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MEMORANDUM

July 26, 2006

06 JUL 26 PM 2:51

COMMISSION
CLERK

TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES

FROM: OFFICE OF THE GENERAL COUNSEL (HARRIS) *DA*

RE: DOCKET NO. 060172-EU – PROPOSED RULES GOVERNING PLACEMENT OF NEW ELECTRIC DISTRIBUTION FACILITIES UNDERGROUND, AND CONVERSION OF EXISTING OVERHEAD DISTRIBUTION FACILITIES TO UNDERGROUND FACILITIES, TO ADDRESS EFFECTS OF EXTREME WEATHER EVENTS.

DOCKET NO. 060173-EU – PROPOSED AMENDMENTS TO RULES REGARDING OVERHEAD ELECTRIC FACILITIES TO ALLOW MORE STRINGENT CONSTRUCTION STANDARDS THAN REQUIRED BY NATIONAL ELECTRIC SAFETY CODE.

Attached is a REQUEST TO ESTABLISH DOCKET, with attachments.

LDH/
Attachments

DOCUMENT NUMBER-DATE

06583 JUL 26 g

FPSC-COMMISSION CLERK

REQUEST TO ESTABLISH DOCKET

(Please Type)

Date: 7/26/2002 **Docket No.:**

1. Division Name/Staff Name: GCL/Harris *JH*

2. OPR: GCL/Harris, Moore

3. OCR: ECR/Trapp, Kummer, Bremen, McNulty,

4. Suggested Docket Title: Proposed Adoption of New Rule 25-6.0343, F.A.C., Standards of Construction - Municipal Electric Utilities and Rural Electric Cooperatives

5. Suggested Docket Mailing List (attach separate sheet if necessary)
A. Provide NAMES OR ACRONYMS ONLY if a regulated company.
B. Provide COMPLETE NAME AND ADDRESS for all others. (Match representatives to companies.)
1. Parties and their representatives (if any):

Industry distribution list -EM	Industry Distribution List -EC

2. Interested persons and their representatives (if any):

6. Check one:
 Documentation is attached.
 Documentation will be provided with recommendation.

DOCUMENT NUMBER-DATE

06583 JUL 26 8

BEFORE THE PUBLIC SERVICE COMMISSION

In re: Proposed rules governing placement of new electric distribution facilities underground, and conversion of existing overhead distribution facilities to underground facilities, to address effects of extreme weather events.

DOCKET NO. 060172-EU

In re: Proposed amendments to rules regarding overhead electric facilities to allow more stringent construction standards than required by National Electric Safety Code.

DOCKET NO. 060173-EU
ORDER NO.
ISSUED:

ORDER GRANTING MOTION TO BIFURCATE PROCEEDINGS AND ESTABLISH CONTROLLING DATES AND ESTABLISHING NEW DOCKET

BY THE COMMISSION:

On June 20, 2006, we considered staff's recommendation to propose new rules to increase the safety and reliability of Florida's electrical grid in the face of increased extreme weather events. On that date, we voted to propose several new rules, including new Rule 25-6.0343, which sets requirements for standards of construction, location of facilities, and pole attachment standards and procedures for municipally-owned electrical utilities (Municipals) and rural electrical cooperatives (Cooperatives).¹ We also voted on that date to set the three new proposed rules directly for hearing, including new Rule 25-6.0343. Notice of the proposed rules was published in the July 7, 2006, Florida Administrative Weekly. The three new proposed rules were set for hearing on August 22, 2006; that date has been changed to August 31, 2006.

On July 18, I issued Order No. PSC-06-0610-PCO-EU, Order Establishing Procedure, which set forth controlling dates for the August 31, 2006 hearing on the three new proposed rules (25-6.0341, 25-6.0342, and 25-6.0343). Affected persons must file comments, testimony, or proposed alternative rule language by August 4, 2006, and reply comments or testimony must be filed by August 18, 2006.

On July 24, 2006, the Florida Electric Cooperatives Association, Inc. (FECA) filed a Motion for Bifurcation of Proceeding and Request for Hearing and Rescheduled Comments. In their Motion, FECA asserts that the scope of the existing 060172-EU and 060173-EU dockets has expanded considerably, and FECA is concerned that the circumstances unique to Municipals and Cooperatives may not be fully developed at the August 31, 2006 hearing. FECA also states that it has developed a proposed alternative Rule, and has begun discussions with staff in the expectation of arriving at negotiated rule language which will accomplish the Commission's goal

¹ New proposed Rules 25-6.0341, Location of Utility's Electric Distribution Facilities, and 25-6.0342, Third Party Attachment Standards and Procedures, were also proposed. These two Rules apply to Investor Owned Utilities only.

of increasing the reliability and safety of Florida's electrical grid without leading to a rule challenge over the Commission's jurisdiction.

FECA asserts that being required to devote resources to meeting the existing controlling dates and preparing for hearing on August 31, 2006 will hinder FECA's ability to work cooperatively with staff to develop alternative rule language for the Commission's consideration. FECA instead proposes bifurcation of these proceedings, so that the Commission may consider proposed Rule 25-6.0343 in a separate hearing not involving proposed Rules 25-6.0341 and 25-6.0342. FECA proposes a new hearing date of October 4, 2006, and proposes controlling dates for the filling of comments and testimony leading up to that date, as follows:

Comments on Proposed Rule 25-6.0343	September 8, 2006
Reply Comments	September 22, 2006
Rule Hearing	October 4, 2006

I have considered FECA's Motion, and find its rationale for requesting bifurcation of the proceeding well founded. Providing the opportunity for staff and the Municipals and Cooperatives the opportunity to negotiate language for our consideration is a reasonable use of Commission resources, and the dates proposed by FECA will allow progress on negotiations, while not adding needless delay in adopting these important new Rules.

I also agree with FECA's concerns that the special considerations and circumstances relating to Municipals and Cooperatives may not be adequately advanced in this proceeding as it is currently structured. FECA's Motion for Bifurcation is reasonable, but does not go far enough to simplify this proceeding. Accordingly, it is my decision that a new docket should be created for new proposed Rule 25-6.0343. That new docket should contain the record of these existing dockets up to this point.

Based upon the foregoing, it is

ORDERED that Florida Electrical Cooperatives Association, Inc.'s Motion for Bifurcation of Proceeding and Rescheduled Comments is granted as set forth in the body of this Order. It is further

ORDERED that a new docket shall be established for new proposed Rule 25-6.0343. It is further

ORDERED that a rule hearing for new proposed Rule 25-6.0343 shall be held on October 4, 2006, and controlling dates shall be established as set forth in this order and any Order Establishing Procedure which may be subsequently issued.

By ORDER of Commissioner Isilio Arriaga, as Prehearing Officer, this ____ day of _____, _____.



ISILIO ARRIAGA
Commissioner and Prehearing Officer

(S E A L)

LDH

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.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.

The following are a list of documents that need to be copied/imported/incorporated from the 060172EU and 060173EU dockets into this new docket.

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06302-06
06293-06
06228-06
06126-06
06125-06
06124-06
05799-06
05796-06
05570-06
05355-06
05339-06
04954-06
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