

STATE OF NEW YORK  
PUBLIC SERVICE COMMISSION

CASE 10-E-0155 - Proceeding on Motion of the Commission as to  
New York State's Electric Utility Transmission  
Right-of-Way Management Practices.

NOTICE INVITING COMMENTS

(Issued December 31, 2010)

The Commission instituted this proceeding to consider New York State electric utility transmission right-of-way (ROW) management practices. In this proceeding, the Commission sought comment on the implementation of utility ROW management practices and the contribution of ROW management to the safety and reliability of the State's electric transmission system. In addition, comment was sought on the balancing achieved by these utility practices of the concerns of ratepayers, neighboring property owners, the public, and other interested parties. Further, several Public Statement Hearings were held across the state. More than 200 comments were received.

Staff reviewed the comments and developed seven proposed recommendations for consideration by the Commission. These recommendations reflect the concerns expressed by commenters and take into account the Department's responsibilities in regulating utilities' ROW management activities such as maintaining the highest degree of electric system safety and reliability for the benefit of New York's customers while taking cost and environmental impact into account. These recommendations are also intended to ameliorate, to the extent practical, some of the impacts that may be associated with ROW vegetation management. Because the majority of comments came from Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. service territories, Staff proposes some recommendations solely for those utilities, while other recommendations apply to all state regulated utilities.

Comments are invited on the following proposed Staff Recommendations:

1. Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. shall provide individual written notification to all abutting and otherwise affected landowners and local municipal elected officials of cyclic ROW vegetation management work, not more than six months nor less than three weeks prior to the commencement of such work.

*Discussion:* This recommendation is intended to specify who is to be contacted and ensure timely communication with the public. Specifically, this recommendation is intended to provide direct notification to landowners who have a utility easement on their property or to landowners who directly abut a fee owned utility ROW. Flexibility in the time frame is provided to address individual circumstances. For example, where significant land use changes have occurred along the ROW, a utility and landowner may need a longer time period to address issues of concern. In other instances, a shorter notification period may be sufficient to inform landowners of upcoming work. This recommendation is also intended to recognize the importance that local municipal officials play in the chain of communication with their constituents regarding ROW management activities.

2. The notification required in Recommendation 1 shall in detail describe at a minimum the type of work to be performed, including the geographic limits of the work, the type and extent of vegetation management work planned, provisions for cleanup, and expected dates of commencement and completion.

*Discussion:* This recommendation specifies the minimum information deemed necessary to enable a member of the public or public official to understand the nature and extent of the ROW management work to be performed.

3. Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. shall develop, for Staff review and approval, a section in their Long Range Right of Way Management Plans (Plan) specifically addressing how they will conduct their ROW management work in high density ROW areas.

*Discussion:* Each utility has various demographic areas, including those with high and low density populations, through which its transmission ROW passes. Also, each utility possesses ROW that may differ in numerous other respects, including for example, stage of re-growth, width, topography, and right of use resulting from ownership or easement. For the purposes of this requirement, high density ROW includes any individual span that has multiple abutting residential homes along one or both sides of the ROW. This recommendation would require Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc. to create sections in their Plans detailing how they will tailor their ROW management work in high density areas. While not overly prescriptive, this requirement provides the utilities with the flexibility necessary to develop and implement effective ROW management while accounting for and ameliorating, to the extent practical, the issues that have arisen due to ROW management work in the past.

4. All companies<sup>1</sup> shall submit, for Staff review and approval, updates to their websites and any printed materials detailing the rationale and practices governing their ROW management programs.

*Discussion:* This recommendation is intended to ensure that the public is adequately informed of the details and reasons for the companies' transmission ROW management programs.

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<sup>1</sup> Companies, for the purposes of these recommendations, shall include all State regulated electric utilities

5. All companies shall establish a direct line of communication between the public and the companies' vegetation management personnel for questions regarding ROW vegetation management work. Information advising of the opportunity for such communication and how such communication can be accessed shall be made available on the companies' website, on all required notifications, and provided by field personnel and contractors upon request.

*Discussion:* This recommendation addresses commenters' frequently expressed concern that they were unable to reach and speak with a responsible party while the ROW management activities were going on.

6. All companies shall develop sections in their Plans to address the circumstances and criteria pursuant to which replanting would be warranted.

*Discussion:* This recommendation requires companies to specify the circumstances where replanting of compatible vegetation is appropriate as part of their routine ROW management activities. It is intended to inform the public of applicable criteria, outlining in a general manner, instances in which a company may or may not replant. This also affords municipalities, who may wish to partner with the utility, the chance to assist with the planning and funding of planting compatible vegetation on a ROW. This recommendation will require each company to formalize its replanting program and how it will determine required funding levels. This requirement is not intended to be a one to one replacement program for vegetation appropriately removed from the ROW, but instead, an acknowledgement that appropriate replanting is a reasonable and necessary part of a utility vegetation management program for electric transmission ROW.

7. Each company shall develop, if one does not exist, a section in its Plan detailing when and where otherwise undesirable vegetation would be allowed to remain on a ROW.

*Discussion:* A number of commenters from downstate questioned why undesirable vegetation (usually trees) would need to be removed from a ROW if the wire elevation above the ground is such that a mature tree could never grow tall enough to reach it. As a practical matter, undesirable vegetation is defined by utility companies as vegetation growing on a ROW that at mature height can reach, either by growing into or if it were to fall, the wire security zone which is also referred to as the priority zone. The rationale for removing only undesirable vegetation is set forth by the utility companies in their respective Plans. However, Staff believes it is important to reemphasize the basic vegetation management principle that vegetation, which will never endanger an overhead electric transmission line even at its mature height, should be retained throughout a ROW. Typically only deep valleys and severe side slopes below the conductors would be places where this vegetation could exist. Each utility will utilize its own expertise to determine when, where, and under what conditions this management practice will be employed.

Interested parties are invited to file their comments by February 2, 2011. Any party wishing to respond or reply to a comment made by another party may do so through reply comments by February 22, 2011. Comments should be submitted electronically to the Secretary at [secretary@dps.state.ny.us](mailto:secretary@dps.state.ny.us). Those who cannot file electronically may mail or deliver them to Hon. Jaclyn A. Brillling, Secretary, Three Empire State Plaza, Albany, New York 12223-1350.

Anyone on the service list or wishing to be added to the service list, may also consent to receive electronic service of all Commission-issued documents. To do so, please e-mail a letter to the Secretary at [secretary@dps.state.ny.us](mailto:secretary@dps.state.ny.us) with your request. Please understand that if you agree to electronic service, you will be sent the issued document(s) immediately and you will not receive paper copies. If you do not consent to

electronic service, you will receive paper copies by US Postal Service.

All comments submitted to the Secretary will be posted on the Commission's web site and become part of the official case record.

JACLYN A. BRILLING  
Secretary