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800 North Third Street, Suite 205, Harrisburg, Pennsylvania 17102
Telephone (717) 901-0600 • Fax (717) 901-0611 • www.energypa.org

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor, Room N201
Harrisburg, Pennsylvania 17102

2016 MAR -8 PM 3:28

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**RE: Comments of the Energy Association of Pennsylvania to
Proposed Rulemaking Order RE: Revisions of 52 Pa. Code Chapter 57
Relating to Electric Safety Regulations
Docket No. L-2015-2500632**

Dear Secretary Chiavetta:

Enclose for filing, please find the Comments of the Energy Association of Pennsylvania ("EAP") in the above-referenced docket.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donna M.J. Clark".

Donna M.J. Clark
Vice President and General Counsel

Enclosure

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**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Proposed Rulemaking Order : L-2015-2500632
For Revision of 52 Pa. Code Chapter 57 Relating :
To Electric Safety Regulations :

**COMMENTS OF THE
ENERGY ASSOCIATION OF PENNSYLVANIA**

I. INTRODUCTION

On November 19, 2015, the Pennsylvania Public Utility Commission (“PUC” or “Commission”) entered a Proposed Rulemaking Order (“Proposed Order”) to amend its regulations in Chapter 57, Subchapters A and B of the Pennsylvania Code. See 52 Pa. Code § 57.1 (General Provisions), § 57.11 (Service and Facilities). The Proposed Order was published in the *Pennsylvania Bulletin* on February 6, 2016 and comments are due on March 7, 2016. The Proposed Order does not provide for the submission of reply comments.

Pursuant to its authority under the Public Utility Code, 66 Pa. C.S. §§ 501, 1501, the Commission proposes new definitions and updates to Section 57.1, Definitions, and further proposes including electric safety standards in a new section 57.28 in the Pennsylvania Code in a manner similar to that in place for gas safety standards and the regulated natural gas utility industry. Proposed Order at pp. 2 – 3.¹ The proposed regulations set forth the duties and

¹ EAP believes the wording of the gas safety regulations, found at 52 Pa. Code § 59.33, is instructive to the instant rulemaking procedure which is aimed at clarifying minimum electric safety standards and assisting the Commission’s Electric Safety Division in its mission. In this regard, EAP suggests that where appropriate the Commission mirror the language of section 59.33 in the new section 57.28. Using similar language with respect to responsibility, enforcement and records will add to the clarity and straightforwardness the Commission seeks to achieve in the current rulemaking.

responsibilities between the customer and the electric utility, clarify the obligation to maintain adequate records, restate the reporting rule requirements found at 52 Pa. Code §57.11, and detail the electric utility obligations in regard to inspections by the PUC and its staff.

The Energy Association of Pennsylvania (“Association” or “EAP”), a trade association whose members include the major natural gas and electric public utilities operating in the Commonwealth of Pennsylvania, submits these comments on behalf of its electric distribution company (“EDC”) members.² Individual EDC members may submit additional input to the proposed regulations.

II. COMMENTS

A. Background

Chapter 28 of the Public Utility Code, known as the Electricity Generation Customer Choice and Competition Act, provides, in pertinent part, “that [e]ach electric distribution company shall maintain the integrity of the distribution system at least in conformity with the National Electric Safety Code and such other standards practiced by the industry in a manner sufficient to provide safe and reliable service to all customers connected to the system consistent with this title [Title 66] and the commission’s regulations.” 66 Pa. C. S. §2807(a). Additionally, the Competition Act directs the Commission to “ensure the continuation of safe and reliable electric service to all consumers in the Commonwealth, including:...[t]he installation and maintenance of transmission and distribution facilities in conformity with established industry standards and practices, including the standards set forth in the National Electric Safety Code.” 66 Pa. C. S. §2804(1) (ii).

² Citizens’ Electric Company; Duquesne Light Company; Metropolitan Edison Company; PECO Energy Company; Pennsylvania Electric Company; Pennsylvania Power Company; Pike County Light & Power Company; PPL Electric Utilities Corporation; UGI Utilities, Inc.(Electric Division); Wellsboro Electric Company; and, West Penn Power Company.

The General Assembly identified the National Electrical Safety Code (“NESC”) as a safety standard under Pennsylvania law in the Competition Act. The Commission’s regulations also reference the NESC as a standard in a number of places in Chapter 57 of the Pennsylvania Code, including Subchapter H. Underground Electrical Service in New Residential Development at § 57.82 and in Subchapter N. Electric Reliability at §§ 57.193, 57.194 and 57.198.³ It follows, therefore, that the origin of NESC standards, their periodic update and revision, and the manner in which the NESC itself provides for the application of those standards to the distribution system and EDC facilities will inform and guide its use as a standard in Pennsylvania.

The NESC is American National Standard C2⁴ that was drafted as a consensus, voluntary standard⁵ prepared by the NESC Committee under procedures approved by the American National Standards Institute (“ANSI”). Membership of the NESC Committee is comprised of “national and international organizations and is certified by ANSI as having an appropriate balance of interests of the public, utility workers, regulatory agencies and various types of private and public utilities.” NESC Section 1 at p. 1 (2012 Edition). The stated purpose of the code is “the practical safeguarding of persons, utility facilities, and affected property during the installation, operation, and maintenance of electric supply and communication facilities, under

³ Section 57.82 provides that “[d]istribution and service lines installed...within a development shall be installed underground, shall conform to...the specifications set forth in the *National Electric Safety Code*...” 52 Pa. Code § 57.82(a). Section 57.193, Transmission system reliability, provides, in part, that an EDC “shall install and maintain its transmission facilities, and ensure that its transmission facilities are operated, in conformity with the applicable requirements of the National Electric Safety Code.” 52 Pa. Code § 57.193(a). Section 57.194, Distribution system reliability, provides, in part, that an EDC “shall install, maintain and operate its distribution system in conformity with the applicable requirements of the National Electric Safety Code.” 52 Pa. Code § 57.194(b). Section 57.198, Inspection and maintenance standards, provides, in part, that the required biennial plan “must be consistent with the National Electric Safety Code,...” 52 Pa. Code § 57.198(b).

⁴ An American National Standard implies a consensus among those persons chiefly concerned with its scope and provision, is intended as a guide to aid the manufacturer, the consumer and the general public, and is subject to periodic review. Users are encouraged to obtain the latest edition, which in this case is the 2012 Edition. NESC (2012 Edition).

⁵ The Foreword to the NESC provides, in part, that “[t]he NESC as written is a voluntary standard. However, some editions and some parts of the Code have been adopted, with and without changes, by some state and local jurisdictional authorities.” NESC Foreword at p. vi (2012 Edition).

specified conditions.” NESC Section 1, Rule 010 at p. 1 (2012 Edition). Generally, the focus of the NESC is to develop consensus standards of safe practice regarding facilities and it is not intended as a design specification or an instruction manual. *Id.*

Rule 013. Application provides that the NESC shall apply to all new installation and extensions except that they may be waived or modified by the administrative authority. NESC Section 1, Rule 013 at p. 4 (2012 Edition). Regarding existing installations, the NESC provides guidance applicable under specific circumstances. For example, “[w]here an existing installation meets, or is altered to meet, these rules, such installation is considered to be in compliance with this edition and is not required to comply with any previous edition”. *Id.* On the other hand, “[e]xisting installations, including maintenance replacements, that currently comply with prior editions of the Code, need not be modified to comply with these rules.” *Id.*⁶ Further, “[w]here conductors or equipment are added, altered, or replaced on an existing structure, the structure or the facilities on the structure need not be modified or replaced if the resulting installation will be in compliance with either (a) the rules that were in effect at the time of the original installation, or (b) the rules in effect in a subsequent edition to which the installation has been previously brought into compliance, or (c) the rules of this edition in accordance with Rule 13B1.” *Id.*

With regard to effective date of each new edition of the NESC, Rule 016 provides that the current edition “may be used at any time on or after the publication date. Additionally, this edition shall become effective no later than the first day of the month after 180 days have elapsed

⁶ This is the current industry practice and standard followed by Pennsylvania electric utilities, i.e. that the NESC in place at the time of installation or maintenance of facilities provides the safety standard and guidance. The NESC does note two exceptions to this consensus standard; the first of which is that for safety reasons, the administrative authority requires that an existing installation, including maintenance replacements, comply with the latest NESC edition. EAP does not understand that the Commission intends that the exception become the compliance obligation in the current rulemaking proceeding. Such a change in application is not practical, has not been specified and would require a detailed technical analysis of each installation to establish whether the change is necessary, reasonable and fair as well as an extensive cost/benefit analysis in order to meet requirements of promulgating regulations under Pennsylvania law.

following its publication date for application to new installations and extensions where both design and approval were started after the expiration of that period, unless otherwise stipulated by the administrative authority. *Example:* If the NESC is published on August 1, 2011, then it will become effective on February 1, 2012.” NESC Section 1, Rule 016 at p. 6 (2012 Edition). The Note following Rule 016 is instructive and provides “[a] period of not less than 180 days is allowed for utilities and regulatory authorities to acquire copies of the new edition and to change regulations, internal standards, and procedures as may be required. There is neither an intention to require or imply that this edition be implemented before 180 days from the publication date, not an intention to prohibit earlier implementation.” *Id.*

EAP believes that, in addition to allowing time for changes to internal standards and procedures, if warranted, the 180 day period provides EDCs with the time to train employees regarding revisions in the new edition of the NESC.⁷ EAP requests that any final regulation adopting the NESC as the safety standard provide that the effective date of any new edition of the NESC is the first day of the month after 180 days following the publication date unless the Commission orders otherwise following proper notice and an opportunity for a hearing.⁸

⁷Compare language at 52 Pa. Code § 59.33(b) which in dealing with changes to the federal regulations adopted as safety standards for natural gas and hazardous liquid public utilities provides that new federal rules “shall take effect 60 days after the effective date of the Federal amendment or modification, unless the Commission publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification may not take effect.” (Emphasis added). EAP believes a slightly different proceeding allowing for notice and public comment is warranted here if the effective date is to be sooner than the 180 day period where a new edition of the NESC has not been subject to the rigors of a rulemaking proceeding whereas changes to the federal regulations have undergone a due process proceeding.

⁸ See Exhibit 1 attached hereto and incorporated by reference. Exhibit 1 is a red-line of the proposed regulatory language with suggestions offered by EAP in these comments.

B. Proposed Revisions and New Regulatory Language

1. § 57.1. Definitions.

The Commission proposes to strike the present term and definition of “service terminal” and replace it with one definition for two terms, i.e. “service point” and “point of delivery.” “Service point” and “point of service” are then used interchangeably in the substantive regulations at § 57.28. The new definition for those two terms is “[t]he location designated by the electric utility where the utility’s service supply lines terminate and the customers facilities for receiving service begin.” *See*, Annex to Proposed Order at § 57.1.

EAP supports the language in the revised definition but believes the use of two terms for a single definition could cause uncertainty and confusion in practice. *See attached*, Exhibit 1 to Comments. EAP believes the use of one term “service point” in relation to the revised definition would suffice and notes that the term “service point” is used in the NESC. NESC, Section 2. Definitions of special terms at p. 15 (2012 Edition). EAP agrees that the exact physical location of the service point is to be determined by the EDC consistent with the NESC and as detailed in its tariff. *Id.*

2. § 57.28. Electric safety standards.

a. Duties and Responsibilities.

EAP agrees with the Commission’s interpretation and restatement of Pennsylvania law regarding the division of duties and responsibilities as between the electric utility and the customer respecting the facilities used for providing electric service and offers no revisions to the language proposed for section 57.28 (a). *See*, Proposed Order at p. 6 and Exhibit 1 attached hereto.

EAP offers a number of edits to proposed section 57.28 (a) (1), including naming the sub-section “Electric utility responsibility”; eliminating the word “every” as a modifier to “reasonable” and the reference to “the general public”; and streamlining the final phrase in the section to read “may be subjected to by reason of its equipment and facilities.” *See attached, Exhibit 1 to Comments.* The changes suggested by EAP would align the language with that in section 59.33 (a)⁹ and avoid confusion regarding whether the different word choice would connote a different interpretation of the general safety responsibility regarding facilities for electric and natural gas utilities.

Using a sub-section title of “Electric utility responsibility” would be consistent with the sub-section title “Customer responsibility” found at new section 57.28 (a) (2). EAP suggests striking “every” and “general public” from proposed section 57.28 (a) (1) as neither of these terms are found in section 59.33 (a). EAP believes that the phrase “use reasonable efforts” is the preferred wording; insertion of the modifier “every” implies that the legal obligation exceeds a reasonable standard and requires additional extraordinary action by a utility to reduce hazards which is clearly not the law. EAP also contends that the addition of “the general public” to the language of section 57.28 (a) is redundant and could be interpreted in the future as creating a new liability or compliance risk for EDCs which is not adequately disclosed in the proposed regulatory language. Further, with respect to its suggestion to reword the final phrase of subsection (a) (1), EAP understands that these proposed rules are aimed at providing a standard for safety with respect to “facilities and equipment” and not to the broader provision of electric distribution service. Other regulations in effect set standards relating to the provision of

⁹ EAP believes that the language for the proposed section 57.28 – Electric safety standards was based on section 59.33 dealing with gas safety standards. EAP supports this approach in general and believes that using the same language in the proposed new regulation for the electric industry will add clarity and consistency to the new standards and the way in which they are applied.

reasonable and reliable service, i.e. Chapter 56, Standards and Billing Practices and Chapter 57, Subchapter N. Electric Reliability.

With respect to section 57.28 (a) (2), EAP suggests using the term “service point” in both sub-sections (i) and (ii). Using two different terms to describe the point at which the service line of the electric utility ends and the customer facility begins will inevitably cause confusion at a later date under the rules of construction. *See, infra.* at p. 6.

b. Safety Code.

As detailed below and in the attached Exhibit 1, EAP recommends simplifying the safety code detailed in this Proposed Order by eliminating the proposed subsections at 57.28 (b) (1) and (3) – (5). Safety is the primary objective of EAP and all its members. And, just as the gas safety standards were established in Pennsylvania by the adoption of a single set of compliance obligations, i.e. 49 CFR Parts 191-193, 195 and 199, EAP urges the Commission to follow a comparable path in limiting the electric safety code to the NESC.

Initially, EAP believes that neither sub-section (1) nor (5) are necessary to include in the proposed safety code language of 57.28 (b). Both sub-sections provide that a “jurisdictional EDC”¹⁰ shall comply with existing regulations found in Chapter 57 and “[a]ll other applicable and governing state and federal laws and regulations.” On the one hand, it is unnecessary to restate that the industry is required to comply with existing applicable regulations or law and, on the other hand, the language is so overly broad as to be vague. It does not identify a specific new substantive compliance obligation nor does it help the regulated community better understand how to comply with particular expectations of the regulator. EAP would suggest striking both

¹⁰ EAP suggests striking the word “jurisdictional” and simply state “EDC” which is a defined term in these proposed regulations. Use of the adjective “jurisdictional” to modify EDC is not necessary and its elimination here would be in line with how the term “EDC” or “electric utility” is used throughout Chapter 57.

sub-sections (1) and (5) as unnecessary since EDCs are already obligated to follow duly promulgated regulations and statutory law. Such “catch-all” provisions are not required here.

Similarly, EAP suggests striking section 57.28 (b) (4). Again, EDCs adhere to the Underground Utility Line Protection Act (“PA One Call Act”), as amended, 73 P.S. §§ 176 – 186 which is currently enforced through the Pennsylvania Department of Labor and Industry (“L&I”).¹¹ It is not necessary to promulgate a regulation to require compliance with a statute where the statutory language itself details the specifics of compliance. *See, e.g.*, 73 P.S. § 177. Moreover, creating a compliance obligation through regulation subject to enforcement by the PUC for a statute which provides enforcement authority to another Commonwealth agency is certain to cause undue complication and confusion. EAP does not agree that EDCs should be subject to enforcement actions for alleged violations of the PA One Call Act by both the Commission and L&I. EAP recognizes that pending legislation (House Bill 445) proposes to transfer enforcement authority from L&I to the Commission but believes any attempt to promulgate regulations in this area is premature.

With regard to proposed section 57.28(b) (3) which identifies the electric utilities’ own procedures and internal company rules as compliance standards subject to enforcement by the PUC, EAP questions whether such a proposed standard is either authorized or practical. Indeed, there is no authority providing that the Commission can play the role of management in determining either the substance of an internal rule or practice or how it is to be implemented and enforced unless an abuse of discretion or arbitrary action by the utility is demonstrated. *See, e.g. PUC v. Philadelphia Electric Company*, 522 Pa. 338 (Pa. Supreme Ct. 1989) and *Pickford v. PUC*, 4 A.3d 707 (Pa. Commw. Ct. 2010). Again, it is instructive to compare the natural gas

¹¹ EAP notes that all Pennsylvania EDCs are facility owners and members of the One Call System. A number of the EDCs actively participate on the One Call Board of Directors.

safety rules and note that internal company procedures are not included as a substantive compliance standard in 52 Pa. Code § 59.33 (b). Individual company procedures are designed to be internal and govern how tasks and processes are completed within the company and are not created to provide third parties with oversight or form the basis for compliance actions by regulatory authorities. At a minimum, the language used appears to take away any discretion which company management would ordinarily have to determine how internal rules or procedures are to be enforced and what action is prudent and reasonable to take if internal rules or procedures are not followed by company employees. EAP believes that sub-section 57.28 (b) (3) is over reaching, creates unnecessary tension between management of investor owned electric utilities and the PUC and should be eliminated from the final rule.

Moreover, even if the Commission has authority to use a company's internal rules as the basis of a compliance violation, which EAP rejects, the language proposed here does not specifically and clearly identify internal **safety** procedures as the basis for this new substantive compliance obligation, referring broadly to "procedures established by the electric utility and set forth in the EDC's internal company procedures" and, for that reason is flawed. It is not a government agency's role to assure adherence to individual utility internal operating rules and procedures; rather, the regulator's role with respect to safety is better identified as seeking to assure the utility complies with general industry standards such as the NESC or specific statutory obligations promulgated by the General Assembly. Internal company procedures are not designed to give the Commission or any other entity the means by which to enforce a particular company standard or oversee specific operations. Additionally, the proposed language does not

account for changes and/or modifications to internal company procedure and improperly interjects the PUC into management decisions.¹²

With regard to proposed section 57.28(b) (2), EAP agrees that the NESC has been identified by the Pennsylvania General Assembly as a safety standard for the electric distribution system operated in the Commonwealth. *See, infra.* at pp. 2 -3. As recognized in Chapter 28 of the Public Utility Code and current Commission regulations, the NESC is a source suited to establish an industry compliance standard for maintaining the integrity and safety of electric distribution and transmission systems. EAP strongly suggests that 57.28 (b) be simplified to refer to a single set of compliance standards and provide the Electric Safety Division and the electric utilities with a specific set of identifiable standards to guide their interaction. *See attached, Exhibit 1 to Comments.* Further, EAP suggests that the proposed regulation include language that details that the NESC is applied pursuant to its terms and accounts for the applicability of future revised editions of the NESC to the installation, operation and maintenance of EDC equipment and facilities. *See discussion, infra.* at pp. 4 -5 and Exhibit 1 to Comments.

c. Enforcement.

With respect to proposed section 57.28 (c), EAP would recommend that the language mirror that of the gas safety regulation on enforcement at 52 Pa. Code § 59.33(d) which is clearly stated and succinct and has been in place and effective for a considerable period of time. *See attached, Exhibit 1 to Comments.* Section 59.33 (b) reads:

¹² The act of creating compliance obligations from internal company procedures also raises procedural due process concerns; how would changes to such company procedures be noticed to stakeholders, would they be subject to third party input and how would the Commission time their effectiveness so as to avoid improper retroactive application. Further, it would appear that such an approach could result in different compliance obligations for each EDC because, even without having compared its members' internal procedures, EAP assumes they are not identical.

Each public utility shall be subject to inspections as may be necessary to assure compliance with this section. The facilities, books and records of each public utility shall be accessible to the Commission and its staff for the inspections. Each public utility shall provide the Commission or its staff the reports, supplemental data and information as it shall from time to time request in the administration and enforcement of this section.

Initially, EAP believes the more straightforward and direct use of the word “inspections” suffices, that the addition of “investigation” in the proposed electric safety standards is duplicative and, based on the discussion at page 8 of the Proposed Order appears to merge the roles of the Electric Safety Division with that of the Bureau of Investigation & Enforcement (“I&E”).¹³ Further, there is no need to include language which purports to establish the Commission’s enforcement authority for an alleged violation of the Public Utility Code or a regulation promulgated pursuant to Pennsylvania law. Neither EAP nor its members question the authority of the Commission to bring enforcement actions for alleged violations of the Public Utility Code or regulations promulgated thereunder.

Second, EAP contends that the use of the term “raw data” as a category of information which the Commission or its staff must immediately collect up front on the site of an incident is overly broad and could actually impede or misdirect the investigation by the utility and the Commission. EAP questions what the use of the term “raw data” connotes and is concerned that the PUC is attempting to identify some category of information not routinely maintained as ordinary business records of a utility. Information or data initially collected or compiled in the field or at a work site by a utility is likely subject to an evaluation and verification procedure

¹³ The Proposed Order at page 8 raises an issue concerning prior “difficulty” experienced by I&E in obtaining information to carry out its investigations. It then provides that, more recently, the Electric Safety Division has found the utilities to have “confusion and hesitance” when asked to provide information and raw data to staff at the site of an incident. EAP understands that, to the extent I&E has difficulty in obtaining information voluntarily related to an alleged compliance violation, it can use discovery tools, interrogatories and depositions, as a means for obtaining information needed to pursue its prosecutorial function. Additionally, as discussed above, EAP does not agree that utilities are or should be obligated to turn over “raw data” at an incident site.

before it becomes part of company business records or reports. Turning over “raw data” collected from a utility work site before it has been subject to internal vetting, evaluation and verification by the utility may not demonstrate whether a company is complying with substantive safety standards and would likely lead to misinformation and misinterpretation.

Further current regulation provides time for an electric utility to review, analyze and verify data compiled at an accident site. *See*, 52 Pa. Code § 57.11. The utility is obligated to submit a written report, a UTCA-8, following an initial thirty day period. 52 Pa. Code § 57.11 (e). EAP does not believe that an additional on-the-spot reporting requirement is necessary, justified or conducive to fostering trust, good communication and accurate facts in the course of incident investigations. EAP recognizes that issues of process and protocol have arisen with respect to on-site investigations by the Electric Safety Division that are conducted simultaneously with the utilities internal investigation of a reportable accident or incident. EAP believes that the way to ensure a consistent process and assure accurate and complete information is to use existing proven regulatory tools.¹⁴

Finally, EAP suggests that the addition of the phrase “as it shall from time to time request” as contained in section 59.33 (d) would be appropriate for inclusion in the proposed section 57.28 (c). *See attached*, Exhibit 1 to Comments. Without this qualifier, the regulations could be interpreted to mean that the utilities would, on an ongoing basis or other frequency, be continually submitting all “reports, supplemental data, and information” pursuant to the Commission’s administration and enforcement of the proposed safety standard. EAP does not

¹⁴ EAP again references 52 Pa. Code § 59.33 (d) which does not include “raw data” as a category of information that the Commission or staff shall from time to time request in the administration and enforcement of the safety code and also suggests that § 59.11, which provides a thirty (30) day reporting requirement for natural gas utilities following a reportable accident in that industry, appears to have provided the proper balance between the staff need to timely evaluate incidents and the utilities need to ensure that the information reported is accurate and complete.

believe that is the intent of the Commission or its Electric Safety Division and suggests that adoption of the language from the gas safety regulations would improve the clarity of this proposal.

d. Records.

With respect to proposed section 57.28 (d), EAP again refers to the language found in the gas safety regulation pertaining to the obligation to keep adequate records in connection with the safety code established for that industry. *See*, 52 Pa. Code § 59.33 (e). EAP suggests that the proposed regulatory language describing the requirement for EDCs to keep adequate records relating to the safety be revised such that the second sentence of the proposal be removed from the final rule. *See attached*, Exhibit 1 to Comments. It is not necessary to restate the existing EDC section 57.11 reporting requirement relating to accidents in this new regulatory section. The compliance obligation to submit reports for each reportable accident already exists and restating it in section 57.28 would not create more enforceability. The current section 57.11 is specific and includes a form for the EDCs to use when providing the requested information concerning a “reportable accident” which is a defined term under that section and details the type and extent of information required.

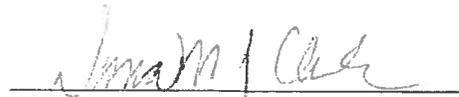
Finally, for all the reasons stated previously, EAP does not agree that the obligation to maintain adequate records accessible to the Commission and its staff translates into an obligation to hand over “raw data” gathered at an incident site before it is either verified as accurate or complete. *See, infra.* at pp. 12 -13.

III. CONCLUSION

EAP requests that the Commission adopt its revisions and suggestions to the proposed regulatory language as set forth and attached hereto in Exhibit 1 both with respect to the new definition of "service point" and the new compliance standards established in section 57.28. EAP believes that the existing safety regulation at 52 Pa. Code § 59.33 for the natural gas distribution utilities can serve as workable model for the electric utility industry and the PUC Electric Safety Division. EAP and its members believe that the industry adheres to clear and consistent standards, such as the NESC, to maintain the integrity and safety of the electric distribution system and looks forward to working with the Commission to assure that those industry standards are reflected in the final regulations.

Respectfully submitted,


Terrance J. Fitzpatrick
President & CEO
tfitzpatrick@energypa.org


Donna M. J. Clark
Vice President & General Counsel
dclark@energypa.org

Energy Association of Pennsylvania
800 North Third Street, Suite 205
Harrisburg, PA 17102

Date: March 7, 2016

APPENDIX

**TITLE 52. PUBLIC UTILITIES
PART 1. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 57: ELECTRIC SERVICE
Subchapter A. GENERAL PROVISIONS**

* * * * *

§ 57.1. Definitions.

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

* * * * *

EDC – electric distribution company or electric utility – An electric distribution company as defined in 66 Pa. C. S. § 2803 (relating to definitions).

* * * * *

Service point/Point of delivery – The location designated by the electric utility where the utility's service supply lines terminate and the customer's facilities for receiving service begin.

[*Service Terminal* –The point at which the service lines of the public utility terminate and the customer's facilities for receiving the service begin.]

* * * * *

Subchapter B. SERVICE AND FACILITIES

* * * * *

§ 57.28. Electric safety standards.

(a) *Duties and responsibilities.* The separation of duties and responsibilities between an electric utility and a customer with respect to the facilities utilized for electric service

EXHIBIT 1 to Comments of the Energy Association of Pennsylvania to
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shall be effectively described in the electric utility's tariff that is filed with and approved by the Commission.

(1) ~~Duty of electric utility~~Electric utility responsibility. An electric utility shall use every reasonable efforts to properly warn and protect the public from danger, and shall exercise reasonable care to reduce the hazards to which employees, customers, the general public, and others may be subjected to by reason of its provision of electric distribution service and its associated equipment and facilities.

(2) Customer responsibility.

(i) A customer shall be responsible for the ownership and maintenance of the customer's facilities beyond the service point.

(ii) A customer shall be responsible for maintaining and inspecting electrical wiring and electrical equipment beyond the service point of delivery of electric supply.

(b) Safety code. An ~~jurisdictional~~ EDC shall comply with all of the following minimum safety standards established by the National Electrical Safety Code (NESC) pursuant to its terms of applicability. New editions of the NESC shall take effect no sooner than 180 days following their publication, unless the Commission provides public notice and opportunity for public input to determine an alternate effective date.

~~(1) The regulations established by § 57.1 et. seq. (as amended) (relating to electric service);~~

~~(2) The standards established by the National Electrical Safety Code (NESC);~~

~~(3) The procedures established by the electric utility and set forth in the EDC's internal company procedures;~~

~~(4) The standards established by the Underground Utility Line Protection Act (PA One Call or Act 287) at 73 P.S. §§ 176 et. seq. (relating to excavating and demolition);~~

~~(5) All other applicable and governing state and federal laws and regulations;~~

(c) Enforcement. An EDC shall be subject to inspections, investigations, and enforcement actions as may be necessary to assure compliance with this section. The facilities, books, and records of an electric utility shall be accessible to the Commission and its staff for the inspections and investigations. An electric utility shall provide the Commission or its staff the raw data, reports, supplemental data, and information necessary for the administration and enforcement of this section. Each electric utility shall be subject to inspections as may be necessary to assure compliance with this section. The facilities, books and records of each electric utility shall be accessible to the Commission and its staff for the inspections. Each electric utility shall provide the Commission or its staff the reports, supplemental data and information as it shall from time to time request in the administration and enforcement of this section.

(d) Records. An EDC shall keep adequate records as required for compliance with the safety code set forth in subsection (b). An electric utility shall submit reports for each

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reportable accident under § 57.11 (relating to accidents).—The records shall be accessible to the Commission and its staff.