

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Commerce Commission	:	
On Its Own Motion	:	
	:	20-NOI-02
Notice of Inquiry Regarding	:	
Electric and Natural Gas Service	:	
Safety and Reliability	:	

NOTICE OF INQUIRY

I. Background

The Illinois Public Utilities Act (PUA) requires public utilities subject to the PUA to provide services that are, among other requirements, reliable and environmentally safe.

Sec. 8-401. Every public utility subject to this Act shall provide service and facilities which are in all respects adequate, efficient, reliable and environmentally safe and which, consistent with these obligations, constitute the least-cost means of meeting the utility's service obligations.

220 ILCS 5/8-401.

The PUA further gives the Commission the power to address issues of safety concerning public utility maintenance and operation of plant, equipment or other property.

Sec. 8-505. The Commission shall have power, after a hearing or without a hearing as provided in this Section and upon its own motion, or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every public utility to maintain and operate its plant, equipment or other property in such manner as to promote and safeguard the health and safety of its employees, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, customers or the public may demand.

220 ILCS 5/8-505. Code Part 305, adopted pursuant to this statute, are intended to practically safeguard persons during the installation, operation, or maintenance of electric supply and communication lines and their associated equipment and to provide minimum requirements considered necessary for the safety of employees and the public. 83 Ill. Adm. Code Part 305.¹

The Illinois General Assembly also established within the PUA protocols for the Commission to follow when accidents occurring to or on public utility plant, equipment, or other property are of such a nature as to endanger the safety, health or property of any person.

Sec. 8-507. Every public utility shall file with the Commission, under such rules and regulations as the Commission may prescribe, a report of every accident occurring to or on its plant, equipment, or other property of such a nature to endanger the safety, health or property of any person. Whenever any accident occasions the loss of life or limb to any person, such public utility shall immediately give notice to the Commission of the fact by the speediest means of communication, whether telephone, electronic notification, or post.

The Commission shall investigate all accidents occurring within this State upon the property of any public utility or directly or indirectly arising from or connected with its maintenance or operation, resulting in loss of life or injury to person or property and requiring, in the judgment of the Commission, investigation by it, and shall have the power to make such order or recommendation with respect thereto as in its judgment may seem just and reasonable. Neither the order or recommendation of the Commission nor any accident report filed with the Commission shall be admitted in evidence in any action for damages based on or arising out of the loss of life, or injury to person or property, in this Section referred to.

220 ILCS 5/8-507. Pursuant to these provisions of the PUA, the Commission adopted Code Part 220, which establishes specific procedures for utilities to use when reporting accidents that occur on company property or involving company facilities. 83 Ill. Adm.

¹ See <https://www.ilga.gov/commission/jcar/admincode/083/08300305sections.html>.

*Code Part 220.*² The Commission further adopted *Code Part 595*, which establishes specific procedures for persons engaged in the transportation of gas, or who own or operate pipeline facilities, to use when reporting accidents that occur on company property or involving company facilities. *Code Part 590.*³

The Illinois General Assembly established within the PUA specific transmission and distribution reliability requirements.

Sec. 16-125. Transmission and distribution reliability requirements.

(a) To assure the reliable delivery of electricity to all customers in this State and the effective implementation of the provisions of this Article, the Commission shall, within 180 days of the effective date of this Article, adopt rules and regulations for assessing and assuring the reliability of the transmission and distribution systems and facilities that are under the Commission's jurisdiction.

(b) These rules and regulations shall require each electric utility or alternative retail electric supplier owning, controlling, or operating transmission and distribution facilities and equipment subject to the Commission's jurisdiction, referred to in this Section as "jurisdictional entities", to adopt and implement procedures for restoring transmission and distribution services to customers after transmission or distribution outages on a nondiscriminatory basis without regard to whether a customer has chosen the electric utility, an affiliate of the electric utility, or another entity as its provider of electric power and energy. These rules and regulations shall also, at a minimum, specifically require each jurisdictional entity to submit annually to the Commission.

(1) the number and duration of planned and unplanned outages during the prior year and their impacts on customers;

(2) outages that were controllable and outages that were exacerbated in scope or duration by the condition of facilities, equipment or premises or by the actions or inactions of operating personnel or agents;

(3) customer service interruptions that were due solely to the actions or inactions of an alternative retail electric supplier or a public utility in supplying power or energy;

(4) a detailed report of the age, current condition, reliability and performance of the jurisdictional entity's existing transmission and distribution facilities, which shall include, without limitation, the following data:

(i) a summary of the jurisdictional entity's outages and voltage variances reportable under the Commission's rules;

² See <https://www.ilga.gov/commission/jcar/admincode/083/08300220sections.html>.

³ See <https://www.ilga.gov/commission/jcar/admincode/083/08300590sections.html>.

(ii) the jurisdictional entity's expenditures for transmission construction and maintenance, the ratio of those expenditures to the jurisdictional entity's transmission investment, and the average remaining depreciation lives of the entity's transmission facilities, expressed as a percentage of total depreciation lives;

(iii) the jurisdictional entity's expenditures for distribution construction and maintenance, the ratio of those expenditures to the jurisdictional entity's distribution investment, and the average remaining depreciation lives of the entity's distribution facilities, expressed as a percentage of total depreciation lives;

(iv) a customer satisfaction survey covering, among other areas identified in Commission rules, reliability, customer service, and understandability of the jurisdictional entity's services and prices; and

(v) the corresponding information, in the same format, for the previous 3 years, if available;

(5) a plan for future investment and reliability improvements for the jurisdictional entity's transmission and distribution facilities that will ensure continued reliable delivery of energy to customers and provide the delivery reliability needed for fair and open competition; and

(6) a report of the jurisdictional entity's implementation of its plan filed pursuant to subparagraph (5) for the previous reporting period.

(c) The Commission rules shall set forth the criteria that will be used to assess each jurisdictional entity's annual report and evaluate its reliability performance. Such criteria must take into account, at a minimum: the items required to be reported in subsection (b); the relevant characteristics of the area served; the age and condition of the system's equipment and facilities; good engineering practices; the costs of potential actions; and the benefits of avoiding the risks of service disruption.

(d) At least every 3 years, beginning in the year the Commission issues the rules required by subsection (a) or the following year if the rules are issued after June 1, the Commission shall assess the annual report of each jurisdictional entity and evaluate its reliability performance. The Commission's evaluation shall include specific identification of, and recommendations concerning, any potential reliability problems that it has identified as a result of its evaluation.

(e) In the event that more than either (i) 30,000 (or some other number, but only as provided by statute) of the total customers or (ii) 0.8% (or some other percentage, but only as provided by statute) of the total customers, whichever is less, of an electric utility are subjected to a continuous power interruption of 4 hours or more that results in the transmission of power at less than 50% of the standard voltage, or that results in the total loss of power transmission, the utility shall be responsible for compensating customers affected by that interruption for 4 hours or more for all actual damages, which shall not include consequential damages, suffered as a result of the power interruption. The utility shall also reimburse the affected municipality, county, or other unit of local government in which the power

interruption has taken place for all emergency and contingency expenses incurred by the unit of local government as a result of the interruption. A waiver of the requirements of this subsection may be granted by the Commission in instances in which the utility can show that the power interruption was a result of any one or more of the following causes:

- (1) Unpreventable damage due to weather events or conditions.
- (2) Customer tampering.
- (3) Unpreventable damage due to civil or international unrest or animals.
- (4) Damage to utility equipment or other actions by a party other than the utility, its employees, agents, or contractors.

Loss of revenue and expenses incurred in complying with this subsection may not be recovered from ratepayers.

(f) In the event of a power surge or other fluctuation that causes damage and affects more than either (i) 30,000 (or some other number, but only as provided by statute) of the total customers or (ii) 0.8% (or some other percentage, but only as provided by statute) of the total customers, whichever is less, the electric utility shall pay to affected customers the replacement value of all goods damaged as a result of the power surge or other fluctuation unless the utility can show that the power surge or other fluctuation was due to one or more of the following causes:

- (1) Unpreventable damage due to weather events or conditions.
- (2) Customer tampering.
- (3) Unpreventable damage due to civil or international unrest or animals.
- (4) Damage to utility equipment or other actions by a party other than the utility, its employees, agents, or contractors.

Loss of revenue and expenses incurred in complying with this subsection may not be recovered from ratepayers. Customers with respect to whom a waiver has been granted by the Commission pursuant to subparagraphs (1)-(4) of subsections (e) and (f) shall not count toward the either (i) 30,000 (or some other number, but only as provided by statute) of the total customers or (ii) 0.8% (or some other percentage, but only as provided by statute) of the total customers required therein.

(g) Whenever an electric utility must perform planned or routine maintenance or repairs on its equipment that will result in transmission of power at less than 50% of the standard voltage, loss of power, or power fluctuation (as defined in subsection (f)), the utility shall make reasonable efforts to notify potentially affected customers no less than 24 hours in advance of performance of the repairs or maintenance.

(h) Remedies provided for under this Section may be sought exclusively through the Illinois Commerce Commission as provided under Section 10-109 of this Act. Damages awarded under this Section for a power interruption shall be limited to actual damages, which shall not include consequential damages, and litigation costs. A utility's request for a waiver of this Section shall be timely if filed no later than 30 days after the date on which a claim is filed with the Commission seeking damages or expense reimbursement under this Section. No utility shall be liable under this

Section while a request for waiver is pending. Damage awards may not be paid out of utility rate funds.

(i) The provisions of this Section shall not in any way diminish or replace other civil or administrative remedies available to a customer or a class of customers.

(j) The Commission shall by rule require an electric utility to maintain service records detailing information on each instance of transmission of power at less than 50% of the standard voltage, loss of power, or power fluctuation (as defined in subsection (f)), that affects 10 or more customers. Occurrences that are momentary shall not be required to be recorded or reported. The service record shall include, for each occurrence, the following information:

(1) The date.

(2) The time of occurrence.

(3) The duration of the incident.

(4) The number of customers affected.

(5) A description of the cause.

(6) The geographic area affected.

(7) The specific equipment involved in the fluctuation or interruption.

(8) A description of measures taken to restore service.

(9) A description of measures taken to remedy the cause of the power interruption or fluctuation.

(10) A description of measures taken to prevent future occurrence.

(11) The amount of remuneration, if any, paid to affected customers.

(12) A statement of whether the fixed charge was waived for affected customers.

Copies of the records containing this information shall be available for public inspection at the utility's offices, and copies thereof may be obtained upon payment of a fee not exceeding the reasonable cost of reproduction. A copy of each record shall be filed with the Commission and shall be available for public inspection. Copies of the records may be obtained upon payment of a fee not exceeding the reasonable cost of reproduction.

(k) The requirements of subsections (e) through (j) of this Section shall apply only to an electric public utility having 100,000 or more customers.

220 ILCS 5/16-125. Pursuant to these provisions of the PUA, the Commission adopted Code Part 411, which establishes specific Commission policies and objectives for reliability of facilities and service. 83 Ill. Adm. Code Part 441.⁴

The Illinois Gas Pipeline Safety Act includes safety standards applicable to

⁴ <https://www.ilga.gov/commission/jcar/admincode/083/08300411sections.html>.

jurisdictional intrastate natural gas transmission, distribution, liquid propane, liquefied natural gas, and gathering pipeline facilities to assure compliance with all Federal and State safety rules and regulations pertaining to the design, construction, operation and maintenance of those facilities. *220 ILCS 20*. Pursuant the provisions of the Illinois Gas Pipeline Safety Act, the Commission adopted Code Part 590, which generally adopts safety standards included in the U.S. Department of Transportation - Pipeline and Hazardous Materials Safety Administration's federal safety standards. 83 Ill. Adm. Code Part 590 and 49 CFR 191, 192, 193 and 199.⁵

There have and continue to be accidents occurring to, caused by, or on public utility plant, equipment, or other property that result in the loss of life or injury to person or property as well as outages and other reliability issues that impact customers. Safe and reliable electricity and natural gas services are essential to the health and welfare of Illinois citizens. It is, therefore, important that the Commission ensure that its rules and regulations and the practices and procedures of public utilities provide for safe and reliable electricity and natural gas services. Accordingly, the Commission initiates this Notice of Inquiry ("NOI") as a vehicle for gathering information on these matters.

II. Applicable Law – NOI

The Commission's rules with respect to NOIs are found in 2 Ill. Adm. Code 1700, Subpart D. As per Section 1700.330, this Notice of Inquiry proceeding is not a rulemaking, and the information gathered may or may not form the basis for the initiation of rulemaking or for other purposes at a later date. 2 Ill. Adm. Code § 1700.330.

⁵ See <https://www.ilga.gov/commission/icar/admincode/083/08300590sections.html> and https://www.ecfr.gov/cgi-bin/text-idx?gp=&SID=8633e7fc93ddb468afac45c930068f00&mc=true&tpl=/ecfrbrowse/Title49/49tab_02.tpl.

III. NOI Manager

Section 1700.310 of the Commission's NOI rules requires the designation of an NOI Manager to conduct discussions as are necessary to address the issues raised in the Commission's directive for an NOI. The NOI Manager in this case will be Jim Zolnierek. For correspondence, please note:

Mailing Address:

Jim Zolnierek
Illinois Commerce Commission
527 E. Capitol Ave.
Springfield, IL 62701

Telephone: 217-785-5278
e-mail: jim.zolnierek@illinois.gov

IV. NOI Questions and Issues

The following questions are divided between questions directed at utilities and questions directed at all interested parties including utilities. This division is designed to make responding easier by directing interested parties to the questions that they are most likely to be able to answer. The division is not intended to limit any party's ability to respond to any of the questions posed. Parties are encouraged to respond to all questions that they can answer.

Public Utilities

Public utilities providing electric or natural gas services are requested to respond to the following questions with information relevant to the services and products that each such utility provides:

- A. Please explain the processes you use to inspect your utility plant, equipment, and property in order to ensure that utility service is provided in a safe and/or reliable

manner. Please include detail on the types and quantities of plant, equipment and property inspected, and how and how frequently such plant, equipment, and property is examined.

- B. Please explain how many workers currently perform such inspections, the average time spent in the field by each worker examining equipment and facilities, an estimate of the amount of utility plant, equipment, and property inspected annually by each worker, the qualifications of the workers performing such inspections, how workers are trained, how workers training is update to include changes in requirements, and how the work performed by the workers is supervised.
- C. Please explain whether your utility uses third parties to verify that inspections are performed timely and accurately and, if so, how such verifications are conducted.
- D. Please explain whether your utility uses third parties to perform inspections and, if so, how your utility ensures that inspections are performed timely and accurately.
- E. Please explain how issues identified through inspections are addressed including how issues are prioritized and how potentially systematic issues are addressed.
- F. Please explain whether your utility provides safety awareness training or education to contractors and/or the public and, if so, please explain how this training or education is conducted.
- G. Please explain what processes you have in place to permit the public to report utility plant, equipment, and property that may pose a safety risk to the public, what formats are uses (e.g., phone calls, text messages, e-mails, website reports, etc.) what information is accepted through these processes (e.g., written reports, verbal reports, photographs, etc.) and the processes and procedures you have in place

to act upon such reports.

All Interested Persons

Public utilities, interested persons and entities are requested to respond to the following questions and issues:

- A. Please explain any changes that can be made to the Commission's rules and regulations to better ensure that electric and natural gas utility service is provided in a safe and/or reliable manner.
- B. Please explain any changes the public utilities could make in their practices or procedures to better ensure that electric and natural gas utility service is provided in a safe and/or reliable manner.

V. Form and Content of Documents Distributed in this NOI

Consistent with Section 1700.350 of the Commission's NOI rules:

- a) An original and three copies of all comments, reply comments, and other documents should be submitted to the Chief Clerk of the Commission on or before the date stated in the NOI. The distribution of such copies will be as follows:
 - 1) Chief Clerk — Springfield
 - 2) Chicago Office
 - 3) Office of Chairman & Commissioners — Chicago
- b) In addition to providing comments and other documents set forth above, interested persons and entities are requested to e-mail the same in electronic form (preferably Adobe pdf) to jim.zolnierrek@illinois.gov. The NOI Manager will take steps to ensure that copies of all documents filed in the proceeding are posted to the Commission's web site, www.icc.illinois.gov.
- c) Copies of all documents filed in the proceeding will be available for public inspection at the Chief Clerk's office in Springfield and the Commission's

Chicago office.

- d) A copy of the list of participants may be acquired from the NOI Manager.

VI. Schedule

The schedule for this NOI shall be as follows, unless altered by the NOI Manager with adequate public notice provided:

- Submission of initial comments (pursuant to 2 Ill. Adm. Code 1700.340 (b)):
September 15, 2020.
- Submission of reply comments (pursuant to 2 Ill. Adm. Code 1700.340 (c)):
October 15, 2020.

The Commission anticipates that additional rounds of comments might be of benefit and therefore authorizes the NOI Manager to schedule further rounds, with adequate public notice provided, if he believes that additional comments would be helpful.

Participants are encouraged by the Commission to share their data and other information pertinent to the issues to be addressed in this NOI with other participants, if requested.

Initiated this 12th day of August, 2020.

(SIGNED) CARRIE ZALEWSKI

Chairman