



Agenda Date: 9/18/13
Agenda Item: 2H

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

IN THE MATTER OF THE BOARD'S INITIATIVE TO)
REVISE REPORTING REQUIREMENTS AND)
IMPROVE RELIABILITY PROGRAMS BY THE)
ELECTRIC DISTRIBUTION COMPANIES OPERATING)
IN NEW JERSEY)

ORDER OF CLARIFICATION

DOCKET NO. EO12070650

Parties of Record:

Philip J. Passanante, Esq., Atlantic City Electric Company
Margaret Comes, Esq., Rockland Electric Company
Greg Eisenstark, Esq. Morgan, Lewis & Bockius, LLP, on behalf of Jersey Central Power & Light Company
Tamara L. Linde, Esq., Public Service Electric and Gas Company

BY THE BOARD:

The New Jersey Board of Public Utilities ("Board") is empowered to ensure that regulated public utilities provide safe, adequate and proper service to the citizens of New Jersey. N.J.S.A. 48:2-23. In addition, pursuant to N.J.S.A. 48:2-13, the Board has been vested by the Legislature with the general supervision and regulation of, and jurisdiction and control over all public utilities, "so far as may be necessary for the purpose of carrying out the provisions of [Title 48]." The courts of this State have held that the grant of power by the Legislature to the Board is to be read broadly, and that the provisions of the statute governing public utilities are to be construed liberally. See, e.g. Township of Deptford v. Woodbury Terrace Sewerage Corp. 54 N.J. 418, 424 (1969); Bergen County v. Dep't of Public Utilities, 117 N.J. Super. 304 (App. Div. 1971); in re Public Service Electric and Gas Company, 35 N.J. 358, 371 (1961). The Board is also vested with the authority, pursuant to N.J.S.A. 48:2-19, to investigate any public utility, and, pursuant to N.J.S.A. 48:2-16 and 48:2-40, to issue orders to public utilities.

As part of the Board's continuing efforts to ensure safe, reliable and adequate electric service to New Jersey customers, and on the heels of the recent investigation into the response and restoration efforts of Electric Distribution Companies ("EDCs" or "Companies") during Tropical Storm Irene and the October 2011 Snow Storm, in its Order dated February 20, 2013, ("February 20, 2013 Order") in this docket, the Board adopted new EDC reporting requirements related to outages and reliability improvement measures. These new requirements include four initiatives: 1) quarterly reporting requirements; 2) the inclusion of an additional annual report; 3)

the modification of the rules and reporting requirements regarding the poorest performing circuits; and 4) a new tracking objective related to "Hazard Trees."

The Board has ordered the submission of this information to enhance the ability to track potential and/or realized problem areas within the electric distribution systems, and to have the EDCs address these areas and improve system-wide reliability. The additional information will aid in system evaluation and identification of high outage areas or equipment, help identify outage and fault catalysts, and allow Board Staff to better understand the current state of the electric systems and infrastructure, as well as identify issues that the EDCs and the Board should address. Resulting recommendations would supplement the existing guidelines found under the current rules in N.J.A.C. 14:5-8. Board Staff will review this information and use it to inform the proposed stakeholder process to develop and recommend new regulations or modifications to the existing regulations.

Clarification of Confidentiality

In developing the four new initiatives noted above, it was the Board's intention to ensure that all the information to be submitted by the EDCs would be considered confidential. The Board's February 20, 2013, Order included language regarding the confidential treatment of the annual report on circuit specific data and metrics. Additionally, the quarterly submission of substation data and outage information is specific and similar in nature to the new annual circuit reports with the inclusion of critical infrastructure, and security sensitive information; such as equipment specifics, locations and operational characteristics and logistics. Additionally, the hazard tree tracking information will include system specific information not subject to public dissemination. Therefore, all of the information the EDCs are required to file pursuant the February 20, 2013, Order has been deemed confidential, and the present Order clarifies that directive.

The Board has the authority to determine whether information provided as part of a proceeding under the Board's jurisdiction should be kept confidential. N.J.A.C. 14:1-12.1(e) authorizes the Board "to make a confidentiality determination within the context of a hearing or other proceeding or with regard to any other matter the Board may deem appropriate. Any confidentiality determination by the Board shall bind the custodian when reviewing confidentiality claims pursuant to this subchapter."

In the February 20, 2013 Order, the Board exercised its authority, pursuant to N.J.A.C. 14:1-12.1(e), and by this Order confirms that all information filed by the EDCs in response to the February 20, 2013 Order is to be declared as confidential. The information is more comprehensive than that required by the Board in the past, and contains details not otherwise disclosed by the utilities. The Board will be using this information as part of its ongoing investigative process that will help the Board define new reporting requirements and may also lead to directives for corrective action.

Additionally, the new filings to be made by the EDCs pursuant to the February 20, 2013, Order contain detailed, system specific information concerning not only system components, but how they are connected. Items to be filed pursuant to the Board's February 20, 2013, Order reflect facilities and their specifications that are, under federal definitions, Critical Energy Infrastructure Information ("CEII"). The Federal Energy Regulatory Commission defines CEII as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

1. Relates details about the production, generation, transmission, or distribution of energy;
2. Could be useful to a person planning an attack on critical infrastructure;
3. Is exempt from mandatory disclosure under the Freedom of Information Act; and
4. Gives strategic information beyond the location of the critical infrastructure.

Based on the nature of the in-depth information the Board anticipates receiving, as well as the security sensitive details about the EDCs' systems contained therein, the Board is concerned about its release.

DISCUSSION AND FINDINGS

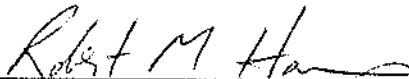
For the foregoing reasons, the Board, in exercising its authority pursuant to N.J.A.C. 14:1-12.1(e) **FINDS** that the totality of information required to be filed by the EDCs as described in the Board's February 20, 2013 Order, shall be treated as confidential, including, but not limited to the required quarterly and annual reports and spreadsheets, as well as hazard tree tracking information. Our determination does not impact any other public documents that may contain any limited portion of this information.

The Board therefore **ORDERS** that the information and reports submitted pursuant to the Board's February 20, 2013 Order is deemed confidential and shall not be considered as government records pursuant to the Open Public Records Act N.J.S.A. 47:1A-1.1.

This Order shall be effective on September 19, 2013.

DATED: 9/18/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER

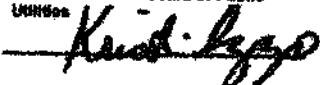

JOSEPH L. FIORDALISO
COMMISSIONER


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ATTEST:

KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities


IN THE MATTER OF THE BOARD'S INITIATIVE TO REVISE REPORTING REQUIREMENTS
AND IMPROVE RELIABILITY PROGRAMS BY THE ELECTRIC DISTRIBUTION COMPANIES
OPERATING IN NEW JERSEY
DOCKET NO. EO12070650

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