

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

220 CMR 19.00: STANDARDS OF PERFORMANCE FOR EMERGENCY PREPARATION AND RESTORATION OF SERVICE FOR ELECTRIC DISTRIBUTION AND GAS COMPANIES

Section

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19.01: Purpose and Scope

- (1) Purpose. 220 CMR 19.00 establishes regulations establishing:
 - (a) standards of acceptable performance for emergency preparation and restoration of service for electric distribution and gas companies; and
 - (b) requirements for Emergency Response Plans, consistent with the provisions of St. 2009, c. 133, an *Act Relative to Public Utility Companies*.
- (2) Scope. 220 CMR 19.00 applies to all electric distribution and gas companies subject to the jurisdiction of the Department.

19.02: Definitions

For the purpose of 220 CMR 19.00, the terms set forth in 220 CMR 19.02 are defined as follows, unless the context otherwise requires.

Company refers to an investor-owned electric distribution company or gas company as defined in M.G.L. c. 164, § 1.

Department means the Department of Public Utilities, Commonwealth of Massachusetts.

Emergency Event means an event where widespread outages or Service Interruptions have occurred in the service area of a Company due to storms or other causes beyond the control of the Company.

Emergency Response Plan (ERP) means a Company's plan which prepares the Company to restore service in a safe and reasonably prompt manner in the case of an Emergency Event, as required by M.G.L. c. 164, § 85B.

Life Support Customers, also known as medical priority customers, means those

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customers who have provided documentation to the electric distribution company of their medical conditions necessitating electric service.

Mutual Assistance Agreement means an agreement among a Company and other utilities, both inside and outside the state, that details specifics for obtaining or lending resources, including, but not limited to, material, equipment, and trained personnel, when internal resources are not sufficient to ensure the safe and reasonably prompt restoration of service during an Emergency Event.

Service Interruption means the loss of service to one or more customers connected to an electric distribution company's distribution system.

19.03: Performance Standards for Emergency Preparation and Restoration of Service

(1) 220 CMR 19.03 sets forth the standards that shall apply to each Company's performance regarding:

- (a) emergency preparation;
- (b) restoration of service; and
- (c) reporting.

(2) Emergency Preparation. Each Company shall ensure that it is adequately and sufficiently prepared to restore service to its customers in a safe and reasonably prompt manner during an Emergency Event.

(a) For electric distribution companies, this shall include at a minimum, but not be limited to:

1. implementing all applicable components of the electric distribution company's ERP related to planning and preparation for Emergency Events;
2. conducting the following on at least an annual basis:
 - a. Meetings with state and local officials to ensure effective and efficient flow of information and substantial and frequent coordination between the Company and local public safety officials, including coordination with local officials with respect to vegetation management; and
 - b. Training and drills/exercises to ensure effective and efficient performance of personnel during Emergency Events, and to ensure that each Company has the ability to restore service to its customers in a safe and reasonably prompt manner.
3. maintaining updated lists of local elected and appointed officials, state and local public safety officials, Life Support Customers, and all internal personnel and external entities involved in the Company's restoration efforts.

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(b) For gas companies, this shall include at a minimum preparing and following written procedures consistent with those required by 49 U.S.C. §§ 60101 through 60125; 49 C.F.R. Part 192 Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards; M.G.L. c. 164, §§ 85B and 105A; 220 CMR 69.00 and 220 CMR 100.00 through 113.00. Each gas company shall include these written procedures in their respective manuals for conducting operations and maintenance activities and for emergency response, and, where appropriate, in their manuals of written procedures to minimize hazards resulting from gas pipeline emergencies, as required by 49 C.F.R. Part 192; 220 CMR 69.00 and 220 CMR 100.00 through 113.00.

(3) Restoration of Service. Each Company shall restore service to its customers in a safe and reasonably prompt manner during all Service Interruptions and outages. During an Emergency Event, this shall include at a minimum, but not be limited to, implementing all applicable components of the Company's ERP related to restoration of service.

(4) Reporting. Each Company, as identified in 220 CMR 19.03(4)(a) through (c), shall comply with the following reporting requirements:

- (a) Each electric distribution company shall submit a report with supporting documentation to the Department on its preparation for Emergency Events that details each meeting, training, and drill/exercise held pursuant to 220 CMR 19.03(2)(a)2.;
- (b) During an Emergency Event, each Company shall provide periodic reports to the Department, appropriate regional Massachusetts Emergency Management Agency representatives and municipal emergency managers, or their designees, that contain detailed information related to emergency conditions and restoration performance for each affected city and town; and
- (c) Following an Emergency Event, each Company shall submit a detailed report with supporting documentation to the Department on its restoration performance, including lessons learned.

19.04: Emergency Response Plans

(1) Each Company shall submit to the Department an ERP that shall be designed for the safe and reasonably prompt restoration of service associated with an Emergency Event.

The ERP shall include, but not be limited to, the following:

- (a) identification of management staff responsible for Company operations, including a description of their specific duties;
- (b) a process for communicating with customers that extends beyond normal business hours and business conditions;
- (c) for electric distribution companies, procedures for maintaining an updated list of Life Support Customers, including a process to immediately update a Company's Life Support Customer list when a customer notifies the Company of a medical need for electric service, communicating with Life Support Customers before, during and after an Emergency Event, and providing information to public safety officials regarding the status of electric service to Life Support Customers' homes;

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- (d) designation of staff to communicate with local officials, including public safety officials, and relevant regulatory agencies;
- (e) provisions regarding how the Company will assure the safety of its employees, contractors and the public;
- (f) procedures for deploying Company and contractor crews, and crews acquired through Mutual Assistance Agreements to work assignment areas; and
- (g) identification of additional supplies and equipment needed during an emergency and the means of obtaining additional supplies and equipment.

(2) The ERP shall set forth the content, format and timeline for each report that the Company shall submit to the Department pursuant to 220 CMR 19.03(4).

(3) Each Company shall file an ERP, which the Company has reviewed and updated within the previous 12 months, with the Department on or before May 15th each year, for review and approval. The filing shall include a copy of all written Mutual Assistance Agreements into which the Company has entered, and identify and describe any modifications to the ERP and Mutual Assistance Agreements. A Company that fails to timely file its ERP may be fined \$500 for each day during which such failure continues. The fines levied by the Department shall be returned to ratepayers through distribution rates.

(4) A Company's ERP shall go into effect when filed with the Department, pending Department review and approval, and shall remain in effect until a new ERP is filed or the Department directs otherwise. After review of a Company's ERP, the Department may request that the Company amend the ERP. The Department may open an investigation of the Company's ERP. If, after hearings, the Department finds a material deficiency in the ERP, the Department may order the Company to make such modifications to the ERP that it deems reasonably necessary to remedy the deficiency.

(5) If a Company makes any updates or changes to its ERP between annual filings, it shall submit such changes to the Department as soon as possible. Such changes shall go into effect when filed with the Department, pending Department review and approval.

19.05: Department Investigation into Company Performance; Remedies

(1) Investigations.

- (a) The Department may open an investigation into a Company's performance regarding emergency preparation or restoration of service.
- (b) The Department shall open a full investigation upon petition of the Attorney General or by the city council in an affected city or by the board of selectmen in an affected town to determine whether a Company violated the Department's standards. Petitions for an investigation shall be filed with the Department not later than 90 days after the violation has been remedied.

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(2) Penalties. If after investigation the Department finds a violation of the standards established in 220 CMR 19.03, the Department shall levy a penalty not to exceed \$250,000 for each violation for each day that the violation of the Department's standards persists; provided, however, that the maximum penalty shall not exceed \$20,000,000 for any related series of violations. In determining the amount of the penalty, the Department shall consider, among other factors, the following:

- (a) the gravity of the violation;
- (b) the appropriateness of the penalty to the size of the Company;
- (c) the good faith of the Company in attempting to achieve compliance; and
- (d) the degree of control that the Company had over the circumstances that led to the violation.

(3) Recovery of Service Restoration Costs. If after investigation the Department finds that, as a result of the failure of the Company to implement its ERP, the length of the Service Interruptions or outages was materially longer than they would have been but for the Company's failure, the Department may deny the recovery of all, or any part of, the service restoration costs through distribution rates, commensurate with the degree and impact of the Service Interruptions or outages.

19.06: Miscellaneous

The Department may grant, for good cause shown and not contrary to statute, an exception from any provision of 220 CMR 19.00.

REGULATORY AUTHORITY

220 CMR 19.00: M.G.L. c. 164, §§ 1J, 76, 85B and 105A.