

LINEMAN DOWN

On August 13, 2003, 22-year-old apprentice lineman Matthew Johnson was working with a CoServ Electric crew in Frisco, just outside of Dallas, repairing primary electrical lines that had been cut by a telephone contractor. Johnson, with less than a year's experience, was normally the lower man on the pole, with his partner, a journeyman, being the one handling the wires. But that day Johnson's partner felt ill, and the lines they were working near had been shut down for the past two days, so Johnson decided to take the lead role. Unfortunately, the pulley Johnson was using to bring the new line in place got stuck and he leaned forward to get some leverage. As he pulled his shoulder came in contact with a couple of the lines on the far side of the pole, lines that were live that day. 7,200 volts raced through his body and a moment later flames came shooting out of his legs. When the rest of the crew got him off the wire he was MedFlighted to Parkland Hospital in Dallas where he died the next day.

His mother, Cheryl Ann Johnson was devastated. "Evidently nobody at CoServ called Brazos, which owned the pole, to turn off the electricity," she told the Weekly. "But Matthew should never have gone up that pole first, because he was an apprentice. His foreman shouldn't have let him, but his foreman had gone back to a meeting at CoServ, so he wasn't there. The supervisor on the scene, as well as Matty and his partner, thought the lines were off, so he let Matt go." The supervisor on the scene was fired for negligence. Cheryl Ann Johnson, who admits that "for months after the accident I was nonfunctional" used a lawyer who was doing some other work for her to sue CoServ for negligence. CoServ, though, had Workman's Compensation Insurance, which insulated the company from her lawsuit. Workman's Comp did pay for the CareFlight and the night in the hospital, then gave Cheryl Ann \$6,000 for Matthew's funeral. And that's all they did.

"What it boiled down to was Brazos was not responsible because nobody told them to turn the electricity off. And we couldn't touch CoServ because they were covered by Workman's Comp. And I couldn't sue Workman's Comp because I had no financial reliance on Matthew. If he was married or had kids, or even if I was renting a room to him there would have been financial standing. So it came down to my boy being killed doing something he shouldn't have been allowed to do, and CoServ walking away free. They just hired another boy to take his place and moved on." The US Department of Labor's Occupational Safety and Health Administration (OSHA), which investigates deaths and injuries on the job in the United States, sent someone to investigate as they do in all cases where linemen die. They concluded that CoServ was negligent and fined them about \$180,000. CoServ appealed and the fine was reduced to \$4,250. OSHA admitted to the Weekly that unless they can prove intentional or criminal negligence, there is little they can do but fine companies. A spokesman for OSHA also admitted that the fines are routinely reduced. Not much response from anyone, but that is apparently typical for the lineman trade, one of the most dangerous jobs in the country. Typically, the lines you see running from your house to the line on the street carry 600 volts. The lines on the poles that line the streets and roads in the metroplex typically carry 7,200 to 14,000 volts. The big lines, the lines that stalk the countryside on those 100-foot alien-looking metal figures can carry as much as 765,000 volts. As little as 110 is enough to kill you a good percentage of the time. Working those lines live with any degree of safety requires years of practice, and even then a momentary brain-freeze—taking off a piece of safety equipment to have a smoke, using an insulated glove with a tiny crack in its surface—can kill you. OSHA says that annually about 50 linemen die across the US. Another 60 to 100 suffer what's called "devastating injuries": injuries that leave men permanently crippled, limbless, or severely burned. But OSHA admits the number of those suffering devastating injuries is probably considerably higher, as utility companies owned by municipalities, counties, cities or a state don't have to report injuries to them. And those companies make up as much as one-third of all the utilities in the country. The numbers don't sound so bad at first—heck, that's only one family without a father per state per year, and three more who need to be spoon-fed for the rest of their lives—but figure this: There are only somewhere around 50,000-80,000 linemen in the country—exact figures are hard to come by, but that's OSHA's ballpark number—and with 200 devastating injuries or deaths annually, that comes to about 1 in 250 to 400. That's a lot of linemen down. It used to be worse. In 1891, when the International Brotherhood of Electrical Workers was formed by Henry Miller, linemen deaths were averaging one out of every two linemen annually. But today's count is still way too high, with many of the deaths and injuries the result of a hurry-up-and-get-the-job-done attitude that's been fostered by deregulation in the electrical industry. According to Bobby Reed, a lineman trouble-shooter for TXU and a Business Manager for the IBEW Local 69 out of Dallas, the problem is training. "Union linemen apprentice for four years," he says. "The first year you work on the ground; in the second you can work with lines carrying up to 5,000 volts. In your third and fourth year you can work on live lines that carry more than that, but only if you're accompanied on the pole and under the direct supervision of a journeyman lineman." "Now what's happened all over the country since the mid-1980s is that the industry has been deregulated," Reed says. "And what that meant was that companies like mine, TXU, and most everybody else, began eliminating their in-house linemen and sub-contracting that work out. They got huge savings on eliminating health and pension benefits when they got rid of permanent employees, but they also got the benefit of no longer being responsible for the men, who went to work for the contractors. And since most work is by bid, low bids get the job. And low-bid generally means you get warm bodies and get them up the pole as quickly as possible, rather than have them going through years of training." "There are companies out there—all over the country—who put guys on live lines after just a few months. And in this industry, what you don't know will kill you." Someone who found out the hard way was Patty Nottingham, of West Virginia. Her son, Michael Todd Saunders, was killed on a line in Dunlow, WVA last June 29, while working for Pike Electric. "My son was a truck driver," she says. "He had gone to work for Pike out of North Carolina. And they regularly underbid other contractors and only use non-union labor, so they were cutting a few corners." Nottingham says that her son signed on with them as an equipment operator and truck driver and that he was working a job where Pike was running line out to a state

park. Well, the journeyman lineman had called in sick so the crew was short-handed. Michael and another guy were supposed to stay on the ground, but the foreman wanted the job done, so Michael said he'd climb the pole, despite never having been on one. In fact, he'd only started on that crew on Monday and this was Wednesday. Nottingham says he'd put in his walking papers with Pike the first day on that crew because he said "the whole operation looked too dangerous and he didn't want to part of it when somebody died." Then he climbed the pole, she says, "and from what I understand, apparently some protective coating wasn't put around some of the wiring and the line slipped off the cross bars and came down and hit a guide wire that got him. The other fellows said they just saw a big ball of fire and he was hit. He died on the pole. It took them 45 minutes to get his body down off of it." A report of the incident said that the other lineman there that day had between 3-4 years of experience and the foreman had a total of about six. Not that it would have saved Michael Todd, but a union foreman would have had to be a journeyman lineman for several years—with at least 10 years experience to be a foreman. And most have more than 20 before they make foreman grade. Nottingham says that no one at Pike will return her calls, and that they are sweet talking her daughter-in-law with promises she's not sure they'll keep. "They tell her they're going to take care of everything, but I don't believe it. My son had four young daughters. Who is going to take care of them until they get through college?" What makes Nottingham suspicious of Pike is that no one from Pike ever even contacted OSHA about her son's death. That call was evidently made by a television crew that was filming the electrical installation at the park that day. Josh Royster has his own issues with the electric companies. Royster went to work for Pike Electric in Alabama 1999, when he was 18. In three months he says he was in the bucket working live wires carrying up to 19,900 volts. "At the time I knew nothing about linework and apprenticeships. I later learned it's five years or more before anyone gloves anything that hot but what did I know?" In early 2002 he went to work for MasTec, another contractor. Within three months, on May 21, 2002, Royster was pulled off his bucket truck to help a journeyman and an apprentice set a pole on a rural road in Calhoun County, Alabama. They'd gotten it up on one side of the road and had to cross a ditch to set it. "After we dug the hole we wrapped the winch around it, but the journeyman started to raise the thing too fast. I was at the butt end of it and wound up slipping in the ditch, and the pole slid in with me and came down on my ankle. So I'm there screaming and the journeyman stands the thing up right on my ankle. When we got it off we called our foreman on the radio and they got me to the emergency room. And guess what? As soon as the General Foreman finds out he asked my boss if I was wearing steel-toed shoes or not when the accident happened. There was no rule that I had to, but he stood there and wrote me up for a safety violation anyway." Royster didn't quite have enough time in with MasTec to qualify for health insurance, so he didn't have that. Workman's Comp paid the reconstructive surgery on his mangled ankle, but he had to sue Workman's Comp to cover medical complications. And once he was able to get around again he applied for a job with Pike again only to find he'd effectively been blackballed from the industry because of the lawsuit. "I'm okay," he says now, three-and-a-half-years since the accident. "But the runaround I got, the treatment from the company, those are experiences I wouldn't want anybody to go through. You think you're working for them, they'll take care of you. Not so. First thing they say is "employee error". And I know it's the same for the guys who get burned up on the lines." OSHA has only a handful of inspectors to investigate the serious accidents and deaths suffered by linemen. Only one of them has been a qualified lineman who has the skills and experience to evaluate what really happened at the scene of an accident. The Weekly talked with several of them, but to a man they insisted on their names being left out of the story.

"This is how it works," said one, explaining that the utilities own the lines throughout the United States, and in pre-deregulation days generally had in-house linemen to maintain their own lines. But with deregulation, those utilities eliminated most of those full time employees and contract out the actual work. "So where the company had a stake in those men at one time, these days most utilities have many fewer linemen, and so they subsequently have a lesser stake and want to distance themselves from anything that goes wrong out on the lines." Now imagine a business on the order of size of the oil business, but which has never been touched by government. They have been allowed to make their own rules. And nowhere is there a specific rule that says how long a man must apprentice until he climbs a pole. When the company thinks he's ready, he's ready. And if he's not, too bad for him. "All we do at OSHA," said another inspector, "is put out fires. We inspectors—compliance officers—take a 4-day training course in lineman work and get our OSHA investigator's qualification. So when I'm sent out, to be honest, I don't know what I'm supposed to be looking for, so I don't even do an investigation. I just take statements." Part of the problem that causes accidents, he said, were the linemen themselves. "Some kid out of high school goes to work for six bucks on the ground and the guy in the bucket is making three times that. Well, that kid will do whatever he has to do to make that money. And the figures bear that out: Most of the fatalities are young guys that don't know the industry. They've learned bad habits from guys with bad habits. When an older guy with legitimate experience has an accident, it's more often a case of him trying to get the work done fast to make the bonuses most companies give." The bonuses are paid to the line crews when a contractor on a bid job comes in under his contract. "Well, that's an incentive to get the work done quickly, which means shortcuts and accidents. And there are few small accidents in this industry." He's asked why power isn't just shut down while men are working on lines. "Customers don't like interruptions, and utility companies don't like those meters to stop turning. They'd rather have the men work live lines." Another issue is basic safety equipment and precautions. Basic tools for working on distribution lines—several thousand volts and up—include insulated rubber gloves and sleeves, tested and up-to-date. Then there is equipment to cover the lines, which could be insulated hoses or blankets and rubber hoods to go over the glass insulators. The lineman working a bucket truck needs to be in an insulated bucket truck. If he can't get that equipment into where he's

working he should be on an insulated platform he installs on the pole and that he stands on while working. Some linemen, particularly in the eastern states, work with what are called "hot-sticks" or "live-line tools", special fiberglass rods that have different end-attachments on them, from bolt cutters to clamp-attachers. "So you might have 200 different live-line tools and you might need 20 hoses and blankets and hoods to do a job," the inspector explained. "Most of the crew carry some of this equipment in their trucks, but they might get on site and realize they need something they haven't got. So they can return to get it and lose the day—and a job bonus—and/or cut corners. And the foreman might say, "We can do this without that"—but he's really an extension of management." And if the crew insists on not cutting corners? "In a lot of companies, they get fired." According to the inspectors at OSHA, however, when a guy or crew does cut corners and an accident happens, the record nearly always reads "employee misconduct." "The company gives these guys a safety book and makes them sign the back page to prove that he got that book. And once he does, the company can tell us it was the guy-with-no-arms' fault because he knew all the safety issues. The bottom line is that the companies don't care. They will not spend the money for training which would result in fewer deaths. How much is a man's life worth? To these companies it's certainly less than the cost of training them. "The most frequently heard company line when we investigate a death is "I don't know why that guy decided to commit suicide. Something must have been bothering him." And we at OSHA go along with it because we don't know what we're looking at." Unfortunately, even when OSHA's experienced investigator finds company fault, it has no teeth. In a recent case in Chicago in which a young lineman got killed working on a tower he didn't have the experience to work on for the L.E. Myers Company, OSHA proved criminality on the company's part. But OSHA could only get a misdemeanor "because we don't have tough laws on the industry." OSHA additionally hit L.E. Myers with fines totaling \$1 million—a figure that, like the fine levied against CoServ in the Matthew Johnson case, will be appealed and probably reduced to less than 5% of that. One man tilting windmills at the insulation of the Utilities and Electric Companies is Rusty White, who lives just north of Ft. Worth. White—whom readers might remember from his appearance in an earlier story in the Weekly—has worked as a lineman on an off for 30 years, both as a non-union and union hand. Two years ago, disgusted by what he saw as worsening conditions for the men in the field, he started Safety Awareness Consultants, a one-man band with the goal of finding a way to make power companies responsible to their workers and the families affected by catastrophic injury or death. "I was tracking some cases and couldn't believe how even the "good" companies treated the men and their families. These people were fighting insurance companies for basic medical…" White, a good looking man in his mid-fifties, learned of the Catch-22 Texas Workman's Comp rule—if the company on the ground has Workman's Comp, nobody can be sued unless they have a financial stake in the downed lineman, and even then the suit stops at Workman's Comp—and began contacting lawyers who specialized in electrical cases to see if there wasn't some way to break that lock on deniability the power companies and utilities had. Since then, he's lined up 2,000 lawyers and firms ready to take on the big boys. None of the cases that are in the works have come to a resolution as yet, though there are two in the Ft. Worth area involving men who worked for TXU contractors that are nearing completion. White might stand to make some money from some cases down the road but at the moment makes his living running a propane company, two ranches for a wealthy man north of Ft. Worth, and working as a part-time bail bondsman. "Hell, brother, I'm liable to be dead before the first case is won, appealed, won again and a judgement is finally paid. But I'm not in it for the money, though I'll take it if you give it. I just got sick of the stories. We've got one brother who had both of his arms and legs blown off—up to the shoulders, so prosthetics can't even be fitted, and the electric company is fighting it, claiming it was employee error. His medical bills are going to be \$15-17 million before he dies. Workman's Comp tops out at \$750,000. Who's going to take care of that guy and his family?"

As in the Johnson case, both the power company and TXU are insulated from civil judgement. But the attorney working the case thinks he's found a way around the system and hopes to force a settlement out of both. The attorney, who asked that both his name and the injured lineman's name be omitted from the story because of the delicate nature of the ongoing case, says that he's been involved with electrical cases since the mid-'90s. "When the legislature took the lawyers out of Workman's Comp in 1991, they changed the law so that the company couldn't be sued if they were covered. And there are contracts three inches thick protecting the Utility Company, which has ultimate responsibility for the power company they hire, from liability. At the same time these companies make a lot of money. Go look at TXU stock. Three, four years ago it was at 9 dollars a share. Then last year a new president was brought in and told that if he could get it up to \$40 a share for a year he'd get a \$40 million bonus. Well, where do you get that kind of money? You cut your labor costs and you trim safety."

The attorney, as with everyone else connected with this story, says that kids as young as 18-19 are being put up in buckets and told they know enough to work live lines. "These kids have no idea that they're playing with stuff that will blow you in half. Just blow your arms and legs off and if you're not lucky, you might even live."

In a perfect world, he says the companies would accept that while training the men would cost them today, it would save them down the road. "But unless we lawyers can start hitting these companies where it hurts, make them pay \$50 million for some of these catastrophies that should never have happened, it's only going to get worse. Because the way things are now, it doesn't cost them to train these kids and it doesn't cost them when they die."

TXU was the only Utility or Electric Company that responded to requests for their take on things. While he wouldn't discuss the

presidential bonus, spokesman John Hardesty denied that TXU ever cut corners that affected safety. "We have an obligation, and we want to provide our customers with the best service at the lowest possible cost. To do that we sometimes bring in outside help. In most cases we have contracts with different vendors that we use regularly so that we can build up a rapport with them. These companies are outstanding when it comes to safety records. Safety is one of our key goals." Hardesty did admit that with deregulation, beginning in about 2,000, TXU made offers to some of their older linemen to retire early, and moved some others off the line. "So in the past we might have had all TXU employees out there, and now we might supply the supervisory crew to see to the successful completion of the job. Successful and safe. Here at TXU if it's not safe, it's not successful."

Asked whether losing experienced linemen and farming those jobs out might not result in cutting corners, Hardesty said, "You can't cut corners with electricity. There is no way to do that and get a job done quickly and safely. So we look at vendors who have partnered with us a long time—and I can tell you that TXU and its vendors have one of the best safety records in the business. I don't think you'll find better."

"And just let me add what respect we have for these men here at TXU. These guys are a different breed. While you and I are huddled in our house in an ice storm these guys are out there fixing line and restoring service and loving it." Asked whether the guy with no arms and legs who was burned while doing a job contracted for TXU was getting a fair shake, Hardesty couldn't comment. But he was adamant that at TXU safety came first and even boasted of the TXU lineman safety school, "which is a several week course."

"That's bullshit," says Bobby Reed, the TXU trouble-shooter and Local 69 Business Manager. "In 1998 TXU had 60 journeymen linemen here in Dallas alone and 30 qualified foremen, all of whom had been linemen for years. Now TXU has 20 qualified journeymen linemen and 17 foremen. And while the administration makes no bones about the union men having a better safety record because of our training, they don't care. Hell, we've offered to share the cost of training these guys with TXU and they still won't do it."

The majority of contracted work at TXU used to go to Red Simpson's company, which was notoriously non-union. But Pike Electric, who had Michael Todd Saunders in a bucket without a single day of training, just bought them out and is taking over their TXU work.

According to Rusty White, the problem isn't union or non-union. The problem is simply training. When most linemen were union, even a non-union outfit would have mostly well-trained crews. But as the union is being phased out by deregulation, while at the same time so many of the union men are getting older and retiring, the crews don't have the experience at foreman or journeyman to teach the younger guys. "And bad habits beget bad habits," White says. "If you want to know why I started SAC, it's to stop guys like me. I was non-union most of my life. I ran non-union crews. I was just lucky that I never had an accident. But that was just luck, brother, I'm not fooling. So if we can shake things up a little, get some of these companies thinking they're not so protected and might even be liable for taking care of a lineman's family now and then, they might decide to take a little more time before they put some young buck up in a bucket." "A good lineman can work these lines live and still get home to their family," says Reed. "The electricity is looking for a path to the ground. If you're in an insulated bucket and wearing equipment, you're okay. The electricity still has no path down. It's just like those squirrels and birds you see on these live lines. They're up top. And some of the companies are using that same thinking and using helicopters to drop men down to work on the big lines, the power poles with several hundred thousand volts. They drop down an insulated board and the lineman comes down and works on that and he's fine. But somebody tells a kid, 'don't worry, the pole acts like a ground,' and that kid is gonna be dead or at Parkland real quick." Parkland Hospital in Dallas is the main trauma burn center in northeast Texas, and the place where linemen from Odessa to the Oklahoma border are brought when there's an accident. A spokesman said they average about five devastating lineman injuries per year. There are several other burn centers in other parts of Texas. That's a lot of men hurt, even in a dangerous profession. "What I don't like" says White, "is that the men who are losing their lives and limbs for these companies, the men who built the companies, get treated so badly by them once their hurt. If you can give somebody a \$40 million-dollar bonus, good for you. But that same company—and it's not just TXU, it's most companies—will turn around and fight some woman who lost her husband on a Workman's Comp suit just so their insurance doesn't go up. That's just not right, brother."

Reed says that he was only on one crew where a man died during his long career. He says he imagined that the company would take care of things, but that wasn't how it happened. "First thing they did was put the rest of the crew in a room with a company lawyer. And the lawyer starts going over what happened out there. And I mentioned one or two things we might have done differently. Well, that lawyer looked at me hard and said 'That's privileged information. You will not talk about that with the inspectors.' I asked him if he was telling me I had to lie. He said 'I am not telling you to lie. But I am telling you not to bring it up. And I am telling you the inspector won't know enough to bring it up. So just leave it alone.'"

Scott Reib, the attorney Cheryl Ann Johnson hired, admits that while he didn't have the expertise to fight an electrical lawsuit, that he brought other attorneys in who did. "But the law is built in such a way that CoServ was able to take the blame, fire the supervisor, fall on the sword, so to speak, and in so doing hide behind Workman's Comp

while simultaneously protecting Brazos and any other companies they needed to maintain good relations work. In other words, even if Brazos had been told to turn off those lines—and I’m not saying that happened, I’m just giving you an example—CoServ could, if it wanted, protect the parent company by accepting blame. That is not a good law and not good public policy.

Johnson has become something of an activist in this cause since the death of her son. When she finds out about linemen deaths and injuries she’ll often contact family members and warn them of what they’ll be facing in the aftermath. “What I am hearing from families all across the country is that when something horrible happens, the companies promise to take care of things. They say that when the Workman’s Comp is over they’ll keep taking care of the family. And that keeps a lot of families from suing for a settlement with Workman’s Comp. They believe the companies, and then, when Workman’s Comp ends, the companies just say goodbye. And in other cases where the family does sue for a Workman’s Comp settlement, the companies fight it as long as they can—four or five years sometimes—until the family is just so worn out they’ll take whatever’s offered. It’s all legal, but it’s all wrong. These are our boys, our children and husbands and fathers, and something has got to change to make this right.”

About the Author

Source: <http://petergormanarchive.com>