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## The Reciprocal

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#### Environmental Management Systems Help Meet the Challenge

Environmental management is a challenge faced by many MEARIE members. Between 1993 and 1997, there were 32 environmental incidents that resulted in significant claims and costs for MEARIE and its members. The largest incident resulted in a claim of almost \$70,000.

How does a utility manage the risk of environmental incidents? An environmental management system (EMS) can help meet the standards of trading partners in a world where companies are increasingly being asked to demonstrate a record of acceptable environmental performance as a condition of doing business (for instance, ISO 14001, certification administered by the International Organization for Standardization in Geneva).

Additionally, it helps to ensure due diligence is exercised from a commissioner's standpoint. The measure of what a reasonable person would do is being used to protect commissioners, directors and officers from personal liability, should an unforeseen environmental event occur.

The electricity industry, like many other industries, is now finding its environmental performance under continuing scrutiny from environmental groups, regulators, customers and other stakeholders. Reacting to these issues can be costly, in terms of dollar outlays and management time.

#### The Proactive Solution

One part of the solution to these issues is for industry members to deal with environmental issues proactively and systematically. This eliminates the "fire fighting" aspect from environmental management, and increases management's commitment to environmentally responsible operations and the prevention of pollution.

Utilities should take a proactive approach to an environmental management system. When we hear about civil suits resulting from environmental spills, most of us tend to have an optimistic attitude toward risk. "It won't happen here" is a common statement.

However, to deal effectively and efficiently with an environmental risk/occurrence, companies need management tools to handle the situation and to prevent future events from occurring.

Many utilities may be concerned with effective governance and the discharge of public policy obligations

while simultaneously remaining competitive and efficient. These corporate mandates, without a doubt, bring forward environmental concerns in their execution.

An effective EMS promotes reduced insurance, clean up and remediation costs while - at the same time - improving the customer and community profile.

An EMS can also improve the internal culture of an organization, particularly among the staff responsible for environmental affairs.

### **MEARIE Offers Workshops**

In response to the Environmental Protection Act, MEARIE has partnered with Greenbridge Management Inc. to offer five one-day workshops that focus on environmental management systems.

By the end of this workshop series, participants will have designed and implemented the major components of an EMS at their utility.

MEARIE believes in the following set of principles for the development of environmental management systems:

- an environmental management system is a business tool, not an objective in itself;
- effective environmental management reduces risk and improves environmental performance and organizational performance;
- environmental protection can only be achieved cost effectively if it is a line management responsibility;
- the EMS should be aligned with the overall management system (e.g., Emergency Response Plan);

"The primary focus of organizations should be on the effective implementation of the environmental management system and on environmental performance and not on a complex documentation system" (ISO 14001 A.4.5.).

### **MEARIE Coverage**

Members should be aware that coverage under the MEARIE liability policy covers for clean-up costs incurred in environmental impairment at the Insured's premises, under Section 1; Coverage D - Accidental Environmental Impairment from Operations normally covered by the policy.

With an EMS in place, you can be reassured that your operation is "world class" with regard to its responsibility to the environment. The end result is a step towards an electricity industry that is profitable and a welcome neighbour across Ontario.

### **Risk Management Update: Reporting of Hazardous Situations**

The following article addresses an insured claim incurred by a MEARIE member.

For those utilities that service their customers beyond the meter base, many may encounter a hazardous wiring situation where there is a probability of fire or shock hazard at the customer's premises - usually at the electrical panel.

The utility's service representative must inform the customer of the hazardous condition immediately, and try to make the necessary repairs within their capabilities. If the repairs cannot be completed at the time of the call, the utility must ensure the customer obtains a permit to get a qualified electrician to make the necessary repairs within a reasonable amount of time.

The utility's legal responsibility must be to follow up with the customer in a reasonable amount of time to verify whether the hazardous situation has been rectified.

## **The Consequences**

If the utility does not follow up with the customer in a reasonable amount of time to verify whether the hazardous situation has been rectified, and damages then occur due to either a fire or a shock, the utility could be held liable to pay for all or a portion of the damages. This was the situation for a member utility. If a legal claim arose, the utility would have to prove due diligence - that they were not negligent in their actions toward the customer. Therefore, it is in the best interests of the utility to establish a protocol on reporting hazardous situations, in order to minimize the risk of a loss.

A utility cannot prevent all losses, but having a set of procedures in place for service calls on hazardous reporting must be established. There are a number of ways a utility can minimize the exposure to a loss (please see, "[Loss Control Procedures](#)"). This will give you suggestions, though it is not a complete list. In addition, for any high-severity pay-out claims, utilities could incorporate the following loss-control procedures:

- establish emergency procedures;
- maintain public relations - appoint a spokesperson to deal with the media, investigators, the Fire Marshall, and other external parties;
- develop internal meetings or seminars to discuss procedures for dealing with requests from customers to repair, investigate and consult on customer-owned equipment;
- work with the Electrical Safety Authority (ESA) and other external parties (ie, contractors). Confirm that procedures are in place and are understood by both sides;
- establish procedures to handle after-hours calls. Is MEARIE's after-hours emergency number part of these procedures?
- develop procedures on hazardous reporting;
- train and educate utility staff on reporting procedures.

The protocol may include prioritizing the hazard as a high risk, moderate risk or low risk that may cause a fire or shock. Once the utility determines the level of risk, it should take steps to either make the repairs or inform the customer to obtain a qualified electrician to do so.

If it is determined that there is a high risk of a fire or shock hazard, the utility may wish to notify the ESA, which has the responsibility to obtain a disconnection order to completely reduce the risk of a loss. What the utility needs to be concerned with is that when the service technician leaves the premises, he/she leaves knowing that they have been able to "reasonably" prevent a loss due to fire or shock hazard by following set loss-control procedures.

Furthermore, if the service representative leaves the premises and a fire or shock does occur, the utility may not be held liable because it can prove that it acted reasonably and to the best of its abilities - that it can demonstrate due diligence.

In the event of a claim, this is what the courts will look for as a plea for defense. This is why it is imperative that the utility establish a proper procedure that must be followed in the event of finding a hazardous condition.

With respect to the MEARIE Liability Insurance coverage, should there be a claim arising out of a customer service call, there is coverage.

However, in the event of specific claims, incidents, or legal actions against the utility, coverage will be determined by the MEARIE policy interpretation.

In all service calls, the utility wants to maintain goodwill. With the proper loss-control procedures in place, utilities can be assured that they can continue to service their customers beyond the meter base.

### **ESA Pilot Project**

There is currently a pilot project ongoing, headed by the Electrical Safety Authority (formerly part of Ontario Hydro).

The ESA has had much success with this program, which deals with hazardous reporting procedures. The ESA's role is to receive reports from utilities on electrical fire or shock hazards across Ontario; the ESA will take steps to rectify the hazardous situation. However, at this time, only the Eastern territory has formalized the process in the project.

Nevertheless, the ESA plans to broaden its service to cover most, if not all, of the utility territory. The program allows the utility to call ESA to conduct an on-site inspection when there is a reported hazardous condition.

The ESA will make a site inspection at the request of the utility to investigate the concern. It will then determine if there is an electrical defect and fire shock hazard, and reasonable notice will be given to the owner for the repairs to be made. The ESA will provide follow up within a specific number of days, until the defect is rectified, and will then notify the utility to close the file.

If you have questions or would like more information about the ESA's pilot project - Utility Hazard Referral - please contact Mr. Lesage at the ESA, at 1-800-369-7531.

Watch for an update from MEARIE on this issue once the ESA has broadened its service area.

### **Loss Control Procedures**

- Once the technician identifies a hazardous condition, he/she should inform the customer and report the call to the appointed manager/supervisor.
- The on-site service technician should complete a "Hazardous Reporting Form" (that should have been developed by the utility).
- The technician should try to fix the hazardous condition right away, if this is within his/her capabilities.
- If the condition cannot be fixed right away, the customer should be advised to hire a qualified electrician to do the job.
- The utility must follow up to verify whether the hazardous condition has been fixed. There is no standard time limit - the utility must establish how much time it allows as "reasonable" with regard to the customer having the hazard fixed;
- A protocol developed by the utility must be followed to ensure the hazardous condition has been rectified.

## **Welcome Y2K Claims Management Service Members!**

MEARIE thanks and welcomes all those utility members that have signed up for the MEARIE Y2K Claims Management Service.

Please remember that this service is not intended to be Y2K insurance; it is a claims-management service that will assist members in handling any Y2K-related incidents. The cost of the claims and expenses will remain the responsibility of the utility.

The Y2K Claims Management Service will be co-ordinated and monitored by MEARIE's claims staff to ensure our high service levels. As a reference guide on how to file a claim, please keep your *MEARIE Y2K Claims Management Service Claims Guide* on hand.

Thank you for supporting this new MEARIE initiative.

### **MEARIE Y2K Claims Management Service**

#### **24-Hour Emergency Telephone Numbers for Reporting Claims**

**Y2K Claims Reporting 1-888-469-0261**  
**MEARIE/Cunningham Lindsey**

**Non-Y2K Claims Reporting (416) 719-6560**

**MEARIE General Claims Inquiry 1-800-668-9979 or (416) 484-5315**  
**Tony Rossi - Claim & Insurance Services Officer**

### **Y2K Claims Management Service: Still Time to Enroll**

Any MEARIE utility members that still wish to enroll in the MEARIE Y2K Claims Management Service can still do so. Late-registration fees are available as follows: Small Utility - \$250; Medium Utility - \$450; Large Utility - \$550.

In the event of a Y2K claim, please note that the adjusting and management rates on the individual claim file remain unchanged.

Once the utility forwards a signed MEARIE Y2K Claims Service Agreement, along with the registration fee, it will automatically have access to MEARIE adjusting staff for any Y2K claims.

Remember, this is not Y2K insurance, but rather a claims-management service. The cost of the claims and expenses is still the responsibility of the utility.

If you would like some more information or a copy of the *MEARIE Y2K Claims Management Guide*, please contact Tony Rossi or Jeff King at 1-800-668-9979.

## How to Avoid Electrical Shock at Your Municipal Substations

In the past, MEARIE has received claims involving the electrocution of children who have entered municipal substations.

Although the frequency of such incidents has traditionally been low, every time MEARIE receives notice of such an occurrence, it begs the question, "is there anything more that could reasonably be done to avoid such occurrences"?

Evidence has shown that members are continually monitoring and implementing safety measures to improve their existing situation to prevent further incidents. From a claims perspective, the following factors were instrumental in the assessment of negligence on the utilities involved:

- The location and surrounding land around the substation compound was not flat and free of obstacles that assisted a trespasser in gaining entry. Obstacles, such as a large conductor spool, trees, hydro poles, guy wires and dirt hills provide assistance in jumping the fence surrounding the compound.
- The height of the fence was within industry regulation; however, the height of the fence did not meet the "environment" surrounding the compound. The same was true for the signage and lighting. As urbanization expanded to the point where it was in close proximity to the substation compound, the utility did not take further precautions to limit their exposure to the surrounding environment.
- Inventory that was being stored in the compound lured thieves and trespassers in.
- The utility had no procedures in effect with respect to maintenance and patrol log keeping.
- Signage, one of the first items of investigation in a claim, was either non-existent, not visible (old and too small), not posted on all sides or graphic enough, and the utility was being challenged as to whether the signage should have been both written and pictorial, or a combination thereof.
- Promotion of safety awareness/involvement in the community - this includes safety awareness training in schools and public safety awareness announcements on consumer invoices.

Increasing pressure is being put on utilities to be more proactive in this area.

MEARIE has provided every member with a *Risk Assessment Manual*. We urge you to appoint an individual at your utility to refer to and apply the "Module I: Premises" section of the manual to your utility's current conditions and to report the findings with senior management in an attempt to reduce your exposures.

The risk assessment should be ongoing, as conditions are constantly changing. Finally, if you have any questions or would like to share a concern or solution with the membership, please do not hesitate to contact MEARIE. We will ensure that your concerns or solutions are addressed.

### **MEARIE Coverage: Transfer to New Corporations**

MEARIE members are currently in the process of reviewing organizational structures and incorporating entities to replace Hydro-Electric Commissions, as they must do under Bill 35.

Ownership changes, new corporate structures or improperly worded transfer by-laws may raise issues in relation to each utility's coverage under the MEARIE General Liability Policy.

The rights and obligations currently in place for MEARIE subscribers may be subject to gaps in coverage for former commissioners and newly appointed officers and directors, if a transfer to the MEARIE policy is not properly completed.

Transfer of the MEARIE General Liability Policy is simple and easy. A general transfer by-law enacted by the municipality transferring all assets and liabilities, or an itemized transfer by-law naming MEARIE Subscribers Agreement and Policy, will be sufficient to ensure a no-gap transfer and uninterrupted coverage for our members.

In cases where more than one entity is incorporated, MEARIE Subscribers can transfer the policy to a "master policyholder" and affiliates may simply be added as named insureds. We expect most of our members to accomplish the transfer this way.

To ensure that our members can continue to enjoy the benefits of the MEARIE Policy in a seamless manner, we need to know your plans well in advance to be able to advise you if there is any action you need to take for uninterrupted coverage.

A Policy Transfer Form was sent to all members a few months ago. MEARIE would encourage members to complete the form once final plans on incorporation are known. Please feel free to contact Umit Ulusoy for additional forms, or if you have any questions regarding policy transfer issues.

### **MEARIE Financial Symposium May Be the First of Many**

On November 30, MEARIE hosted a half-day seminar on creative insurance and financial solutions for the new energy industry.

This seminar was the first of its kind for MEARIE, and we will be considering offering similar types of events in future to all sizes of utilities.

The Financial Seminar was offered to industry CEOs, CFOs and other senior staff of medium- and large-sized utilities. Topics covered included: Emerging Trends in Insurance/Reinsurance; Captives & Use of Captives; Prudential Requirements, and much more.

For those members who attended the seminar, MEARIE wishes to thank you for your support. We hope it was successful in providing some insight into your insurance and financial needs.

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*The Reciprocal* is published by the Municipal Electric Association Reciprocal Insurance Exchange for its members - some 252 municipal electric utilities. MEARIE is a reciprocal insurance exchange for members of the Municipal Electric Association. The MEA is the utilities' voice to government, Ontario Hydro and others in the industry.

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