

**Pennsylvania Rural Electric Association's
Testimony Before
The House Environmental Resources &
Energy Committee Hearing on Wetlands
Hon. Robert D. Reber, Chairman**

**Pocono Manor
August 25, 1995**

Good morning Mr. Chairman and members of the Environmental Resources & Energy Committee. My name is Chris Mele, Manager, State Relations, and with me today is Tom Beene, State Legislative Representative. On behalf of the Pennsylvania Rural Electric Association's (PREA) member-cooperatives, we appreciate the opportunity to present our views on potential wetlands legislation.

PREA is the trade association representing Pennsylvania's 13 consumer-owned, not for profit, rural electric cooperatives which provide power to over 600,000 rural Pennsylvanians. As we all know, electricity is no longer a luxury but a necessity. Electric utilities, and particularly the rural electric cooperatives, are frequently tasked with the daunting challenge to provide reliable electric service into areas where electric service does not exist. The demand for this type of energy will continue to grow at a rapid rate. Likewise, the need for electric service is more essential to the health and welfare of every citizen now more than ever.

In the routing phase of a line extension, new service or new construction of a transmission line, balancing environmental considerations with engineering, economic and property owner concerns is the goal. To be able to define and quantify the wetland resources in a practical manner during routing is the best way to minimize impacts, while allowing for economic development by streamlining the regulatory and permitting process.

In rural areas, electricity is generally transmitted and distributed by overhead lines, with an occasional need for underground distribution service. These lines have little impact on the vegetation below them. While there is some effect on the environment due to construction and

maintenance of utility lines, these effects are limited and temporary and significant wetlands can be avoided. We feel that electric utility lines cause minimal impact upon the wetlands areas which they run near or through. In addition, because of increased construction costs and engineering difficulties, cooperatives rarely cross areas of significant wetlands.

Some of the proposed legislation regarding the wetlands issue contains language that will make it easier for Pennsylvania's electric cooperatives to provide affordable electric service to future member consumers. In addition, it is hopeful that the various legislative proposals will enable cooperatives to provide the timely maintenance needed on existing lines to ensure continued reliable electric service to our current and future members.

Due to the nature and geographic size of the territory covered by our member cooperatives, there is a high potential that a portion of Pennsylvania's wetlands will need to be traversed. Since our member cooperatives will be affected by any legislation, we would like to comment on the following issues: 1) Consistency with the current proposed federal legislation 2) Exceptions to the regulations 3) Classification of wetlands and 4) Timing issues.

We believe a legislative solution needs to be consistent with proposed federal guidelines regarding wetlands. Resolution of the wetlands issue will have a wide reaching impact on many of the Commonwealth's citizens. The decision of how and to what extent government should affect individuals in Pennsylvania while protecting such an important natural resource is best made by those elected to represent the citizens of Pennsylvania and not by a bureaucrat.

The proposed federal legislation exempts activities that are for the purpose of maintenance, including emergency reconstruction of serviceable structures such as utility distribution line or other powerline structure. We believe that similar language should be inserted into any state legislation.

Electric cooperatives spend large amounts of time and resources in maintaining a functional network of existing transmission and distribution lines and rights-of-way. The cooperatives must be able to respond to emergencies as well as provide scheduled repair work with little or no effect upon our members' service.

Along with maintaining existing lines, Pennsylvania's electric cooperatives must be able to grow and change with the needs of the communities they serve. The federal legislation provides an exemption for the construction or maintenance of access roads for utility distribution and transmission lines. These temporary construction roads are used for a few months then reseeded and used only for maintenance and repairs. We believe that since these temporary roads are constructed to provide access to a permitted project, we feel they should be included in the category for exemptions.

The proposed federal bill exempts activities for the purpose of providing critical infrastructure. We believe the construction and maintenance of utility distribution and transmission lines should be included in the definition of critical infrastructure.

We believe that proposed classification system for wetlands provides a great asset to businesses and private landowners while protecting an important ecosystem. The categorization

of wetlands properly divides wetlands into three types and allows for the protection of critically important wetlands while allowing for necessary improvements in some areas. The proposed legislation strikes an important balance between the need to protect these valuable habitats with a reasonable review of public necessity.

We believe that one of the definitions of Type A wetlands should be a wetland of 50 or more contiguous acres. Since transmission and distribution projects are linear and may include miles of line and right-of-way that cross a number of wetlands of various sizes, a Type A wetland classification such as this would enable better electric cooperatives to identify and avoid significant areas. (Note: This supports language in House Bill No. 1049, Sec. 103- Definitions)

Different forms of legislation have identified mitigated wetlands as Type B wetlands; however, incidentally created wetlands are properly classified as Type C wetlands and not as Type B wetlands. Mitigated wetlands should have a higher degree of protection since these wetlands were specifically created or restored due to other wetland degradation or loss. Incidentally created wetlands deserve a lesser degree of protection since these wetlands have been unintentionally and artificially created and should be classified as Type C wetlands. (Note: Bill No. 1049, Sec. 103- Definitions, supports classifying mitigated wetlands as Type B while Bill No. 200, Sec. 103- Definitions, supports classifying incidentally created wetlands as Type C)

We believe that one of the characteristics of Type C wetlands should be that the wetland is less than two contiguous acres. This classification would lessen the difficulty in avoiding smaller areas when building linear electrical transmission or distribution projects. (Note: Bill No. 1049- Sec. 103- Definitions, includes wetlands less than two contiguous acres in the Type C wetlands; Bill No. 200 does not list a size criteria for Type C wetlands).

Some of the proposed language in the legislation allows for exemptions for activities in incidentally created wetlands which have exhibited wetland functions for less than five years. This type of exception is a positive and practical allowance and will go a long way to relieve the regulatory burden on economic development. Those of us tasked with economic development recognize the need and function of a real wetland resource, but have been frustrated with incidentally created wetlands that are treated, under the current permitting process, as significant wetlands. This type of provision allows for proper characterization of the resource in the permitting process.

One last concern is regarding the transition period and implementation. We need to know what guidelines are to be followed. We recognize the need for the 90 day interim period and the five year time period needed to determine the state-wide classification of wetlands. However, it must be clearly defined as to what regulations need to be adhered to in both time frames. It is too ambiguous as it currently stands.

Part of the frustration with the current wetland regulations is the lack of flexibility and application of reason associated with wetland classification. A goal of the new legislation and regulations should be to provide the protection for significant areas of wetlands, while allowing for options in areas of less significant value and incidentally created wetlands. The draft language in the legislation is a step in that direction and we applaud the efforts of this committee. We would like to thank you for providing us with this opportunity to comment on the wetlands issue and we look forward to working with you on this issue in the future. We will be glad to answer any of your questions that you may have.