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§ 98.1 Definitions

Unless the context otherwise requires, as used in this Part and Parts 99 and 100 of this Title.

(a) The term distribution line means an electric line used to distribute electric energy, which will or may reasonably be expected to provide service to more than one customer.

(b) The term supply line means a part of a distribution line that is installed between an existing electric distribution system and an underground distribution line within a residential subdivision.

(c) The term service line means an electric line used to connect a distribution line to an individual customer's meter or point of attachment; a service line, at the utility's discretion, may be connected to two or more meters at a single premises.

(d) The term appurtenant facilities means the necessary and ancillary accessories to an electric line that enable the transportation and distribution of electric energy.

(e) The term applicant means a developer, builder, person, partnership, association, corporation or governmental agency requesting the provision of electric service either:

(1) at a premises to be used as his or her residence (residing applicant);

(2) in a residence to be used by others (non-residing applicant), provided, however, that a governmental agency applying for service on behalf of a client, who would otherwise be a residing applicant, shall be treated as a residing applicant; or

(3) at a non-residential premises;

(f) The term residential building means a structure enclosed within exterior walls or fire walls, which is built, erected and framed of component structural parts and is designed for permanent residential occupancy.

(g) The term multiple occupancy building means a structure (including row houses) enclosed within exterior walls or fire walls, which is built, erected and framed of component structural parts and is designed to contain four or more individual dwelling units for permanent residential occupancy.

(h) The term residential subdivision means a tract of land divided into five or more lots for the construction of five or more new residential buildings, or the land on which new multiple occupancy buildings are to be constructed, the development of either of which, if required, has been approved (or was required to be approved) by governmental authorities having jurisdiction over land use, which authorities include:

(1) the Department of State, pursuant to article 9-A of the Real Property Law;

(2) the Department of Environmental Conservation, pursuant to article 15, Titles 5, 15 and 27, article 17, Title 15, and article 24 of the Environmental Conservation Law;

(3) the Adirondack Park Agency, pursuant to *sections 809 and 810 of the Executive Law* and article 15, Title 27, and article 24, of the Environmental Conservation Law;

(4) any Department of Health, pursuant to article 11, Title 2, of the Public Health Law;

(5) counties, pursuant to *section 239-d(7) of the General Municipal Law*;

(6) cities pursuant to *sections 32, 33, and 34 of the General City Law*;

(7) villages, pursuant to *sections 7-728, 7-730 and 7-732 of the Village Law*; and

(8) towns, pursuant to *sections 276, 277 and 278 of the Town Law*;

(i) The term public R/W means the area within the territorial limits of any street, avenue, road or way that is for any highway purpose under the jurisdiction of the State of New York or of the legislative body of any county, city, town or village that is open to public use and that may be used for the placement of utility facilities.

(j) The term R/W (right-of-way) means a right to pass over, occupy or use another's land for placing and maintaining utility facilities.

(k) The term new construction means the installation of new electric distribution lines, service lines and appurtenant facilities on any R/W where no such electric distribution line exists, and may also include (in connection with such installation) the addition of appurtenant facilities (other than replacement facilities) to existing distribution lines.

Note: The installation of a new facility parallel to and on the same R/W as an existing underground facility also constitutes the new construction of such facility.

(l) The term VSR means a visually significant resource which is:

(1) designated primarily or exclusively because of its exceptional, outstanding, significant, special or unique scenic quality pursuant to State or Federal enabling legislation; and

(2) listed in section 99.2(h) of this Title;

(m) The term Commission means the Public Service Commission of New York State; and

(n) The term utility means an electric corporation or a municipality subject to the jurisdiction of the Commission.

§ 98.2 Provision of electric service

(a) Obligation to provide electric service. When a written request for service is made to a utility by an applicant whose property abuts on, or has access to, any public R/W (other than a controlled access highway) in which the governmental authority having jurisdiction will permit the utility to install and maintain facilities, the utility shall:

(1) render the service requested in accordance with the provisions of this Part and Parts 99 and 100 of this Title;

(2) furnish, place, construct, operate, maintain and (when determined to be necessary by the utility or the Commission) reconstruct, or replace all electric facilities within public R/W and other R/W when the utility elects to use such R/W in lieu of constructing facilities within public R/W, at its own cost and expense, subject to the provisions of this Part, and Parts 99 and 100 of this Title, which cost and expense shall include the amounts paid to governmental authorities for permits to do the work required and any additional amounts paid for the right(s) to make such elective use of other R/W; and

(3) grant the appropriate footage allowance required by the provisions of this Part.

(b) Obligations of all applicants. Before service may be rendered to any applicant, such applicant shall first have:

(1) Either:

(i) delivered to the utility, free from cost, any necessary R/W agreement(s); or

(ii) paid in advance or agreed in writing to pay the utility any charge relating to the utility's acquisition of the necessary R/W agreement(s), so long as the applicant indicates to the utility in writing that he or she has been unable to obtain such agreement(s);

(2) paid or agreed in writing to pay the utility the material and installation costs relating to any portion of distribution line, service line and appurtenant facilities (other than those accounted for in Uniform System of Accounts 368, entitled "Line Transformers" and 370, entitled "Meters," in Subchapter F of this Title) that exceeds the portion which the utility is required to provide without contribution, which costs shall be defined in the utility's tariff;

(3) furnished reasonable security as to the performance of his or her agreement, if required to do so by the utility in accordance with its tariffs.

(c) Obligations of residing applicants. Before service is rendered to a residing applicant, such applicant shall first have:

(1) assured the utility that he or she will be a reasonably permanent customer; and

(2) agreed in writing to pay the utility the rates charged like customers.

(d) Obligations of non-residing applicants. Before service is rendered to a non-residing applicant, such applicant shall first have:

(1) cleared any R/W conveyed to the utility of tree stumps, brush and other obstructions and graded such R/W to within six inches of final grade at no charge to the utility, where electric distribution lines, service lines, or appurtenant facilities are required to be installed underground or will be placed underground at the request of the applicant;

(2) provided a survey map certified by a licensed professional engineer or land surveyor and certified to as final by the applicant, showing the location of each dwelling (if known), lot, sidewalk and roadway, if requested to do so by the utility;

(3) placed and agreed to continue to maintain survey stakes indicating grade and property lines;

(4) furnished to the utility or agreed to furnish a map showing the location of all existing and proposed underground facilities, as soon as the location of such facilities is known; and

(5) agreed to maintain the required clearance and grading during construction by the utility.

(e) Provision of required residential underground service. Where a utility is required, by the Commission or a governmental authority having jurisdiction to do so, to provide residential underground service, the cost and expense which a utility must bear, except as otherwise provided in this Part, shall include the material and installation costs for up to a total of 100 feet of underground distribution line (including supply line) and underground service line per dwelling unit served, measured from the utility's existing electric system (from the connection point on the bottom of the riser pole for overhead to underground connections) to each applicant's meter or point of attachment with respect to each residential building. If a utility receives an application for underground residential service outside a subdivision, and a governmental authority having jurisdiction to do so has required that the facilities be installed underground, the utility may, if the cost of installing the necessary facilities will be greater than two times the cost of installing such facilities calculated using the applicable charges per foot filed pursuant to section 98.6(b) (1) of this Part and as set forth in the utility's tariff, petition the Secretary of the Commission to allow a greater contribution to the cost of installation of the facilities than this section would otherwise require, or to set up a special rate district. The petition shall set forth the relevant economic, engineering, or environmental factors. If the necessary facilities are proposed to be in a VSR, the procedures set forth in section 99.2(b)-(e) of this Title shall apply. If the building to which service is requested is located within the Adirondack Park, the utility shall send a copy of the petition to the Adirondack Park Agency. Where the application is for service to a multiple occupancy building, the utility shall bear the material and installation cost for up to 100 feet of underground line times the average number of dwelling units per floor.

(f) Provision of non-mandatory residential underground service. Where an applicant requests a residential underground service line in situations other than those described in subdivision (e) of this section, the cost and expense which a utility must bear shall include the material and installation costs equivalent to those relating to the length of overhead service line which the applicant would otherwise be entitled under subdivision (g) measured from the utility's existing electric system (from the connection point on the bottom of the riser pole for overhead to underground connections) to each applicant's meter or point of attachment with respect to each residential building.

(g) Provision of residential overhead service. Where permitted to provide residential overhead service, the cost and expense which a utility must bear shall include the material and installation costs for up to 500 feet of overhead distribution line and up to 100 feet of service line or up to 300 feet of overhead distribution line and up to 100 feet of service line for single-phase and three-phase service respectively, measured as described in subdivision (e) of this section.

(h) Provision of elective residential and non-residential underground service. Where a utility chooses to provide residential or non-residential underground service, the cost and expense which a utility must bear shall include the material and installation costs relating to the necessary utility facilities that exceed the amount which the applicant would be required to pay if such facilities were installed overhead.

(i) Provision of mandatory or non-mandatory non-residential underground service. Where requested to provide a non-residential underground service line by an applicant, or where a governmental authority having jurisdiction to do so requires undergrounding, the cost and expense which a utility must bear shall include the material and installation costs equivalent to those contained in the utility's tariff in connection with the provision of overhead service.

(j) Provision of non-residential overhead service. Where permitted to provide non-residential overhead service, the cost and expense which a utility must bear shall include the material and installation costs for up to 500 or 300 feet of overhead distribution line, for single-phase and three-phase service, respectively.

(k) Matters reserved to utilities' tariffs. This subdivision sets forth the minimum obligations of utilities with respect to the electric facilities required to be provided without charge to or contribution by, applicants. Each utility may file, for the Commission's approval, tariff schedules to provide rules for installing, maintaining, repairing and replacing service lines and appurtenant facilities, subject to the requirements of section 100.1(d) of this Title for residential subdivisions, or to extend such minimum obligations so long as the provision of additional facilities without such charge or contribution is cost justified. Such rules will be approved based on cost justification. Each service line on the applicant's property which runs to the applicant's building shall be installed either by the utility, or by the applicant in accordance with the utility's specifications, as the utility may elect and in accord with the utility's tariff, provided, however, that the utility's tariff must permit an applicant for underground service at least to excavate the trench necessary for the underground installation of distribution and service lines within a residential subdivision in accord with section 100.1(d), and provided, further, that allocation of the costs of installation of overhead or underground service lines shall be determined in accordance with this section regardless of who installs the service line. Unless required to do otherwise by a governmental authority with jurisdiction, a utility may choose whether to underground or pad mount transformers.

(l) To the extent practicable, underground electric, communication, and cable television facilities shall be installed in a common trench when new construction is, or can without undue difficulty, be made simultaneously. Every reasonable effort shall be made to use joint occupancy utility poles to accommodate the installation of electric, communication and cable television facilities when new overhead construction occurs.

(m) Low income applicants.

(1) in the case of an applicant for service to a primary residence, who at the time of application is a Home Energy Assistance Program recipient pursuant to Title 18 NYCRR Part 393, the utility shall pay the cost of the line extension up to 1500 feet, (in addition to the 500-foot allowance), or more if the utility agrees. If an underground extension is required, the utility shall pay the cost equivalent of up to 1500 feet of overhead line extension in addition to the 100-foot underground allowance.

(2) such applicant must own the residential building and real property on which it is located and use it as a primary residence on the effective date of these regulations.

(3) such applicant must apply to the utility for a line extension within 24 months of the effective date of these regulations.

(4) a utility, which incurs the cost of the additional extension, may defer the cost in Account 186, Miscellaneous Deferred Debits. This account shall be allowed in rate base in the utility's rate case which follows such deferral.

(5) requests for inclusion in the low income program shall be made in writing to the utility. The utility shall report quarterly to the Department of Public Service the number of requests received and their disposition.

(6) a utility, that receives an application for service under this section, shall propose and pay for alternate sources of energy for the applicant up to the cost the utility would have paid for an additional line extension, if such alternative is less costly and if the applicant agrees. If the applicant does not agree to alternate sources of energy, the utility shall send the application and its proposal to the Department's staff for review. The Department staff shall determine an appropriate resolution based on economic, convenience or environmental factors.

§ 98.3 Charges for providing additional facilities and for acquiring rights-of-way

(a) If, in order to provide non-residential service or residential service to a non-residing applicant, a utility must install or provide for the installation of distribution lines, service lines and appurtenant facilities, in addition to those required to be provided without contribution under section 98.2 of this Part, the utility shall impose a lump sum charge on the applicant for such facilities that exceed the portion which the utility is required to provide without contribution to the applicant. For a non-residing applicant in a residential subdivision requiring underground service, this lump-sum charge shall be determined by subtracting the total free footage allowance from the total footage of distribution line, service line and appurtenant facilities (other than those accounted for in Accounts 368 and 370) to be installed and multiplying the remaining distribution and service footage by the applicable experienced average cost per foot of the installing utility as reported pursuant to section 98.6(b)(l) of this Part and set forth in the utility's tariff. For an applicant for

non-residential service or for a non-residing applicant not in a residential subdivision requiring underground service, the lump sum charge relating to distribution lines, service lines and appurtenant facilities (other than those accounted for in Accounts 368 and 370) shall be determined as set forth in the utility's tariff.

(b) If, in order to provide service to a residing applicant, a utility must install or provide for the installation of a distribution line, a service line and appurtenant facilities (other than those accounted for in Accounts 368 and 370) in addition to those required to be provided without contribution under section 98.2 of this Part, the utility shall impose a lump sum charge or a charge subject to the provisions in subdivision (e) of this section, at the option of the applicant. For a residing applicant, the lump-sum charge relating to a distribution line, a service line and appurtenant facilities (other than those accounted for in Accounts 368 and 370) shall be determined as set forth in the utility's tariff.

(c) If an applicant for non-residential service or a non-residing applicant chooses, pursuant to section 98.2(b) (1) (ii) of this Part, to pay a utility for acquiring the necessary R/W, the utility shall impose a lump sum charge on the applicant to cover the reasonable actual costs of acquiring such R/W.

(d) If a residing applicant chooses pursuant to section 98.2(b) (1) (ii) of this Part to pay a utility for acquiring the necessary R/W, the utility shall impose on the applicant either a lump sum charge or a charge subject to the provisions of subdivision (e) of this section, at the applicant's option, to cover the reasonable actual costs of acquiring such R/W.

(e) If a residing applicant has chosen not to pay a lump sum amount, a utility shall impose a surcharge relating to the material and installation costs of distribution lines, service lines, and appurtenant facilities (other than those accounted for in Accounts 368 and 370) and to R/W acquisition costs, subject to the following provisions:

(1) the surcharge shall be applicable for ten years, shall be computed as specified in individual utility tariffs approved by the Commission and shall be paid annually or rateably for each billing period;

(2) if more than one customer is to be served from new overhead distribution lines and the length of the lines requested exceeds such customers' aggregate entitlement (that is, the number of customers multiplied by 500 feet or 300 feet -- for single-phase and three-phase service, respectively) the excess length shall be pro-rated among the customers for purposes of calculating the surcharge in paragraph (1) of this subdivision;

(3) after the commencement of service from a new overhead distribution line whenever the aggregate entitlement of the customers then served from the line (that is, the number of customers multiplied by 500 feet or 300 feet -- for single-phase and three-phase service, respectively) equals or exceeds the length of the distribution line initially constructed, the surcharge shall terminate as to all customers served from the distribution line;

(4) whenever the total revenue in each of any two consecutive calendar years from all customers served from a new overhead distribution line exceeds 1.5 times the reasonable actual capital cost of the total distribution line, all surcharges shall cease;

(5) no surcharges shall be imposed if the total estimated revenue in each of any two consecutive calendar years from all customers served from a new distribution line exceeds 1.5 times the reasonable actual capital costs of the total distribution line; and

(6) customers who are currently paying a surcharge may, at their option convert to a 10-year surcharge, with years and amounts already paid credited, or be relieved of their surcharge, if their payments meet or exceed the installation costs of their facilities.

(f) If an applicant on whom a utility has imposed a surcharge, in accordance with subdivision (e) of this section, changes his or her ownership of the residence after the imposition of such surcharge, the utility may collect the remainder of the surcharge from any new successor owner provided the utility provides in its surcharge agreement in bold face type: **APPLICANT HEREBY AGREES TO INFORM ALL PROSPECTIVE PURCHASERS OF THIS PROPERTY THAT A UTILITY SURCHARGE IS IN EFFECT.**

(g) If facilities are extended to provide service to a residing applicant who pays a lump-sum charge pursuant to subdivision (b) of this section, and other applicants subsequently take service from such facilities within ten (10) years, the first residing applicant shall receive a refund in accordance with each utility's tariff.

(h) If a non-residing applicant has paid a lump-sum charge pursuant to subdivision (a) of this section and if, after the underground distribution system construction is completed, additional dwelling units are constructed and take service from such system within the residential subdivision boundaries as defined on the map submitted pursuant to section

98.2(d) of this Part, the utility shall recalculate the charge paid pursuant to subdivision (a) of this section as if the additional dwelling unit(s) had been constructed at the time of the utility's original construction within the residential subdivision and make an appropriate refund of such charge without interest. Any portion of the charge remaining unrefunded five years after the date on which the utility is first ready to render service from the distribution system shall be retained by the utility and credited to the appropriate plant accounts.

(i) Where a residing applicant has chosen to pay a surcharge pursuant to subdivision (b) of this section, such applicant shall at any time, have the option of paying the outstanding balance in a lump sum.

§ 98.4 Facilities beyond public rights-of-way

The portion of the electric distribution system and/or electric service line beyond the limits of a public R/W shall be provided, placed, constructed and maintained in accordance with such reasonable rules for the construction and maintenance thereof as may be filed in the tariff schedules of each utility consistent with Parts 100 and 101 of this Title. If a utility installs distribution facilities beyond the limits of a public R/W or an applicant does so pursuant to the utility's tariff, or if a utility installed distribution facilities beyond the public R/W or allowed an applicant to do so in the past, the utility shall maintain, repair and if necessary replace at its own expense such distribution facilities, provided that any necessary easements are provided by the applicant or customer. If a utility installs a service line beyond the limits of a public R/W, the utility shall maintain, repair and if necessary replace such service line, at its own expense, to the same extent that the utility bore the cost of installing the service line, and provided that any necessary easements are provided by the applicant or customer.

§ 98.5 Facilities within public rights-of-way

Each utility shall hereafter be solely responsible for the maintenance and replacement of all facilities placed within a public R/W (or another R/W when such utility elects to use another R/W for the construction of distribution lines in lieu of constructing facilities in a public R/W) used by such utility for supplying electricity to its customers. If adequate maintenance requires the reconstruction or replacement of such facilities, they shall be reconstructed or replaced by the utility responsible for maintenance as hereinbefore provided.

§ 98.6 Reports

(a) By no later than May 1st of each year, each utility shall file a report containing the information required by this section based on pertinent construction experience from a 12-month period ending no more than four months before the date on which the utility files its report.

(b) As part of the report required by subdivision (a) of this section, each utility shall provide with respect to underground residential subdivisions:

(1) the average cost per foot of each of the following, based on all such facilities (including appurtenant facilities other than those accounted for in accounts 368 and 370) installed underground for residential subdivisions, as set forth in the utility's tariffs:

(i) all underground supply line;

(ii) all underground distribution line (within such subdivisions); and

(iii) all underground service line.

(2) the length of distribution trench in new residential subdivisions shared with others;

(3) the utility's average cost per foot of such shared distribution trench;

(4) the total length of distribution trench in new residential subdivisions not shared with others;

(5) the utility's average cost per foot of such nonshared distribution trench;

(6) the total length of supply lines placed underground between existing electric systems and new residential subdivisions;

(7) the utility's average cost per foot of such supply lines placed underground;

(8) the total length of supply lines placed aboveground between existing electric systems and new residential subdivisions;

(9) the utility's average cost per foot of such supply lines placed above-ground;

(10) the total number of service lines installed by the utility in new residential subdivisions (If the utility does not install underground service lines, indicate this and provide the total dollar amount of the credit allowed by the utility);

(11) the total length of service lines installed by the utility;

(12) the total cost of service lines installed by the utility; and

(13) the average cost per foot of service lines installed by the utility in new residential subdivisions;

(c) As part of the report required by subdivision (a) of this section, each utility shall provide the information required by subdivision (e) of this section for:

(1) overhead and underground distribution lines and service lines installed in VSRs;

(2) underground distribution lines and service lines installed in areas which are both outside VSRs and residential subdivisions, on a statistical sampling basis, as set forth in each utility's report; and

(3) overhead distribution lines and service lines installed in areas which are both outside VSRs and residential subdivisions, on a statistical sampling basis, as set forth in each utility's report.

(d) As part of the report required by subdivision (a), each utility shall provide:

(1) a frequency distribution of customers by footage interval of no more than 50 feet, of the samples described in paragraphs (c) (2) and (3) of this section;

(2) an indication of how much it spent of its maximum obligation described in section 99.2(a) of this Title.

(e) The annual report to the Commission shall include information for overhead and underground lines in the following format:

(1) No. of service lines capitalized:

(i) VSR;

(ii) Non-VSR outside residential subdivision.

(2) Total length of service lines in (1) of this subdivision:

(i) VSR;

(ii) Non-VSR outside residential subdivisions. If the utility does not install underground service lines, indicate this and provide for service lines paid for by the utility, and the credit allowed by the utility.

(3) Total cost of service lines in (2) of this subdivision:

(i) VSR;

(ii) Non-VSR outside residential subdivisions.

(4) Cost per foot of service line (paragraph (3) divided by paragraph (2)) of this subdivision:

(i) VSR;

(ii) Non-VSR outside residential subdivisions.

(5) Total length of distribution line capitalized:

(i) VSR;

(ii) Non-VSR outside residential subdivisions.

(6) Total cost of distribution line in paragraph (5) of this subdivision:

(i) VSR;

(ii) Non-VSR outside residential subdivisions.

(7) Cost per foot of distribution line (paragraph (6) divided by paragraph (5) of this subdivision):

(i) VSR;

(ii) Non-VSR outside residential subdivisions.

Note: The above information regarding underground and overhead distribution and service lines outside VSRs and residential subdivisions is provided on a statistical sampling basis in accordance with subdivision (c) of this section.

(f) A copy of the information sheet, required by section 98.7(a) of this Part, shall be included in the report required by this section.

§ 98.7 Information on line extension costs

Each utility shall prepare an information sheet describing line extension procedures and costs to be given to persons inquiring about line extensions.