

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show cause proceeding  
against Consolidated Communications of  
Florida Company for apparent violation of  
Rule 25-18.020(6), Florida Administrative  
Code (F.A.C.).

DOCKET NO. 20230107-TL  
ORDER NO. PSC-2023-0362-SC-TL  
ISSUED: November 29, 2023

The following Commissioners participated in the disposition of this matter:

ANDREW GILES FAY, Chairman  
ART GRAHAM  
GARY F. CLARK  
MIKE LA ROSA  
GABRIELLA PASSIDOMO

ORDER TO SHOW CAUSE CONSOLIDATED COMMUNICATIONS OF FLORIDA  
COMPANY FOR APPARENT VIOLATION OF RULE 25-18.020(6), FLORIDA  
ADMINISTRATIVE CODE

BY THE COMMISSION:

**Background**

Consolidated Communications of Florida Company (Consolidated Communications) is a communications services provider that must file certain information with the Commission pursuant to Section 366.04(9)(a), Florida Statutes (F.S.) and Rule 25-18.020(6), Florida Administrative Code (F.A.C.). Commission staff opened the instant docket to initiate show cause proceedings against Consolidated Communications for apparent violation of the pole safety reporting rule, Rule 25-18.020(6), F.A.C.

Section 366.04(9)(a), Florida Statutes (F.S.), Jurisdiction of Commission, requires that the Commission regulate the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for communications services providers' poles that have public utility (i.e., investor-owned electric utility) attachments. Rule 25-18.020, Florida Administrative Code (F.A.C.), Pole Safety, Inspection, Maintenance, and Vegetation Management, became effective and applies to communications services providers that own poles, as defined in Section 366.02(5), F.S., with attached public utility electrical overhead facilities. This rule applies to all communications services providers as defined in

Section 366.02(3), 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

Pursuant to Rule 25-18.020(6), F.A.C., a communications services provider that falls under the rule must file an Annual Report detailing the pole inspections and vegetation management activities for the prior year is required to be filed by June 1 of each year. In addition, the Annual Report should contain activities that the communications services provider has planned for the upcoming year. Rule 25-18.020 (7), F.A.C., also requires the Commission to impose upon a non-compliant utility a penalty of \$500 for the first violation, and up to \$5,000 for the fifth violation of the Rule pursuant to Section 366.095, F.S.

Consolidated Communications is subject to Rule 25-18.020(6), F.A.C., because it is a communications services provider that owns poles as defined in Section 366.02(5), F.S. Florida Power & Light (FPL) and Duke Energy Florida (DEF) have pole attachments to Consolidated Communications' poles. However, Consolidated Communications did not file an Annual Report on June 1, 2023, and thus, is not in compliance with the rule.

To achieve compliance, Commission staff contacted Consolidated Communications by email on June 5, 2023, and June 12, 2023, but Consolidated Communications did not respond (Attachment A). On July 13, 2023, Commission staff sent a letter, by certified mail, to Consolidated Communications requesting the Annual Report be submitted by August 3, 2023 (Attachment B). The certified letter was received on July 25, 2023, and signed for by James Warta (Attachment C). Consolidated Communications did not respond. As a result, Consolidated Communications is not in compliance with Rule 25-18.020(6), F.A.C. at this time.

We have jurisdiction pursuant to 366.04(9), F.S.

## **Pole Safety Information Required to be Filed by Communications Service Providers**

### **I. Applicable Law**

Section 366.04(9)(a), F.S., requires us to regulate the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for communications services providers' poles. Rule 25-18.020, F.A.C., requires communications services providers that own poles with attached public utility electrical overhead facilities to file an annual report each year by June 1. The Rule requires us to impose upon a non-compliant utility a penalty of \$500 for the first violation, and up to \$5,000 for the fifth violation of the Rule.

### **II. Factual Allegations**

Consolidated Communications is a communications services provider as defined by Section 366.02(3), F.S. Consolidated Communications owns poles as defined by Section 366.02(5), F.S. Public utilities, FPL and DEF, have pole attachments, as defined by Section

366.02(6), F.S., on Consolidated Communications owned poles. Rule 25-18.020, F.A.C. applies to all communications services providers that own poles. Consolidated Communications meets the requirements of Rule 25-18.020, F.A.C.

Rule 25-18.020(6) F.A.C., requires each communications services provider to file an Annual Report with the Commission Clerk by June 1 of each year. Consolidated Communications failed to file the report by June 1, 2023. To achieve compliance, Commission staff subsequently contacted Consolidated Communications three times and received no response, and the company never filed its Annual Report with the Commission. Consolidated Communications has failed to comply with the requirements of 25-18.020(6), F.A.C.

### **III. Conclusions of Law**

Compliance with Rule 25-18.020 F.A.C. is not optional. Moreover, we find compliance with the rule is important because it involves the safety of communications services providers' poles. Consolidated Communications' failure to comply will result in a penalty assessed by the Commission of \$500 under Section 366.095, F.S., and Rule 25-18.020(7), F.A.C., as this is its first violation of Rule 25-18.020(6), F.A.C. Alternatively, Consolidated Communications may late file its Annual Report with a \$500 penalty with the Commission Clerk. If we are in receipt of both the Annual Report and the \$500 payment within the 21 day period, we will no longer pursue its show cause proceedings.

### **IV. Decision to Show Cause**

A show cause order is considered our administrative complaint against the utility, in this case a communications services provider that has pole attachments with a regulated utility. If we issue a show cause order, the communications services provider is required to file a written response, which must contain specific allegations of disputed fact. If there are no disputed factual issues, the communications services provider's response should so indicate. The response must be filed within 21 days of service of the show cause order on the respondent.

The communications services provider may respond and request a hearing pursuant to Sections 120.569 and 120.57, F.S. If the communications services provider requests a hearing, a hearing will be scheduled before we make a final determination on the matter. The communications services provider may also respond to the show cause order by remitting required information, in this case the Annual Report, and the penalty in the amount of \$500 within 21 days from issuance of this order. If the communications services provider does that, the show cause matter is considered resolved, and the docket is closed.

In this case, we order Consolidated Communications to show cause, in writing, within 21 days from the issuance of the order, why it did not file its Annual Report by June 1, 2023, in violation of Rule 25-18.020(6), F.A.C., and why it should not have be fined \$500 for failure to comply with Rule 25-18.020(6) F.A.C. Alternatively, Consolidated Communications may late file its Annual Report with a \$500 penalty with the Commission Clerk. If we are in receipt of both the Annual Report and the \$500 payment within the 21 day period, we will no longer pursue its show cause proceedings.

Based on the foregoing, it is

ORDERED that Consolidated Communications of Florida Company shall respond to the show cause Order within 21 days of service on the Company, and the response shall reference Docket No. 20230107-TL, Initiation of show cause proceeding against Consolidated Communications of Florida Company for apparent violation of Rule 25-18.020(6), F.A.C. It is further,

ORDERED that Consolidated Communications of Florida Company has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, F.S., and to be represented by counsel or other qualified representative. If Consolidated Communications of Florida Company makes a request for a hearing pursuant to Sections 120.569 and 120.57, F.S., a further proceeding will be scheduled before a final determination of this matter is made. It is further,

ORDERED that Consolidated Communications of Florida Company' response to the show cause Order shall identify those material facts that are in dispute. If there are none, the petition must so indicate. It is further

ORDERED that a failure by Consolidated Communications of Florida Company to file a timely written response to the show cause Order will constitute an admission of the facts alleged herein, and a waiver of the right to a hearing on this issue. It is further

ORDERED that, if Consolidated Communications of Florida Company responds to this Order to Show Cause by filing its Annual Report and its penalty in the amount of \$500 within 21 days of the issuance of this order, this show cause matter will be considered resolved, and the docket shall be closed administratively.

ORDERED that, if Consolidated Communications of Florida Company fails to file its Annual Report to remit payment of its penalty in the amount of \$500 within 21 days of the issuance of this Order, the docket shall remain open and the Florida Public Service Commission's staff is hereby authorized to pursue all reasonable means necessary to collect the amounts owed by Consolidated Communications.

By ORDER of the Florida Public Service Commission this 29th day of November, 2023.



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ADAM J. TEITZMAN  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399  
(850) 413-6770  
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

JDI

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by this show cause order may file a response within 21 days of issuance of the show cause order as set forth herein. This response must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on December 20, 2023.

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Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing and a default pursuant to Rule 28-106.111(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or wastewater utility by filing a notice of appeal with the Office of Commission Clerk, and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.

**From:** [Penny Buys](#)  
**To:** "[James.Warta@consolidated.com](mailto:James.Warta@consolidated.com)"; "[Bardsley.Susanne.M](mailto:Bardsley.Susanne.M)"; "[ocuster@townes.net](mailto:ocuster@townes.net)"  
**Cc:** [Marissa Ramos](#)  
**Subject:** "Annual Pole Reports" per Rule 25-18.020, FAC  
**Date:** Monday, June 05, 2023 12:00:55 PM

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Good afternoon,

This is a friendly reminder that per Rule 25-18.020(6), F.A.C., each communications service provider, who own poles with public utility electrical overhead facilities attached, is required to file with the Commission an Annual Pole report by June 1. Please file your company's report with the Commission Clerk, <https://secure.floridapsc.com/ClerkOffice/EfilingPublic>. In addition, please email me a copy of your company's report and let me know if you have any questions.

Thank you,

*Penelope Buys*  
*Engineering Specialist*  
*Division of Engineering*  
*Florida Public Service Commission*  
*(850) 413-6518*  
[pbuys@psc.state.fl.us](mailto:pbuys@psc.state.fl.us)



**From:** [Penny Buys](#)  
**To:** "[James.Warta@consolidated.com](mailto:James.Warta@consolidated.com)"; "[Bardsley, Susanne M](mailto:Bardsley.Susanne.M)"; "[ccuster@townes.net](mailto:ccuster@townes.net)"  
**Cc:** [Marissa Ramos](#)  
**Subject:** RE: "Annual Pole Reports" per Rule 25-18.020, FAC  
**Date:** Monday, June 12, 2023 10:02:36 AM

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Good morning,

This is a second reminder that per Rule 25-18.020(6), F.A.C., each communications service provider, who own poles with public utility electrical overhead facilities attached, is required to file with the Commission an Annual Pole report by June 1. Please file your company's report with the Commission Clerk, <https://secure.floridapsc.com/ClerkOffice/EfilingPublic> and email me a copy as well. If your company does not have IOU's attached to their poles, please let me know.

Additionally, please be mindful of subsection 7 of this Rule which lays out the penalties for non-compliance.

If you have any questions, please don't hesitate to reach out.

Thank you,

*Penelope Buys*  
*Engineering Specialist*  
*Division of Engineering*  
*Florida Public Service Commission*  
*(850) 413-6518*  
*pbuys@psc.state.fl.us*

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**From:** Penny Buys  
**Sent:** Monday, June 05, 2023 12:01 PM  
**To:** 'James.Warta@consolidated.com' <James.Warta@consolidated.com>; 'Bardsley, Susanne M' <Susanne.Bardsley@windstream.com>; 'ccuster@townes.net' <ccuster@townes.net>  
**Cc:** Marissa Ramos <mramos@psc.state.fl.us>  
**Subject:** "Annual Pole Reports" per Rule 25-18.020, FAC

Good afternoon,

This is a friendly reminder that per Rule 25-18.020(6), F.A.C., each communications service provider, who own poles with public utility electrical overhead facilities attached, is required to file with the Commission an Annual Pole report by June 1. Please file your company's report with the Commission Clerk, <https://secure.floridapsc.com/ClerkOffice/EfilingPublic>. In addition, please email me a copy of your company's report and let me know if you have any questions.

Thank you,



*Penelope Buys*  
*Engineering Specialist*  
*Division of Engineering*  
*Florida Public Service Commission*  
*(850) 413-6518*  
[pbuys@psc.state.fl.us](mailto:pbuys@psc.state.fl.us)

COMMISSIONERS:  
ANDREW GILES FAY, CHAIRMAN  
ART GRAHAM  
GARY F. CLARK  
MIKE LA ROSA  
GABRIELLA PASSIDOMO

STATE OF FLORIDA



DIVISION OF ENGINEERING  
TOM BALLINGER  
DIRECTOR  
(850) 413-6910

## Public Service Commission

July 13, 2023

Mr. James Warta  
Consolidated Communications of Florida Company  
26 Yarmouth Lane, Suite 100  
Downingtown, PA 19335

CERTIFIED MAIL

**Re: Rule 25-18.020, Florida Administrative Code - Pole Safety, Inspection, Maintenance, and Vegetation Management: Annual Report**

Dear Mr. Warta:

On May 1, 2022, Rule 25-18.020, Florida Administrative Code (F.A.C.), became effective and applies to communication services providers that own poles with attached public utility electrical overhead facilities. Pursuant to Rule 25-18.020(6), F.A.C., an Annual Report detailing the pole inspections and vegetation management activities for the prior year is required to be filed by June 1 of each year. In addition, the report should contain activities that are planned the upcoming year. The Commission has not received a report on behalf of Consolidated Communications of Florida Company. This is our third contact attempt regarding this matter. Reminder emails were previously sent on June 5, 2023, and June 12, 2023, requesting that an annual report be filed to ensure compliance.

Compliance with Rule 25-18.020(6), F.A.C., is not optional. Please be aware that the continued failure to comply with Commission regulatory requirements may result in staff initiating a compliance proceeding pursuant to Section 366.095, Florida Statutes and Rule 25-18.020(7), F.A.C. That Rule authorizes the Commission to impose upon a non-compliant utility a penalty of \$500 for the first violation up to \$5,000 for the fifth violation of the Rule. Therefore, please submit Consolidated Communications of Florida Company's Annual Pole Inspection and Vegetation Management Report to the address below by **Thursday, August 3, 2023**.

Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
<https://secure.floridapsc.com/ClerkOffice/EfilingPublic>

Should you have any questions, please contact Mrs. Penelope Buys by phone at (850) 413-6518 or email at [pbuys@psc.state.fl.us](mailto:pbuys@psc.state.fl.us).

Sincerely,

*/s/ Penelope D. Buys*

Penelope D. Buys  
Engineering Specialist

PB:pz

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"><li>■ Complete items 1, 2, and 3.</li><li>■ Print your name and address on the reverse so that we can return the card to you.</li><li>■ Attach this card to the back of the mailpiece, or on the front if space permits.</li></ul>	<p>A. Signature <input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) C. Date of Delivery</p>
<p>1. Article Addressed to:</p> <p>Mr. James Warta <b>CERTIFIED MAIL</b> Consolidated Communications of Florida 26 Yarmouth Lane, Suite 100 Dowlingtown, PA 19335</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
<p>9590 9402 6460 0346 0030 15</p>	<p>3. Service Type <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature <input type="checkbox"/> Registered Mail™ <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail® <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500)</p>
<p>2. Article Number (Transfer from service label) 7020 1290 0000 7279 0985</p>	
<p>PS Form 3811, July 2020 PSN 7530-02-000-9053</p>	<p>Domestic Return Receipt</p>

<p>USPS TRACKING #</p> <p>9590 9402 6460 0346 0030 15</p>	<p>First-Class Mail Postage &amp; Fees Paid USPS Permit No. G-10</p>
<p>United States Postal Service</p>	<p>* Sender: Please print your name, address, and ZIP+4® in this box*</p> <p>FLORIDA PUBLIC SERVICE COMMISSION ATTN: PENELOPE BUYS (RE: Mr. James Warta, Consolidated) 2540 SHUMARD OAK BLVD. TALLAHASSEE, FL 32399-0850</p>
<p>9590 9402 6460 0346 0030 15</p>	