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April 5, 2010

HAND DELIVERY

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street - Filing Room (2 North)
Harrisburg, PA 17120

RECEIVED

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**PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU**

Re: Proposed Policy Statement Regarding Utility Service Outage Notification Guidelines
Docket No. M-2008-2065532

Dear Secretary McNulty:

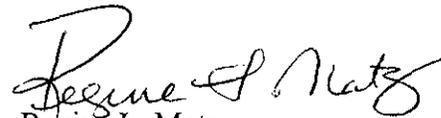
Pursuant to Ordering Paragraph 4 of the Proposed Policy Statement entered November 10, 2009, in the above-captioned matter, enclosed for filing please find an original and fifteen (15) copies of the Comments of the Pennsylvania Telephone Association.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

THOMAS, LONG, NIESEN & KENNARD

By


Regina L. Matz

Enclosures

cc: Elizabeth Barnes, Esquire, Law Bureau (w/encl. via electronic and first class mail)

Before the
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Policy Statement Regarding :
Utility Service Outage Public : Docket No. M-2008-2065532
Notification Guidelines :

**COMMENTS OF THE
PENNSYLVANIA TELEPHONE ASSOCIATION**

I. Introduction

On November 10, 2009, the Pennsylvania Public Utility Commission (“Commission”) entered a proposed policy statement currently structured to apply to all electric distribution companies (EDCs) operating in Pennsylvania. The proposed policy statement was issued following a substantial investigation by the Commission of the EDCs’ responses and public service notice practices implemented following the extensive electric service interruptions experienced in Pennsylvania as a result of Hurricane Ike in September 2008. A companion proposed rulemaking order was also entered on November 10, 2009 at Docket No. L-2009-2104274.

The proposed policy statement proposes to: (1) Identify acceptable methods of public notification in the event of a service interruption (Section 69-1902(a)); (2) Encourage adoption of the National Incident Management System (NIMS) and its Public Information System to organize all utility information into one unified message, including adoption of a written crisis communication plan, consideration of a joint system for coordination and integration among EDCs in the same affected region, and the advance preparation of public notice templates (Section 69.1902(b)); and (3) Have the affected utility sector consider stationing a knowledgeable contact person in the area of

the outage for communication purposes during the emergency, providing regular media updates at predictable times, having a single point of contact as a media spokesperson, and preparing and distributing talking points or informational sheets to any employee likely to come in contact with the public during the outage and to the Commission and County Emergency Management Agencies (Section 69.1902(c)).

Comments to the proposed policy statement are due within thirty days of its March 6, 2010 publication in the *Pennsylvania Bulletin*, or by April 5, 2010. While the current proposed policy statement is written specifically to apply to the electric distribution market (Section 69.1901), the Commission also solicits comments whether the policy statement should apply to all utilities in the telephone, electric, gas, water/wastewater industries as well. The Pennsylvania Telephone Association (“PTA”)¹ timely files these comments pursuant to the Commission’s proposed policy statement order.

The PTA appreciates the Commission’s solicitation of comments from the telecommunications utility sector, which although not yet formally implicated in the proposed policy statement, is nonetheless under consideration by the Commission. Inasmuch as the proposed policy statement is currently written specifically for the electric industry, the PTA does not present any suggested changes to the proposal. However, for the reasons that follow, as well as those reasons set forth in the PTA’s Comments to the Commission’s proposed rulemaking affecting Section 67.1 of the Pennsylvania Code (service outage reports), which comments are incorporated herein by reference, the PTA strongly discourages the Commission from imposing this policy statement on its Member

¹ The PTA is the state's oldest trade organization for the local exchange carrier industry. PTA represents more than 30 telecommunications companies that provide a full array of services over wire line networks. PTA members support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities.

Companies, the most heavily regulated entities in an otherwise vastly changing and largely unregulated telecommunications market.

II. Comments

As is the case with the Commission's proposed rulemaking order, the PTA has concerns about the burdens, both financial and work-force related, that the proposed policy statement would impose upon its Member Companies. The concept of imposing the proposal on the regulated PTA Member Companies is particularly disconcerting since it would impose increased burdens on the already overburdened regulated sector of the telecommunications industry when the Commission has been presented no evidence of or any indication that Hurricane Ike, or any other major event, caused vast outages or massive consumer disruptions in the telecommunications industry.

As the Commission acknowledged in its order, the issue of public notification arose as a result of extensive *electric* outages specifically following the Commonwealth's and the Commission's experience with Hurricane Ike. "Hurricane Ike swept through this Commonwealth interrupting *electric service* to over 450,000 customers." "[T]he Commission also held two public input hearings in western Pennsylvania and solicited information from *EDCs*[" "[M]any residents of the Commonwealth were frustrated during their *electric outages* with a lack of answers from their utilities regarding service restoration or that they received conflicting information."² "Given the communication methods and reaction of consumers from the September 2008 *electric outages*, we

² *Proposed Policy Statement Order*, 40 Pa. B. 1210 (emphasis added).

propose that a policy statement similar to the one adopted [for water] utilities be adopted for the EDCs.”³

As stated in the PTA’s comments to the proposed rulemaking, there are today several distinctions that exist among the Commission’s different regulated utility markets – electric, gas, water, and telecommunications. Consequently, a policy statement that is appropriate for some, is not necessarily appropriate for others.

The telecommunications market is highly competitive at all levels. The PTA’s regulated Member Companies have extensive broadband network and Carrier of Last Resort obligations, causing increased capital expenditures all while total access lines served are decreasing due to competition. Any burden imposed on the PTA Companies that is not also imposed upon its competitors impacts the PTA Companies disproportionately, and moves this Commission further away from the express statutory goal that “the regulatory obligations imposed upon the local exchange telecommunications companies should be reduced to levels more consistent with those imposed upon competing alternative service providers.”⁴

As stated in the PTA’s comments to the proposed rulemaking, the PTA Member Companies have experienced substantial line losses over the past decade, and the intensity of competition is only growing. Moreover, most PTA Companies face their most aggressive challenges from intermodal competitors who operate largely outside the Commission’s jurisdiction. These include wireless providers (whose customers are increasingly “cutting the cord”), cable companies (who are increasingly shifting their focus to a Voice over Internet Protocol (“VoIP”) platform in order to further evade regulatory burdens), and nomadic VoIP service providers (who are the most elusive, yet

³ *Proposed Policy Statement Order*, 40 Pa. B. 1211 (emphasis added).

⁴ 66 Pa.C.S. §3011(13).

also the most aggressive in discounting telecommunications services, offering “all you can eat” world-wide plans for \$14.99 per month).

Cable companies alone today are conservatively estimated to provide cable telephony service to at least 800,000 customers in Pennsylvania.⁵ This level of subscribership approaches the level of access lines of all PTA Companies combined. Plus, most cable companies are part of larger regional or national organizations. Many of the PTA Member Companies, however, remain independent carriers with relatively small service territories and work-forces. Dedication of one person to be the publicly visible and available spokesperson during a major event could negatively impact the level of personnel available to working on remedying the effects of the event. Even for the larger regional carriers, imposition of standards such as the NIMS public information system could require the reorganization of responsibility within the corporate structure, which has a cost attendant to it. And this all would come about when there has been no evidence that the current practices of the regulated telephone companies *require* such changes.

Such obligations should not be imposed on the regulated telecommunications market when the Commission has not had the same experience with that market as it has with electric and water. As the PTA stated in its comments to the Proposed Rulemaking, the configuration of the PTA Member Companies’ networks, providing back up battery and generator power, ensures that the customers of its Member Companies do not suffer service outages on the same extent or level of severity as other regulated industries. Moreover, those other industries lack the complementary or substitute services that the growing wireless sector provides with respect to regulated wireline services. Loss of

⁵ As of June 30, 2008, there were 1,492,000 high-speed cable connections in Pennsylvania (which number grew to 1,807,000 by year end 2008). See FCC High Speed Services For Internet Access: Status as of December 31, 2008, Table 17. The National Cable & Telecommunications Association reports that on a nation-wide basis, the number of cable telephony customers is about 54% of the number of cable high speed connections. See www.ncta.com/Statistics.aspx.

water and electric can debilitate a household. Self-installed residential generators and bottled water provide marginal relief. On the other hand, as the PTA noted in its companion comments to the Commission's proposed rulemaking order regarding service outages, today a full 20% of households use wireless services exclusively. And the percentage of homes today with mobile phones and no landline exceeds those with landline and no mobile phones. Thus, while most homes have regulated electric and water service, more and more homes are going without regulated telecommunications service.

The Commission should not rush to impose upon one segment of the telecommunications market, the regulated PTA Companies, the obligations and burdens of compliance with the proposed policy statement without similarly imposing those same obligations and burdens on their unregulated competitors. Since the Commission cannot impose such service obligations on the unregulated telecommunications market, it should forbear from imposing it on the regulated market. This is particularly the case in light of the absence of evidence that the event that triggered the instant Commission review had the same negative consequences within the regulated telecommunications market as it had within the electric industry. Although the PTA was not privy to the Electric Distribution Report prepared by the Commission's Bureau of Conservation, Economics, and Energy Planning and Office of Communications, the PTA questions the extent to which either of those bureaus actively considered the differences among the utility sectors that exist today and whether, in light of Act 183, the recommendations in that report should be applied specifically to telecommunications carriers.

These very strong distinctions between the regulated telecommunications market and the other utility industries – extensive competition down to the customer wire level,

the lack of evidence of similar widespread disruptions, and the statutory distinction of Act 183⁶ – warrant against inclusion of the regulated telecommunications industry in the proposed policy statement at this time. In enacting Act 183, the General Assembly intended to assure progress in the wireline telecommunications market through further deregulation. It did not intend that that sector be subject to increased regulatory burdens that are not, and cannot be, imposed on the competitors the wireline companies face.

III. Conclusion

The PTA appreciates the opportunity to comment on the proposed policy statement. The PTA Member Companies strive to achieve the highest service quality standards, including keeping the Commission and their customers informed and satisfied during normal service or service interruptions. The PTA does not believe that this Commission should implement its proposed policy statement upon the regulated telecommunications industry absent evidence of the type of critical mass disruptions caused in the electric industry by Hurricane Ike.

Respectfully submitted,



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Date: April 5, 2010

⁶ Although the “balancing provision” of Section 3015(f) may not strictly apply if the policy statement would not impose a recurring reporting requirement on the regulated PTA Member Companies, it does nevertheless create the type of uneven burden and unjustified expense on those companies, compared to their competitors, that Act 183 as a whole intended to reduce.