in this area will assist the Commission in assuring that the EDCs are carrying out their own plans for maintaining electric service reliability.

33 Pa. Bull. at 4925.

With all due respect to the Commission and its staff, the Commission does not have a choice in this matter. The law requires the Commission to set enforceable regulations for inspection, maintenance, and repair of EDC facilities. While it may have been appropriate to conduct a study in 1998 to determine how to establish such standards, the time has long since passed for the Commission to establish and enforce specific regulations.

Moreover, AFL-CIO members and the public at large are experiencing first hand the consequences of the Commission's failure to establish these standards. Since the mid-1990s, utilities have drastically reduced their inspection and maintenance budgets; changed their inspection and maintenance practices, in many cases eliminating routine inspection and maintenance of critical facilities (such as poles and transformers); reduced the work force that is able to inspect, maintain, and repair distribution facilities; redirected their resources into unregulated operations; drastically reduced their spare parts inventories, leading to unnecessary delays in repairing and maintaining facilities; and otherwise failed to comply with sound practices for the inspection, maintenance, and repair of their distribution systems.

The result of these failures has been a dramatic increase in the number and duration of outages, more severe damage from storms than would have been the case if sound practices had been followed, and greatly lengthened storm-related outages.

In summary, it is time for the Commission to comply with the requirements of the statute and adopt enforceable inspection, maintenance, repair, and replacement standards. The Commission should retain its proposed reporting requirements in Section 57.195(b)(6)-(12), but should amend Section 57.194(c) to include specific, enforceable standards.

2. Definition of "Circuit"

The second matter is almost clerical in nature. The Commission appropriately requires each EDC to report on the 5 percent of its circuits that have the worst performance. The regulations, however, never define a "circuit." The Commission's order defines circuit, in footnote 1, as being "a number of electrical components connected together in a closed loop." That definition, however, does not appear in the regulation itself. The Commission also may want to consider the definition of "circuit" that is used in the National Electrical Safety Code: "a conductor or system of conductors through which an electric current is intended to flow." IEEE, *National Electrical Safety Code* (1997 Edition), section 2 (definitions of special terms). Conductor, in turn, is defined as "a material, usually in the form of a wire, cable, or bus bar, suitable for carrying an electric current." *Id.*

3. Use and Meaning of Call-Out Acceptance Rates

Finally, in its proposed quarterly reporting requirement, the Commission has included information on the "monthly call-out acceptance rate for transmission and distribution maintenance workers." Proposed § 57.195(e)(11). AFL-CIO does not disagree with the reporting requirement, but it does believe that the Commission misinterprets the reason why the call-out acceptance rate may be important.

Further, the Commission may want to consider changing to a time-based measure (that is, the amount of time it takes the EDC to obtain the necessary personnel) rather than a measure based on the percentage of employees called. A time-based measure would reflect some EDCs' use of automated calling methods, which can obtain the necessary personnel more quickly (for example, by calling 10 or 20 people simultaneously), even though the percentage of those called who respond affirmatively might be lower.

In describing the reasons for this reporting requirement, the Commission states:

> We are also interested in receiving information on monthly call-out acceptance rates for transmission and distribution maintenance workers. There are times when, during a storm which causes numerous customer outages, the acceptance rate of line crews (the percentage of time that the

> maintenance workers accept a call for repairing equipment and restoring service) is low. The monthly call-out acceptance rates may provide some perspective on reliability performance.

33 Pa. Bull. at 4926.

As the Commission describes it, EDCs may be able to use a low call-out acceptance rate as an excuse (a way to "provide some perspective") for poor performance, such as longer outages. In fact, a low call-out acceptance rate should be an indication that there are serious problems with the EDC's work force management practices; particularly if a time-based measure is used. In AFL-CIO's experience, low call-out acceptance rates (or lengthy call-out response times) usually are a consequence of one or more of several factors, each of which is an indication that there are serious problems with the staffing of the utility's line maintenance operations. These problems can include:

1. The EDC failing to maintain an adequate number of trained personnel on its payroll. This frequently leads to increased levels of overtime that reduces the willingness or ability of personnel to respond to further call outs.

2. An aging work force that can decrease the willingness and ability of personnel to respond to call outs.

3. Inefficient work force management practices. For example, several Pennsylvania EDCs have eliminated voluntary call-out priority lists. In the past, these lists were used to allow trained personnel to volunteer to be called out (it was common to use this type of list when a serious storm was expected). Under this type of system, the first people called would be those who volunteered to be available. This greatly increased the call-out acceptance rate, improved the response time to outages, and prioritized overtime to those personnel who desired it. Some utilities have eliminated this practice and, instead, attempt to contact everyone. In addition, some EDCs continue to call the trained work force manually, instead of using readily available automated calling methods that can greatly reduce the amount of time needed to obtain the necessary personnel to respond to an outage.

That is, rather than being an excuse for poor performance, a low call-out acceptance rate (or a lengthy call-out acceptance time) should be an indication that there may be a serious management issue within the EDC. A low acceptance rate should prompt a more detailed investigation by the Commission to determine if the utility is properly managing its work force and its outage-response efforts.

In conclusion, AFL-CIO commends the Commission for its efforts, in this proposed rulemaking and in the Tentative Order proceeding, to improve the level of reliability being experienced by customers of Pennsylvania's EDCs. AFL-CIO submits that the Commission should adopt the proposed rulemaking, with three changes: (1) adding enforceable inspection, maintenance, repair, and replacement standards, as required by law; (2) adding a definition of "circuit"; and (3) clarifying the reasons why the call-out acceptance rate is important and what actions the Commission may take in response to low call-out acceptance rates.

Respectfully submitted,

Scott J. Rubin

Scott J. Rubin, Esq.
3 Lost Creek Drive
Selinsgrove, PA 17870
Voice: (570) 743-2233
Fax: (570) 743-8145
scott@publicutilityhome.com

Counsel for:
Pa. AFL-CIO Utility Caucus

Dated: November 24, 2003