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VIA ELECTRONIC MAIL & REGULAR MAIL

Rosalie Serapiglia
Division of Energy
New Jersey Board of Public Utilities
44 South Clinton Avenue – 9th Floor
P. O. Box 350
Trenton, New Jersey 08625-0350

Re: In the Matter of the Board's Review of N.J.A.C. 14:5-9 Vegetation Management Rules
BPU Docket No. EX14010104

Dear Ms. Serapiglia:

The undersigned New Jersey Electric Distribution Companies, Public Service Electric and Gas Company ("PSE&G"), Atlantic City Electric Company ("ACE"), Jersey Central Power & Light Company ("JCP&L") and Rockland Electric Company ("RECO") (hereinafter collectively referred to as the "EDCs") jointly provide these preliminary comments in response to your request at the initial stakeholder meeting in the above-referenced matter, held at the New Jersey Board of Public Utilities (the "Board") offices in Trenton, New Jersey on April 1, 2014. At that time, you requested preliminary substantive and/or procedural comments regarding this rulemaking proceeding concerning the eventual re-adoption of the Boards vegetation management rules (the "VM Rules").

The EDCs appreciate the opportunity to participate in the stakeholder process and to provide these preliminary comments regarding the matters discussed at the stakeholder meeting. As a matter of background, it should be recalled that the VM Rules, as adopted in 2008 (with discrete amendments made in 2010), resulted from a very extensive stakeholder and rulemaking process in which the respective interests of the many and varied stakeholder interests were fairly and reasonably balanced to produce a set of reasonable and workable rules addressing the vegetation management of electric utility lines. Since 2008, the VM Rules have been effective in promoting the use of integrated vegetation management techniques and processes in a manner that has effectively and efficiently served not only the EDCs and their respective customers' interests but also the broader general public interests of the citizens of New Jersey.

Indeed, the EDCs collective experience in operating under the VM Rules since 2008 leads them to conclude that the VM Rules have been working well and, overall, do not need any significant change. Therefore, the EDCs believe that the focus of the Board's review in this

proceeding in which it will consider the re-adoption of the VM Rules should be on strengthening them through limited, discrete and selective changes holding a demonstrable promise of meaningful and cost-effective improvement in the vegetation management of the EDCs' electric service lines. For example, in January 2012, following the major storms of 2011, Board Staff requested EDC ideas for potential improvements to the VM Rules as a result of the 2011 experience. Beginning from the same starting point - - that the VM Rules have been working well and, overall, do not need any significant change - - the EDCs suggested the following ideas, which the EDCs also recommend for consideration in this proceeding:

1. Add a provision that (i) prohibits the planting of incompatible species in, or near, utility rights of way ("ROW") underneath or adjacent to overhead electric lines and (ii) requires that a request be made for a list of compatible species from the local EDC before such planting.
2. Add a provision stating that if the EDCs trim in accordance with ANSI 300 and industry standards in order to provide safe, adequate and proper utility service, the EDCs shall not be required to remove or re-trim any tree trimmed to such standards in order to accommodate the visual aesthetic requirements of any local municipality or private property owner. Such provision would also state that any desired re-trimming or removal to accommodate such requirements shall be the sole responsibility, and at the sole expense, of the local municipality or private property owner.
3. Add a provision that addresses Hazard Trees¹ outside of the utility ROW, including a property owner's unreasonable refusal of permission, or the property owner's failure

¹ A "Hazard Tree" is defined in ANSI A300 as: "a structurally unsound tree that could strike a target when it falls. As used in this clause the target of concern is electric supply lines." It should also be noted that the Board has already identified a need to modify the current vegetation management rules by creating a new section of N.J.A.C, 14:5-9 and/or 14:5-8 to require the EDCs to provide certain additional tracking and reporting with respect to Hazard Trees. This would entail the EDCs, as part of their on-going vegetation management programs, tracking and reporting Hazard Trees on the main line or trunk line of the distribution system that cannot be mitigated by the EDC, through a visual Level 1 identification (as per ANSI A300, Part 9) performed by appropriately trained professionals as part of the EDC's planned vegetation management work for each cycle year, in order to record Hazard Trees. *I/M/O The Board's Initiative to Revise Reporting requirements and Improve reliability Programs by the Electric Distribution Companies Operating in New Jersey*, BPU Docket No. E012070650, Order dated February 20, 2013 at p. 5. In that Order, the Board specifically recognized that:

the EDCs have the right to address trees that pose an immediate threat to their systems and those within their [rights-of-way ("ROW")]. Board Staff realizes that the utilities do not have the ability to simply remove off-ROW trees they perceive to be hazardous. Additionally, the EDCs are sometimes hampered in their vegetation management efforts due to local or municipal influences. The attempt to trim or remove such trees can be contentious and result in costly and lengthy litigation.

Id. Board Staff asserted that "additional data may assist Board Staff and the EDCs in analyzing this situation, identifying the extent of the problem, and potentially aid in developing appropriate operational planning." *Id.*

to take reasonable action, to remove a tree identified by the EDC as a Hazard Tree that poses a threat, or potential threat, to the electric system.²

4. Add a provision that addresses a property owner's refusal of permission to remove a tree identified by the EDC as a Hazard Tree outside of the utility ROW, by directing the EDCs to provide notice of such refusal to the local municipality for it to address with its constituents.
5. Add a provision to address instances where local laws and/or ordinances prevent the EDCs from carrying out their obligations under the VM Rules governing distribution lines or consistent with ANSI 300 and other industry standards.
6. Amend the definition of "Electric utility arborist" under N.J.A.C. 14:5-9.2 as follows³:

A person engaged in the profession of electric utility vegetation management who, through appropriate certifications, experience, education and related training, possesses the competence to provide for, or supervise, an electric distribution company's Integrated Vegetation Management program. The person, at a minimum, must be certified as a Utility Specialist by the International Society of Arboriculture.

The EDCs believe that the implementation of the above-stated specific suggestions, some of which, the EDCs and Board Staff recognized, may require legislative action to fully implement, would serve to improve the existing VM Rules in a measured and precise manner without undermining the programmatic effectiveness and/or cost efficiencies of the existing VM Rules as they are currently implemented by the EDCs annually.⁴

² Please note that the EDCs will continue to explore more specific suggestions with respect to this issue, which the EDCs may share in the stakeholder process at a later time.

³ This proposal would remove the requirement that the "Electric utility arborist" be certified as a Tree Expert because the qualification "NJ Certified Tree Expert," has been superseded by the New Jersey Tree Expert and Tree Care Operators Licensing Act ("Tree Expert Law") P.L. 2009, Chapter 237, approved January 16, 2010. See N.J.S.A. 45:15C-11 *et seq.* The Tree Expert Law exempts utility vegetation management, as well as utilities and contractors practicing utility vegetation management, from its requirements. See N.J.S.A. 45:15C-31 (*Exclusion from application of act for certain persons and entities*) subsections (a) and (b). Therefore, consistent with applicable law, because New Jersey public utilities are exempt from the requirement to comply with the Tree Expert Law, the Tree Expert certification requirement should likewise be removed from the Board's VM Rules.

⁴ The EDCs wish to note that, in their experience, the majority of the tree-related damage during the 2011 and 2012 major storms was caused by large, healthy trees that were uprooted. These types of trees would not have been addressed as part of an EDC's ordinary, day-to-day, cycle-based vegetation management program, nor even as part of any enhanced tree trimming/danger/hazard tree removal effort. Thus, it does not make practical or economic sense for the Board to focus on addressing these scenarios in its review of the VM Rules, which are intended to provide reasonable standards for programmatic cycle-based vegetation management under typical or normal conditions. Except for the suggestions included above, the same can also be said for any trees predominantly outside of the EDCs' rights-of-way and, thus, not

In addition to the foregoing, the EDCs are also aware of several other technical provisions that should be addressed in order to update the regulations to better reflect industry developments in the vegetation management field. Accordingly, the EDCs also suggest the following technical changes:

- **N.J.A.C. 14:5-9.4 (a) (Maintenance Cycle)**: At the end of clause (a), add:

“... For transmission voltages 200 kV or greater, inspections shall comply with FAC-003-3 NERC Reliability Standard requirements.”
- **N.J.A.C. 14:5-9.5 (Technical Standards for Vegetation Management)**: Eliminate No. 1, "Pruning Trees Near Electric Utility Lines" by Shigo. This has been superseded by both (i) the ANSI A300 Standard Part 1 - Pruning, current edition (currently listed as No. 2 of this provision) and (ii) the "Best Management Practices, Utility Pruning of Trees," current edition (currently listed as No. 3 in this provision). In addition, the numbering for the two remaining reference works needs to be changed from No. “2” to No. “1” and from No. “3” to No. “2” respectively. Also, the phrase “current edition” should be added to both of these references so that references will not require further amendment to accommodate further updates to these works. Further, replace No. 4 "Environmental Stewardship Strategy..." from EEI, with the following:

4. ANSI A300 Part 7, Integrated Vegetation Management, current edition, and; Best Management Practices - Integrated Vegetation Management, current edition.

Finally, add an additional reference work as follows:

“10. NERC Reliability Standard FAC-003-3 - Transmission Vegetation Management”.

- **N.J.A.C. 14:5-9.6 Transmission Line Vegetation Management (b)**; restate the provision as follows:

“(b) At a minimum, each EDC shall meet the requirements for minimum clearances between any transmission line and the closest vegetation, which are set forth in the National Electric Safety Code (C2-2007) and the North American

capable of being included in the EDCs’ cyclical trimming standards and practices. In other words, it is incorrect to suggest that the extensive electric system damage caused by major storms can be avoided by more current or more aggressive tree trimming programs. Indeed, the EDCs believe that their respective distribution vegetation management programs operating on the Board’s VM Rules have had a positive impact on reliability, generally, as well as on the overall customer outage experience during major events. However, other than encouraging targeted corridor widening programs in the areas from the substation to the first protective device through enhanced cost recovery mechanisms, the EDCs believe there is little need or room for improvement in the Board’s VM Rules relative to these considerations.

Electric Reliability Corporation (NERC) Reliability Standard FAC-003-3 -
Transmission Vegetation Management.”

The EDCs would also like to briefly address the several areas that Board Staff raised for consideration during the initial stakeholder meeting. At the meeting, Board Staff raised questions about the vegetation management cycle length; the possible need for standardization of the mileage that is subject to vegetation management during each year of the four year cycle; the possible need for standardization of vegetation management clearances; and the possible need for increased vegetation management program outreach, education and communications.

In implementing the Board’s VM Rules, the EDCs must balance many competing interests in order to achieve vegetation management program goals and objectives to reduce the impact of vegetation on electric system reliability. The preeminent interests, as discussed in the April 1 meeting, include the public perception of aesthetics, private property ownership rights, reliability, costs, and scope and scale of regulations. Understanding how these interests are, or can be, balanced with the goals and objectives of integrated vegetation management can help to prioritize the focus of the Board’s review in this proceeding.

The public’s perception of aesthetics is based on the expectation that all trees should retain their “natural” shape and appearance and deviations from the natural form, which are created by line clearance pruning, are viewed unfavorably by many observers. However, in fact, the tree form resulting from proper line clearance pruning is typically the best possible result short of tree removal. Aesthetics will likely remain an area of debate and potential dissatisfaction. But, it is also an area where increased public education can help. Accordingly, increased vegetation management program outreach, education and communications should focus on improving the public’s understanding of the goals and objectives of proper line clearance pruning techniques as a preferable alternative to tree removal. However, it must not be forgotten that these efforts impose costs that are not reflected in the number of miles trimmed or the number of trees removed, and are not necessarily measurable in programmatic results. Nevertheless, these costs must also be recovered by the EDCs through customer rates, and if required to be incurred in the interim between rate cases, provisions requiring such increased costs should include an interim recovery mechanism until an EDC can address it in its next rate case. Finally, in addressing the need for additional public outreach and education, the EDCs believe that increased visibility with respect to the Board’s support for the EDCs’ efforts to prevent and reduce the impact of tree-caused outages, perhaps in the form of a form letter, periodic advertising or press release from the Board describing this support would also be particularly helpful.⁵

⁵ The EDCs recognize the need to communicate, and the EDCs do communicate, with customers and communities regarding the implicit risks in vegetation management techniques that balance electric utility needs with the aesthetic and other values of its customers and communities. To do this effectively requires productive, practical, science-based and unemotional discussion regarding the risks inherent in, and associated with, standard utility vegetation management practices that balance utility needs with community aesthetic values so that communities understand that trees properly trimmed in accordance with standard utility practices still pose risks to utility systems particularly during storm events and that

Private property ownership rights are perhaps the most sensitive of the competing interests. Respect for property needs to be shown to all property owners as the line clearance work proceeds along the electrical system. EDCs often have sufficient maintenance rights to achieve required tree clearances for the conductors. However, during normal line clearance maintenance there are circumstances that dictate the need to address trees outside of the EDCs' existing ROW area. Action or remediation, in these instances, depends upon on the success of negotiations with the property owners. Above, the EDCs have provided several targeted suggestions for improving outcomes with respect to these confrontations and negotiations.

With respect to the issues of cycle and whether there is a need for standardization of the annual mileage subject to integrated vegetation management, the EDCs believe that the four year trim cycle that is currently in place under the existing VM Rules is the correct cycle periodicity. The four year cycle is the prevailing industry standard in the Mid-Atlantic region and provides operational flexibility, which can allow for shorter cycle times on a discretionary and regional basis in order to address changing conditions (*e.g.*, weather, growth). The EDCs believe that a change to a firm three-year cycle would increase vegetation management related costs without any appreciable benefit.

The EDCs do not believe that there is a need for the VM Rules to prescribe mandatory mileage amounts (whether in miles, circuits or percentages), which would eliminate the EDCs' flexibility and latitude to balance the vegetation maintenance workload over the course of the four year cycle, which, in turn, assists in levelizing annual expenditures under the vegetation management program. As discussed earlier, the EDCs' programmatic vegetation management under the existing VM Rules have had positive impacts on electric system reliability performance (as demonstrated in the decreasing impact of preventable tree-related outages on reliability performance). As also discussed, the remaining reliability concerns come mainly from off ROW trees and from the impacts of severe weather on healthy trees. Therefore, rather than focusing attention on considering changes to cycle time and mandatory mileage requirements, the Board's review might be more productively spent considering a rate rider mechanism that would encourage and enable an EDC to remove trees and recover costs that the EDCs would not otherwise incur where tree removal is preferred to the tree forms resulting from standard pruning of public trees.

With respect to clearances, the discussion at the April 1 meeting demonstrated that, although not identical, each of the New Jersey EDCs has clearance specifications within, and consistent with, industry standards at the same time that the EDCs have seen a declining impact from preventable tree-related outages (the main focus of programmatic vegetation management) on reliability performance. These similar but not identical clearance standards have been

such risks can only, ultimately, be eliminated by removing the on- and off-right-of-way trees that pose them. Board support for these discussions will further promote community understanding regarding the inherent risks associated with typical utility vegetation management trimming clearances and techniques and with the community restrictions and values related to them, so that communities properly understand the risks that vegetation management techniques can eliminate and those which they cannot.

developed to address each EDC's specific needs, including the types of construction, construction material and circuit voltages. In addition, EDC vegetation management contracts are bid and awarded, some for multiple years, based upon these specifications. Municipalities are aware of an EDC's tree trimming clearances. Changes to an EDC's existing clearances that would result in increased clearances will lead to increased tree trimming costs, which will need to be addressed through an interim recovery mechanism until an EDC can address it in its next rate case, and certainly negative reactions from municipalities and their residents. Therefore, the EDCs see no increased benefit from a mandated one-size-fits-all approach that would dictate clearance specifications beyond the need for meeting industry standards.

Finally, the EDCs believe that the effectiveness and efficiency of the stakeholder aspect of this proceeding would benefit greatly from Staff's issuance of a proposed schedule leading up to and including the actual re-adoption rulemaking. Such a schedule will allow the stakeholders to better prepare and manage the time and resources necessary to assure that the stakeholder process is appropriately productive.

The EDCs appreciate the opportunity to submit these preliminary comments in this important proceeding. As stated above, the EDCs' comments contain limited suggestions for precisely-focused improvements in the VM Rules, which the EDCs reiterate are working very well from their perspective and do not require any significant change, notwithstanding the increased attention they have garnered in the aftermath of the major storms of 2011 and 2012. Given that we are only at the outset of this proceeding, the EDCs reserve their rights to provide further additional comments as well as to supplement and/or modify these preliminary comments as the proceeding unfolds. The EDCs hope that the Board will find these suggestions, which derive from the EDCs' hands-on experience and perspective, helpful to its review and consideration of the VM Rules for re-adoption in this proceeding. If Board Staff has any questions, please let us know. In the meantime, the EDCs look forward to continuing to work within and through the stakeholder process with respect to this matter.

Respectfully submitted,

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