

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for a Variance from or
Waiver of the Annual Reporting
Requirements in Rule 25-6.0343 of
the Florida Administrative Code, for
Municipal Electric Utilities and
Rural Electric Cooperatives

Docket No. 160040-EU
Filed: February 25, 2016

**PETITION OF THE FLORIDA MUNICIPAL
ELECTRIC ASSOCIATION, INC.**

The Florida Municipal Electric Association, Inc. ("FMEA"), on behalf of its 33 public power members, respectfully petitions the Florida Public Service Commission ("PSC" or "Commission") for a variance from or a waiver of the annual reporting requirements in rule 25-6.0343 of the *Florida Administrative Code*, pursuant to rule 28-104.002, and section 120.542, Florida Statutes (2015). Specifically, FMEA is requesting that the requirement in rule 25-6.0343(2), to annually report constructions standards, facility inspections and vegetation management efforts, be waived or varied to allow for municipal electric utility reports to be filed every three years. The change would reduce the frequency of reports required to be submitted, but FMEA believes a three year reporting cycle would still provide the necessary information to the PSC staff to allow them to evaluate each municipal electric utility's plan to inspect, maintain, and protect its facilities from extreme weather damage.

In support of receiving a variance or waiver from Rule 25-6.0343, FMEA submits the following:

I. SUMMARY OF PETITION

Rule 25-6.0343 was adopted after the devastating 2004 and 2005 hurricane seasons in Florida. The purpose of the rule is to provide the Commission with information on how each municipal electric utility (and distribution electric cooperative) is evaluating, preparing and maintaining its transmission and distribution facilities in order to mitigate damages caused by extreme weather events. The municipal electric utilities must file annual reports which address (1) the extent to which its construction standards, policies, guidelines, practices and procedures: (a) comply with the National Electrical Safety Code (“NESC”); (b) are guided by the NESC extreme wind loading standards; (c) address the effects of flooding and storm surges; (d) provide for placement of new and replacement distribution facilities; and (e) include written safety, pole reliability, pole loading capacity and engineering standards for attachments by others; (2) transmission and distribution facility inspections; and (3) information pertaining to the utility’s vegetation management efforts. Florida’s investor-owned electric utilities (“IOUs”) have similar reporting requirements, however, the Commission only requires the IOUs to submit a report every three years.

FMEA’s members have filed annual construction reports since the Rule’s inception in 2006. The PSC staff summarizes each report in a table that is attached as an appendix in the report *Review of Investor-Owned Utilities Service Reliability Reports*. On January 14, 2015, the PSC staff held an informal meeting for all electric utilities to discuss the

reliability report. At this meeting FMEA and the Florida Electric Cooperatives Association, Inc. questioned whether this information was needed every year, and whether it could be on the same schedule as the IOUs, which is every 3 years. There was no objection from staff as to a three-year reporting interval, and it was suggested that this could be accomplished through a petition for a rule variance or waiver.

II. FMEA'S INTEREST ON BEHALF OF ITS MUNICIPAL ELECTRIC UTILITY MEMBERS

FMEA is a Florida non-profit corporation and the statewide trade association that represents the interests of Florida's public power electric utilities. FMEA's public power members are: the City of Alachua; the City of Bartow; the City of Blountstown; the City of Bushnell; the City of Chattahoochee; the City of Clewiston; the City of Fort Meade; the Fort Pierce Utilities Authority; the City of Gainesville (Gainesville Regional Utilities); the City of Green Cove Springs; the Town of Havana; the City of Homestead; JEA (the City of Jacksonville); the City of Jacksonville Beach (Beaches Energy Services); the Utility Board of the City of Key West, Florida (Keys Energy Services); the Kissimmee Utility Authority; the City of Lake Worth, the City of Lakeland (Lakeland Electric); the City of Leesburg; the City of Moore Haven; the City of Mount Dora; the Utilities Commission, City of New Smyrna Beach; the City of Newberry; the City of Ocala; the Orlando Utilities Commission; the City of Quincy; the City of Starke; the City of Tallahassee; the City of Wauchula; the City of Williston; the City of Winter Park; and Reedy Creek Improvement District.

Florida's public power electric utilities are diverse in geography, size, revenue, number of customers, and other characteristics, but they are committed to providing highly reliable electric service to their communities at low cost, while providing for the overall benefit of those communities they serve. In this pursuit, FMEA is the statewide advocate for Florida's public power communities, including before the Legislature and state agencies. FMEA's member utilities serve approximately fifteen percent (15%) of Florida's electric load, or approximately three million Floridians. If the Commission approves the above-captioned variance or waiver, such approval will be applicable to each of FMEA's members individually.

III. COMMUNICATIONS

Communications regarding these proceedings should be directed to the following:

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IV. VARIANCE FROM OR WAIVER OF THE ANNUAL REPORTING REQUIREMENT IN RULE 25-6.0343

The purpose of rule 25-6.0343 is to "define certain reporting requirements by municipal electric utilities and rural electric cooperatives providing distribution service to end-use customers in Florida," which reports are to include information regarding the

municipal electric utilities' and rural electric cooperatives' standards of construction, facility inspections, and vegetation management efforts. Rule 25-6.0343 implements section 366.04(2)(f)(6), Florida Statutes (2015).

Pursuant to rule 25-6.0343(2), utility reports are currently filed annually. The IOUs file similar reports pursuant to rule 25-6.0342 of the Florida Administrative Code. However, pursuant to rule 25-6.0342(2), the IOUs' reports are only filed every three years, not annually.

The Commission can grant FMEA's request under section 120.542(2), Florida Statutes, when the purpose of the underlying statute will be, or has been, achieved by other means, and when application of a rule would violate principles of fairness. These requirements are met here and, therefore, FMEA's petition should be granted.

Section 366.04(2)(f), Florida Statutes, authorizes the Commission to "prescribe and require the filing of periodic reports . . . as may be reasonably available and as necessary to exercise its jurisdiction" *Id.* The statute is silent as to the frequency of filing.

The purpose of rule 25-6.0343 is to provide enough information for the Commission to determine if a utility is prudently upgrading and hardening its facilities to mitigate damages from extreme weather. Improvements and "hardening" of a utility's transmission and distribution facilities is a continuous, deliberate process which is gradually accomplished through long term planning. Each year, improvements, modifications and repairs are made to strengthen a utility's system, however, FMEA believes that reviewing these improvements over a longer period (three years rather than

the current one-year review period) may actually be more beneficial for the Commission because staff will be able to more readily evaluate significant improvements.

Since the Commission has determined that it is sufficient for the IOUs to file similar reports every three years, FMEA believes it is also fair to allow municipal electric utilities (and the rural electric cooperatives) to file on the same reporting schedule instead of annually. This would lessen the man hours spent by utility personnel on generating the reports and would provide essentially the same information on a more comprehensive basis. If granted, FMEA requests that the waiver or variance be permanent.

V. CONCLUSION

FMEA believes a permanent waiver or variance from the annual reporting requirement under rule 25-6.0343(2), to allow for a three-year reporting requirement should be granted. Such a three-year window will both satisfy the purpose of the rule and should provide staff with the necessary data to evaluate and ensure that each of Florida's municipal electric utilities is prudently enhancing its transmission and distribution facilities to mitigate damages from extreme weather. If granted, FMEA believes it would benefit staff if the three-year reporting cycle coincided with the IOUs' filings; therefore, the three-year clock should begin on March, 2016. This request will not have any impact on the reports to be filed by FMEA's members this year.

Respectfully submitted,

/s/ Daniel B O'Hagan

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