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April 7, 2010

VIA OVERNIGHT MAIL

Mr. James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building, 2nd Floor
400 North Street
Harrisburg, Pennsylvania 17120

RECEIVED

APR 7 2010

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Proposed Rulemaking for Revision of 52 Pa. Code
Chapters 57, 59, 65 and 67 Pertaining to Utilities'
Service Outage Response and Restoration Practices
Docket No. L-2009-2104274

Dear Secretary McNulty:

Enclosed for filing are an original and fifteen (15) copies of Duquesne Light Company's
Comments in the above-referenced proceeding.

Sincerely yours,

Vernon Edwards
Regulatory Compliance Supervisor

Enclosures

cc via E-mail:
Elizabeth Barnes

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Re: Proposed Rulemaking for Revision of
52 Pa. Code Chapters 57, 59, 65 and 67
Pertaining to Utilities' Service Outage
Response and Restoration Practices

Docket No. L-2009-2104274

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**COMMENTS OF
DUQUESNE LIGHT COMPANY**

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Duquesne Light Company appreciates the opportunity and hereby submits these comments in response to the Pennsylvania Public Utility Commission's ("Commission's") Advance Notice of Proposed Rulemaking Order to Amend the Provisions of 52 Pa. Code, Chapter 57, 59, 65 and 67 pertaining to Utilities' Service Outage Response and Restoration Practices, adopted November 6, 2009 and published in the Pennsylvania Bulletin on March 6, 2010 at Docket No. L-2009-2104274. Subsequently, the Energy Association of Pennsylvania sought and received a two-day extension of time until April 7, 2010 for itself and member companies to file comments in the instant proceeding.

Duquesne is also filing comments to the companion Proposed Policy Statement regarding Utility Service Outage Public Notification Guidelines, under Docket No. M-2008-2065532, and will address in those comments the Commission's recommendation pertaining to the National Incident Management System (NIMS) recommendations and the recommendation to establish a Joint Information System/Joint Information Center to

coordinate responses when multiple utilities in the same region that are affected by an incident.

Introduction

Duquesne Light recognizes the value of the statewide assessment of Electric Distribution Company (EDC) storm response processes, including power restoration practices and customer communications, in order to assess utility response to large-scale service outages. Similar to the Commission's assessment, Duquesne performs a post-event review of its restoration response and communication effectiveness following all large-scale service outages in an effort to seek process improvements or related opportunities that may enhance overall restoration performance.

Duquesne offers its comments on the specific sections of the proposed rulemaking as set forth below:

Comments on Proposed Amendments to Regulations

52 Pa. Code §57.11. Accidents (Electric Industry)

1. §57.11(b) (1) through (3). The Commission has proposed significant changes in the accident reporting requirement language, and Duquesne feels these changes will have a dramatic impact on the number of accidents that would need to be reported as written. Duquesne is very concerned with these reporting requirement changes for a number of reasons.

Most importantly, the language in the regulations at §57.11(a) sets the requirement for all accident reporting, stating “Reportable accidents are those involving utility facilities or operations...” Duquesne feels that the term “utility facilities or operations” must be properly defined in the Proposed Rulemaking so that utilities fully understand the reporting requirements. Duquesne believes that “utility facilities or operations” should be defined as “energized utility facilities or operations.” That would be consistent with the present reporting practices whereby only deaths or serious injuries resulting from energized facilities are reported.

Second, Duquesne is very concerned with the proposed rulemaking also changing from a requirement today to report deaths and major injuries which cause some level of physical impairment to now broadly include any injury, regardless of how minor, where the injured person simply “requires professional medical attention”. This is a major change in the Commission’s reporting requirements from that which was previously required based on past practice and the written interpretive guidance previously provided by Commission staff¹. Current utility reporting requirements under this section of the regulations limited reporting requirements to reports of “fatalities, or a serious injury as a result of an accident in or about, or in connection with, the operation of the services and facilities of your utility”. In conjunction with this guidance, Duquesne

¹ Email from Daniel Searfoorce to industry claims/liability staff and emergency response staff, dated January 15, 2008

reports all major injuries and significant events, typically those involving or associated with accidents or contact with energized facilities.

If taking the literal interpretation of this proposed change, Duquesne's reporting requirements would increase significantly as Duquesne would be required to provide reports of injuries to all persons that simply receive professional medical attention, including the most minor injuries including those that do not actually rise to the level of severity to incapacitate the injured person.

As examples, when reviewing employee instances of injury in which the employee sought professional medical treatment, we find the following minor injuries which would now be required to report if the proposed rule was adopted:

In July 2009, an employee was inspecting a wooded right-of-way and was bitten by a spider, and sought professional medical attention. In August 2009, an employee contacted poison ivy, and sought professional medical attention. In September 2009, two separate field workers were each stung by a bee, and each sought professional medical attention. For the calendar year 2009, Duquesne had 33 additional instances of employee injury in which the injured received professional medical treatment but was not disabled greater than 3 days. Each of these examples would now be reportable "accidents" if taking the literal interpretation of the proposed rulemaking.

Duquesne questions what value, if any, there would be for the Commission having this level of detailed information reported and does not believe this information is worth the costs involved in reporting it. If the Commission had not intended to impose this level of granularity in its accident reporting regulations, Duquesne respectfully requests that the Commission provide clarity in its regulations for reporting accidents found at 52 Pa. Code §57.11, such as only instances of **death or serious injury** resulting from energized service facilities.

2. §57.11(b)(4). This section of the Proposed Rulemaking adds a new requirement to report an occurrence of an unusual nature involving suspected acts of sabotage, including cyber security attacks. Currently North American Electric Reliability Corporation (NERC) has Federal Energy Regulatory Commission (FERC) approved Reliability Standards that all Load Serving Entities must comply with. Specifically, the Emergency Operation and Preparedness (EOP) Reliability Standards and the Critical Infrastructure Protection (CIP) Reliability Standards were created to establish a clearly defined process and reporting requirements for disturbances or unusual occurrences, including suspected and verified sabotage incidents, to the appropriate governmental agencies and regulatory bodies.

Duquesne suggests, in the alternative, that instead of imposing new, state-level reporting requirements, that the new proposed rulemaking

leverage existing reporting protocols and requirements that has been established by a solid stakeholder process, and approved by both NERC and FERC. Duquesne believes EDCs can easily facilitate compliance by providing a copy of these Disturbance and Sabotage submittals to the Commission in conjunction with reporting to the agencies required under the existing NERC Reliability Standards.

3. §57.11(b)(5). The Commission is proposing adding a requirement for EDCs to report “substantial damage to another utility company’s facility or property”. Duquesne interprets this language to mean if a Duquesne Light employee damaged another utility company’s facility or property, then Duquesne would be responsible to file a report of damage to the Commission. Duquesne believes that, as written, it would be difficult to comply with this proposed reporting requirement as Duquesne would not have sufficient information about the damaged facility to determine if it was “substantial”.

Duquesne’s believes that only the entity that owns and operates the facilities could properly assess the extent of the damage and be in a position to accurately make the determination if the damage should be considered “substantial”. As an example, what might outwardly appear to a water company employee to be minor damage resulting from making contact with an underground electric cable could be determined by Duquesne to be “substantial” damage to electric facilities, knocking out

power to thousands of customers and causing extensive damage to many circuit components. Conversely, if Duquesne damaged a water main, it would be difficult for Duquesne to quantify the extent of damages, therefore not knowing if Duquesne had done “substantial damage” to another utility company’s facility or property. Again, in that example, Duquesne believes only the owner of the damaged assets would be able to make the determination if the damage was, to them, “substantial”. Duquesne Light opposes the rulemaking language placing the responsibility on the entity that did the damage. Duquesne does not believe that all entities would be able to properly assess the extent of damage done to another entities facility. Further, public utility facilities are often damaged by entities and individuals not under Commission jurisdiction, such as residential and commercial building contractors. Duquesne’s recommendation to changes in the proposed rulemaking to require significant infrastructure damage reporting requirements with the asset owner would ensure the Commission that all significant damage to utility assets is reported.

Duquesne respectfully recommends that the Proposed Rulemaking be reworded to set an estimated repair or replacement value, and additionally, that the reporting requirement be changed to read “substantial damage to a utility company’s facility or property shall be reported by the affected utility.”

Additionally, in its request for comments to this proposed rulemaking, the Commission invites comments from the industry to define what is meant by “substantial”². Duquesne respectfully recommends that for electric utility facilities the definition refer to damages in excess of \$100,000 made on a good faith best estimate basis.

4. §57.11(c)(1). The Commission is proposing to add a reporting requirement that relates to motor vehicle accidents where one or both of the following circumstances apply: (1) A vehicle involved in the accident is owned by the utility or driven by a utility employee while on duty or (2) some or all of the injuries were as a result of contact with electrified facilities.” Duquesne believes that there is no reason to segregate motor vehicle accidents from any other reportable accident. The same standard should apply – was it caused by an energized facility and is there incapacity for a period longer than 3 days. Under the proposed rule, if an EDC’s vehicle was hit from behind while stopped at a traffic signal and none of the persons involved received an injury, the accident would still be considered a “reportable accident”. Or, if a truck backed into a post, then under the rule, it is reportable. Duquesne opposes the requirement to report all accidents involving Company owned vehicles and respectfully recommends that motor vehicle and contact accidents are treated the same as any other accident.

² Order at Page 4

5. §57.11(d). The Commission is proposing to change “Telegraphic” to “Telephone” and Duquesne supports that change.

Further, the Commission is proposing reporting timeframe requirements for occurrences to be reported “at once” under Subsection (b), Paragraphs (1), (3) and (4) and “within 24 hours” under Subsection (b), Paragraphs (2) and (5). Without reiteration of its concerns as stated earlier in our comments on what accident and injury information must be reported, should the Commission ultimately only require reports of significant injury or reports of significant facility damage, Duquesne would fully support all the reporting timeframe requirements as proposed in the rulemaking found at §57.11(d)

6. §57.11(e). The Commission is proposing to change the written report timeframe requirement for all reportable accidents from “immediately following” to “within 5 days”. Without reiteration of its concerns as stated earlier in our comments on what accident and injury information must be reported, should the Commission ultimately only require reports of significant injury or reports of significant facility damage, Duquesne would fully support all the reporting timeframe requirements as proposed in the rulemaking found at §57.11(e). If it does not, then Duquesne is concerned that the number of reportable accidents will increase significantly and that it should receive more time to report, for example 30 days.

Chapter 67. Service Outages

§67.1. General provisions.

1. §67.1(b)(1). The Commission is proposing changing its service outage reporting requirements from “approximate number of customers involved in a single incident” to “the total number of sustained outages during the event. Sustained outages are of a duration of 5 minutes or greater” Also there is proposed a change to provide a written report within 5 working days after the total restoration of service.

Duquesne cannot compile sustained outage data from our existing technology quickly because it cannot automatically differentiate customers on outage duration of greater or less than 5 minutes. If this were to be done, the information would need to be reviewed and processed manually. This written reporting requirement would involve a large volume of data to be processed, reviewed and analyzed for Duquesne to acquire the “total number of sustained outages” for any event. This review and analysis would take huge amounts of manual time. Therefore, it is important that the Commission retain the current option of “approximate number of customers involved in a single incident.”

Also, Duquesne believes that the utility and the Commission cannot accurately assess the magnitude of an event by reviewing only the “total number of sustained outages”. As an example, if 25,000 customers had their service interrupted and as a result there were 100 “sustained

outages”, we believe reporting that 25,000 customers were affected provides a better assessment of the event than reporting 100 sustained outages. In sum, Duquesne does not agree with the proposed reporting requirement change found at §67.1(b)(1), and recommends no changes be made to the existing regulations. As an alternative, and based on the technology platforms available, the Commission should allow an EDC to have the option of reporting “the approximate number of customers involved in a single incident” or “total number of sustained outages”, based on the technology reporting capability in place by the EDC.

2. §67.1(b) (2) through (16). Duquesne supports providing the additional requested data to the Commission as listed in Subsections (2) through (16). However, as stated above, Duquesne would not be able to compile “sustained outage information” due to present technology without significant costs in manual tabulations. Duquesne is concerned with its ability to provide the Commission with a report within 5 days after a major storm event. Many workers, at this point, are exhausted from working extended hours to restore service. There is much clean-up activity underway after restoration of service. Many matters that have been necessarily postponed, including customer requests for service, require immediate attention post storm. Duquesne would suggest that the proposed rulemaking be amended to allow Duquesne to provide a “preliminary” written report within 15 working days, after the total

restoration of service followed with a final written report within 60 working days of the event.

3. §67.1(c). This Subsection adds additional reporting requirements to the Commission by telephone within 1 hour after preliminary assessment of conditions reasonably indicates that the criteria listed in Subsection (b), Paragraphs (1), (2), (3), (6), and (7) may be applicable. Duquesne does not object to providing such notice, but as stated in these comments, cannot compile sustained outage data due to its system within the 1 hour timeframe. Duquesne would suggest that the EDCs are given the option of reporting either under the current requirement on the “approximate number of customers involved in a single incident” or under a “sustained outage”.

Duquesne does not object to providing such notice but knows that at that early stage of an event, it will not have much of the information requested. During the initial phases of a disruption, Duquesne is attempting to learn the extent and details of the disruption. After fact-finding, analysis, and gathering of resources, its efforts are devoted to restoring service as quickly as possible while continuing to gather data and provide analysis on other problems arising. On the other hand, Duquesne understands the Commission has a strong interest in knowing about major storm events and the extent of damage. Since all storms and fact findings are different,

many outages will be difficult to predict whether they will be for 6 hours or more.

Duquesne recommends a reporting requirement that would require the utility to report as soon as supportable findings and assessments are made that would indicate that the number of customer outages will likely be reached for 6 hours or more and in no case should the initial report be longer than 3 hours after Duquesne has made the determination that the event has caused a significant amount of customers to out of service for 6 hours or more.

Conclusion

Duquesne generally supports many of the new additional accident and service outage reporting requirements to the Commission as provided for in this Proposed Rulemaking.

Of concern to Duquesne is the outage criteria reporting requirement that proposes to change reporting from the number of customers affected to the number of sustained outages. Each of the utilities within the Commonwealth operates with different technology platforms, and each of those different technology platforms provides different reporting capability. While Duquesne supports the Commission's intent to have reported sufficient details of EDC responses to major events, Duquesne suggests the Commission, at a minimum, allow EDCs to have the option to either provide the "approximate number of

customers involved in a single incident” or the “total number of sustained outages” acknowledging EDC capabilities and limitations.

Similarly, Duquesne fully supports the Commission’s intent to be notified for all major accidents and serious injuries. However Duquesne believes that the term “utility facilities or operations” relating to 52 Pa. Code § 57.11 Accidents (Electric Industry) must be properly defined in the Proposed Rulemaking.

Duquesne recommends that, for purposes of accident reporting that the standard be clarified to report for “energized facilities” as that is how reporting is occurring today. Also, as currently written, the reporting requirements would significantly increase injury reports to the Commission, including minor injuries such as bee stings and irritations caused by poison ivy contact. Duquesne respectfully requests the Commission provide clarity in its regulations for reporting accidents found at 52 Pa. Code §57.11, and recommends reporting requirements for only serious accidents resulting from contact with energized facilities.

Duquesne recommends in its comments that the Commission leverage existing reporting requirements for sabotage reporting, instead of imposing new, state-level reporting requirements. Duquesne believes the industry can easily facilitate sabotage reporting by providing a copy of these established Disturbance and Sabotage submittals to the Commission in conjunction with reporting to the agencies required under the existing NERC Reliability Standards.

Duquesne opposes the requirement to report all accidents involving Company owned vehicles and respectfully recommends that motor vehicle and contact accidents are treated the same as any other accident.

Lastly, Duquesne opposes reporting for “sustained” outage information. While Duquesne fully understands the Commission’s desire to receive reportable information as quickly as possible, Duquesne cannot compile sustained outage information from our existing technology easily or quickly because this information must be reviewed and processed manually. Duquesne is suggesting to provide a “preliminary” written report within 15 working days, by using peak data information for customers affected by an incident after the total restoration of service followed with a final written report within 60 working days of the event.

Duquesne Light appreciates the opportunity to offer its comments on the changes to the Commission’s proposed rulemaking order and respectfully requests that the Commission consider its comments made herein.

Respectfully Submitted,



Frederick J. Eichenmiller
Director, External Affairs
DUQUESNE LIGHT COMPANY

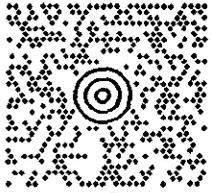
Dated: April 7, 2010

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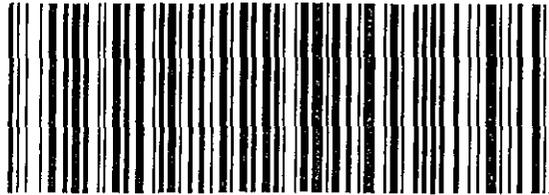
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