

Justin Gage

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407-301-6133

April 6, 2026

VIA ELECTRONIC FILING

Adam J. Teitzman, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: *Petitioner's Response in Opposition to Duke Energy Florida, LLC's Motion to Dismiss*; Docket No. 20260045-EI

Dear Mr. Teitzman:

Please find attached for electronic filing Petitioner's Response in Opposition to Duke Energy Florida, LLC's Motion to Dismiss in the above-referenced matter.

This filing concerns a formal petition that seeks regulatory enforcement action regarding alleged utility safety-rule violations, alleged false or misleading statements to the Commission, and related matters within the Commission's jurisdiction, and it does not seek monetary damages or compensation for property damage.

Thank you for your attention to this filing and if you have any questions, please feel free to contact me at 407-301-6133.

Respectfully submitted,

/s/ Justin Gage

Justin Gage

13114 Fox Glove St
Winter Garden Fl. 34787

Attachments

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Complaint by Justin Gage against Duke Energy Florida, LLC

Docket No. 20260045-EI

Filed: April 6, 2026

**PETITIONER'S RESPONSE IN OPPOSITION TO DUKE ENERGY FLORIDA, LLC'S
MOTION TO DISMISS**

**Petitioner, Justin Gage ("Petitioner" or "Mr. Gage"), pursuant to Rule 28-106.204, F.A.C.,
and Rule 25-22.036, F.A.C., files this Response in Opposition to Duke Energy Florida,
LLC's ("DEF" or "Duke Energy") Motion to Dismiss, and states as follows.**

Nature of the Proceeding

1. This is a regulatory enforcement proceeding seeking Commission findings and enforcement action regarding DEF's compliance with Commission-adopted safety standards, safe work practices, and truthfulness in filings with the Commission, not a claim for monetary damages or assistance in collecting property damage.
2. The Petition expressly states that Petitioner does not seek monetary damages or compensation for property damage and instead seeks only regulatory enforcement action within the Commission's statutory jurisdiction.
3. Duke Energy's Motion repeatedly attempts to reframe this matter as a property-damage or claims dispute tied to an alleged surge event, but that characterization is contradicted by the Petition itself.
4. The Commission should therefore evaluate the legal sufficiency of the Petition actually filed, rather than Duke Energy's recharacterization of it.

Legal Standard

1. Duke Energy correctly states that a motion to dismiss tests only the legal sufficiency of the petition, and that all well-pleaded allegations must be accepted as true and construed in the Petitioner's favor for purposes of the motion.
2. At this stage, the Commission does not weigh evidence, resolve factual disputes, or adopt Duke Energy's competing version of events.
3. The Petition contains specific factual allegations, a detailed timeline, identified rules and statutes, and requested relief, which is sufficient to survive a motion to dismiss under the standard Duke Energy itself cites.

Compliance with Rule 25-22.036

1. Rule 25-22.036(3)(b), F.A.C., requires a complaint to identify the rule, order, or statute violated, the actions constituting the violation, the name and address of the respondent, and the specific relief requested.
2. The Petition identifies specific alleged violations by Duke Energy, including Rule 25-6.0345, Rule 25-6.039, and Rule 25-6.0346, and it describes the conduct that allegedly violated those provisions.
3. The Petition also names Duke Energy Florida, LLC as the respondent and sets out specific investigative, procedural, and enforcement relief requested from the Commission.
4. Because the Petition includes each required element, Duke Energy's argument that Petitioner failed to satisfy Rule 25-22.036(3)(b) should be denied.

Duke Energy's Factual Disputes Are Not Grounds for Dismissal

1. The Motion to Dismiss asserts that Duke Energy inspected the equipment and found no safety violations, no NESC violations, and no false or misleading statements to the Commission.
2. Those assertions do not show that the Petition is legally insufficient. They merely present Duke Energy's version of disputed facts.
3. The Petition alleges the opposite: that the PME box was out of compliance, that Duke Energy's own technician acknowledged and internally logged noncompliance on September 4, 2025, and that Duke Energy continued to deny noncompliance in written responses to both the PSC and Petitioner.
4. The Petition further alleges that photographic, video, and OSHA-related evidence supports those claims and that Duke Energy's later responses contained false or incorrect information.
5. Whether Duke Energy's inspection accounts are credible, and whether Petitioner's exhibits prove noncompliance or false statements, are factual questions for evidentiary development and hearing, not dismissal.

Clarification of Actions Constituting Violations

1. To the extent Duke Energy argues that the Petition did not clearly identify the actions constituting the alleged violations, Petitioner expressly clarifies that those actions are already alleged in the Petition, Duke Energy's own Exhibit A to the Motion to Dismiss, the attached Exhibit 21 FPSC Response Form, and Exhibits 2, 6, 9, 12, and 13 to the formal complaint and Petition for Initiation of Formal Proceedings.

2. With respect to Violation 1 under Rule 25-6.0345, F.A.C., Duke Energy's actions constituting the violation are further described in Duke Energy's Exhibit A to its Motion to Dismiss and in the FPSC Response Form, which again notified DEF that the PME-4 box was out of compliance.

3. As shown in Exhibit 21, items 2, 3, and 8 of the FPSC Response Form, and in Exhibits 2, 6, 9, 12, and 13 of the formal complaint, Petitioner alleged that the high-voltage box had restricted clearance, that the box clearance did not meet code, that the PME-4 box was not sealed at the base per manufacturer requirements allowing ants and lizards into the box, and that the box had not been properly inspected and maintained because one of the doors could not be opened.

4. More specifically, Petitioner alleged: (a) the high-voltage box had restricted clearance because the door had approximately 19 inches of clearance while the door itself was over 40 inches wide; (b) the box clearance did not meet code; (c) the PME-4 box was not sealed at the base in accordance with manufacturer requirements, allowing animal intrusion; and (d) the electrical box had not been properly inspected and maintained because one of the doors could not be opened.

5. Those factual allegations are not abstract conclusions. They describe the actual physical conditions that Petitioner contends rendered the equipment out of compliance with Commission-adopted safety standards under Rule 25-6.0345, F.A.C.

6. With respect to Violation 2 under Rule 25-6.039, F.A.C., Petitioner likewise relies on Exhibits 2, 6, 9, 12, and 13 to the formal complaint and Petition for Initiation of Formal Proceedings, together with attached Exhibit 21, items 2, 3, and 8 of the FPSC Response Form, as further describing the actions constituting the violation.

7. Petitioner alleges that Duke Energy was repeatedly notified of the PME-4 box conditions described above, including the restricted clearance, code-noncompliant clearance, unsealed base, and inability to properly inspect and maintain the equipment because one door could not be opened, yet Duke Energy continued to operate the equipment, deny noncompliance, and fail to promptly correct the known conditions.

8. Petitioner further alleges that operating equipment in that condition after repeated notice, while failing to properly inspect, maintain, and timely correct the conditions, constitutes a failure to establish and follow safe work practices under Rule 25-6.039, F.A.C.

9. These clarifications do not assert a new claim. They explain more specifically how the facts already pleaded and the exhibits already referenced constitute Duke Energy's alleged violations of Rule 25-6.0345 and Rule 25-6.039.

This Proceeding Is Within Commission Jurisdiction

1. The Petition alleges that Duke Energy is an investor-owned electric utility subject to Commission jurisdiction under section 366.04, Florida Statutes, and that the subject matter concerns safety to persons or property.

2. The Petition also alleges that the requested relief is limited to matters within the Commission's regulatory authority, including findings of compliance or noncompliance, investigation of statements made to the Commission, and penalties or sanctions authorized by law.

3. These allegations, accepted as true for purposes of the Motion, are sufficient to establish that the matter falls within the Commission's jurisdiction and is not merely a private damages dispute.

Mischaracterization of Petitioner's Position

1. Petitioner has made clear since the original PSC complaint and again in the formal Petition that this case is not a proceeding for relief or assistance in recovering damages.
2. Duke Energy's effort to recast the Petition as a damage claim obscures the actual issues presented: utility safety compliance, the adequacy of corrective action, and the truthfulness of statements made to the Commission.
3. Petitioner further alleges that Duke Energy has, in every response provided to Petitioner and to the PSC throughout this matter, failed to provide accurate and truthful information, and that Duke Energy's written responses frequently contradict one another over time.
4. That mischaracterization and pattern of inconsistent, misleading responses reinforces, rather than weakens, the need for formal proceedings because it goes directly to Petitioner's claims that Duke Energy has repeatedly provided false and incorrect information to the Commission and to Petitioner.

Duke Energy's Motion to Dismiss Continues the Pattern of Misinformation

1. Petitioner alleges that a substantial portion of Duke Energy's Motion to Dismiss itself contains misleading and incorrect information and continues the same pattern of misstatements and contradictions seen in Duke Energy's prior responses to the PSC and to Petitioner.
2. Rather than simply presenting good-faith factual disagreements, the Motion to Dismiss is alleged to rely on characterizations and assertions that are inconsistent with Duke Energy's own internal records, with its technician's prior acknowledgments, and with earlier written responses in this matter.

3. These allegations, which must be accepted as true at the motion-to-dismiss stage, further support Petitioner's claim that Duke Energy has not provided accurate and truthful information and underscore why the issues raised in the Petition should be resolved only after a full evidentiary hearing rather than through dismissal on the pleadings.

4. Petitioner further alleges that Duke Energy's Motion to Dismiss itself contains numerous incorrect, misleading, and not-truthful statements, and that it continues the same pattern of misrepresentation seen in Duke Energy's prior responses. This alleged pattern of inaccurate and misleading information directed to both Petitioner and the Commission makes it even more important that the Commission deny the Motion to Dismiss and allow these issues to be addressed and resolved through formal proceedings on a full evidentiary record.

Claims Against Duke Energy Remain Viable

1. Duke Energy argues that the portions of the Petition addressing alleged PSC errors should be dismissed as to DEF.

2. Even if the Commission were to separate allegations directed at PSC staff from those directed at Duke Energy, that would not justify dismissal of the claims specifically asserting Duke Energy's own violations of safety rules and truthfulness requirements.

3. The Petition plainly includes claims directed to Duke Energy's conduct, knowledge, internal documentation, written responses, and alleged rule violations.

4. At a minimum, the clarified allegations set forth above demonstrate that Petitioner has identified the rules allegedly violated and the actions constituting those violations with enough specificity to proceed beyond the pleading stage.

5. DEF'S Motion is not a true motion to dismiss. It is an attempt to bypass the commission's process by asking for factual terminations without a record. The law does not allow that. Because the Petition is legally sufficient and presents disputed issues of fact within the commission's jurisdiction, the motion must be denied.

Request for Relief

WHEREFORE, Petitioner respectfully requests that the Florida Public Service

Commission:

1. Deny Duke Energy Florida, LLC's Motion to Dismiss in its entirety.
2. Determine that the Petition satisfies Rule 25-22.036, F.A.C., and states claims within the Commission's jurisdiction.
3. Allow this matter to proceed to a formal evidentiary hearing so that the disputed facts may be determined on a full record.
4. Grant such other and further relief as the Commission deems just and proper.

Respectfully submitted,

/S/ Justin Gage

Justin Gage

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Winter Garden, Florida 34787

(407) 301-6133

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Exhibit 21

FPSC RESPONSE FORM

FPSC Inquiry Number: 1488062E

Complainant's Name: Justin Gage

Customer of Record's Name: Justin Gage

Service Address: 13114 Fox Glove St., Winter Garden, FL 34787

Telephone Number(s): (407)-301-6133

Date Received from the FPSC: October 17, 2025

Restate Customer's Concern: (*Verbatim from FPSC*)

Duke Energy has high-voltage equipment dangerously close to my home that has not been properly maintained. The PME-4 gearbox located near my property has been out of compliance with electrical safety codes for a significant period of time. Despite my repeated reports and communications, Duke Energy has failed to correct these serious violations.

My home has already suffered damage as a direct result of Duke Energy's gross negligence in maintaining this equipment. I am deeply frightened for my personal safety and my family's well-being. The equipment sits roughly 30-40 feet from my home and only about 20 feet from my neighbor's master bedroom window, putting both of our households at serious risk.

My neighbor and I both live in constant fear of the potential hazards this neglected high-voltage system poses. Duke Energy has documented these dangerous issues but continues to disregard its responsibility to take immediate corrective action. This ongoing inaction endangers our health, safety, and peace of mind."

Please merge these details to Service Tracking #212873 I thought I was going to be contacted to provide more details.

It was discovered that Duke Energy's High Voltage Equipment (S&C PME-4 pad-mounted switchgear, manufactured in 10/2003, serial no. 036133, catalog number 65102R1-A14F14-E197, Duke Ref. K198787) had not been properly maintained.

*Please note that the box is Over 20-year-old box.

1) The high-voltage box has restricted clearance. (Door has 19" clearance and the door is over 40") (video and photo evidence)

2) This Box Clearance does not meet code requirements

3) PME-4 Box is not sealed at the base per the manufacturer's requirements, which is allowing ants and lizards to enter the box. (video and photo evidence showing this inside and outside the box) 4) The PME-4 Box is violating the Electrical code by not being properly sealed and maintained to prevent environmental and animal intrusion, which can cause flashovers, faults, and arcing 5) Missing safety stickers on 2 sides 6) Improper stickers on the other 2 sides.

7) Improper/missing labels are a violation of the electrical code.

8) The electrical box has not been properly inspected and maintained. This would be impossible because one of the doors can not be opened. Not properly inspecting/maintaining equipment is against the electrical codes.

In the past 2 months, I have made around 10 attempts through phone calls, letters, and emails to get this electrical box into compliance. I have full documentation of all the written attempts that failed. My neighbor

and I are terrified and worried about our health, safety and well-being after a boom came from that box 2 months ago and sent surges into our homes, causing severe damage. I can not understand how it can be so difficult to get this box up to code. Instead, the Dukes' continued ongoing pattern of gross negligence keeps us in a constant state of concern for our safety. "

10/20/25 - ATTN COMPANY: We have received additional correspondence from Mr. Gage regarding his ongoing concerns. See above for reference. Thank you, CCaro-Rora

Actions Taken to Satisfy Customer:

Duke Energy Florida's (DEF) Pad Mounted Equipment (PME) located near Mr. Justin Gage's next door neighbor, is a dead front, underground distribution switchgear. Switch and fuse components are completely encased and protected so that they are not susceptible to foliage, wildlife, and other contaminants. Mr. Gage's premise is served by a nearby transformer, and not the PME-4 he references in his complaint.

DEF records indicate Mr. Gage's premise has experienced the following outages in the last 12 months:

<u>Date</u>	<u>Duration</u>	<u>Cause</u>
12/16/24	73 minutes	Public Accident/Damage
12/17/24	146 minutes	Equipment Failure
6/27/25	82 minutes	Weather

DEF records indicate Mr. Gage's premise experienced no momentary interruptions of service in the past 12 months.

On August 26, 2025, Mr. Gage filed a claim with Sedgwick, DEF's claims administrator

On August 28, 2025, DEF completed its investigation, and a letter was sent to Mr. Gage denying his claim.

On September 4, 2025, Mr. Gage contacted DEF to report a loud boom from coming from the transformer. DEF arrived onsite and found Mr. Gage had power. The voltage was checked and found to be good; however, his concern was with the PME-4 and not the transformer or a current outage. Mr. Gage stated the equipment did not have safety stickers, was too close to bushes, and the bottom is not sealed. The Troublemaker advised he would have his concerns investigated and put a safety sticker on the equipment.

DEF's inspection of its equipment, PME-4, found no violations of the NESC as noted below:

- The equipment is locked and sealed appropriately.
- The required warning sign for personnel is inside the equipment and is intact.
- This is a dead front; therefore, there are no exposed energized parts.
- DEF voluntarily places a safety sticker on the outside of the equipment.
- DEF can safely access the equipment. If DEF determined the hedges posed a problem or prevented safe access to our equipment, we would take the necessary actions to remove the impeding obstacles
- Switch and fuse components are completely encased and protected so that they are not susceptible to foliage, wildlife, and other contaminants.

On September 19, 2025, Mr. Doug Everhart, DEF's Liability Claims Manager, responded to Mr. Gage's claim appeal and explained DEF completed a thorough investigation and found no record or evidence of any event affecting his address on or around August 21, 2025. Mr. Everhart explained, due to Mr. Gage's appeal and his call to Customer Care on September 4, 2025, a Troublemaker was sent to inspect all connections from the transformer to the meter base and the PME-4. The Troublemaker advised the customer

owned ground wire was loose and needed to be addressed by an electrician. Mr. Everhart also explained to Mr. Gage the PME-4 serves as a non-operational piece of equipment that serves as a junction for two cable runs connected by bolted joints. Mr. Gage is directly served by a transformer, not the PME-4. Based on Mr. Gage's assertion that a loud boom and a flash came from the PME-4, DEF inspected the equipment. Any flash would have resulted in visible burn marks and an outage; however, neither occurred. Thunderstorms were confirmed in the Orlando area on August 21, 2025, the date Mr. Gage claimed there was a boom and flash coming from the PME-4, and it was suggested he may have seen a flash from a lightning strike nearby. Mr. Everhart explained DEF's investigation confirmed the equipment is within normal tolerance. Industry standard pad mounted equipment is not designed with rubber gaskets or similar seals at the base and sits flush on the concrete pad. Mr. Gage's claim remains denied.

On October 17, 2025, DEF received Mr. Gage's complaint, filed with the FPSC. Mr. Everhart replied to Mr. Gage to acknowledge his complaint and to advise he would be provided with a copy of DEF's response to the FPSC.

On October 18, 2025, Mr. Gage contacted DEF's Customer Care and advised the Customer Care Specialist the PME-4 does not meet the electrical code requirements and is a safety concern. An investigation request was issued. The Troublemaker arrived onsite and confirmed the PME-4 was locked and secured.

A copy of this response was sent to Mr. Gage at jgage76@gmail.com.

Date Submitted: November 6, 2025

Attachments: Acknowledgement

CERTIFICATE OF SERVICE

Docket No. 20260045-EI

I HEREBY CERTIFY that a true and correct copy of **Petitioner's Response in Opposition to Duke Energy Florida, LLC's Motion to Dismiss** has been furnished by electronic mail on this **6th day of April, 2026**, to the following persons:

Florida Public Service Commission

Office of General Counsel

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