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STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

April 11, 2022

Ms. Anya C. Owens
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250
RuleAdoptions@DOS.MyFlorida.com

Via E-Mail

COMMISSION
CLERK

2022 APR 11 PM 3:23

RECEIVED-FPSC

Re: Rule Certification Packet for Rule 25-18.020, F.A.C., Pole Safety, Inspection, Maintenance, and Vegetation Management

Dear Ms. Owens:

Enclosed for filing is a complete rule certification packet for Rule 25-18.020, F.A.C., consisting of:

- (1) One copy of the coded text of the rule in Word version;
- (2) There are no materials incorporated by reference into this rule.
- (3) One copy of the signed rule certification form;
- (4) One copy of the signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One copy of the coded text of the rule, including the legal citations and history notes;
- (6) One copy of the summary of the rule;
- (7) One copy of the detailed written statement of the facts and circumstances justifying the rule; and
- (8) One copy of the summary of the hearings held on the rule.

Ms. Anya C. Owens
Page 2
April 11, 2022

Please let me know if you have any questions. The contact name and information for this rule is Margo DuVal, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6076, mduval@psc.state.fl.us.

Sincerely,

/s/ Margo A. DuVal

Margo DuVal
Senior Attorney

Enclosures

cc: Office of the Commission Clerk (Docket No. 20210138-PU)

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the ombudsman in the Executive Office of the Governor.

The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

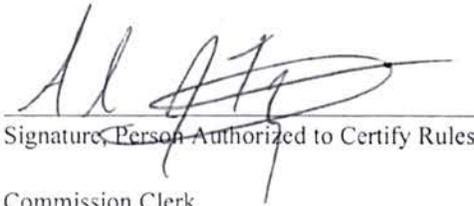
Rule No(s).

25-18.020	
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Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective Date: _____

(month) (day) (year)



Signature, Person Authorized to Certify Rules

Commission Clerk

Title

3

Number of Pages Certified

**DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

Rules covered by this certification:

Rule No(s).

25-18.020



Signature of Agency Head

Chairman, Florida Public Service Commission
Title

25-18.020 Pole Safety, Inspection, Maintenance, and Vegetation Management.

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

(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, relocated, and inspected in accordance with the National Electrical Safety Code (NESC), which is incorporated by reference in Rule 25-6.0345, F.A.C.

(3) Inspection, Repair, and Replacement of Poles. Each communications services provider must conduct inspections of its poles at least every eight (8) years to ensure adherence to the strength and clearance standards of the NESC. Inspections must include visual checks to determine compliance with the strength and clearance standards of the NESC. Poles not in compliance with NESC standards must be repaired or replaced to meet those standards.

(4) Vegetation Management of Poles. Each communications services provider must ensure that the vegetation management of its poles meets the standards set forth in Part 2 of the NESC.

(5) Emergency Response and Storm Restoration Procedures and Protocols. Within six months of the effective date of this Rule, each communications services provider must provide a copy of its emergency response and storm restoration procedures and protocols to the Division of Engineering.

(a) The procedures and protocols must include the following:

1. A description of the communications services provider's procedures and protocols for communicating with federal, state, and local emergency operations officials;

2. A description of how the public can contact the communication services provider to report issues with its poles, such as broken poles, downed overhead facilities, or obstructive vegetation; and

3. A description of the communication services provider's procedures to repair and replace damaged poles and overhead facilities, including protocols for coordinating with public utilities, through emergency response and storm

restoration efforts.

(b) If the communication services provider makes changes to its emergency response and storm restoration procedures and protocols, the communication services provider must file the updated emergency response and storm restoration procedures and protocols with the Division of Engineering within 30 days of the change.

(c) Every three calendar years after the initial submission, each communication services provider must notify the Division of Engineering in writing that it has reviewed its emergency response and storm restoration procedures and protocols.

(6) Reporting Requirements. By June 1 of each year, each communications services provider must file with the Commission Clerk an Annual Report.

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

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

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

3. The number of poles actually inspected;

4. The number of poles that failed inspection;

5. The number of poles strength tested and the methods used to ensure compliance with the NESC strength requirements;

6. The number of poles that failed strength testing;

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

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

9. The total miles of vegetation management conducted.

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

1. The number of poles to be inspected; and

2. The total miles for which vegetation management will be conducted.

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

(a) \$500 for the first violation;

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

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

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

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

Rulemaking Authority 350.127(2), 366.04(9)(b) FS. Law Implemented 366.04(9), 366.095 FS. History-

New _____.

SUMMARY OF THE RULE

Rule 25-18.020 identifies the entities that must comply with the rule; establishes safety, inspection, and maintenance standards for poles; sets forth requirements for inspection, repair, replacement, and vegetation management of poles; sets forth requirements for the submission of emergency response and storm restoration procedures and protocols; establishes the filing date and requirements for an annual report; and establishes monetary penalties for a willful violation or refusal to comply with the rule.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Rule 25-18.020 administers and implements Section 366.04(9), Florida Statutes, which concerns the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for poles of communications services providers. This rule is required by Section 366.04(9)(b), Florida Statutes.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS

Governor

LAUREL M. LEE

Secretary of State

April 11, 2022

Margo DuVal
Senior Attorney
Florida Public Service Commission
Office of the General Counsel
2540 Shumard Oak Blvd.
Tallahassee, FL 32399

Attention: Julie Phillips

Dear Margo DuVal:

Your adoption package for Rule 25-18.020, F.A.C. was received, electronically, by the Florida Department of State, Administrative Code and Register at 8:01 a.m. on April 11, 2022. After review, it appears that the package meets statutory requirements and those of Rule 1-1.010, F.A.C. and is deemed filed for adoption at the time received, as indicated above. The effective date is May 01, 2022.

Sincerely,

Anya C. Owens
Program Administrator
Florida Administrative Code and Register
Florida Department of State
R.A. Gray Building
Tallahassee, FL 32399

ACO/mas

WILTON SIMPSON
President



Senator Ben Albritton, Chair
Representative Rick Roth, Vice Chair
Senator Lorraine Ausley
Senator Jason Brodeur
Senator Danny Burgess
Senator Shevvin D. "Shev" Jones
Representative Wyman Duggan
Representative Yvonne Hayes Hinson
Representative Thomas Patterson "Patt" Maney
Representative Angela "Angie" Nixon
Representative Anthony Sabatini

CHRIS SPROWLS
Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
japc@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

CERTIFICATION

Department: Public Service Commission
Agency:
Rule No(s): 25-18.020
File Control No: 186344

As required by subparagraph 120.54(3)(e)4 F.S., the Joint Administrative Procedures Committee hereby certifies that:

- There were no material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rule; or
- The adopting agency has responded in writing to all material and timely written comments or written inquiries made on behalf of the committee regarding the above listed rules; or
- The adopting agency has not responded in writing to all material and timely written comments or written inquiries made on behalf of the Committee regarding the above listed rules.

Certification Date: 4/11/2022

This certification expires after: 4/18/2022

Certifying Attorney: Jamie Jackson

NOTE:

- The above certified rules include materials incorporated by reference.*
- The above certified rules do not include materials incorporated by reference.*

Julie Phillips

From: RuleAdoptions <RuleAdoptions@Dos.myflorida.com>
Sent: Monday, April 11, 2022 1:46 PM
To: Julie Phillips; Joint Administrative Procedures Committee
Cc: Margo DuVal; Owens, Anya C. (Grosenbaugh)
Subject: Adoption Packet for 25-18.020
Attachments: 25-18.020.pdf

Good afternoon,

The attached rule adoption packet for 25-18.020, F.A.C. was filed in our office today.

Please feel free to contact me via email or phone if you have any further questions.

Respectfully,

Margaret Swain
Government Operations Consultant III
Florida Administrative Code and Register
Room 701 The Capitol | Tallahassee, Florida
(850)245-6208

From: Julie Phillips <JPhillip@PSC.STATE.FL.US>
Sent: Monday, April 11, 2022 8:01 AM
To: RuleAdoptions <RuleAdoptions@Dos.myflorida.com>
Cc: Margo DuVal <mduval@psc.state.fl.us>; Julie Phillips <JPhillip@PSC.STATE.FL.US>
Subject: Rule Certification packet for 25-18.020, F.A.C.

EMAIL RECEIVED FROM EXTERNAL SOURCE

The attachments/links in this message have been scanned by Proofpoint.

Anya/Margaret,

Attached you will find the entire Certification Packet for Rule 25-18.020, F.A.C., and the Word version of the coded text of the rule.

Please verify receipt by "Reply All".

Thank you.

Julie Phillips
Office of the General Counsel
Florida Public Service Commission
850.413.6084

Swain, Margaret A.

From: Julie Phillips <JPhillip@PSC.STATE.FL.US>
Sent: Monday, April 11, 2022 8:01 AM
To: RuleAdoptions
Cc: Margo DuVal; Julie Phillips
Subject: Rule Certification packet for 25-18.020, F.A.C.
Attachments: 25-18.020 10 pt. for adoption.docx; 25-18.020 adoption cert pkt to DOS.pdf

EMAIL RECEIVED FROM EXTERNAL SOURCE

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Please verify receipt by "Reply All".

Thank you.

Julie Phillips
Office of the General Counsel
Florida Public Service Commission
850.413.6084