

April 23, 2020

MAINE PUBLIC UTILITIES COMMISSION
Electric Transmission and Distribution
Utility Service Standards Rulemaking
(Chapter 320)

ORDER AMENDING RULE AND
STATEMENT OF FACTUAL AND
POLICY BASIS

BARTLETT, Chair; WILLIAMSON and DAVIS, Commissioners

I. SUMMARY

Through this Order, the Commission adopts amendments to the Commission's Chapter 320, Electric Transmission and Distribution Utility Service Standards. The amendments implement the legislative directives under pursuant to An Act to Establish Minimum Service Standards for Electric Utilities, P.L. 2019, Ch. 104, L.D. 834 (codified at 35-A M.R.S. § 3106).

II. BACKGROUND

A. Recent Legislation

During its 2019 session, the Legislature enacted An Act to Establish Minimum Service Standards for Electric Utilities (L.D. 834). L.D. 834 provides that the Commission shall establish by rule service standards and service interruption reporting requirements for transmission and distribution (T&D) utilities.

First, regarding service interruption reporting, L.D. 834 requires that the Commission adopt rules that address but are not limited to the following: 1) record keeping regarding service interruptions affecting the distribution system of the utility; and 2) reporting service interruption information to the Commission.

Secondly, L.D. 834 requires that the Commission adopt rules that set standards for T&D utilities regarding the frequency and duration of service interruptions. The rules must establish performance targets and specify guidelines for the Commission to require a utility to take corrective actions if performance targets are not met.

L.D. 834 also provides the Commission with the discretion to exempt small T&D utilities from these requirements if it determines that it would impose unreasonable requirements on the utility due to a utility's small size. L.D. 834 defines small T&D utility as a utility serving 50,000 or fewer retail customers.

L.D. 834 specifies that such rules are routine technical rules as defined in Title 5, Chapter 375, subchapter 2-A.

B. Chapter 320

Chapter 320 of the Commission's rules establishes service standards for electric T&D utilities. The Commission last amended Chapter 320 on June 7, 2019. *Maine Public Utilities Commission, Electric Transmission and Distribution Utility Service Standards Rulemaking (Chapter 320)*, Docket No. 2018-00311, Order Adopting Final Rule and Statement of Factual and Policy Basis (June 7, 2019).¹

The Commission initiated the prior rulemaking as directed by the Legislature pursuant to An Act To Restore Confidence in Utility Billing Systems, P.L. 2017, Ch. 448 (codified at 35-A M.R.S. §3104-A). That legislation required the Commission to amend or adopt rules governing the testing of the metering and billing systems of T&D utilities to ensure accuracy regarding the measurement of electricity usage and the determination of customer bills. The legislation also directed the Commission to consider periodic, independent audits of the metering and billing systems.

C. Notice of Rulemaking

On November 18, 2019, the Commission issued a Notice of Rulemaking (NOR). In its NOR, the Commission set a deadline of December 27, 2019 for interested persons to file comments on the proposed amendments. Central Maine Power Company (CMP) filed comments. No comments were filed by Emera Maine or any consumer-owned utilities (COUs). A public hearing was held on December 17, 2019.

III. **ADOPTED RULE PROVISIONS**

A. Service Interruptions; Service Quality Metrics (Section 5)

Section 5 of Chapter 320 currently requires that T&D utilities employ reasonable utility practices to restore service in a timely manner, consistent with appropriate consideration of safety and costs.

1. Service Interruption Reporting

L.D. 834 requires that the Commission adopt rules that require utilities to track and report service interruptions. The rules shall include requirements for record keeping regarding service interruptions and the reporting of service interruptions to the Commission.

Section 5(B) of Chapter 320 currently requires that in the event of a service interruption affecting more than 500 customers, or 1% of a T&D utility's customers, whichever is greater, the utility shall provide immediate notification to the Commission. This section also currently requires that the notification shall include the date and time of the interruption, the number of customers affected, the cause of the interruption, and

¹ The rule became effective on July 14, 2019.

any other information descriptive of or relevant to the event. Additionally, utilities are required to provide periodic updates no less frequently than daily during the duration of the service interruption. Because Section 5(B) of Chapter 320 already includes service interruption reporting requirements, the Commission has made no amendments to this section. In its comments, CMP states that it agrees with this approach.

Regarding the record keeping of service interruptions, Section 3(D) of Chapter 320 currently requires that utilities shall keep all records required by the rule for a period of at least ten years. Additionally, utilities are required to make these records available to the Commission upon request. While the ten-year retention requirement listed in Section 3(D) appears to apply to all records listed in the rule, the rule has been amended in Section 4 to explicitly state that service metrics must also be retained for ten years. CMP states that, while it has interpreted the current rule to require that service metrics be retained for ten years, it has no objection to the amendment making that requirement clearer.

Finally, while L.D. 834 allows the Commission to exempt small T&D utilities from any provisions of the amended rule, Sections 3(D) and 5(B) continue to apply to all utilities, regardless of size.

2. Service Standards and Corrective Actions

L.D. 834 requires that the Commission adopt rules that set standards for T&D utilities regarding the frequency and duration of service interruptions.

Section 5(C) of Chapter 320 currently requires that Investor-Owned T&D utilities (IOUs) maintain specific service interruption and outage metrics and information on a monthly and annual basis. Specifically, Section 5(C) of the current rule requires that IOUs report the following service quality metrics to the Commission on a monthly and annual basis: Customer Average Interruption Duration Index (CAIDI); System Average Interruption Frequency Index (SAIFI); System Average Interruption Duration Index (SAIDI); and, for each service area, a classification of interruptions by the identified cause.

Section 5(C) of the current rule also requires that the CAIDI, SAIFI, and SAIDI metrics be calculated and reported with and without major event exemption days. Further, the IEEE 2.5 Beta Method is used to determine "major event days" that are removed from the service metric calculation.

Finally, Section 5(C) of the current rule requires that IOUs file Annual Reliability Reports with these metrics by April 1 of each year.

In the NOR, the Commission added a new section 5(C)(2) to establish the specific performance targets as required by L.D. 834. Specifically, Section 5(C)(2) of the proposed rule stated that the Commission shall set performance targets for SAIFI and CAIDI metrics by Commission order based on the historic performance of each utility.

In its comments, CMP states that it agrees with the approach proposed by the Commission regarding performance targets. CMP notes that, for many years it operated under alternative rate regulation or Alternative Rate Plans (ARPs). CMP states that a common feature of such multi-year ARPs was the specification of reliability performance measurements, including CAIDI and SAIFI, target performance levels and associated financial penalties for failure to demonstrate target performance.

CMP notes that while its last ARP ended in 2012, the Company has continued to manage reliability to the final year target values set in Docket No. 2007-00215 (ARP 2008) – specifically SAIFI of 1.89 or less and CAIDI of 2.18 or less. These targets have been calculated and reported annually with and without major event days. CMP notes that the IEEE 2.5 Beta Method has been used to determine “major event days” and those days have been removed from the reliability metric calculation. CMP states that the calculation of service interruption measures with the removal of excludable days reflects the fact that these are large, impactful events and that are generally beyond the utility’s control. Therefore, CMP recommends that any future determination specific utility performance targets, as well as the measurement of utility performance against such targets, be similarly based on the removal of excludable days.

Additionally, CMP states that if the Commission proceeds with the proposed process to establish utility-specific reliability performance targets, that this be conducted in a full proceeding in which more than just past performance can be reviewed. CMP argues that any changes to performance targets should be based on a comprehensive analysis of interruption causes and allow for the development of programs and/or projects to support the new targets, including the associated revenue requirement impacts. During the public hearing, CMP stated that it believed developing targets would be most appropriately addressed in the context of a general rate case. Tr. 4 (Dec. 17, 2019). CMP also recommends that if more stringent performance targets are then established, a “ramp up” period should be considered, as was in Docket No. 2007-00215, to reflect the proposed implementation of programs/projects that will support such targets.

The Commission understands CMP’s concerns and, as proposed in the NOR, Section 5(C)(2) states that such metrics shall be established for each utility through Commission Order and shall be based on historic performance, or otherwise at levels that reflect reasonable service quality. CMP’s recommendations could be more fully explored in whatever proceeding establishes the performance metrics, whether it be in a general rate case, or a proceeding specifically focused on developing performance targets.² The

² The Commission established Service-Quality Indices (SQIs) for CMP in its last rate case. *Maine Public Utilities Commission, Investigation into Rates and Revenue Requirements of Central Maine Power Company*, Docket No. 2018-00194, Order (Feb. 19, 2020). Emera Maine’s SQI was last established in Docket No. 2019-00097. *Emera Maine, Maine Electric Power Company, Inc. and Chester SVC Partnership, Request for Approval of Reorganization*, Docket No. 2019-00097, Order Approving Stipulation (Part I) (March. 19, 2020).

language in the amended rule provides flexibility in determining the appropriate proceeding.

IV. CORRECTIVE ACTIONS

L.D. 834 states that the Commission shall establish guidelines to require a T&D utility to take corrective actions if performance targets are not met. In the NOR, the Commission requested comments on what those guidelines should be and what corrective actions would be required.

In its comments, CMP recommends that corrective actions be triggered by performance measured against targets that do not include "major event days" as defined by the IEEE 2.5 Beta Method. Additionally, CMP recommends that the trigger for corrective actions be based on not meeting a specific target for two consecutive years, recognizing that there can be significant annual deviations in performance based upon weather variability.

CMP states that if the targets are missed by T&D utilities, corrective action plans should be required. CMP states that such plans should be proposed by the utility and would be developed by analyzing historical outage data and determination of the root cause of missing the associated target. Depending on the extent of any required action plan, CMP states that a "ramp up" period may be required to remedy the root cause of the failure by the utility to meet the applicable target.

The amended rule now includes language in Section 5(C)(2) stating that the Commission shall direct Investor-Owned T&D utilities to take corrective actions if performance targets are not met or impose financial penalties. This language also provides flexibility for the Commission to determine what those specific corrections actions shall be in a future proceeding.

Accordingly, the Commission,

O R D E R S

1. That Chapter 320, Electric Transmission and Distribution Utility Service Standards, is hereby amended as described in the body of this Order and as set forth in the amended Rule attached to this Order;
2. That the Administrative Director shall file the amended Rule with the Secretary of State;
3. That the Administrative Director shall notify the following of this amended rule:
 - a. All transmission and distribution utilities in the State
 - b. All persons who have commented in this rulemaking proceeding, Docket No. 2019-00258;

- c. All persons who have filed with the Commission with the past year a request for notice of rulemakings; and
 - d. The Office of the Public Advocate.
4. That the Administrative Director shall send a copy of the amended Rule to the Executive Director of the Legislative Council, 115 State House Station, Augusta, Maine, 04333-0015.

Dated at Hallowell, Maine, this 23rd day of April, 2020.

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Harry Lanphear,
Administrative Director

COMMISSIONERS VOTING FOR: Bartlett
 Williamson
 Davis

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 9061 requires the Public Utilities Commission to give each party at the conclusion of an adjudicatory proceeding written notice of the party's rights to seek review of or to appeal the Commission's decision. The methods of review or appeal of Commission decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 11(D) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.ch. 110) within **20** days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within **20** days from the date of filing is denied.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21** days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

