

# ARBORISTS, UTILITIES AND GOVERNMENT<sup>1</sup>

by Robert Føllix

In my capacity as Executive Secretary of the National Arborist Association, I have had an opportunity to have an excellent overview of the industry. The following are my own views and not necessarily those of any individual member company.

The utility tree trimming industry is facing the greatest challenge that it has ever seen. Between economic conditions, government regulations, labor demands, insurance requirements, and environmentalists, tree trimming contractors have to be on their toes every minute to survive, much less to make a profit.

Even though many are slowly recovering from the impact of the severe cutbacks of 1975, and our industry statistics support this, it is a new ballgame. The pressures are enormous. Some of the smaller contractors are abandoning their utility trimming operations. The larger contractors are carefully scrutinizing every aspect of their business, looking for places to make improvements.

Some utilities are liable to find themselves without their customary contractors doing the work. Rates of compensation are only part of the problem. In all too many cases, labor agreements, insurance requirements (such as hold harmless clauses), and other discriminatory contract features could make some utilities undesirable clients.

The threat of future contract suspensions, such as we experienced last year, demonstrate that long-term contracts with utilities are hardly more than permits to work on a day-to-day basis. There are seldom provisions for mobilization of forces or demobilization nor is there any provision for the fact that depreciation expenses on \$30,000 aerial lifts continue long after the utility calls on Wednesday afternoon and says, "shut down six crews this afternoon at 4:30." Another effect of shut-downs manifested itself during the recent hurricane in the East. After "Belle" struck, utilities called for additional crews.

These could *not* be provided. There were insufficient trained men available.

It has been estimated recently that the utility trimming industry in the United States represents some \$350,000,000 per year. The capital investment required to produce this volume is so huge and the return on investment so infinitesimal that the end hardly justifies the means. Yet the equipment demands by the utilities increase. At some point this must be rectified.

The government has its hand in the equipment picture also. As businessmen, as human beings, we are as interested in personnel safety as anyone. Perhaps, because of the nature of utility trimming, we are more safety conscious than any other segment of the tree care industry.

The original OSHA regulations as well as the OSHA Telecommunications Standard have not been too difficult for us to live with, but what is next? We don't know when some field inspector is going to issue a citation for some obscure, inappropriate, alleged violation, as was the case with the nylon ballistic leggings that you are all familiar with.

The proposed OSHA Hearing Standard will be out soon. It is inevitable that it will impair our use of chainsaws and chippers. Certainly it will increase our cost of doing business. We know that engineering improvements are not forthcoming.

Are the utilities prepared to assume their fair share of our increased costs? Some contractors feel that the utilities are indifferent. What with shrinking budgets for trimming and increased demands for service and the elimination of outages, it becomes a vicious cycle.

OSHA is not the only regulatory agency that gives us problems. EPA is very much involved with brush control. We have to be prepared to deal with that agency at every stroke of the pen.

The hold harmless clause that almost every utility imposes upon us as insurance requirements is becoming not only a financial burden but a deterrent to insurance carriers. They are not

<sup>1</sup> Presented at the annual conference of The International Society of Arboriculture in St. Louis, Missouri in August 1976.

anxious to provide this coverage and, as a matter of information, there is some question as to how readily we will be able to obtain insurance of any kind in the future. Many tree companies are self insuring, by increasing their deductible. This is a calculated risk which increases costs, but without it, some cannot purchase insurance.

In labor negotiations we are under more and more pressure for not only wage increases and benefits, but programs either identical to or approaching what utility linemen receive. However inequitable this may be, it is a fact of life and we recognize it.

Since the cutbacks we have seen some utilities put their own men out trimming trees. In some cases idle contractor equipment has been leased for the purpose. However, this concept has not shown itself to be either productive or profitable.

At this point, you might wonder what gives me the right to make these observations and comments. The National Arborist Association is a trade association of commercial tree care companies. Over 30 of our members are utility tree trimming contractors, from the smallest to the largest. We estimate that our members account for at least 65% of all of the utility tree trimming done in the United States.

For many years the National Arborist Association has had a utility committee whose function was relegated to significant but informational endeavors. However, with the development of all that I have mentioned here, our utility committee has taken on a new complexion.

Firstly, it is comprised of all of our members indicating that they are engaged in utility work. We have had three meetings this year and a fourth is scheduled for November. Each has been well attended by most of the major tree trimming contractors in the United States. By moving the meeting sites to different parts of the country, we enable the smaller contractors to participate as well. Attend or not each of our members receives

a copy of the minutes of each meeting which gives them an opportunity to comment and to add items to the agenda for the next meeting.

We intend to address ourselves to every industry issue. With respect to government regulations, we have an excellent line of communications with EPA on a direct basis as well as through the Pesticide Users Conference of which we are members.

The OSHA has been somewhat more elusive, but we are working on developing contacts there. In addition, a number of us are members of the Z-133 Committee which is responsible for the American National Safety Institute's Standard for Tree Trimming Safety. Much of what was promulgated in the OSHA Telecommunications Standard was taken directly from Z-133.

We also participate actively in the Landscape Industry Advisory Council which, coupled with effective monitoring of the Federal Register, gives us a pretty fair handle on what is happening in Washington.

At present we have several subcommittees working on our insurance requirements, labor agreements, and other industry problems. Another example of the problem that we have been working on is the Mobile Aerial Devices, Diggers-Derricks Council decals that are placed on new aerial lifts.

In the not too distant future, we hope to be able to establish an industry-wide position on many of these problems. Needless to say, this is the purpose of a trade association.

This type of activity can only benefit the industry. From utilities to employees, we feel that there will be valuable achievements resulting from the work of our committee and we look forward to having the opportunity to report to you in the future.

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