

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on April 18, 2019

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Gregg C. Sayre
Diane X. Burman, dissenting
James S. Alesi

- CASE 19-E-0105 - Proceeding On Motion of the Commission
Investigating Utility Preparation and Response
to Power Outages During the 2018 Winter and
Spring Storms for New York State Electric & Gas
Corporation.
- CASE 19-E-0106 - Proceeding On Motion of the Commission
Investigating Utility Preparation and Response
to Power Outages During the 2018 Winter and
Spring Storms for Rochester Gas and Electric
Corporation.
- CASE 19-E-0107 - Proceeding On Motion of the Commission
Investigating Utility Preparation and Response
to Power Outages During the 2018 Winter and
Spring Storms for Consolidated Edison of New
York, Inc.
- CASE 19-E-0108 - Proceeding On Motion of the Commission
Investigating Utility Preparation and Response
to Power Outages During the 2018 Winter and
Spring Storms for Orange and Rockland Utilities
Inc.
- CASE 19-E-0109 - Proceeding On Motion of the Commission
Investigating Utility Preparation and Response
to Power Outages During the 2018 Winter and
Spring Storms for Central Hudson Gas & Electric
Corporation.

CASE 19-E-0105, et al.

CASE 19-E-0110 - Proceeding On Motion of the Commission Investigating Utility Preparation and Response to Power Outages During the 2018 Winter and Spring Storms for Niagara Mohawk Power Corporation d/b/a National Grid.

ORDER INSTITUTING PROCEEDING AND TO SHOW CAUSE

(Issued and Effective April 18, 2019)

BY THE COMMISSION:

INTRODUCTION

On March 6, 2018, Governor Andrew M. Cuomo directed the Department of Public Service (DPS or Department) to conduct a comprehensive investigation of New York State's major electric utilities following the storm response and service restoration of certain electric utilities to Winter Storm Riley.¹ Winter Storm Riley occurred on March 3, 2018, significantly impacting Westchester, Putnam, and Sullivan counties in the lower Hudson Valley, resulting in peak outages of nearly 500,000 customers. Shortly thereafter, on March 7, 2018 another significant event, Winter Storm Quinn, hit many of the same areas causing further peak outages of 162,000 customers. New York State subsequently experienced further weather events that led to significant outages - there were two windstorms, one on April 4, 2018, which caused substantial damage in Western New York resulting in peak outages of over 120,000 customers, and one on May 4, 2018, which heavily impacted the Plattsburg area in the North Country

¹ The major electric utilities consist of Consolidated Edison Company of New York, Inc. (Con Edison), Central Hudson Gas & Electric Corporation (Central Hudson), New York State Electric & Gas Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (National Grid), Rochester Gas and Electric Corporation (RGE), Orange & Rockland Utilities, Inc. (Orange & Rockland), and PSEG Long Island (PSEG LI) (collectively referred to as "Companies" or "Utilities").

resulting in peak outages of 160,000 customers. The final event was a severe thunderstorm system on May 15, 2018 that affected Dutchess, Putnam, and Orange counties causing peak outages of 188,000 customers.² The response to and service restoration of these events also became part of the comprehensive investigation of the Department.

The DPS investigation considers whether each utility properly prepared for, and responded appropriately to, the effects of the 2018 Winter and Spring Storms in compliance with their annually filed Emergency Response Plans (ERPs), Commission regulations and orders,³ the Public Service Law (PSL),⁴ the and Public Authorities Law (PAL).⁵ The Department's investigation examined the communications used to inform customers, emergency management personnel, governmental officials, and the media of the utility's response and restoration efforts, as well as, each

² Winter Storms Riley (March 3, 2018) and Quinn (March 7, 2018), the April (April 4, 2018) and May (May 4, 2018) Windstorms, and the May Thunderstorm (May 15, 2018) are collectively referred to as the "2018 Winter and Spring Storms").

³ Case 17-E-0758, In the Matter of the December 15, 2017 Electric Emergency Plan Review, Order Approving Electric Emergency Response Plans on an Interim Basis (issued April 19, 2018) (ERP Order).

⁴ PSL §66(21) requires these filings to be made on or before December 15 for the following calendar year. Also, Commission regulation 16 NYCRR Part 105 requires compliance with the effective ERP and requires annual ERP filings. PSL §3-b(3)(c) calls for the DPS to provide recommendations to the PSEG LI ERP. These recommendations to the PSEG LI ERP filed December 15, 2017 are found in Matter 17-02687, Letter from John B. Rhodes to Hon. Ralph V. Suozzi (dated May 23, 2018).

⁵ PAL §1020-f(cc)(1) requires PSEG LI in consultation with the Long Island Power Authority (LIPA) to prepare and maintain an ERP consistent with PSL §66(21) and any regulations and orders adopted thereto. PAL §1020-f(cc)(2) calls for PSEG LI and LIPA to submit an ERP for Department review.

utility's operational performance. Additionally, the Department determines whether there are any lessons learned and best practices that should be implemented in future ERPs.

The Department has completed its investigation and analysis concerning the Utilities' performance during and following the 2018 Winter and Spring Storms.⁶ While certain areas where the Utilities performed appropriately were noted, DPS's analysis found several areas where the Companies did not follow their ERPs and identified areas where the Companies fell short of customer and municipal expectations. The Department's overarching conclusion is that the Utilities' emergency response and electric service restoration protocols and practices need improvement during outage events. In some instances, the ability of a utility to provide "safe and adequate service" under PSL § 65(1) can be called into question.

The DPS Report provides the Department's assessment of the Utilities' performance during the 2018 Winter and Spring Storms, including their respective restoration efforts, as well as recommendations believed to improve the Utilities' performance. As part of the 2018 Winter and Spring Storm investigation, the Department sought input from all customer sectors, including governmental and civic entities. Department Staff (Staff) conducted twenty public statement hearings across the State where numerous customers and public officials provided both written and oral comments; conducted interviews with numerous State, County, City, and Town officials; held meetings with and received comments from customers and other stakeholders; and facilitated substantial public outreach to better understand issues and problems experienced during the 2018 Winter and

⁶ Case 19-M-0285, In the Matter of Utility Preparation and Response to Power Outages During the March 2018 Winter and Spring Storms, 2018 Winter and Spring Storms Investigation (April 18, 2019) (DPS Report).

Spring Storms. Additionally, the Department issued over 700 document requests; evaluated complaint data filed with the DPS Office of Consumer Services; and, reviewed other salient information, such as the United Westchester March 2018 Storm Response Report.

The DPS Report identifies 94 recommendations for corrective actions to be implemented in the Companies' ERPs.⁷ The DPS Report also identified potential regulatory violations by several of the Utilities.⁸ The DPS Report presents credible information to warrant Commission action requiring Central Hudson, National Grid, NYSEG, RGE, Con Edison, and Orange & Rockland to formally respond to the conclusions drawn in the DPS Report and this Order. By this Order, therefore, National Grid, NYSEG, RGE, Con Edison, Orange & Rockland, and Central Hudson are directed to show cause why the Commission should not pursue civil penalties, pursuant to PSL §25, and/or administrative penalties, pursuant to PSL §25-a, for the apparent failure to follow their ERPs as approved and mandated by the ERP Order and Commission regulations. All Utilities are also directed to show cause why they should not implement and incorporate the DPS Report recommendations into their ERPs.⁹

LEGAL AUTHORITY

Public Service Law § 65(1) requires utilities to provide "service, as shall be safe and adequate and in all respects just and reasonable." Public Service Law § 66(2)

⁷ DPS Report, p. 169.

⁸ DPS Report, pp. 6; 48; 51; 57; 72; 105; 106; 131; 133; 135; 139; 142; 144-147.

⁹ PSEG LI should comply with the ERP process as contemplated by PSL, PAL, and the Amended and Restated Operation Services Agreement (A&R OSA).

authorizes the Commission to investigate utilities. PSL §66(21) requires each electric utility to file its ERP on or before December 15 of each year for Commission review and approval. PAL §1020-f(cc)(2) requires PSEG LI, on behalf of LIPA, to file an ERP consistent with both PSL §66(21) and 16 NYCRR Part 105, which specify the content and information to be in the Utilities' ERPs.

Public Service Law §§ 25-a (3) and (5) authorize the Commission to commence an administrative penalty proceeding against combination gas and electric corporations to determine, by a preponderance of the evidence, whether the corporation violated the Public Service Law or an order or regulation adopted pursuant to the Public Service Law. Such violations, pursuant to pursuant to PSL §25-a(5), may warrant a Commission-assessed penalty against,

...a combination gas and electric corporation determined by the commission to have failed to reasonably comply by a preponderance of the evidence with a provision of this chapter, or an order or regulation adopted under authority of this chapter, designed to protect the overall reliability and continuity of electric service, including but not limited to the restoration of electric service following a major outage event or emergency, shall forfeit a sum not to exceed the greater of:

(a) five hundred thousand dollars or four one-hundredths of one percent of the annual intrastate gross operating revenue of the corporation, not including taxes paid to and revenues collected on behalf of government entities, whichever is greater, constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(b) the maximum forfeiture determined in accordance with subdivision three of this section.

Violations of PSL §25(4) may warrant a civil penalty as follows:

4. Notwithstanding the provisions of subdivision one or two of this section, a public utility company, corporation or person and the officers, agents and employees thereof that knowingly fails or neglects to obey or comply with a provision of this chapter, or an order or regulation adopted under authority of this chapter, designed to protect the overall reliability and continuity of electric service, shall forfeit to the state of New York a sum not to exceed the greater of:

(a) five hundred thousand dollars constituting a civil penalty for each separate and distinct offense; provided, however, that for purposes of this paragraph each day of a continuing violation shall not be deemed a separate and distinct offense. The total period of a continuing violation, as well as every distinct violation, shall be similarly treated as a separate and distinct offense for purposes of this paragraph; or

(b) the maximum forfeiture determined in accordance with subdivision two of this section.

5. Penalties provided for pursuant to this section shall be recovered in an action as provided in section twenty-four of this article.

Such civil penalties under PSL §25 are recovered pursuant to PSL §24, which states:

Action to recover penalties or forfeitures
An action to recover a penalty or a forfeiture under this chapter or to enforce the powers of the commission may be brought in any court of competent jurisdiction in this state in the name of the people of the state of New York, and shall be commenced and prosecuted to final judgment by the commission. In any such action all penalties and forfeitures incurred up to the time of commencing the same may be sued for and recovered therein, and the commencement of an action to recover a penalty or forfeiture shall not be, or be held to be, a waiver of the right to recover any other penalty or forfeiture; All moneys recovered in any

such action, together with the costs thereof, shall be paid into the state treasury to the credit of the general fund. Any such action may be compromised or discontinued on application of the commission upon such terms as the court shall approve and order. An action may be maintained by the commission for the whole or any part of the penalties or forfeitures prescribed in this chapter, and judgment may be rendered for the amount demanded in the complaint, or for any less amount, as justice may require.

BACKGROUND

The Commission and DPS have the regulatory authority to ensure utilities meet their regulatory obligation to provide electric, natural gas, and/or telecommunications services in a safe, adequate and reliable manner.¹⁰ The Department's oversight responsibility for utilities' emergency response actions occurs in three phases: storm preparation, active monitoring of utility impacts and system restoration, and post-storm analysis. To ensure that electric utility companies are fully prepared, PSL §66(21)(a), 16 NYCRR Part 105 (Part 105), and the LIPA Reform Act (LRA),¹¹ require each major electric utility to submit a comprehensive ERP to the Commission, or, in the case of LIPA, the Department. The ERPs detail procedures and define roles, responsibilities, and required training to reduce confusion and promote a common understanding of the restoration process. The ERPs are annually reviewed by the Department and approved by the Commission, or, in PSEG LI's case, by the LIPA Board of Trustees. Under Part 105, each utility is also required to perform restoration efforts in compliance with its ERP and is expected to update its plan after a major event to capture all

¹⁰ PSL §§ 65(1) and 91(1). The Department also reviewed the actions and effort of all New York telecommunication companies. PSL §§94(2) and 96. See, DPS Report at p. 158.

¹¹ 2013 N.Y. LAWS 173.

lessons learned and incorporate all best practices. The Utilities are further required to file self-assessment reports of their restoration efforts if they experience an outage with a restoration period exceeding three days.¹²

Winter Storm Riley occurred on March 3, 2018, resulting in more than 500,000 customer outages at its peak. The storm significantly impacted Westchester, Putnam, and Sullivan counties (NYSEG, Orange & Rockland, Con Edison, and Central Hudson service territories). On March 7, 2018, Winter Storm Quinn affected the same service territories, causing 162,000 peak customer outages. Certain portions of these service territories were without power for several days as a result of these March storms, with customers in NYSEG's Brewster division experiencing outages for as long as eight days.¹³ Con Edison and Orange and Rockland had outages lasting ten days.¹⁴

Subsequently, the April and May 2018 Windstorms caused substantial damage and outages in Western New York and the North Country, including Plattsburg, New York (NYSEG, RG&E, and National Grid service territories). At their peak approximately, 125,000 and 160,000 customers were without power, respectively, with customers losing power up to three days in each event.¹⁵

Finally, portions of NYSEG's, Central Hudson's, and Orange & Rockland's service territories were without power resulting from the May Thunderstorm for as long as five days in

¹² 16 NYCRR §105.4(c); PAL §1020-f(cc)(5) requires similar self-assessment reports to be filed by LIPA's electric service provider.

¹³ DPS Report, pp. 15-17.

¹⁴ DPS Report, p. 17.

¹⁵ Id.

portions of NYSEG's service territory, and for four days for Orange & Rockland and Central Hudson. The May Thunderstorm caused approximately 69,000 outages for NYSEG, 73,000 peak outages for Central Hudson, and 46,000 outages for Orange & Rockland customers. This event impacted many of the same communities previously affected by Winter Storms Riley and Quinn.

The 2018 Winter and Spring Storms essentially affected customers throughout New York State in all major electric utility service territories. Therefore, because of the widespread number of outages and length of time needed to restore service resulting from these storms events, the DPS investigation was expanded to include the respective utility's response and restoration efforts during the 2018 Winter and Spring Storms. The investigation findings are documented in the DPS Report, which also includes recommendations for operational and procedural improvements to the Utilities' storm response and restoration practices and procedures.

ALLEGED VIOLATIONS

The DPS Report found that Con Edison, Orange & Rockland, NYSEG, RGE, National Grid, and Central Hudson did not follow their respective ERPs and therefore, in the Department's view, the Companies violated the Commission's ERP Order, which approved and required ERP implementation, as well as Commission regulations, which require ERP compliance.¹⁶

As discussed above, the Commission may assess a civil or administrative penalty under PSL §25 and §25-a, respectively,

¹⁶ While DPS recommends, annually, that PSEG LI modify its ERP to ensure that similar failures and non-compliance do not occur in the future, the ultimate decision to seek redress is to be made by LIPA, pursuant to the provisions its Amended and Restated Operations Services Agreement (A&R OSA) with PSEG LI.

if it determines there has been a violation of the PSL, or a Commission order or regulation. The DPS Report identified multiple instances concluding that the utilities' conduct relating to the storm events violated Commission regulations and orders. The DPS Report presents credible information for the Commission to require Central Hudson, National Grid, NYSEG, RGE, Con Edison, and Orange & Rockland to formally respond to findings contained in the DPS Report and identified in this Order. This Order is not a final determination by the Commission concerning the DPS Report and Department findings. A brief description of potential ERP violations uncovered during DPS's investigation and contained in the DPS Report are set out below.¹⁷

NYSEG ERP Section 5.1: Damage Assessment¹⁸

NYSEG'S ERP concerning the utility having contracts in place to secure third-party damage assessors states:

The Companies have reached agreements with contractors to mobilize additional trained assessors.

While the inclusion of this requirement was a result of a recommendation in the Department's March 2017 Windstorm Report,¹⁹ NYSEG failed to have any such contracts at the time of the 2018 Winter and Spring Storms. Even more troubling, the Department found that NYSEG had only 14 qualified damage assessors for its Brewster division (out of 334 qualified internal resources),

¹⁷ This Order to Show Cause is preliminary to and not the requisite Commission penalty notice pursuant to PSL §25-a(2)(b).

¹⁸ DPS Report, pp. 47-48.

¹⁹ Case 17-E-0594, NYSEG & RGE 2017 Windstorm Investigation, March 2017 Windstorm: A Report on NYSEG and RGE Electric Restoration and Communication Efforts (issued November 16, 2017) (2017 Windstorm Report), p. 35.

even though this area has been repeatedly hard hit by previous storms and has experienced past unsatisfactory storm response and restoration performance. Therefore, this alleged violation of NYSEG's ERP is the basis for a potential penalty.

NYSEG ERP Section 5.1: Damage Assessment²⁰

NYSEG's ERP indicates that each Company division deploy necessary resources to complete preliminary damage assessment during the first day-light opportunity.²¹ The Department's investigation has determined that NYSEG did not have a satisfactory number of damage assessment resources, particularly in areas experiencing substantial damage and/or number of customer outages. Again, only 14 damage assessors were available for the Brewster division even though over 2,000 downed wires were reported and 50,000 customers were without power. Additionally, only 4 assessors were dispatched to perform preliminary assessment functions.²² This number of available resources is unacceptable given what was known, or should have been known, about the damage being experienced in the Brewster division. This is not the first instance this service area has experienced damage, substantial outages, and considerable power restoration delays.

²⁰ DPS Report, pp. 50-53.

²¹ Preliminary damage assessment is intended to identify critical damage information, such as broken poles, downed wire locations, road obstructions, and damaged transformers. This assessment focuses on three-phase circuits or areas where damage is significant or the number of outages is great. A more detailed assessment follows which includes patrolling single-phase primary and service lines to identify more accurate regional and local Estimated Time of Restoration.

²² DPS Report, p. 49.

Further, instead of rapidly deploying preliminary assessors from nearby divisions, NYSEG deployed preliminary assessors from as far as Maine.²³

DPS concluded that NYSEG violated its ERP by not effectively deploying damage assessors to the Brewster division resulting in an incomplete and ineffective preliminary damage assessment. These violations were continued throughout the 2018 Winter and Spring Storms on two additional occasions, which also form the basis of distinct violations and result in three potential penalties.²⁴

NYSEG & Con Edison ERP Sections 8.2.1 & VII(b): Estimated Time of Restoration

An Estimated Time of Restoration (or ETR) is the approximate date and time an electric utility expects service will be restored after a power outage.²⁵ Customers depend on ETRs to make health and safety decisions, including determining the need for alternative accommodations, ensuring adequate resources and supplies are available during extended outages, and addressing any medical needs. Further, municipalities rely on ETRs to plan properly for the care and safety of their

²³ Id.

²⁴ DPS Report, p. 51.

²⁵ ETR protocols include minimum requirements for when, and what level of detail (global, regional, or local ETR) should be communicated to the public based on the forecasted outage duration. A global ETR is often the first ETR provided to the public and represents when most customers will be restored across the utility's service territory. Regional ETRs are used to distinguish hard hit areas where restoration will take a longer period of time. Local ETRs are even more refined and reflect restoration at the town level based on detailed damage assessment information in a locality and the priority level of the restoration work identified.

constituents and protection of property. To be useful and informative, the ETRs must be timely, accurate, and made widely accessible. An inaccurate ETR does not benefit the customers or municipalities and, taken to the extreme, can lead to personal injury or even death. Therefore, an ETR must be accurate to satisfy the intent of a utility ERP.

The DPS Report found that for the Winter Storms Riley and Quinn, the accuracy of the ETRs provided by Con Edison and NYSEG were unsatisfactory. Further, NYSEG continued to provide an inaccurate ETR for the May Thunderstorm event. Both customers and governmental entities expressed frustration and confusion over inaccurate and frequently changing ETRs, and many reported they lost trust in the ETRs provided by Con Edison and NYSEG.²⁶ This result is not acceptable - customer and municipal decisions are predicated on accurate ETRs. An uneducated decision resulting from bad or stale utility information can have detrimental results. Therefore, the Department concluded that the repeated dissemination of inaccurate ETRs is a violation of Con Edison's and NYSEG's ERPs and forms the basis of a penalty for both.

Con Edison and Orange & Rockland ERP Sections I(C)(f) and II(C) & 5.11: Outage Management System (OMS)

OMS systems are core applications necessary for a utility to manage response and restoration efforts during outage events. OMS systems process reported customer outage information; predict outages to capture the full extent of customers impacted; create, prioritize, and manage jobs; and interface with various applications to provide consistent and

²⁶ DPS Report, p. 65.

updated outage information to utility resources and the public during emergency response operations.

Since OMS is connected to many independent functions and acts as a definitive source of information for many operational applications, it is imperative that the OMS system processes accurate information and remains functional even when other applications are impacted.

While several of the Utilities experienced issues with their OMS, many of these issues were rectified within a reasonable time frame. Similar to ETRs, it is implicit that for an OMS to be satisfactory, and for the utility to comply with its ERP, the OMS must be reasonably operational. In this respect, DPS determined that Con Edison and Orange & Rockland both failed to maintain an operational OMS during Winter Storms Riley and Quinn. As a result, thousands of Con Edison's customers received multiple automated ETR and restoration notifications. Starting on March 2, 2018, approximately 15,500 customers received duplicate ETR notifications and approximately 49,000 customers received incorrect restore notifications.²⁷ Con Edison was not aware of the issue until March 5, 2018.

The DPS Report reflected that Orange & Rockland indicated that its outage predictive logic rules were aggressive, leading to overpredictions in customer outages at the start of Winter Storm Riley. As a result of inaccuracies in its outage map, Orange & Rockland disabled the outage map for six hours on March 9, 2018. Like Con Edison, Orange & Rockland also indicated that its customers received text messages with incorrect ETR information and restore notifications during

²⁷ DPS Report, p. 56. See also, Consolidated Edison Company of New York, Inc. Report on Preparation and System Restoration Performance Winter Storms Riley and Quinn March 2018, pp. 77-78 (May 11, 2018).

Winter Storms Riley and Quinn.²⁸ However, unlike Con Edison, outbound communications were sent only to customers who had signed up to receive messaging, which was a total of 7,500 customers.

While both companies attempted to correct the ramifications of the OMS infirmities upon detection, such efforts do not negate the reality that each OMS, the informational backbone for response and service restoration, was not operational during extended periods of time when the functionality of such systems were necessary and vital to response and restoration efforts. These OMS issues cannot be ignored or accepted given the length of time each remained inoperable. Therefore, DPS contends that the failure of the companies' OMS systems to reasonably and properly function violates each respective company's ERP and forms the basis of a potential penalty.

NYSEG ERP Sections 9.3.2.1: LSE Pre-Storm Notification Calls

All Utilities are required to notify Life Support Equipment (LSE) customers before an expected major storm event begins, via automated calls, to alert them of the possible loss of power and encourage them to undertake plans for personal safety, and to inform the LSE customers to call emergency services directly, if assistance is needed at any time. All affected Utilities made automated pre-storm calls to all registered LSE customers prior to Winter Storm Riley. The DPS Staff investigation determined that on March 6, 2018, in anticipation of Winter Storm Quinn, similar pre-storm calls were made by all the Utilities, except for NYSEG. NYSEG only

²⁸ DPS Report, p. 57. See also, Orange & Rockland Report on Preparation and System Restoration Performance Winter Storms Riley and Quinn March 2018, pp. 62-63 (May 11, 2018).

contacted LSE customers that continued to be without power from Winter Storm Riley and not its entire LSE population in the areas that would be impacted by Winter Storm Quinn.²⁹ This ERP requirement should have been performed regardless of the previous notification of Winter Storm Riley - Winter Storm Quinn was a separate and distinct event.

Notifying LSE customers of the impact of major storm events allows these vulnerable customers to make informed decisions that directly impact their personal safety. Moreover, the importance of such notification is amplified when multiple major storm events occur in succession. LSE customers who have had their power restored remain equally susceptible to the impact of subsequent major storm events. Therefore, it is the Department's view that the overlap of LSE customers who were without power in advance of Winter Storm Quinn and who were still receiving follow up calls from NYSEG, would not excuse NYSEG's failure to contact LSE customers who had power restored prior to Winter Storm Quinn. According to DPS, NYSEG should have made pre-storm calls to all LSE customers prior to Winter Storm Quinn and, by not doing so, NYSEG violated Sections 9.3.2.1 of its ERP, conduct which forms the basis of a potential penalty.

NYSEG ERP Section 9.3.2.2: Staffing Levels for LSE Customer Outreach³⁰

A lack of customer advocates or designees impairs a utility's ability to contact LSE customers timely and effectively. Between March 2, 2018 and March 10, 2018, the number of customer advocates, or designees, that NYSEG used to

²⁹ DPS Report, p. 142.

³⁰ DPS Report, p. 143-145.

make LSE customer calls varied. The Department concluded that although resources were added, NYSEG failed to assign the appropriate number of resources, as defined by its ERP, from March 2 through March 5, 2018. Therefore, DPS concludes that NYSEG violated Section 9.3.2.2 of its ERP by not having the minimum number of customer advocates or designees needed to appropriately handle LSE customer matters during Winter Storms Riley and Quinn. This conclusion that NYSEG's failed to appropriately assign or allocate staff to make LSE calls forms the basis for a potential penalty.

Con Edison, NYSEG, RGE, ERP Sections: 7.G; and 9.3.2.1 and 9.3.2.2; LSE Communications

All utilities are required to maintain daily direct contact with all affected LSE customers and to thereafter verify their safety and well-being, via telephone, or through a utility representative or Emergency Operations Center (EOC) designated personnel making a visit to the customer's premises. Utilities are required to contact 100 percent of LSE customers in their respective service areas within the first 24 hour period of a major storm event.³¹ Utilities are also evaluated as to whether they contact 80 percent of affected LSE customers within 12 hours of the start of the event; make a second attempt within the same 12-hour period if the LSE customer is not reached the first time; and directly contact or refer to an EOC or other third-party the remaining customers, thereby contacting 100 percent of affected LSE customers within 24 hours.³² Further,

³¹ 16 NYCRR 105.4(b)(9).

³² Case 13-E-0140, Proceeding on Motion of the Commission to Consider Utility Emergency Performance Metrics, Order Approving the Scorecard for Use as a Guidance Document to Assess Electric Utility Response to Significant Outages (issued December 23, 2013), p. 26.

each utility bears the ultimate responsibility for all communications with LSE customers, including closing the loop to ensure there is daily LSE customer contact when referrals are made to an EOC.

The DPS Report concluded that for Winter Storms Riley and Quinn, Con Edison did not meet the requirement to contact 80 percent of affected LSE customers within 12 hours and did not contact 100% of LSE customers within 24 hours.³³ During Winter Storm Riley, Con Edison failed to perform follow up calls within 12 hours and failed to perform site wellness checks within 24 hours for those LSE customers that could not be contacted by other means.³⁴ Further, during Riley the Company failed to document LSE customer status updates for those customers referred to the EOC to ensure direct contact.³⁵ These failures, identified in the DPS Report, form the basis for five potential penalties.

The DPS Report also concludes that NYSEG failed to meet several its LSE customer requirements stated in its ERP. During the May Thunderstorm, NYSEG failed to contact all LSE customers within 24 hours or perform subsequent direct contact site visits for those customers not contacted.³⁶ In its Brewster division NYSEG failed to perform site visits for 4 percent of the LSE customers affected by the May Thunderstorm that were not reached by telephone, nor did it refer these customers to an EOC for assistance to perform the site visits.³⁷ During the May

³³ DPS Report, p. 143.

³⁴ DPS Report, p. 146-147.

³⁵ DPS Report, p. 147.

³⁶ DPS Report, p. 145.

³⁷ DPS Report, p. 147.

Windstorm, the Company failed to attempt to contact LSE customers not contacted by initial calls.³⁸ During Winter Storm Riley, NYSEG failed to identify and contact 190 LSE customers who were potentially impacted until March 5, 2018, three days after Winter Storm Riley caused customer outages.³⁹ Department Staff noted NYSEG's history of not identifying all LSE customers during large events. In the 2017 Windstorm Report, it was determined that NYSEG/RGE's OMS did not capture single customer outages that were not linked to an incident when creating an outage report.⁴⁰ Department Staff noted that NYSEG violated their ERP by failing to properly identify all affected LSE customers.⁴¹ These arguable failures noted in the DPS Report form the basis for four potential penalties against NYSEG.

For Winter Storm Quinn, the Department determined that RGE failed to make multiple attempts to reach affected LSE customers that were not contacted during the first round of calls and did not make any pre-storm notification calls. These failures form the basis for two potential penalties.

The Companies remain ultimately responsible for ensuring that this potentially vulnerable customer population is contacted and supported during an emergency event. This responsibility does not shift to the referred entity, even upon referral.⁴² Therefore, as discussed in the DPS Report, violations of the respective ERPs, ERP Order, and regulations

³⁸ DPS Report, p. 145.

³⁹ DPS Report, p. 143.

⁴⁰ 2017 Windstorm Report, p. 55.

⁴¹ DPS Report, p. 144.

⁴² The Commission understands that no LSE customer was injured because of any violations; however, this does not excuse the inaction.

support the initiation of enforcement action including potential penalties.

NYSEG and RGE ERP Sections 9.7.3: Customer Communications Press Releases

Effective communication with customers through press releases, social media, and other customer messaging or alerts is a key aspect of how a utility disseminates useful information. An inability to effectively communicate critical information exacerbates customer confusion and negatively influences customer decision-making during storm events. Section 9.7.3 of the NYSEG/RGE' ERP states, "[D]uring emergencies, appropriate information is provided to the media. News releases and/or media statements will be provided within the first 12 hours of an event, synchronized with accepted media cycles (5 a.m., noon, 5 p.m., 6 p.m. and 11 p.m.) with an update provided within 24 hours of an event. Additional media contact will be made according to available updates on event conditions or Company response." This ERP requirement resulted from the 2017 Windstorm Report which recommended that NYSEG and RGE "issue press releases at regular intervals, i.e., every six hours, that provide detailed information on restoration efforts separately for each Company and division when possible. For example, independent press releases for the hardest-hit areas would provide helpful information to specific customers, public officials, and the media."⁴³ During Winter Storms Riley and Quinn, as well as the May Thunderstorm for NYSEG, the Department found that the press releases issued were insufficient to effectively communicate critical information to customers on a timely basis. NYSEG and RGE did not issue their press releases at regular intervals in alignment with media news cycles.

⁴³ 2017 Windstorm Report, p. 49.

Moreover, the content contained in the press releases did not accurately portray the extent of outages in either service territory.⁴⁴ In some instances, the content of the press releases was inconsistent - some releases generally indicated that both NYSEG and RG&E had crews working on outage restoration, while others did not have basic information like utility contact information or how to report an outage. NYSEG and RGE did not effectively and timely communicate with their customers and stakeholders through press releases, which again persisted during the May Thunderstorm.⁴⁵ Effective, consistent communication is necessary to alleviate customer concern, avoid customer confusion, and ultimately provide customers with safety and emergency information. A failure to disseminate information timely, or to exclude meaningful information exacerbates a potentially critical situation. The DPS Report's conclusion that NYSEG and RGE failed to timely communicate with their customers during three events and thereby violated their ERP, forms the basis for three potential penalties for NYSEG (Riley, Quinn and May Thunderstorm) and two for RGE (Riley and Quinn).

Central Hudson, Con Edison, and National Grid: ERP Sections 6.2, VII(E), and 17.2(2): Interactive Voice Response

IVR systems allow utilities to provide basic information to the customers prior to speaking with a representative, in addition to enabling call routing. IVRs also help to assist call center representatives address high call volumes. During outage events, IVR messages should provide callers with concise information related to the utility's restoration progress, including, but not limited to: ETR

⁴⁴ DPS Report, pp. 105-111.

⁴⁵ Id.

information, when available; safety information, such as shelter, water, and dry ice locations; and, a reference to the utility's website such that the customer can access additional information and related updates. To keep this information "fresh and relevant" utilities must update their IVR messaging throughout an event. At a minimum, each utility's ERP requires the utility to complete updates of the IVR within one hour of each press release.

The DPS Report concludes that during Winter Storms Riley and Quinn, Central Hudson did not update its IVR system within the required timeframe. Similarly, National Grid did not update its IVR messaging in a consistent timely manner in conjunction with the issuance of press releases during Winter Storm Riley. Likewise, for Winter Storms Riley and Quinn, Con Edison failed to update its IVR messaging within the required timeframe after the issuance of a press release.⁴⁶

According to the DPS Report, the inconsistent and/or delayed updating of IVR messaging is a violation of Central Hudson, Con Edison, and National Grid's ERPs and for each is the basis for potential penalties.

Con Edison ERP VII(E): Call Center Staffing

Section VII(E) of Con Edison's ERP requires a certain level of initial call center staffing based on the severity level of an outage event.⁴⁷ Con Edison's ERP calls for 370 call center representatives over a 24-hour period. During Winter Storm Riley, Con Edison had 290 representatives from March 3 through March 4, and, therefore, did not have the required

⁴⁶ DPS Report, p. 139.

⁴⁷ DPS Report, p. 135.

staffing in its call center in accordance with the ERP.⁴⁸ According to DPS Report, this call center understaffing is a violation of Con Edison's ERP and forms the basis of a potential penalty.

Con Edison and Orange & Rockland, ERP Sections, II(B) and 5.9: Utility Websites

Utilities are required to provide continuous access to their websites and web-based customer applications during storm events. Utilities must also continue to update their websites hourly until restoration is complete.

Central Hudson, Con Edison, NYSEG, RGE, and Orange & Rockland experienced multiple outages of their websites or web-based applications. While such applications should remain operable at all times, Central Hudson, NYSEG and RGE, upon detection, resolved their website issues within a reasonable time period.⁴⁹

As discussed in the DPS Report, Con Edison's and Orange and Rockland's website issues continued for approximately eight hours during Winter Storm Quinn.⁵⁰ The Department concluded that this prolonged outage during a major storm event was unacceptable.⁵¹ Con Edison's website is a critical source and conduit of vital information during a system emergency, and multiple sources confirm that Con Edison's website was unavailable on March 10, 2018 from 2:36 PM until 11:00 PM. The utility stated this was the result of a hardware failure in the utility's datacenter, which caused a non-critical function to go

⁴⁸ Id.

⁴⁹ DPS Report, p. 131.

⁵⁰ Id.

⁵¹ Id.

offline and a software error that displayed an application error on the website.

Orange & Rockland's website experienced two failures during Winter Storms Riley and Quinn due to data inconsistencies, a hardware failure and a software bug. Orange & Rockland's website was down the morning of March 9, 2018 because the utility removed the outage map to "address data inconsistencies relating to under- and over-counting of outages." Orange & Rockland also stated the entire website experienced an additional outage on March 10, 2018 caused by hardware and other issues, which resulted in an eight-hour interruption of the site.

The DPS Report has concluded that the length of time for Orange & Rockland and Con Edison to resolve their website outages, and the reasons given for such outages, is not acceptable performance during a major storm event.⁵² The Department therefore determined that such outages constituted violations and form the basis for one potential penalty against Con Edison and one against Orange & Rockland.

DISCUSSION

Recommendations and Areas of Improvement

The Department's review of the Utilities' performance during the 2018 Winter and Spring Storms identified many opportunities for improvement that should be resolved by implementing and complying with the Companies' revised ERPs in accordance with the Department's recommendations and Commission directives as discussed in the DPS Report and this Order. The Utilities' self-assessment reports, along with the DPS Report, identify recommendations that will enable the Companies to

⁵² DPS Report, pp. 131-133.

communicate and respond more effectively during and after an emergency outage event. The Commission encourages the Companies to consider the implementation of all recommendations. This implementation is crucial and should occur unless satisfactory reasons are provided suggesting a different course.

The Companies should address the implementation of each specific recommendation contained in the DPS Report, whether the Commission should mandate, reject, or modify, in whole, or in part, such recommendations. Each Company's response should include a discussion of which recommendation[s] it opposes, the reasons for such opposition, and an indication of any alternatives it proposes to address the root cause of all recommendations to which it is objecting. The Companies must demonstrate how any alternative more effectively addresses the underlying findings, produces more benefits or less risk, or is more technically feasible. If recommendations are opposed without proposing any alternatives, the Company shall provide a justification as to why alternatives were not available or feasible. If a recommendation has already been initiated, or the Companies agree that it should be implemented, the Companies should so state along with an appropriate compliance timeline.

To ensure the timely implementation of the recommendations into the ERP, the Utilities, other than PSEG LI, are ordered to respond within 30 days of the date of the issuance of this Order to Show Cause. PSEG LI should comply with the ERP process as contemplated by PSL, PAL, and the A&R OSA. The Companies are encouraged to consult with Department Staff during the development of their response.

Alleged Violations

Concerning the Department's identification of violations of the ERPs, ERP Order, and 16 NYCRR Part 105, the applicable Utilities are ordered to show cause within 30 days of the date of this Order why the Commission should not seek administrative penalties for the company's failure to comply with the requirements of their own procedures contained in the respective ERP, thereby violating each utility's ERP Order and 16 NYCRR §105.6.

The Department shall designate appropriate trial staff to investigate the alleged violations and pursue any potential penalties under PSL §§25 and/or 25-a, if necessary. Once designated, the Companies may consult with trial staff during the development of their response.

The Commission orders:

1. A proceeding is instituted and Consolidated Edison Company of New York, Inc., Orange & Rockland Utilities, Inc., New York State Electric & Gas Corporation, Rochester Gas and Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, and Central Hudson Gas & Electric Corporation are ordered to show cause, within 30 days of the date of this Order, why the Public Service Commission should not commence a civil penalty action and/or an administrative penalty action, pursuant to Public Service Law §§ 25 and 25-a, for violations of the Commission's Order Approving Electric Emergency Response Plans on an Interim Basis in Case 17-E-0758 or 16 NYCRR Part 105.

2. Consolidated Edison Company of New York, Inc., Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Rochester Gas and Electric Corporation, and Orange & Rockland Utilities, Inc. shall each address within 30

days of this Order, whether the Commission should mandate, reject, or modify, in whole or in part such recommendations contained in Case 19-M-0285, In the Matter of Utility Preparation and Response to Power Outages During the March 2018 Winter and Spring Storms, 2018 Winter and Spring Storms Investigation. The response shall include a discussion of which recommendations a company opposes or requests to modify, the reasons for such opposition or modification, as well as a description of any alternatives proposed to address the root cause of all recommendations to which they are objecting. If recommendations are opposed without proposing any alternatives, the company shall provide a justification as to why alternatives were not available or feasible.

3. For each and every recommendation not fully accepted, the applicable utility shall provide justification for its proposed alternatives and demonstrate how such alternatives more effectively address the root cause of the underlying recommendations, produce more benefits or less risk, or are more technically feasible. Specific implementation steps; implementation schedule with start and end dates; and significant interim milestones, if applicable, should be provided.

4. For each and every recommendation accepted, each utility shall provide within 10 days of the date of this Order its specific implementation steps; implementation schedule with start and end dates; provide its priority relative to other recommendations; significant interim milestones (if applicable); and deliverable(s) which demonstrate the recommendation was implemented.

5. The Secretary in her sole discretion may extend the deadlines set forth in this Order. Any request for an extension must be in writing, must include a justification for

CASE 19-E-0105, et al.

the extension, and must be filed at least one day prior to the affected deadline.

6. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary