



## THE MARYLAND HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401

February 12, 2015

Chairman W. Kevin Hughes  
Maryland Public Service Commission  
William Donald Schaefer Tower  
6 St. Paul Street, 16<sup>th</sup> Floor  
Baltimore, MD 21202

Dear Chairman Hughes:

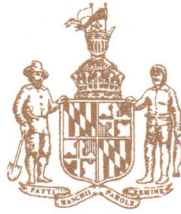
We write today regarding the vegetation management practices of our state's public utilities. We recognize that the Commission and our public utilities must delicately balance the need to preserve our tree canopy with necessary pruning to maintain system reliability. But we are concerned that some public utilities have not been honoring that balance in their vegetation management practices. Because of the continued concerns raised in our districts regarding this issue and what we believe to be confusion by some utilities, we are asking the Commission to consider clarifying its existing regulations. Specifically, below we recommend two changes to the existing regulations in COMAR.

### Licensed Tree Experts Regulations

COMAR lists best practices for vegetation management and incorporate those practices by reference in the requirements for tree experts. But pursuant to those practices, public utilities are apparently taking a narrow view of clearance requirements between tree branches and utility facilities and how to handle circumstances where the clearance is not met. According to many observers and constituents, public utilities are following a standard that if 25% of the crown of a tree needs to be pruned to obtain the necessary clearance, trees are being entirely removed.

We recommend that the International Society of Arboriculture's ("ISA's") *Best Management Practices Utility Pruning of Trees* be added to the governing rules. As you are aware, the ISA's standard for the clearance necessary between tree branches and utility facilities is nuanced and allows for the consideration of several factors. Use of the ISA will make clear that utilities should not be automatically removing trees after pruning 25% of their canopy.

In order to add the ISA practices to the governing rules, the Commission can, in consultation with the Department of Natural Resources, update COMAR 08.07.07.02 by promulgating a rule to include a subsection (11) referencing the ISA's *Best Management Practices Utility Pruning of*



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*Trees.* A corresponding update to COMAR 08.07.03(B) and (D)(5) would be necessary to include ISA in the acceptable practices (along with the existing American National Standards Institute practices).

Alternatively, the Commission could include a reference to ISA best practices in COMAR 20.50.12.09(B)(10), without altering the Department of Natural Resources' definition.

Staff has explained that one specific utility has already included ISA best practices in its Vegetation Management Program on file with the Commission.<sup>1</sup> Moreover, that plan states that if more than 25% of the crown of a tree needs to be pruned then tree removal shall be *considered*, as opposed to required.<sup>2</sup> We applaud those actions but believe a regulatory solution is necessary for two reasons. First, regardless of the practice of a single utility, the ISA standard should be adopted so all public utilities around the state follow it. Second, although a utility's Vegetation Management Program may say one thing, it does not necessarily mean the utility is following that practice. Clarifying the regulations will ensure that all our public utilities are acting appropriately.

### Hazardous Trees

Concerns have primarily been expressed with regards to trees in the right-of-way as well as trees on private property. In order for a utility to remove a tree on private property, it must obtain the consent of the homeowner. But many times private property owners feel pressured to comply with the utility or do not even realize that consent is optional. One way to ensure that private property owners are not being improperly pressured is for the Commission to adopt a requirement that trees on private property may only be removed if the tree is a "hazardous tree." Connecticut law contains a useful definition of a "hazardous tree" which the Commission can adopt:

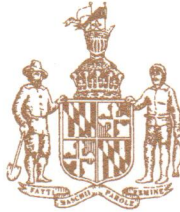
Hazardous tree" means any tree or part of a tree that is (A) dead, (B) extensively decayed, or (C) structurally weak, which, if it falls, would endanger utility infrastructure, facilities or equipment.

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<sup>1</sup> See PHI Maryland Vegetation Management Program (filed Aug. 27, 2012) at 3.

<sup>2</sup> *Id.* at 11 (emphasis added).





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See CT Gen. Stat. § 16-234. We recommend that the Commission consider adopting this requirement in COMAR 20.50.12.09. Once again, we recognize that the taking of trees on personal property is not mandatory but we believe that promulgating a rule that a public utility may not even seek removal of a tree on personal property unless it is hazardous would strengthen protections for private property owners.

Thank you for your consideration of these ideas as we strive to balance the health of our trees with electric reliability.

Sincerely,

A blue ink signature of Brian Feldman.

The Honorable Brian Feldman

A blue ink signature of Kathleen Dumais.

The Honorable Kathleen Dumais

A blue ink signature of David Fraser-Hidalgo.

The Honorable David Fraser-Hidalgo

A blue ink signature of Aruna Miller.

The Honorable Aruna Miller

A blue ink signature of Jimmy Tarlau.

The Honorable Jimmy Tarlau

A blue ink signature of Susan C. Lee.

The Honorable Susan C. Lee

A blue ink signature of C. William Frick.

The Honorable C. William Frick

A blue ink signature of Ariana Kelly.

The Honorable Ariana Kelly

A blue ink signature of Marc Korman.

The Honorable Marc Korman

CC: Secretary Frank W. Dawson III, Department of Natural Resources  
Commissioner Harold D. Williams  
Commissioner Lawrence Brenner  
Commissioner Kelly Speakes-Backman  
Commission Anne E. Hoskins