

State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** May 24, 2017

**TO:** Office of Commission Clerk (Stauffer)

**FROM:** Office of the General Counsel (Page)  
Division of Economics (Rome) *CAR EJD OS SML*  
Division of Engineering (Moses) *[Signature]*

**RE:** Docket No. 170034-EU – Proposed amendment of Rule 25-6.0345, F.A.C., Safety Standards for Construction of New Transmission and Distribution Facilities.

**AGENDA:** 06/05/17 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**RULE STATUS:** Proposal May Be Deferred

**SPECIAL INSTRUCTIONS:** None

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### Case Background

Rule 25-6.0345, Florida Administrative Code (F.A.C.), Safety Standards for Construction of New Transmission and Distribution Facilities, sets forth the current version of the National Electrical Safety Code (NESC) as the safety standards to be used by electric utilities when constructing transmission and distribution systems. The rules implement Sections 366.04(2) and (6), Florida Statutes (F.S.).

Section 366.04(2), F.S., sets forth the Commission's jurisdiction over electric utilities to prescribe a uniform classification of accounts, a rate structure, and to require electric power conservation and reliability through a coordinated grid. Section 366.04(6), F.S., grants the Commission exclusive jurisdiction to prescribe and enforce safety standards for transmission and distribution facilities of all public electric utilities, cooperatives organized under the Rural Electric Cooperative Law, and electric utilities owned and operated by municipalities. Section

Docket No. 170034-EU

Date: May 24, 2017

366.04(6)(b), F.S., states that in adopting safety standards, the Commission shall, at a minimum, adopt after review any new edition of the NESC.

Staff initiated this rulemaking to update Rule 25-6.0345, F.A.C., so that the 2017 edition, which is the most current edition of the NESC, is incorporated by reference into the rule. The Commission's Notice of Development of Rulemaking was published in the Florida Administrative Register on December 16, 2016, in Volume 42, No. 243. There were no requests for a rule development workshop, and no workshops were held. No comments from interested parties were received.

This recommendation addresses whether the Commission should propose the amendment of Rule 25-6.0345, F.A.C. The Commission has jurisdiction pursuant to Section 120.54, F.S., Section 366.04, F.S., and Section 366.05, F.S.

## Discussion of Issues

**Issue 1:** Should the Commission propose the amendment of Rule 25-6.0345, F.A.C.?

**Recommendation:** Yes. The Commission should propose the amendment of Rule 25-6.0345, F.A.C., as set forth in Attachment A.

**Staff Analysis:** The NESC was introduced in 1914 as the product of a congressional mandate for the National Bureau of Standards to investigate the hazards of electrical work, contemporary engineering theory and generally accepted good industry practices.<sup>1</sup> The NESC is a consensus standard that has been prepared by the NESC Committee under procedures approved by the American National Standards Institute.<sup>2</sup>

The NESC sets the ground rules and guidelines for practical safeguarding of utility workers and the public during the installation, operation, and maintenance of electric supply, communication lines and associated equipment, and is revised every five years so that the code is up-to-date with changes in the industry and technology.<sup>3</sup> Some of the changes for the 2017 Edition include revising and reorganizing the guy insulator placement rules, and revising the substation impenetrable fence requirements.<sup>4</sup> Clearances of overhead lines from aboveground swimming pools without decks were added to Rule 234E1.<sup>5</sup> Staff recommends that the Commission should amend Rule 25-6.0345, F.A.C., to incorporate by reference the 2017 Edition of the NESC.

### Minor Rules Certification

Currently, Rule 25-6.0345, F.A.C., is not on the Commission's list of minor violation rules. Pursuant to Section 120.695, F.S., beginning July 1, 2017, for each rule filed for adoption the agency head shall certify whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rule 25-6.0345, F.A.C., is a rule for which a violation would not be a minor violation because the violation of the rule would result in economic or physical harm to a person or an adverse effect on the public health, safety, or welfare or create a significant threat of such harm. Since a violation of Rule 25-6.0345, F.A.C., would continue to be a major violation, no statutory certification is required and no change to the Commission's current list of minor violation rules published on the Commission's website is necessary.

### Statement of Estimated Regulatory Costs

Pursuant to Section 120.54, F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B to this recommendation. The SERC analysis also includes whether the rule amendment is likely to have an adverse impact on growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years of implementation.<sup>6</sup>

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<sup>1</sup> IEEE Standards Association, 2017 NESC brochure: [https://standards.ieee.org/about/nesc/nesc\\_2017\\_brochure.pdf](https://standards.ieee.org/about/nesc/nesc_2017_brochure.pdf).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> 2017 National Electrical Safety Code (NESC) C2-2017.

<sup>6</sup> Section 120.541(2), F.S.

The SERC concludes that the rule amendment will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. Further, the SERC concludes that the rule amendment will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rule amendment does not require legislative ratification pursuant to Section 120.541(3), F.S. In addition, the SERC states that the rule amendment will not have an adverse impact on small business and will have no impact on small cities or counties. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revision.

### **Conclusion**

Based on the foregoing, staff recommends the Commission propose the amendment of Rule 25-6.0345, F.A.C.

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no requests for hearing or comments are filed, the rule may be filed with the Department of State, and this docket should be closed. (Page)

**Staff Analysis:** If no requests for hearing or comments are filed, the rule may be filed with the Department of State, and this docket should be closed.

1       **25-6.0345 Safety Standards for Construction of New Transmission and Distribution**

2       **Facilities.**

3       The Commission adopts and incorporates by reference the ~~2012 edition of the~~ 2017 National  
4       Electrical Safety Code (NESC) C2-2017 ~~ANSI C 2 [NESC]~~, as the applicable safety standards  
5       for transmission and distribution facilities subject to the Commission's safety jurisdiction.

6       Each investor-owned electric utility, rural electric cooperative, and municipal electric system  
7       shall, at a minimum, comply with the standards in these provisions. A copy of the NESC C2-  
8       2017 may be obtained from the Institute of Electric and Electronic Engineers, Inc. (IEEE), 3  
9       Park Avenue, New York, NY 10016-5997.

10      *Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2), (6) FS.*

11      *History—New 8-13-87, Amended 2-18-90, 11-10-93, 8-17-97, 7-16-02, 2-1-07, 12-16-12,*

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CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

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**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** February 13, 2017  
**TO:** Pamela Page, Senior Attorney, Office of the General Counsel  
**FROM:** Clyde D. Rome, Public Utility Analyst II, Division of Economics *CDR*  
**RE:** Statement of Estimated Regulatory Costs (SERC) for Recommended Revisions to Chapter 25-6 (Electric Service by Electric Public Utilities), Florida Administrative Code (F.A.C.)

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The purpose of this rulemaking initiative is to update Commission Rule 25-6.0345 (Safety Standards for Construction of New Transmission and Distribution Facilities), F.A.C. The recommended update is to incorporate by reference the most current version of the National Electric Safety Code (NESC) – 2017 edition. The recommended rule change would set forth the most current version of the NESC as the governing safety standards for new construction of electrical transmission and distribution systems. As noted in the attached SERC, 58 electric utilities would be affected by the recommended revisions.

The NESC is published by the Institute of Electrical and Electronics Engineers (IEEE) as Standard C2 and is revised every five years to keep it up to date and viable. The NESC standards are applicable to the systems and equipment operated by utilities. The NESC covers basic provisions for safeguarding of persons from hazards arising from the installation, operation, or maintenance of conductors and equipment in electric supply stations and overhead and underground electric supply and communication lines. It also includes work rules for the construction, maintenance, and operation of electric supply and communication lines and equipment.<sup>1</sup>

The attached SERC addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). No workshop was requested in conjunction with the recommended rule revisions. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: (Draper, Daniel, Shafer, Moses, Cibula, SERC file)

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<sup>1</sup> IEEE Standards Association, 2017 NESC brochure: [https://standards.ieee.org/about/nesc/nesc\\_2017\\_brochure.pdf](https://standards.ieee.org/about/nesc/nesc_2017_brochure.pdf)

**Florida Public Service Commission  
Statement of Estimated Regulatory Costs  
Rule 25-6.0345, F.A.C.**

1. Will the proposed rule have an adverse impact on small business?  
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

*For clarification, please see comments in Sections A(3) and E(1), below.*

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?  
[120.541(2)(a)1, F.S.]

Economic growth Yes  No

Private-sector job creation or employment Yes  No

Private-sector investment Yes  No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?  
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets) Yes  No

Productivity Yes  No

Innovation Yes  No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis:

A summary of the key rule changes is included in the attached memorandum to counsel. Specific elements of the associated economic analysis are identified below in Sections B through F of this SERC.

The purpose of the recommended revision to Rule 25-6.0345, F.A.C., is to incorporate by reference the most current version of the National Electric Safety Code (NESC) – 2017 edition. The NESC is published by the Institute of Electrical and Electronics Engineers (IEEE) as Standard C2 and is revised every five years to keep it up to date and viable. The Commission amends rule 25-6.0345, F.A.C., each time IEEE publishes a new version of the NESC. This rule change would set forth the most current version of the NESC as the governing safety standards for new construction of electrical transmission and distribution systems.

As discussed in Section D., below, the amendments to Commission rules being recommended at this time are not anticipated to result in significant additional transactional costs. Therefore, none of the rule impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended rule revisions.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

Potentially affected entities include 58 electric utilities. Utilities which come under the jurisdiction of the Commission in the future also would be required to comply.

(2) A general description of the types of individuals likely to be affected by the rule.

Florida's 58 electric utilities are comprised of 5 investor-owned utilities, 34 municipally-owned electric utilities, 16 rural electric cooperatives, and 3 independent wholesale power generation and distribution companies. Florida's 5 investor-owned electric utilities serve approximately 7.57 million customers.

[Sources: (1) Master Commission Directory, PSC - June 2016; (2) Facts and Figures of the Florida Utility Industry, PSC - March 2016]

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

- None. To be done with the current workload and existing staff.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

The NESC covers basic provisions for safeguarding of persons from hazards arising from the installation, operation, or maintenance of conductors and equipment in electric supply stations and overhead and underground electric supply and communication lines. It also includes work rules for the construction, maintenance, and operation of electric supply and communication lines and equipment. Substantive updates to the 2012 standards which are incorporated in the 2017 edition include:

1. Adding definitions for *communication* and *supply space*,
2. Adding exceptions for underground cable grounding requirements,
3. Revising and reorganizing the guy insulator placement rules,
4. Revising and reorganizing the Grades of Construction application rules, and
5. Revising the Part 4 worker safety rules to align with changes made to 29 CFR by the Occupational Safety and Health Administration (OSHA).<sup>1</sup>

The NESC is a consensus standard that has been prepared by the National Electrical Safety Code Committee under procedures approved by the American National Standards Institute (ANSI). The membership of the NESC Committee is composed of national organizations and is certified by ANSI as having an appropriate balance of the interests of members of the public, utility workers, regulatory agencies, and the various types of public and private utilities.

Therefore, to the extent that any additional transactional costs potentially may result from updates reflected in the NESC – 2017 edition, such costs would be associated with the ANSI-approved recommendations of the NESC Committee and would not result directly from staff's recommended rule modifications. Affected entities should benefit from safer installations due to the revised NESC standards.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

<sup>1</sup> IEEE Standards Association, 2017 NESC brochure: [https://standards.ieee.org/about/nesc/nesc\\_2017\\_brochure.pdf](https://standards.ieee.org/about/nesc/nesc_2017_brochure.pdf)

No adverse impact on small business. *[See clarification below.]*

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

Based on a review of investor-owned electric utility annual reports, staff believes that none of the five Florida investor-owned electric utilities would be likely to meet the definition of "small business" as defined in Section 288.703, F.S. The numbers of rural electric cooperatives and independent wholesale power generation and distribution companies, if any, that potentially might meet the definition of "small business" as defined in Section 288.703, F.S., are difficult to estimate. Additional transactional costs, if any, which potentially might result from the recommended rule changes, are discussed in Section D above.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

No impact on small cities or small counties.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

Based on a review of the "Florida Estimates of Population" published by the Bureau of Economic and Business Research (2015), it is estimated that 14 municipally-owned electric utilities potentially might meet the definition of "small city" as defined in Section 120.52, F.S. Additional transactional costs, if any, which potentially might result from the recommended rule changes, are discussed in Section D above.

F. Any additional information that the Commission determines may be useful.  
[120.541(2)(f), F.S.]

None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.