

220 CMR 19.00: STANDARDS OF PERFORMANCE FOR EMERGENCY PREPARATION AND RESTORATION OF SERVICE FOR ELECTRIC DISTRIBUTION AND GAS COMPANIES

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19.01: PURPOSE AND SCOPE

- (1) PURPOSE 220 CMR 19.00 ESTABLISHES:
 - (A) STANDARDS OF ACCEPTABLE PERFORMANCE FOR EMERGENCY PREPARATION AND RESTORATION OF SERVICE FOR ELECTRIC DISTRIBUTION AND GAS COMPANIES; AND
 - (B) REQUIREMENTS FOR EMERGENCY RESPONSE PLANS, CONSISTENT WITH THE PROVISIONS OF M.G.L. C. 164, §§ 1J, 1K, AND 85B.
- (2) SCOPE 220 CMR 19.00 APPLIES TO ALL ELECTRIC DISTRIBUTION AND GAS COMPANIES SUBJECT TO THE JURISDICTION OF THE DEPARTMENT.

19.02: DEFINITIONS

FOR THE PURPOSE OF 220 CMR 19.00, THE TERMS SET FORTH IN 220 CMR 19.02 ARE DEFINED AS FOLLOWS, UNLESS THE CONTEXT OTHERWISE REQUIRES.

COMPANY REFERS TO AN INVESTOR-OWNED ELECTRIC DISTRIBUTION COMPANY OR GAS COMPANY AS DEFINED IN M.G.L. C. 164, § 1.

DEPARTMENT MEANS THE DEPARTMENT OF PUBLIC UTILITIES, COMMONWEALTH OF MASSACHUSETTS.

EMERGENCY EVENT MEANS AN EVENT WHERE WIDESPREAD OUTAGES OR SERVICE INTERRUPTIONS OCCURRED IN THE SERVICE AREA OF A COMPANY DUE TO STORMS OR OTHER CAUSES BEYOND THE CONTROL OF THE COMPANY.

EMERGENCY RESPONSE PLAN (ERP) MEANS A COMPANY'S PLAN WHICH PREPARES THE COMPANY TO RESTORE SERVICE IN A SAFE AND REASONABLY PROMPT MANNER IN THE CASE OF AN EMERGENCY AS REQUIRED BY M.G.L. C. 164, § 85B.

LIFE SUPPORT CUSTOMERS, ALSO KNOWN AS MEDICAL PRIORITY CUSTOMERS, MEANS THOSE CUSTOMERS WHO HAVE PROVIDED DOCUMENTATION TO THE ELECTRIC DISTRIBUTION COMPANY OF THEIR NEEDS FOR NECESSITATING ELECTRIC SERVICE.

MUNICIPAL LIAISON MEANS A LIAISON DESIGNATED BY A COMPANY TO COMMUNICATE WITH THE DEPARTMENT DURING AN EMERGENCY EVENT.

MUTUAL ASSISTANCE AGREEMENT MEANS AN AGREEMENT AMONG A COMPANY AND OTHER COMPANIES, INSIDE AND OUTSIDE THE COMMONWEALTH OF MASSACHUSETTS, THAT DETAILS SPECIFIC ASSISTANCE AND LENDING RESOURCES, INCLUDING, BUT NOT LIMITED TO, MATERIAL, EQUIPMENT, AND TRAINING. INTERNAL RESOURCES ARE NOT SUFFICIENT TO ENSURE THE SAFE AND REASONABLY PROMPT RESTORATION OF SERVICE DURING AN EMERGENCY EVENT.

SERVICE INTERRUPTION MEANS THE LOSS OF SERVICE TO ONE OR MORE CUSTOMERS CONNECTED TO THE ELECTRIC DISTRIBUTION COMPANY'S DISTRIBUTION SYSTEM.

19.03: PERFORMANCE STANDARDS FOR EMERGENCY PREPARATION AND RESTORATION OF SERVICE

- (1) 220 CMR 19.03 SETS FORTH THE STANDARDS THAT SHALL APPLY TO EACH COMPANY'S PERFORMANCE REGARDING:

19.03: CONTINUED

- (A) EMERGENCY PREPARATION;
- (B) RESTORATION OF SERVICE; AND
- (C) REPORTING.

(2) EMERGENCY PREPARATION. EACH COMPANY SHALL ENSURE THAT IT IS ADEQUATELY PREPARED TO RESTORE SERVICE TO ITS CUSTOMERS IN A SAFE AND REASONABLY PROMPT MANNER DURING ALL SERVICE INTERRUPTIONS AND OUTAGES. DURING AN EMERGENCY EVENT,

(A) FOR ELECTRIC DISTRIBUTION COMPANIES, THIS SHALL INCLUDE AT A MINIMUM, BUT NOT BE LIMITED TO,

- 1. IMPLEMENTING ALL APPLICABLE COMPONENTS OF THE ELECTRIC DISTRIBUTION SYSTEM RELATED TO PLANNING AND PREPARATION FOR EMERGENCY EVENTS;
- 2. CONDUCTING THE FOLLOWING ON AT LEAST AN ANNUAL BASIS:
 - A. MEETINGS WITH STATE AND LOCAL OFFICIALS TO ENSURE EFFECTIVE AND EFFICIENT PLANNING AND SUBSTANTIAL AND FREQUENT COORDINATION BETWEEN THE COMPANY AND LOCAL PUBLIC SAFETY OFFICIALS, INCLUDING COORDINATION WITH LOCAL OFFICIALS RELATED TO VEGETATION MANAGEMENT; AND
 - B. TRAINING AND DRILLS/EXERCISES TO ENSURE EFFECTIVE AND EFFICIENT PERFORMANCE OF PERSONNEL DURING EMERGENCY EVENTS, AND TO ENSURE THAT EACH COMPANY IS CAPABLE OF RESTORING SERVICE TO ITS CUSTOMERS IN A SAFE AND REASONABLY PROMPT MANNER;
- 3. MAINTAINING UPDATED LISTS OF LOCAL ELECTED AND APPOINTED OFFICIALS, LOCAL PUBLIC SAFETY OFFICIALS, LIFE SUPPORT CUSTOMERS, AND ALL INTERNAL PERSONNEL AND ENTITIES INVOLVED IN THE COMPANY'S RESTORATION EFFORTS.

(B) FOR GAS COMPANIES, THIS SHALL INCLUDE AT A MINIMUM PREPARING AND FOLLOWING PROCEDURES CONSISTENT WITH THOSE REQUIRED BY 49 U.S.C. §§ 60101 THROUGH 60125 PART 192 *Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards*; M.G.L. C. 164, §§ 85B AND 105A; 220 CMR 69.00: *Procedures for the Determination of Violations of Codes Adopted by the Department of Public Utilities Pertaining to the Safety of Pipeline Facilities and the Transportation of Gas and for Enforcement of Said Codes*; *Minimum Safety Standards for Liquefied Natural Gas Facilities*; *Minimum Safety Standards for Gas Piping Systems* AND 220 CMR 100.00 THROUGH 113.00.

EACH GAS COMPANY SHALL INCLUDE THESE WRITTEN PROCEDURES IN THEIR RESPECTIVE OPERATIONAL PROCEDURES AND FOR EMERGENCY RESTORATION. APPROPRIATE, IN THEIR MANUALS OF WRITTEN PROCEDURES TO MINIMIZE HAZARDS RELATED TO PIPELINE EMERGENCIES, AS REQUIRED BY 49 CFR PART 192; 220 CMR 69.00 AND 220 CMR 100.00 THROUGH 113.00.

(3) RESTORATION OF SERVICE. EACH COMPANY SHALL RESTORE SERVICE TO ITS CUSTOMERS IN A REASONABLY PROMPT MANNER DURING ALL SERVICE INTERRUPTIONS AND OUTAGES. DURING AN EMERGENCY EVENT, THIS SHALL INCLUDE AT A MINIMUM, BUT NOT BE LIMITED TO, IMPLEMENTING ALL APPLICABLE COMPONENTS OF THE COMPANY'S ERP RELATED TO RESTORATION OF SERVICE.

(4) REPORTING. EACH COMPANY, AS IDENTIFIED IN 220 CMR 19.03(4)(A) THROUGH (D), SHALL COMPLY WITH THE FOLLOWING REPORTING REQUIREMENTS:

- (A) EACH ELECTRIC DISTRIBUTION COMPANY SHALL SUBMIT A REPORT WITH SUPPORTING DOCUMENTATION TO THE DEPARTMENT ON ITS PREPARATION FOR EMERGENCY EVENTS THAT DETAIL TRAINING, AND DRILL/EXERCISE HELD PURSUANT TO 220 CMR 19.03(2)(A)2.;
- (B) DURING AN EMERGENCY EVENT, EACH COMPANY SHALL PROVIDE PERIODIC REPORTS TO THE DEPARTMENT, APPROPRIATE REGIONAL MASSACHUSETTS EMERGENCY MANAGEMENT AGENCIES REPRESENTATIVES AND MUNICIPAL EMERGENCY MANAGERS, OR THEIR DESIGNEES, THAT INCLUDE INFORMATION RELATED TO EMERGENCY CONDITIONS AND RESTORATION PERFORMANCE BY CITY AND TOWN;
- (C) FOLLOWING AN EMERGENCY EVENT, EACH COMPANY SHALL SUBMIT A DETAILED REPORT WITH SUPPORTING DOCUMENTATION TO THE DEPARTMENT ON ITS RESTORATION PERFORMANCE AND LESSONS LEARNED; AND
- (D) BEFORE, DURING, AND AFTER AN EMERGENCY EVENT, ELECTRIC DISTRIBUTION COMPANIES ARE REQUIRED TO TRACK, MAINTAIN, AND ENSURE ACCURACY OF ALL REQUIRED STORM-RELATED DATA.

19.04: EMERGENCY RESPONSE PLANS

(1) EACH COMPANY SHALL SUBMIT TO THE DEPARTMENT AN ERP THAT SHALL BE DESIGNED AND REASONABLY PROMPT RESTORATION OF SERVICE ASSOCIATED WITH AN EMERGENCY SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

- (A) IDENTIFICATION OF MANAGEMENT STAFF RESPONSIBLE FOR COMPANY OPERATION; DESCRIPTION OF THEIR SPECIFIC DUTIES; IDENTIFICATION OF THE NUMBER OF WORKERS WHO WILL RESPOND WITHIN 24 HOURS OF AN EMERGENCY EVENT; AND AN ESTIMATION OF THE NUMBER OF PART-TIME AND FULL-TIME EQUIVALENTS AVAILABLE TO RESPOND WITHIN 24 HOURS OF AN EMERGENCY EVENT;
- (B) A COMMUNICATIONS PROCESS WITH CUSTOMERS THAT PROVIDES CONTINUOUS ASSISTANCE. A COMPANY SHALL PROVIDE ESTIMATED TIMES OF RESTORATION ON A REGULAR BASIS. THIS INFORMATION SHALL BE PROMINENTLY DISPLAYED AND UPDATED AT LEAST THREE TIMES DAILY. A COMPANY SHALL ALSO PROVIDE ESTIMATED TIMES OF RESTORATION AT LEAST THROUGH AT LEAST ONE OTHER FORM OF MEDIA OUTREACH, AND WHEN REQUESTED THROUGH TELEPHONE.
- (C) FOR ELECTRIC DISTRIBUTION COMPANIES, PROCEDURES FOR MAINTAINING AN UPDATED LIST OF LIFE SUPPORT CUSTOMERS, INCLUDING A PROCESS TO IMMEDIATELY UPDATE A COMPANY'S CUSTOMER LIST WHEN A CUSTOMER NOTIFIES THE COMPANY OF A MEDICAL NEED FOR LIFE SUPPORT. PROCEDURES FOR COMMUNICATING WITH LIFE SUPPORT CUSTOMERS BEFORE, DURING AND AFTER AN EMERGENCY EVENT. PROVIDING INFORMATION TO PUBLIC SAFETY OFFICIALS REGARDING THE STATUS OF LIFE SUPPORT CUSTOMERS' HOMES, AND PROCEDURES FOR PRIORITIZING POWER RESTORATION FOR LIFE SUPPORT CUSTOMERS;
- (D) DESIGNATION OF STAFF TO COMMUNICATE WITH LOCAL OFFICIALS, INCLUDING PUBLIC SAFETY OFFICIALS, RELEVANT REGULATORY AGENCIES, AND DESIGNATED MUNICIPAL LIAISONS, AND DESIGNATED STAFF TO BE POSTED AT THE MASSACHUSETTS EMERGENCY MANAGEMENT AGENCY'S EMERGENCY MANAGEMENT CENTER;
- (E) PROVISIONS REGARDING HOW THE COMPANY WILL ASSURE THE SAFETY OF ITS EMPLOYEES, CONTRACTORS AND THE PUBLIC;
- (F) PROCEDURES FOR DEPLOYING COMPANY AND CONTRACTOR CREWS, AND CREWS ACROSS MUNICIPALITIES UNDER MUTUAL ASSISTANCE AGREEMENTS TO WORK ASSIGNMENT AREAS;
- (G) IDENTIFICATION OF ADDITIONAL SUPPLIES AND EQUIPMENT NEEDED DURING AN EMERGENCY EVENT AND MEANS OF OBTAINING ADDITIONAL SUPPLIES AND EQUIPMENT; AND
- (H) DESIGNATION OF A CONTINUOUSLY STAFFED CALL CENTER IN THE COMMONWEALTH OF MASSACHUSETTS THAT IS SUFFICIENTLY STAFFED TO HANDLE ALL CUSTOMER CALLS FOR SERVICE ASSISTANCE DURING THE TIME OF AN EMERGENCY EVENT OR UNTIL FULL SERVICE IS RESTORED, WHICHEVER OCCURS FIRST. A COMPANY WITH A CALL CENTER WITHIN 50 MILES OF ITS SERVICE AREA, IN OPERATION AS OF JANUARY 1, 2017, SHALL NOT BE REQUIRED TO DESIGNATE AN ADDITIONAL CALL CENTER AS LONG AS THE CALL CENTER IS IN OPERATION. IF THE CALL CENTER IS UNABLE TO OPERATE DURING AN EMERGENCY EVENT, A COMPANY SHALL USE A CALL CENTER WITHIN 50 MILES OF THE COMMONWEALTH OF MASSACHUSETTS.

(2) THE ERP SHALL SET FORTH THE CONTENT, FORMAT AND TIMELINE FOR EACH REPORT THAT A COMPANY SHALL SUBMIT TO THE DEPARTMENT PURSUANT TO 220 CMR 19.03(4).

(3) EACH COMPANY, WHEN IMPLEMENTING ITS ERP, SHALL DESIGNATE AN EMPLOYEE OR EMPLOYEES WHO WILL REMAIN STATIONED AT THE MASSACHUSETTS EMERGENCY MANAGEMENT AGENCY'S EMERGENCY MANAGEMENT CENTER FOR THE LENGTH OF THE EMERGENCY EVENT. THE EMPLOYEE OR EMPLOYEES SHALL COORDINATE COMMUNICATION EFFORTS WITH DESIGNATED LOCAL EMERGENCY MANAGEMENT OFFICIALS AND LOCAL EMERGENCY MANAGEMENT OFFICIALS.

(4) EACH COMPANY, WHEN IMPLEMENTING ITS ERP, SHALL DESIGNATE AN EMPLOYEE OR EMPLOYEES WHO WILL SERVE AS MUNICIPAL LIAISONS FOR EACH AFFECTED MUNICIPALITY WITHIN ITS SERVICE AREA. A COMPANY SHALL PROVIDE EACH MUNICIPAL LIAISON WITH THE NECESSARY FEEDER MAP OF THE SERVICE AREA, MUNICIPAL SUBSTATIONS AND DISTRIBUTION NETWORKS AND UP-TO-DATE CUSTOMER OUTAGE REPORTS AT THE TIME OF THE DESIGNATION AS MUNICIPAL LIAISONS. THE COMPANY SHALL PROVIDE EACH MUNICIPAL LIAISON WITH THREE TIMES DAILY CUSTOMER OUTAGE REPORT UPDATES FOR THE MUNICIPALITY. THE MUNICIPAL LIAISONS SHALL USE THE MAPS AND OUTAGE REPORTS TO RESPOND TO INQUIRIES FROM STATE AND LOCAL OFFICIALS AND RELEVANT REGULATORY AGENCIES.

19.04: CONTINUED

(5) EACH COMPANY SHALL FILE AN ERP, WHICH THE COMPANY HAS REVIEWED AND UPDATED PREVIOUS 12 MONTHS, WITH THE DEPARTMENT ON OR BEFORE MAY 15 FOR REVIEW AND APPROVAL. THE FILING SHALL INCLUDE A COPY OF ALL WRITTEN MUTUAL ASSISTANCE AGREEMENTS WHICH THE COMPANY HAS ENTERED, AND IDENTIFY AND DESCRIBE ANY MODIFICATIONS TO MUTUAL ASSISTANCE AGREEMENTS. A COMPANY THAT FAILS TO TIMELY FILE ITS ERP MAY BE PENALIZED FOR EACH DAY DURING WHICH SUCH FAILURE CONTINUES. THE FINES LEVIED BY THE DEPARTMENT SHALL BE CREDITED BACK TO RATEPAYERS THROUGH DISTRIBUTION RATES.

(6) EACH COMPANY SHALL FILE WITH THE EMERGENCY MANAGEMENT DIRECTOR OF EACH MUNICIPALITY WITHIN ITS SERVICE TERRITORY A COPY OF ITS ERP AND ANY UPDATES. FAILURE OF A COMPANY TO FILE AN ERP WITH THE EMERGENCY MANAGEMENT DIRECTOR OF EACH MUNICIPALITY IN THE COMPANY'S SERVICE TERRITORY SHALL RESULT IN A PENALTY OF \$500. THE PENALTIES LEVIED BY THE DEPARTMENT SHALL BE CREDITED BACK TO THE COMPANY'S CUSTOMERS IN A MANNER DETERMINED BY THE DEPARTMENT.

(7) A COMPANY'S ERP SHALL GO INTO EFFECT WHEN FILED WITH THE DEPARTMENT, PENDING DEPARTMENT REVIEW AND APPROVAL, AND SHALL REMAIN IN EFFECT UNTIL A NEW ERP IS FILED OR THE DEPARTMENT DIRECTS OTHERWISE. AFTER REVIEW OF A COMPANY'S ERP, THE DEPARTMENT MAY REQUIRE THE COMPANY AMEND THE ERP. THE DEPARTMENT MAY OPEN AN INVESTIGATION OF THE COMPANY'S ERP. IF, AFTER HEARINGS, THE DEPARTMENT FINDS A MATERIAL DEFICIENCY IN THE ERP, THE DEPARTMENT SHALL ORDER THE COMPANY TO MAKE SUCH MODIFICATIONS TO THE ERP THAT IT DEEMS REASONABLE TO REMEDY THE DEFICIENCY.

(8) IF A COMPANY MAKES ANY UPDATES OR CHANGES TO ITS ERP BETWEEN ANNUAL FILING DATES, IT SHALL SUBMIT SUCH CHANGES TO THE DEPARTMENT AS SOON AS POSSIBLE. SUCH CHANGES SHALL BE EFFECTIVE WHEN FILED WITH THE DEPARTMENT, PENDING DEPARTMENT REVIEW AND APPROVAL.

19.05: DEPARTMENT INVESTIGATION INTO COMPANY PERFORMANCE; REMEDIES

(1) INVESTIGATIONS.

(A) THE DEPARTMENT MAY OPEN AN INVESTIGATION INTO A COMPANY'S PERFORMANCE, INCLUDING EMERGENCY PREPARATION OR RESTORATION OF SERVICE.

(B) THE DEPARTMENT SHALL OPEN A FULL INVESTIGATION UPON PETITION OF THE ATTORNEY GENERAL BY THE CITY COUNCIL IN AN AFFECTED CITY OR BY THE BOARD OF SELECTMEN IN AN AFFECTED TOWN TO DETERMINE WHETHER A COMPANY VIOLATED THE DEPARTMENT'S STANDARDS. A PETITION FOR INVESTIGATION SHALL MEET THE PLEADING REQUIREMENTS SET FORTH IN 220 CMR 1.06 *Pleading*. PETITIONS FOR AN INVESTIGATION SHALL BE FILED WITH THE DEPARTMENT NOT MORE THAN 30 DAYS AFTER THE VIOLATION HAS BEEN REMEDIED.

(2) PENALTIES.

(A) IF AFTER INVESTIGATION THE DEPARTMENT FINDS A VIOLATION OF THE STANDARDS ESTABLISHED IN 220 CMR 19.03, THE DEPARTMENT SHALL LEVY A PENALTY NOT TO EXCEED \$250,000 PER VIOLATION FOR EACH DAY THAT THE VIOLATION OF THE DEPARTMENT'S STANDARDS CONTINUES. HOWEVER, THAT THE MAXIMUM PENALTY SHALL NOT EXCEED \$20,000,000 FOR ANY REPEATED VIOLATIONS. IN DETERMINING THE AMOUNT OF THE PENALTY, THE DEPARTMENT SHALL CONSIDER OTHER FACTORS, THE FOLLOWING:

1. THE GRAVITY OF THE VIOLATION;
2. THE APPROPRIATENESS OF THE PENALTY TO THE SIZE OF THE COMPANY;
3. THE GOOD FAITH OF THE COMPANY IN ATTEMPTING TO ACHIEVE COMPLIANCE; AND
4. THE DEGREE OF CONTROL THAT THE COMPANY HAD OVER THE CIRCUMSTANCES SURROUNDING THE VIOLATION.

(B) ANY PENALTY LEVIED BY THE DEPARTMENT AGAINST A COMPANY FOR ANY VIOLATION OF THE DEPARTMENT'S STANDARDS ESTABLISHED IN 220 CMR 19.03 SHALL BE CREDITED BACK TO THE COMPANY'S CUSTOMERS IN A MANNER DETERMINED BY THE DEPARTMENT.

(3) RECOVERY OF SERVICE RESTORATION COSTS. IF AFTER INVESTIGATION THE DEPARTMENT FINDS THAT AS A RESULT OF THE FAILURE OF THE COMPANY TO IMPLEMENT ITS ERP, THE LENGTH OF SERVICE INTERRUPTIONS OR OUTAGES WAS MATERIALLY LONGER THAN THEY WOULD HAVE BEEN BUT FOR THE FAILURE, THE DEPARTMENT MAY DENY THE RECOVERY OF ALL, OR ANY PART OF, THE SERVICE RESTORATION COSTS THROUGH DISTRIBUTION RATES, COMMENSURATE WITH THE DEGREE AND IMPACT OF THE SERVICE INTERRUPTIONS OR OUTAGES.

220 CMR: DEPARTMENT OF PUBLIC UTILITIES

19.06: MISCELLANEOUS

THE DEPARTMENT MAY GRANT, FOR GOOD CAUSE SHOWN AND NOT CONTRARY TO STATE LAW,
FROM ANY PROVISION OF 220 CMR 19.00.

REGULATORY AUTHORITY

220 CMR 19.00: M.G.L. C. 164, §§ 1J, 1K, 76, 85B AND 105A.