

STATE OF FLORIDA

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(850) 413-6199

Public Service Commission

March 8, 2022

Kenneth J. Plante, Coordinator
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400
japc@leg.state.fl.us

VIA EMAIL

Re: Docket No. 20210138-PU; Rule 25-18.020, F.A.C., Pole Safety, Inspection, Maintenance, and Vegetation Management

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the proposed rule.
2. There are no materials incorporated by reference in the proposed rule.
3. A copy of the F.A.R. notice.
4. A statement of facts and circumstances justifying the proposed rules.
5. A federal standards statement.
6. A Statement of Estimated Regulatory Costs was not prepared for this rule because it is not subject to Section 120.541, F.S., pursuant to Section 120.80(13)(g), F.S.

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COMMISSION
CLERK

Mr. Kenneth J. Plante
March 8, 2022
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If there are any questions with respect to these rules, please do not hesitate to call me at mduval@psc.state.fl.us.

Sincerely,

/s/ Margo A. DuVal

Margo A. DuVal
Senior Attorney

Enclosures

cc: Office of Commission Clerk

1 25-18.020 Pole Safety, Inspection, Maintenance, and Vegetation Management.

2 (1) This rule applies to all communications services providers as defined in Section
3 366.02(5), F.S., that own poles as defined in Section 366.02(6), F.S. This rule does not apply
4 to poles used solely to support wireless communications service facilities or poles with no
5 public utility electrical overhead facilities attached. For the purposes of this rule, “overhead
6 facilities” are defined as fixtures, conductors, wires, cables, and other devices owned by public
7 utilities that are attached to poles owned by a communications services provider.

8 (2) Safety, Inspection, and Maintenance Standards. Each communications services
9 provider must exercise due care to reduce hazards to which its employees, customers, and the
10 public may be subjected by reason of its poles. Accordingly, all poles of communications
11 services providers subject to the Commission’s jurisdiction under Section 366.04(9), F.S.,
12 must be constructed, installed, maintained, relocated, and inspected in accordance with the
13 National Electrical Safety Code (NESC), which is incorporated by reference in Rule 25-
14 6.0345, F.A.C.

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

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

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

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

1 Division of Engineering.

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

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

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

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

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

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

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

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

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

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

24 3. The number of poles actually inspected;

25 4. The number of poles that failed inspection;

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

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

3 6. The number of poles that failed strength testing;

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

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

6 9. The total miles of vegetation management conducted.

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

9 1. The number of poles to be inspected; and

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

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

13 (a) \$500 for the first violation;

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

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

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

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

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

19 FS. History-New _____.
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Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

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

PURPOSE AND EFFECT: To administer and implement Section 366.04(9), Florida Statutes, concerning the safety, vegetation management, repair, replacement, maintenance, relocation, emergency response, and storm restoration requirements for poles of communication services providers.

Docket No. 20210138-PU

SUMMARY: 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.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: A SERC was not prepared and ratification is not required pursuant to the exemption in Section 120.80(13)(g), FS

RULEMAKING AUTHORITY: 350.127(2), 366.04(9)(b) FS

LAW IMPLEMENTED: 366.04(9), 366.095 FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Margo A. DuVal, mduval@psc.state.fl.us, (850)413-6076, or Adria Harper, aharper@psc.state.fl.us, (850)413-6082, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850

THE FULL TEXT OF THE PROPOSED RULE IS:

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 _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Penelope Buys

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 1, 2022

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 47, Number 182, September 20, 2021.

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

Section 366.04(9)(b), Florida Statutes, requires the Florida Public Service Commission to propose rules to administer and implement Section 366.04(9), Florida Statutes, no later than April 1, 2022. Rule 25-18.020, Florida Administrative Code, administers and implements Section 366.04(9), Florida Statutes, by identifying the entities that must comply with the rule; establishing safety, inspection, and maintenance standards for poles; setting forth requirements for inspection, repair, replacement, and vegetation management of poles; setting forth requirements for the submission of emergency response and storm restoration procedures and protocols; establishing the filing date and requirements for an annual report; and establishing monetary penalties for a willful violation or refusal to comply with the rule.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for this rule.