

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on March 16, 2004

COMMISSIONERS PRESENT:

William M. Flynn, Chairman
Thomas J. Dunleavy
James D. Bennett
Leonard A. Weiss
Neal N. Galvin

CASE 02-E-0255 - In the Matter of the Rules and Regulations of
the Public Service Commission, Contained in
16 NYCRR, Chapter II, Electric Utilities,
Subchapter A, Service - Proposed Amendments to
Part 92 - Regulations Applicable to Electricity
Meter Testing and Reporting, filed in C 278.

MEMORANDUM AND RESOLUTION ADOPTING
AMENDMENTS TO 16 NYCRR PART 92

(Issued and Effective May 28, 2004)

BY THE COMMISSION:

BACKGROUND

On July 8, 2003 the Commission issued a Notice of
Proposed Rulemaking revising Part 92 of 16 NYCRR to streamline
and simplify the existing rules. These changes are being made
to recognize advances in technology and to promote and encourage
competitive metering. The new rules were drafted with input
from interested parties.

ASSESSMENT OF PUBLIC COMMENTS

Comments on the proposed rules were filed jointly by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. (the Utilities), and by The National Energy Marketers Association (NEMA).

Part 92 requires electric utilities to test meters and meter apparatus, conduct complaint tests, and maintain testing facilities. This conflicts with a competitive metering environment where competitive entities may provide metering services and thus should be subject to these rules. The benefit expected to be derived from this rule is the assurance that a high degree of meter accuracy is maintained regardless of who is providing meters and metering services.

Applicability of Part 92

The Utilities note that changes to Part 92 are primarily intended to extend the Commission's regulatory oversight to non-utility entities offering metering services in New York and, since the utilities in New York have always had to comply with 16 NYCRR Part 92, the regulations should waive further certification of their existing facilities.

NEMA submitted alternatives for the Commission to consider before extending Part 92 to competitive Meter Service Providers (MSP). First, NEMA suggests that it is unnecessary to extend Part 92 to competitive providers because 16 NYCRR Part 93 regarding meter approvals is sufficient to ensure that meters installed on customer premises meet certain minimum standards. Second, NEMA states that the Commission can assure that meters are accurate by performing spot checks on meters to make sure they are providing accurate readings. Last, NEMA states that if a customer has reason to suspect that his or her meter is not accurate, it can request that the meter be tested. NEMA also

recommends that there be anti-abuse provisions for frivolous use of the complaint process. NEMA was also critical of what it called the two step certification process which requires both Commission and individual utility certification of a meter.

Meter accuracy is important for all customers in New York, including customers served by competitive metering providers and local distribution companies. Therefore, we believe that all meter service providers should comply with the requirements of Part 92. The Commission will continue to depend on a variety of methods to ensure the accuracy of the electric meter population in the state including meter acceptance testing and certification of utility meter testing facilities. Therefore, we reject NEMA's comments regarding the extension of Part 92 to competitive meter service providers. The waiver requested by the utilities is also unnecessary as the Commission's policy on certification of meter test facilities has not changed. Finally, NEMA's claim that a two step meter certification process exists in New York State is incorrect. The Commission certifies meters to be used throughout the state for billing. The utilities have the discretion to use any Commission certified meter.

Back-Out Credits

In regard to the costs of complying with meter testing and reporting requirements, NEMA states that back out credits should properly reflect the allocated and embedded costs of complying with the new meter testing and reporting requirements. The level of utility back-out credits are being considered in a separate proceeding pending before the Commission in Case 00-M-0504.

Outsourcing of Meter Testing

NEMA points out that the Commission should allow meter testing facilities to be competitively outsourced. NEMA further suggests that although it may be cost prohibitive for a single MSP to maintain a meter test facility, another entity with the proper equipment and personnel could effectively provide these services to a large number of MSPs, effectively opening competition in another market.

Regarding competitive meter test facilities, Staff agrees with NEMA and has already begun the process of certifying independent meter test facilities for use as out-source meter test facilities.

Clarifications

The Utilities have suggested several changes to the proposed Part 92. First, the Utilities suggest that because of the dated reference to the Operating Manual found in 92.1(b), i.e. (March 14, 2003), repeated changes to Part 92 may be necessary each time the Operating Manual is revised. However, New York State Department of State rules require specifically referenced documents be incorporated by reference, thus inclusion of specific dates cannot be avoided.

In 92.1(c), the Utilities question the definition of the term Meter Service Provider (MSP), stating it is overly broad. They contend that it should be revised to refer only to those entities eligible to be an MSP as defined by the Practices and Procedures for the Provision of Electric Metering in a Competitive Environment (Manual). We believe that this modification recommended by the Utilities clarifies the definition of meter service provider in the regulations.

The Utilities point out that the definitions found in 92.2(a) and (b) drop the requirement that meter testing facilities and meter standardizing laboratories be operated by utilities, but still provide for such facilities to be certified. They suggest that Part 92 provide the standards for certification and the Operating Manual contain the process and application form for certification. Finally, they contend that the reference to traceability to the National Institute of Standards and Technology (NIST) should instead refer to "traceability to the standards maintained by the NIST." Regarding the request that Part 92 provide standards for certification, the comprehensive certification standards and processes are outlined in the Operating Manual so this change is unnecessary. Staff agrees that the traceability provision in 92.2(b) should be revised to reflect the Utilities comments.

The Utilities suggest that the phrase in 92.2(d) which states "through a series of calibrations" is extraneous to the understanding of the process of traceability and should be deleted. Staff disagrees with the Utilities and finds that the definition is consistent with industry standards as identified by the American National Standards Institute. The Utilities state that 92.2(k) should be reworded to read, "The New York Independent System Operator (ISO) is a New York not-for-profit corporation providing operating control." Staff agrees with this clarification. In the second sentence of the provision in 92.8(a), the Utilities contend that the description of "indeterminate" should not include the final phrase "of the meter." Staff agrees with this clarification.

The Utilities claim that the wording in 92.9(a) and (b) is ambiguous because 92.9(a) states that complaint tests must be done on site "where possible." However 92.9(b) provides for complaint tests to be made at a meter test facility if they cannot be done at the customer's premises. The Utilities suggest that the phrase "where possible" from 92.9(a) should be deleted. Staff agrees with this clarification.

The Utilities contend that section 92.10(c) is awkward and should be re-worded to be more consistent with the definition of MSP. Staff agrees with this clarification.

Finally, the Utilities state that section 92.11(c) refers to data validation and estimation functions performed on computer systems in connection with creating customer bills and that these functions are irrelevant to meter testing. Staff disagrees with the Utilities' as the specific provision is intended to verify the functionality and compatibility of an integral part of a complete metering system.

DISCUSSION AND CONCLUSION

The rules for testing meters and metering apparatus, conducting complaint tests, and maintaining meter testing facilities apply to all providers of meters and metering services regardless if the provider is a utility or a competitive Meter Service Provider. The rules also streamline the testing and maintenance requirements to recognize the advances in metering technologies. The rules, as clarified, are adopted.

The revisions to 16 NYCRR Part 92 are attached to this Resolution.

The notice provisions of section 202(1) of the State Administrative Procedure Act and section 101-a(2) of the Executive Law having been complied with, the Secretary shall file this Memorandum and Resolution with the Secretary of State.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

RESOLUTION BY THE COMMISSION

Statutory Authority
Public Service Law §67(4)

CASE 02-E-0255 - In the Matter of the Rules and Regulations of the Public Service Commission, Contained in 16 NYCRR, Chapter II, Electric Utilities, Subchapter A, Service - Proposed Amendments to Part 92 - Regulations Applicable to Meter Testing and Reporting, filed in C 278.

At a session of the Public Service Commission held in City of Albany on March 16, 2004, the Commission by unanimous vote its members present,

RESOLVED:

1. That the provision of Section 202(1) of the State Administrative Procedure Act and Section 101-a(2) of the Executive Law having been complied with, Title 16 of the Official Compilation of Codes, Rules and Regulations of the State of New York is revised, effective upon publication of a Notice of Adoption in the State Register, by the revision of Part 92 to read as shown on the following pages (underscoring indicates new material, brackets indicate deletions).

2. That the Secretary to the Commission is directed to file a copy of this Resolution with the Secretary of State.

PART 92

METERS - TESTING AND REPORTING

92.1 General Provisions.

(a) The rules and regulations contained in this Part are promulgated to establish minimum requirements for the guidance of [utilities] meter service providers in instituting practices in connection with the testing and maintenance of electricity meters in order to promote a high degree of metering performance.

Section 92.1(f) is repealed and Sections 92.1(b) to 92.1(e) are renumbered to sections 92.1(c) to 92.1(f) and a new section 92.1(b) is added to read as follows:

(b) The Department of Public Service Part 92 Operating Manual (March 14, 2003) contains additional procedures which must be adhered to by all entities providing metering services. The metering procedures shall be available for public inspection by contacting the Public Service Department's Office of Consumer Services, 3 Empire State Plaza, Albany, NY 12223-1350 and will be posted on the Department's web site at www.dps.state.ny.us.

Newly renumbered subdivisions (c) and (d) are amended to read as follows:

(c) For the purposes of this Part, the term [utilities] meter service providers shall include all corporations, municipalities, and persons [distributing electric energy under the jurisdiction of this commission] installing, testing, maintaining, or operating electricity meters used for billing customers.

(d) Each [utility] meter service provider shall provide adequate and proper meter testing facilities and shall have all electricity meters, used or intended to be used for the purpose

of billing customers, tested and adjusted as required by this Part.

(e) Rules pertaining to watt-hour meters shall apply, insofar as they are applicable, to volt-ampere hour meters, varhour meters, compensated meters, and other electricity meters.

(f) Meters and metering devices used or intended to be used for the purpose of billing customers shall be of a type approved by the commission.

Newly renumbered subdivisions (g) and (h) are amended to read as follows:

(g) Any approved types of meters and metering devices may be used in various combinations provided that the over-all percentage registrations are within the limits [specified in this Part] as specified in the Part 92 Operating Manual.

(h) A meter or metering device that has been tagged or sealed for a referee test shall be unsealed, tested, replaced, or removed [only in the presence of a representative of the commission] in the presence of or at the direction of the commission or its designee.

(i) [Devices and related circuits for customer billing not detailed in this Part shall be tested, and reports of such tests shall be made, in a manner acceptable to the commission.] Specifications for test equipment, calibration intervals, and testing of metering devices are specified in the Part 92 Operating Manual.

92.2 Definitions.

92.2(a) is revised and renumbered to 92.2(b) and a new Section 92.2(a) is added; 92.2(b) to 92.2(f) are repealed; 92.2(c) and 92.2(d) are added; 92.2(j) is changed and renumbered

to 92.2(e); 92.2(k) to 92.2(p) are repealed; 92.2(q) is modified and renumbered to 92.2(f); 92.2(h) and 92.2(i) are renumbered to 92.2(g) and 92.2(h); 92.2(r) and 92.2(s) are repealed; and 92.2(i) to 92.2(k) are added to read as follows:

(a) A meter testing facility is a laboratory or shop maintained or used by a meter service provider that is suitably equipped to test the accuracy of electricity meters. The facility must be certified by the Public Service Commission or its designee.

Newly renumbered subdivision (b) is amended to read as follows:

(b) A standardizing laboratory is a laboratory or shop equipped to maintain basic units of electrical measurements, [and which is approved by the Public Service Commission. The values of such basic units are to be verified periodically, directly or indirectly, in terms of national standards] to apply those measurements to the testing of electricity metering test equipment, and to provide traceability to the standards maintained National Institute of Standards and Technology. The laboratory must be certified by the commission or its designee.

(c) The National Institute of Standards and Technology (NIST) is the federal agency responsible for the maintenance of nationally recognized measurement standards.

(d) Traceability is the process by which the assigned value of a measurement is compared, directly or indirectly, through a series of calibrations to the value established by the U. S. national standard.

Newly renumbered subdivisions (e), (f) are amended to read as follows:

(e) A complaint test (request test) is an as-found accuracy test of [a] an electricity meter made by a [utility]

meter service provider as a result of a complaint made to the Energy Service Company, Meter Service Provider or T&D utility by a customer.

(f) A referee test is [a] an as-found accuracy test of [a] an electricity meter, made or witnessed by a representative of the commission, as a result of a complaint made to the commission by a customer or at the request of an Energy Services Company, Meter Service Provider or T&D Utility. Referee tests shall be made in a manner acceptable to the commission or its designee.

(g) An as found test is a test of an electricity meter made at prescribed load points to determine its performance prior to any adjustment or disassembly.

(h) An as left test is a test of an electricity meter made at prescribed load points to determine [that] its performance [within specified adjustment limits, following such adjustment as may be necessary] after adjustments have been made and prior to being placed in or restored to service.

(i) An in-service test is an as found test of an electricity meter made in accordance with a test program, as defined in the Part 92 Operating Manual, which is designed to establish the overall performance of the meter population.

(j) The customer is the individual or entity purchasing electrical energy for a fee based on data provided by an electricity meter. This shall include direct customers of the ISO.

(k) The New York Independent System Operator (ISO) is a New York not-for-profit corporation providing operating control over the bulk electricity transmission system within New York State.

92.2 [Laboratories and meter shops] Meter Test Facilities.

Section 92.3(b) to 92.3(g) is repealed and new sections 92(b) to 92(f) are added.

(a) Each [utility] meter service provider shall [provide and] maintain or have access to a suitable [apparatus and facilities] facility for testing electricity meters that has been certified by the commission or its designee as specified in the Part 92 Operating Manual.

(b) The meter test facility shall be equipped with test equipment suitable to establish test conditions and to determine meter performance.

(c) The meter test facility shall be managed and staffed by competent personnel.

(d) The meter test facility shall be located within New York State and not impose restrictions on its use for tests which are to be witnessed by a customer, the commission or its designee through its location or access requirements.

(e) The use of commercial standardizing laboratories as Meter Test Facilities shall be allowed only where such laboratories can be shown to have the appropriate test equipment and be staffed by personnel knowledgeable in the test and maintenance of electricity meters. Commercial standardizing laboratories used as meter test facilities shall be certified by the commission or its designee.

(f) No meter test facility may be used for the test of electricity meters used for customer billing until it has been inspected and certified by the commission or its designee.

92.4 Calibration [and comparison tests].

Section 92.4(a) to 92.4(i) are repealed and replaced with the following section 92.4(a):

(a) All meters and meter test standards and instruments used to test the accuracy of electricity meters must be calibrated and be traceable to the National Institute of Standards and Technology, as specified in the Part 92 Operating Manual.

Parts 92.5 to 92.27 are repealed and the following sections 92.5 to 92.11 are added.

92.5 Meter Records

(a) For all energy or demand meters installed on customer's premises, records shall be maintained by the Energy Services Company, Meter Service Provider or the T&D Utility controlling the meter which identify the year purchased, the manufacturer, the type, the identifying number, the nameplate data relative to the rating of the meter, and the year and results of the last test. Such records shall be sufficient to identify all associated meters and accessory equipment affecting the accuracy of the billing.

(b) Records for each meter shall be accessible to the commission or its designee and to any entity having direct financial interest in the data provided from that specific meter.

(c) Requests for meter records will be responded to within a time frame as specified in the Part 92 Operating Manual.

92.6 Test Loads and Conditions

(a) Test conditions and loads shall be as specified in the Part 92 Operating Manual.

92.7 Tests for New Meters

(a) All new electricity meters shall be tested and adjusted to an accuracy of as near to 100% registration as

practical by either the manufacturer of the meter or the Meter Service Provider before installation as specified in the Part 92 Operating Manual.

(b) Where these tests are performed by a manufacturer who maintains a standardizing laboratory, the meter service provider shall take appropriate action to assure that the watthour meters conform to the requirements as specified in the Part 92 Operating Manual.

92.8 Determination of Meter Performance

(a) Meter registration shall be considered "indeterminate" when there is any doubt as to whether the accuracy of the registration can be determined. Meter registration may also be considered "indeterminate" if two successive readings taken at each load fail to agree within the specified maximum error.

(b) A meter shall be reported as "Damaged" when it is registering incorrectly due to tampering, incorrect connections, overload or damage originating from external sources.

(c) A meter shall be reported as "Not Registering" if for any reason it is found not registering at both the light load and heavy load test points.

(d) Meter accuracy may be specified as that which is measured at a single test point or as a combined accuracy based on tests taken at multiple load points. Only one method of determining performance may be used for any meter type. The appropriate method for each meter type is specified in the Part 92 Operating Manual.

(e) Test methods used for determination of meter accuracy are specified in the Part 92 Operating Manual.

92.9 Complaint and Referee Tests

(a) A complaint test of a meter shall be made with the meter installed in place on the customer's premises, without requiring the removal of the meter in any manner from its permanent position prior to the test.

(b) A complaint test of a meter may be made at the meter testing facility in lieu of the customer's premises if conditions at the site do not allow safe operation during the test or if the technology of the device requires test conditions not readily available at a customer location.

(c) A detachable meter may be mounted in a test device designed for insertion into the meter mounting.

(d) The cover of a meter may be removed at the time of the test.

(e) Referee tests shall be subject to the same constraints and requirements as complaint tests.

(f) Referee tests shall be made in a manner acceptable to the commission or its designee.

(g) Devices and related circuits such as totalizers or relays for customer billing not detailed in this Part shall be tested, and reports of such tests shall be made, in a manner acceptable to the commission or its designee.

92.10 In-service Tests

(a) All installed meters shall be subject to in-service testing to determine the performance of the meter population. These tests must be performed as specified in the Part 92 Operating Manual.

(b) Performance standards for the meter population are specified in the Part 92 Operating Manual.

(c) Any entity operating electricity meters used for billing of customers within New York State and who are eligible

to be meter service providers under the Commission's "Practices and Procedures for the Provision of Electric Metering in a Competitive Environment" will be responsible for the administration of an in-service test program for any meters that they have installed within the state. The program will be based solely on the population of meters installed in New York and shall not be affected by any meters installed in other states.

(d) Individual test programs for in-service meters will be filed with and approved by the commission or its designee prior to their use.

(e) Reports of meter performance will be made to the commission or its designee as specified in the Part 92 Operating Manual.

92.11 Meter Registers & Add-ons, Auxiliary Devices, and Data Processing

(a) Meter demand registers shall be tested as specified in the Part 92 Operating Manual.

(b) Meter add-ons, such as pulse initiators, communications modules, etc., shall be verified for performance and effect on the meter as part of the approval process for the meter on which they will be used as specified in Part 93. The tests for new meters specified in 92.7 and the in-service tests specified in 92.10 shall not apply to these add-ons.

(c) Functions performed on the raw meter data by data processing systems shall be verified for compliance with specifications, functionality, and accuracy before use. The approval requirements of Part 93, the tests for new meters specified in 92.7 and the in-service tests specified in 92.10 shall not apply to these functions.

(d) Auxiliary devices, such as pulse recorders, totalizers, etc., must be approved for use in customer billing

applications as specified in Part 93. Their performance will be verified as part of the approval process. The tests for new meters specified in 92.7 and the in-service tests specified in 92.10 shall not apply to these devices.