

ORIGINAL

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From: Karen.Culpepper@fmpa.com
Sent: Wednesday, May 03, 2006 4:42 PM
To: Filings@psc.state.fl.us
Subject: Filing for Dockets 060172-EU/060173-EU
Attachments: FMEA RDW Comments.pdf

Hi Matilda,

Attached for filing is: **Post-Staff Rule Development Workshop Comments of Florida Municipal Electric Association, Inc.**

This is PSC Docket numbers **060172-EU** and **060173-EU**. The document has 17 pages, including a certificate of service. Please contact me either by email or telephone if you have any questions.

As always, thank you for your assistance!

karen

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Docket 060172

DOCUMENT NUMBER-DATE

03937 MAY-3 06

FPSC-COMMISSION CLERK

5/3/2006

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rules governing the placement of new electric distribution facilities underground, and the conversion of existing overhead distribution facilities to underground facilities, to address the 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 the National Electric Safety Code.

DOCKET NO. 060173-EU

Filed: May 3, 2006

POST-STAFF RULE DEVELOPMENT WORKSHOP COMMENTS OF
FLORIDA MUNICIPAL ELECTRIC ASSOCIATION, INC.

On April 17, 2006, representatives of Florida Municipal Electric Association, Inc. (FMEA) participated in a staff rule development workshop in the two above captioned dockets. (The transcript of the workshop is referenced as (Tr. at __).) Pursuant to the instructions of Florida Public Service Commission (PSC or Commission) Staff, the following comments are hereby submitted by FMEA on behalf of its thirty-four municipal electric utility members in Florida.¹ FMEA members may also file individual comments in this docket.

As applied to municipal electric utilities, it is not clear the Commission has the jurisdiction to adopt the rule amendments² that it proposes. There is no statutory grant of

¹ FMEA is comprised of the following municipal electric utility members: City of Alachua, City of Bartow, City of Blountstown, City of Bushnell, City of Chattahoochee, City of Clewiston, City of Fort Meade, Fort Pierce Utilities Authority, City of Gainesville d/b/a Gainesville Regional Utilities, City of Green Cove Springs, Town of Havana, City of Homestead d/b/a Homestead Energy Services, JEA, City of Jacksonville Beach d/b/a Beaches Energy Services, Utility Board of the City of Key West, Florida d/b/a Keys Energy Services, Kissimmee Utility Authority, City of Lake Worth, City of Lakeland d/b/a Lakeland Electric, City of Leesburg, City of Moore Haven, City of Mount Dora, Utilities Commission of the City of New Smyrna Beach, City of Newberry, City of Ocala d/b/a Ocala Electric Utility, Orlando Utilities Commission, City of Quincy, Reedy Creek Improvement District, City of St. Cloud, City of Starke, City of Tallahassee, City of Vero Beach, City of Wauchula, City of Williston, and City of Winter Park.

² Memorandum from Lawrence D. Harris, Senior Attorney, Office of General Counsel, Public Ser. Comm'n, to Blanco S. Bayó, Comm'n Clerk & Administrative Services Dir., Public Serv. Comm'n (April 4, 2006) (Doc. No.

DOCUMENT NUMBER-DATE

03937 MAY-3 06

FPSC-COMMISSION CLERK

jurisdiction to the PSC that permits it to adopt construction standards for municipal electric utility distribution systems. Such an extra-jurisdictional exercise by the Commission unlawfully abridges municipalities' home rule powers and is unconstitutional. However, if properly kept within the Commission's jurisdictional confines, FMEA does not necessarily disagree with the policy goals of the proposed rules. Therefore, FMEA offers in these Comments two proposed ways-forward: first, FMEA suggests a substitute to the Commission's proposed amendments to Rule 25-6.034; as an alternative, FMEA also offers suggested changes and comments on the Commission's proposed amendments to Rule 25-6.034.³

I. IT IS NOT CLEAR THE COMMISSION HAS THE JURISDICTION TO ADOPT THE PROPOSED RULES.

A. Chapter 366 Does Not Give Jurisdiction to the Commission to Impose Construction Standards on Municipal Electric Distribution Systems.

There is no grant of jurisdiction to the Commission to establish construction standards for the distribution systems of Florida's municipal electric utilities. Nowhere in Section 366.04, Florida Statutes (2005), does it say the Commission has the authority to adopt construction standards for municipal electric utility distribution systems. However, that is exactly what the Commission proposes to do: "the intent of Paragraph 2 is to recognize the current edition, which is the 2002 edition of the National Electric [sic] Safety Code, as the minimum construction standard for transmission and distribution facilities." (Tr. at 12) This is improper, as the Commission would be acting outside its jurisdictional boundaries.

03014-06) (on file with Comm'n.) (including proposed amendments to Rules 25-6.034, 25-6.064, 25-6.078, and 25-6.115 of the Florida Administrative Code which are herein referred to as the "proposed rules").

³ Rules 25-6.064, 25-6.078, and 25-6.115 of the Florida Administrative Code are not applicable to Florida's municipal electric utilities. So, FMEA offers no suggested changes to the proposed amendments to those rules. However, FMEA reserves the right to offer further comments if municipal electric utilities are brought within the reach of any of those rules in future proposed amendments.

The Commission's "Grid Bill" jurisdiction does not reach municipal electric distribution systems. Section 366.04(2)(c), Florida Statutes (2005), does give the Commission the authority "[t]o require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes." Further, section 366.04(5), Florida Statutes (2005), (commonly referred to as the "Grid Bill") provides the Commission with further jurisdiction over:

[1] the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida and [2] the avoidance of further uneconomic duplication of generation, transmission, and distribution facilities.

Id. (emphasis added). However, while subsection (2)(c) expressly grants the Commission the jurisdiction to require "conservation and reliability," § 366.04(2)(c), Fla. Stat. (2005), for the coordinated grid, it is not made express that the distribution systems of municipal electric systems are included within the grid. Similarly, subsection (5) gives the Commission jurisdiction over the "planning, development, and maintenance," § 366.04(5), Fla. Stat. (2005), of the grid to "assure an adequate and reliable source of energy . . ." Id. Again, it is not made express that the grid includes municipal electric distribution systems. Absent an express grant of jurisdiction to adopt construction standards for municipal electric utility distribution systems, the PSC cannot extra-jurisdictionally adopt rules that impose such mandates.

FMEA recognizes that subsection (5) grants the Commission jurisdiction over distribution systems for "the avoidance of further uneconomic duplication . . ." Id. However, this language is distinct from the Commission's jurisdiction over the coordinated electric power grid. The mention of distribution systems in the second part of the Grid Bill does not necessarily

mean that distribution systems come within the meaning of “grid” as it is used in the first part of the Grid Bill.

It is appropriate to read certain different related provisions of Section 366.04 in pari materia. Certainly, subsection (2)(c) and the first part of subsection (5) echo each other. Compare: “the commission shall have power over electric utilities . . . [t]o require electric power conservation and reliability within a coordinated grid for operational as well as emergency purposes,” § 366.04(2)(c), Fla. Stat. (2005), to “[t]he commission shall have further jurisdiction over the planning, development, and maintenance of a coordinated electric power grid throughout Florida to assure an adequate and reliable source of energy for operational and emergency purposes in Florida . . .,” § 366.04(5), Fla. Stat. (2005). The PSC has the jurisdiction to require conservation and reliability for the grid and has jurisdiction over the planning, development and maintenance of the grid for operational and emergency purposes. However, the Commission’s jurisdiction does not extend beyond the grid.

The Commission has itself recognized the interrelatedness of these provisions. In adopting Rule 25-6.0440, regarding the approval of territorial agreements, the Commission cited and relied on both sections 366.04(2)(d), (e) and section 366.04(5). See Fla. Admin. Code R. 25-6.0440(2)(c) (establishing that one of the standards the Commission will use in approving a territorial agreement is “[t]he reasonable likelihood that the agreement will eliminate existing or potential uneconomic duplication of facilities.”).

However, the grid does not include distribution systems. Chapter 366, Florida Statutes, itself makes a distinction between the “grid” and distribution systems. Section 366.91(5), Florida Statutes (2005), provides: “A contracting producer of renewable energy must pay the actual costs of its interconnection with the transmission grid or distribution system.” Id.

(emphasis added). The Grid Bill references the “coordinated electric power grid” and section 366.91(5) uses the term “transmission grid,” but the distinction is appropriate. In the Grid Bill, the statute is referring to the transmission systems of all utilities in the State of Florida and the coordinated transmission grid that is composed of all of those transmission systems. In section 366.91(5), the statute refers to the utility’s transmission grid that a producer of renewable energy must interconnect to; therefore, there is no reason for section 366.91(5) to refer to the coordinated transmission grid involving all electric transmission systems in the State.

The use of the term “coordinated” in the Grid Bill is also instructive in another manner. If one municipal electric transmission system encounters a problem (for example, that of OUC), the effects of that problem could cascade throughout Florida. Such a cascading event caused the 2003 blackouts in the Northeast and Canada. Therefore, utilities must coordinate their transmission systems. However, if OUC experiences a problem with a distribution line, that problem does not effect neighboring utilities. Distribution systems are not “coordinated.” Thus, the coordinated electric grid, see §§ 366.04(2)(c), (5), Fla. Stat. (2005), does not include distribution systems.

Clearly, then, chapter 366 does not permit the Commission to impose construction standards on municipal electric distribution systems.

B. Florida’s Municipal Electric Utilities Have Home Rule Powers that Cannot be Abridged by the Commission.

Imposition of the proposed rules, as written, constitutes an unlawful abridgement of each municipal electric utility’s home rule powers. Every Florida municipality has the right to enact legislation concerning any subject matter on which the Legislature can act, unless otherwise restricted. § 166.021(3), Fla. Stat. (2005). For purposes of the proposed rules, a municipal

electric utility has home rule powers over any subject matter unless “expressly preempted to state or county government by the constitution or by general law” § 166.021(3)(c), Fla. Stat. (2005). Nowhere is Chapter 366 is the adoption of construction standards expressly preempted to the Commission. Some grants of authority in section 366.04 are exclusive and preempt local control. E.g., § 366.04(6), Fla. Stat. (2005). However, there is no exclusive grant of jurisdiction to the Commission to impose construction standards on municipal electric utilities.

Absent such express preemption, Florida’s municipal electric utilities have the home rule right to determine their own construction standards. This home rule authority may not be abridged by the Commission, in the adoption of the proposed rules, absent the requisite statutory preemption which is clearly lacking.

For example, in the City of Tallahassee there is a Tallahassee-Leon County Canopy Road Citizen’s Committee that must review all impacts of development activities within a canopy road tree protection zone. See Tallahassee, Fla. Land Development Code § 5-81(a)(2)g. (2006). When the City of Tallahassee wants to install, replace or relocate a distribution line within a canopy road tree protection zone, that activity must be approved by the citizen’s committee. Any conflicting construction standards imposed by the Commission, absent express preemption by general law, is an unlawful abridgment of the city’s home rule authority. See also, e.g., Key West, Fla. Code §§ 110-251 to -435 (2006) (establishing a tree commission and giving the tree commission certain powers over activities impacting trees similar to the Tallahassee code).

C. Imposition of the Proposed Rules, as Written, is an Unconstitutional Mandate on Florida's Municipal Electric Utilities.

Imposing construction standards on municipal electric utility distribution systems is an unconstitutional unfunded mandate. Article VII, section 18(a) of the Florida Constitution provides that:

No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds unless the legislature has determined that such law fulfills an important state interest and unless: funds have been appropriated that have been estimated at the time of enactment to be sufficient to fund such expenditure; the legislature authorizes or has authorized a county or municipality to enact a funding source not available for such county or municipality on February 1, 1989, that can be used to generate the amount of funds estimated to be sufficient to fund such expenditure by a simple majority vote of the governing body of such county or municipality; the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature; the expenditure is required to comply with a law that applies to all persons similarly situated, including the state and local governments; or the law is either required to comply with a federal requirement or required for eligibility for a federal entitlement, which federal requirement specifically contemplates actions by counties or municipalities for compliance.

Art. VII, § 18(a), Fla. Const. It is unconstitutional for the Commission to impose a burden on municipalities that requires municipalities to spend funds, using its statutory jurisdiction, unless the Legislature has determined that such statutory provision fulfills an important state interest and a funding mechanism is provided, unless a particular exemption applies. The constitutional unfunded mandate prohibition applies expressly to general laws. However, it is sound to say that an agency of state government cannot do through rulemaking what the Legislature is constitutionally prohibited from doing through the enactment of general law.

Nowhere in Chapter 366 does the Legislature indicate that the mandating of construction standards for municipal electrical facilities fulfills an important state interest. And, the Legislature has not provided a funding mechanism for the implementation of mandated

construction standards on the thirty-four municipal electric utilities in Florida. Therefore, the proposed rules, as written, are an unconstitutional unfunded mandate on Florida's municipal electric utilities.

II. FLORIDA'S MUNICIPAL ELECTRIC UTILITIES DO NOT QUARREL WITH THE POLICY GOAL OF IMPROVING SYSTEMS AGAINST STORMS.

Jurisdictional concerns aside, FMEA does not quarrel with the policy goal of improving the ability of Florida's electric transmission and distribution systems to withstand hurricanes. However, it is not clear the Commission has the jurisdiction to adopt the proposed rules, as they are currently written. FMEA's members are governed by boards, commissions, and councils that are locally accountable to the customers served by the electric utility. And, Florida's municipal electric utilities take seriously the task of protecting their electric systems against extreme weather events, preparing their electric systems and their personnel for extreme weather events, and quickly restoring their electric systems after an extreme weather event outage. See, e.g., Fla. Mun. Elec. Ass'n, Pole Inspection Programs of Florida Municipal Electric Utilities (2006) (submitted to the Commission on May 1, 2006). There is no need to bring the Commission outside its jurisdictional boundaries to accomplish its policy objectives. FMEA proposes two alternative ways-forward. First, FMEA suggests a substitute Rule 25-6.034 that does not impose construction standards on municipal distribution systems, but requires all electric utilities to adopt their own construction standards in compliance with the National Electrical Safety Code (NESC). Second, FMEA offers suggested changes and comments on the Commission's proposed Rule 25-6.034.

III. FMEA'S SUGGESTED SUBSTITUTE RULE 25-6.034.

Given the limitations on the Commission's jurisdiction, FMEA proposes a substitute to the Commission's suggested amendments to Rule 25-6.034. FMEA's substitute rule: (i) establishes a standard for the construction, installation, maintenance and operation of all electric utilities' facilities; (ii) applies that standard to new construction, major expansions, major rebuilds and major relocations of facilities; and (iii) requires all electric utilities to establish construction standards for overhead and underground electric facilities, compliant with the current edition of the NESC, to enhance reliability, and reduce restoration costs and time. FMEA's substitute rule succinctly achieves the policy goals of the Commission, while keeping Rule 25-6.034 within the Commission's jurisdictional boundaries.

FMEA's proposed substitute rule is as follows:

25-6.034

(1) Application and Scope. The facilities of each electric utility shall be constructed, installed, maintained, and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished. This rule applies to all electric utilities, including municipal electric utilities and rural electric cooperative utilities unless otherwise noted.

(2) Except as otherwise provided for in this rule, the standards shall be applicable to (a) new construction and (b) any major expansion, major rebuild, or major relocation of existing facilities for which a work order number is assigned on or after the effective date of this rule. As used in this rule, a major expansion, major rebuild, or major relocation of existing facilities shall be deemed to occur if a distribution line or transmission system segment is being expanded, rebuilt, or relocated such that the entirety of such line or segment is affected by the expansion,

rebuild, or relocation. For clarification, any expansion, rebuild, or relocation work affecting individual or isolated facilities only does not constitute a major expansion, major rebuild, or major relocation for purposes of this rule.

(3) Each electric utility shall establish construction standards for overhead and underground electrical facilities, which shall comply with the applicable requirements of the current edition of the National Electrical Safety Code, to enhance reliability and reduce restoration costs and outage times associated with extreme weather events.

IV. FMEA'S SUGGESTED CHANGES AND COMMENTS TO THE PROPOSED AMENDMENTS TO RULE 25-6.034.

As an alternative to FMEA's proposed substitute rule, FMEA also offers on behalf of its thirty-four municipal electric utility members the following suggested changes to the proposed amendments to Rule 25-6.034 of the Florida Administrative Code and some further comments. FMEA's suggested changes and comments are in *bold italics*.

25-6.034 Standard of Construction.

(1) Application and Scope. ~~*This rule is intended to define construction standards for all-overhead and underground electrical transmission and distribution facilities to ensure the provision of adequate and reliable electric service for operational as well as emergency purposes.*~~ The facilities of each the utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished. This rule applies to all electric utilities, including municipal electric utilities and rural electric cooperative utilities unless otherwise noted.

Comment: It is not accurate to include the language that FMEA suggests striking. As indicated by Mr. Bryant at the April 17 staff rule

development workshop, it is inappropriate to use the NESC as a construction standard. (Tr. at 18) Section 010 of the NESC provides: "These rules contain the basic provisions that are considered necessary for the safety of employees and the public under the specified conditions. The code is not intended as a design specification or as an instruction manual."

Nowhere in Chapter 366, Florida Statutes, is the Commission given the jurisdiction to impose construction standards on municipal electric utilities. Commission staff said at the April 17 workshop that the Commission does not desire to write construction standards for Florida's utilities. Mr. Trapp stated: "My problem is I don't think you want us to write construction standards for you." (Tr. at 18) Instead, Commission staff said it was looking for a "base line, a starting point, and we have selected the National Electric [sic] Safety Code because that is pretty much all we are aware of. . . . The burden is on the utility to construct and maintain its facilities in a safe, efficient, effective, adequate, reliable manner. And that is what is [sic] we are trying get [sic] to here. This is just the starting point." (Tr. at 19)

While FMEA disagrees with the articulation of the NESC as construction standards, in and of itself, FMEA's suggested changes to section 6 of the proposed rule provides the Staff's desired starting point, with the NESC (already adopted elsewhere in the Commission's rules) as a foundational document.

~~(2) The Commission adopts and incorporates by reference the 2002 edition of the National Electric Safety Code (ANSI C-2), published August 1, 2001, as the minimum construction standards for transmission and distribution facilities built by each electric utility. Except as otherwise provided for in this rule, the standards shall be applicable to (a) new construction and (b) the expansion, rebuild, or relocation of existing facilities for which a work order number is assigned on or after the effective date of this rule. A copy of the 2002 NESC, ISBN number 0-7381-2778-7, may be obtained from the Institute of Electric and Electronic Engineers, Inc.(IEEE).~~

Comment: Adoption of the NESC as a construction standard is contrary to the language of the NESC itself (reference the quote in the above comment) and outside the jurisdiction of the Commission.

The lack of free public access to the NESC is also problematic. Obtaining an electronic copy of the NESC from its publisher (the Institute of Electrical and Electronics Engineers, Inc. or IEEE) costs \$110 for an IEEE nonmember. It is inappropriate for a member of the public to have to pay hundreds of dollars to access information adopted as part of a Commission rule.

(32) Distribution and transmission facilities constructed prior to the effective date of this rule shall be governed by the construction standards in place and recognized by each electric utility applicable edition of the National Electric Safety Code in effect at the time of the initial construction.

Comment: This is a conforming change. It makes the grandfather clause consistent with the suggested changes made in section 6 of the proposed rule.

(43) In addition to the requirements of Sections (5) and (6) of this rule, an electric utility may exceed the minimum requirements of the National Electric Safety Code (ANSI C-2) to enhance reliability and reduce restoration costs and outage times associated with extreme weather events. Each investor-owned electric utility electing to exceed minimum construction standards shall identify and report the effects on total system cost and reliability and shall justify any resulting increase in rates charged to rate-payers.

~~(5) Notwithstanding the exception contained in Section 25.250.C., Extreme Wind Loading, National Electric Safety Code, structures of 18 meters or less shall be designed to withstand extreme wind speeds as specified by Figure 250-2(d) of the 2002 edition of the National Electric Safety Code. The extreme wind loading standard shall be applicable to (a) new structures, (b) the expansion, rebuild, or relocation of existing facilities for which a work order is assigned on or after the effective date of this rule, and (c) targeted critical infrastructure facilities and major thoroughfares taking into account political and~~

geographical boundaries and other applicable operational considerations.

Comment: Section 5 of the rule is overbroad. Staff's position that these extreme wind loading standards apply to all structures (including buildings) goes far beyond the limits of the Commission's jurisdiction. The NESC also does not appear to generally define the term "structures." However, Mr. Trapp stated his understanding of what the term "structures" in the proposed rule meant: "My understanding is that it's everything above the ground. It's buildings, it's poles, it's wires, it's transformer stations, it's pad mounts, anything." (Tr. at 67) (emphasis added). The Commission has no such broad grant of jurisdiction.

There is also no need for such a standard as it applies to municipal electric utilities. In FMEA's report on pole inspections,⁴ it is reported that:

No municipal electric utility reported that they had experienced a problem with pole failure, even through two significant hurricane seasons. All problems with poles falling were the result of two causes: a) trees and other debris falling on conductors causing one or multiple poles to fall, and 2) vehicles hitting poles (outside of hurricane season).

Fla. Mun. Elec. Ass'n, supra note 4, at ii-iii. Therefore, applying extreme wind loading standards to municipal distribution systems will likely not improve the storm-hardiness of those distribution systems. Besides, most municipal distribution facilities are in areas where wind is mitigated by trees, buildings and other structures. Problems are caused by the things that blow into or fall onto a distribution line, not the distribution line itself.

(64) Each electric utility shall establish construction standards for *overhead and underground electrical facilities, which shall comply with the applicable requirements of the current edition of the National Electrical Safety Code*, to enhance reliability and reduce restoration costs and outage times associated with extreme weather events. Such construction standards shall *protect-assure*, to the extent *reasonable-practicable* and cost-effective, *that underground and supporting overhead electrical facilities are protected* from flooding and storm

⁴ Fla. Mun. Elec. Ass'n, Pole Inspection Programs of Florida Municipal Electric Utilities (2006) (submitted to the Commission on May 1, 2006, in compliance with Commission requests for information regarding municipal electric utility pole inspection programs).

surges in areas designated as Category 3 Surge Zones by the Department of Community Affairs, Division of Emergency Management. Such construction standards shall be applicable to (a) new construction, (b) ~~the any major~~ expansion, ~~major~~ rebuild, or ~~major~~ relocation of existing facilities for which a work order is issued on or after the effective date of this rule, and (c) conversion of existing overhead facilities to underground. As used in this rule, a major expansion, major rebuild, or major relocation of existing facilities shall be deemed to occur if a significant segment of a distribution line or transmission system is being expanded, rebuilt, or relocated such that the entirety of such segment is affected by the expansion, rebuild, or relocation. For clarification, expansion, rebuild, or relocation work affecting individual distribution or transmission facilities only do not constitute major expansion, major rebuild, or major relocation for purposes of this rule.

Comment: Suggested changes to section 6 of the proposed rule circumscribes the proposed rule to the jurisdiction of the Commission. Each electric utility has the obligation to enact its own construction standards. It is not clear the Commission has jurisdiction to impose construction standards and Commission staff admitted it did not want to be in the business of writing construction standards. Such construction standards must comply with the applicable provisions of the NESC. All municipal electric utilities are today complying with the NESC.

The language of the rule has also been modified by FMEA to allow electric utilities to make their own determination of what is reasonable and cost effective, taking into account public oversight of those determinations, in protecting their systems from the effects of flooding and storm surges. This avoids an ill-fitting "one size fits all" approach and gives individual electric utilities with the expertise over their own systems the opportunity to address the specific needs of their systems.

Expansions, rebuilds and relocations of individual or isolated facilities should not trigger system-wide upgrades. Such a requirement provides an inappropriate disincentive for electric utilities to not expand or rebuild their facilities, for fear of the broader retrofit upgrade requirements. Instead, FMEA believes it appropriate to limit such retrofit upgrade requirements for expansions, rebuilds and relocations

to those activities that are major, i.e., affecting the entirety of a distribution line or transmission system segment. Then, the retrofit upgrade obligations are limited to the affected line(s) or segment(s).

(75) For initial installation, expansion, rebuild, or relocation of any investor-owned electric utility facilities, utilities are required to use easements, public streets, roads and highways which the utility has the legal right to occupy, and on public lands and private property across which the rights of way and easements satisfactory to the utility have been provided by the applicant by the time construction is required.

~~(86)~~ For initial installation, expansion, rebuild, or relocation of any investor-owned electric utility facilities, including the conversions of existing overhead facilities to underground facilities, all facilities shall be placed at the front edge of the property, unless the utility demonstrates an operational need to use another location.

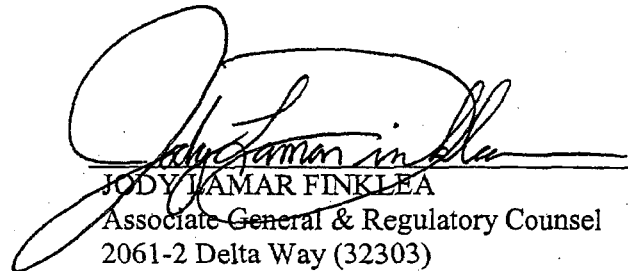
~~(2) The Commission has reviewed the American National Standard Code for Electricity Metering, 6th edition, ANSI C 12, 1975, and the American National Standard requirements, Terminology and Test Code for Instrument Transformers, ANSI 57.13, and has found them to contain reasonable standards of good practice. A utility that is in compliance with the applicable provisions of these publications, and any variations approved by the Commission, shall be deemed by the Commission to have facilities constructed and installed in accordance with generally accepted engineering practices.~~

V. CONCLUSION.

It is unnecessary for the Commission to further its policy goals in a rulemaking that is without clear jurisdictional support. Florida's municipal electric utilities are serious about the task of protecting their systems and their customers from the impacts of hurricanes. FMEA has offered these Comments in an effort to continue the dialogue with the Commission to take appropriate steps to harden the coordinated electric grid in Florida against extreme weather events. Other recent actions by FMEA members to comply with the Commission's reporting requests demonstrate the municipal electric utilities' commitment to this dialogue and process. We look forward to continuing to work with the Commission and Staff on these important issues.

RESPECTFULLY submitted this 3rd day of May 2006.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by electronic mail and U.S. mail this 3rd day of May 2006, to the following:

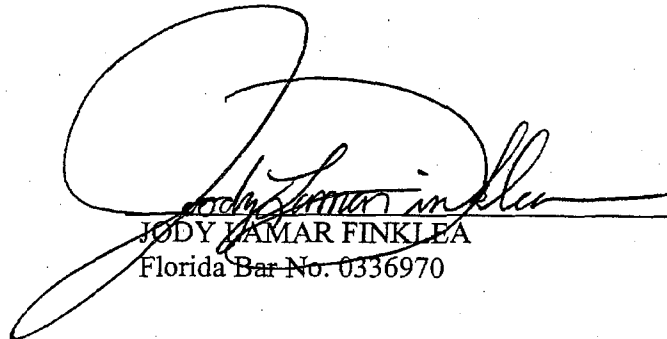
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