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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20210138-PU

PROPOSED ADOPTION OF RULE
25-18.020 F.A.C., POLE
INSPECTION AND MAINTENANCE.

PROCEEDINGS: RULE DEVELOPMENT WORKSHOP

COMMISSION STAFF
PARTICIPATING: ADRIA HARPER
 MARGO DuVAL
 SAMANTHA CIBULA
 PENELOPE BUYS
 TOM BALLINGER

DATE: Wednesday, October 27, 2021

TIME: Commenced: 9:00 a.m.
 Concluded: 9:24 a.m.

PLACE: Betty Easley Conference Center
 Room 148
 4075 Esplanade Way
 Tallahassee, Florida

REPORTED BY: ANDREA KOMARIDIS WRAY
 Court Reporter

PREMIER REPORTING
112 W. 5TH AVENUE
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A P P E A R A N C E S

- TRACY HATCH - AT&T
- CHRISTIE P. MASON - CenturyLink
- PSC STAFF:
- ADRIA HARPER
- MARGO DuVAL
- SAMANTHA CIBULA
- PENELOPE BUYS
- TOM BALLINGER

1 P R O C E E D I N G S

2 MS. HARPER: Good morning, everyone. I'm
3 Adria Harper from the general counsel's office.

4 We're here today for a rule workshop. We're
5 here pursuant to our October 13th notice for the
6 Florida PSC's rule development workshop for a new
7 rule, Rule 25-18.020, pole inspection and
8 maintenance, et cetera.

9 I would like to first start, briefly, by
10 introduct- -- introducing staff that's up here with
11 me. We have Margo DuVal, we have Penny Buys, and
12 Samantha Cibula. I'm also going to introduce Tom
13 Ballinger over there. He's going to say a few
14 brief words and then we'll continue.

15 Thank you.

16 MR. BALLINGER: Thank you, Adria.

17 Good morning, everyone. And -- and, as Adria
18 said, my name is Tom Ballinger. I'm the director
19 of Division of Engineering. I don't recognize a
20 lot of faces because we haven't dealt with the
21 telecom industry for years. I've been more on the
22 electric side.

23 I just want to give a little background and --
24 and kind of describe how we got to where we are
25 today. As you're all aware, there were amendments

1 to the statutes in July of 2021. They were to
2 Sections 366.02, 366.04, and 366.97.

3 The workshop today is dealing with statutory
4 changes to 366.04(9) only, not the other two
5 sections of the -- of the statute. That was passed
6 back in July. And technical staff had several
7 meetings with legal staff.

8 And, given our limited authority in the
9 statute, our initial approach was to kind of mimic
10 what the electric utilities do for hardening; in
11 other words, filing plans for Commission approval
12 with review every three years and annual reporting
13 requirements. That was the subject of the draft
14 rule that was back on October 5th, that we
15 discussed, that was canceled due to technical
16 difficulty.

17 On October 20th, the PSC posted another draft
18 rule to its website, which now goes to incorporate
19 or try to incorporate specific standards in a rule
20 and have enforcement only with what's in the rule.
21 That will be the discussion of today's workshop.

22 I'd like to say, too, staff has also issued
23 several data requests, both to the telecom industry
24 and to the electric IOUs, to try to get a better
25 feel for what practices are in place today, what

1 kind of inventory we're dealing with, what's the
2 scope of the inspection and maintenance cycles
3 we're dealing with.

4 Those responses may provide impetus for
5 further edits to the rule. So, this is a work in
6 progress of this draft rule. You see, even in the
7 draft, there's some blank spaces to get some
8 comments. So, really we're looking for input from
9 the industry to try to help formulate this rule.

10 And, with that, I'll turn it back to Adria to
11 give an overview of the rule.

12 MS. HARPER: Thank you.

13 We, as Tom said, provided a copy of this draft
14 that we're going to discuss, on our rule-
15 development tab on our website. We also handed out
16 some copies. And I think there's some available,
17 if you need one.

18 First, I just want to point out, as Tom said,
19 that we tried in this draft to basically follow the
20 statute and hit the points as far as, at a minimum,
21 what we needed to address in the rule.

22 The statute said that we had to include or
23 regulate, at a minimum, three areas specifically:
24 inspections, repair, and replacement; vegetation
25 management; and monetary penalties also needed to

1 be addressed.

2 So, that's what we attempted to do with this
3 new draft is it -- there's some other areas that we
4 may need to include, but right now, this draft
5 before you is intended to address at least those
6 three areas that the statute said, at a minimum, we
7 needed to address.

8 So, in Subsection 1 of the draft that we
9 provided today, we just are pointing out who the
10 rule is applicable to. If anybody has any
11 questions, feel free to flag me. I'm just going to
12 kind of go through each subsection and give a
13 general overview of what we were trying to address.

14 So, as I said, the first one is who this rule
15 is applicable to. We also define "overhead
16 facilities" in this rule -- in this section of the
17 rule. Does anybody have any questions about that?

18 The next subsection, we address safety,
19 inspection, and maintenance standards. Here, we
20 wanted to specify, as Tom alluded to, a minimum
21 standard for the communication service-provider
22 poles that have attachments that are applicable
23 under this statute.

24 So, this subsection includes a reference to
25 the latest version of the National Electric Safety

1 Code as a basic starting point. If anybody has any
2 comments as to what specific sections in this
3 safety code may be more applicable in this
4 situation versus others, we are interested in that.

5 And that -- that was something that was
6 subject to discussion via our data requests that
7 Tom also referenced, but right now, that's -- we
8 have the whole code referenced in there, in that
9 subsection. Does anybody have any questions about
10 that?

11 The third subsection, we have our inspection
12 cycle and repair and replacement of poles. Again,
13 that's something in the statute that we were
14 pointed -- that we were directed to address.

15 So, as you can see right now, we have a blank
16 space for inspection cycles. That's something,
17 again, that we are trying to get more information
18 about and also was subject -- there are some
19 questions in our data requests that -- that we're
20 trying to get information about to address that.
21 So, right now, we just have standard inspections
22 and cycles. And we're missing an actual cycle as
23 we wait for the input on the data requests.

24 The next subsection we have are the
25 vegetation-management cycles. We do have in that

1 Subsection a proposed cycle of every three years.

2 And the next section that we have is
3 Subsection 5. That's annual reports. That's where
4 we intend to get some information to monitor this.

5 And the final subsection is the penalty
6 section, which, again, is something the statute
7 requires that we address in our rule.

8 So, the last few subsections, I kind of just
9 blew through because I didn't see anybody waving
10 their hand, but if anybody has any questions, feel
11 free to go for it and ask. Thanks.

12 We're also going to have a time period for
13 written comments on this rule. So, we would like
14 to suggest that we get written comments by
15 November 10th. So, if anybody has any thoughts on
16 that, please let us know because we would -- we
17 would like to try to move this along, this rule.
18 So, thank you.

19 Okay. November 10th it is.

20 MR. BALLINGER: Adria? I'm sorry.

21 MS. HARPER: Yeah, go for it.

22 MR. BALLINGER: One other thing I'd maybe
23 point out, on Section 5, the annual reports, you
24 notice Nos. 12 and 13 asking for reporting of the
25 utilities' emergency procedures and protocols and

1 their storm-restoration procedures and protocols.

2 We are also contemplating a way to, perhaps,
3 put those as a standard in the -- the rule, itself.
4 And that's part of what the data requests were
5 going towards.

6 So, that is an area that staff is still
7 contemplating how to handle that. I just wanted to
8 highlight those two areas.

9 MR. HATCH: Adria, this is Tracy Hatch with
10 AT&T.

11 On the November 10th request, is -- bear in
12 mind that, for -- my folks that are going to be
13 doing the comments are also the same people doing
14 the data requests. So, that may back up on top of
15 their time trying to compile all that data as well
16 as do comments and analysis at the same time.

17 MS. HARPER: Would November 15th be better?

18 MR. HATCH: Any amount of time is better.
19 Yeah, the 15th would be much better.

20 MS. HARPER: Okay. Let's do November 15th,
21 then, please. Thank you.

22 And does anybody have any general comments?

23 MS. MASON: Hi. Christy Mason with Lumen,
24 which is the parent company to CenturyLink.
25 CenturyLink appreciates the opportunity to

1 participate in this workshop.

2 In its review of the proposed draft rule,
3 CenturyLink sees two immediate issues that require
4 the Commission's attention. The first should be to
5 outline how many poles and the time period in which
6 specific review will take place.

7 For example, CenturyLink reviews its entire
8 pole inventory, which is over 2.2 million poles
9 across the country, every ten years with
10 approximately 10 percent of the total poles in a
11 given jurisdiction subject to inspection each year.

12 CenturyLink suggests that the rule provide
13 flexibility to allow for different reporting
14 periods, different inspection percentages, and
15 other individual company procedures.

16 In this context, CenturyLink would support the
17 establishment of a maximum interval between
18 detailed inspections of ten years; meaning a
19 company may choose a shorter interval with a
20 recommended inspection rate of 10 percent of
21 overhead facilities per year.

22 Reports could be due every three or five years
23 at the option of the company and then either a
24 report that the company has inspected 50 percent or
25 more of its facilities, if the report is for five

1 years; or a report that the company has inspected
2 less than 50 percent of its facilities and plans to
3 bring the inspection rate to a hundred percent in
4 the next five years. This is only an example.
5 CenturyLink supports the flexibility in this
6 regard.

7 Inspections should be defined to include
8 visual checks or practical tests of the facilities
9 to the extent required to identify violations of
10 the Commission's safety rules, which do reference
11 the National Electric Safety Code.

12 Second, the Commission should reconsider its
13 proposed rules related to vegetation management.
14 As drafted, the current rules shift the cost from
15 power companies to telecommunication carriers. And
16 the primary concern with tree trimming arises in
17 the electric space.

18 The NESC requires power providers to undertake
19 vegetation management to avoid contact of electric
20 lines with trees, including removal of vegetation
21 that is close enough to cause electric arcing and,
22 potentially, fires.

23 Vegetation management in the power space is a
24 cost that companies like CenturyLink would not
25 incur but for the presence of electric lines on

1 their poles. The cost of -- the cost to manage
2 vegetation in the power space is one that
3 applicable law -- applicable law and CenturyLink's
4 contracts require to be undertaken by the power
5 provider. CenturyLink will contribute to the cost,
6 if the power provider also manages vegetation in
7 the communication space.

8 This approach to vegetation management allows
9 electric companies to use their forestry divisions
10 to manage the work and to prioritize its
11 vegetation-management efforts based on its own
12 important safety concerns.

13 This also avoids having two or, perhaps, more
14 teams duplicating efforts and allows for the
15 sharing of costs between and among the interested
16 parties when vegetation work benefits all parties.

17 By contrast, the proposed rule would alter
18 this existing and well-functioning framework by
19 shifting oversight cost and compliance to
20 communication pole owners.

21 This duplicative cost is not one
22 telecommunication companies would normally incur
23 and, by forcing the cost to companies like
24 CenturyLink, the Commission would be implementing a
25 regulatory taking of company property in

1 contravention of law.

2 CenturyLink would support clearer rules for
3 vegetation management that recognize current
4 operational modes under existing law and in
5 contract.

6 Thank you.

7 MR. BALLINGER: I'm sorry. This is -- would
8 it be fair to say -- have you read the comments
9 from Frontier?

10 MS. MASON: Yes.

11 MR. BALLINGER: Are they -- are your comments
12 similar to theirs?

13 MS. MASON: Yes.

14 MR. BALLINGER: Okay. Thank you.

15 MS. HARPER: Does anyone else have any general
16 comments?

17 MR. HATCH: Adria, yeah, this is Tracy Hatch.

18 I would support Ms. Mason's comments as well
19 as the Frontier comments. Sort of reacting --
20 shooting off the hip, because I'm working off the
21 old version of the rules compared to the new one,
22 but going through it very quickly, there's still
23 some very pragmatic problems that you touched on;
24 and, that is, we technically can't work in the
25 power company's space. They really don't like that

1 and neither do we because it's a big safety issue.

2 So, in terms of vegetation management in their
3 space, "A", I think our joint user agreements don't
4 provide for that; and second, it's a big safety
5 problem. There's lots of technical, logistical
6 issues that can ultimately be worked out, but I'm
7 not sure that this rule can do that. That's --
8 that's the main issue there.

9 Going further, with respect to the vegetation-
10 management stuff, I'm assuming, from -- from the
11 new draft rule, it's on a three-year cycle as
12 compared to whatever the pole-inspection cycle is
13 going to be.

14 With respect to that, I'm kind of curious as
15 to what the thought is on what you -- when you say
16 clear the vegetation, that's pretty self-
17 explanatory. When you start talking about
18 vegetation-management techniques -- that's not
19 clear to me. What do you envision with all of
20 that?

21 And, when you go further, it says I have to
22 report to you how many miles I did with which
23 technique. And so, I have to have a guy out there
24 saying, well, I pruned this with a handsaw for --
25 for this tree. I pruned it with a hydraulic

1 chainsaw, a bucket truck, for 500 feet. Then I
2 switched to something else for the next 500 feet.

3 And if I've got five miles of pole, that kind
4 of logistical tracking, "A", is a nightmare, but
5 "B", what does it offer you in terms of useful
6 information for whatever your goal is?

7 It kind of circles back to what my original
8 point was going to be, is what really is your goal
9 for some of this rulemaking? I understand you have
10 a statutory mandate to go do this, but you have to
11 have some kind of a polestar that guides how you're
12 going to implement this stuff. You need to decide
13 what your goal is going to be and then fashion this
14 to meet that goal.

15 The goal cannot be a spreadsheet that says, I
16 have 50 miles of hand pruning, 50 miles of chainsaw
17 pruning, I have 60 miles of hydraulic bucket
18 truck -- I mean, that -- that's -- I can't imagine
19 how that's at all useful to you. I -- it's
20 interesting if somebody wants to know, but why is
21 that useful and what does that -- what purpose does
22 that serve to the Commission in gathering the
23 information that's -- in terms of annual reporting?

24 One of the --

25 MR. BALLINGER: Tracy?

1 MR. HATCH: Yeah.

2 MR. BALLINGER: I'm sorry. I think Penny has
3 an answer for you on that.

4 MS. BUYS: With the vegetation-management
5 techniques, we're thinking more like tree trimming,
6 mowing, or herbicide, or if there's other
7 techniques like that. We're not talking about, did
8 you use a chainsaw; just an overall technique.

9 MR. HATCH: No. No. No. I understand that.
10 And there will be various things -- there are
11 probably, you know, a dozen different -- other
12 techniques, but the question is: If my vegetation
13 is cleared, however that gets done, whether it's us
14 or the power company, setting aside the other
15 issue -- does it matter how we did it, is my
16 question.

17 It saves me a whole lot of time and
18 bureaucratic tracking just to fulfill an annual
19 reporting requirement.

20 MR. BALLINGER: And, Tracy, this is Tom.
21 Again, that might be --

22 MR. HATCH: It will be in our comments for you
23 to consider, obviously. You don't have to debate
24 it here.

25 MR. BALLINGER: But the -- the reason it was

1 in there to begin with is that's what we track for
2 the electricians. So, we were looking at this -- you
3 asked for a -- a purpose -- trying to gather data
4 that would be somewhat comparable to how the
5 electricians maintain their poles, vegetation
6 management -- or you're trying to get some
7 consistent data.

8 But that's something to consider. I
9 understand.

10 MR. HATCH: Yeah, I -- I understand that.
11 I -- clearly, I do understand that because having
12 been -- back when we did the pole-inspection stuff
13 the first time around, I understand it was
14 basically an essential standardization.

15 Now, the statute has created a dichotomy where
16 they're not subject to these rules, which means
17 they have a whole different set of rules and it's
18 clearly contemplated that way in the statute.
19 Forcing us into their box -- I don't know what
20 purpose that serves other than it's easier for you
21 to track stuff and report stuff.

22 Another particular item that jumped out at me
23 on your list of things is the number of poles
24 relocated. That's clearly covered in terms of the
25 jurisdictional grant, but it's not covered in the

1 rulemaking mandate.

2 And I'm kind of curious as to -- when you talk
3 about poles relocated, for my purposes, that
4 usually means a road project or road-widening
5 project where the poles move from one location to
6 another. It does not mean where a pole is being
7 replaced -- (technical interruption) --

8 (Discussion off the record.)

9 MR. HATCH: -- where a pole is being replaced
10 versus the pole is being moved to a significantly-
11 different location -- I keep getting an echo, so
12 I'm trying to avoid that.

13 But that's my point is, is: What information
14 is that useful for your purposes? I mean, these
15 are all things that -- we're trying to --
16 obviously, to minimize expense here. There's no
17 question about that.

18 MR. BALLINGER: Penny?

19 MS. BUYS: With the pole relocation, we're
20 talking -- we're kind of looking at the back lot
21 versus the front lot and to make it more accessible
22 to do your inspections and maintain the lines and
23 the poles. We're not necessarily saying you had to
24 relocate it because the road was wide- -- widening.
25 We're kind of looking at front lot versus back lot

1 and accessibility.

2 MR. HATCH: As a general proposition, we -- we
3 probably don't do that very often. If we're going
4 to move a pole from a back lot to the front or move
5 the service location from the back pole to the
6 front, it's usually going to be a buried drop. In
7 that case, you won't have a pole. It's not -- not
8 a guaranteed universal flat statement, but
9 nonetheless, it becomes problematic.

10 But my bigger point really is when you start
11 talking -- the statute says you have to have
12 rule -- you have to propose a rule by April the 1st
13 on three things, on maintenance inspection,
14 vegetation management, and penalties. That's --
15 that's the rulemaking manner.

16 Pole relocation is in an earlier provision
17 where it meets the whole -- all the various laundry
18 list of things that the Commission can regulate.
19 Relocation is in the regulation portion. Do you
20 really need a rule that says I have to tell you how
21 many poles I have relocated?

22 What does that do for you for purposes of
23 information? What's that useful to you for? I
24 mean, if I'm doing crazy things in the process of
25 relocation, then the Commission now has regulatory

1 authority to address that and I -- but until you
2 have a problem that you need to address, I'm not
3 sure why you need to have a report on poles that
4 I've moved and relocated.

5 MR. BALLINGER: And I think the reason it
6 would be useful is, as Penny said, a lot of it on
7 the electric side is relocation from back lot to
8 front lot; see how much is being done.

9 If it's not being done in the communication
10 side, that's fine. That's useful information. And
11 I think that's why we have it as the reporting
12 requirement and not a standard for doing it.
13 Obviously, when you relocate a pole and you insert
14 or construct a new pole, it needs to be built to
15 the current standards.

16 So, I think just gathering that information of
17 how much you do in terms of relocation -- may even
18 be a road-widening project, something of that
19 nature -- that's useful information to, again,
20 cover what the statute requires us to regulate,
21 which is relocation. So, at least we have
22 information that we're gathering. And that's what
23 this rule is trying to start with, get some
24 information.

25 MR. HATCH: I don't want to belabor it here,

1 but it will be an ongoing topic of discussion.

2 MR. BALLINGER: I understand.

3 MS. HARPER: And if you could possibly suggest
4 any rule language to accompany that --

5 MR. HATCH: Yes. No, that's --

6 MS. HARPER: -- that would be great.

7 MR. HATCH: I -- I assumed that --

8 MS. HARPER: Because I understand what you're
9 saying. If there's a way for us to address these
10 topics --

11 MR. HATCH: Yeah.

12 MS. HARPER: Thank you.

13 MR. HATCH: And, other than that, off the new
14 draft, I don't have any immediate questions. Those
15 are the quick things, reading through it this
16 morning. We almost certainly will come up with
17 more. Whatever that is, I'll embed them in the
18 comments.

19 MS. HARPER: Thank you. I appreciate that.

20 Are there any other comments, questions?

21 Okay. Then, we'll hopefully receive some
22 comments from everybody -- from everybody by
23 November 15th. And we look forward to your data-
24 request responses as well.

25 And we'll go ahead and adjourn, unless anybody

1 else has anything else.

2 Staff? No. Okay.

3 Thank you all for coming.

4 (Whereupon, the proceedings concluded at 9:24

5 a.m.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

I, ANDREA KOMARIDIS WRAY, Court Reporter, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 9th day of November, 2021.



ANDREA KOMARIDIS WRAY
NOTARY PUBLIC
COMMISSION #HH 089181
EXPIRES February 9, 2025