

# Gary Lovallo, CTE273, CF, CA, NJAF

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August 14, 2014

Ms. Rosalie Serapiglia,  
Division of Energy  
NJ Board of Public Utilities  
44 South Clinton Ave. 9<sup>th</sup> Floor  
PO Box 350  
Trenton, NJ 08625

Dear Rosalie,

I have the following comments to present to the board which reflect the comments I made at the July 24<sup>th</sup> meeting in Trenton. It is my opinion that a majority of the proposed changes will not result in a greater resistance to storm damage but will result in a greater number of collateral damages such as poorly trimmed trees, costs passed on to the residents and municipalities, and further remove utility line clearance tree trimming practices from accountability.

**Danger Tree** – as stated, the term Danger Tree is a misleading phrase to all but the utility industry. A resident that has a tree determined to be a danger tree is instantly noticed that their tree represents a risk or danger to someone or something. The utility makes that determination without guidance except to state it is a danger to their facilities. While the utility industry has used that term for decades, times have changed and litigation has and is a great concern for all, as such it is my recommendation to change the term to Risk tree, thereby identifying the tree as a tree of concern that may fall, not one that will fall. Those are addressed as Hazard trees.

**Electric utility Arborist** - Lines 1 & 2 have been deleted from the definition. As explained, both designations should remain in place regardless of the new laws' status. It adds a considerable amount of credibility to the industry, each utility already has one or more CTE's, and gives the residents of the state confidence that BMP's are being followed.

**Mitigate** – this term would seem to allow incremental encroachment on individual property rights through the possible topping of trees below or away from distribution system, neglectful of its origin, leaving the cost of the mitigated part of the tree to be completed by the resident or municipality.

**14:5-9.6** The deletion of the reference by Dr Shigo “Pruning Trees Near Electric Utility Lines” is a gross attempt to avoid accountability to standards. That document is not obsolete but truly relevant ever more so. The standard refers to safety, proper trimming at nodes, not to top, tip, or roundover trees, target cuts, removing deadwood, described first, second, and third order pruning, requires directional pruning, dealing with past poor practices, and strikes a balance between line clearance and proper pruning.

This document strives to **“reduce sprouting, reduce working time in the tree, increase time between pruning cycles, and help the trees planted near lines to be as healthy, safe, and attractive as possible.”**<sup>1</sup> Technically, if these standards were adhered to, there would be a drastically reduced number of complaints and a lesser need to continually revise standards in the favor of utilities.

**14:9-5.8** – I will reiterate my strenuous objection to the proposal for a “No Overhang” requirement within lockout zones. As a representative to 4 municipalities, Old Bridge, Monroe, Highland park, and the City of Newark, I have been advised that no such trimming within these communities will be accepted. This involves large branches to be removed, creates an artificial unbalanced tree, promotes vigorous sprouting, drastically alters the health, condition, and aesthetics, while placing the burden to deal with residual effects on the residents.

**Mature trees** – what are the guidelines of what constitutes a mature tree? Who makes that determination? And what qualifies the person making that determination? Without a CTE, a clear and concise definition is needed.

**14:5-9.12** – I am at a loss to understand the reason for the deletion of a designated monetary penalty. Based on my experience in dealing with ordinance violations and court proceedings, whenever a fee was determined from an open ended “Board determined” amount, and without a basis to work from, are usually dismissed as arbitrary. At least a minimum should be established whereas the penalty can increase but not be reduced. The potential violating party needs to be aware of the costs of violations and applied as a real deterrent and to discourage begging for forgiveness.

Without the careful consideration of the consequences that may occur from the implementation of suggested rules changes from the industry it is designed to regulate, is a dangerous precedent. By nature, an industry will not suggest, recommend, or approve of any regulation they can not comply with, or one that may increase costs or responsibility. The result may be a tree that is shown below that just happened last week. Can anyone justify this work! Has the risk been mitigated? Has a tree that was once trimmed in accordance to standards now be exempted?

Respectfully Submitted,

Gary Lovallo CTE273, CF, CA, NJAF  
Municipal Forester  
Old Bridge, Monroe, City of Newark

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<sup>1</sup> Shigo and Trees, Associates 1990 – Pruning Trees Near Electrical Utility Lines





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