

# Regulatory Analysis Form

This space for use by IRRC

(1) Agency

Pennsylvania Public Utility Commission

(2) I.D. Number (Governor\*s Office Use)

L-00040166/57-234

IRRC Number: 2404

(3) Short Title

Public Utility Security Planning and Readiness

(4) PA Code Cite

52 Pa. Code §§ 101.1 - 101.6

(5) Agency Contacts & Telephone Numbers

Primary Contact: Kimberly A. Joyce 717-705-3819, Law Bureau (legal)

Secondary Contact: Darren Gill, Bureau of Fixed Utility Services, 717-783-5244 (technical)

(6) Type of Rulemaking (check one)

- Proposed Rulemaking  
 Final Order Adopting Regulation  
 Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No  
 Yes: By the Attorney General  
 Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

The proposed rulemaking requires all jurisdictional utilities to develop and maintain written physical, cyber security, emergency response, and business continuity plans to protect the Commonwealth's infrastructure and ensure safe, continuous and reliable utility service. The proposed rulemaking requires jurisdictional utilities to submit a Physical and Cyber Security Planning Self Certification Form to the Commission documenting compliance with these four plans.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

66 Pa. C.S. §§ 501, 504 and 1501.

## **Regulatory Analysis Form**

**(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.**

No.

**(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?**

This proposed rulemaking is submitted to ensure the safe and reliable delivery of utility service in the event of an abnormal operating condition by promulgating regulations that require each jurisdictional utility to develop and maintain written physical security plans, cyber security plans, emergency response plans, and business continuity plans. The various security issues facing the Commission's jurisdictional utilities present questions that are fundamental to the public health, safety, and convenience. The promulgation of these regulations will be in the public interest because such plans will ensure that jurisdictional utilities are adequately addressing the security issues present today and commit utilities to safeguarding their assets and protecting the public.

**(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.**

Without regulation, the public health, safety, environmental and general welfare of the public is potentially at risk. Nonregulation could impact the health, safety, environmental and general welfare in the event of a major security issue because the Commission does not currently require all jurisdictional utilities to have physical security, cyber security, emergency response, and business continuity plans in place.

**(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)**

The public will benefit from this rulemaking because the review of and enforcement of the physical security, cyber security, emergency response, and business recovery plans will promote security and reliability throughout the Commonwealth in the event of a security issue or abnormal operating condition. This heightened awareness and planning will result in a safer environment and will ensure that all jurisdictional utilities are prepared to deal with unplanned events. Jurisdictional utilities and their employees will also benefit because the security plans will ensure that they are taking the appropriate measures to protect their facilities and plan for security issues.

## **Regulatory Analysis Form**

**(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)**

No person or entity will be adversely affected by this regulation. The proposed regulations apply to all jurisdictional utilities. In short, the regulations simply create a uniform means of ensuring jurisdictional utilities have a physical security, cyber security, business continuity, and business recovery plan in place.

**(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)**

All utilities under the Commission's jurisdiction will be required to comply with the regulation. There are currently over seven thousand jurisdictional utilities licensed to do business in Pennsylvania that will be subject to this rulemaking.

**(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.**

Relating to this rulemaking, the Commission entered a tentative order on August 5, 2003, which set forth the Physical and Cyber Security Program Self Certification requirements. This tentative order was published in the Pennsylvania Bulletin on August 16, 2003 and the Commission received comments from a number of parties. These parties included the Pennsylvania Telephone Association, the Energy Association of Pennsylvania, Pennsylvania-American Water Company, the Peoples Natural Gas Company d/b/a Dominion Peoples, and Columbia Gas of Pennsylvania, Inc.

On December 9, 2003, the Commission responded to the filed comments and determined that a self certification process for utility security planning and readiness should be instituted for the current and anticipated security compliance of all jurisdictional utilities. The Commission further ordered the initiation of this rulemaking to include the requirement for jurisdictional utilities to develop and maintain appropriate written physical security, cyber security, emergency response, and business continuity plans as part of the Commission's regulations.

**(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.**

Depending on the size and type of utility and whether or not a utility has a cyber security, physical security, business recovery, or business continuity plan already in place, there may be implementation and training costs incurred by jurisdictional utilities in relation to these provisions. Also, there will be minimal costs in reviewing and updating these plans on an annual basis.

## **Regulatory Analysis Form**

**(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.**

Not applicable.

**(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.**

The Commission will incur some undetermined costs to review self certification forms. In addition, the Commission may incur some undetermined costs if it inspects a utility's facility to assess performance of its compliance monitoring or reviews a utility's physical security, cyber security, business recovery, and business continuity plans. The duties will be performed by existing Commission staff in conjunction with the review and monitoring of existing Commission regulations.

## Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
<b>Regulated Community</b>						
<b>Local Government</b>	N/A					
<b>State Government</b>						
<b>Total Savings</b>						
<b>COSTS:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>	N/A					
<b>State Government</b>						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
<b>Regulated Community</b>						
<b>Local Government</b>	N/A					
<b>State Government</b>						
<b>Total Revenue Losses</b>						

(20a) Explain how the cost estimates listed above were derived.

Not measurable at this time.

## Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

As already discussed, while there may be some costs associated with implementing these security safeguards, the benefits of requiring all jurisdictional utilities to have written physical security, cyber security, emergency response, and business continuity plans and requiring jurisdictional utilities to document compliance by filing the Self Certification Form with the Commission promotes reliability and safety to the public which outweighs any associated costs.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

Not applicable.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

Not applicable.

## Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

Other government entities have established guidelines and requirements for critical infrastructure protection. In the event a utility is required to comply with a different regulation or statute, in addition to these proposed regulations, that utility may utilize a substantially similar plan for compliance with the Commission's proposed regulations.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Comparable regulations with other states were not found. However, the proposed rulemaking should not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

No.

## **Regulatory Analysis Form**

**(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.**

Yes. Jurisdictional utilities will be required to develop and maintain written physical, cyber security, emergency response, and business continuity plans. In addition, jurisdictional utilities must maintain a testing schedule of the plans and file a Self Certification Form with the Commission on an annual basis.

Self Certification Form is attached.

**(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.**

A jurisdictional utility that has developed and maintained a substantially similar cyber security, physical security, emergency response or business continuity plan under the directive of another state or federal entity may utilize that substantially similar plan for compliance with these proposed regulations.

**(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?**

The regulation will become effective upon publication in the Pennsylvania Bulletin following review by the standing committees and the Independent Regulatory Review Commission.

**(31) Provide the schedule for continual review of the regulation.**

The regulation will be reviewed on an ongoing basis after it becomes effective.

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**

**(Pursuant to Commonwealth Documents Law)**

2004 JUN -9 11:11 AM  
RECEIVED

# 2404

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

*Ann W. Elliott*

BY \_\_\_\_\_  
(DEPUTY ATTORNEY GENERAL)

MAY 04 2004

DATE OF APPROVAL

Check if applicable  
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania Public Utility Commission  
(AGENCY)

DOCUMENT/FISCAL NOTE NO. L-00040166/57-234

DATE OF ADOPTION March 18, 2004

*James J. McNulty*

BY \_\_\_\_\_  
James J. McNulty

TITLE (SECRETARY)

Copy below is hereby approved as to form and legality. Executive or independent Agencies.

*Bohdan R. Pankiw*

BY \_\_\_\_\_  
Bohdan R. Pankiw  
Chief Counsel

3-18-04

DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

L-00040166/57-234  
Proposed Rulemaking  
Public Utility Security Planning and Readiness  
52 Pa. Code, Chapter 101

The Pennsylvania Public Utility Commission on March 18, 2004, adopted a proposed rulemaking order requiring all jurisdictional utilities to develop and maintain written physical, cyber security, emergency response and business continuity plans. The contact persons are Kimberly A. Joyce, Law Bureau, 705-3819 and Darren Gill, Bureau of Fixed Utility Services, 783-5244.

## **EXECUTIVE SUMMARY**

**L-00040166/57-234**

**Proposed Rulemaking**

**Re: Public Utility Security Planning and Readiness**

**52 Pa. Code §§101.1 – 101.6**

Pursuant to 66 Pa. C.S. §1501, every public utility must furnish and maintain adequate, efficient, safe, and reasonable service and facilities, and make changes, alterations, and improvements in or to such service and facilities as shall be necessary for the accommodation, convenience, and safety of its patrons, employees, and the public.

The proposed regulations require jurisdictional utilities to develop and maintain written physical security, cyber security, emergency response, and business continuity plans. In addition, jurisdictional utilities must file a Self Certification Form with the Commission documenting compliance with the above mentioned plans.

These proposed regulations will ensure that jurisdictional utilities are effectively equipped and prepared to provide safe and reliable utility service when faced with security concerns. In addition, jurisdictional utilities will be required to review and exercise their ability to detect, prevent, respond to and recover from abnormal operating conditions on an annual basis.

The contact persons are Kimberly Joyce, Law Bureau (legal), 717-705-3819 and Darren Gill, Bureau of Fixed Utility Services (technical), 717-783-5244.

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg PA 17105-3265**

Public Meeting held March 18, 2004

**Commissioners Present:**

Terrance J. Fitzpatrick, Chairman  
Robert K. Bloom, Vice Chairman  
Glen R. Thomas  
Kim Pizzingrilli  
Wendell F. Holland

Rulemaking Re Public Utility  
Security Planning and Readiness

Docket No. L-00040166

**PROPOSED RULEMAKING ORDER**

**BY THE COMMISSION:**

This proposed rulemaking requires all jurisdictional utilities to develop and maintain written physical, cyber security, emergency response and business continuity plans to protect the Commonwealth's infrastructure and ensure safe, continuous and reliable utility service. In accordance with the proposed regulations, jurisdictional utilities will submit a Physical and Cyber Security Planning Self Certification Form (Self Certification Form) to the Commission documenting compliance with these four plans.

**Background**

In the past several years, the Pennsylvania Public Utility Commission (Commission) has ardently worked with its jurisdictional utilities to ensure the safe and reliable delivery of utility services to citizens in the Commonwealth and to refine the emergency management and response processes.

Beginning in 1998, the Commission instituted a Year 2000 technology (Y2K) readiness formal investigation which examined the readiness of approximately 750 public utilities and conducted an assessment of Y2K readiness for twenty-three jurisdictional companies. The attacks of September 11, 2001 dramatically underscored the importance of safeguarding public utility assets. As a result, the Commission immediately surveyed its jurisdictional companies, the PJM Interconnection, and the Pennsylvania Rural Electric Association (PREA). Rail safety inspectors, gas safety inspectors and telecommunications staff were also contacted to assess their industry.

In addition, the Commission began coordinating its security efforts with the state Office of Homeland Security and submitted several comprehensive reports to the House of Representatives and the state Office of Homeland Security. Through this process, the Commission developed a security self certification process for all Commission jurisdictional utilities. The Commission directed that a Physical and Cyber Security Planning Self Certification Form be submitted to the Commission yearly as part of each utility's Annual Financial or Annual Assessment Report.

### **Procedural History**

The Physical and Cyber Security Program Self Certification Requirements for Public Utilities were issued by the Commission in a Tentative Order<sup>1</sup> entered on August 5, 2003 and published in the *Pennsylvania Bulletin* on August 16, 2003. Comments to the Tentative Order were due on September 5, 2003.

Comments were filed by the Pennsylvania Telephone Association (PTA), the Energy Association of Pennsylvania (EAP), Pennsylvania-American Water Company (PA-American) and The Peoples Natural Gas Company d/b/a Dominion Peoples (Dominion Peoples). Columbia Gas of Pennsylvania, Inc. (Columbia) provided late

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<sup>1</sup> Docket No. M-00031717.

comments on September 8, 2003.

At the Public Meeting of December 4, 2003, the Commission responded to the filed comments and determined that a self certification process for utility security programs should be instituted for the current and anticipated security compliance of all jurisdictional utilities. The Commission ordered that jurisdictional utilities complete and file with the Commission the Physical and Cyber Security Planning Self Certification Form. See Attachment A. Utilities under the reporting requirements of 52 Pa. Code §§27.10, 61.28, 63.36, 65.19, 59.48 and 57.47 must file the Self Certification Form at Docket No. M-00031717, at the time each Annual Financial Report is filed, beginning on or after January 1, 2004.<sup>2</sup> Utilities not subject to the reporting requirements above, but subject to the reporting requirements of 52 Pa. Code §§29.43, 31.10 and 33.103 must file the Self Certification Form at Docket No. M-00031717, at the time each Annual Assessment Report is filed, beginning on or after January 1, 2004.<sup>3</sup>

In the Order entered on December 9, 2003, the Commission further ordered the Law Bureau, in conjunction with the Bureau of Fixed Utility Services and the Bureau of Transportation and Safety, to initiate a rulemaking to include the requirement for jurisdictional utilities to develop and maintain appropriate written physical and cyber security plans, emergency response plans and business continuity plans as part of the Commission's regulations. This rulemaking includes the requirement that jurisdictional utilities submit the Self Certification Form to the Commission.

The various security issues facing our utilities present questions that are fundamental to the public health, safety and convenience of Pennsylvanians. Consequently, each of our jurisdictional utilities must be prepared to

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<sup>2</sup> This group includes common carriers of passengers and/or household goods and jurisdictional telecommunications, electric, gas, steam heating and water/wastewater utilities.

<sup>3</sup> This group includes common carriers and forwarders of property and railroad carriers.

demonstrate that it is adequately addressing the security issue so as to enable it to furnish and maintain adequate, efficient, safe and reasonable service. 66 Pa. C.S. §1501.

Therefore, the development, maintenance, exercising and implementation of physical security, cyber security, emergency response, and business continuity plans are necessary to ensure that our jurisdictional utilities are effectively equipped to furnish and maintain adequate, efficient, safe and reasonable service.

As referenced above, the Commission has explicit statutory authority to institute these reporting requirements and to carry out and enforce the purposes of the Public Utility Code in the public interest. 66 Pa. C.S. §§501, 504 and 1501. The subject matter that the Commission may examine includes issues of security, which if ignored, could pose a serious threat to the utilities' responsible for providing safe and reliable utility service. Thus, the intent of this rulemaking is to create a minimum set of requirements that can be consistently implemented with sufficient flexibility to account for differences in the types of utilities under the Commission's jurisdiction.

Through this rulemaking, we underscore our commitment to ensure the safe and reliable delivery of utility service in the Commonwealth by promulgating regulations that require each jurisdictional utility to develop and maintain written physical security plans, cyber security plans, emergency response plans and business continuity plans. In addition, each utility will review and exercise its ability to detect, prevent, respond to and recover from abnormal operating conditions. Compliance with the proposed regulations also requires that each jurisdictional utility file the Self Certification Form.

The Commission believes that the adoption of the self certification process will aid the safeguarding of public utility assets, but at the same time, recognizes the sensitive nature of the information that each utility must provide us in the Self Certification Form. Disclosure of a Self Certification Form to the public could be used for criminal or terroristic purposes, jeopardize security or cause substantial harm to the entity filing the

Self Certification Form. The potential harm from release of a completed form outweighs the public's interest in accessing this information. Therefore, great care will be taken to protect the confidentiality of information contained in the Self Certification Form, commensurate with its extraordinary sensitivity. As such, the Self Certification Form is deemed confidential and access to it will be restricted.<sup>4</sup>

We further acknowledge that protecting the Commonwealth's infrastructure and key assets necessitates a cooperative paradigm. Homeland security requires coordinated action on the part of federal, state, and local government; the private sector; and concerned citizens. Many other government entities have become actively involved with critical infrastructure protection. For example, the National Electric Reliability Council established security guidelines for physical and cyber security. The Environmental Protection Agency established requirements for emergency plans, vulnerability analysis and corrective measure implementation. The Department of Transportation Office of Pipeline Safety established regulations for security programs and the Pipeline Safety Act was reauthorized to provide for expanded security certification of personnel operating on pipelines. The Federal Railway Administration has established similar protocols.

We do not wish to replicate rules and regulations that are already in place. However, it is our duty to identify and secure the critical infrastructure and key assets within the Commonwealth under our jurisdiction. Therefore, the Self Certification Form is drafted so that any overlapping reporting duties or regulations by other state or federal agencies will not overly burden utilities under our jurisdiction and plans under this rulemaking may satisfy more than one agency or department.

Accordingly, under sections 501, 504 and 1501 of the Public Utility Code, 66 Pa. C.S. §§501, 504 and 1501; sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No.

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<sup>4</sup> Self Certification forms must be filed under separate cover with the Secretary at Docket M-00031717.

240, 45 P.S. §§1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. § 732.204(b); section 745.5 of the Regulatory Review Act, 71 P.S. §745.5; and section 612 of The Administrative Code of 1929, 71 P.S. §232, and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231-7.234, we are considering adopting the proposed regulations set forth in Annex A, attached hereto;       **THEREFORE,**

**IT IS ORDERED:**

1.       That the proposed rulemaking be opened to consider the regulations set forth in Annex A.
  
2.       That the Secretary submit this Order, Attachment A and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
  
3.       That the Secretary certify this Order, Attachment A and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
  
4.       That an original and fifteen (15) copies of any comments referencing the docket number of the proposed regulations be submitted within thirty (30) days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attention: Secretary, P.O. Box 3265, Harrisburg, PA 17105-3265. When preparing comments, parties should consider this Order in conjunction with the Tentative Order and Order in Docket No. M-00031717.
  
5.       That a copy of any comments be filed electronically to contact person Kimberly A. Joyce at [kjoyce@state.pa.us](mailto:kjoyce@state.pa.us).

6. That the contact persons for this rulemaking are (technical) Darren Gill, 717-783-5244 and (legal) Kimberly A. Joyce, Law Bureau, 717-705-3819.

7. That a copy of this Order, Attachment A and Annex A be filed at Docket No. M-00031717.

8. That a copy of this Order, Attachment A and Annex A be served upon the Pennsylvania Emergency Management Agency, the Pennsylvania Office of Homeland Security, the Pennsylvania Department of Environmental Protection, the Energy Association of Pennsylvania, the Pennsylvania Telephone Association, the Pennsylvania Motor Truck Association, the Pennsylvania Bus Association, the Pennsylvania Taxicab and Paratransit Association, Pennsylvania Moving and Storage Association, the Pennsylvania Limousine Association, the Pennsylvania Chapter of the National Association of Water Companies, the Pennsylvania Section of the American Water Works Association, the Pennsylvania Rural Water Association, Pennsylvania League of Cities and Municipalities, Pennsylvania State Association of Boroughs, Pennsylvania Local Government Commission, Pennsylvania State Association of Township Supervisors and the PUC jurisdictional respondents to House Resolution 361.

9. That all jurisdictional utilities operating within the Commonwealth are directed to file the Physical and Cyber Security Planning Self Certification Form consistent with our previous order at Docket No. M-00031717.

BY THE COMMISSION



James J. McNulty  
Secretary

(SEAL)

ORDER ADOPTED: March 18, 2004

ORDER ENTERED:

**MARCH 25 2004**

**ANNEX A**  
**TITLE 52. PUBLIC UTILITIES**  
**PART I. PUBLIC UTILITY COMMISSION**  
**Subpart E. PUBLIC UTILITY SECURITY PLANNING AND READINESS**  
**CHAPTER 101. PUBLIC UTILITY PREPAREDNESS THROUGH SELF**  
**CERTIFICATION**

**§101.1 Purpose.**

This chapter requires a jurisdictional utility to develop and maintain appropriate written physical security, cyber security, emergency response and business continuity plans to protect the Commonwealth's infrastructure and ensure safe, continuous and reliable utility service. A jurisdictional utility shall submit a Physical and Cyber Security Planning Self Certification Form (Self Certification Form) to the Commission documenting compliance with this chapter.

**§ 101.2 Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

**Abnormal operating condition** – A condition possibly showing a malfunction of a component or deviation from normal operations that may:

- (i) Indicate a condition exceeding design limits.
- (ii) Result in a hazard to person, property or the environment.

**Business continuity plan** – A written plan that will ensure the continuity or uninterrupted provision of operations and services through arrangements and procedures that enable a utility to respond to an event that could occur by change or unforeseen circumstances. The business continuity plan shall provide:

- (i) Guidance on the system restoration for emergencies, disasters and mobilization.
- (ii) Establish a comprehensive process addressing business recovery, business resumption and contingency planning.

**Business recovery** – The process of planning for and implementing expanded operations to address less time-sensitive business operations immediately following an interruption or disaster.

**Business resumption** – The process of planning for and implementing the restarting of defined business operations following an interruption or disaster, usually beginning with the most critical or time-sensitive functions and continuing along a planned sequence to address all identified areas required by the business.

**Contingency planning** – Process of developing advance arrangements and procedures that enable a jurisdictional utility to respond to an event that could occur by change or unforeseen circumstances.

**Critical functions** – Business activities or information that cannot be interrupted or unavailable for several business days without significantly jeopardizing operations of the organization.

**Cyber security** – The measures designed to protect computers, software and communications networks that support, operate or otherwise interact with the company's operations.

**Cyber security plan** – A written plan that delineates a jurisdictional utility's information technology disaster plan. This plan shall include:

- (i) Critical functions requiring automated processing.**
- (ii) Appropriate backup for application software and data.**
- (iii) Alternative methods for meeting critical functional responsibilities in the absence of information technology capabilities.**
- (iv) A recognition of the critical time period for each information system before the utility could no longer continue to operate.**

**Emergency Response Plan** – A written plan describing the actions a jurisdictional utility will take if an abnormal operating condition exists, whether due to natural causes or sabotage. Actions include:

- (i) Identifying and assessing the problem.**
- (ii) Mitigating the problem in a coordinated, timely and effective manner.**

(iii) Notifying the emergency management system.

**Mission critical** – Term used to describe essential equipment or facilities to the organization’s ability to perform necessary business functions.

**Physical security** – The physical (material) measures designed to safeguard personnel, property and information.

**Physical security plan** – A written plan that delineates the response to security concerns at mission critical equipment or facilities. The plan shall include specific features of a mission critical equipment or facility protection program and company procedures to follow based upon changing threat conditions or situations.

**Responsible Entity** – Person or organization within a jurisdictional utility designated as the security or emergency response liaison to the Commission.

### **§101.3 Plan Requirements.**

(a) A jurisdictional utility shall develop and maintain written physical and cyber security, emergency response, and business continuity plans.

(b) A jurisdictional utility shall review and update these plans annually.

(c) A jurisdictional utility shall maintain a testing schedule of these plans.

(d) A jurisdictional utility shall demonstrate compliance with subsections (a), (b), and (c) above, through submittal of a Self Certification Form which is available at the Secretary’s Bureau and on the Commission’s website.

(d) A plan shall define roles and responsibilities by individual or job function.

(e) The responsible entity shall maintain a document defining the action plans and procedures used in subsection (a).

### **§101.4 Reporting requirements.**

(a) A utility under the reporting requirements of 52 Pa. Code §§27.10, 61.28, 63.36, 65.19, 59.48 and 57.47 shall file the Self Certification Form at the time each Annual Financial Report is filed, under separate cover at Docket No. M-00031717.

(b) A utility not subject to the financial reporting requirements in subsection (a), but subject to the reporting requirements of 52 Pa. Code §§29.43, 31.10 and 33.103 shall file the Self Certification Form at the time each Annual Assessment Report is filed, under separate cover at Docket No. M-00031717.

**§101.5 Confidentiality of self certification form.**

A Physical and Cyber Security Self Certification Form filed at the Commission is not a public document or record and is deemed confidential and proprietary.

**§101.6 Compliance.**

(a) The Commission shall review a Self Certification Form filed pursuant to §101.4.

(b) The Commission may review a utility's cyber security plan, physical security plan, emergency response plan and business continuity plan pursuant to 66 Pa. C.S. §§ 504, 505 and 506.

(c) The Commission may inspect a utility's facility to assess performance of its compliance monitoring pursuant to 66 Pa. C.S. §§504, 505 and 506.

(d) A utility that has developed and maintained a substantially similar cyber security, physical security, emergency response or business continuity plan under the directive of another state or federal entity may utilize that substantially similar plan for compliance with this subpart, upon the condition that a Commission representative be permitted to review the cyber security, physical security, emergency response or business continuity plan. A company that is utilizing a substantially similar plan shall briefly describe the alternative plan and identify the authority that requires the alternative plan along with the Self Certification Form filed with the Commission.

Company Name:	
Utility / Industry Type:	Year Ended

**CONFIDENTIAL**

**Physical and Cyber Security Planning Self Certification  
Docket No. M-00031717F0004**

*(Do Not Submit Actual Physical, Cyber, Emergency Response or Business Continuity Plans)*

Item No.	Classification	Response (Yes - No - N/A*)
1	Does your company have a physical security plan?	
2	Has your physical security plan been reviewed and updated in the past year?	
3	Is your physical security plan tested annually?	
4	Does your company have a cyber security plan?	
5	Has your cyber security plan been reviewed and updated in the past year?	
6	Is your cyber security plan tested annually?	
7	Has your company performed a vulnerability or risk assessment analysis as it relates to physical and/or cyber security?	
8	Does your company have an emergency response plan?	
9	Has your emergency response plan been reviewed and updated in the past year?	
10	Is your emergency response plan tested annually?	
11	Does your company have a business continuity plan?	
12	Has your business continuity plan been reviewed and updated in the past year?	
13	Is your business continuity plan tested annually?	

\* Attach a sheet with a brief explanation if N/A is supplied as a response to a question.

The foregoing certification must be verified by the officer having control of the security planning for the respondent.

I am authorized to complete this form on behalf of \_\_\_\_\_  
 [name of corporation/partnership/proprietorship] being the \_\_\_\_\_  
 [position] of this corporation/partnership/proprietorship and verify that the facts set forth above are true and correct to the best of my knowledge, information and belief. This verification is made pursuant to 52 Pa. Code § 1.36 and that statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Name of Officer: \_\_\_\_\_

Signature of Officer: \_\_\_\_\_

Phone Number of Officer: \_\_\_\_\_

Email Address of Officer: \_\_\_\_\_



COMMONWEALTH OF PENNSYLVANIA  
PENNSYLVANIA PUBLIC UTILITY COMMISSION  
HARRISBURG, PENNSYLVANIA

TERRANCE J. FITZPATRICK  
CHAIRMAN

June 3, 2004

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

Re: L-00040166/57-234  
Proposed Rulemaking  
Public Utility Security Planning and Readiness  
52 Pa. Code Chapter 101

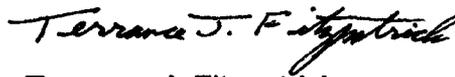
Dear Chairman McGinley:

Enclosed please find one (1) copy of the proposed rulemaking and the Regulatory Analysis Form prepared in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." Pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15) the Commission is submitting today a copy of the proposed rulemaking and Regulatory Analysis Form to the Chairman of the House Committee on Consumer Affairs and to the Chairman of the Senate Committee on Consumer Protection and Professional Licensure.

The purpose of this proposal is to require all jurisdictional utilities to develop and maintain written physical, cyber security, emergency response and business continuity plans. The contact persons are Kimberly A. Joyce, Law Bureau, 705-3819 and Darren Gill, Bureau of Fixed Utility Services, 783-5244.

The proposal has been deposited for publication with the Legislative Reference Bureau.

Very truly yours,



Terrance J. Fitzpatrick  
Chairman

**Enclosures**

pc: The Honorable Robert M. Tomlinson  
The Honorable Lisa Boscola  
The Honorable Robert J. Flick  
The Honorable Joseph Preston, Jr.  
Donna Cooper, Governor's Policy Office  
Legislative Affairs Director Perry  
Chief Counsel Pankiw  
Assistant Counsel Joyce  
Mr. Gill  
Regulatory Coordinator DelBiondo

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT  
TO THE REGULATORY REVIEW ACT

ID Number: L-00040166/57-234

Subject: Public Utility Security Planning and Readiness

Pennsylvania Public Utility Commission

# 2404

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
<u>6/3/04</u>	<u><i>Linda Grubowski</i></u>	<u>HOUSE COMMITTEE</u> Consumer Affairs
<u>6/3/04</u>	<u><i>[Signature]</i></u>	<u>SENATE COMMITTEE</u> Consumer Protection and Professional Licensure
<u>6/3/04</u>	<u><i>Steph J. Hoff</i></u>	<u>Independent Regulatory Review Commission</u> Attorney General
<u>        </u>	<u>        </u>	<u>Legislative Reference Bureau</u>

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REGULATORY REVIEW ACT

