

The Duty to Serve of Electric Utilities and Liability of Compensation for Power Outages: on the Electricity Supply Contract

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Abstract

The electric utility's duty to serve is to provide adequate and reliable services. Since the 1980s, electric reliability has become the primary duty. However, this cannot be interpreted as requiring service to customers under all circumstances, and power outages should never occur. There is an electricity supply contract between utilities and customers, and based on the contract, utilities have legal obligations corresponding to their exclusive franchise. In addition to complying with tariffs, utilities should perform reasonable care in the regular course of their business or where a public interest is involved to prevent interruptions causing damage to customers. The liability indemnity clause of the contract cannot apply where the utility is willful or grossly negligent. In the monopolized electricity market, consumers cannot choose electricity enterprise, so legal obligations are deemed necessary in order to maintain the balance of accountability that ordinarily would occur from competition. The purpose of the legislation is not to impose financial penalties on utilities, but as a preventive measure to enable utilities to implement prudent management and improve performance stability.

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Compensation for damages is one of the important accountability methods in recent years. Utilities shall reimburse the basic charge in proportion to the duration of outage when the service cannot be provided; moreover, utilities should compensate customers reflecting, at least in part, the damage or inconvenience they suffered because of an outage when the utility is held responsible for its faults. Following these lines of thought, this article suggests that related laws and regulations should clearly distinguish the utilities with faults and the limit of compensation, from willful or grossly negligent which cannot apply “the filed rate doctrine.” Finally, customers should plan or at least take measures based on their activity and the field under control to mitigate their own damages in the event of blackout. If customers have negligently contributed in causing or aggravating the injury, the court may reduce or release the amount of the compensation according to Article 217 of the Civil Law (the principle of contributory negligence).

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