BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Rulemaking Re: Amended Reliability	:	
Benchmarks and Standards for the	:	
Electric Distribution Companies	:	Docket No. L-00030161
	:	

OFFICE OF CONSUMER ADVOCATE'S
COMMENTS

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Dated: December 8, 2003

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I. INTRODUCTION

On October 4, 2003, the Pennsylvania Public Utility Commission's ("PUC" or "Commission") Proposed Rulemaking Order ("Rulemaking Order") in the above-captioned case was published in the *Pennsylvania Bulletin* for comment. The Rulemaking Order was issued by the Commission in conjunction with a Tentative Order at M-00991220 ("Tentative Order") that proposed amended reliability benchmarks and standards for electric distribution companies ("EDCs"). The intent of the Commission in issuing the Rulemaking Order and the Tentative Order is to tighten the standards for performance reliability and significantly improve the monitoring of reliability performance in the electric distribution industry.

The Office of Consumer Advocate ("OCA") is in agreement with the Commission's intent, but the OCA submits that the Commission must significantly improve the EDCs' compliance with the standards and benchmarks through aggressive enforcement. Only then will the requirements of the Electric Generation Customer Choice and Competition Act ("Act") be met. A comparison of recent performance of the EDCs to their pre-restructuring performance set forth in the OCA's Comments at Docket No. M-00991220 showed that reliability has been worse than pre-restructuring performance for most EDCs. Even under the Commission's recomputed benchmarks set forth in its Tentative Order, which allow for worse performance than the original benchmarks for some EDCs, most EDCs fail to achieve historic performance on most measures. Only PPL joins PECO and Duquesne in showing recent performance that is now better than the recomputed benchmarks for some measures. Compare, Tentative Order, Appendix B, Columns E and K. The following Table illustrates this point:

TABLE 1

EDC Performance Compared to Recomputed Benchmarks

Three Year Rolling Average for 2000 - 2002

Company	SAIFI	CAIDI	SAIDI
Allegheny Power	worse	worse	worse
Duquesne Light	worse	better	better
Met-Ed	worse	worse	worse
Penelec	worse	worse	worse
Penn Power	worse	worse	worse
PECO	better	better	better
PPL	worse	better	better

key: better - below benchmark; worse - above benchmark)

It is clear that changes are needed in the Commission's regulations to achieve the mandate of the Act that reliability be maintained at least at pre-restructuring levels.

The Legislative Budget and Finance Committee Report (LB&FC Report) recognized these very points and explained the consequences of deteriorated reliability as follows:

> When the reliability of the transmission and distribution systems is allowed to degrade, service disturbances and interruptions occur more often; and customers may be without service for longer periods.
>
> Problems with the transmission and distribution systems can also result in public safety issues such as forest fires and explosions and public exposure to "down wires." They may require local emergency officials to provide emergency housing when families must be evacuated from their homes, and arrange for specialized services for technology dependent disabled children and adults cared for at home. Delayed responses to service interruptions can also result in public highways remaining closed for longer periods than necessary and families and businesses experiencing financial losses.

LB&FC Report at 1.

The OCA submits that although the Commission's proposals in this Proposed Rulemaking and in its Tentative Order are an improvement over its current regulations, performance benchmarks, and performance standards, the proposed modifications still fall short of ensuring compliance with the requirements of the Act. In particular, neither the Tentative Order nor the Proposed Rulemaking actually require an EDC to achieve its pre-restructuring performance. Although encouraged to do so over an undefined "long-term," the Commission's proposals do not require that reliability be maintained at the same level as before the Act. The Commission's regulations must implement such a requirement and must be accompanied by an enforcement mechanism that ensures compliance with the Act. The Commission's proposed regulations do not achieve these requirements.

The OCA recommends five modifications and enhancements to the Commission's regulations so that the requirements of the Act are better met. First, the OCA recommends that the regulations establish the historic, pre-restructuring performance benchmark as the minimum acceptable level of performance over the rolling 3-year average period for SAIFI, CAIDI, and SAIDI. Second, the OCA proposes that the regulations include an enforcement mechanism that requires the development of a formal improvement plan with enforceable commitments and timetables if an EDC does not achieve the historic performance levels. Although the Commission may wish to consider a move to automatic penalties at some point in the future for failure to meet the required standards and benchmarks, at this juncture, the OCA recommends the development of an improvement plan as a first step. The improvement plan must include mandatory penalties for failure of an EDC to meet the commitments and timetables in the plan. Through this mechanism, the Commission can more closely work with EDCs to restore reliability to historic levels and ensure that the commitments in the plan are achieved.

Third, the OCA recommends that the Commission further enhance its reporting requirements. The OCA recommends that the Commission retain the reporting of operating area reliability metrics for monitoring purposes so that the Commission can ensure that a utility is properly deploying its resources within its service territory. Reliability of the system should not come at the expense of one or two operating areas. Additionally, the OCA recommends that the Commission require each EDC to file a T&D Maintenance Plan on an annual basis for Commission review.

Fourth, the OCA recommends that the regulations include a requirement that each EDC issue a report in the form of a bill insert to customers on an annual basis concerning their reliability performance. Customers are interested in their individual EDC's performance and the performance within their area. Such an annual report, similar to the Consumer Confidence Reports where water utilities report on water quality, will further encourage EDCs to perform reliably and will inform customers of the efforts of the EDC to meet reliability goals.

Fifth, the OCA recommends some other changes to the definitions, including a more detailed definition of performance benchmark and performance standard, to fully operationalize the OCA's other recommendations.

The OCA strongly urges the Commission to adopt the OCA's modifications and enhancements to the proposed regulations contained herein and as set forth in its Comments at M-00991220. Safe, adequate, efficient, and reasonable service that is reasonably continuous and without unreasonable interruption or delay must be provided to all Pennsylvania consumers. 66

Pa.C.S. §1501. Additionally, all Pennsylvania consumers must, at a minimum, receive the same level of reliable service as before the introduction of competition. 66 Pa.C.S. §2802(3). The Commission must take all necessary steps to ensure that the EDCs meet these obligations. The Commission's proposed regulations in this docket, and its proposals at Docket M-00991220, are a step in the right direction, but far more is needed to restore reliability to historic levels, ensure that historic levels of reliability are maintained, and ensure that customers are receiving reasonable service in accordance with the Public Utility Code. The OCA's recommended modifications and enhancements seek to take another step in that direction.

II. COMMENTS

A. The Commission's Regulations Must Require An EDC to Improve On Or Meet Its Pre-Restructuring Level of Reliability. (Section 57.192, 57.194(h)(3) and 57.194(h)(4))

In proposing amended reliability benchmarks, standards, and regulations, the Commission notes that it intends to "clarify the Commission's expectations for reliability performance in relation to the performance benchmarks and performance standards." Rulemaking Order at 8. The Commission then sets forth its expectations when it states:

> We do not want to send the message that long-term reliability performance that just meets the performance standard is acceptable. Long-term performance that only meets the standard could be significantly worse than the benchmark and thus worse than the historical performance level that existed prior to the introduction of Electric Choice. Such performance would clearly not be consistent with the intent or the language of the Act and the Commission's policy objective for maintaining reliability performance after the introduction of Electric Choice at least as good as it was prior to Electric Choice. Therefore, the Commission emphasizes that long-term reliability performance should be at least equal to the benchmark performance.

Rulemaking Order at 10. Unfortunately, despite the Commission's "message" or "intent," the proposed modifications to the Commission's regulations fall short of carrying out this intent. The Commission's proposed regulations are flawed in two respects. First, the regulations do not contain definitions or provisions sufficient to determine how the regulations will ensure that reliability is maintained at or better than historic levels. As the OCA discusses below in Section II.E., the Commission must amend its definition of performance benchmark and performance standards to include the methodology for establishing the benchmarks and standards, an explanation as to where the information is located, and an explanation as to the role each plays in the regulations. The OCA provides some recommended definitions here and in Section II.E. to carry out the Commission's intent.

Second, and more fundamentally, as the OCA explained in its Comments regarding the calculation of the reliability benchmarks and standards, neither the Commission's Tentative Order nor the proposed regulations ever require an EDC to meet its historic, pre-restructuring performance benchmark over any period of time. See, OCA Comments, Docket No. M-00991220 (October 10, 2003), p. 9-11. Without such a requirement, the Commission's regulations cannot satisfy the Act's mandate to maintain pre-restructuring reliability.

The Commission's proposed regulations at Section 57.194(e) and (h) are an improvement over the existing regulations in that the proposed regulations require an EDC to maintain procedures and take measures necessary to achieve both the historic performance benchmarks and the performance standards. While the Commission encourages EDCs to achieve historic benchmark performance, there is no requirement that historic benchmarks be met and there is no enforcement mechanism related to achieving the historic benchmark. The Commission's requirement and enforcement approach (which needs to be strengthened as discussed below) is only triggered by the failure to meet the performance standards – the rolling 3-year average standard and the rolling 12-month average standard – both of which accept performance below historic levels under the Commission's proposals. As the OCA discussed in its previous Comments, if the Commission does not at least establish the rolling 3-year average minimum standard equal to the historic benchmark, there will be no assurance that pre-restructuring levels of reliability are maintained.[1] OCA Comments at Docket No. M-00991220, p. 9-11.

If the Commission intends for an EDC to meet its historic performance benchmark, the Commission must require an EDC to do so in its regulations. To accomplish this end, the OCA recommends that the rolling 3-year average minimum performance standard be established equal to the historic benchmark level. An EDC's failure to achieve this minimum performance standard should then trigger appropriate enforcement activity by the Commission to ensure that the mandate of the Act is met.

For the reasons set forth in the OCA's Comments at Docket No. M-00991220 and above, the OCA submits that the Commission should establish the rolling 3-year average performance standard at the historic performance benchmark. To achieve this result, the Commission's regulations at 52 Pa. Code §§57. 192, 57.194(h)(3) and (h)(4) should be amended to read as follows:

> 57.192: Performance Standard – The minimum performance allowed. The performance standard will be at least equal to the performance benchmark over the period of time specified and for each index specified by the Commission in its orders establishing the numerical performance standards.
>
> 57.194(h)(3): An EDC shall, at a minimum, demonstrate that it has met the performance standard(s) for SAIFI, CAIDI, and SAIDI, for each calendar year. Performance that does not meet the performance standard(s) for any reliability index shall require an improvement plan as set forth in Section 57.194(h)(5).
>
> 57.194(h)(4): An electric distribution company shall inspect, maintain and operate its distribution system, analyze reliability results, and take corrective measures as

[1] As the OCA noted in its prior Comments, the standards can be established to require performance better than historic levels if the Commission determines that to be appropriate. OCA Comments in Docket No. M-00991220 at 21-23.

> necessary to achieve the benchmark performance for each reliability index each year. Failure to achieve the performance benchmark on the reliability indices as specified in the Commission's orders establishing numerical standards shall require an improvement plan as set forth in Section 57.194(h)(5).

The OCA has attached as Appendix A all of the revisions to the proposed regulations recommended by the OCA in these Comments and the Comments at Docket No. M-00991220. The Commission's proposed changes are shown in bold for additions and brackets for deletions. The OCA's additional modifications are shown in underline for additions and strikeout for deletions.

B. <u>The Commission's Regulations Must Identify A Stronger Enforcement Response For Failure To Meet The Benchmarks And Standards</u>. (Section 57.194(h) and Section 57.195(g))

1. <u>The Enforcement Response For Failure To Achieve The Minimum Standards Is Insufficient To Ensure That The Mandates Of The Act Are Met</u>.

In its Tentative Order at Docket No. M-00991220, the Commission described its enforcement approach as follows:

> Consistent with the proposed changes to the language of the Commission's Electric Reliability Standards at 57.194(h)(3), the role of the standard is being revised. A failure on the part of an EDC to meet the first tier standard [rolling 3-year average] is a trigger for additional involvement of Commission staff in the form of remedial review and perhaps additional reporting by the EDC until performance is within the standard or Commission staff is satisfied that performance over time is not significantly deteriorating. Repeated violations of the 2-tiered standard shall result in the Commission staff pursuing an enforcement action including fines and other remedies available.

Tentative Order at 11. The Commission then proposes the following language for Section 57.194(h)(3):

> The performance standard shall be the short term, minimal level of performance for each measure for all electric distribution companies.

> Performance that does not meet the standard for any reliability measure shall be the threshold for triggering additional scrutiny by the Commission. When performance does not meet the standard, the Commission will contact the electric distribution company regarding possible remedial review and reporting activities.

Rulemaking Order, Annex A, p. 2, Proposed 52 Pa. Code §57.194(h)(3). The Commission further requires in proposed Section 57.195(g) that if an EDC's performance does not meet the established performance standards, the Commission *may* require a report that includes the reasons for the failure to meet the standards, a description of the corrective measures the EDC is taking, and target dates of completion. Rulemaking Order, Annex A, p. 7, Proposed Section 52 Pa. Code §57.195(g).

The OCA submits that the Commission's proposal through these regulations for enforcement is inadequate to accomplish the mandates of the Act. Indeed, the approach of the Commission in the regulations undermines its statements that the Commission expects reliability to be maintained at least at pre-restructuring levels. For example, the Commission described the proposed revisions to Section 57.195(g) as follows:

> Language has been revised in subsection (g), which was formerly subsection (d), to make it clear that performance which does not meet the Commission's established performance standards is not necessarily indicative of unacceptable performance.

Rulemaking Order at 16. A Commission statement that it is not unacceptable to fail to meet a minimum standard -- which the Commission would set at a level allowing a 10% to 20% deterioration in reliability from historic performance -- weakens the effectiveness of the regulations. Additionally, the Commission's suggestion in its Tentative Order at Docket No. M-00991220 that formal enforcement action under Section 57.197 will be delayed until there is "repeated" failure by an EDC further confuses the Commission's message and intent. Tentative Order at 11. A delay in enforcement until there are repeated failures to satisfy the standards could delay necessary repair measures, make repairs or remedies more expensive, and delay the receipt of reasonable service by customers.

The OCA does not dispute that the remedy for unacceptable performance may vary depending on the circumstances encountered by the EDC, but if the Commission wishes to meet the mandates of the Act, it must start by stating that failure to maintain pre-restructuring reliability is not acceptable and not permitted. The OCA submits that the Commission must then vigorously enforce compliance with the benchmarks and standards. Without vigorous enforcement and real consequences for the EDC's failings, consumers have no assurance that the mandate of the Act will be met.

In this rulemaking, the OCA proposes a more stringent regulatory response, described below, which should improve the effectiveness of the Commission's enforcement approach. Initially, though, the OCA would note as a point of reference that in many states, an EDC is subject to automatic penalties for failure to achieve specific *annual*, numerical performance standards based on CAIDI, SAIFI, and other metrics. Maine, New York, Massachusetts, Illinois, Colorado, Washington, Rhode Island, Vermont, Connecticut, Idaho, California, and Oregon have adopted this approach for some or all of their utilities. A summary of some of these programs is presented in Appendix B (attached hereto) and can also be found in the LB&FC Report at 102-110, Appendix C. Such penalties are assessed on the utility for performance that does not meet the established baselines on an annual basis. The level of the penalties are often pre-determined so that the utility is aware of the consequences of a failure to meet baseline performance. Some programs require that the penalty revenue be provided to customers as a rebate on the bill for poor performance. In some states, the rebate is accompanied by a statement on the bill such as: "This month's bill includes a rebate to customers of $___ for failure to achieve acceptable service quality standards in the area of ____." See, Appendix C (Washington Utilities and Transportation Commission, Docket No. UE-960195 February 5, 1997 Service Quality Index)(attached).[2]

If penalties are set at appropriate levels, this type of system can provide the right signal to the utility to achieve appropriate reliability. The utility experiences very real and known financial consequences for failure, and must further acknowledge this failure to customers. For example, in Massachusetts, several utilities have recently paid penalties for non-compliance to their customers in the form of a customer credit. See, *e.g.*, Investigation by the Department of Telecommunications and Energy into Service Quality of Boston Edison Company, Commonwealth Electric Company and Cambridge Light Company d/b/a/ NSTAR Electric, Docket No. D.T.E. 01-71A (Massachusetts DTE 2001) and Investigation by the Department of Telecommunications and Energy into Service Quality of Massachusetts Electric Company and Nantucket Electric Company, Docket No. D.T.E. 01-71B (Massachusetts DTE 2001). As a result of these investigations, Boston Edison was ordered to refund $3.2 million to customers and Massachusetts Electric was ordered to refund $5.7 million. Id.

The OCA strongly urges the Commission to establish a system of enforcement to better ensure that reliability is maintained in the Commonwealth. The OCA would recommend that if the Commission chooses to pursue an approach of automatic penalties now or in the future, it solicit specific comments on such an approach. Comments should be obtained on the proper level

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[2] The attachment is a portion of a Stipulation in a merger of a natural gas and electric utility. The attached portion sets forth the Service Quality Index, the automatic penalties under the SQI, and the bill message language.

of penalties, how penalty revenue should be returned to customers, how to match predetermined penalties to the degree of failure, and the like.

At this juncture, the OCA is not arguing for the adoption of a mechanism with automatic penalties designed to reflect the degree of failure to meet reliability benchmarks or standards. Instead, the OCA is proposing that the Commission's regulations regarding enforcement be strengthened by adding an enforcement mechanism that requires the development of a formal improvement plan when an EDC fails to meet the required benchmarks and standards. The improvement plan must be enforceable and include mandatory penalties for failure to achieve the commitments and timetables contained in the plan.

The OCA will describe its enforcement proposal in more detail below. As can be seen, however, the Commission's proposed regulations do not provide a sufficient response to the failure of an EDC to maintain its pre-restructuring level of performance.

2. <u>The OCA's Recommended Enforcement Approach</u>.

The OCA submits that the Commission's regulations should set forth specifically the minimum regulatory response for whenever an EDC fails to meet its performance benchmarks and standards in any year. The regulations should require, at a minimum, that whenever an EDC does not meet the performance benchmark on a rolling 3-year average basis, the EDC enter into a formal improvement plan with enforceable commitments and timetables. The improvement plan should be developed between the EDC and Commission staff, but should be published for comment, such as through a Tentative Order process. The improvement plan must contain mandatory penalties for failure to achieve any of the performance commitments and timetables set forth in the plan. The OCA recommends that any such penalty revenue be returned to customers in some manner. For failure to meet the rolling 3-year average on the quarterly reports, or the rolling 12-month average on a quarterly or annual basis, the OCA recommends that the Commission Staff work with the EDC for development of specific plans to correct any problems. The enforceable improvement plan with mandatory penalties should be utilized for a failure to meet the performance benchmark on a rolling 3-year average basis at the annual report review.[3]

The OCA submits that this approach reflects the LB&FC Report recommendations. The LB&FC Report recommended that the Commission work closely with companies with deteriorating reliability and "assure that they are taking aggressive steps to prevent degradation of their transmission and distribution systems, and it should closely monitor company implementation of improvement plans." LB&FC Report at S-15. Specifically, the LB&FC Report recommended:

> Failure of a company to successfully implement an agreed upon improvement plan should result in the PUC initiating an informal investigation and, if necessary, the imposition of fines for failure to implement improvements agreed to in a timely manner.

LB&FC Report at S-15.

The trend in reliability in the Commonwealth has not been positive. As shown in the OCA's Comments at Docket No. M-00991220 and herein, current performance of EDCs on a rolling 3-year average basis has generally been worse than their historic, pre-restructuring performance. Only PECO and Duquesne have shown performance that is consistently better than historic levels by either the original benchmarks or the recomputed benchmarks. It is clear that the Commission needs to pursue aggressive enforcement of compliance with the benchmarks and standards. The

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[3] As noted in the OCA's Comments at Docket No. M-00991220, data quality issues should be considered and addressed in the development of the improvement plans. Information necessary to evaluate the impact of these issues on the improvement plan should be provided upon release of the plan for comment.

Commission's proposed regulations, which call only for staff contact with EDCs that fail to meet the standards and the possibility of some additional reporting, fall short.

As such, the OCA recommends that the Commission adopt a more stringent regulatory response to an EDC's failure to maintain reliability. The following points should be included in the regulations:

- The regulations should describe a mandatory process if the EDC's annual report demonstrates non-compliance with the performance standards or benchmarks on a rolling 3-year average basis. The mandatory process should, at a minimum, require that the EDC enter into a formal improvement plan within 60 days of the submission of an annual report that shows failure to achieve the benchmarks or standards. The improvement plan must include enforceable steps and timetables. The improvement plan should be adopted by Commission Order after notice and an opportunity for comment by interested parties.
- The improvement plan should set forth the mandatory penalties that will be assessed for the failure to meet the plan's performance commitments. These penalties should vary with the nature and severity of the failure to comply with the improvement plan.
- Any revenues from penalties assessed under the improvement plan should be distributed to customers in some manner with a bill message explaining the purpose of the rebate.
- Section 57.197 regarding reliability investigations should remain in place and should be utilized when appropriate, not just in response to repeated failures.

To achieve these goals, the OCA recommends that the Commission's regulations at 52 Pa. Code §57.194(h) be amended as recommended in Section II.A. and that an enforcement provision be added. The enforcement provision would read as follows:

> 57.194(h)(5): Within 60 days of the annual report required by this Chapter, an EDC that has failed to meet the requirements of Section 57.194(h)(3) or Section 57.194(h)(4) shall enter into an enforceable improvement plan with specific performance requirements and timetables to achieve compliance with the performance benchmark(s) and standard(s) as soon as reasonably possible, but no later than one year. The improvement plan shall identify mandatory penalties for the failure to achieve the plan's performance requirements and timetables. The amount of any penalty should reflect the degree and severity of the failure to achieve the plan's performance requirements and timetables. Any penalties incurred as a result of the failure to comply with an improvement plan shall be returned to customers with a bill message that explains the reason for the customer rebate. The Commission shall issue the improvement plan in the form of a Tentative Order and seek public comment prior to the final adoption of the plan.

See, Appendix A. The Commission should also amend Section 57.195(g) to require a mandatory report when an EDC's performance does not meet the benchmarks and standards. Section 57.195(g) should be amended to read as follows:

> 57.195(g): When an electric distribution company's reliability performance is found to not meet the Commission's established performance benchmarks or performance standard(s), as defined in § 57.194(h) (relating to distribution system reliability), the Commission shall require a report to include the following:
>
> > (1) The underlying reasons for not meeting the established benchmarks and standard(s).
> >
> > (2) A description of the corrective measures the electric distribution company is taking and target dates for completion.

See, Appendix A.

The OCA submits that requiring the development of formal, enforceable improvement plans when an EDC is unable to maintain historic levels of reliability is a necessary step to meet the mandate of the Act. Without such an enforcement mechanism, the regulations cannot ensure compliance with the Act and cannot assure that the deterioration in reliability experienced in the Commonwealth will come to an end.

C. The Commission's Reporting Requirements Should Be Further Improved. (Section 57.195(b)(3) and Section 57.195(b)(9))

The Commission's proposed regulations vastly improve the reporting requirements. The amended reporting requirements mandate both annual and quarterly reporting and require that far more information be provided in the reports. For example, in addition to the reporting of SAIFI, CAIDI, SAIDI and if available, MAIFI[4] indices, the regulations require such information as a breakdown and analysis of outage causes; remedial efforts taken; a comparison of transmission and distribution inspection and maintenance goals with actual results achieved; a comparison of budgeted versus actual transmission and distribution expenses; a comparison of budgeted versus actual transmission and distribution capital expenditures; and an explanation of any significant variations in budgeted to actuals.

The OCA strongly supports the Commission's efforts to obtain more information from the EDCs on their reliability measures. This additional information will greatly assist the Commission in its monitoring responsibilities. The OCA submits, however, that the Commission's reporting requirements could be further improved in two ways. First, as the OCA recommended in Comments in 1997, the Commission should require each EDC to develop and present its T&D Maintenance Plan to the Commission on an annual basis. Advanced Notice of Proposed Rulemaking Regarding Electric Reliability Standards, Docket No. L-00970120, OCA Comments, p. 19-20 (March 17, 1997). The Commission has not required the submission of such comprehensive plans. Although the reporting requirements provide much necessary information, the Commission should still require each EDC to provide a comprehensive Maintenance Plan for review by the Commission.

[4] MAIFI is the Momentary Average Interruption Frequency Index. MAIFI represents that average frequency of momentary interruptions per customer.

This is similar to the Commission requirement that EDCs provide Annual Resource Plans each year for Commission review.

Second, the Commission should also continue to require the reporting of the SAIFI, CAIDI, SAIDI, and if available, MAIFI indices for the operating areas. The OCA does not recommend that operating area information be used for enforcement, but that reporting of the information continue so that the Commission can ensure that an EDC's resources are being appropriately deployed throughout its service territory. As the OCA explained in its Comments on the Tentative Order at Docket No. M-00991220, operating area information reflects how an EDC manages reliability throughout its distribution system. See, OCA Comments at 23-25. The reporting of the worst performing circuit information, although valuable, does not provide the Commission with the information necessary to ensure that reliability for the system is not coming at the expense of one or two operating areas.

The OCA strongly urges the Commission to adopt the July 2002 Staff Report Recommendation IV-3 and require the continued reporting of operating area reliability metrics using operating areas consistent with those used for an EDC's internal operations and monitoring. The operating area information should be used to monitor an EDC's performance in various regions and to ensure that resources are properly deployed throughout the service territory.

The OCA supports the Commission's improved reporting requirements and recommends the two modifications discussed herein. With these additions, the reporting requirements should greatly assist the Commission in monitoring EDC compliance with the regulations.[5] To achieve these goals, the OCA recommends that the Commission regulations at 52 Pa. Code §57.195(b)(3) and (b)(9) be amended to read as follows:

> 57.195(b)(3): A table showing the actual values of each of the reliability indices (SAIFI, CAIDI, SAIDI, and if available, MAIFI) for the electric distribution company's service territory and for each of the company's operating areas as those areas are defined internally for operation and monitoring of reliability performance for each of the preceding 3 calendar years. The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer minutes of interruptions, the number of customers affected, and the minutes of interruption. If MAIFI values are provided, the number of customer momentary interruptions shall also be reported.
>
> 57.195(b)(9): The EDC's Transmission and Distribution Maintenance Plan, which shall include quantified transmission and distribution inspection and maintenance goals/objectives for the current calendar year detailed by system area (i.e., transmission, substation, and distribution).

<u>See</u>, Appendix A.

D. <u>Each EDC Should Be Required To Provide A Report To Its Customers On An Annual Basis On The EDC's Reliability</u>. (Section 57.195)

In Proposed Section 57.195(i), the Commission sets forth a requirement that the Commission prepare an annual reliability report and make it available to the public. The OCA agrees that the Commission should prepare such a Report for the public as well as the General Assembly. This requirement is responsive to the recommendation of the LB&FC Report that the Commission prepare a Report for the General Assembly and the public that provides information on such things as performance trends, the causes of service interruptions, comparisons of current

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[5] In its Comments on the Tentative Order, the OCA also recommended that the Commission continue to require the reporting of MAIFI data. The reporting requirements do require this information if available, but this information does not seem to be included in the report issued by the Commission. The Commission should report all of the reliability index information that it receives in its Reports.

performance to past performance for each company, and information on major events. LB&FC Report at S-15.

The OCA submits that in addition to this Report, the Commission should require each EDC to issue an annual report to its customers on its reliability performance. Customers are typically most interested in their own EDC's performance, particularly within the area where they live. Although a statewide report is useful, it may not reach significant numbers of customers, and it may not provide relevant information to customers about their circumstances. A report sent to an EDC's customers relating the EDC's specific reliability performance can provide useful information to the customers and an appropriate incentive to the EDC to maintain and improve its performance. Such a customer report would be similar to the Consumer Confidence Reports now issued by water companies to their customers concerning various water quality measures. See, 40 CFR §141.153.

The customer report could be in the form of a bill insert and should inform customers of the applicable performance benchmarks and standards, the current system-wide performance reported to the Commission, performance in the operating area of the customer (if feasible), causes of outages, and actions taken to correct or address reliability. The bill insert must include plain language explanations of the reliability measures and if all operating areas are reported, sufficient designation so that customers can readily determine their operating area. The bill insert should be designed with input from interested parties and must be approved by appropriate Commission staff personnel.

The OCA recommends the inclusion of an additional subsection in 57.195 to reflect this requirement. The subsection would read as follows:

> 57.195(j): Each EDC shall prepare an annual report to its customers concerning the performance benchmarks, performance standards, and actual annual performance for all reliability measures. This report shall describe any improvement plans or other enforcement actions initiated by the Commission concerning the EDC's reliability performance, as well as the status of such improvement plans, and whether any mandatory penalties were incurred and their amount.

See, Appendix A. Through this requirement, customers will be better informed of the EDC's reliability performance and the steps being taken to ensure reliable service.

E. The Commission's Proposals Regarding Definitions Require Modification. (Section 57.192)

The Commission proposes several changes to the definition section of its regulations. Of particular note, the Commission proposes to amend the definition of "major event," delete the definition of "operating area," add definitions of "EDC" and "FERC," and add definitions of "performance benchmark" and "performance standard." See, Proposed Section 57.192. As discussed in the OCA's Comments at Docket No. M-00991220, the OCA supports the amendment to the regulations that clarifies the definition of "major event." This clarification will better ensure consistent application of the major event criteria by EDCs. The addition of definitions of "EDC" and "FERC," which are acronyms used in the regulations, will also add clarity to the regulations. The OCA opposes the deletion of the term "operating area" and recommends that the definition of the terms "performance benchmark" and "performance standard" include more substantive description of the role of each measure in the regulations.

The Commission proposes to eliminate the definition of the term "operating area" since the Commission has eliminated the concept of operating areas from the regulations. As the OCA has discussed herein, and in its Comments at Docket No. M-00991220, elimination of monitoring by operating areas is not appropriate. See, Section II.C. and OCA Comments at 23-25.

The Commission should retain the use of operating area information for monitoring purposes and should retain the definition.

The proposed definitions of the terms "performance benchmark" and "performance standard" are incomplete. In essence, the Commission leaves the crucial requirements of these regulations to another docket, M-00991220. There is no indication in the regulations that the crucial benchmarks and standards with which an EDC must comply are actually set forth in a separate docket or order. Additionally, there is no indication in the definition as to the role of the performance benchmark and performance standard within the regulations and no indication of the new two-tiered performance standards.[6]

The OCA submits that under the proposed regulations, it would be very difficult to determine how the Commission is measuring reliability to assure compliance with the Act. As a general matter, the regulations which implement the requirements of the Act should be sufficiently detailed so that the public can determine how the requirements of the Act are being met. The OCA recommends that the Commission's regulations contain a more detailed definition of the terms "performance benchmark" and "performance standard" including a definition of the methodology used to determine the performance metrics and where the numerical values for the metrics can be found. The OCA recommends that Section 57.192 be amended to include the following definitions:

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[6] The Commission's new two-tiered minimum performance standard is only described in the Tentative Order at Docket No. M-00991220 and the actual performance standard values are only reported in that docket. Although this approach may provide the Commission with some flexibility in establishing standards, it creates a void in the regulations when attempting to determine if the standards are consistent with the Act. Additionally, since the performance benchmark represents the historic, pre-restructuring performance level, it will not change. The benchmarks for each index should be included in the regulations such as in an Appendix.

> Performance Benchmark--The average historical performance for each performance measure required by this chapter, calculated as the average of annual performance for period 1994-1998. The performance benchmark for each performance measure is shown in Appendix A of these regulations.
>
> Performance Standard--The minimum performance allowed. The performance standard will be at least equal to the performance benchmark over the period of time specified and for each index specified by the Commission in its orders establishing the numerical performance standards.
>
> Operating area--A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations.

See, Appendix A.

F. Conclusion

The OCA supports the Commission's message that reliability in the Commonwealth must be improved and must be maintained at least at historic, pre-restructuring levels. Through its Tentative Order and Proposed Rulemaking, the Commission has taken some steps to improve reliability. The Commission's regulations, however, need to be significantly strengthened and aggressively enforced to achieve the requirement of the Act. The OCA submits that its proposed modifications to the Commission's regulations seek to better ensure that customers receive the reliable service that is required by the Public Utility Code.

III. CONCLUSION

For the reasons set forth above, and for the reasons set forth in the OCA's Comments and Reply Comments at Docket No. M-00991220, the OCA urges the Commission to modify its proposed regulations to ensure compliance with the mandate of the Act. The Commission must establish performance requirements that meet the Act's mandate and must develop an aggressive enforcement mechanism to ensure compliance. The OCA's proposals here are designed to move the regulations toward that goal.

Respectfully submitted,

____

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Dated: December 8, 2003
76972

Appendix A

PROPOSED CHANGES OF THE OFFICE OF CONSUMER ADVOCATE
TO
ANNEX A

TITLE 52. PUBLIC UTILITIES
Part I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 57. ELECTRIC SERVICE
Subchapter N. ELECTRIC RELIABILITY STANDARDS

PROPOSED CHANGES OF THE OFFICE OF CONSUMER ADVOCATE TO ANNEX A

TITLE 52. PUBLIC UTILITIES
Part I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 57. ELECTRIC SERVICE
Subchapter N. ELECTRIC RELIABILITY STANDARDS

NOTE: The Commission's proposed changes are shown in bold for additions and in brackets for deletions. The OCA's proposed changes are shown in redline with underlining for additions and redline with strikeout for deletions.

* * * * *

§ 57.192. Definitions.

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

* * * * *

Major event –

(i) Either of the following:

(A) An interruption of electric service resulting from conditions beyond the control of the electric distribution company which affects at least 10% of the customers in [an operating area] **the electric distribution company's service territory** during the course of the event for a duration of 5 minutes each or greater. The event begins when notification of the first interruption is received and ends when service to all customers affected by the event is restored. [When one operating area experiences a major event, the major event shall be deemed to extend to all other affected operating areas of that electric distribution company.]

(B) An unscheduled interruption of electric service resulting from an action taken by an electric distribution company to maintain the adequacy and security of the electrical system, including emergency load control, emergency switching and energy conservation procedures, as described in § 57.52 (relating to emergency load control and energy conservation by electric utilities), which affects at least one customer.

(ii) A major event does not include scheduled outages in the normal course of business or an electric distribution company's actions to interrupt customers served under interruptible rate tariffs.

* * * * *

~~[~~*Operating area* – A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations.~~]~~

***Performance Benchmark* – The average historical performance~~.~~ for each performance measure required by this chapter, calculated as the average of annual performance for the period 1994-1998. The performance benchmark for each performance measure is shown in Appendix A of these regulations.**

***Performance Standard* – Minimum performance allowed. The performance standard will be at least equal to the performance benchmark over the period of time specified and for each index specified by the Commission in its orders establishing the numerical performance standards.**

* * * * *

§ 57.194. Distribution system reliability.

* * * * *

(e) An electric distribution company shall design and maintain procedures to achieve the reliability **performance benchmarks and** performance standards established under subsection (h).

* * * * *

(h) An electric distribution company shall take measures necessary to meet the reliability **performance benchmarks and** performance standards adopted under this subsection.

> (1) In cooperation with an electric distribution company and other affected parties, the Commission will, from time to time, establish numerical values for each reliability index or other measures of reliability performance that identify the benchmark performance of an electric distribution company, and performance standards.
>
> (2) The benchmark will be based on an electric distribution company's historic performance [for each operating area] for that measure **for the entire service territory.** [In establishing the benchmark, the Commission may consider historic superior or inferior performance or system-wide performance.]
>
> (3) ~~The performance standard shall be the short term, minimal level of performance for each measure for all electric distribution companies [,regardless of the benchmark established].~~ ~~**Performance that does not meet the standard for**~~

~~any reliability measure shall be the threshold for triggering additional scrutiny by the Commission. When performance does not meet the standard, the Commission will contact the electric distribution company regarding possible remedial review and reporting activities.~~ **An EDC shall, at a minimum, demonstrate that it has met the performance standard(s) for SAIFI, CAIDI, and SAIDI, for each calendar year. Performance that does not meet the performance standard(s) for any reliability index shall require an improvement plan as set forth in Section 57.194(h)(5).**

(4) An electric distribution company shall inspect, maintain and operate its distribution system, analyze [performance] **reliability results,** and take corrective measures **as** necessary to achieve [the performance standard] **benchmark performance** **for each reliability index each year. Failure to achieve the performance benchmark on the reliability indices as specified in the Commission's orders establishing numerical standards shall require an improvement plan as set forth in Section 57.194(h)(5).** [An electric distribution company with a benchmark establishing performance superior to the performance standard shall maintain benchmark performance, except as otherwise directed by the Commission.]

(5) Within 60 days of the annual report required by this Chapter, an EDC that has failed to meet the requirements of Section 57.194(h)(3) or Section 57.194(h)(4) shall enter into an enforceable improvement plan with specific performance requirements and timetables to achieve compliance with the performance benchmark(s) and standard(s) as soon as reasonably possible, but no later than one year. The improvement plan shall identify mandatory penalties for the failure to achieve the plan's performance requirements and timetables. The amount of any penalty should reflect the degree and severity of the failure to achieve the plan's performance requirements and timetables. Any penalties incurred as a result of the failure to comply with an improvement plan shall be returned to customers with a bill message that explains the reason for the customer rebate. The Commission shall issue the improvement plan in the form of a Tentative Order and seek public comment prior to final adoption of the plan.

§ 57.195. Reporting requirements.

(a) An electric distribution company shall submit **an annual reliability report** to the Commission, on or before [May] **March** 31 [,1999, and May 31] of each [succeeding] year [a reliability report which includes, at a minimum, the information prescribed in this section].

(1) An original and [5] **6** copies of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

(2) The name,[and telephone number] **title, telephone number, and e-mail address** of the persons [having] **who have** knowledge of the matters, and [to whom inquiries should be addressed,] **can respond to inquiries,** shall be included.

(b) The **annual reliability** report **for larger electric distribution companies (those with 100,000 or more customers)** shall include [an assessment of electric service reliability in the electric distribution company's service territory, by operating area and system wide]**, at a minimum, the following elements:**

(1) [The] **An overall current** assessment **of the state of the system reliability in the electric distribution company's service territory** [shall include] **including** a discussion of the electric distribution company's **current** programs and procedures for providing reliable electric service.

(2) [The assessment shall include a] **A** description of each major event **that occurred during the year being reported on,** including the time and duration of the event, the number of customers affected, the cause of the event and any modified procedures adopted in order to avoid or minimize the impact of similar events in the future.

[(c) The report shall include a] **(3) A** table showing the actual values of each of the reliability indices [, and other performance measures required by this subchapter or Commission order, for each operating area and] **(SAIFI, CAIDI, SAIDI, and if available, MAIFI)** for the electric distribution **company's service territory** [company as a whole] **<u>and for each of the company's operating areas as those areas are defined internally for operation and monitoring of reliability performance</u>** for each of the preceding [5] **3** calendar years. **The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer minutes interruptions, the number of customers affected, and the minutes of interruption. If MAIFI values are provided, the number of customer momentary interruptions shall also be reported.**

(4) A breakdown and analysis of outage causes during the year being reported on, including the number and percentage of service outages and customer interruption minutes categorized by outage cause such as equipment failure, animal contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported.

(5) A list of remedial efforts taken to date and planned for circuits that have been on the worst performing 5% of circuits list for a year or more.

(6) A comparison of established transmission and distribution inspection and maintenance goals/objectives versus actual results achieved during the year being reported on. Explanations of any variances shall be included.

(7) A comparison of budgeted versus actual transmission and distribution operation and maintenance expenses for the year being reported on. Explanations of any variances shall be included.

(8) A comparison of budgeted versus actual transmission and distribution capital expenditures for the year being reported on. Explanations of any variances shall be included.

(9) The EDC's Transmission and Distribution Maintenance Plan, which shall include ~~O~~quantified transmission and distribution inspection and maintenance goals/objectives for the current calendar year detailed by system area (i.e., transmission, substation, and distribution).

(10) Budgeted transmission and distribution operation and maintenance expenses for the current year in total and detailed by FERC account.

(11) Budgeted transmission and distribution capital expenditures for the current year in total and detailed by FERC account.

(12) Significant changes, if any, to the transmission and distribution inspection and maintenance programs previously submitted to the Commission.

(c) The annual reliability report for smaller electric distribution companies (those with less than 100,000 customers) shall include all items in (b) above except for requirement (5).

(d) An electric distribution company shall submit a quarterly reliability report to the Commission, on or before May 1, August 1, November 1, and February 1.

(1) An original and 6 copies of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

(2) The name, title, telephone number and e-mail address of the persons who have knowledge of the matters, and can respond to inquiries, shall be included.

(e) The quarterly reliability report for larger companies (those with 100,000 or more customers) shall, at a minimum, include the following elements:

(1) A description of each major event that occurred during the preceding quarter, including the time and duration of the event, the number of customers affected, the cause of the event and any modified procedures adopted in order to avoid or minimize the impact of similar events in the future.

(2) Rolling 12-month reliability index values (SAIFI, CAIDI, SAIDI, and if available, MAIFI) for the electric distribution company's service territory for the preceding quarter. The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer interruptions, the number of customers affected, and the customer minutes of interruption. If MAIFI values are provided, the report shall also include the number of customer momentary interruptions.

(3) Rolling 12-month reliability index values (SAIFI, CAIDI, SAIDI, and if available, MAIFI) and other pertinent information such as customers served, number of interruptions, customer minutes interrupted, number of lockouts, and so forth, for the worst performing 5% of the circuits in the system. An explanation of how the electric distribution company defines its worst performing circuits shall be included.

(4) Specific remedial efforts taken and planned for the worst performing 5% of the circuits as identified in (3) above.

(5) A breakdown and analysis of outage causes during the preceding quarter, including the number and percentage of service outages and customer

interruption minutes categorized by outage cause such as equipment failure, animal contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported.

(6) Quarterly and year-to-date information on progress toward meeting transmission and distribution inspection and maintenance goals/ objectives.

(7) Quarterly and year-to-date information on budgeted versus actual transmission and distribution operation and maintenance expenditures. (For first, second, and third quarter reports only.)

(8) Quarterly and year-to-date information on budgeted versus actual transmission and distribution capital expenditures. (For first, second, and third quarter reports only.)

(9) Dedicated staffing levels for transmission and distribution operation and maintenance at the end of the quarter, in total and by specific category (e.g., linemen, technician, and electrician).

(10) Quarterly and year-to-date information on contractor hours and dollars for transmission and distribution operation and maintenance.

(11) Monthly call-out acceptance rate for transmission and distribution maintenance workers.

(f) The quarterly reliability report for smaller companies (those with less than 100,000 customers) shall, at a minimum, include items (1), (2) and (5) identified in (e) above.

[(d)]**(g)** When an electric distribution company's reliability performance [within an operating area] is found to [be unacceptable,] **not meet the Commission's established performance standard(s),** as defined in § 57.194(h) (relating to distribution system reliability), the **Commission** ~~**may**~~ **shall** **require a** report [shall] **to** include the following:

(1) [An analysis of the service interruption patterns and trends.] **The underlying reasons for not meeting the established standard(s).**

[(2) An analysis of the service interruption patterns and trends.

(3) A description of the causes of the unacceptable performance.]

[(4)] **(2)** A description of the corrective measures the electric distribution company is taking and target dates for completion.

(h) An electric distribution company shall, within thirty (30) calendar days, report to the Commission any problems it is having with its data gathering system used to track and report reliability performance.

(i) The Commission shall prepare an annual reliability report and make it available to the public.

(j) Each EDC shall prepare an annual report to its customers concerning the performance benchmarks, performance standards, and actual performance for all reliability measures. This report shall describe any improvement plans of other enforcement actions initiated by the Commission concerning theEDC's reliability performance, as well as the status of such improvement plans, and whether any mandatory penalties were incurred and their amount.

* * * * *

Appendix B

SUMMARY OF RECENT SERVICE QUALITY AND RELIABILITY PERFORMANCE MECHANISMS: ELECTRIC AND NATURAL GAS UTILITIES

SUMMARY OF RECENT SERVICE QUALITY AND RELIABILITY PERFORMANCE MECHANISMS: ELECTRIC AND NATURAL GAS UTILITIES

Barbara R. Alexander
Consumer Affairs Consultant

September, 2001

California: The California PUC[1] has adopted a combination of both minimum statewide standards and utility-specific performance standards (coupled with automatic penalties for failure to maintain these standards) to address reliability and customer service. The Commission has routinely required Service Quality and Reliability Performance Plans as part of multi-year and alternative rate plans since the early 1990's. In a recent decision involving the rates and rate structure for Pacific Gas and Electric Co. (PG&E)[2], the Commission adopted a Quality Assurance Program directed to the distribution function of this electric utility and specifically linked this program to the forthcoming PBR proceeding, in which SAIDI and SAIFI would be addressed. The elements of the Quality Assurance Program approved in the rate case set specific standards in areas affecting customer service and a set of compensatory rebates for customers if standards are not met. Standards were set for Missed Appointments, Non-Emergency Service Investigations or Repairs; Emergency Service Investigations/Repairs; Complaint Resolution; New Installations; Response to Service Disruptions; Restoring Service (24 hours). The customer-specific rebates for failure to perform range from $25 to $100 (failure to respond to emergency service calls within 2 hours). With regard to Southern California Edison's Distribution PBR[3], the PUC re-affirmed the previous measures of system reliability, customer satisfaction with six most frequent customer service requests; and telephone response standards (75% calls answered within 50 seconds for 90% of weeks). Among other service quality requirements imposed on San Diego Gas and Electric Co. is a requirement that if the company fails to keep an appointment within four hours, a credit ranging from free installation of service to $50 will be credited to the customer's next bill. The PUC has also adopted an extensive series of reporting and inspection cycle requirements for distribution equipment and tree trimming cycles and standards. California's General Order 166 also imposed Standards for Operation, Reliability and Safety During Emergencies and Disasters on all electric utilities.

Oregon: In its consideration of the merger between Scottish Power and PacifiCorp[4], the PUC of Oregon approved an extensive Customer Service Performance Program which requires Network Performance Standards (SAIDI, SAIFI, Worst Performing Circuits, and Supply Restoration), Customer Service Performance Standards and Customer Performance Guarantees relating to missed appointments, response to billing inquiries, restoration of service, connecting new service, and prompt investigation of power quality complaints, all of which will result in an automatic payment of $50 to customers when the performance guarantees are not met. As part of the agreement, Scottish Power agreed to achieve a 10% improvement by 2005 in SAIDI and SAIFI, with associated revenue reductions, as well as cooperate in the development of improved methods of measuring and tracking MAIFI. Finally, within 120 days of the merger, Scottish Power committed to answer 80% of the customer calls to its business centers within 30 seconds, and, by January 1, 2002, 80% within 10 seconds.

Idaho: As part of the same merger involving Scottish Power and PacifiCorp, the Idaho PUC[5] approved performance standards for SAIDI, SAIFI, MAIFI, worst circuits and restoration of power within the five-year period following the merger transaction. For each of the standards not achieved at the end of this period, Scottish Power will pay a financial penalty equal for $1 for every customer in the affected jurisdiction. If the network performance standards are not met in all jurisdictions, this would equate to a total penalty of $7 million. The telephone response time promised was also 80% of calls answered within 30 seconds and answered within 10 seconds by January 1, 2002. The same customer service guarantees noted above in the Oregon decision were also accepted in Idaho.

Washington: As a condition of a merger between a natural gas and an electric utility, the Washington Utilities and Transportation Commission approved a stipulation regarding a Service Quality Index for Puget Sound Energy. The Index is composed of 10 performance areas: Overall Customer Satisfaction; WUTC Complaint Ratio; SAIDI, SAIFI, Telephone Center Answering Performance (75% calls answered within 30 seconds), Telephone Customer Center Customer Satisfaction; Gas Safety Calls Response Time; Field Operations Customer Satisfaction; Disconnection Ratio; Missed Appointments. Each performance area is worth 10 points and a mandatory penalty is imposed (up to a total of $7.5 million) according to a sliding scale if any one baseline performance standard is missed. In addition, the Company must issue a Service Quality Report card to its customer annually.

Massachusetts: The Massachusetts DTE has also adopted statewide service quality standards and has historically required a service quality index as part of an alternative rate plan or merger application for electric and gas utilities. This trend has been accelerated with the merger activity in Massachusetts. The DTE has required that all companies that file for approval for mergers or acquisitions include a service quality plan as an essential part of the filing. In a recent merger between Eastern Enterprises (Boston Gas) and Colonial Gas, the DTE required the company to collect and integrate the service quality performance data of the two companies and set baseline performance standards within 18 months in the following areas: Telephone call handling (Boston Gas historical performance is 86% of calls within 40 seconds); Gas Emergency Response Time; Incidence Rate for Lost-Time Accidents; Appointments Met; Meter Reading; DTE Customer Complaints and Billing Adjustments. Following the data collection phase, the Department will establish penalties as a disincentive to or safeguards against deterioration of service. A prior Service Quality Index required for Boston Gas[6] established baseline performance standards for Safety (gas safety calls response time; lost time accidents); Service (80% calls answered within 30 seconds; Kept Appointments; DTE Complaint statistics; on-cycle meter reads). The total penalty was set at $4.9

million or $700,000 per performance area for a company with revenues of approximately $300 million. The statewide standards address both reliablity (SAIDI, SAIFI and MAIFI), telephone answering service, service appointments, on-cycle meter reading, customer satisfaction and complaint handling, and gas safety requirements for natural gas utilities. Penalties are imposed on allowed revenues when the actual results exceed (or are below, as applicable) the recent average minus one standard deviation. Customer credits are also required in some cases. In a recent filing before the DTE, Massachusetts Electric Co. reported its 1999 Service Quality Performance Results in which SAIDI results were 117, resulting in a customer credit of $250,000 (the required performance was 105 minutes). For 1999, Eastern Edison incurred a penalty of $187,000 for failure to meet the SAIDI requirement of 81 minutes (98.41 minutes reported).

Colorado: As part of a merger settlement involving Public Service Company's (New Century Energies) merger with North States Power Co., the PUC of Colorado approved an extensive service quality program.[7] Performance benchmarks were established for Customer Complaint Ratio; Telephone Response at call centers (70% calls answered within 45 seconds); reliability of service (SAIDI, CAIDI, SAIFI). Penalties in the form of customer bill credits escalate with the severity and duration of the deterioration in service in any category. The maximum amount of the customer bill credits range from $5 million in year one to $11 million.

New York: The New York Commission has adopted Service Quality and Reliability Standards (SAIFI and CAIDI for each operating area with objective and minimum performance levels).[8] The Commission has also included utility-specific service quality plans in revenue requirement or alternative rate plans for all electric utilities for almost 10 years. These plans measure a variety of service quality performance areas, including the SAIFI and CAIDI standards. Monetary penalties are assigned to each category and annual customer rebates for poor performance are routinely calculated. In some cases, utilities have been awarded incentive performance dollars for above average performance. In the 1995 revenue requirement review for Niagara Mohawk Power Co., the Commission established a $2 million penalty if the Company failed to perform in the service reliability area and a $20 million penalty if it fails to meet customer service quality goals. In 1998, the Commission approved a settlement agreement for an extension of the alternative rate plan that doubled the potential service quality and reliability penalties.[9] The Commission recently adopted a settlement with modifications in its consideration of the application of Consolidated Edison for merger with Northeast Utilities in which an extensive "reliability mechanism" was ordered.[10] Threshold standards consisting of area performance targets and a major outage penalty mechanism was established for a four-year period. A total of $22 million is at risk for the failure to meet the threshold standards. In addition, objective standards are applicable to a future three year period and the Company is allowed to increase the cap on earnings if these standards are met.

Illinois: The Illinois Commerce Commission Electric Reliability rules[11] require all utilities to annually report reliability and outage information, the results of an annual customer satisfaction survey, and customer complaints concerning reliability of service. These rules also establish reliability targets based on the voltage level of the distribution circuit (e.g., for customers whose primary source of service operates between 15,000 –69,000 volts, no more than 4 controllable interruptions in each of the last three consecutive years). Illinois' recent electric restructuring legislation requires large electric utilities to provide customer rebates when customers suffer extended outages.

Nevada: The Nevada PUC has required, by rule, that any utility which files a merger request must include a proposal for measuring and reporting customer satisfaction, service reliability, safety and business office performance and imposing penalties for shortfalls in such performance.[12]

Ohio: The Ohio has recently amended its electric and service quality standards[13] as part of its rule revisions associated with the implementation of retail electric competition. Ohio electric utilities must adopt service quality and performance targets for CAIDI, SAIDI, SAIFI and ASAI (Average system reliability index) for the entire service area as well as circuit performance information. Minimum customer service levels are also established as follows: (1) 99% of new service installations (without construction) must be completed within three business days; (2) 90% of new service installations (with construction) and service upgrades must be accomplished within 10 business days; (3) average telephone answer time must not exceed 60 seconds each month.

Maine recently considered the renewal of an alternative rate plan for Central Maine Power Co. in light of its merger with Energy East.[14] Building on a prior Service Quality Index, the Commission approved a settlement that continued the SQI, added additional performance mechanisms, and increased the penalty dollars at risk to $3.6 million for failure to maintain performance at the established baseline levels. The performance areas include: CAIDI, SAIFI, the PUC Complaint Ratio, Call Center Performance (80% calls answered within 30 seconds for both business and outage calls), New Service Installation, Call Center Service Quality (survey), and Market Responsiveness (processing of switch orders from suppliers). The Company will issue a Customer Report Card on Service Quality annually. These measures are in addition to the Company's Customer Service Guarantee program which provides specific restitution to customers for failure to keep appointments or install service on the agreed upon date.

Connecticut recently approved an incentive rate plan for Southern Connecticut Gas Co. in light of its recent merger with Energy East.[15] This proceeding, which was litigated, resulted in a Service Quality Plan consisting of five measurement areas, benchmarks and penalties for failure to perform.

The following Internet links are provided for the major decisions listed above:

California: See fn. 1, Exhibit B
Oregon: http://www.puc.state.or.us/orders/1999ords/99-616.pdf
Idaho: http://www.puc.state.id.us/orders/28213.htm
Massachusetts (Boston Gas): http://www.state.ma.us/dpu/electric/99-19/order.htm

Colorado: http://www.dora.state.co.us/puc/Decisions/2000/C00-0393_99A-377EG.doc
New York Reliability Standards: http://www.dps.state.ny.us/fileroom/doc716.pdf
New York Consolidated Edison merger order: http://www.dps.state.ny.us/fileroom/doc8899.pdf
Illinois: http://www.icc.state.il.us/icc/doclib/rules/83iac411.pdf
Nevada: http://puc.state.nv.us/electric/85001pr2.htm
Ohio: http://www.puc.state.oh.us/ohioutil/energy/erindustry/4901%5F1%2D10.doc
Maine: http://www.state.me.us/mpuc/orders/99/99666oas.pdf (order) and
http://www.state.me.us/mpuc/orders/99/99666stip.pdf (stipulation) and
http://www.state.me.us/mpuc/orders/99/99666stipatt5.pdf (Appendix 5--calculation of service quality penalty)
Connecticut:
http://www.dpuc.state.ct.us/FINALDEC.NSF/2b40c6ef76b67c438525644800692943/475c51d2c845eb29852569af00668ace/$FILE/990418d.doc

END NOTES:

1 The California PUC orders relating to reliability and service quality are available on the Commission's website under the Energy Division: http://nic.cpuc.ca.gov/divisions/energy/sections/reliability_section/program.htm.

[2] California PUC, Decision 00-02-046, February 17, 2000.

[3] California PUC, Decision 98-07-077, July 23, 1998.

[4] PUC of Oregon, Order No. 99-616, Docket UM 918, October 6, 1999.

[5] Idaho PUC, Case No. PAC-E-99-1, Order No. 28213, November 15, 1999.

[6] Massachusetts DPU 96-50 (Phase I), December 2, 1996.

[7] Colorado PUC, Decision No. C00-393, Docket No. 99A-377EG, February 16, 2000.

[8] New York PSC, Order Adopting Changes to Standards on Reliability and Quality of Service, Case 96-E-0979, February 26, 1997.

9 New York PSC, Opinion and Order Adopting Terms of Settlement Agreement Subject to Modifications and Conditions, Case 94-E-0098, Opinion No. 98-8, March 20, 1998.

10 New York PSC, Opinion and Order Adopting Terms of Settlement, Subject to Modification, Cases 00-m-0095, et al., November 30, 2000.

[11] Illinois ICC, Title 83, Part 411., adopted in Docket 98-0036, November 5, 1998.

[12] Nevada PUC, Temporary Regulation, PUCN Docket No. 98-5001, September 17, 1998, adding Chapter 704, NAC, Sections 2-9.

13 Rule 4901:1-10-07 - 4901:1-10-10, adopted in Case No. 99-1613-EL-ORD (June 8, 2000).

14Maine PUC, Central Maine power Co. Request for Approval of Alternative Rate Plan (Post-Merger), Order Approving Stipulation, Docket No. 99-666, November 16, 2000.

15Department of Public Utility Control, DPUC Review of the Southern Connecticut Gas Company's Rates and Charges–Phase III, Docket No. 99-04-18, November 8, 2000.

Appendix C

WASHINGTION UTILITIES AND
TRANSPORTATION COMMISSION
DOCKET NO. UE-960195
FEBRUARY 5, 1997

been consistently reaffirmed in several Commission decisions since 1972. If PSE requests interim rate relief, it will apply under the *Pacific Northwest Bell* standard or whatever Commission standard exists for such relief at the time of PSE's request. The process for seeking interim relief is as follows (subject to modification by Commission order or rulemaking): PSE would file a general rate case under WAC 480-09-330, but with tariffs supportive only of the amount requested as interim rate relief; PSE would file testimony and other evidence that supports the amount of the requested interim rate relief; and PSE would propose to spread the requested interim rate relief among customer classes based on an equal percentage of margin (gas) and on equal percentage of revenues (electric).

B. Quality of Customer Service

The parties recognize that during a multi-year rate plan, such as proposed in this Stipulation, it is critical to provide a specific mechanism to assure customers that they will not experience a deterioration in quality of service. The Parties have therefore agreed upon the following service quality program including a Customer Service Guarantee ("Guarantee") and a Service Quality Index ("SQI").

1. **Guarantee**. PSE will provide specific compensation to individual customers. The general terms of the Guarantee are set forth in Exhibit B to this Stipulation, attached hereto and incorporated herein by reference. Compensation will be provided to customers automatically with a credit to customers' bills. PSE will file the necessary tariff revisions with the Commission to implement the Guarantee.

2. **Service Quality Index.** During the Rate Plan Period, the quality of service which PSE provides to its customers will be measured by a Service Quality Index composed of the following ten individual indices:

(1) Overall Customer Satisfaction[1]

(2) WUTC Complaint Ratio

(3) SAIDI (System Average Interruption Duration Index)

(4) SAIFI (System Average Interruption Frequency Index)

(5) Telephone Center Answering Performance

(6) Telephone Center Transactions Customer Satisfaction

(7) Gas Safety Response Time

(8) Field Service Operations Transactions Customer Satisfaction

(9) Disconnection Ratio

(10) Missed Appointments

3. **Methodology.** The specific terms of the Service Quality Index, benchmarks, and calculation methodology are set forth in Exhibit C to this Stipulation. PSE will continue to collect data necessary to calculate these indices as each Joint Applicant has in the past.

4. **Financial Penalties.** PSE shall be assessed a financial penalty if any service quality index, other than index No. 1, Overall Customer Satisfaction, falls below its benchmark. For each full point below a benchmark for index numbers 2, 3, 4, 7, 9 and 10 a penalty of $200,000 shall be applied, not to exceed $833,000 per index. For each full point below a benchmark for index number 5 a penalty of $30,000 shall be applied, not to exceed $833,000. For each full point below a benchmark for index number 6 a penalty of $50,000 shall be applied, not to exceed $833,000. For each full point below a benchmark for index

[1] This index is optional, and as explained in Section III.B.4 below, is not subject to financial penalties.

number 8 a penalty of $30,000 to $50,000 (the exact amount to be set as part of the compliance filing) shall be applied, not to exceed $833,000. The maximum annual aggregate penalty for all nine indices is $7.5 million. For the initial reporting period, ending September 30, 1997 (which report shall be filed October 15, 1997), the penalties (maximum and per point) set forth herein shall be reduced by fifty percent, to reflect the limited period during which data are collected. Any amounts paid by PSE under the Guarantee shall reduce any financial penalties imposed and otherwise payable under this section for index No. 10, Missed Appointments. In its report to the Commission filed October 15 of each year, PSE shall include the calculation of a penalty, if any, as provided herein. The report may include a mitigation petition for relief from such penalty. The standard to be applied for such petition is that the penalty is due to unusual or exceptional circumstances for which PSE's level of preparedness and response was reasonable. PSE will not file a mitigation petition unless it believes, in good faith, that it meets this standard. The Parties contemplate that, following a procedure to be established by the Commission, a Commission order will issue assessing any penalties and resolving any mitigation petition. Any penalties imposed by such Commission order will be allocated between gas and electric operations as set forth in Section III.C.3 below, and implemented in rates by offsetting the electric rate increases provide for in Section III.A.3 above, and by applying a uniform percentage of margin adjustment to gas sales and transportation rates.

5. **Service Quality Report.** PSE will report its results to the Commission and the Parties twice each year, on or about April 15 and October 15. The report card will include a discussion of changes in service quality that have occurred since the preceding report. At least once per year when rates are changed, PSE will report the annual results for all items in the Service Quality Index and Service Guarantee to all of its customers. The report will be

distributed to customers only after adequate consultation with Staff and Public Counsel. If there is any penalty imposed as a result of its performance, PSE shall identify the specific indice(s) for which performance was below the baseline, the dollar amount of any penalty and the effect on the customer's bill as a result of the penalty. The score card or other notice to customers shall include the following statement, if applicable: "This month's bill includes a rebate to customers of $____ for failure to achieve acceptable service quality standards in the area of ____________________."

C. **Other Matters**

1. **Amortization of Transaction and Transition Costs.** The merger-related transaction costs and costs to achieve shall be deferred and amortized, for regulatory purposes, over the Rate Plan Period.

2. **Transfer Pricing.** Intra-company transfers of natural gas shall be priced at the higher of market or the cost of incremental supplies with flexible take provisions, as agreed to by Joint Applicants and Staff and illustrated in Exhibit No. 199.

3. **Cost Allocation Methodology.** During the Rate Plan Period, costs shall be allocated between gas and electric operations in accordance with the four-factor allocation method set forth in Exhibit No. T-21. PSE will continue to asses the reasonableness of the allocation factors used for reporting PSE's financial results during the Rate Plan Period, and it will provide all relevant information to Commission Staff regarding the allocation factors in order to determine whether future adjustments may be necessary to ensure a fair allocation of common costs to each service.

4. **Reporting Requirements.** During calendar year 1997, Joint Applicants shall work with Staff to develop the following reports proposed by Staff in its testimony in this proceeding: annual market concentration studies; reporting on joint utility services, such as

EXHIBIT C

SERVICE QUALITY INDEX

The Service Quality Index shall be composed of ten measurements of performance, as follows:

(1) **Overall Customer Satisfaction**: Percentage of customers rating overall satisfaction with the company very satisfied to completely satisfied on a seven-point scale, based on a survey of customers. Benchmark: To be developed.

(2) **WUTC Complaint Ratio** (Complaints per 1,000 customers): This includes all complaints filed with the WUTC, including high bill complaints. Benchmark: 0.50 complaints per 1,000 customers.

(3) SAIDI (System Average Interruption Duration Index): Number of minutes the average customer is without power per year. Benchmark: To be developed.

(4) SAIFI (System Average Interruption Frequency Index): Number of times the average customer is without power per year. Benchmark: To be developed.

(5) **Telephone Center Answering Performance**: Percentage of calls answered by a live company representative within 30 seconds. Benchmark: 75%.

(6) **Telephone Center Transactions Customer Satisfaction**: Percentage of customers rating transaction with the telephone center very satisfied to completely satisfied on a seven-point scale, based on a survey of customers who have had a recent transaction with the telephone center. Benchmark: 90%.

(7) **Gas Safety Response Time:** Minutes from customer call to arrival of gas field technician. Benchmark: 55 minutes.

(8) **Field Service Operations Customer Satisfaction:** Percentage of customers rating transaction with field service personnel very satisfied to completely satisfied on a seven-point scale, based on a survey of customers who have had a recent transaction (including customers who have had outage restoration) with field service personnel. Benchmark: To be developed (likely to be in the range of 75% to 90%).

(9) **Disconnection Ratio:** Percentage of customers disconnected for non-payment of amounts due when WUTC disconnection policy would permit service curtailment. Benchmark: .038%.

(10) **Missed Appointments:** Percentage of appointments for installation of new service, additional service, or restoration of service not kept as promised. Benchmark: To be determined.

Calculation of Service Quality Index

1. Each individual index shall be calculated as an annual average based on the 12 month reporting period from October 1 through September 30. The initial reporting period shall be the six month period ending September 30, 1997. For the initial reporting period, the penalties (maximum and per point) shall be reduced by fifty percent (50%) to reflect the limited period during which data are collected.

2. Separate point calculations shall be prepared for each index listed. The method of calculation shall be as follows:

For index numbers 2, 3, 4, 7, 9 and 10, the following formula applies:

(Actual Performance - Benchmark)/Benchmark = Percent Deviation

Percent Deviation x 10 = Demerit Points.

For index numbers 5, 6 and 8, the following formula applies:

(Actual Performance - Benchmark) * 100 = Demerit Points.

3. Any penalty regarding index numbers 3 and 4 will be provided to electric customers only; any penalty regarding index number 7 will be provided to gas customers only. Other penalties will be provided to all customers.

Establishing Remaining Benchmarks

1. Certain benchmarks remain to be determined by negotiations among the Parties. It is agreed that the intent of those negotiations is to set these benchmarks at levels consistent with current and historical actual performance, regulatory precedents in other jurisdictions with service quality indices, and industry experience and standards.

2. The Parties shall consult on the details of the service guarantee program and the Overall Customer Satisfaction, the Field Service Operations Customer Satisfaction, SAIDI and SAIFI baselines and the Joint Applicants will make a filing with the WUTC reflecting this consultation within 90 days of a final Commission order in this matter ("Compliance Filing"). The Compliance Filing shall include a preliminary proposal regarding the Missed Appointments baseline. (If the Missed Appointments baseline has not been resolved prior to the October 15, 1997, service quality report filing, the baseline will be resolved as part of that filing and shall be effective for the annual reporting period ending September 30, 1998, and thereafter.) The Compliance Filing may also include proposed recalibration of the survey instrument to be used for index number 6, Telephone Center Transactions Customer Satisfaction.

3. The baseline for SAIDI and SAIFI shall be developed by the Parties to eliminate extreme weather events causing severe and widespread impact throughout the service territory using a methodology similar to that used by the Maine PUC for Central Maine Power Company, (see Exhibit No. 152).

4. Company performance in index numbers 1, Overall Customer Satisfaction, 6, Telephone Center Transactions Customer Satisfaction, and 8, Field Service Operational Customer Satisfaction Transactions, will be measured by the results of a customer satisfaction survey instrument to be mutually agreed upon by PSE, Staff and Public Counsel. The survey will be developed in consultation with the Parties and an independent survey company. The survey will be conducted by an independent survey company mutually agreed upon by PSE, Staff and Public Counsel. The Company will make a filing reflecting the consultation of the Parties. If the Parties are unable to reach agreement on the survey instrument or the identity of the independent survey company, those issues will be resolved by the Commission as part of the filing.