PUBLIC POWER MEMBER & BROKER SESSION

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Director, Risk Management
City Utilities of Springfield, Missouri

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PUBLIC POWER MEMBER & BROKER SESSION

Jim Jura

CEO & General Manager
Associated Electric Cooperative, Inc.

Board Member
Associated Electric & Gas Insurance Services Limited (AEGIS)

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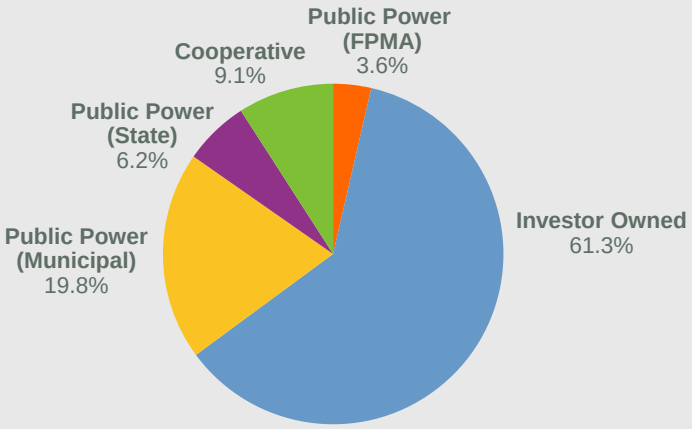
Ownership Types of AEGIS Members



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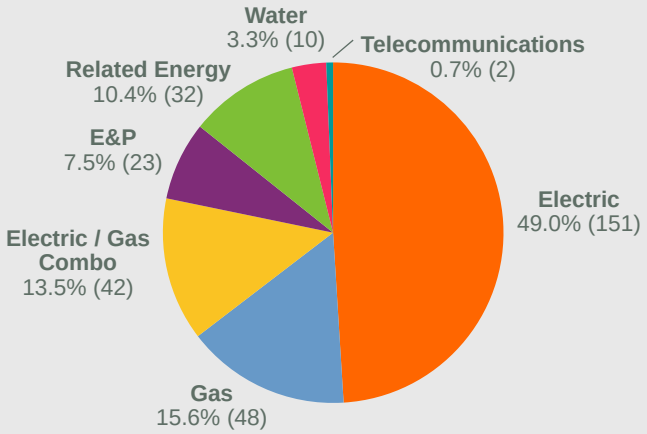
Operation Types of All AEGIS Members



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AEGIS Products

- Excess liability
- Public officials liability
- Property (construction and operational)
- Renewable energy
- Cyber coverage & services
- Professional liability
- Financial products

PUBLIC SAFETY AWARENESS PROGRAMS

Dan Gudleski

Senior Utility Consultant
AEGIS Insurance Services, Inc.

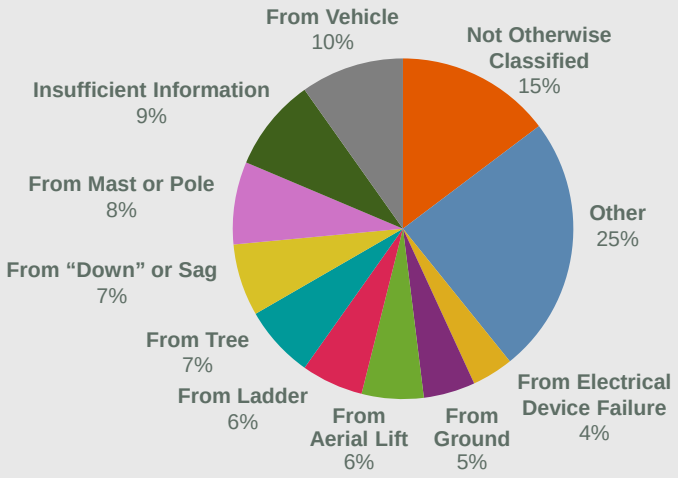
Public Safety and Awareness Programs

Importance

- Educate and warn regarding potential hazards
- Communicate hazards to utility
- Prevent injuries and loss of life
- Failure to warn is a charge that is almost always raised in any lawsuit

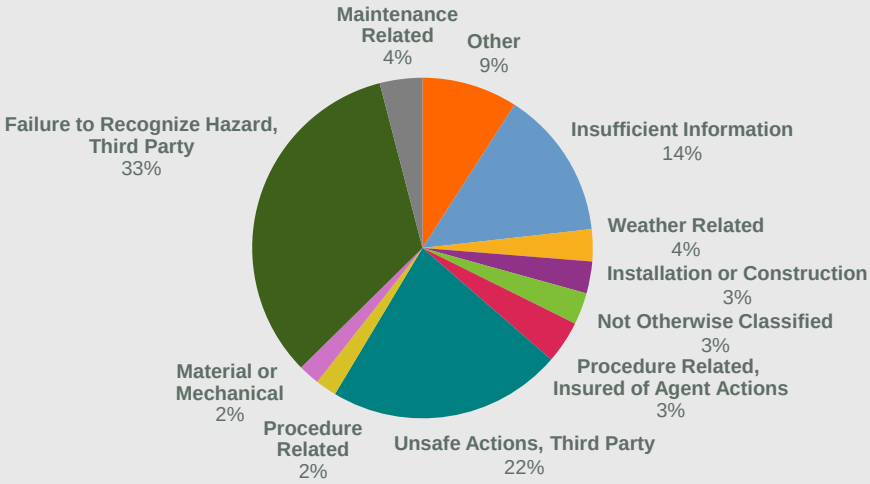
Public Safety and Awareness Programs

All electric claims by source, 2000 – 2014



Public Safety and Awareness Programs

All electric claims by contributing factor, 2000 – 2014



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Public Safety and Awareness Programs

Adults

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Public Safety and Awareness Programs
Adults

- Media forms and outlets
  - Television and radio spots
    - Additional reminders / warnings prior to and during storms
  - Newspapers
  - Billboard advertisements
  - Bill inserts

Public Safety and Awareness Programs
Adults

- Media forms and outlets
  - Company web site
  - Customer cell phone alerts (outages)
  - Social media
  - Facebook, Twitter, etc.

Public Safety and Awareness Programs
Schoolchildren

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Public Safety and Awareness Programs
Schoolchildren

- Programs usually target specific grades
  - Live presentations
  - Theater groups
  - Fulfillment programs
  - Videos

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Public Safety and Awareness Programs

Schoolchildren

- Utilities should be proactive
- Topics covered should include
  - Overhead and underground electric lines
  - Substation and padmounted equipment recognition and avoidance
  - Stay away from downed wires
  - Tree climbing safety warnings
  - Kids and kites

Public Safety and Awareness Programs

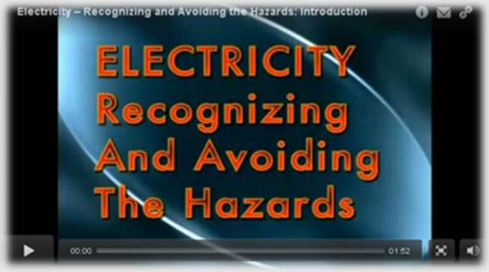
Emergency responders

Public Safety and Awareness Programs
Emergency responders

- Programs should target
  - Fire departments
  - Police
  - Other emergency response organizations

Public Safety and Awareness Programs
Emergency responders

- Program types
  - Live training and demonstrations
  - Videos



Public Safety and Awareness Programs
Contractors

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Public Safety and Awareness Programs
Contractors

- Programs should target
  - Construction companies
    - Especially those using high-reach equipment
  - Excavators
- Electric safety topics
  - OSHA crane and derrick standard (20 foot rule)
  - 10 foot rule
  - Call Before you Dig (811)
  - Look Up and Live!

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Public Safety and Awareness Programs

AEGISlink.com

↓

Loss Control

↓

Publications

↓

Quick Start – Public Safety Communications Guides

Questions?

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SOVEREIGN IMMUNITY
WEIGHING LIABILITY PROTECTION

Bob Carleton ARM-E, AINS

Risk Manager
City Utilities of Springfield, Missouri

Sovereign Immunity Laws

- Mix of statutory and common law
- Defined by the courts
- Boils down to
  - Governmental function
  - Proprietary function
  - Statutory protections

Governmental Functions

- Actions that are
  - Discretionary
  - Political
  - Legislative or public in nature and
  - Performed for the public good on behalf of State, rather than for itself

Proprietary Functions

- Activities that are
  - Commercial or
  - Chiefly for private advantage of compact community

Proprietary Functions

- Utilities are proprietary functions
  - Operational departments – proprietary
  - Administrative departments – governmental / proprietary (unclear)

Statutory Protection

- Codify protections
- Tort caps
- Unique to each state

Universal Issues

- Insurance purchased
- Federal claims
- Naming an individual
- Out of state claims

Insurance Purchased

- Liability insurance can waive sovereign immunity
- Non-waiver of Sovereign Immunity Endorsement
  - No insurance when sovereign immunity defense available
  - Lessens liability / exposure of insurer

Federal Claims

- Anything filed in Federal court
  - Civil rights violations
  - Employment practices

Naming an Individual

- Naming an individual that has no official immunity
- Official immunity
  - Protected for negligent discretionary acts
  - Not protected if conduct willfully wrong, malicious or corrupt
  - Public employees not protected by official immunity

Out of State Claims

- Three possibilities when claim is out of state
  - Recognize your state's tort caps
  - Recognize their state's tort caps
  - No tort caps
- Roll of the dice

Bottom Line

- Existence is affirmed by statute and defined by courts
- Must not assume you do / don't have protection
- Interpretation is complicated and confusing
- Research to determine the extent of statutory protection and the amount of insurance to purchase

SOVEREIGN IMMUNITY

Cindy Stevens, MBA, CRM, CIC

Insurance Program Risk Manager
Colorado Springs Utilities

Colorado Government Immunity Act (CGIA)

CRS 24-10-106

- Since 1972 the Colorado Legislature has allowed public entities immunity protection from liability
- Utility operations (water, waste water, gas and electric, and motor vehicles) are **NOT** immune
- But allowed ***limitations on monetary judgments***
- 7/1/2013 = $350,000 per person, $990,000 multiple persons / per occurrence, inflated every four years

Colorado Government Immunity Act (CGIA)

CRS 24-10-106

- Prior to 1/28/2014, Colorado Springs had waived tort cap protections to the extent of liability insurance limits
- Effectively underwritten like an IOU
- Expensive to buy adequate limits, impacted several lines
- City Attorney's office wrestled with "why buy liability insurance at all?"

Colorado Government Immunity Act (CGIA)

If limits, why buy excess liability?

- For non-Colorado jurisdictions
- Wildfire on Federal lands
- Out of state – coal operations and vehicles
- State Legislature empowered to change the law, but firm precedence established

Colorado Government Immunity Act (CGIA)

If tested, will it hold up?

Examples

- 1987 Colorado Department of Transportation – Berthoud Pass tour bus accident
- 2008 City of Alamosa, waterborne salmonella
- 2012 Lower North Fork fire
- Important to research case law, each state is different

Catamount Wildland Fire Team

Protecting Colorado Springs Utilities' infrastructure / watersheds

SOVEREIGN IMMUNITY

Steven Verbeski

Executive Vice President & Managing Director
Power & Utility Practice
Hays Companies

Statutory Limitations of Liability

- Sovereign immunity / tort limitations – is it real protection?
- With such protections – why "going bare" is not a good idea
  - Contractual liability exposures
  - Out-of-state exposures
  - Exposures removed from state jurisdiction
  - Employment practices & employers liability considerations

Statutory Limitations of Liability

- Why “going bare” is not a good idea
  - Not knowing what you don’t know
  - Do you have a crystal ball?
- Proper policy construction to preserve statutory protections
- What about protections for cooperatives?

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Real

group

effort.

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