

Relevant Statutory Information for Selected States

After a review of state statutes on service quality, 17 states were found to have relevant statutes. The seventeen states are Alaska, Arkansas, Delaware, District of Columbia, Florida, Illinois, Iowa, Maine, Missouri, Montana, Ohio, Oklahoma, Oregon, Tennessee, Texas, Vermont, and Wisconsin. For each state, excerpts of the relevant statutory language are presented along with a hyperlink.

Alaska

Title 42. PUBLIC UTILITIES AND CARRIERS Chapter 42.05. ALASKA PUBLIC UTILITIES REGULATORY ACT Sec. 42.05.141. General powers and duties of the commission.

a) The Regulatory Commission of Alaska may do all things necessary or proper to carry out the purposes and exercise the powers expressly granted or reasonably implied in this chapter, including:

(3) make or require just, fair, and reasonable rates, classifications, regulations, practices, services, and facilities for a public utility;

(4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;

Arkansas

Title 23 – Public Utilities and regulated industries

Subtitle 1 – Public utilities and carriers

Chapter 2 – Regulatory commissions

Subchapter 3 – General regulatory authority

23-2-304. Certain powers of commission enumerated.

(a) Upon complaint or upon its own motion and upon reasonable notice and after a hearing, the Arkansas Public Service Commission shall have the power to:

(1) Find and fix just, reasonable, and sufficient rates to be thereafter observed, enforced, and demanded by any public utility;

(2) Determine the reasonable, safe, adequate, and sufficient service to be observed, furnished, enforced, or employed by any public utility and to fix this service by its order, rule, or regulation;

(3) Ascertain and fix adequate and reasonable standards, classifications, regulations, practices, and services to be furnished, imposed, observed, and followed by any or all public utilities;

(4) Ascertain and fix adequate and reasonable standards for the measurement of quantity, quality, pressure, initial voltage, or other conditions pertaining to the supply of all products, commodities, or services furnished or rendered by any and all public utilities;

(5) Prescribe reasonable regulations for the examination and testing of the production, commodity, or service, and, for the measurement thereof, establish or approve reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters or appliances for measurement;

Delaware

§ 209. Standards, classifications, regulations, practices, measurements, services, property and equipment of public utility.

(a) The Commission may, after hearing, by order in writing:

(1) Fix just and reasonable standards, classifications, regulations, practices, measurements or services to be furnished, imposed, observed and followed thereafter by any public utility;

(2) Require every public utility to furnish safe and adequate and proper service and keep and maintain its property and equipment in such condition as to enable it to do so.

(b) Nothing contained in this section shall be construed to conflict with the power of the Commission to consider the efficiency, sufficiency, consistency and adequacy of the facilities provided and the services rendered by any public utility as a factor in rate determination. (47 Del. Laws, c. 254, § 3; 26 Del. C. 1953, § 131; 59 Del. Laws, c. 397, § 1.)

§ 308. Service as a factor in the Commission's regulation of a public utility.

(a)(1) In exercising the jurisdiction and power conferred upon the Commission by § 201 of this title, the Commission, upon its own motion at any time it deems such action to be in the public interest or upon complaint duly filed with it, may take into consideration, among other things, the efficiency, sufficiency and adequacy of the facilities and products provided and services rendered by the public utility, the value of such services, products and facilities to the public, and the ability of the public utility to improve such services, products and facilities. During such proceeding, the Commission may consider any service complaints by subscribers and the public.

(2) If the Commission finds that the public utility's facilities, products or services are inefficient, insufficient or inadequate, it may impose such penalty upon the public utility as may be necessary to restore such facilities, products or services to a state of efficiency, sufficiency or adequacy. Upon significant improvement in such services, products or facilities, the Commission may, after hearing, remove or reduce the penalty imposed.

§ 1002. Standards for electric utility restructuring.

The General Assembly declares that the following interdependent standards shall govern the Commission's review and approval of each public utility's restructuring plan, oversight of the transition process and regulation of the restructured electric utility industry pursuant to this chapter.

(1) The reliability of electric service to all customers in this State shall be maintained.

§ 1008. Duties of electric distribution companies.

(a) Each electric distribution company shall maintain its facilities and provide products and services which are safe, efficient, sufficient, adequate, and reliable. Each electric distribution company shall implement procedures to require all electric suppliers to deliver energy to the electric distribution company at locations and in amounts which are adequate to meet each supplier's obligations to its customers.

§ 1019. Enforcement, penalties, and sanctions.

(a) If after hearing, upon notice the Commission determines that any standard offer service supplier, electric supplier or electric distribution company has, as a matter of past or present fact arising after enactment of this section:

(1) Failed to comply with or violated any term or condition in any certificate, permit, or other instrument or authorization granted by the Commission;

(2) Failed to comply with or violated any of the provisions of this title or any rule, or regulation, promulgated by the Commission;

(3) Failed to comply with or violated any order entered by the Commission; or

(4) Materially failed to provide facilities, products or services which are safe, efficient, adequate or reliable.

Then such standard offer service supplier, electric supplier or electric distribution company shall be liable to the State for a civil penalty; provided however, that no penalty shall be assessed under paragraph (4) of this subsection unless the material failure is of the type that the standard offer service supplier, the electric supplier or electric distribution company knew or should have known as a result of standards, policies or procedures previously articulated by the

Commission or through generally accepted industry standards or practices that its action(s) or inaction(s) would have been reasonably likely to cause the material failure. Such penalty shall not exceed \$5,000 for each violation, with the overall penalty not to exceed an amount reasonable and appropriate for the violation. Each day of noncompliance shall be treated as a separate violation.

(b) The Commission shall determine the amount of any penalty to be assessed under subsection (a) of this section. In making such determination, the Commission shall consider:

(1) The nature, circumstances, extent and gravity of the violation;

(2) The standard offer service supplier, electric supplier or electric distribution company's level of culpability, history of prior violations, and ability to pay;

(3) The good faith efforts of the standard offer service supplier, electric supplier or electric distribution company in attempting to resolve the violation after notification of noncompliance;

(4) In the case of an electric cooperative, the Commission shall not assess any monetary penalty that would adversely impact the financial stability of such an entity and any monetary penalty that is assessed against an electric cooperative shall not exceed \$1,000 for each violation, which each day of noncompliance shall be treated as a separate violation.

(c) Any penalty imposed under this section may be recovered by an action instituted in the name of the State in the Superior Court. In such an action for recovery, the validity and amount of such penalty shall not be subject to review. In any such action, the State may recover the penalty, interest, costs and reasonable attorney's fees.

(d) If the Commission determines that a standard offer service supplier, electric supplier or electric distribution company will, as a result of present conditions or future threatened or contemplated action:

(1) Fail to comply with or violate any term or condition in any certificate, permit, or other instrument or authorization granted by the Commission;

(2) Fail to comply with or violate any of the provisions in this Title or any rule or regulation, promulgated by the Commission;

(3) Fail to comply with or violate any order entered by the Commission; or

(4) Materially fail to provide facilities, products, or services, which are safe, efficient, adequate or reliable;

Then the Commission may after hearing, upon notice, enter such orders to ensure compliance by the standard offer service supplier, electric supplier or electric distribution

company. In exercising this authority, the Commission may enter immediate or prompt preliminary orders, to ensure compliance pending a final determination and order, in those instances where the public interest requires immediate or prompt action or relief. In its process for considering whether to issue a preliminary order, the Commission shall conduct an appropriate proceeding, upon appropriate notice, given the relief sought. If such a preliminary order is issued, the Commission shall thereafter, promptly schedule and begin the process to consider a final determination and order, which proceeding for final determination and order shall be conducted with notice and hearings consistent with the requirement of § 101 of Title 29.

(e) If after hearing, upon notice, the Commission determines that any standard offer service supplier, electric supplier or electric distribution company has, as a matter of past or present fact occurring after enactment of this section:

(1) Failed to comply with or violated any term or condition in any certificate, permit or other instrument or authorization granted by the Commission;

(2) Failed to comply with or violated any of the provisions of this title or any rule or regulation, promulgated by the Commission;

(3) Failed to comply with or violated any order entered by the Commission; or

(4) Materially failed to provide facilities, products or services, which are safe, efficient, adequate or reliable.

Then the Commission may enter an order modifying, suspending or revoking any certificate, permit or authorization previously granted by the Commission to such standard offer service supplier, electric supplier or electric distribution company. Such remedy shall only be applied when the gravity of the violation warrants such relief. Revocation of a certificate, permit or authorization shall only be permitted, when there is a finding of a gross violation(s) or a pervasive pattern of conduct in violation of this section. Additionally, such remedy shall only be applied with respect to paragraph (4) of this subsection if the material failure is of the type that the standard offer service supplier, the electric supplier, or electric distribution company knew or should have known as a result of standards, policies or procedures previously articulated by the Commission or through generally accepted industry standards or practices that its action(s) or inaction(s) would have been reasonably likely to cause the material failure.

(f) In making the determination under subsection (e) of this section to modify, suspend or revoke any prior certificate, permit or authorization, the Commission shall consider:

(1) The factors listed in subsection (b) of this section;

(2) The ability of penalties and other sanctions to ensure compliance without the need to

suspend or revoke; and

(3) The impact on the public interest by such modification, suspension or revocation.

(g) The penalty and other sanctions authorized by this section shall be in addition to any other penalties or sanctions authorized by law. The Commission may exercise the power granted in subsection (e) of this section in addition to the imposition of any penalty or other sanction imposed under this section or any other provision of the law. A final order with respect to any findings made or penalties or other sanctions imposed under this section shall be subject to the appeal procedures of § 510 of this title.

(h) The Commission may recover the costs of any proceeding instituted under this section in accordance with the provisions of §§ 114 and 1012(c)(2) of this title.

(i) This section shall apply to electric distribution companies, electric suppliers, DP&L and DEC, and any successors or assigns, except that this section shall not apply to electric distribution companies that are exempt from the jurisdiction of the Commission pursuant to § 202 of this title. (74 Del. Laws, c. 73, § 6.)

District of Columbia

DC ST § 34-301

District of Columbia Official Code 2001 Edition

Division V. Local Business Affairs

Title 34. Public Utilities. (Refs & Annos)

Subtitle I. Applicable Provisions Generally.

Chapter 3. Gas and Electric Corporations. (Refs & Annos)

§ 34-301. Public Service Commission; general powers.

(3) Have power by order to fix from time to time standards for determining the purity or the measurement of the illuminating power of gas to be manufactured, distributed, or sold by persons or corporations for lighting, heating, or power purposes, and to prescribe from time to time the efficiency of the electric transmission or distribution system, and by order to require the gas so manufactured, distributed, or sold to equal the standards so fixed by it, and to prescribe from time to time the reasonable minimum and maximum pressure at which gas shall be delivered by said persons or corporations. For the purpose of determining whether the gas manufactured, distributed, or sold by such persons or corporations for lighting, heating, or power purposes conforms to the standards of illuminating power, purity, and pressure, and for the

purpose of determining whether the efficiency of the electric transmission or distribution system conforms to the orders issued by the Commission, the Commission shall have power, of its own motion, to examine and investigate the plants and methods employed in manufacturing, delivering, and supplying gas or transmitting or distributing electricity, and shall have access, through its members or persons employed and authorized by it to make such examinations and investigations, to all parts of the manufacturing plants owned, used, or operated for the manufacture, transmission, or distribution of gas or the transmission or distribution of electricity by any such person or corporation. Any employee or agent of the Commission who divulges any fact or information which may come to his knowledge during the course of any such inspection or examination, except insofar as he may be directed by the Commission, or by a court or judge thereof, or authorized by law, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500 for each offense.

DC ST § 34-1120 District of Columbia Official Code 2001 Edition

Division V. Local Business Affairs

Title 34. Public Utilities. (Refs & Annos)

Subtitle I. Applicable Provisions Generally.

Chapter 11. Service, Valuation, Accounts. (Refs & Annos)

§ 34-1120. Commission to fix adequate and serviceable standards; regulations for testing products, service, and meters.

The Commission shall ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial voltage, or other condition pertaining to the supply of the product or service rendered by any public utility, and prescribe reasonable regulations for examining and testing such product or service and for the measurement thereof. It shall establish reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters and appliances for measurements, and every public utility is required to carry into effect all orders issued by the Commission relative thereto.

Florida

Title XXVII RAILROADS AND OTHER REGULATED UTILITIES

CHAPTER 366 PUBLIC UTILITIES

366.03 General duties of public utility.--Each public utility shall furnish to each person applying therefore reasonably sufficient, adequate, and efficient service upon terms as required by

the commission. No public utility shall be required to furnish electricity or gas for resale except that a public utility may be required to furnish gas for containerized resale. All rates and charges made, demanded, or received by any public utility for any service rendered, or to be rendered by it, and each rule and regulation of such public utility, shall be fair and reasonable. No public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.

366.04 Jurisdiction of commission.—

(1) In addition to its existing functions, the commission shall have jurisdiction to regulate and supervise each public utility with respect to its rates and service; assumption by it of liabilities or obligations as guarantor, endorser, or surety; and the issuance and sale of its securities, except a security which is a note or draft maturing not more than 1 year after the date of such issuance and sale and aggregating (together with all other then-outstanding notes and drafts of a maturity of 1 year or less on which such public utility is liable) not more than 5 percent of the par value of the other securities of the public utility then outstanding. In the case of securities having no par value, the par value for the purpose of this section shall be the fair market value as of the date of issue. The commission, upon application by a public utility, may authorize the utility to issue and sell securities of one or more offerings, or of one or more types, over a period of up to 12 months; or, if the securities are notes or drafts maturing not more than 1 year after the date of issuance and sale, the commission, upon such application, may authorize the utility to issue and sell such securities over a period of up to 24 months. The commission may take final action to grant an application by a public utility to issue and sell securities or to assume liabilities or obligations after having given notice in the Florida Administrative Weekly published at least 7 days in advance of final agency action. In taking final action on such application, the commission may deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the security, liability, or obligation is for nonutility purposes; and shall deny authorization for the issuance or sale of a security or assumption of a liability or obligation if the financial viability of the public utility is adversely affected such that the public utility's ability to provide reasonable service at reasonable rates is jeopardized. Securities issued by a public utility or liabilities or obligations assumed by a public utility as guarantor, endorser, or surety pursuant to an order of the commission, which order is certified by the clerk of the commission and which order approves or authorizes the issuance and sale of such securities or the assumption of such liabilities or obligations, shall not be invalidated by a modification, repeal, or amendment to that

order or by a supplemental order; however, the commission's approval of the issuance of securities or the assumption of liabilities or obligations shall constitute approval only as to the legality of the issue or assumption, and in no way shall it be considered commission approval of the rates, service, accounts, valuation, estimates, or determinations of cost or any other such matter. The jurisdiction conferred upon the commission shall be exclusive and superior to that of all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and, in case of conflict therewith, all lawful acts, orders, rules, and regulations of the commission shall in each instance prevail.

(2) In the exercise of its jurisdiction, the commission shall have power over electric utilities for the following purposes:

(a) To prescribe uniform systems and classifications of accounts.

(b) To prescribe a rate structure for all electric utilities.

(c) To require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes.

(5) The commission shall further have jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities.

(6) The commission shall further have exclusive jurisdiction to prescribe and enforce safety standards for transmission and distribution facilities of all public electric utilities, cooperatives organized under the Rural Electric Cooperative Law, and electric utilities owned and operated by municipalities. In adopting safety standards, the commission shall, at a minimum:

366.041 Rate fixing; adequacy of facilities as criterion.—

(1) In fixing the just, reasonable, and compensatory rates, charges, fares, tolls, or rentals to be observed and charged for service within the state by any and all public utilities under its jurisdiction, the commission is authorized to give consideration, among other things, to the efficiency, sufficiency, and adequacy of the facilities provided and the services rendered; the cost of providing such service and the value of such service to the public; the ability of the utility to improve such service and facilities; and energy conservation and the efficient use of alternative energy resources; provided that no public utility shall be denied a reasonable rate of return upon its rate base in any order entered pursuant to such proceedings. In its consideration thereof, the commission shall have authority, and it shall be the commission's duty, to hear service complaints, if any, that may be presented by subscribers and the public during any proceedings

involving such rates, charges, fares, tolls, or rentals; however, no service complaints shall be taken up or considered by the commission at any proceedings involving rates, charges, fares, tolls, or rentals unless the utility has been given at least 30 days' written notice thereof, and any proceeding may be extended, prior to final determination, for such period; further, no order hereunder shall be made effective until a reasonable time has been given the utility involved to correct the cause of service complaints, considering the factor of growth in the community and availability of necessary equipment.

366.05 Powers.--

(1) In the exercise of such jurisdiction, the commission shall have power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, including the ability to adopt construction standards that exceed the National Electrical Safety Code, for purposes of ensuring the reliable provision of service, and service rules and regulations to be observed by each public utility; to require repairs, improvements, additions, replacements, and extensions to the plant and equipment of any public utility when reasonably necessary to promote the convenience and welfare of the public and secure adequate service or facilities for those reasonably entitled thereto; to employ and fix the compensation for such examiners and technical, legal, and clerical employees as it deems necessary to carry out the provisions of this chapter; and to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement and enforce the provisions of this chapter.

(7) The commission shall have the power to require reports from all electric utilities to assure the development of adequate and reliable energy grids.

366.095 Penalties.--The commission shall have the power to impose upon any entity subject to its jurisdiction under this chapter that is found to have refused to comply with or to have willfully violated any lawful rule or order of the commission or any provision of this chapter a penalty for each offense of not more than \$5,000, which penalty shall be fixed, imposed, and collected by the commission. Each day that such refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the entity, enforceable by the commission as a statutory lien under chapter 85.

Illinois

(220 ILCS 5/Art. VIII heading)

ARTICLE VIII. SERVICE OBLIGATIONS AND CONDITIONS

(220 ILCS 5/8-101) (from Ch. 111 2/3, par. 8-101) Sec. 8-101. Duties of public utilities; nondiscrimination. A public utility shall furnish, provide, and maintain such service instrumentalities, equipment, and facilities as shall promote the safety, health, comfort, and convenience of its patrons, employees, and public and as shall be in all respects adequate, efficient, just, and reasonable. All rules and regulations made by a public utility affecting or pertaining to its charges or service to the public shall be just and reasonable.

A public utility shall, upon reasonable notice, furnish to all persons who may apply therefor and be reasonably entitled thereto, suitable facilities and service, without discrimination and without delay. Nothing in this Section shall be construed to prevent a public utility from accepting payment electronically or by the use of a customer-preferred financially accredited credit or debit methodology. (Source: P.A. 92-22, eff. 6-30-01.)

(220 ILCS 5/8-301) (from Ch. 111 2/3, par. 8-301) Sec. 8-301. The Commission shall have power to ascertain, determine and fix for each kind of public utility suitable and convenient standard commercial units of service, product or commodity, which units shall be lawful units for the purposes of this Act; to ascertain, determine and fix adequate and serviceable standards for the measurements of quantity, quality, pressure, initial voltage or other condition pertaining to the performing of its service or to the furnishing of its product or commodity by any public utility, and to prescribe reasonable regulations for examining, measuring and testing such service, product or commodity, and to establish reasonable rules, regulations, specifications and standards to secure the accuracy of all meters and appliances for examining, measuring or testing such service, product or commodity. The Commission may purchase such materials, apparatus and standard measuring instruments as it deems necessary to carry out the provisions of this Section.

The Commission shall provide for the inspection of the manner in which every public utility conforms to the reasonable regulations prescribed by the Commission for examining, measuring and testing its service, product or commodity, and the Commission may supplement such inspections by examining, measuring and testing the service, product or commodity of any public utility. Any consumer or user may have tested any appliance for examining, measuring or testing any such service, product or commodity upon payment of the fees fixed by the Commission. The Commission shall declare and establish reasonable fees to be paid for examining and testing such appliances on the request of consumers or users, the fee to be paid by the consumer or user at the time of his request, but to be repaid to the consumer or user by the public utility if the measuring appliance be found unreasonably defective or incorrect to the disadvantage of the consumer or user. The Commission, its officers, agents, experts or inspectors and employees shall have power

to enter upon any premises occupied by any public utility for the purpose of making the examinations and tests provided in the Act, and set up and use on such premises, any apparatus and appliances and occupy reasonable space therefor. All fees collected by the Commission under this Section shall be paid promptly after the receipt of the same, accompanied by a detailed statement of the same, into the Public Utility Fund in the State treasury. (Source: P.A. 84-617.)

(220 ILCS 5/8-401) (from Ch. 111 2/3, par. 8-401) Sec. 8-401. Every public utility subject to this Act shall provide service and facilities which are in all respects adequate, efficient, reliable and environmentally safe and which, consistent with these obligations, constitute the least-cost means of meeting the utility's service obligations. (Source: P.A. 84-617.)

220 ILCS 5/8-505) (from Ch. 111 2/3, par. 8-505) Sec. 8-505. The Commission shall have power, after a hearing or without a hearing as provided in this Section and upon its own motion, or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every public utility to maintain and operate its plant, equipment or other property in such manner as to promote and safeguard the health and safety of its employees, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, customers or the public may demand. (Source: P.A. 84-617; 84-1025.)

(220 ILCS 5/8-505.1) Sec. 8-505.1. Non-emergency vegetation management activities. (a) Except as provided in subsections (b), (c), and (d), in conducting its non-emergency vegetation management activities, an electric public utility shall: (1) Follow the most current tree care and maintenance standard practices set forth in ANSI A300 published by the American National Standards Institute and the most current applicable Occupational Safety and Health Administration regulations regarding worker safety.

(2) Provide direct notice of vegetation management activities no less than 21 days nor more than 90 days before the activities begin.

(A) If the vegetation management activities will occur in an incorporated municipality, the notice must be given to the mayor or his or her designee.

(B) If the vegetation management activities will occur in an unincorporated area, the notice must be given to the chairman of the county board or his or her designee.

(C) Affected customers shall be notified directly.

(D) Affected property owners shall be notified by a published notice in a newspaper or newspapers in general circulation and widely distributed within the entire

area in which the vegetation management activities notice will occur.

(E) Circuit maps or a description by common address of the area to be affected by vegetation management activities must accompany any notice to a mayor or his or her designee or to a chairman of a county board or his or her designee.

(3) The electric public utility giving the direct and published notices required in subsection (a)(2) shall provide notified customers and property owners with (i) a statement of the vegetation management activities planned, (ii) the address of a website and a toll-free telephone number at which a written disclosure of all dispute resolution opportunities and processes, rights, and remedies provided by the electric public utility may be obtained, (iii) a statement that the customer and the property owner may appeal the planned vegetation management activities through the electric public utility and the Illinois Commerce Commission, (iv) a toll-free telephone number through which communication may be had with a representative of the electric public utility regarding the vegetation management activities, and (v) the telephone number of the Consumer Affairs Officer of the Illinois Commerce Commission. The notice shall also include a statement that circuit maps and common addresses of the area to be affected by the vegetation management activities are on file with the office of the mayor of an affected municipality or his or her designee and the office of the county board chairman of an affected county or his or her designee.

The Commission shall have sole authority to investigate, issue, and hear complaints against the utility under this subsection (a). (b) A public utility shall not be required to comply with the requirements of subsection (d) or of paragraphs (2) and (3) of subsection (a) when it is taking actions directly related to an emergency to restore reliable service after interruptions of service.

(c) A public utility shall not be required to comply with the requirements of subsection (a) or (d) if there is a franchise, contract, or written agreement between the public utility and the municipality or county mandating specific vegetation management practices. If the franchise, contract, or written agreement between the public utility and the municipality or county establishes requirements for notice to the municipality, county, customers, and property owners, those notice requirements shall control over the notice requirements of paragraphs (2) and (3) of subsection (a). If the franchise, contract, or written agreement between the public utility and the municipality or county does not establish notice requirements, the notice requirements contained in paragraphs (2) and (3) of subsection (a) shall control. (d) If no franchise, contract, or written agreement between a utility and a municipality mandates a specific vegetation management practice and the municipality enacts an ordinance establishing standards for non-emergency

vegetation management practices that are contrary to the standards established by this Section and the vegetation management activities of the electric public utility cost substantially more, as a direct consequence, then the electric public utility may, before vegetation management activities begin, apply to the municipality for an agreement to pay the additional cost. When an application for an agreement is made to the municipality, no vegetation management activities shall begin until the municipality responds to the application by agreement or rejection or dispute resolution proceedings are completed. The application shall be supported by a detailed specification of the difference between the standards established by this Section and the contrary standards established by the municipal ordinances and by a good faith bid or proposal obtained from a utility contractor or contractors quantifying the additional cost for performing the specification. When the municipality receives the specification and the utility contractor's bid or proposal, the municipality shall agree, reject, or initiate dispute resolution proceedings regarding the application within 90 days after the application's receipt. If the municipality does not act within 90 days or informs the utility that it will not agree, the electric public utility may proceed and need not comply with the contrary ordinance standard. When there is a dispute regarding (i) the accuracy of the specification, (ii) whether there is a conflict with the standards established by this Section, or (iii) any aspect of the bid or proposal process, the Illinois Commerce Commission shall hear and resolve the disputed matter or matters, with the electric public utility having the burden of proof. A municipality may have a person trained in tree care and maintenance generally monitor and discuss with the vegetation management supervisory personnel of the electric public utility the performance of the public utility's vegetation management activities without any claim for costs hereunder by the public utility arising therefrom. The provisions of this Section shall not in any way diminish or replace other civil or administrative remedies available to a customer or class of customers or a property owner or class of property owners under this Act. This Section does not alter the jurisdiction of the Illinois Commerce Commission in any manner except to obligate the Commission to investigate, issue, and hear complaints against an electric public utility as provided in subsection (a)(3) and to hear and resolve disputed matters brought to it as provided in this subsection. Vegetation management activities by an electric public utility shall not alter, trespass upon, or limit the rights of any property owner. (Source: P.A. 91-902, eff. 7-6-00; 92-214, eff. 8-2-01.)

Iowa

TITLE XI NATURAL RESOURCES

SUBTITLE 5 PUBLIC UTILITIES

CHAPTER 476 PUBLIC UTILITY REGULATION

476.2 Board powers and rules - utility's Iowa office.

1. The board shall have broad general powers to effect the purposes of this chapter notwithstanding the fact that certain specific powers are hereinafter set forth. The board shall have authority to issue subpoenas and to pay the same fees and mileage as are payable to witnesses in the courts of record of general jurisdiction and shall establish all needful, just and reasonable rules, not inconsistent with law, to govern the exercise of its powers and duties, the practice and procedure before it, and to govern the form, contents and filing of reports, documents and other papers provided for in this chapter or in the board's rules. In the establishment, amendment, alteration or repeal of any of such rules, the board shall be subject to the provisions of chapter [17A](#) .

476.4 Tariffs filed.

Every public utility shall file with the board tariffs showing the rates and charges for its public utility services and the rules and regulations under which such services were furnished, on April 1, 1963, which rates and charges shall be subject to investigation by the board as provided in section [476.3](#) , and upon such investigation the burden of establishing the reasonableness of such rates and charges shall be upon the public utility filing the same. These filings shall be made under such rules as the board may prescribe within such time and in such form as the board may designate. In prescribing rules and regulations with respect to the form of tariffs, the board shall, in the case of public utilities subject to regulation by any federal agency, give due regard to any corresponding rules and regulations of such federal agency, to the end that unnecessary duplication of effort and expense may be avoided so far as reasonably possible. Each public utility shall keep copies of its tariffs open to public inspection under such rules as the board may prescribe.

Every rate, charge, rule and regulation contained in any filing made with the commission on or prior to July 4, 1963, shall be effective as of such date, subject, however, to investigation as herein provided. If any such filing is made prior to the time the commission prescribes rules as aforesaid, and if such filing does not comply as to form or substance with such rules, then the public utility which filed the same shall within a reasonable time after the adoption of such rules make a new filing or filings complying with such rules, which new filing or filings shall be deemed effective as of July 4, 1963.

476.8 Utility charges and service.

Every public utility is required to furnish reasonably adequate service and facilities. *"Reasonably adequate service and facilities"* for public utilities furnishing gas or electricity includes programs for customers to encourage the use of energy efficiency and renewable energy sources. The charge made by any public utility for any heat, light, gas, energy efficiency and renewable energy programs, water or power produced, transmitted, delivered or furnished, or communications services, or for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited and declared unlawful. In determining reasonable and just rates, the board shall consider all factors relating to value and shall not be bound by rate base decisions or rulings made prior to the adoption of this chapter.

The board, in determining the value of materials or services to be included in valuations or costs of operations for rate-making purposes, may disallow any unreasonable profit made in the sale of materials to or services supplied for any public utility by any firm or corporation owned or controlled directly or indirectly by such utility or any affiliate, subsidiary, parent company, associate or any corporation whose controlling stockholders are also controlling stockholders of such utility. The burden of proof shall be on the public utility to prove that no unreasonable profit is made.

Maine

Title 35-A: PUBLIC UTILITIES HEADING: PL 1987, c. 141, Pt. A, §6 (new)

Part 1: PUBLIC UTILITIES COMMISSION HEADING: PL 1989, c. 502, Pt. A, §123 (rp)

Chapter 3: RATES OF PUBLIC UTILITIES HEADING: PL 1987, c. 141, Pt. A, §6 (new)

§301. Safe facilities; just and reasonable rates

1. Facilities. Every public utility shall furnish safe, reasonable and adequate facilities and service. [1987, c. 141, Pt. A, §6 (NEW) .]

Missouri

Missouri Revised Statutes

Chapter 393

Gas, Electric, Water, Heating and Sewer Companies

Section 393.130

Safe and adequate service--charges--certain home rule cities, interest accrual, when.

393.130. 1. Every gas corporation, every electrical corporation, every water corporation, and every sewer corporation shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable. All charges made or demanded by any such gas corporation, electrical corporation, water corporation or sewer corporation for gas, electricity, water, sewer or any service rendered or to be rendered shall be just and reasonable and not more than allowed by law or by order or decision of the commission. Every unjust or unreasonable charge made or demanded for gas, electricity, water, sewer or any such service, or in connection therewith, or in excess of that allowed by law or by order or decision of the commission is prohibited.

Montana

TITLE 69. PUBLIC UTILITIES AND CARRIERS

CHAPTER 3. REGULATION OF UTILITIES

Part 1. Role of Commission

69-3-103. General powers and rulemaking authority of commission. (1) In addition to the modes of procedure hereinafter prescribed in particular cases and classes of cases, said commission shall have power to prescribe rules of procedure and to do all things necessary and convenient in the exercise of the powers conferred by this chapter upon the commission; provided that nothing in this chapter shall be construed as vesting judicial powers on said commission or as denying to any person, firm, association, corporation, municipality, county, town, or village the right to test in a court of competent jurisdiction the legality or reasonableness of any fixed order made by the commission in the exercise of its duties or powers. (2) The commission shall have the power to: (a) adopt reasonable and proper rules relative to all inspections, tests, audits, and investigations; (b) adopt and publish reasonable and proper rules to govern its proceedings; and (c) regulate the mode and manner of all investigations and hearings of public utilities and other parties before it.

Part 2. Requirements for Public Utilities

69-3-201. Utilities to provide adequate service at reasonable charges. Every public utility is required to furnish reasonably adequate service and facilities. The charge made by any public utility for any heat, light, power, water, or regulated telecommunications service produced, transmitted, delivered, or furnished or for any service to be rendered as or in connection with any public utility shall be reasonable and just, and every unjust and unreasonable charge is prohibited

and declared unlawful.

Ohio

4905.04 Power to regulate public utilities and railroads.

(A) The public utilities commission is hereby vested with the power and jurisdiction to supervise and regulate public utilities and railroads, to require all public utilities to furnish their products and render all services exacted by the commission or by law, and to promulgate and enforce all orders relating to the protection, welfare, and safety of railroad employees and the traveling public, including the apportionment between railroads and the state and its political subdivisions of the cost of constructing protective devices at railroad grade crossings.

4905.28 Standards of measurement.

The public utilities commission may ascertain and fix adequate and serviceable standards for the measurement of quality, pressure, initial voltage, or other conditions pertaining to the supply or quality of the product furnished or adequacy of service rendered by any public utility and may prescribe reasonable regulations for examination, testing, and measurement of such product or service. It may establish reasonable rules, regulations, specifications, and standards to secure the accuracy of all meters and appliances for measurements.

4905.37 Commission may change rules and regulations of public utilities.

Whenever the public utilities commission is of the opinion, after hearing had upon complaint or upon its own initiative or complaint, served as provided in section 4905.26 of the Revised Code, that the rules, regulations, measurements, or practices of any public utility with respect to its public service are unjust or unreasonable, or that the equipment or service of such public utility is inadequate, inefficient, improper, insufficient, or cannot be obtained, or that a telephone company refuses to extend its lines to serve inhabitants within the telephone company operating area, the commission shall determine the regulations, practices, and service to be installed, observed, used, and rendered, and shall fix and prescribe them by order to be served upon the public utility. After service of such order such public utility and all of its officers, agents, and official employees shall obey such order and do everything necessary or proper to carry it into effect. This section does not give the commission power to make any order requiring the performance of any act which is unjust, unreasonable, or in violation of any law of this state or the United States.

4905.37 Commission may change rules and regulations of public utilities.

Whenever the public utilities commission is of the opinion, after hearing had upon complaint or upon its own initiative or complaint, served as provided in section 4905.26 of the Revised Code,

that the rules, regulations, measurements, or practices of any public utility with respect to its public service are unjust or unreasonable, or that the equipment or service of such public utility is inadequate, inefficient, improper, insufficient, or cannot be obtained, or that a telephone company refuses to extend its lines to serve inhabitants within the telephone company operating area, the commission shall determine the regulations, practices, and service to be installed, observed, used, and rendered, and shall fix and prescribe them by order to be served upon the public utility. After service of such order such public utility and all of its officers, agents, and official employees shall obey such order and do everything necessary or proper to carry it into effect. This section does not give the commission power to make any order requiring the performance of any act which is unjust, unreasonable, or in violation of any law of this state or the United States.

Oklahoma

§17-152. Commission's jurisdiction over public utilities - Examination of requests for review of rates and charges.

A. The Commission shall have general supervision over all public utilities, with power to fix and establish rates and to prescribe and promulgate rules, requirements and regulations, affecting their services, operation, and the management and conduct of their business; shall inquire into the management of the business thereof, and the method in which same is conducted.

Oregon

Chapter 757 — Utility Regulation Generally

757.020 Duty of utilities to furnish adequate and safe service at reasonable rates. Every public utility is required to furnish adequate and safe service, equipment and facilities, and the charges made by any public utility for any service rendered or to be rendered in connection therewith shall be reasonable and just, and every unjust or unreasonable charge for such service is prohibited. [Amended by 1971 c.655 §66]

757.035 Adoption of safety rules and regulations; enforcement. (1) The Public Utility Commission has power, after a hearing had upon the motion of the commission or upon complaint, to require by general or special orders embodying reasonable rules or regulations, every person or municipality, their agents, lessees or acting trustees or receivers, appointed by court, engaged in the management, operation, ownership or control of telegraph, telephone, signal or power lines within this state, upon the public streets or highways, and also upon all other premises used, whether leased, owned or controlled by them, to construct, maintain and operate

every line, plant, system, equipment or apparatus in such manner as to protect and safeguard the health and safety of all employees, customers and the public, and to this end to adopt and prescribe the installation, use, maintenance and operation of appropriate safety or other devices, or appliances, to establish or adopt standards of construction or equipment, and to require the performance of any other act which seems to the commission necessary or proper for the protection of the health or safety of all employees, customers or the public.

(2) When acting pursuant to subsection (1) of this section, the Public Utility Commission shall adopt by rule as the standard of such construction, operation and maintenance the 1973 edition of the American National Standard, National Electrical Safety Code, C2.

(3) In lieu of subsection (2) of this section, or in addition thereto, the commission may adopt by rule any revision or edition of or amendment to the National Electrical Safety Code approved by the American National Standards Institute after July 14, 1977, and in effect on the date of adoption by the commission.

Tennessee

Title 65 – Public Utilities and Carriers

Chapter 4 – Regulation of Public Utilities by Authority

Part 1 – General provision

65-4-114. Service requirements.

The authority has the power, after hearing, upon notice, by order in writing, to require every public utility, as defined in § 65-4-101, to:

(1) Furnish safe, adequate, and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so; and

(2) Establish, construct, maintain, and operate any reasonable extension of its existing facilities where, in the judgment of the authority, such extension is reasonable and practicable, and will furnish sufficient business to justify the construction, operation, and maintenance of the same, and when the financial condition of the public utility affected reasonably warrants the original expenditure required in making such extension, or to abandon any service when, in the judgment of the authority, the public welfare no longer requires the same.

Texas

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT
SUBTITLE B. ELECTRIC UTILITIES
CHAPTER 32. JURISDICTION AND POWERS OF
COMMISSION AND OTHER REGULATORY AUTHORITIES
SUBCHAPTER A. COMMISSION JURISDICTION

Sec. 32.001. COMMISSION JURISDICTION. (a) Except as provided by Section 32.002, the commission has exclusive original jurisdiction over the rates, operations, and services of an electric utility in:

- (1) areas outside a municipality; and
- (2) areas inside a municipality that surrenders its jurisdiction to the commission under Section 33.002.

b) The commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality exercising exclusive original jurisdiction under this subtitle.

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT
SUBTITLE B. ELECTRIC UTILITIES
CHAPTER 38. REGULATION OF ELECTRIC SERVICES
SUBCHAPTER A. STANDARDS

Sec. 38.001. GENERAL STANDARD. An electric utility and an electric cooperative shall furnish service, instrumentalities, and facilities that are safe, adequate, efficient, and reasonable.

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT
SUBTITLE B. ELECTRIC UTILITIES
CHAPTER 38. REGULATION OF ELECTRIC SERVICES
SUBCHAPTER A. STANDARDS

Sec. 38.002. AUTHORITY OF REGULATORY AUTHORITY CONCERNING STANDARDS. A regulatory authority, on its own motion or on complaint and after reasonable notice and hearing, may:

- (1) adopt just and reasonable standards, classifications, rules, or practices an electric

utility must follow in furnishing a service;

(2) adopt adequate and reasonable standards for measuring a condition, including quantity, quality, pressure, and initial voltage, relating to the furnishing of a service;

(3) adopt reasonable rules for examining, testing, and measuring a service; and

(4) adopt or approve reasonable rules, specifications, and standards to ensure the accuracy of equipment, including meters and instruments, used to measure a service.

UTILITIES CODE

TITLE 2. PUBLIC UTILITY REGULATORY ACT

SUBTITLE B. ELECTRIC UTILITIES

CHAPTER 38. REGULATION OF ELECTRIC SERVICES

SUBCHAPTER A. STANDARDS

Sec. 38.003. RULE OR STANDARD. (a) An electric utility may not impose a rule except as provided by this title.

(b) An electric utility may file with the regulatory authority a standard, classification, rule, or practice the utility follows.

(c) The standard, classification, rule, or practice continues in force until:

(1) amended by the utility; or

(2) changed by the regulatory authority as provided by this title.

Vermont

Title 30: Public Service

Chapter 5: Powers and Duties of Department of Public Service

202a. State energy policy

§ 202a. State energy policy

It is the general policy of the state of Vermont:

(1) To assure, to the greatest extent practicable, that Vermont can meet its energy service needs in a manner that is adequate, reliable, secure and sustainable; that assures affordability and encourages the state's economic vitality, the efficient use of energy resources and cost effective demand side management; and that is environmentally sound.

(2) To identify and evaluate on an ongoing basis, resources that will meet Vermont's energy service needs in accordance with the principles of least cost integrated planning; including efficiency, conservation and load management alternatives, wise use of renewable resources and

environmentally sound energy supply.

Wisconsin

CHAPTER 196

REGULATION OF PUBLIC UTILITIES

196.02 Commission's powers. (1) JURISDICTION. The commission has jurisdiction to supervise and regulate every public utility in this state and to do all things necessary and convenient to its jurisdiction.

(3) RULES. The commission may adopt reasonable rules to govern its proceedings and to regulate the mode and manner of all inspections, tests, audits, investigations and hearings.

196.025 Duties of the commission.

(3) RELIABILITY REPORTS. The commission shall promulgate rules establishing requirements and procedures for electric utilities, as defined under s. 196.491 (1) (d), to file reports with the commission, on a frequency that the commission determines is reasonably necessary, on their current reliability status, including the status of operating and planning reserves, available transmission capacity and outages of major operational units and transmission lines. A report filed under the rules promulgated under this subsection is subject to inspection and copying under s. 19.35 (1), except that the commission may withhold the report from inspection and copying for a period of time that the commission determines is reasonably necessary to prevent an adverse impact on the supply or price of energy in this state.

196.03 Utility charges and service; reasonable and adequate. (1) Subject to s. 196.63, a public utility shall furnish reasonably adequate service and facilities. The charge made by any public utility for any heat, light, water, telecommunications service or power produced, transmitted, delivered or furnished or for any service rendered or to be rendered in connection therewith shall be reasonable and just and every unjust or unreasonable charge for such service is prohibited and declared unlawful.

Relevant Administrative Rules Information for Selected States

After a review of state administrative rules on service quality, eight states were found to be the best and assigned to Group 1. A second set of nine states were assigned to Group 2. We present the Delaware Administrative rule as the best of all of the states

Delaware

3007 Electric Service Reliability and Quality Standards

EFFECTIVE DATE: September 10, 2006

1.0 Purpose and Scope

1.1 Reliable electric service is of great importance to the Delaware Public Service Commission ("Commission"), because it is an essential service to the citizens of Delaware. This regulation, in support of 26 Del.C., §1002, sets forth reliability standards and reporting requirements needed to assure the continued reliability and quality of electric service being delivered to Delaware customers and is applicable to all Delaware Electric Distribution Companies ("EDCs") and Delaware Generation Companies.

1.2 Nothing in this regulation relieves any utility or generation company from compliance with any requirement set forth under any other regulation, statute or order. This regulation is in addition to those required under PSC Docket No. 58, Order No. 103, Regulations Governing Service Supplied by Electrical Utilities.

1.3 Compliance with this regulation is a minimum standard. Compliance does not create a presumption of safe, adequate and proper service. Each EDC needs to exercise their professional judgment based on their systems and service territories. Nothing in this regulation relieves any utility from the requirement to furnish safe, adequate and proper service and to keep and maintain its property and equipment in such condition as to enable it to do so. (26 Del.C., §209)

1.4 Each EDC shall maintain the reliability of its distribution services and shall implement procedures to require all electric suppliers to deliver energy to the EDC at locations and in amounts which are adequate to meet each electric supplier's obligations to its customers. (26 Del.C., §1008)

1.5 Each generation company operating in the state is required to provide the Commission with an annual assessment of their electric supply reliability as specified in Section 10.

1.6 This regulation requires the maintenance and retention of reliability data and the reporting of reliability objectives, planned actions and projects, programs, load studies and actual resulting performance on an annual basis, including major events as specified in section 11.

1.7 EDCs are responsible for maintaining the reliability of electric service to all their customers in the state of Delaware. Pursuant to this requirement, EDCs may be subject to penalties as described in Section 13 or 26 Del.C., §1019.

1.8 EDCs are required to explore the use of proven state of the art technology, to provide cost effective electric service reliability improvements.

1.9 This Electric Service Reliability and Quality regulation shall be effective through 2012 and may be reviewed, revised or extended as necessary to ensure the maintenance of electric reliability and quality service in Delaware.

2.0 Definitions

The following words and terms, as used in these regulations, shall have the following meanings, unless the context clearly indicates otherwise:

“Acceptable reliability level” is defined as the maximum acceptable limit of the System Average Interruption Frequency Index (“SAIFI”), the Customer Average Interruption Duration Index (“CAIDI”) and the Forced Outage Rate as specified in Section D.

“ALM” means Active Load Management in accordance with Article 1, Schedule 5.2 of PJM’s Reliability Assurance Agreement (RAA).

“Availability” means the measure of time a generating unit, transmission line, or other facility is capable of providing service, whether or not it actually is in service.

“Beginning restoration” includes the essential or required analysis of an interruption, the dispatching of an individual or crew to an affected area, and their arrival at the work site to begin the restoration process (normally inclusive of dispatch and response times).

“Benchmark” means the standard service measure of SAIFI, CAIDI and Forced Outage Rate as set forth in these regulations.

“Capacity” means the rated continuous load-carrying ability, expressed in megawatts (“MW”) or megavolt-amperes (“MVA”) of generation, transmission, or other electrical equipment.

“Capacity Emergency Transfer Objective (‘CETO’)” means the amount of megawatt capacity that an area or sub area must be able to import during localized capacity emergency conditions such that the probability of loss of load due to insufficient tie capability is not greater than one day in 10 years.

“Capacity Emergency Transfer Limit (‘CETL’)” means the amount of megawatts that can actually be imported into the area or sub area during localized capacity emergency conditions.

“Constrained hours of operation” means the hours of electric system operation during which time there are limits, transfer constraints or contingencies on the delivery system that require off-cost

dispatch of generating facilities located within the PJM DPL Zone. In measuring compliance to standard, total constrained hours will exclude “major events” and forced generator outages.

“Contingency” means the unexpected failure or outage of a system component, such as a generator, transmission line, circuit breaker, switch, or other electrical element. A contingency may also include multiple components, which are related by situations leading to simultaneous component outages.

“Corrective action” means the maintenance, repair, or replacement of an EDC’s utility system components and structures to allow them to function at an acceptable level of reliability.

“Corrective maintenance” means the unplanned maintenance work required to restore delivery facilities to a normal operating condition that allows them to function at an acceptable level of reliability.

“Customer Average Interruption Duration Index (‘CAIDI’)” represents the average time in minutes required to restore service to those customers that experienced sustained interruptions during the reporting period. CAIDI is defined as follows:

$$\text{CAIDI} = \frac{\text{Sum of all Sustained Customer Interruption Durations per Reporting Period}}{\text{Total Number of Sustained Customer Interruptions per Reporting Period}}$$

“Customers Experiencing Long Interruption Durations⁸ (‘CELID⁸’)” represents the total number of customers that have experienced a cumulative total of more than eight hours of outages.

“Customers Experiencing Multiple Interruptions⁸ (‘CEMI⁸’)” is an index that represents the total number of customers that have experienced nine or more interruptions in a single year reporting period.

$$\text{CEMI}8 = \frac{\text{Total number of customers that experienced more than eight (8) sustained interruptions}}{\text{Total number of customers served}}$$

“Delivery Facilities” means the EDC’s physical plant used to provide electric energy to Delaware retail customers, normally inclusive of distribution and transmission facilities.

“Dispatch time” is the elapsed time between receipt of a customer call and the dispatch of a service resource to address the customer’s issue as tracked by the OMS.

“Distribution feeder” or “feeder” means a three-phase set of conductors emanating from a substation circuit breaker serving customers in a defined local distribution area. This includes three-phase, two-phase and single-phase branches that are normally isolated at all endpoints.

“Distribution facilities” means electric facilities located in Delaware that are owned by a public utility that operates at voltages of 34,500 volts or below and that are used to deliver electricity to customers, up through and including the point of physical connection with electric facilities

owned by the customer.

“Electric Distribution Company” or “EDC” means a public utility owning and/or operating transmission and/or distribution facilities in this state.

“Electric distribution system” means that portion of an electric system, that delivers electric energy from transformation points on the transmission system to points of connection at the customers’ premises.

“Electric service” means the supply, transmission, and distribution of electric energy as provided by an electric distribution company.

“Electric Supplier” means a person or entity certified by the Commission that sells electricity to retail electric customers utilizing the transmission and/or distribution facilities of a nonaffiliated electric utility, as further specified in 26 Del.C., §1001.

“Forced outage” means the removal from service availability of a generating unit, transmission line, or other facility for emergency reasons or a condition in which the equipment is unavailable due to unanticipated failure. (See North American Electric Reliability Council - “Glossary of Terms” August 1996.)

“Forced outage rate” means the hours a generating unit, transmission line, or other facility is removed from service, divided by the sum of the hours it is removed from service plus the total number of hours the facility was connected to the electricity system expressed as a percent. (See North American Electric Reliability Council - “Glossary of Terms” August 1996.)

Multiple momentary forced outages on the same transmission line in the span of a single minute shall be treated as a single forced outage with the duration of one minute. When the operation of a transmission circuit is restored following a forced outage and the transmission line remains operational for a period exceeding one minute or more, followed by another forced outage, then these should be counted as two forced outages. Multiple forced outages occurring as a result of a single event should be handled as multiple forced outages only if subsequent operation of the transmission line between events exceeds one minute. Otherwise they shall be considered one continuous forced outage. (See Draft CAISO Transmission Control Agreement, Appendix C, ISO Maintenance Standards.)

“Generation company” means a private or publicly owned company that owns or leases, with right of ownership, plant, equipment and facilities in the state of Delaware, rated in excess of 25 MVA and capable of supplying electric energy to the transmission and/or distribution system.

“Generation Working Group” means a forum within which Generation companies can voluntarily provide to the Commission information related to the operation of their Generating Plants that

would otherwise be required pursuant to these Regulations

“Interruption” means the loss of electric service to one or more customers. It is the result of one or more component outages, depending on system configuration or other events. See “outage” and “major event.” The types of interruption include momentary event, sustained and scheduled.

“Interruption, duration” means the period (measured in minutes) from the initiation of an interruption of electric service to a customer until such service has been restored to that customer. An interruption may require step restoration tracking to provide reliable index calculations.

“Interruption, momentary event” means an interruption of electric service to one or more customers, of which the duration is less than or equal to 5 minutes. This definition includes all reclosing operations, which occur within five minutes of the first interruption. For example, if a recloser or breaker operates two, three, or four times and then holds within five minutes, the event shall be considered one momentary event interruption.

“Interruption, scheduled” means an interruption of electric service that results when one or more components are deliberately taken out of service at a selected time, usually for the purposes of preventative maintenance, repair or construction. Scheduled interruptions, where attempts have been made to notify customers in advance, shall not be included in the SAIFI, CAIDI, or Forced Outage Rate calculations.

“Interruption, sustained” means an interruption of electric service to one or more customers that is not classified as a momentary event interruption and which is longer than five minutes in duration.

“Interrupting device” means a device, capable of being reclosed, whose purpose includes interrupting fault currents, isolating faulted components, disconnecting loads and restoring service. These devices can be manual, automatic, or motor operated. Examples include transmission and distribution breakers, line reclosers, motor operated switches, fuses or other devices.

“Major Event” means an event consistent with the I.E.E.E.1366, Guide For Electric Power Distribution Reliability Indices standard as approved and as may change over time. For purposes of this regulation, changes shall be considered to be in effect beginning January 1 of the first calendar year after the changed standard is adopted by the I.E.E.E. Major event interruptions shall be excluded from the EDC’s SAIFI, CAIDI and Forced Outage Rate calculations for comparison to reliability benchmarks. Interruption data for major events shall be collected, and reported according to the reporting requirements outlined in Section 11.

“Mid Atlantic Area Council (‘MAAC’) or Reliability First Corporation” means a regional council

of the North American Electric Reliability Council (“NERC”), or successor organization, that is responsible for Mid Atlantic operational policies and reliability planning standards applicable to PJM and local electric distribution company members.

“North American Electric Reliability Council (“NERC”)” means the national organization responsible for operational policies and reliability planning standards applicable to national system operations and electric distribution companies, or their successor organizations.

“Outage” means the state of a component when it is not available to perform its intended function due to some event directly associated with that component. An outage may or may not cause an interruption of electric service to customers, depending on system configuration.

“Outage management system (“OMS”)” means a software operating system that provides database information to effectively manage service interruptions and minimize customer outage times.

“Pre-restructuring” refers to the five-year time frame prior to Delaware’s adoption of 26 Del.C., Chapter 10, Electric Utility Restructuring Statute.

“PJM Interconnection, L.L.C. (“PJM”)” means the independent system operator that is responsible for mid-Atlantic region wholesale energy markets and the interstate transmission of energy, or its successor organization.

“Power quality” means the characteristics of electric power received by the customer, with the exception of sustained interruptions and momentary event interruptions. Characteristics of electric power that detract from its quality include waveform irregularities and voltage variations – either prolonged or transient. Power quality problems shall include, but are not limited to, disturbances such as high or low voltage, voltage spikes or transients, flicker and voltage sags, surges and short-time overvoltages, as well as harmonics and noise.

“Preventive maintenance” means the planned maintenance, usually performed to preclude forced or unplanned outages, and which allows delivery facilities to continue functioning at an acceptable level of reliability.

“Reliability” means the degree of performance of the elements of the bulk electric system that results in electricity being delivered to customers within accepted standards and in the amount desired. Reliability may be measured by the frequency, duration, and magnitude of adverse effects on the electric supply. Electric system reliability can be addressed by considering two basic and functional aspects of the electric system – Adequacy and Security. (See ERC definition - NERC’s Reliability Assessment 2001-2010, dated October 16, 2001.)

Adequacy - The ability of the electric system to supply the aggregate electrical demand and

energy requirements of customers at all times, taking into account scheduled and reasonably expected unscheduled outages of system elements.

Security - The ability of the electric system to withstand sudden disturbances such as electric short circuits or unanticipated loss of system elements. (See NERC definition - NERC's Reliability Assessment 2001–2010, dated October 16, 2001.)

As applied to distribution facilities, reliability is further described as the degree to which safe, proper and adequate electric service is supplied to customers without interruption.

“Repair time” is the elapsed time from the arrival of the service resource at the identified problem site to the correction of the customer’s original concern as tracked by the OMS.

“Response time” is the elapsed time from dispatch of service resource to the arrival of the service resource at the identified problem site as tracked by the OMS.

“Step restoration” means the restoration of service to blocks of customers in an area until the entire area or circuit is restored.

“Sum of all Sustained Customer Interruption Durations” means the summation of the restoration time (in minutes) for each event times the number of interrupted customers for each step restoration of each interruption event during the reporting period.

“Supervisory Control And Data Acquisition (‘SCADA’)” is an electronic communication and control system that provides electrical system operating information and mechanisms to remotely control energy flows and equipment.

“System Average Interruption Duration Index (‘SAIDI’)” represents the average duration of sustained interruptions per customer. SAIDI is defined as:

$$\text{SAIDI} = \frac{\text{Sum of all Sustained Customer Interruption Durations per Reporting Period}}{\text{Total Number of Customers Served per Reporting Period}}$$

“System Average Interruption Frequency Index (‘SAIFI’)” represents the average frequency of sustained interruptions per customer during the reporting period. SAIFI is defined as:

$$\text{SAIFI} = \frac{\text{Total Number of Sustained Customer Interruptions per Reporting Period}}{\text{Total Number of Customers Served per Reporting Period}}$$

“Total Number of Sustained Customer Interruptions” means the sum of the number of interrupted customers for each interruption event during the reporting period. Customers who experienced multiple interruptions during the reporting period are counted for each interruption event the customer experienced during the reporting period.

“Total Number of Customers Served” means the number of customers provided with electric service by the distribution facility for which a reliability index is being calculated on the last day

of the time period for which the reliability index is being calculated. This number should exclude all street lighting (dusk-to-dawn lighting, municipal street lighting, traffic lights) and sales to other electric utilities.

“Transmission facilities” means electric facilities located in Delaware and owned by a public utility that operates at voltages above 34,500 volts and that are used to transmit and deliver electricity to customers (including any customers taking electric service under interruptible rate schedules as of December 31, 1998) up through and including the point of physical connection with electric facilities owned by the customer.

3.0 Electric Service Reliability and Quality

3.1 Each EDC shall provide reliable electric service that is consistent with pre-restructuring service levels as identified in Section 4 and complies with 26 Del.C., §1002.

3.2 Each EDC shall install, operate, and maintain its delivery facilities in conformity with the requirements of the National Electrical Safety Code and the operating policies and standards of NERC, MAAC and PJM, or their successor organizations.

3.3 Each EDC shall have targeted objectives, programs and/or procedures and forecast load studies, designed to help maintain the acceptable reliability level for its delivery facilities and, where appropriate, to improve performance.

3.4 Each EDC, in accordance with Section 9, shall submit to the Commission, on or before March 31 of each year, a Planning and Studies Report identifying its current year’s annual objectives, planned actions and projects, programs, and forecast studies that serve to maintain reliability and quality of service at an acceptable reliability level.

3.5 Each EDC, in accordance with Section 10, shall submit to the Commission, on or before April 30 of each year, a Performance Report that assesses the achievement of the previous year’s objectives, planned actions, projects and programs, and assesses the relative accuracy of forecast studies and previous years performance measures with respect to benchmarks.

3.6 Each generation company in accordance with Section 10. shall submit to the Commission on or before April 30 of each year, a Performance Report that evaluates their reliability of energy supply.

3.7 Each EDC shall ensure that distribution system generation interconnection requirements are consistent with the I.E.E.E. 1547 series, "Standard for Interconnecting Distributed Resources with Electric Power Systems, as currently approved and as may be revised.

3.8 Each EDC shall file and maintain with the Commission a copy of the technical requirements for distribution system generation interconnection.

4.0 Reliability and Quality Performance Benchmarks

4.1 The measurement of reliability and quality performance shall be based on annual SAIDI and Constrained Hours of Operation measures for each EDC. The SAIDI calculation shall include all Delaware customer outages, excluding major events, and shall be reported along with its SAIFI and CAIDI components, subdivided by its distribution, substation and transmission components. The Constrained Hours of Operations shall be based on peninsula (DPL Zone) transmission system contingency limitations that require the dispatch of off-cost generation, excluding generation or transmission forced outages, generation or transmission related construction or any unrelated third party actions.

4.2 Each EDC shall maintain their electric service reliability and quality performance measures within the benchmark standard of this Section 4, Paragraph 4.3. SAIDI and Constrained Hours of Operation performance shall be measured each calendar year. Annual SAIDI and Hours of Constrained Operation performance equal to or better than the acceptable reliability level meets the standard of this regulation. When performance does not meet the acceptable reliability level, further review and analysis are required. The EDC may be subject to penalties as defined in Section 13. and subsequent corrective actions may be required.

4.3 For the EDCs, the electric service reliability and quality performance benchmarks are established as follows:

4.3.1 The system SAIDI benchmark standard, which is based on pre-restructuring levels of performance and adjusted to reflect a 1.75 standard deviation of data variability and the transition to an OMS system shall be as follows:

4.3.1.1 Delaware Electric Cooperative SAIDI shall be 635 minutes per customer; and

4.3.1.2 Delmarva Power SAIDI shall be 295 minutes per customer.

4.3.2 Based on the PEPCO/Conectiv merger settlement, the Constrained Hours of Operation benchmark standard shall be 600 hours for each EDC.

4.4 Each EDC shall track and report its annual performance and three-year average performance against benchmark standards in accordance with Section 10.

4.5 Each EDC shall track and report its annual CAIDI, SAIFI, CEMI8 and CELID8 performance in accordance with Section 10.

5.0 Reliability and Quality Performance Objectives

5.1 Each EDC shall establish electric service reliability and quality performance objectives for the forthcoming year. Objectives shall include:

5.1.1 Anticipated performance measures designed to maintain reliable electric distribution service

with a description of any planned actions to achieve target objectives;

5.1.2 Anticipated performance measures designed to maintain transmission circuits and power transformers with a description of any planned actions to achieve target objectives; and

5.1.3 Annual corrective and preventive maintenance program hours anticipated on Delaware transmission circuits, distribution circuits and substation equipment.

5.2 Performance objective measures shall be established to support the maintenance of electric reliability performance. Performance objectives shall be representative of expected performance, taking into consideration anticipated new construction projects, quality and maintenance programs, planned actions and any resource or time limitations.

6.0 Power Quality Program

6.1 Each EDC shall maintain a power quality program with clearly stated objectives and procedures designed to respond promptly to customer reports of power quality concerns.

6.2 Each EDC shall consider power quality concerns in the design, construction and maintenance of its transmission and distribution power delivery system components to mitigate, using reasonable measures, power quality disturbances that adversely affect customers' equipment.

6.3 Each EDC shall maintain records of customer power quality concerns and EDC response. These records shall be made available to the Commission Staff upon request with 30 days notice.

7.0 Inspection and Maintenance Program

7.1 Each EDC shall have an inspection and maintenance program designed to maintain delivery facilities performance at an acceptable reliability level. The program shall be based on industry codes, national electric industry practices, manufacturer's recommendations, sound engineering judgment and past experience.

7.2 As a maintenance minimum, each EDC shall inspect and maintain as necessary its power transformers, circuit breakers, substation capacitor banks, automatic 3-phase circuit switches and all 600 amp or larger manually operated, gang transmission circuit tie switches at least once every two (2) years.

7.3 As a maintenance minimum, each EDC shall inspect all right-of-way vegetation at least once every four (4) years and trim or maintain as necessary, according priorities to circuits that have had significant numbers of vegetation-related outages, while not unduly delaying the trimming of other circuits that inspections indicate currently need trimming. Vegetation management practices should be applied at least once every four (4) years except where growth or other assessments deem it unnecessary.

7.4 Each EDC shall maintain records of inspection and maintenance activities. Compliance with

this requirement may be established by a showing of substantial compliance without regard for a single particular facility maintenance record. These records shall be made available to Commission Staff upon request with 30 days notice.

8.0 Delivery Facility Studies

8.1 Each EDC shall perform system load studies to identify and examine potential distribution circuit overloads, distribution substation and distribution substation supply circuit single contingencies and all transmission system single and double contingencies as specified by NERC, MAAC, Reliability First Corp. and PJM or successor requirements. Double contingency analysis should include supply service contingencies that may cause overloads or outages on the EDC's system. Where NERC, MAAC, Reliability First Corp or PJM requirements are not applicable, the EDC shall at a minimum examine circuit and equipment overloads under normal and single contingency conditions at peak load, with and without ALM or other demand response mechanisms. The EDC shall identify all projects and/or corrective actions that are planned to mitigate reliability loading issues identified in the study.

8.2 Delivery facility planning studies will be performed annually under conditions specified by NERC, MAAC, Reliability First Corp. and PJM or their successor organization's planning requirements, or as specified in 8.1. Studies shall identify required projects and/or planned corrective actions. For any study resulting in a thermal overload or an out-of-range voltage level, the study shall be performed again after the implementation of Active Load Management (ALM), system switching or reconfiguration.

8.3 Each EDC shall perform the electric delivery facility system planning studies as described herein in the fall of each year (year a) for the upcoming summer period (year b) and for the summer period two years later (year c). The planning studies will include all delivery facility enhancements planned to be in-service during the applicable summer peak and shall identify those delivery facilities that are anticipated to be overloaded during the peak demand period.

9.0 Planning and Studies Report

9.1 Prior to March 31 of each year, each EDC shall convene a stakeholder meeting offering opportunity for interested parties to discuss electric service reliability or quality concerns within Delaware. Such meeting shall be limited to discussion of publicly available information and at a minimum be open to generation companies, electric suppliers, municipalities or other EDCs, PJM, state agencies and wholesale/retail consumers. Each EDC shall consider the resulting issues and include mitigation efforts in annual plans as appropriate.

9.2 By March 31 of each year, each EDC shall submit a reliability planning and studies report to

the Commission for review. The report will identify current reliability objectives, load study results and planned actions, projects or programs designed to maintain the electric service reliability and quality of the delivery facilities.

9.3 The report shall include the following information:

9.3.1 Objective targets or goals in support of reliable electric service and descriptions of planned actions to achieve the objectives;

9.3.2 Delivery load study results as described in Section 8., to include at a minimum the information for both year b and year c as specified in Section 8., Paragraph 8.3.;

9.3.3 Description and estimated cost of capital projects planned to mitigate loading or contingent conditions identified in load studies or required to manage hours of congestion;

9.3.4 The EDC's power quality program and any amendments as required in Section 6.;

9.3.5 The EDC's inspection and maintenance program, any amendments as required in Section 7., and any specific actions aimed at reducing outage causes;

9.3.6 Copies of all recent delivery facility planning studies and network capability studies (including CETO and CETL results) performed for any delivery facilities owned by the utility; and

9.3.7 Summaries of any changes to reliability related requirements, standards and procedures at PJM, MAAC, First Reliability Corporation, NERC or the EDC.

9.3.8 Summary of any issues that resulted from the EDC stakeholder meeting and any projects or planning changes that may have been incorporated as a result of such meeting.

10.0 Annual Performance Report

10.1 By April 30 of each year, each EDC shall submit an annual Performance Report, summarizing the actual electric service reliability results. The report shall include the EDC's average three-year performance results, actual year-end performance measure results and an assessment of the results/effectiveness of the reliability objectives, planned actions and projects, programs, and load studies in achieving an acceptable reliability level.

10.2 Delivery facilities year-end performance measures, as established in Section 4., Paragraph 4.1 shall be reported as follows:

10.2.1 SAIDI, SAIFI, and CAIDI measures:

10.2.1.1 Current year and three-year average reflecting Delaware performance, classified by distribution, substation and transmission components; and

10.2.1.2 Current year for each feeder circuit providing service to Delaware customers, regardless of state origin.

10.2.2 Constrained hours of operation:

10.2.2.1 Current year and three-year average for the EDC's DPL Zone transmission system; and

10.2.2.2 Current year for the EDC's DPL Zone, classified by cause.

10.3 The Performance Report shall identify 2% of distribution feeders or 10 feeders, whichever is more, serving at least one Delaware customer, that are identified by the utility as having the poorest reliability. The EDC shall identify the method used to determine the feeders with poorest reliability and shall indicate any planned corrective actions to improve feeder performance and target dates for completion or explain why no action is required. The EDC shall ensure that feeders, identified as having the poorest reliability, shall not appear in any two consecutive Performance Reports without initiated corrective action.

10.4 The Performance Report shall include annual information that provides the Commission with the ability to assess the EDC's efforts to maintain reliable electric service to all customers in the state of Delaware. Such reporting shall include the following items:

10.4.1 Current year expenditures, labor resource hours, and progress measures for each capital and/or maintenance program designed to support the maintenance of reliable electric service, to include:

10.4.1.1 Transmission vegetation maintenance;

10.4.1.2 Transmission maintenance, excluding vegetation, by total, preventive, and corrective categories;

10.4.1.3 Transmission capital infrastructure improvements;

10.4.1.4 Distribution vegetation maintenance;

10.4.1.5 Distribution maintenance, excluding vegetation, by total, preventive and corrective categories;

10.4.1.6 Distribution capital infrastructure improvements;

10.4.1.7 Transmission and Distribution progress per Section 7, Paragraphs 7.2 and 7.3; and

10.4.1.8 Any related process, practice or material improvements.

10.4.2 Current year OMS data to include:

10.4.2.1 Number of outages by outage type;

10.4.2.2 Number of outages by outage cause;

10.4.2.3 Total number of customers at year end;

10.4.2.4 Total number of customers that experienced an outage; and

10.4.2.5 Total customer minutes of outage time.

10.4.3 Current year CELID8 and CEMI8 results, exclusive of major events, including any efforts

being made to reduce the occurrences of multiple outages or long duration outages.

10.4.4 Current year customer satisfaction or other measures the EDC believes are indicative of reliability performance.

10.5 The Performance Report shall include a summary of each major event for which data was excluded, and an assessment of the measurable impact on reported performance measures.

10.6 In the event that an EDC's reliability performance measure does not meet an acceptable reliability level for the calendar year, the Performance Report shall include the following:

10.6.1 For not meeting SAIDI, an analysis of the customer service interruption causes for all delivery facilities by dispatch, response and repair times that significantly contributed to not meeting the benchmark;

10.6.2 For not meeting Constrained Hours of Operation, an analysis of significant constraints by cause;

10.6.3 A description of any corrective actions that are planned by the EDC and the target dates by which the corrective action shall be completed; and

10.6.4 If no corrective actions are planned, an explanation shall be provided.

10.7 The Performance Report shall include copies of current procedures identifying methods the EDC uses to ensure the electric supplier delivery of energy to the EDC at locations and in amounts which are adequate to meet each electric supplier's obligation to its customers.

10.8 The Performance Report shall include certification by an officer of the EDC of the data and analysis and that necessary projects, maintenance programs and other actions are being performed and adequately funded by the Company as addressed in its annual plans.

10.9 Unless a generation company participates in the Generation Working Group, each generation company shall submit by April 30 of each year an annual Reliability Performance Report. The performance report shall include the individual unit and average station forced outage rates and any anticipated changes that may impact the future adequacy of supply. Each generation company shall also provide the Commission with at least a one-year advanced notification of any planned unit retirements, planned re-powerings or planned long-term unit de-ratings.

10.9.1 The performance report required by Section 10.9 shall include the individual unit and average station forced outage rates and any anticipated changes that may impact the future adequacy of supply.

10.9.2 Each generation company not a member of a Generation Working Group shall also provide the Commission with at least a one-year advanced notification of any planned unit retirements, planned re-powerings or planned long-term unit de-ratings.

10.10 In lieu of submission of an annual Reliability Performance and one-year advanced notification, as required in Section 10.9, Generation companies may voluntarily participate in a Generation Working Group.

10.10.1 The Commission shall designate one member of the Commission Staff to chair the Working Group. Such individual shall be referred to as the "Commission Staff Member."

10.10.2 Meetings of the Generation Working Group shall be no less frequently than semi-annually, and shall be scheduled by the Commission Staff Member.

10.10.3 The purpose of the semi-annual meetings will be for the Commission Staff Member and the participating Generation company or companies, as the case may be, to agree upon the specific parameters of generation information to be provided by member Generation companies to the Commission and how and when such information should be presented to the Commission. The specific parameters and presentation of information need not be identical for Generation Company, as agreed by the Generation Working Group.

10.10.4 In the event of a disagreement between the Commission Staff Member and a Generation company, the Generation Working Group will attempt to resolve the disagreement by consensus. If consensus cannot be achieved in a reasonable time, the Generation Working Group or any member may request a determination by the Commission of the issue.

10.10.5 To allow Generation companies to participate openly without disclosing commercially-sensitive information to each other, the semi-annual Working Group meetings may be supplemented with meetings between the Commission Staff Member and individual Generation companies. Such individual meetings may be requested, on an as needed basis, by the Commission Staff Member or by a Generation company.

10.10.6 The Generation company or companies, as the case may be, shall use its or their best efforts to provide the requested information within an agreed-upon period of time.

10.10.7 The Commission and each member of the Generation Working Group shall implement all steps necessary to protect the confidentiality of commercially sensitive information provided by the Generation Company or companies, as the case may be.

10.10.8 Each member of the Generation Working Group reserves the right to not provide information of a commercially-sensitive nature to all or some of the members of the Generation Working Group unless and until it obtains legally sufficient protection against non-disclosure of such information, and each such member shall take reasonable steps to procure such legally sufficient protection, to the extent these Rules do not constitute such protection.

10.10.9 Any Generation company participating in the Generation Working Group may withdraw

at any time.

11.0 Major Event Report

11.1 Each EDC shall notify the Commission of major events as soon as practical, but not more than 36 hours after the onset of a major event. Initial notification is required when more than 10% of an EDC's customers experience a sustained outage during a 24 hour period; however, I.E.E.E. 1366 standard shall apply to all performance calculations.

11.2 Each EDC is expected to restore service to customers as quickly and safely as permitted by major event conditions. The EDC's restoration effort may be subject to review, subsequent corrective actions and penalties as permitted by 26 Del.C. §1019.

11.3 The EDC shall, within 15 business days after the end of a major event, submit a written report to the Commission, which shall include the following:

11.3.1 The date and time when the EDC's major event control center opened and closed;

11.3.2 The total number of customers out-of-service over the course of the major event in six hour increments;

11.3.3 The date and time when 75%, 95% and 100% of customers affected by a major event were restored;

11.3.4 The total number of trouble assignments repaired, by facility classification (poles, miles of wire, transformers);

11.3.5 The time at which the mutual aid and non-company contractor crews were requested, arrived for duty and were released, and the mutual aid and non-contractor response(s) to the request(s) for assistance; and

11.3.6 A timeline profile in six-hour increments of the number of company line crews, mutual aid crews, non-company contractor line and tree crews working on restoration activities during the duration of the major event, summarized by total number of line, bucket, trouble, and tree types.

12.0 Prompt Restoration of Outages

12.1 Each EDC shall strive to restore service as quickly and as safely as possible at all times EDCs shall begin the restoration of service to an affected service area within two hours of notification by two or more customers of any loss of electric service. In situations where it is not practical to respond within two hours to a reported interruption (safety reasons, inaccessibility, multiple simultaneous interruptions, storms or other system emergencies), the EDC shall respond as soon as the situation permits.

12.2 Each EDC shall monitor dispatch, response and repair times for customer outages. In the event that average annual dispatch, response or repair performance times exceed the EDC's

expected levels for the calendar year, the EDC shall include the following in its annual performance report.

12.2.1 An analysis of the factors which caused the unexpected performance; and

12.2.2 A description of any corrective actions planned by the EDC to meet expected performance levels.

12.3 Each EDC shall have outage response procedures that place the highest priority on responding to emergency situations for which prompt restoration is essential to public safety. These procedures should include recognition of priority requests that may come from police, fire, rescue, authorized emergency service providers or public facility operators.

13.0 Penalties and Other Remedies

13.1 Private or investor owned utilities and cooperatives, operating in Delaware under the regulation of the Commission, are subject to penalties and other remedial actions in accordance with 26 Del.C., §205(a), §217, and §1019. The Commission shall be responsible for assessing any penalty under this section, consistent with Delaware law. In determining if there should be a penalty for violation of a reporting requirement or benchmark standard and, if so, what the penalty amount should be, the Commission shall consider the nature, circumstances, extent and gravity of the violation including the degree of the EDC's culpability and history of prior violations and any good faith effort on the part of the EDC in attempting to achieve compliance. Such penalty shall not exceed \$5,000 for each violation, with the overall penalty not to exceed an amount reasonable and appropriate for the violation (maximum of \$600,000 per year per reporting or standard violation). Each day of noncompliance shall be treated as a separate violation. In the case of an electric cooperative, in violation of a reporting requirement or benchmark standard, the Commission shall not assess any monetary penalty that would adversely impact the financial stability of such an entity and any monetary penalty that is assessed against an electric cooperative shall not exceed \$1,000 for each violation, which each day of noncompliance shall be treated as a separate violation (maximum of \$60,000 per year per reporting or standard violation). Nothing in this section relieves any private or investor owned utility or cooperative from compliance or penalties, that may be assessed due to non-compliance with any requirement set forth under any other regulation, statute or order.

13.2 An EDC shall be considered in violation of the SAIDI or Constrained Hours of Operation performance benchmark standard when the annual year-end cumulative measure exceeds the benchmark standard. The term of the violation shall extend for the period of time during which the performance measure exceeded the benchmark standard.

13.3 Upon failure of any EDC to meet performance benchmark standards, the EDC shall report monthly, or over such other period of time that the Commission shall establish by order, the latest performance indices, until such time as performance meets the acceptable reliability level.

13.4 Each EDC not meeting performance benchmark standards as required by Section 4, shall inform its customers, in writing, of the results and plans to improve electric service reliability and quality by July 1 of the year following any year in which its performance does not meet an acceptable reliability level.

13.5 Each violation of any reporting rule or performance standard of this regulation shall constitute a single, separate and distinct violation for that particular day. Each day during which a violation continues shall constitute an additional, separate and distinct violation. Provided, however, that a violation of a performance measure shall not be deemed to be a violation per customer, whether affected or otherwise, but shall constitute a single Delaware-wide violation for the day.

13.6 In a proceeding to determine penalties or other remedial measures for any violation, but particularly with respect to the Constrained Hours of Operation, the Commission should consider the extent to which the measure or reporting requirement did not meet the established standard and the extent to which the EDC may have implemented cost-effective efforts to comply with the requirement.

13.7 Penalty assessments are payable as provided by Delaware statute.

14.0 Outage Management System (OMS)

14.1 Each EDC shall implement and maintain an Outage Management System (OMS) and a Supervisory Control and Data Acquisition System (SCADA) as described in this section by January 1, 2007.

14.2 The OMS, at a minimum, shall consist of an outage assessment software program, integrated with a geographic information system that permits an EDC to effectively manage outage events and restore customer service in a timely manner.

14.3 The OMS should permit the EDC to:

14.3.1 Group customers who are out of service to the most probable interrupting device that operated;

14.3.2 Associate customers with distribution facilities;

14.3.3 Generate street maps indicating EDC outage locations;

14.3.4 Improve the management of resources during a storm;

14.3.5 Improve the accuracy of identifying the number of customers without electric service;

14.3.6 Improve the ability to estimate expected restoration times;

14.3.7 Accurately identify the number and when customers were restored; and

14.3.8 Effectively support the dispatch of crews and/or service personnel.

14.4 The SCADA system, at a minimum, shall consist of a remote monitoring and operating ability for all major substation equipment integral to maintaining the reliability of the system. The system will have the ability to:

14.4.1 Monitor and record critical system load data and major equipment status;

14.4.2 Provide remote operational control over major equipment; and

14.4.3 Incorporate generally accepted utility industry safety and security standards.

15.0 Reporting Specifications and Implementation

15.1 Planning and Studies Reports, Performance Reports and Major Event Reports provided under this regulation are subject to annual review and audit by the Commission. Each EDC and generation company must maintain sufficient records to permit a review and confirmation of material contained in all required reports.

15.2 Reports shall be submitted as an original and 5 paper copies with one additional copy submitted electronically to the Secretary, Delaware Public Service Commission, with certification of authenticity by an officer of the corporation. The electronic copy may be posted on the Delaware Public Service Commission's Internet website.

15.3 Each EDC or generation company may request that information, required under this regulation, be classified as confidential, proprietary and/or privileged material. The requesting party must attest that such information is not subject to inspection by the public or other parties without execution of an appropriate proprietary agreement. Each party requesting such treatment of information is also obligated to file one (1) additional electronic and paper copy of the information, excluding the confidential or proprietary information. The Commission, in accordance with Rule 11, Rules of Practice and Procedure of the Delaware Public Service Commission, effective May 10, 1999, will treat such information as "confidential, not for public release" upon receipt of a properly filed request. Any dispute over the confidential treatment of information shall be resolved by the Commission, designated Presiding Officer or Hearing Examiner.

15.4 This regulation replaces the Interim Regulation and is effective 10 days after publication in the Delaware Register; however, for the initial 2006 year, Planning and Studies reports are due March 31, 2006; Performance reports are due April 30, 2006, and compliance shall be based upon, in all respects, the standards and requirements of the Interim Regulations. Thereafter, and

beginning January 1, 2007, EDC compliance shall be based upon the standards and requirements of these revised regulations.

10 DE Reg. 576 (09/01/06)

<http://regulations.delaware.gov/AdminCode/title26/index.shtml#TopOfPage>