

Date: February 18, 2016

Re: Updated Vegetative Management Regulations

Dear Mayor,

Municipalities should be aware of updated [regulations](#) promulgated by the Board of Public Utilities (BPU) regarding the performance of vegetation management by Electric Distribution Companies (EDC), i.e. electric utilities. The League Vegetative Management task force, led by Past President and East Windsor Mayor Janice Mironov, assured the municipal perspective was considered throughout regulatory update. These new regulations require a more thorough and complete vegetation management process. The ultimate goal of these regulations is a more reliable electrical grid as a result of enhanced vegetation management.

As before, each EDC is required to manage vegetation that is close enough to pose a threat to its electrical system at least once every four years. N.J.A.C. 14:5-9.4(b). Notably, the updated regulations require that special attention be paid to “hazard trees.” These are structurally unsound trees located on or off the right-of-way that would, if they fall, make contact to electrical infrastructure. If an EDC identifies a “hazard tree,” they must attempt to remove or mitigate the tree. N.J.A.C. 14:5-9.5(a). For any vegetation off the right-of-way, the property owner’s permission must be obtained before any work is done. Additionally, if an EDC becomes aware of vegetation, including hazard trees, which may affect reliability or safety, they must promptly attempt to resolve this issue. N.J.A.C. 14:5-9.4(c). In any event, after vegetation management is complete, each EDC is required to “remove all trimmings” and “cut vegetation” that it created. N.J.A.C. 14:5-9.6(g).

Municipalities should expect that some areas may be more thoroughly trimmed than others. The updated regulations also impose new requirements for vegetation management along “lock out zones.” N.J.A.C. 14:5-9.8(b). These zones are part of the main distribution lines which stretch from an EDC’s substation to a location approximately half the circuit’s length. The EDCs are required to remove “overhanging vegetation” in the lockout zone. The length of each EDC’s “lock out zone” in your municipality will vary depending on geography and circuit layout. Mature trees located in a “lock out zone” may, at the EDC’s discretion, be exempt from this requirement. N.J.A.C. 14:5-9.8. This exemption provides a mechanism to exempt historically significant trees and/or trees that pose little danger to the distribution system. This provision enables the EDCs Vegetation Manager to strike a balance between safety and aesthetics.

The regulations do give EDCs some leeway to grant municipal requests. However, municipalities should be aware of the possible financial costs that may result. For example, at the request of a municipality, an EDC *may but is not required to* temporarily suspend compliance with vegetation management requirements of the subchapter. N.J.A.C. 14:5-9.3(g). EDCs may not suspend vegetation management for transmission lines or when a suspension would result in danger to the public. N.J.A.C. 14:5-9.3(g)(1) & (2). Municipalities should know that they must reimburse EDCs when a requested suspension results in “additional costs” to due to a lack of tree

trimming.” N.J.A.C. 14:5-9.3(g) (4). EDCs may also recover the cost of vegetation management done to meet a municipality’s “aesthetic desires” N.J.A.C. 14:5-9.3(f).

The regulations do impose administrative requirements on EDCs. For instance, EDCs must provide municipalities with two months written notice before vegetation management is to take place. N.J.A.C. 14:5-9.10(g). This notice will be directed to the mayor, municipal clerk, or “other person or position mutually agreed upon.” N.J.A.C. 14:5-9.10(f). Customers and property owners must be provided written notice of at least seven, but not more than forty-five, days prior to the commencement of work. N.J.A.C. 14:5-9.10(a). Finally, EDCs and their contractors are required to obtain all required permits and licenses prior to commencement of vegetation management. N.J.A.C. 14:5-9.3(b). To be clear, each EDC has the ability to appeal an adverse local decision to the Board of Public Utilities and thus, as a practical matter, local government powers in this regard are limited. N.J.S.A. 40:55D-19, *see also* New Jersey Natural Gas Co v. Borough of Red Bank, 438 N.J. Super. 164 (N.J. App. Div. 2014).

In sum, these new regulations will provide a more robust vegetation management process. Each EDC will be conducting outreach before the start of the vegetation management cycle for your municipality. This outreach may include meetings with the EDC’s vegetation manager or be in the form of an informational packet. It’s also important to note that customers in “lock out zones” will receive enhanced communications.

For further information, please see each EDC’s vegetation management website:

For **Atlantic City Electric** click here

For **Public Service Electric & Gas** [click here](#) For

**Orange & Rockland Electric** click here

For **Jersey Central Power & Light** [click here](#)

If you have any questions or need additional information please contact Ed Purcell Esq. at (609) 695-3481 x. 137 or [epurcell@njslom.org](mailto:epurcell@njslom.org).

Sincerely,

Michael Darcy, CAE Executive  
Director