September 20, 2000

VIA HAND DELIVERY

Mr. James P. Giuliano
Director, Division of Service Evaluation
New Jersey Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

RE: Interim Electric Distribution Service Reliability and Quality Standards
Proposed Rules: N.J.A.C. 14:5-7 *et. seq*.
BPU Docket No. EX98080528

Dear Mr. Guiliano:

Please accept the following comments of the Division of the Ratepayer Advocate (Ratepayer Advocate) regarding the New Jersey Board of Pubic Utilities (Board) recently proposed Interim Electric Distribution Service Reliability and Quality Standards.[1] Our comments are designed to improve the proposed regulations, to help maintain and improve electric service reliability throughout the State. The Ratepayer Advocate has numerous suggestions on how to make the proposed regulations satisfy the requirements established in the Energy Discount and Energy Competition Act ("EDECA"). *See N.J.S.A.* 48:3-96.

[1] 32 *N.J.R.* 2980 (NJ Register August 21, 2000).

SUMMARY AND OVERVIEW OF COMMENTS

Pursuant to *N.J.S.A.* 48:3-96, the EDECA requires the Board to "adopt . . . standards for the inspection, maintenance, repair and replacement of the distribution equipment and facilities of electric public utilities." The Board is allowed some discretion on the form of these standards ("prescriptive standards, performance standards, or both"), but these standards must ". . . provide for high quality, safe and reliable service." *N.J.S.A.* 48:3-96. Furthermore, the statute requires the Board to adopt a schedule of penalties for violations of these standards. The Board must also consider the following criteria when adopting standards: "cost, local geography and weather, applicable industry codes, national electric industry practices, sound engineering judgement, and past experience." *Id.* Finally, EDECA requires that the Board require electric utilities to report annually on its compliance with the standards and to make these reports available to the public. In light of these statutory directives, the Board's rules should discuss these directives and link the proposed rules with these requirements. The Board's proposed rules have not made these requisite linkages.

The Board correctly noted in the introduction to the proposed regulations that, "the public at large relies on the electric utilities to provide distribution service that is reliable and subject to few interruptions. As the electric industry enters the transition to competition, there is the potential for reliability to diminish."[2] In a restructured electric market, the distribution utility will remain responsible for most key aspects of service quality and reliability because of its retained ownership of the distribution system, i.e., the poles and wires that deliver electricity to each

[2] *Id*. at 2982.

customer's home and place of business.[3] Therefore, a distribution utility will remain responsible for service reliability (outages, their frequency and duration), installation of service (service drops, as well as line extensions in previously unserved areas), disconnection of service, complaint resolution concerning distribution services, change-orders for customer-supplier relationships and billing and collection for many customers. At the same time, these local electric utilities are often operating under rate caps or rate decreases (such as those in effect in New Jersey) and separating their competitive functions into separate affiliates or functionally separate units. This combination of changes is likely to result in a shift in attention away from monopoly distribution functions by utility executives in order to reduce costs and maintain earnings and profits in potentially more lucrative business activities.

The ultimate reliability standards and quality of service plan adopted by the Board should result in a high level of service quality and service reliability by establishing regulatory programs and policies to prevent any deterioration of service quality and reliability as we transition to a more competitive market for the sale of electricity. A comprehensive approach to policing both service quality and service reliability is necessary to maintain high quality service that all customers throughout New Jersey expect and deserve. Such an a comprehensive approach will more effectively prevent and ameliorate both the more routine customer service issues, routine forced outages and the next severe outage event, whether caused by a major storm or a failure of any distribution system components.

Our comments are designed to assist the Board in crafting regulations that will maintain current service quality levels where performance is adequate and improve service quality and

[3] The distribution system is the source of the vast majority of customer outages.

reliability where either utilities or individual operating areas are performing below this adequate service level. Where there exists areas within utility service territories that already have inadequate customer service and/or reliability, the regulations should be designed to bring those areas up to acceptable levels of service quality and reliability. These objectives can be accomplished through a comprehensive service quality and reliability plan, including the assessment of monetary penalties when service quality and reliability standards are not adequately fulfilled.

Unfortunately, the proposed rules will not achieve these objectives in their current form. Compared to actions undertaken in other states that have moved to retail competition, the proposed New Jersey regulations are seriously deficient. If adopted as proposed, these regulations will not prevent deterioration of service quality and reliability for New Jersey's electricity customers and will not improve service quality and reliability where performance is already deficient. The following comments propose changes in the regulations to adopt a comprehensive program to monitor and improve service quality and reliability throughout New Jersey. Two of the most serious defects in the proposed rules are: (1) the failure to incorporate customer service quality standards, and (2) the lack of enforcement penalties for failure to meet reliability standards. The changes proposed herein, if adopted, will transform the proposed regulations into ones that will better maintain a high level of service quality and reliability for New Jersey electric customers. The Ratepayer Advocate's comments will address the proposed sections of the regulations that we believe should be changed, modified or eliminated.

Our overall concerns and objections to the proposed rules can be summarized as follows:

- The proposed rules fail to adopt any specific performance standards or benchmark levels for New Jersey's electric utilities. The proposed rules suggest a methodology for establishing a benchmark standard, but would allow the Board to alter that methodology at its discretion. There is no historical performance information included in the proposed rules to allow the public to make recommendations concerning the impact of the proposed methodology on current service quality performance.
- The proposed rules fail to even identify or require reporting for any service quality metric except Customer Average Interruption Duration Index (CAIDI) and System Average Interruption Frequency Index (SAIFI). An important measurement of power quality–Momentary Average Interruption Frequency Index (MAIFI)– is not included. Nor are any other measurement of service quality, such as customer complaints, customer satisfaction, kept appointment ratio, customer call center operations and responsiveness, or measures of the effectiveness of regulatory programs.
- The proposed rules fail to establish penalties for the failure to maintain a high level of service quality and reliability as required by New Jersey law.

We have attached to these comments a summary of action taken by other states to assure safe and reliable service for electric customers. This summary, prepared by Barbara Alexander, a nationally-recognized expert in customer service and reliability issues, clearly demonstrates the lack of progress that has been made to date in New Jersey in fulfilling the statutory directive to provide for "...high quality, safe and reliable service." This summary demonstrates the defects in the proposed rules with respect to the lack of any enforceable standards or penalty mechanisms. Finally, these state initiatives demonstrate that the rationale for delaying the adoption of

enforceable standards in New Jersey, the utilities' implementation of Outage Management Systems (OMS), has not resulted in delay or alteration in expected baseline performance standards.

COMMENTS ON THE SUMMARY

The summary discussion preceding the proposed rules contain several inaccurate or misleading statements. The first objectionable statements are those concerning the work of the Reliability Working Group (RWG). This prologue to the proposed rules may leave the reader with the impression that some form of unanimity or consensus was reached among members of the RWG. For example, the first paragraph states: "The proposed new rules were developed through the efforts of the RWG which was convened by the Board of Public Utilities . . ." Armed with only this statement, the reader could be led to believe that the proposed rules were developed though a consensus of the RWG. This certainly was not the case.

The RWG met diligently throughout the late winter and spring in an effort to define issues concerning reliability, develop measures of service reliability and, ultimately, to construct service reliability rules. However, in the end, the RWG failed to reach consensus on reliability standards. The disparity of viewpoints was so wide, in fact, that the RWG even failed to agree on a common purpose and objective of the reliability standards. At the conclusion of the working group meetings, the RWG had failed to agree on both the objectives of reliability standards and on the standards themselves. The proposed rules do not reflect the views of the Ratepayer Advocate.

Also in the Summary, first paragraph, there is mention of alternate plans of regulation and performance based rates which allegedly were "explored" by the RWG. This, too, is an

inaccurate and misleading comment. The responsibilities of the RWG did not include the exploration of alternate plans of regulation or performance based rates. Rather, the charge of the RWG was quite simple, at least in concept – to develop service reliability standards. On its own initiative, one utility within the RWG sponsored an independent consultant's presentation on alternate plans of regulation and performance based rates. While the Ratepayer Advocate did not object to the presentation at that time, we felt that such a presentation ran far afield from the purpose and goals of the RWG. Nor was any time allotted to permit other RWG members to prepare a response to the consultant's presentation. It simply is not accurate to state that alternate forms of regulation and performance based rates were "explored" in any meaningful way by the RWG. More accurately, the members of the RWG allowed the utility to present its consultant's view on alternate forms of regulation, without response, rebuttal or further exploration.

The Summary contains a discussion of the components of the proposed rules. Our comments will address these substantive issues in the context of the proposed rules language. However, as a general matter we point out that the proposed rules are inconsistent with the requirements of EDECA in several important aspects. The lack of enforceable standards within the rules and the establishment of interim-only standards without penalty provisions, conflicts with the statutory policy and requirements imposed on the Board.

The following comments address specific issues in the proposed rules.

PROPOSED SECTION 14:5-7.1 - PURPOSE AND SCOPE

The Ratepayer Advocate believes that the Purpose and Scope of the proposed rules are too vague and inconsistent with the requirements of EDECA. Paragraph (a) in the Purpose and Scope mentions only developing a "uniform methodology for measuring reliability and ensuring quality of electric distribution service..." The requirements established in EDECA are is much more specific in its requirements than what is stated in the Interim Standards.[4] The reliability section of EDECA requires the adoption of standards which "provide for high quality, safe and reliable service."[5]

The Ratepayer Advocate proposes the following paragraph to replace paragraph 14:5-7.1 contained in the proposed rules:

14:5-7.1 Purpose and Scope

> *The rules in this subchapter set forth requirements designed to ensure a high level of service quality and reliability for all New Jersey electric customers by establishing programs to prevent the deterioration of service quality and reliability which may result from utility efforts to reduce costs and increase revenue following the introduction of competition in the industry. Where there currently exists areas withing certain service territories that have inadequate customer service and/or reliability, the rules proposed herein are designed to bring those areas up to acceptable levels of service quality and reliability. These objectives will be accomplished through the assessment of monetary penalties when the service quality and reliability standards are not met.*

[4] *N.J.S.A.* 48:3-96

[5] *Id.*

PROPOSED SECTION 14:5-7.2 - DEFINITIONS

The proposed definition of "Benchmark" is defined as "the 10-year average (1990-1999) of CAIDI and SAIFI or a value determined by the Board." This definition only establishes a performance standard for CAIDI (a measurement of the average interruption duration per interrupted customer) and SAIFI (a measurement of the average number of interruptions per customer) and then allows even that standard to be altered at the discretion of the Board, presumably without even initiating a formal rulemaking procedure. As such, this definition is inadequate. Additional performance standards should be adopted by the Board that reflect other important attributes of service quality and reliability, including MAIFI (to measure outages of less than 5 minutes), SAIDI (a measurement of the average time each customer is interrupted), and other important attributes of customer service, such as keeping service appointments, the operations of the customer call centers (% calls answered within 30 seconds or Average Speed of Answer), the results of customer satisfaction surveys reflecting recent customer transactions with the utility, and customer complaint ratios.

Furthermore, while the use of a 10-year average certainly should be considered by the Board in establishing standards, the historical average alone should not be the sole indicator of reliability. Without a review of the historical data and a determination of adequacy of performance, there is no basis for concluding that a uniform 10-year historical performance for each operating area and for each utility should be the basis for future performance. That conclusion is made even more difficult by the lack of any historical performance data or proposed numerical standards in the proposed rules.

The service level values for each utility should be set forth in the rules, and published annually, so that the public will be able to examine an Electric Distribution Company's (EDC) performance. The proposed rules would allow the performance standards to be altered at the discretion of the Board, apparently without public comment or input from interested parties. This particular section of the EDECA (*N.J.S.A.* 48:3-96) was promulgated, in part, to ensure that the public would be properly protected in the age of restructuring. To fulfill the EDECA's Legislative policy directive, the Board should publish its established service reliability levels in the rules. Because the service level values are going to be the "benchmark," they should be published, public information. Moreover, any changes to the published benchmark should be made only after notice and the opportunity for interested parties and the public to comment.

As discussed *infra* with respect to the proposed section 14:5-7.10, the Ratepayer Advocate opposes the exclusion of all "major events" from the calculation of EDC reliability performance data. However, should the Board retain an exclusion for "major events," the definition of this term requires some revision. The proposed definition of "major event" would allow the exclusion of outage data for an operating area when a utility allocates field resources from an operating area that does not initially experience a major outage to a particular operating area that experiences a major outage. The intent of this exclusion is not clear. Under the proposed definition, if any operating area experiences an outages that affects 10% of more customers, it is a "major event." If the intent of the proposed definition is to allow outages which affect less than 10% of the customers to be excluded simply because its crews were allocated to a "major event" operating area, that is unacceptable. This approach will also lead to disputes and lack of certainty about the inclusion or exclusion of outage data. In addition, the definition

includes the statement, "The Board retains authority to examine the characterization of a major event." The purpose of this statement in the definition is also unclear and may lead to confusion and lack of clarity as to the definition of any "major event." The key to the operation of this definition and its impact on annual reporting of reliability performance is to make sure the definition is absolutely clear and that there is not a constant uncertainty or potential for misreporting based on the definition. The Board obviously has the ability to consider a request for waiver of the rules in any year. However, the rule itself should not suggest that the Board will be able to determine the characterization of any event on a case-by-case basis and without a formal filing and Board order. This sentence should be removed from the definition.

The term "minimum reliability level" is addressed in the Ratepayer Advocate's proposed section 14:5-7.10.

PROPOSED SECTION 14:5-7.3 - RELIABILITY PERFORMANCE LEVELS

This section merely required the EDC to use "reasonable measures" to perform better than the minimum reliability levels and requires the EDC to calculate CAIDI and SAIFI for each operating area annually. This section does not in fact establish any "performance levels" nor does it impose an enforceable obligation on any EDC.

PROPOSED SECTION 14:5-7.4 - SERVICE RELIABILITY

This section requires each EDC to have "reasonable programs and procedures necessary to maintain the minimum reliability levels" for each operating area. This is a vague and unenforceable requirement. This section does not set forth any criteria for an acceptable program

or the format that should be followed by each EDC in preparing and presenting the service reliability program. At a minimum, EDCs should be required to maintain procedures to meet the minimum service levels established by the rules and to provide adequate resources to meet these service levels. Each EDC should be required to submit a service reliability program and plan annually which demonstrates the EDC's compliance with the minimum standards, the historical performance level for each operating area, and an analysis of worst performing circuits and improvements that will be expected in the forthcoming year.

PROPOSED SECTION 14:5-7.5 - POWER QUALITY

A power quality program should include the measurement and reporting of MAIFI. Where a utility is unable to provide information on the extent and frequency of momentary outages, it should include information in its annual report on its progress in being able to provide such information.[6] Furthermore, EDCs should be required to track customer complaints about power quality and report the frequency and location of such complaints in its annual report.

PROPOSED SECTION 14:5-7.6 - INDIVIDUAL CIRCUIT RELIABILITY PERFORMANCE

The manner in which "poor performing circuit(s)" are to be identified by the EDC is not specified. EDCs should be required to identify any circuit which performs below the minimum reliability level established for the operating area in which the circuit is located, and identify the

[6] The Pennsylvania PUC requires those utilities that are able to track this index to do so and several Pennsylvania EDCs file this information annually. However, there are no enforceable MAIFI standards as yet. Even this approach would be more acceptable than the failure to even discuss or report this important attribute of power quality as represented by the proposed Board rules.

programs and procedures that will be undertaken to bring the circuit up to the average performance of the operating area as a whole. Individual circuits that perform poorly should be required to improve their performance annually.

PROPOSED SECTION 14:5-7.7 - INSPECTION AND MAINTENANCE PROGRAMS

This section should require the Board to review and approve each EDC's inspection and maintenance plan. It is insufficient to merely require each utility to have a plan and to submit it to the Board. Moreover, the EDECA explicitly requires the Board to adopt "standards for the inspection, maintenance, repair and replacement" of EDC equipment and facilities. *N.J.S.A.* 48:3-96(a). Inspection and maintenance programs are the key to prevention of deterioration of service quality and reliability. The California PUC has done extensive work in developing inspection and maintenance standards[7], including inspection cycles and record-keeping requirements for utility distribution equipment. In general, the utility must patrol (walk, drive or fly by) their systems once a year in urban areas and once every two years in rural areas. Utilities must conduct detailed inspections every 3-5 years, depending on the type of equipment. For detailed inspections, utilities' records must specify the condition of inspected equipment, any problems found, and a scheduled date for corrective action. Annual reports are required which summarize inspections made, equipment condition observed, and repairs made. Tree trimming standards have also been adopted by the California PUC[8] for various types of transmission and distribution lines. These type of specific criteria and minimum inspection and maintenance

[7] CA PUC, Decisions 96-11-021 and 97-03-070l; General Order 165.

[8] CA PUC, Decision 97-01-044; General Order 95-A, Rules 35.

standards should be adopted in New Jersey. Whether these specific inspection intervals are appropriate in New Jersey is not yet clear, but the focus of the Board' work in this area should be to determine the minimum inspection cycles and reporting requirements for New Jersey EDCs rather than overly generic obligation contained in the proposed rules for each utility to devise its own plan and report it to the Board. In short, the proposed section 14:5-7.7 is wholly inadequate and fails to comply with the EDECA's requirements.

PROPOSED SECTION 14:5-7.8 - ANNUAL SYSTEM PERFORMANCE REPORT

The required report should be expanded to include the other reliability and service quality measurements we have recommended in our comments. In addition, all of the reliability data should be reported quarterly, as well as for the annual period, so that annual trends and service quality can be observed throughout the year.

PROPOSED SECTION 14:5-7.9 - MAJOR EVENT REPORT

In addition to the listed items which should be included in any report of a major event, the EDC should report any incidents or complaints concerning the operating of its emergency response plan with local officials, emergency, police and fire protection personnel. In addition, the EDC should report on its call answering performance during the major event, such as the average speed of answer, abandoned call rate, and other indicia of call center performance.

PROPOSED SECTION 14:5-7.10 - ESTABLISHMENT OF SERVICE LEVEL VALUES

The proposed rules establish the "benchmark standard" as the 10-year average for both CAIDI and SAIFI for each operating area. The "minimum reliability level" for 2001 is set at the benchmark standard plus two standard deviations, but this level is subject to change in the future by the Board in a process that is not set forth in the rules. While the "Summary" of the proposed rules states that permanent standards will be established in 2002, based on performance in 2001 and early 2002, this process is not included in the rule itself. The rules as drafted do not establish any standards for beyond 2001 and do not describe the timing or process by which standards beyond 2001 will be established.

The Ratepayer Advocate objects to four aspects concerning how the service level values are to be determined under the proposed rules. First, as previously stated, the Ratepayer Advocate objects to the interim nature of the proposed rules. The EDECA does not contemplate any further delay in establishing permanent rules to ensure continuation of safe, adequate and reliable service. One year of OMS data will not materially alter the base of data that already exists. To the extent that future reliability and performance materially changes historic statistics, prospective changes can be proposed at that time. There is no basis, however, for only adopting interim standards at this time.

Second, the Ratepayer Advocate objects to establishing utility operating area-specific minimum reliability performance levels rather than a statewide minimum performance level. Following enactment of the EDECA, New Jersey's present law plainly requires utilities to provide safe, adequate, proper and *reliable* service to *all* customers, regardless of their service provider or their location within the service territory. A statewide minimum performance level should be established that would apply to all EDCs. Such a statewide minimum reliability performance level

will help insure that these requirements are met in those operating areas that have below average performance. While the Board's proposed regulations may have attempted to capture this principal, they have in fact failed to do so. The Board's proposal has a basic flaw -- i.e., if the utility has a history of poor performance, using the utility's past experience as a basis for establishing a reliability guideline legitimizes the continuation of poor service reliability for that utility and its customers. Therefore, Ratepayer Advocate proposes that the reliability benchmark should be based on statewide performance, rather than on the operating area(s) of a specific utility. A statewide minimum standard will assure a "high" level of service quality as required by EDECA. The Board should adopt minimum statewide performance standards that will prevent poor service quality from continuing in the future.

Third, the Ratepayer advocate objects to using two standard deviations from the mean for determining the minimum reliability measure. We believe that using standard deviation, unadjusted for sample size, is improper and statistically indefensible. A statistically valid confidence interval can be readily calculated and is proper to use. Appropriately calculated, a confidence interval corrects the standard deviation for sample size and provides a more statistically valid measure of central tendency than does standard deviation alone.

Fourth, the Ratepayer Advocate objects to the proposed rules in that the reliability "benchmark" should not be allowed to be interpreted as a "value determined by the Board."[9] A properly functioning benchmark must be based upon a calculation that accurately measures the expected performance of the utility, and must be established with reference to minimum statewide standards. The proposed regulations fail to specify how the "benchmark" will be used and how it

[9] *32 N.J.R.* at 2982.

will be applied. A benchmark should be used as measurement tool. It cannot be a potentially ambiguous "value to be determined by the Board." As prescribed by the proposed regulation, and read in conjunction with *N.J.A.C. 14:5-10*, the benchmark will be used to establish the minimum reliability level but not used to measure the effectiveness of the utility's reliability.

The lack of performance standards in the proposed rules is exacerbated by the failure to include the historical performance information in the proposed rules published for public comment. As a result, the Board is essentially approving a methodology without a review of any historical performance data to evaluate the impact of the proposed methodology.

To correct the proposed regulations, the Ratepayer Advocate proposes that the service level value must be based upon: (1) on a statewide minimum reliability standard applicable to all EDC's; (2) the use of a calculated 95% confidence interval rather than two standard deviations to establish a tolerance band; and (3) must include a penalty provision to be assessed if the minimum service level value thresholds are not achieved. A more complete discussion of these concerns are set forth below.

1. <u>Statewide Minimum vs. Utility-Operating Area(s) Reliability Standards</u>

The propose rules establish a separate benchmark standard for each service area based on a ten-year average performance measure (CAIDI and SAIFI) for each separate operating area. Under the proposed rules, two standard deviations would then be added to each ten-year average to calculate the minimum service reliability level for that operating area.

By using a ten-year average reliability measure, the proposed rules strive to define reliable service using a statistical measure of central tendency. The Ratepayer Advocate agrees that central tendency is an appropriate basis upon which to set a reliability standard. However, it is

not appropriate to base a reliability standard on the experience within a single operating area, as contemplated in the proposed rules. To illustrate the flaw in that approach, if an operating area historically has poor reliability, using the historic average in that operating area legitimizes continuation of poor service for customers in that region. The EDECA requires utilities to provide safe, adequate and reliable service to all customers, regardless of their EDC or location on the system. There exists a basic obligation for each EDC to provide reliable service regardless of individual service territory differences, customer mix and cost of service considerations. All utility customers should be guaranteed minimum service reliability from their EDC. This expectation by customers of their local EDC is the *quid pro quo* obligation that the EDC undertakes in exchange for receiving exclusive and monopoly service territories. This obligation supports establishing a statewide minimum reliability standard which all EDC must meet or exceed.

The theory that customers have no reasonable expectation of uniform service reliability and that one EDC's performance should not be evaluated based on the achieved reliability of another EDC is completely opposite to the plain meaning of the EDECA. There is no rational basis for having different minimum reliability requirements for each EDC, or for each arbitrary operating area designated by an EDC. The establishment of a different minimum reliability standard for each EDC is unfair to all utility customers. Therefore, the Ratepayer Advocate proposes that a statewide minimum reliability threshold be established for both SAIFI and CAIDI that all operating divisions of each EDC must meet.

2. Median v. Mean

The Ratepayer Advocate proposes that a statewide ten-year historic MEDIAN value be used. A mean value, as the rules propose, is not the most reliable indicator of central tendencies. The mean value is affected more by extreme values than the MEDIAN. The reason for this is that the mean takes into account the differences among all values, not just their rank order or frequency. In this instance the MEDIAN, rather than the MEAN, is a better indicator of central tendency because it avoids biasing the measurement from those operating areas that have a poor history of reliability.

In setting reliability standards using the arithmetic mean, the statewide mean is skewed by the relatively poor performance history within several operating areas. The adoption of the MEDIAN will prevent service quality standards from being lowered for all New Jersey customers simply because certain customers have suffered relatively poor reliability in some of the utilities' operating areas.

3. Confidence Interval v. Standard Deviation

To allow for the possibility of measurement error, the proposed rules add two standard deviations to the mean value to calculate a minimum reliability level. In statistics, there is a rule of thumb that for a given normal distribution, one can be 95% confident that the true mean of a population lies within two standard deviations (actually 1.96) of the sample mean. Apparently, this rule of thumb was the basis for the two standard deviation adder in the proposed rules.

However, the two standard deviation rule of thumb is relevant only when the sample or population size is large. A reliable calculation of a confidence interval must consider the size of the sample. A Confidence Interval statistic can be calculated by dividing the standard deviation by the square root of the sample size, producing the following formula:

$$95\% \text{ Confidence Interval} = \pm 1.96(M/\sqrt{n})$$

The Ratepayer Advocate does not object to using a 95% confidence interval to set the minimum reliability threshold. Rather, our objection is to using the standard deviation, unadjusted for sample size, as the measure of the confidence interval. Since a reliable Confidence Interval measure is statistically correct and is readily available in all modern spreadsheet software programs, using an *ad hoc* arbitrary multiple of the standard deviation to set the confidence interval, as proposed in the rules, is not necessary and is not correct.

Based on the foregoing comments, the Ratepayer Advocate proposes that the following paragraphs be substituted for those contained in the proposed rules:

14:5-7.10 Establishment of service level values

(a) For each EDC, the reliability performance level is established as follows:

1. The statewide CAIDI benchmark standard is set at the 10-year median CAIDI for all operating areas combined for the years 1990-1999;

2. The statewide SAIFI benchmark standard is set at the 10-year median SAIFI for all operating areas combined for the years 1990-1999;

3. Beginning January 1, 2001, the minimum reliability level for each operating area is obtained when its annual CAIDI or SAIFI are no higher than the 10-year benchmark standard plus a calculated 95% Confidence Interval.

(b) When the CAIDI or SAIFI of an EDC's operating area do not meet the minimum reliability level, a penalty, as provided for in N.J.A.C. 14:5-7.12, will be imposed. Additionally, further review, analysis, and corrective action are required.

(c) All performance measures must be calculated without exclusions. The service level values must include significant events and major storm outages.

PROPOSED SECTION 14:5-7.12 - PENALTIES

The proposed regulations specifically exempt the EDCs from civil administrative penalties for all performance standards in the proposed rules.[10] This provision does not conform with the language of the EDECA. The EDECA calls for the Board to adopt a schedule of penalties for violations of these standards.[11] The Ratepayer Advocate believes that the adoption of a penalty provision will prevent the deterioration of service quality and reliability which may result from utility efforts to reduce costs and increase revenue in the wake of increased competition in the industry.

[10] 32 *N.J.R.* at 2981.

[11] *N.J.S.A.* 48:3-96 (a)

The Ratepayer Advocate proposes that penalties should be progressive in two respects. First, the penalties should increase as deviations from the statewide benchmark standards increase. Second, penalty levels should also increase for continued substandard results from one reporting period to the next. If the Board adopts the regulations as proposed (rather than adopting a minimum statewide reliability benchmark), then the standards should enunciate that performance above the minimum standards in some regions should not be permitted to offset the penalties that are to be imposed for substandard performance in other regions within the same utility. As far as disposition of the penalty money collected by the Board is concerned, the Ratepayer Advocate believes that all penalty monies assessed against a utility during a performance year should be credited to the customers of that utility via a credit against any deferral balance during the 1999-2003 transition period or refunded via an annual bill credit.

A reasonable penalty structure should increase in severity as the deviation between actual performance and the benchmark increases. The EDC must be subject to a penalty when substandard performance continues in succeeding years. The regulations must: (1) establish a maximum total penalty; (2) allocate the total penalty to each performance standard; and (3) ratchet-up for violations in succeeding years. For example, assume that the maximum penalty in 2001 is set at $12 million for each utility. Further assume that the maximum penalty is allocated as follows: $6 million to Reliability Standards; and $6 million to Quality of Service Standards. The $6 million that is allocated to Reliability Standards is further allocated equally between the CAIDI and SAIFI performance measures – i.e., $3 million for each measure. In 2001, the progressive penalty matrix for the CAIDI measure would be structured as follows:

CAIDI Matrix - Year 2001

Performance Standard	Penalty Level	1st Year Penalty
# x minutes	None	$ 0
™ x but ˜ y	50%	$ 1.5 million
™ y but ˜ z	75%	$ 2.25 million
™ z minutes	100%	$ 3.0 million

The Ratepayer Advocate further proposes that individual performance measure penalties ratchet-up by $250,000 in each succeeding year for successive violations. This is essentially the penalty structure that has been adopted by the Colorado Public Service Commission for that state's largest electric utility – Public Service Company of Colorado.[12] This will prevent a utility from continuing to pay a modest penalty amount as the "price" of subpar performance in subsequent years. While we acknowledge that the Board should be able to assess penalties or take additional regulatory action with respect to individual utilities for individual circumstances, the final rules should contain a minimum level of penalties that are established for service quality and reliability. The lack of any penalty structure in the proposed rules is unacceptable and likely to lead to a deterioration in service quality in New Jersey.

Suggested Corrective Language

14:5-7.12 Penalties

[12] *See* Colorado Public Utilities Commission, Docket No. 99A-377EG - February 16, 2000, Exhibit 1.

(a) Civil administrative penalties for violations of ***service level values****, reporting, plan and program submission requirements set out in* ***N.J.A.C 14:5-7.4 through 7.11*** *shall be assessed as follows*:

(3) Failure of an EDC to maintain its established service level value will result in the assessment of penalties in accordance with the maximum penalty matrix adopted for the EDC.[13]

INSERT NEW SECTION 14:5-7.14 - QUALITY OF SERVICE STANDARDS

The Ratepayer Advocate urges the adoption of service quality standards that are measured against several different performance criteria. The criteria should reflect the customers' service-related experiences with the utility throughout each performance year. The Board should define the selected performance measures by rule to assure uniform data gathering and comparable historic data.

One appropriate measurement tool to capture the level of service quality being provided to a EDC's customer is through customer contacts. Customer satisfaction survey results should be based upon recent transactions with the utility. These standards should also measure Business Office Performance (performance of customer call centers, billing error rates, etc.), Field Performance (percentage of missed appointments for repair and installations; timeliness of installation or connection orders) and Regulatory Program Performance (ratio of customer complaints handled by the Board, frequency of disconnections, and penetration ratios of low-income and other societal benefits programs). Many other states have adopted customer service performance standards for these or similar areas as part of the oversight of a utility's reliability

[13] The Board must first establish a maximum penalty for each EDC and then apply the suggested Ratepayer Advocate matrix.

and customer service obligations in a restructured electric market. *See Summary of Selected State Initiatives - Attached hereto as Appendix A.*[14]

The Colorado Public Service Commission promulgated a Quality of Service Plan for the Public Service Company of Colorado. This quality of service plan measures the number of customer complaints and telephone response time. First, the customer complaints are measured according to the number of customer complaints to the Commission per 1,000 customers. The complaints are registered with the Commissions customer service division. A satisfactory benchmark for performance is less than or equal to 0.8 complaints per 1,000 customers. Second, telephone response performance measures the response time to customer calls by the utility's customer service center. An answer shall not mean either directing the call to a customer service representative or a voice response unit incapable of providing assistance to the customer. The benchmark is 70% of phone calls answered within 45 seconds. [15]

Similarly, in California if SDG&E fails to keep an appointment within four hours, a credit will be given ranging from free installation to $50 for service orders.[16]

INSERT NEW SECTION 14:5-7.15 - COMMUNICATION PLANS

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[14] In New Jersey, if you are a customer of PSE&G's WorryFree program you will receive a guaranteed $25 payment if the service technician is unable to show up on time and make the repair correctly the first time service is requested. *Attached hereto as Appendix B.* It is not clear that the Board ever approved the provisions of PSE&G's "WorryFree" program.

[15] Colorado Public Utilities Commission, Docket No. 99A-377EG - February 16, 2000, Exhibit 1.

[16] California Public Utilities Commission, Docket No. D.96-09-00045-September 4, 1996, page 15.

While communication plans have been discussed in the Electric Utility Outage Investigation Orders, the proposed reliability regulation should be used to set at a minimum standard for a comprehensive communication plan and system in place for emergency situations. The plan should include procedures for notifications to the public and public officials and internal utility communications.

1. Notification to major media outlets, including television, newspaper and radio. Local municipalities should not be relied upon by the utilities to inform consumers and customers.

2. Notification to designated emergency management personnel at the state, county and municipal (including mayors) level by telephone, fax and if necessary, two-way radio. The utilities must obtain and update this list of individuals.

3. Notification to key facilities (i.e. hospitals) and individuals dependent on electricity and those institutions who will be called upon to deal with emergencies.

4. Internal communications within the utility so that customer service representatives or outage centers have the necessary information to inform customers on probable restoration schedules.

5. The utilities must ensure that they maintain and have sufficient staffing levels and telephone lines in their customer call centers to properly handle the volume of calls received and anticipated.

CONCLUSION

The Ratepayer Advocate's suggested amendments and additions[17] to the Board's proposed rules will ensure that the Board has adopted a comprehensive set of reliability standards. The Ratepayer Advocate's additions and corrections will require the utilities to improve the reliability of their systems, responses to outages, and restoration of service to customers. The

[17] Because the Ratepayer Advocate's proposed changes are substantial, it will be necessary for the Board to publish the revised proposed rules for public comment prior to final adoption.

ultimate reliability standards and quality of service plan adopted by the Board must be designed to ensure a high level of service quality and reliability. The additions and corrections the Ratepayer Advocate proposes will accomplish the directives set forth in the EDECA. Final rules that fail to include the Ratepayer Advocate's suggestions would be inherently defective, would not satisfy the directives set forth in the EDECA, and would not work to maintain and improve electric service reliability in New Jersey.

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