



Possible Legal Concerns

Civil actions in tort can be a scary endeavor and a **big financial challenge** for a company.

IN THE LAST ARTICLE WE BEGAN to address the issue of potential civil liability that may befall an electric utility or a particular substation. We introduced official sounding terms like torts and tortfeasors and began to differentiate between the possible intentional versus negligent torts for which consumers may attempt to sue a power company, and in turn recover massive damages for their alleged grievances.

As promised, in this issue we will delve deeper, by giving specific examples of several lawsuits, to illustrate the exact type of tort situations to which utilities are most susceptible. If power companies remain vigilant regarding such potential legal action, they can take the adequate precautions necessary to prevent the occurrence of such disagreeable, and often tragic, events.

One such example arose out of the December 11-12, 2008 Ice Storms, that devastated parts of central and western Massachusetts, and left some residents without power for as long as two weeks. Enraged at the manner in which the situation, and its aftermath was handled, residents of three Massachusetts communities took action by filing a class action lawsuit against their local utility, one of the smallest, but most expensive power providers in the state. The disgruntled consumers filed a cause of action on the grounds of negligence, gross negligence, breach of contract and



unjust enrichment. The plaintiffs allege that the utility “failed to spend enough to adequately maintain and manage its systems, have an adequate vegetation-cutting program, and properly respond to a serious storm and the resulting power outage.” The lawsuit asks for damages, in an amount to be determined at trial, and further demands that the company either make drastic changes in the way it “does business” or leave the state permanently!

A clear example of a tort suit that could apply any substation or power plant comes out of Charlotte, South Carolina. The mother of a six year old boy, sued a local utility for the wrongful death of her son, who was electrocuted by an uninsulated high voltage power line, while climbing a tree. The lawsuit alleges that the utility had violated national safety standards, which require companies holding a right of way for power lines, to “clear vegetation around high-voltage lines and to insure that the lines can't be reached or touched by anyone unaware of the danger-

ous electrical hazard.” The claim further alleges that inspectors had visited the property every month to read the meter proximate to the tree, but failed to trim the tree, or take other preventative measures such as post warning signs or alert property owners.

In addition to failing to respond to natural disasters, and needing to carefully maintain their wires and equipment, utilities are often subject to matters of global reach and concern. In recent years one of the most common areas of legal troubles for power companies nationwide has been in the realm of environmental law, as is seen by the following examples:

■ A Florida utility, as part of a settlement deal with the EPA, agreed to a one billion dollar renovation of two ageing coal burning power plants.

■ The Department of Justice filed, on behalf of the EPA, a lawsuit against a major utility, alleging that eight of the utility's power plants illegally released “massive amount of air pollutants for years.” The EPA is in part relying on its recent 1.4 billion dollar settlement with another large utility, to cut such emissions.

■ A California utility agreed to pay \$295 million to settle a number of lawsuits alleging the company made hundreds of local residents sick, when it contaminated the water of three California counties, a case made popular several years ago by the film Erin Brockovich. ■

Biography

Iana is an American attorney, licensed to practice in the State of California. She graduated from UCLA in 2001 with a major in Political Science, specializing in International Relations. In 2005 she was awarded the degree of Juris Doctor, from Loyola Law School. During her studies, Iana worked for Soft Power Int., where she became well acquainted with the engineering world. Upon graduating from Law School, Iana joined the Criminal Defense field, where she has devoted her talents to fight for her clients. Iana is completing her MBA with Ashford University.