

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

INVESTIGATION BY THE INDIANA UTILITY)
REGULATORY COMMISSION, UNDER IC §§ 8-1-2-58)
AND 59, TO INVESTIGATE ELECTRIC UTILITY)
TREE-TRIMMING PRACTICES AND TARIFFS)
RELATING TO SERVICE QUALITY IN THE STATE OF)
INDIANA.)

CAUSE NO. 43663

RESPONDENTS: ALL INDIANA JURISDICTIONAL)
ELECTRIC UTILITIES)

PREFILED TESTIMONY OF

CYNTHIA M. ARMSTRONG – PUBLIC’S EXHIBIT NO. 1

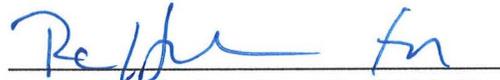
ON BEHALF OF THE

INDIANA OFFICE OF

UTILITY CONSUMER COUNSELOR

AUGUST 19, 2009

Respectfully submitted,



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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **PREFILED TESTIMONY OF CYNTHIA M. ARMSTRONG** has been served upon the following counsel of record in the captioned proceeding by electronic service and/or by depositing a copy of same in the United States mail, first class postage prepaid, on August 19, 2009.

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DIRECT TESTIMONY OF CYNTHIA M. ARMSTRONG
CAUSE NO. 43663
INVESTIGATION OF ELECTRIC UTILITY
TREE-TRIMMING PRACTICES AND TARIFFS

1 **Q: Please state your name and business address.**

2 A: My name is Cynthia M. Armstrong. My business address is 115 W. Washington
3 St., Suite 1500 South, Indianapolis, IN, 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor (OUCC) as a
6 Utility Analyst in the Electric Division.

7 **Q: Please describe your background and experience.**

8 A: I graduated from the University of Evansville in 2004 with a Bachelor of Science
9 degree in Environmental Administration. I graduated from Indiana University,
10 Bloomington, in May 2007 with a Master of Public Affairs degree and a Master
11 of Science degree in Environmental Science. I also completed internships with
12 the Environmental Affairs Department at Vectren in the spring of 2004, with the
13 U.S. Environmental Protection Agency in the summer of 2005, and with the U.S.
14 Department of the Interior in the summer of 2006. During my final year at
15 Indiana University, I served as a research and teaching assistant for a Capstone
16 course offered at the School of Public and Environmental Affairs, which involved
17 researching technologies and methods for scrap tire management in Indiana. I
18 also have obtained my OSHA Hazardous Waste Operations and Emergency
19 Response (HAZWOPER) Certification. I have been employed by the OUCC
20 since May 2007. As part of my continuing education at the OUCC, I attended the

1 National Association of Regulatory Utility Commissioners (NARUC) week-long
2 seminar in East Lansing, Michigan, and have completed an 8-hour OSHA
3 HAZWOPER refresher course to maintain my certification.

4 **Q: Have you previously testified before the Indiana Utility Regulatory**
5 **Commission?**

6 A: Yes.

7 **I. Introduction**

8 **Q: What is your understanding of the purpose of this proceeding?**

9 A: According to the Commission's April 1, 2009 docket entry, the Commission
10 opened this docket "to investigate the policies, guidelines and practices of our
11 jurisdictional electric utilities relating to tree-trimming, specific provisions in the
12 utilities' tariffs relating to tree-trimming practices, and customer complaints
13 related to the utilities' tree-trimming policies and practices, all of which relate to
14 the reasonableness and adequacy of the service provided by our jurisdictional
15 electric utilities."

16 **Q: What precipitated this investigation?**

17 A: To the best of my knowledge, this investigation was precipitated by a consumer
18 complaint filed with the Commission by Mr. Charles Goodman of Indianapolis,
19 Indiana, against the tree trimming practices of IPL. That complaint has been
20 docketed as Cause No. 43650.

21 **Q: Does the OUCC represent Mr. Goodman in this proceeding?**

22 A: Although I am not an attorney, it is my understanding that the OUCC is not
23 appearing as Mr. Goodman's personal attorney in this matter. However, our

1 Agency collectively represents all Indiana ratepayers, including Mr. Goodman, as
2 the applicable law provides.

3 **Q: To what applicable law are you referring?**

4 A: I am referring to Indiana Code 8-1-1.1-5.1 (e) for the proposition that the OUCC
5 represents the interests of *all* Indiana electric utility ratepayers in this
6 investigation. That statute states in relevant parts:

7 In all proceedings before the commission ... in which the
8 consumer counselor shall appear, the consumer counselor shall
9 have charge of the interests of the ratepayers and consumers of the
10 utility.... The counselor may give notice of the hearings to all
11 municipalities, corporations, or organizations and persons that are
12 parties to the proceedings, suit, or action other than the utility....

13 **Q: Please describe the procedural schedule in this case.**

14 A: The Commission issued a preliminary issues list on April 29, 2009, following a
15 prehearing conference that was convened in this proceeding. The parties filed
16 their responses to that list on June 17, 2009. The Commission published its final
17 issues list on June 26, 2009. On August 19, 2009, the parties are to file testimony
18 responding to the Commission's final issues list. Subsequent to that date, there
19 have been a number of public field hearings scheduled throughout the State. It is
20 my understanding that another prehearing conference may be scheduled after the
21 field hearings to consider additional filings in this case.

22 **Q: Does the OUCC intend to specifically respond to the Commission's final**
23 **issues list?**

24 A: Not specifically. Most of the issues identified by the Commission are directed at
25 the respondent electric utilities' tree trimming practices and procedures. Our

1 focus in this testimony will be more general in nature.

2 **Q: What is the purpose of your testimony?**

3 A: I will: (1) describe the areas of focus of the OUCC in this investigation; (2)
4 describe the nature of complaints that the OUCC has received related to tree
5 trimming; (3) provide an analysis of Indiana investor-owned utility (IOU) tariff
6 provisions related to tree trimming; and (4) provide recommendations for the next
7 steps in this investigation as well as recommendations for standards the
8 Commission should establish as a result of this investigation.

9 **Q: What have you done to prepare to testify in this proceeding?**

10 A: I reviewed the comments and complaints the OUCC has received related to tree
11 trimming over the past three years as well as more recent consumer comments
12 which have been received since the Commission began this investigation. I
13 reviewed the Commission's proposed issues list and final issues list, as well the
14 utilities' responses to the Commission's proposed issues list. I also investigated
15 best practices for tree trimming through reviewing utility practices in other states
16 as well as industry standards. I have actively and extensively engaged with
17 consumers on these matters.

18 **Q: What role has the OUCC traditionally played regarding vegetation**
19 **management issues?**

20 A: Traditionally, the OUCC has played a limited role in vegetation management.
21 The OUCC has addressed vegetation management through two avenues. First,
22 the OUCC addresses vegetation management through issues of cost recovery,
23 ratemaking and reliability in individual utility proceedings. Secondly, the OUCC

1 External Affairs Division receives consumer complaints and inquiries from time
2 to time regarding utility tree trimming practices.

3 **Q: What is the OUCC's focus in this investigation?**

4 A: The OUCC will focus its efforts on four areas:

5 (1) To present the results of its research on best practices for
6 vegetation management, including the customer relations and
7 public education aspects of such management;

8 (2) To listen to concerns of all stakeholders through participation in all
9 public field hearings around the State in this Cause and through
10 other means, including the invitation of written consumer
11 comments;

12 (3) To report to the Commission about the results of the OUCC's
13 research and the OUCC's receipt of ratepayer comments regarding
14 vegetation management; and

15 (4) Finally, to advocate for improved vegetation management practices
16 in Indiana, including in the areas of customer relations and public
17 education.

18 **II. Consumer Comments**

19 **Q: Has the OUCC received consumer comments regarding tree trimming?**

20 A: Yes. In general, these comments are critical of the way utilities trim trees and
21 interact with customers. As of August 19, 2009, the OUCC has received 49
22 complaints, inquiries, or other comments related specifically to this investigation.

23 Tree trimming complaints appear to make up a relatively small percentage of all

1 utility consumer complaints received by the OUCC over the past three years.

2 However, some consumers are extraordinarily angry with Indianapolis Power and

3 Light (“IPL”), to the point of filing class-action lawsuits.

4 **Q: Please describe more specifically the nature of these comments.**

5 A: These comments focus on several basic customer service issues. First, these

6 comments indicate that some consumers may not be receiving adequate advance

7 notice of utility tree trimming schedules or plans in all cases. Some customers

8 note that they did not receive any written notice prior to trees on their property

9 being trimmed or removed. Other customers comment that when they requested

10 the utility or utility tree trimming contractor to give a timeframe in which to

11 expect tree-trimming crews, the utility or contractor either did not respond to their

12 request or did not arrive within the expected timeframe or date of trimming. In

13 some cases, customers claim that when they attempt to call the phone contact

14 information left on utility tree-trimming publications, no person answers. Some

15 customers have commented that they have been unable to communicate with a

16 utility representative when trimming crews are on site. Other consumers claim

17 that trees planted outside the known utility easement are being removed without

18 their consent. Although utilities may have customer notice policies in place for

19 their vegetation management programs, the OUCC is concerned that utility

20 implementation of these notice policies does not always occur.

21 Second, another type of complaint that the OUCC has received relates to tree-

22 trimming debris left on private property outside of the utility easement. Some

23 consumers have noted that debris is not removed for several months after the

1 utility tree trimming crews have trimmed. Unless trimming is done in an
2 emergency situation, customers should not have to wait months for debris to be
3 removed from their property. Moreover, customers should not be burdened to
4 remove tree debris themselves. Tree-trimming debris left behind by utility tree
5 trimming crews should be removed in a timely manner by the utility.

6 Third, the OUCC has also received complaints regarding trees outside the utility
7 right-of-way dying after the utility trims limbs that encroach upon the utility's
8 right-of-way. A utility vegetation management program should follow standards
9 that protect both the health of such trees and maintain safety and reliability for
10 consumers. A utility tree trimming program should not be implemented in such a
11 manner that causes trees outside of the utility right-of-way to die. Such a
12 circumstance imposes unwarranted additional costs upon the consumer, and
13 leaves utility lines more susceptible to damage resulting from dead trees falling on
14 those lines.

15 Lastly, the OUCC has received comments from consumers concerned about how
16 vegetation may impact the reliability of their service. Consumers have
17 commented that ice storms over the past winter have caused outages for days due
18 to trees and limbs damaging utility lines. Some attribute this to improper utility
19 vegetation management practices.

20 **Q: Will consumers have the ability to make further comments about tree**
21 **trimming?**

22 **A:** Yes. The OUCC looks forward to the Commission gathering more information
23 from consumers through the field hearings which have been scheduled in this

1 Cause. The field hearings will provide valuable information from the consumers'
2 perspective.

3 **III. Tariff Provisions Related to Tree Trimming**

4 **Q: What is your understanding of how utility tariffs implicate tree trimming?**

5 A: This issue was addressed in the Commission's 2009 Summer Capacity Survey. In
6 that survey, IPL was the only utility that presented a tariff provision *directly*
7 related to tree trimming. Section 15 of IPL's Rules and Regulations is a Right-of-
8 Way Section, which states:

9 The Company shall have the right to install, construct and maintain
10 such poles, wires, fixtures and other equipment (overhead and
11 underground) on Customer's property or on easements or public
12 right-of-way adjacent to Customer's property and shall have the
13 right to maintain such poles, wires, fixtures and other equipment
14 *including the right to trim and remove trees located on Customer's*
15 *property, as, in the Company's judgment, are reasonably*
16 *necessary to the operation and maintenance of such facilities.*
17 (Emphasis added)

18 I&M stated that its tariff specifies an obligation "to use reasonable diligence in
19 furnishing a regular and uninterrupted supply of energy." Northern Indiana
20 Public Service Company (NIPSCO) concluded that its tariff states that tree
21 contractors are considered "authorized agents" and that they have the right to
22 enter upon the premises of the Customer at all reasonable times for the purpose of
23 maintaining NIPSCO's lines and equipment.

24 Based on these statements and a review of other Indiana utility tariffs, there does
25 not appear to be a clear or consistent standard forming the basis for tree trimming
26 practices across Indiana electric utilities.

27 **Q: What challenges do ratepayers face if they want to challenge a Commission**

1 **Q: Please explain the NERC Reliability Standard FAC-003-1.**

2 A: This standard was adopted by the NERC Board of Trustees on February 7, 2006
3 with an effective date of April 7, 2006. The standard applies to Regional
4 Reliability Organizations (RRO), transmission owners, and all transmission lines
5 operated at 200 kV and above and to any lower voltage lines designated by the
6 RRO as critical to the reliability of the electric system in the region. The Standard
7 requires the transmission owner to prepare, and keep current, a formal
8 transmission vegetation management program (TVMP). The TVMP must define
9 a schedule for and the type (aerial, ground) of ROW vegetation inspections, which
10 must be based on the anticipated growth of vegetation and any other
11 environmental or operational factors that could impact the relationship of
12 vegetation to the owner's transmission lines. The transmission owner must
13 identify and document clearances between vegetation and any overhead,
14 ungrounded supply conductors in the TMVP. The rule does state, "These
15 Transmission Owner-specific minimum clearance distances shall be no less than
16 those set forth in the Institute of Electrical and Electronics Engineers (IEEE)
17 Standard 5-16-2003 (Guide for Maintenance Methods on Energized Power
18 Lines)."¹

19 **Q: Has the OUCC received information about Standard FAC-003-1 from the**
20 **Federal Energy Regulatory Commission (FERC)?**

21 A: Yes. The OUCC received a copy of a letter dated August, 13, 2009, addressed to
22 Mr. Goodman from Mark Hegerle, the Acting Director of the Office of Electric

¹ <http://www.nerc.com/files/FAC-003-1.pdf>.

1 Reliability for FERC. Mr. Hegerle conveyed information about this Standard's
2 scope and application. I sponsor this exhibit as CMA-1.

3 Mr. Hegerle makes the following important points:

- 4 • Reliability Standard FAC-003-1 generally applies to all transmission
5 lines operated at or above 200 kV plus any lower voltage lines
6 determined to be critical to the reliability of the Bulk Power System in
7 the region.
- 8 • Reliability First, the NERC Regional Entity presiding over Indiana,
9 has indicated that there are no lines in Indiana below 200 kV that are
10 subject to FAC-003-1.
- 11 • FAC-003-1 does not prescribe how the transmission line owner must
12 meet the performance requirement, but sets *minimum* requirements for
13 vegetation management programs.
- 14 • So long as the transmission owner meets the required clearances,
15 FERC has no authority to direct a utility to employ one method of
16 vegetation management over another or to prohibit a utility from
17 trimming trees and other vegetation.

18 Mr. Hegerle concludes:

19
20 Before a vegetation management program is undertaken by the
21 transmission line owner, it is usually researched and compared
22 against its rights under their right-of-way agreements. In this case,
23 **electric utilities in Indiana must comply with any currently**
24 **applicable vegetation management regulations and**
25 **environmental ordinances established by the State of Indiana**
26 **and/or local jurisdictions, to the extent they do not conflict**
27 **with the Commission-approved reliability standards.**
28 (Emphasis added)

29 This letter demonstrates the IURC is not pre-empted by the Federal Government
30 to adopt uniform vegetation management standards within the state of Indiana.

31 **Q: What is the ANSI A300 standard?**

32 A: The ANSI A300 standard addresses vegetation management. It was developed by
33 the Tree Care Industry Association (TCIA), formerly known as the National
34 Arborist Association (NAA). In particular, Part 1 of the ANSI A300 standard

1 describes pruning standards. The standard requires pruning cuts to be made close
2 to the point of origin of a tree limb. This eliminates “stubs” and allows the tree to
3 heal, preventing re-growth that could interfere with power lines.

4 **Q: Does the OUCC support the use of the ANSI A300 standard?**

5 A: While the OUCC recognizes that the ANSI A300 standards have been developed
6 to protect the health of trees and vegetation, the OUCC has concerns whether
7 these standards are being applied correctly by Indiana utilities. Excessive pruning
8 could result in the death of trees or tree limbs, which would create a greater risk to
9 transmission and distribution lines. In some cases, tree removal may be
10 preferable to tree trimming, from both an aesthetic and reliability perspective.

11 **Q: What is the Tree Line USA certification program and what standards must**
12 **utilities certified by this program follow?**

13 A: The Arbor Day Foundation administers the Tree Line USA certification program.
14 The certification requires three elements: quality tree care, annual worker training,
15 and tree planting and public education. In terms of tree care, certified utilities
16 must adopt work practices similar to methods described in *Pruning Trees Near*
17 *Electric Utility Lines: A Field Pocket Guide For Qualified Line-Clearance Tree*
18 *Workers* by Dr. Alex L. Shigo and be in compliance with ANSI A300 standards.
19 In addition to these practices, line clearance workers (including contractors) must
20 have read the field guide, or equivalent, follow its recommendations, and have a
21 copy available onsite.

22 The utility must also hold an annual documented training on tree trimming work
23 practices and an arborist, forester, or other trained utility employee must be

1 designated to ensure the training takes place and that the work practices are
2 followed.

3 For tree planting and public education, utilities must sponsor an ongoing
4 community tree-planting program. The Arbor Day Association suggests the
5 utilities work towards an expenditure of at least 10 cents per customer for such a
6 program. In addition to the community program, the utility must send at least one
7 annual mailing to customers about trees and sponsor or participate in an annual
8 Arbor Day event.²

9 **Q: Which Indiana utilities are currently participating in the Tree Line USA**
10 **certification program?**

11 A: According to the Tree Line USA website, IPL, Vectren, and NIPSCO are all
12 voluntarily participating in the program. While I&M does not participate, other
13 AEP subsidiaries do participate, including AEP Texas Central Company, AEP
14 Texas North Company, AEP-Public Service Company of Oklahoma, and AEP-
15 SWEPCO.³

16 **Q: What other types of tree trimming standards exist?**

17 A: The National Electric Safety Code (NESC) prescribes safety rules for overhead
18 lines and contains provisions for vegetation management. The 2002 Edition of
19 the NESC is codified in 170 Indiana Administrative Code 4-1-26 and in 170
20 Indiana Administrative Code 7-1.2-5. On December 17, 2007, after the 2007
21 Edition of the NESC was approved by ANSI the Commission issued an Order

² "Requirements for Becoming a Tree Line USA Utility," Arbor Day Foundation. Accessed at <http://www.arborday.org/programs/TLUSAREqments.cfm>, July 28, 2009.

³ "TreeLine Listing for 2009." Arbor Day Foundation. Accessed at <http://www.arborday.org/programs/TLUSADirectory.cfm>, July 27, 2009.

1 resolving that the 2007 Edition of the National Electric Safety Code be adopted.⁴

2 Rule 218 of the 2007 NESC⁵ states:

3 A. General

4 1. Vegetation that may damage ungrounded supply
5 conductors should be pruned or removed. Vegetation
6 management should be performed as experience has shown to
7 be necessary.

8 *NOTE: Factors to consider in determining the extent of*
9 *vegetation management required include, but are not*
10 *limited to: line voltage class, species' growth rates and*
11 *failure characteristics, right-of-way limitations, the*
12 *vegetation's location in relation to the conductors, the*
13 *potential combined movement of vegetation and*
14 *conductors during routine winds, and sagging of*
15 *conductors due to elevated temperatures or*
16 *icing(emphasis in original)*

17 2. Where pruning or removal is not practical, the conductor
18 should be separated from the tree with suitable materials or
19 devices to avoid conductor damage by abrasion and grounding
20 of the circuit through the tree. (Emphasis added)

21 The OUCC would like to note that there is considerable deference given to each
22 utility in exercising the NESC standards with regard to distribution lines. While
23 the OUCC recognizes that each utility employs arborists, electrical engineers, and
24 other experts who follow these standards, standardizing utility clearances for
25 distribution lines and vegetation trimming cycles may also assist in resolving
26 utility consumer complaints with regards to vegetation management. This is
27 beneficial to all stakeholders involved in this process.

28 **V. Recommendations**

29 **Q: How should tree debris be removed from consumer's property?**

30 **A:** Debris should be removed by the utility after it completes tree trimming. Unless

⁴ www.in.gov/iurc/files/gao_2007_3.pdf

⁵ Institute of Electrical and Electronics Engineers, Inc. (IEEE) *National Electrical Safety Code, 2007 Edition*, pg. 75.

1 the trimming is done as the result of weather or an emergency, debris should be
2 removed in a timely manner.

3 **Q: How should utilities provide notice to customers about planned trimming?**

4 A: Customer notices should be provided in multiple ways, providing sufficient time
5 for customers to dispute action if they so choose. Each piece of communication
6 directed to the customer should include contact information for the utility, utility
7 personnel responsible for tree trimming, and a website address for more
8 information. The OUCC recommends that the customer notification requirements
9 should include some form of the following:

- 10 • Notification in electric bill two consecutive months before
11 trimming.
- 12 • Individual mailing one month before trimming.
- 13 • In-person notification by company, or door hanger left if customer
14 is not home, one week before trimming.
- 15 • Upon request, the utility should schedule trimming at a time
16 convenient to both the utility and consumer. In addition, the utility
17 should be able to give the consumer a four-hour window.

18 Most of these guidelines are already included in IPL's "Project Cooperation."

19 **Q: Are there situations other than routine tree trimming where customers
20 should be notified?**

21 A: Yes. Customers have commented that when a distribution or transmission line is
22 upgraded, the utility will more extensively trim and clear trees than in the manner
23 previously trimmed. The OUCC recognizes that higher voltage lines will require
24 greater clearances between vegetation and power structures. Homeowners in this
25 situation, who may have planted trees at what they thought was a sufficient
26 distance away from the lines, are particularly disadvantaged if they are not
27 informed that the line is being upgraded to a higher voltage level that will require

1 greater clearances. If the utility upgrades its distribution or transmission line to a
2 higher voltage level, and this action results in a change to the affected right of
3 way, then the utility should notify affected property owners and have appropriate
4 dispute resolution processes in place for consumers impacted by such changes.
5 Depending on the situation, this circumstance may require the utility to replace
6 trees that are removed as a result of these actions.

7 **Q: What can be done to educate consumers about their rights?**

8 A: Active public outreach is critical in preventing consumers from planting trees
9 within the utility right-of-way. The Arbor Day Association's "Right Tree, Right
10 Place" provides an example of how utilities can communicate with consumers
11 about tree planting. However, the OUCC is concerned that this important
12 message is not being provided to property owners or developers when they are
13 purchasing trees. Outreach to the landscaping industry, nurseries, and property
14 developers about the appropriate trees to plant near distribution lines may help to
15 lessen the extent of future tree trimming required.

16 **Q: Even if utilities have reasonable policies and procedures in place, how will**
17 **the public be assured that these practices are being followed?**

18 A: The OUCC recognizes that even the best policy is useless if it is not consistently
19 implemented. The OUCC recommends that utilities provide information on an
20 annual basis to the Commission regarding vegetation management. Information
21 should include, but not be limited to the utility's vegetation management budget
22 and actual expenditures for the year, the number of customer complaints related to
23 tree trimming and the manner in which those complaints were addressed or

1 resolved, and the percentage of tree-related outages. This information could be
2 provided in the context of an annual reliability report. Some Midwestern states
3 such as Iowa⁶ and Wisconsin⁷ require tree trimming budgets and expenditures to
4 be included in annual reliability reports.

5 **Q: Does the OUCC have any other comments regarding utility tree trimming**
6 **practices?**

7 A: Yes. The OUCC recognizes that vegetation management is required to maintain
8 safe and reliable electric service, but also that consumers have legitimate concerns
9 regarding the process of tree trimming. These concerns should be balanced and
10 provide a way for constructive collaboration between utilities and consumers to
11 achieve reasonable vegetation management outcomes.

12 **Q: What next steps does the OUCC recommend be taken by the Commission in**
13 **this Cause?**

14 A: After hearing stakeholder concerns in the public field hearings, the Commission
15 will be in a position to determine appropriate policies and procedures intended to
16 improve utility tree trimming practices in Indiana. Due to a lack of clear,
17 consistent standards among Indiana electric utilities, the OUCC recommends that
18 the Commission by Order in this proceeding, or through a rulemaking, establish
19 uniform vegetation management standards applicable to jurisdictional electric
20 utilities. At a minimum, such standards should require utilities to:

- 21 1. Comply with the 2007 National Electric Safety Code (NESC);
- 22 2. Follow ANSI A300 procedures to the extent adopted or modified to
- 23 the Commission's directives. Where application of an A300 standard

⁶ See Subrule 20.18 (7) "h" (2) (2) of Iowa Administrative Code.

⁷ Wisconsin Administrative Code, 113.0604.

1 results in extreme or excessive pruning, then removal of the tree and
2 replacement with more appropriate plantings should be considered;

3 3. Provide proper and reasonable notice to property owners prior to
4 trimming trees;

5 4. Provide proper and reasonable notice to property owners prior to
6 upgrading a transmission or distribution line to a higher voltage level,
7 if such an upgrade will change the standard for tree trimming in the
8 affected right-of-way;

9 5. Educate utility consumers as to their rights and responsibilities as well
10 as those of the utility regarding vegetation management and planting
11 trees within or near the right of way;

12 6. Provide appropriate dispute resolution processes for consumers to
13 appeal a utility's vegetation management practices; and

14 7. Report specified information on vegetation management practices and
15 programs to the Commission on an annual basis to monitor and ensure
16 Commission standards are being followed.

17 **Q: Does this conclude your testimony?**

18 A: Yes, it does.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.



By: Cynthia M. Armstrong
Indiana Office of
Utility Consumer Counselor

August 19, 2009

Date

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

August 13, 2009

Mr. Charles H. Goodman
2313 N. Graham Avenue
Indianapolis, Indiana 46218-4137

Dear Mr. Goodman:

Thank you for your July 23, 2009 letter regarding the Federal Energy Regulatory Commission's vegetation management policies (Reliability Standard, FAC-003-1 - tree trimming and vegetation removal).

As you may be aware, the Energy Policy Act of 2005 (EPAct 2005) provides the Commission with authority to review and, if appropriate, approve reliability standards developed by the Electric Reliability Organization (ERO). Upon approval, the reliability standards become mandatory and enforceable for the users, owners, and operators of the Bulk-Power System. The Commission, the ERO, or the Regional Entities working on behalf of the ERO can enforce the reliability standards. The Commission has certified the North American Electric Reliability Corporation (NERC) as the ERO and approved reliability standards proposed by the ERO, including the aforementioned standards for vegetation management.

Reliability Standard FAC-003-1 generally applies to all transmission lines operated at or above 200 kV plus any lower voltage lines determined to be critical to the reliability of the Bulk-Power System in the region. The Regional Entity, in this case Reliability First, makes the specific determination concerning which transmission lines below 200 kV have an impact on reliability and, therefore, are made subject to the Reliability Standard FAC-003-1. Reliability First has indicated that there are no lines in Indiana below 200 kV that are subject to FAC-003-1.

FAC-003-1 requires that minimum clearances be maintained between power lines and trees to prevent flashovers as well as contacts. It is designed to minimize transmission line outages due to vegetation contacts and, thereby, improve the reliability of the Nation's Bulk-Power System.

This standard further provides that the transmission line owner must have a Transmission Vegetation Management Program (TVMP). A TVMP documents how the transmission line owner will manage the vegetation to prevent any vegetation-related

AUG 17 PM 3:01

outages of the facilities. The TVMP also must define the inspection cycle and the type of vegetation management the transmission line owner will employ. However, FAC-003-1 does not prescribe how the transmission line owner must meet the performance requirement. It only sets a minimum requirement for vegetation management programs, *i.e.*, that they conduct inspections and meet the required clearances. Accordingly, the Commission has no authority to direct a utility to employ one method of vegetation management over another or to prohibit a utility from trimming trees and other vegetation more than the minimum requirements, so long as the transmission line owner meets the required clearances.

Your letter also raises the question of how the needs of a reliable electric system are balanced against the needs and concerns of landowners and the affected communities. As noted above, the Commission cannot mandate the transmission line owner's particular choice of vegetation management program. The Reliability Standards neither require nor prohibit right-of-way clear cutting or any other method of vegetation management. Vegetation management practices are usually defined by the specific right-of-way agreements that the transmission line owner has secured with the property owner subject to any state or local regulations. Before a vegetation management program is undertaken by the transmission line owner, it is usually researched and compared against its rights under their right-of-way agreements. In this case, electric utilities in Indiana must comply with any currently applicable vegetation management regulations and environmental ordinances established by the State of Indiana and/or local jurisdictions, to the extent they do not conflict with the Commission-approved reliability standards.

I hope this information is helpful. Please do not hesitate to get back in touch with me, should you have additional concerns about this matter.

Sincerely,



Mark Hegerle
Acting Director
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