

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Adoption of Rule 25-18.020,
F.A.C., Pole Inspection and Maintenance Plan

Docket No. 20210138-PU

Filed: November 15, 2021

FLORIDA POWER & LIGHT COMPANY'S INITIAL COMMENTS

Florida Power & Light Company ("FPL") submits these comments in support of the Florida Public Service Commission's ("the Commission") proposed pole attachment complaint rule, 25-18.020, F.A.C. FPL supports the framework of the proposed rule and only offers these comments to address the following issues:

- Section 2. Safety, Inspection and Maintenance Standards: FPL suggests adopting the same version of the National Electric Safety Code applicable to electric utilities.
- Section 3. Inspection Cycle and Repair and Replacement of Poles:
 - FPL recommends the Commission adopt eight years as the inspection cycle
 - FPL recommends that the rule specify the minimum level of pole inspection and testing requirements;
- Section 4. Vegetation Management Cycle:
 - FPL agrees with the communication services providers' comments that overhead electrical facilities should be exempt from the vegetation management requirements
 - FPL recommends the Commission reject Frontier's requested change to frame the requirement in terms of poles instead of overhead facilities; and
- Section 5. Annual Reports: FPL suggests that the Commission reject recommendations to modify section (5) of the draft rule to change the frequency of reporting and the substance of the reports.

COMMENTS

1. Poles owned by communications service providers should meet the same minimum safety and engineering standards applicable to electric utility poles.

In Section (2), the draft rule provides that all communications services providers' poles that fall under the Commission's jurisdiction must be "constructed, installed, maintained and inspected in accordance with the 2017 National Electric Safety Code (NESC) C2-2017." The 2017 edition of the NESC is the most current and is also applicable to electric utilities under Rule 25-6.0345 F.A.C. To ensure that the same minimum standards always apply to poles owned by both electric utilities and communications service providers, FPL suggests that Section (2) of the draft rule cross-reference the version of the NESC adopted by Rule 25-6.0345 as follows:

(2) Safety, Inspection, and Maintenance Standards. Each communications services provider must exercise due care to reduce hazards to which its employees, customers, and the public may be subjected by reason of its poles. Accordingly, all poles of communications services providers subject to the Commission's jurisdiction under Section 366.04(9), F.S., must be constructed, installed, maintained, and inspected in accordance with the ~~2017 version of the~~ National Electrical Safety Code (NESC) ~~C2-2017, which the Commission adopted in Rule 25-6.0345 Florida Administrative Code, hereby adopts and incorporates which is~~ incorporated by reference. Each communications services provider that owns poles with public utility facilities attached must comply with the standards in these provisions. ~~The 2017 NESC C2-2017 is copyrighted and may be inspected and examined at no cost at the Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850. A copy of the NESC C2-2017 may be obtained from the Institute of Electric and Electronic Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997.~~

This will reduce the number of rules that will need to be updated when the NESC is updated and will avoid the potential mismatch between the standards applicable across the shared pole network.

2. FPL suggests an eight-year cycle for the Commission's inspection cycle.

Section 3(a) of the Proposed Rule requires communications services providers to conduct inspections of poles to ensure adherence to NESC strength and clearance standards. The Commission left blank the required interval for pole inspections. FPL suggests once every eight

years is the appropriate cycle for inspection of poles under the Commission’s jurisdiction under the proposed rule. The Commission already requires an eight-year cycle for Investor-Owned Utilities (“IOU”) to conduct pole inspections. This requirement was informed by the historical performance of electric utility poles as a result of the climate, environment and conditions, including hurricanes, that IOUs’ poles are subjected to every year.

The Commission should reject the recommendation of a 10-year cycle made by Frontier Communications (“Frontier”) in its comments.¹ Frontier based the suggested 10-year cycle on a rule adopted by the state of Oregon. Oregon and Florida have entirely different climates and environmental conditions. Poles in Florida must withstand hurricane force winds. It is inappropriate to adopt a longer inspection cycle simply because it was adopted by a state that is subject to different weather and environmental conditions than the State of Florida.

In addition, Frontier recommended a change to Section (3)(a) to provide a recommended percentage or rate for pole inspections. While the rule should specify an interval during which all poles should be inspected, FPL does not believe it is necessary to require a defined percentage be completed in the intervening years. The affected company should be given the flexibility to determine its own allocation of pole inspections per year, so long as each pole is inspected once during the cycle. Through the annual reports recommended by Staff in Section 5 of the Proposed Rule, the Commission can effectively monitor and track the progress of pole inspections and plans of the communications services providers.

¹ See Document No. 12403-2021 filed October 26, 2021. Also, at the Commission’s rule-making workshop on October 27, 2021, CenturyLink indicated it adheres to a ten-year pole inspection cycle nation-wide. As discussed above regarding Frontier’s comments, the inspection cycle to which CenturyLink adheres outside of Florida should not set the benchmark for inspections in Florida.

For the reasons stated above, FPL suggests the Commission adopt eight years as the interval for pole inspections by communications services providers and that the Commission reject the recommendations of Frontier related to this section of the rule.

3. The Commission should specify minimum forms of required pole testing and inspections under Sections (3)(a) and (b) and reject recommendations to change the language in Section (3)(b) of the proposed rule to only visual or practical testing.

As proposed, Sections (3)(a) and (b) require that inspections of poles be conducted periodically to adhere to the strength and clearance standards of the NESC, and that any pole failing a strength test must be repaired or replaced to meet the NESC standards. The proposed language does not identify the types of testing to be conducted. FPL recommends Sections (3)(a) and (b) include a list of required forms of testing and inspection to ensure poles do not fail, as follows:

(3)(a) Each communications services provider must conduct inspections of its poles at least every ~~[insert inspection cycle]~~ 8 years to ensure adherence to the strength and clearance standards of the NESC. These inspections should, at a minimum, include visual inspections, above ground line sound and bore inspections, excavations with below ground line sound and bore inspections; and strength testing that compares the current pole circumference to the original circumference.

(b) Poles failing strength testing listed in subsection (3)(a) of this rule must be repaired or replaced to meet NESC standards.

Visual inspections alone will not suffice, and excavation and below grade inspections are necessary to ensure the safety and integrity of poles.

Both Frontier and CenturyLink recommend changes to Section (3)(b) of the proposed rule to limit the required pole inspections to only “visual or practical checks.” While visual checks should be used in conjunction with other testing, they should not be the only form of testing. Visual testing, as well as tests that communications service providers might deem “practical,” will not reveal any internal defect to the soundness of the pole and will not provide reliable data regarding

potential defects to the pole below ground level where many defects often lie hidden to the naked eye.

Frontier goes even further in the attempt to weaken the proposed rule by suggesting the striking of the requirement that poles failing inspection be “repaired or replaced.” The Commission should decline any such modification. The enabling statute itself requires the Commission to “regulate the . . . repair, replacement . . . requirements for poles of communication services providers.” § 366.04(9)(a), F.S. Thus, the legislature specifically contemplated the requirement to replace poles, and it is entirely reasonable – if not wholly logical – that replacements occur *on poles that fail inspection* and could not satisfy NESC standards through a repair. Frontier’s proposal to strike the word “replacement” raises questions about whether it intends to eliminate that requirement altogether. In the context of a rule that is intended to foster pole integrity, there should be no ambiguity regarding the requirement to replace poles that, in the absence of such replacement, would impair reliability of electric and communications services.

For these reasons, the Commission should adopt the specified inspection methods recommended by FPL as the minimum standards and reject the limitations suggested by Frontier and CenturyLink.

4. Electric facilities should be exempt from the vegetation management requirements of Section (4), and the Commission should reject Frontier’s requested change to limit the requirements to poles instead of overhead facilities.

FPL supports Staff’s language for Section (4) of the proposed rule, which requires communications service providers to clear overhead facilities of vegetation at least every three years. FPL agrees with the comments of Frontier, AT&T and CenturyLink that the overhead electrical facilities should be exempt from this requirement. The electrical space on the pole is subject to higher levels of safety requirements due to potential hazards that do not exist in the communications space. Therefore, vegetation management in the electric space should continue

to be performed by the owners of the electrical equipment or their specially qualified contractors, regardless of who owns the poles to which that equipment is attached. FPL proposes the following change to this Section (4):

(4) Vegetation Management Cycle. Each communications service provider must clear overhead facilities, except electrical facilities owned by an electric utility, of vegetation at least every three years.

FPL further recommends that the Commission reject Frontier’s proposal to limit the communications services providers’ requirement to clear vegetation to *poles only*, not the overhead facilities. Although vegetation should be trimmed around poles, it is also necessary to trim the vegetation found around overhead facilities that span between the poles. Such vegetation adds load to the poles, which was not necessarily accounted for when the parties performed the original engineering analysis. In addition, vegetation growth – even when it exists on the facilities and not on the poles – can become entangled or get caught on vehicles or other objects, which could lead to customer outages.

5. The Commission should reject recommendations to modify Section (5) of the proposed rule to change the frequency of reporting and the substance of the reports.

Frontier and CenturyLink both recommended the Commission modify the language in Section 5 of the proposed rule such that communications services providers would file reports on the status of their pole inspection and maintenance program only every five years, rather than annually as proposed in Staff’s draft. Frontier and CenturyLink claim that these reports will be burdensome and would not impact safety. Both their proposal and their reasoning contravene the purpose and intent of Section 366.04(9)(a), Florida Statutes, which requires the Commission to “regulate the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for poles of communication services providers.” The Legislature expressed unambiguously that the rules must make pole inspections,

including repair and replacements, and vegetation management mandatory, and it deemed these maintenance obligations to be so important that it provided the Commission authority to impose monetary penalties if communications service providers fail to comply. The only way the Commission can effectively and meaningfully discharge this mandate is to understand the current status of the inspection and maintenance programs and the conditions of the poles. Reducing the reporting requirement on those programs from annually to once every five years will not provide the necessary data for the Commission to fulfill its statutory obligation to regulate, and would instead allow safety and reliability to deteriorate without Commission awareness.

The Commission has a similar obligation with regard to the safety of electric utilities' facilities under Section 366.04(6), Florida Statutes, and it meets that obligation by requiring electric IOUs to submit annual reports of their pole inspection programs.² This requirement – including the annual interval – is based upon the knowledge and understanding gleaned from the performance of utility poles subject to Florida's unique climate and environment.

In order for the Commission to understand the effectiveness of communications services providers' pole inspection and maintenance programs and take timely action when deficiencies are found, the Commission and its staff must have timely and meaningful data and information. A proven way to obtain this data is to require the communications services providers to supply the data to the Commission in an annual report. Florida's unique climate and weather patterns, including the greater risk of hurricanes and tropical storms, counsel against a five-year reporting cycle. The suggestion to depart from the annual interval should be rejected.

Second, the Commission should reject Frontier's suggestions to eliminate the requirement that the annual reports contain specific information and data listed in Sections (5)(a) and (b) of the

² See Rule 25-6.030(4) F.A.C.

draft rule. Frontier’s recommended changes remove all requirements to provide the specified data and information, which is necessary for the Commission to meaningfully understand and address any deficiencies that might exist in the communications services providers’ pole inspection and maintenance programs.³ Frontier’s suggestion to keep records of its inspections and maintenance would place the burden on the Commission to request the data, rather than have the communications services providers compile and send the information for Commission review. And, because Frontier acknowledges in its proposed edits that it would “maintain written records to demonstrate compliance with these rules,” preparing the report containing that data cannot reasonably be deemed unduly burdensome. The Commission should reject these changes to sections (5)(a) and (b) because they defeat the legislative intent for the Commission to regulate the safety, vegetation management, inspection and maintenance of the Communications Services Providers’ poles.

CONCLUSION

FPL requests the Commission adopt the proposed edits described herein and contained in Exhibit A, and decline to adopt the contrary recommendations of Frontier and CenturyLink.

Respectfully submitted,

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³ This is compounded by Frontier’s request to change the reduced reporting to every five years as discussed above.

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FPL's Initial Comments to Proposed Rule 25-18.020

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Exhibit "A"

25-18.20 Pole Safety, Inspection, Maintenance, and Vegetation Management

1 (1) This rule applies to all communications services providers as defined in Section
2 3366.02(5), F.S., that own poles as defined in Section 366.02(6), F.S. This rule does not apply
3 to poles used solely to support wireless communications service facilities or poles with no
4 public utility electrical facilities attached. For the purposes of this rule, “overhead facilities”
5 are defined as fixtures, conductors, wires, cables, and other devices owned by public utilities
6 that are attached to poles owned by a communications services provider.

7 (2) Safety, Inspection, and Maintenance Standards. Each communications services
8 provider must exercise due care to reduce hazards to which its employees, customers, and the
9 public may be subjected by reason of its poles. Accordingly, all poles of communications
10 services providers subject to the Commission’s jurisdiction under Section 366.04(9), F.S.,
11 must be constructed, installed, maintained, and inspected in accordance with the 2017-version
12 of the National Electrical Safety Code (NESC) ~~C2-2017, which the Commission adopted in~~
13 Rule 25- 6.0345 Florida Administrative Code, hereby adopts and incorporates which is
14 incorporated by reference. Each communications services provider that owns poles with
15 public utility facilities attached must comply with the standards in these provisions. ~~The 2017-~~
16 ~~NESC C2-2017 is copyrighted and may be inspected and examined at no cost at the Florida~~
17 ~~Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.~~
18 ~~A copy of the NESC C2-2017 may be obtained from the Institute of Electric and Electronic~~
19 ~~Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997.~~

20 (3) Inspection Cycle and Repair and Replacement of Poles.

21 (a) Each communications services provider must conduct inspections of its poles at least
22 every ~~insert inspection cycle~~ 8 years to ensure adherence to the strength and clearance
23 standards of the NESC. These inspections should, at a minimum, include visual inspections.

1 above ground line sound and bore inspections, excavations with below ground line sound and
2 bore inspections; and strength testing that compares the current pole circumference to the
3 original circumference.

4 (b) Poles failing strength testing ~~listed in subsection (3)(a) of this rule~~ must be repaired
5 or replaced to meet NESC standards.

6 (4) Vegetation Management Cycle. Each communications services provider must clear
7 overhead facilities, ~~except electrical facilities owned by an electric utility,~~ of vegetation at least
8 every three years.

9 (5) Annual Reports. By June 1 of each year, each communications services provider must
10 file with the Commission Clerk an Annual Report.

11 (a) The Annual Report must include the following information for the prior calendar year:

12 1. The number of poles owned in whole or in part by the communications services provider
13 at the beginning and at the end of the calendar year;

14 2. The number of poles that were scheduled for inspection;

15 3. The number of poles actually inspected;

16 4. The number of poles that failed inspection;

17 5. The number of poles strength tested;

18 6. The number of poles that failed strength testing;

19 7. The number of poles repaired and a summary of the repairs;

20 8. The number of poles replaced and reason for replacement;

21 9. The number of poles relocated and reason for relocation;

22 10. The total miles of vegetation management conducted;

23 11. The total miles of vegetation management conducted for each technique used;

1 12. A description of the company's emergency procedures and protocols, including any
2 actual repairs or replacements of poles; and

3 13. A description of the company's storm restoration procedures and protocols including any
4 actual repairs or replacements of poles.

5 (b) The Annual Report must include the following information for the upcoming calendar
6 year:

7 1. The number of poles to be inspected;

8 2. The total miles of overhead facilities for which vegetation management will be conducted;
9 and

10 3. The total miles of each vegetation management technique to be used.

11 (6) Penalties. A willful violation or refusal to comply with this rule will result in monetary
12 penalties as follows:

13 (a) \$500 for the first violation;

14 (b) \$1,000 for the second violation;

15 (c) \$1,500 for the third violation;

16 (d) \$2,000 for the fourth violation; and

17 (e) \$5,000 for the fifth and any subsequent violation.