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**INDEPENDENT REGULATORY REVIEW COMMISSION
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January 21, 2004

Honorable Terrance J. Fitzpatrick, Chairman
Pennsylvania Public Utility Commission
Keystone Building, 3rd Floor
400 North Street
Harrisburg, PA 17105

Re: Regulation #57-228 (IRRC #2363)
Pennsylvania Public Utility Commission
Electric Service Reliability

Dear Chairman Fitzpatrick:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulation review criteria that have not been met.

The comments will be available on our website at www.irrc.state.pa.us. If you would like to discuss them, please contact my office at 783-5417.

Sincerely,

Robert E. Nyce
Executive Director

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Enclosure

cc: Honorable Robert M. Tomlinson, Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Lisa M. Boscola, Minority Chairman, Senate Consumer Protection and Professional Licensure Committee
Honorable Raymond Bunt, Jr., Majority Chairman, House Consumer Affairs Committee
Honorable Joseph Preston, Jr., Democratic Chairman, House Consumer Affairs Committee

Comments of the Independent Regulatory Review Commission

on

Pennsylvania Public Utility Commission Regulation No. 57-228

Electric Service Reliability

January 21, 2004

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P.S. § 745.5b) which have not been met. The Pennsylvania Public Utility Commission (PUC) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on December 22, 2003. If the final-form regulation is not delivered within two years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 57.192. Definitions. – Clarity.

Section 57.192 defines *performance benchmark* and *performance standard* as “the average historical performance” and “minimum performance allowed” respectively. Clarity would be improved by specifying that *performance benchmarks* are established by the PUC based on each electric distribution company’s (EDC’s) historical reliability performance, and *performance standards* are established by the PUC and tied to each EDC’s performance benchmark.

2. Section 57.195. Reporting requirements. – Need; Reasonableness; Clarity.

Unnecessary or duplicative reporting

Section 57.195 identifies data that must be reported on an annual and quarterly basis. Some EDCs have challenged the need for the quarterly reports in addition to the annual reliability report. In the preamble, the PUC explains that quarterly reports are intended to give the PUC more frequent information about service reliability. The PUC further states that it will be able to “identify potential problems in a timely manner and monitor the EDC’s response to problems which may arise between annual reports.” However, the preamble does not specify what actions will take place when problems are identified. In the preamble to the final-form regulation, we suggest that the PUC further explain the actions it may take in response to problems identified in a quarterly report.

Additionally, EDCs have commented that some of the reporting requirements are duplicative of information that is already reported to the PUC in another form. For example, an EDC notes that the required reporting of each “major event” duplicates information filed by EDCs in the existing Service Interruption Reports under 52 Pa. Code § 67.1. The PUC should review this proposed regulation in comparison to other existing reporting requirements, and where appropriate, eliminate redundancies.

Proprietary data

Several EDCs assert that the data, which is required to be reported, is proprietary and should not be reported to the public. PUC staff explained that the PUC does not publish all the data that is collected and will not release proprietary data to the public. We note, however, that the regulation does not address the confidential treatment of proprietary data. It is unclear if the PUC intends to deem certain information proprietary, or if an EDC would have to apply for a protective order under 52 Pa. Code § 5.423. In the final-form regulation, the PUC should specify the procedures for identifying and protecting the confidentiality of proprietary information.

Subsection (a)

This subsection requires EDCs to submit annual reliability reports on or before March 31 of each year. Currently, the annual reliability reports are due by May 31. Some EDCs have suggested that the proposed date for submission of these reports be changed from March 31 to April 30. According to these EDCs, this change would allow more time for them to analyze and review the service interruption data used to prepare the annual reliability report.

In the preamble, the PUC explains that the current May 31 submittal date should be changed because if an EDC performs poorly in the year being reported on, five or more months will pass before the PUC is aware of it. Therefore, the PUC proposes changing the submission date to March 31. Given that the PUC is also proposing to add a quarterly reporting requirement, which will provide reliability performance data in a timely manner, the problem of the PUC being unaware of poor performance prior to receiving the annual report should be alleviated. Therefore, the PUC should consider adopting the commentators' request for an April 30 submission date for the more detailed annual reliability reports.

Subsection (b)

Paragraphs 10 and 11 require reporting of transmission and distribution operation and maintenance expenses and capital expenditures detailed by Federal Energy Regulatory Commission (FERC) account. PPL Electric Utilities Corporation comments that it budgets by functional activity, and conversion of the data into FERC accounts would be burdensome. Has the PUC considered allowing reporting of this data in an alternate format to accommodate EDC operational practices? If so, the PUC should either specify the acceptable alternate formats in the final-form regulation, or include a cross-reference to the procedures outlined in 52 Pa. Code § 1.91, entitled *Applications for waiver of formal requirements*.

Facsimile Cover Sheet

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To: Sherri A. DelBiondo
Regulatory Review Coordinator
Law Bureau
Agency: Pennsylvania Public Utility Commission
Phone: 2-4597
Fax: 3-3458
Date: January 21, 2004
Pages: 4

Comments: We are submitting the Independent Regulatory Review Commission's comments on the Pennsylvania Public Utility Commission's regulation #57-228 (IRRC #2363). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by: S. DelBiondo **Date:** 1-21-04

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RECEIVED TIME JAN. 21. 9:31AM