

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In the Matter of:

DOCKET NO. 20260045-EI

Formal complaint of Justin Gage against
Duke Energy Florida, LLC for alleged
violations of Commission rules, orders,
and statutes governing electric utility
safety standards, compliance certifications,
and truthfulness in Commission filings.

PROCEEDINGS: COMMISSION CONFERENCE AGENDA
ITEM NO. 3

COMMISSIONERS
PARTICIPATING: CHAIRMAN GABRIELLA PASSIDOMO SMITH
COMMISSIONER GARY F. CLARK
COMMISSIONER MIKE LA ROSA
COMMISSIONER BOBBY PAYNE
COMMISSIONER ANA ORTEGA

DATE: Tuesday, July 7, 2026

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

REPORTED BY: DEBRA R. KRICK
Court Reporter and Notary
Public in and for the State
of Florida at Large

PREMIER REPORTING
TALLAHASSEE, FLORIDA
(850) 894-0828

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

2 CHAIRMAN SMITH: Okay. We are going to move
3 to discussion items, so back to No. 3. I will
4 allow everybody to get resituated.

5 And I am not sure which staff member it is --
6 okay. You are recognized to present -- introduce
7 the item.

8 MR. NEWMAN: Good afternoon, Commissioners,
9 Howard Newman for legal staff.

10 Item 3 is staff's recommendation with respect
11 to the complaint by Mr. Gage against Duke Energy
12 regarding the compliance of a PME-4 switchgear box.

13 Issue 1 is staff's recommendation to deny the
14 motion to dismiss filed by Duke with respect to the
15 compliant. Staff's recommendation in Issue 2 is
16 that the complaint should be denied because it
17 doesn't appear that Duke violated a rule, statute
18 order or its tariff in the condition of the box.

19 Representatives for Duke are present to answer
20 any questions regarding the staff recommendation.

21 Mr. Gage is present to give a statement.

22 Commission staff is available for any questions,
23 including ENG safety inspector Mr. Velazquez by
24 telephone.

25 CHAIRMAN SMITH: Thank you, Mr. Newman.

1 Okay. We are going to go to you, Mr. Gage, to
2 present. We are going to give three minutes, and
3 we will have -- there will be some lights just to
4 help kind of guide you so that you know when your
5 time is up. It will be yellow telling you you got
6 a minute left.

7 So you are recognized whenever you are ready.
8 Oh, I am sorry, can you turn your mic on so that we
9 can --

10 MR. GAGE: Okay. Thank you.

11 CHAIRMAN SMITH: Thank you.

12 MR. GAGE: Mic check. Don't start my three
13 minutes yet. I took eight hours and put it into
14 three minutes.

15 CHAIRMAN SMITH: I appreciate that. Yeah,
16 whenever you are --

17 MR. GAGE: It's very difficult, and, you know,
18 so --

19 Good afternoon, Chairman, Commissioners. My
20 name is Justin Gage. I will be representing
21 myself. Thank you for the opportunity to speak
22 today.

23 On September 4th, 2025, I witnessed a Duke
24 technician document in his computer that a PME-4
25 had clearance issues and needed to be brought into

1 compliance. I have photographs and videos
2 confirming that. Despite the findings, Duke Energy
3 did not correct the condition. More than a month
4 and even after I sought assistance through the PSC,
5 Duke repeatedly stated in writing to both me and
6 the PSC that the PME-4 was in compliance and had
7 proper clearance.

8 That position continued for nearly three
9 months. Then a real emergency occurred, a spectrum
10 crew hit a underground high voltage line causing a
11 neighborhood outage. Multiple Duke technicians
12 responded but could not safely perform their work
13 at the PME-4 because of the clearance conditions.
14 Exhibit 13.

15 Following the emergency, I filed an OSHA
16 complaint. Only then did Duke remove the bushes
17 and correct the very condition that I repeatedly
18 stated -- or that they repeatedly stated was in
19 compliance there.

20 Duke's safety specialist, Ivan White,
21 explained that the area was being cleared and
22 sodded so that technicians could safely use their
23 six-foot hot stick without tripping. I have a
24 video of that statement as well. Only after that
25 correction did the PSC safety supervisor Tony

1 confirm that the PME-4 was in compliance.

2 I would also like to address the staff
3 recommendation. It concludes that this complaint
4 should be denied because of the insufficient
5 evidence and because of the multiple inspections
6 allegedly confirmed compliant. Respectfully, that
7 conclusion is not supported by the record.

8 The first inspection documented that the PME-4
9 needed to be brought into compliance. The second
10 resulted in Duke correcting the condition after the
11 OSHA complaint.

12 OSHA classified this complaint as serious,
13 although, no citations were issued because I was
14 not a Duke employee.

15 The third confirmed -- third visit confirmed
16 that the PME-4 was in compliance after the
17 corrections were already made. A post correction
18 inspection cannot establish that the PME-4 was
19 compliant before those corrections were made.

20 After the staff recommendation was issued, I
21 submitted additional evidence showing the PCS
22 safety supervisor, Tony, agreed the PME-4 was not
23 in compliance during the period at issue. Exhibits
24 100 and 101.

25 On Issue 1, I support the staff recommendation

1 denying Duke Energy's motion to dismiss. On Issue
2 2, I amended the formal complaint further
3 identifying the specific NESC provisions at issue.
4 The issue before the Commission is the condition of
5 the PME-4 during the period in question, not after
6 Duke corrected it.

7 For these reasons, I respectfully request the
8 Commission finding the PME-4 was out of compliance
9 during the period in question, and impose all
10 appropriate penalties, and allow these proceedings
11 to move forward based on the evidence.

12 Almost done. I promise.

13 Chairman and Commissioners, this is, right
14 here, the PME-4 at the center. It contains voltage
15 of high -- high voltage in this panel, okay.
16 Duke's own employees wear protective equipment,
17 maintenance -- and to maintain and inspect it, and
18 they use a required six-foot hot stick, okay, to
19 operate this equipment.

20 Before this matter is concluded, I
21 respectfully ask that Duke to answer two questions.

22 One, how could this box right here, okay, be
23 properly maintained and operated with a six-foot
24 stick, you know, with this type of condition here
25 for the clearance? And does Duke still remain

1 their position that the PME-4 is in compliance and
2 has the proper clearance.

3 Just -- I am almost done here, if you can see
4 right in here, this is a yellow stick, this is
5 needed to operate the unit and to switch it, okay.
6 And the reason they use that stick is because there
7 is, like, an area called, like, a blast zone. So
8 even if you have unenergized -- oh, I am sorry, I
9 hope I have been in the mic the whole time.

10 But this stick right here is used to operate
11 it. Now it's a dead front unit, okay. So what
12 dead front means is this reduces the risk of shock.
13 It reduces intrusion from, like, wildlife and
14 animals. And -- well, I feel like I haven't been
15 on the mic the whole time. But it's still, the
16 NESC rules are made and designed for even if, like,
17 there is a component of this box that isn't charged
18 at the time, it's could it ever been charged?

19 That's why if they go in the dead front side
20 and they claim that it's not charged. It doesn't
21 matter. NESC says it could be, and that's why you
22 wear all of this safety equipment that's in this
23 picture.

24 CHAIRMAN SMITH: Mr. Gage, do you think you
25 are almost wrapping up here?

1 MR. GAGE: I am. I am done. Yeah.

2 CHAIRMAN SMITH: Okay.

3 MR. GAGE: But I would like to -- you know,
4 like, if nothing else, I would like to have Duke
5 Energy go on record here, look at this picture and
6 tell the cameras, tell everybody here in this room
7 that this in compliance when you have two people
8 smashing in a bush, you have -- you can open the
9 panel, like, maybe one-tenth, okay.

10 Not to mention, when this panel is opened,
11 there was lizards running around, ants, which you
12 talk to any electrical person, those are, like, a
13 nightmare even for a dead front unit, where you
14 have vents and they can all go in there, you know,
15 so --

16 CHAIRMAN SMITH: Thank you, Mr. Gage.

17 MR. GAGE: Yep. Thank you for the time. I
18 really appreciate it.

19 CHAIRMAN SMITH: Thank you.

20 We will go next to Ms. Cuello from Duke.

21 MS. CUELLO: Good afternoon. Stephanie Cuello
22 on behalf of Duke Energy.

23 I am just going to speak to the item at hand,
24 not necessarily these pictures. But we have stated
25 multiple times on the record that the PME has

1 always been in compliance and that we maintain our
2 equipment in compliance with all necessary
3 standards.

4 CHAIRMAN SMITH: Staff, do you have any
5 comments, any response?

6 MS. CRAWFORD: I don't believe we have any
7 comments. We are happy to address any questions
8 the Commissioners may have. We continue to stand
9 by the staff recommendation as filed.

10 CHAIRMAN SMITH: Thank you.

11 Commissioners?

12 Commissioner Clark.

13 COMMISSIONER CLARK: Can the staff summarize
14 the findings of their investigation?

15 CHAIRMAN SMITH: Mr. Brown.

16 MR. BROWN: I think this is probably going to
17 be where I defer to Mr. Velazquez since he was
18 on-site.

19 Tony, can you provide insight for us?

20 MR. VELAZQUEZ: Well, I can say that when I
21 was there, the bushes had been removed, so access
22 to that side of the cabinet was easily available.
23 Prior to that, it wasn't, because the bushes were
24 practically in contact with the -- with the -- that
25 one side of the PME, and the code required that it

1 be acceptable and have proper clearance to do work.

2 The code does not specify any numbers, but it
3 says that it has to have adequate space for someone
4 to reasonably do their work.

5 COMMISSIONER CLARK: I am just going to dig in
6 here a little bit. I assume -- you keep saying
7 PME. I assume this is a pad-mounted transformer
8 serving a residential home?

9 MR. VELAZQUEZ: It's a switchgear cabinet,
10 and, you know, the model number is PME-4.

11 COMMISSIONER CLARK: Okay. And so this is --
12 we are talking 7,200 to 240 conversion?

13 MR. VELAZQUEZ: I don't know the exact
14 voltage, but it's pretty high voltage.

15 COMMISSIONER CLARK: And it's in an enclosed
16 cabinet, correct? By design.

17 MR. VELAZQUEZ: Closed cabinet, sitting on a
18 pad mount.

19 COMMISSIONER CLARK: Okay. And it serves --
20 does this serve -- does this serve your home, sir?

21 MR. GAGE: Oh, I'm sorry. Am I still on here?

22 Yes, it does. It does go through a
23 transformer first, but it does. Actually, it's
24 a -- I have been told by multiple Duke technicians,
25 which by the way, every technician that has came

1 out, even the ones that were on the emergency
2 response, they all agreed with me. So I was always
3 confused, like, why this would get broadcasted back
4 to Duke, you know, or where that even came from,
5 that it was in compliance when every single
6 technician, and I even have, like, more evidence
7 than you --

8 COMMISSIONER CLARK: Let's stick -- so does
9 this device serve your home?

10 MR. GAGE: It does. Yes, sir.

11 COMMISSIONER CLARK: Okay. And this is a
12 switchgear that is -- this is a switch behind the
13 transformer?

14 MR. GAGE: Yes. Yes, sir.

15 COMMISSIONER CLARK: Ms. Cuello, can you tell
16 us the purpose of the switch?

17 MS. CUELLO: So I actually have an SME here,
18 Kenny Coleman. He will come up and explain that to
19 you.

20 CHAIRMAN SMITH: Mr. Coleman, you are
21 recognized.

22 MR. COLEMAN: Yes, Commissioner, your
23 question? Could you repeat the question?

24 COMMISSIONER CLARK: Yes, sir.

25 So this is a switch located behind the

1 transformer that serves this gentleman's house.
2 What's the purpose of the switch?

3 MR. COLEMAN: So it is a feeder related
4 component pad-mounted switchgear. It does serve
5 parts of his community. I do not think it serves
6 the transformer that feeds his home.

7 COMMISSIONER CLARK: So it is not behind the
8 transformer, it is ahead of the transformer?

9 MR. COLEMAN: It would be ahead of any
10 pad-mounted equipment that served an individual
11 home, yes, sir.

12 COMMISSIONER CLARK: Okay. It is ahead of the
13 transformer?

14 MR. COLEMAN: That's correct.

15 COMMISSIONER CLARK: And we don't know exactly
16 the purpose of the switch?

17 MR. COLEMAN: Yes, I do. It is a bolted
18 connection feeder side gear that only has bolted --
19 that has a switchable side, which is a serviceable
20 side, and then a non-switchable side.

21 COMMISSIONER CLARK: So you can reroute power
22 with the switch, is that what its purpose is?

23 MR. COLEMAN: I can only -- we can only
24 isolate --

25 COMMISSIONER CLARK: You can isolate --

1 MR. COLEMAN: -- power with that particular
2 gear.

3 COMMISSIONER CLARK: Okay. And you are not
4 certain if it serves this customer's house or not?

5 MR. COLEMAN: It does not serve his home.

6 COMMISSIONER CLARK: It does not serve --

7 MR. COLEMAN: It's part of the circuit
8 associated with his community, but it does not
9 serve his home, no.

10 COMMISSIONER CLARK: Okay. Thank you.

11 CHAIRMAN SMITH: Yeah, Commissioner Payne.

12 COMMISSIONER PAYNE: Is it typical for the
13 utility under vegetation management to maintain the
14 space of the switchgear, or would that be upon the
15 HOA? And I am speaking to Duke.

16 MS. CUELLO: My understanding the HOA
17 maintains their, you know, bushes or shrubbery, all
18 of that, but if we, like, we did in this instance,
19 if we requested to remove it because we needed --
20 we needed to for any type of reason, they complied
21 with it. But we don't -- we don't go in and
22 maintain the, I guess the plants in the HOA
23 community. But if it ever does, you know, if we
24 ever request or there is some sort of interference,
25 usually the HOA will work with us and try to come

1 to a resolution.

2 In this instance, we notified them that we
3 were going to remove a certain bush, or parts of
4 it, and they were okay with that.

5 MR. GAGE: Yeah.

6 COMMISSIONER PAYNE: Yes, sir.

7 MR. GAGE: Yeah, I would like the opportunity
8 to respond to that.

9 Yeah, under normal circumstances, if they had
10 the proper labeling that mentioned, like, how far
11 the bushes should be maintained, then I would agree
12 or accommodate that, okay, sure the HOA could be
13 added.

14 They didn't even have the proper labels on
15 there. Even the day, the first day they came and
16 he put the wrong one on and says, I don't have the
17 right ones, but I am going to put this on, okay --
18 and I have all of this, like, on recording and
19 everything.

20 But setting all of that aside, I come to them
21 and I give them 15 notifications and pictures and
22 everything, and it wasn't, hey, let me get with
23 your HOA. It I have HOA letters stating that they
24 never responded or contacted them. It's their
25 duty, okay, it's their box, it's their duty to

1 address the situation when they are notified. It's
2 gross negligence, and then it becomes gross --

3 COMMISSIONER PAYNE: Yes, sir. We understand
4 that. I don't want to cut you off. We understand
5 that.

6 Next question for Duke: It's common and
7 typical for a middle clad switchgear of a PME size
8 pad-mounted transformer to have ventings, openings
9 where ants, lizards and other things could crawl in
10 there. Typically I have seen those in residential
11 neighborhoods. This probably serves a underground
12 feeder distribution, is that correct?

13 MR. COLEMAN: That would be correct.

14 COMMISSIONER PAYNE: And so the maintenance of
15 that is that typically, in a neighborhood, HOAs
16 usually maintain the plants and shrubbery around
17 the facility. If it's out of compliance, you will
18 come in, just like you did, and remove a bush or
19 whatever to make sure there is compliance with, as
20 Mr. Gage said, the blast, art blast area?

21 MR. COLEMAN: That is also correct.

22 COMMISSIONER PAYNE: Okay. Thank you.

23 CHAIRMAN SMITH: Commissioners, do we have any
24 other questions here from staff or anything?

25 COMMISSIONER PAYNE: I have a question.

1 CHAIRMAN SMITH: Yeah, Commissioner Payne.

2 COMMISSIONER PAYNE: Mr. Gage --

3 MR. GAGE: Yes.

4 COMMISSIONER PAYNE: -- you have to understand
5 what your cause of action is. I mean, I am not
6 sure what your background is. I am not sure what
7 your saying about OSHA being in there, why is an
8 OSHA issue about an issue between you and the
9 utility, or the utility itself? I am trying to
10 figure out what's at stake for you for a cause of
11 action when this transformer didn't even serve your
12 home.

13 MR. GAGE: Right. So actually -- I mean, this
14 is actually -- it does show -- there was actually a
15 survey guy, and they surveyed -- the guy that marks
16 all the electricity, and this is actually a map of
17 it. It was just ironic he was there, like, a week
18 before the, you know, so I was able to get the
19 diagram. This might help you on that. So I don't
20 believe that it doesn't serve my property. It
21 does.

22 And even if it didn't, if I point out that
23 this box is not in compliance, okay, it doesn't
24 matter whose house that this -- that this box,
25 okay, is connected to. It's out of compliance.

1 Okay. Get it fixed and move on.

2 Their whole, like, just every response that
3 they had was, it's in compliance and it has the
4 proper clearance. And I do have a problem with
5 that.

6 Why do I have a problem? Because if it
7 doesn't feed my house -- which it does -- it's
8 feeding one of my neighbors. And that box sits
9 20 feet from her house, okay. And she's terrified
10 of it, okay. I am. I have a very large house,
11 okay. I have worked hard for it, and to have a
12 20-year old box that when the technician opens the
13 door, there is lizards running around, even when
14 the PSC was there, Tony did his site visit, they
15 opened up a door on the opposite side and there is
16 a lizard in there, and there is ants flying all
17 around the door, you know, climbing all around.
18 There is cardboard. I think I have a picture of
19 that that I presented to you guys. There is
20 cardboard in there, stickers, you know, up until
21 the day after OSHA, you know.

22 So I have a direct interest in this, and all
23 they did was deny it, and that's not right. You
24 know, they lied to you guys, you know --

25 COMMISSIONER PAYNE: Have you seen other

1 transformers? When you looked in other
2 transformers, did you see anything similar when you
3 looked in --

4 MR. GAGE: On the transformers, no. They
5 actually hit -- you know, the spectrum crew, they
6 hit an underground line, and they did fry a
7 transformer, and we all had no power for, like, the
8 whole afternoon, you know.

9 And then the guys -- this is why I say that
10 that box is directly, not just because of, you
11 know, I have actual witnesses that that say it is,
12 okay, but the fact that they had to go to that box
13 to go try and switch it, and they couldn't do it.
14 And I had a conversation with the actual
15 technician, and he was actually complaining and
16 telling me, yeah, you know, the reason we need 10
17 feet is because of the little hot stick that we
18 have -- we even need six feet and then an
19 additional two feet -- or four feet to work the
20 stick.

21 COMMISSIONER PAYNE: That's typical compliance
22 any time you are dealing with a switchgear. I
23 worked with a utility for 37 years, I understand.

24 MR. GAGE: Right. Yeah.

25 COMMISSIONER PAYNE: Thank you.

1 MR. GAGE: Thank you.

2 CHAIRMAN SMITH: Well, I mean, I am going to
3 just -- similarly to Commissioner Payne, of just,
4 you know, asking for your cause of action here. I
5 mean, we -- we are guided by rules and statutes
6 about what we can and cannot, you know, how we
7 operate, the staff has given us, and we had a PSC
8 staff look at the unit. And by all accounts, there
9 is no rule that's been violated here. So we really
10 can't -- you know, there is really not much of a
11 thing that we can do here to fix this issue for
12 you. I think it's been pretty clear from the
13 information that we have in front of us --

14 MR. GAGE: Right.

15 CHAIRMAN SMITH: -- that it's in compliance.
16 I mean, I don't -- I don't know if my colleagues
17 have anything else to add, but -- Commissioner La
18 Rosa.

19 COMMISSIONER LA ROSA: Madam Chair, I think
20 you are accurate, and I think that's what I am
21 trying to dig through to understand, unless staff
22 can help us, is there anything within our
23 jurisdiction that precludes us to do anything else?
24 I think what you laid out is pretty
25 straightforward, so I agree with your sentiment,

1 Madam Chair.

2 CHAIRMAN SMITH: The only thing I will say
3 lastly, Mr. Gage, is obviously, there is -- you
4 know, this is a -- you have an opportunity to, you
5 know, to protest this, you know, if we were to
6 approve staff's recommendation here, but that's
7 about -- and that would be the next step, but --

8 MR. GAGE: Can I just say one thing here? And
9 I really appreciate all you guys' time, you know, I
10 really appreciate that.

11 I mean, the NESC, you guys adopt that as the
12 minimum standard, okay. And so -- I mean, you guys
13 do regulate this. If it's not you guys that
14 regulate this --

15 CHAIRMAN SMITH: I understand, but the NESC
16 has not been violated here by all accounts.

17 MR. GAGE: So this is not a vio -- like, this
18 is a safe -- this is safe right here? I don't mean
19 to argue, but, like, this right here, and I mean
20 this is --

21 CHAIRMAN SMITH: Neither Duke nor staff found
22 a violation. As of now everything has been -- and
23 everything has been -- the bush is gone, you know,
24 I am not sure what more --

25 MR. GAGE: Well, it's in compliance now, but

1 for three months, Duke Energy, like, basically
2 their position was that this was in compliance.
3 They -- they didn't tell you guys the truth. They
4 misrepresented what was going on out there. This
5 is a regulation issue.

6 I hate to, you know, like -- I mean, every
7 law -- I have, like, 15 different, you know, like,
8 NESC rules that were broken, and that's the
9 minimum. I mean, there is absolutely nobody that
10 can look at this and tell me this is safe, and that
11 is NESC, and you guys are the --

12 CHAIRMAN SMITH: I am going to recognize
13 Commissioner Ortega right now.

14 Commissioner Ortega.

15 COMMISSIONER ORTEGA: Thank you. I just want
16 to concur with what you all have said, and I am
17 prepared to make a motion to move approval of staff
18 recommendation finding that we have not found that
19 there is a rule violation that occurred for us to
20 take any further action.

21 CHAIRMAN SMITH: Thank you.

22 Okay. There is a motion. Is there a second?

23 COMMISSIONER LA ROSA: Second.

24 CHAIRMAN SMITH: I have a motion and a second.
25 All those in favor, please say aye.

1 (Chorus of ayes.)

2 CHAIRMAN SMITH: Any opposed?

3 (No response.)

4 CHAIRMAN SMITH: Seeing none, that means Item
5 No. 3 passes staff's recommendation.

6 Thank you.

7 (Agenda item concluded.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)
COUNTY OF LEON)

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

IT IS FURTHER CERTIFIED that I
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same has been transcribed under my direct supervision;
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I FURTHER CERTIFY that I am not a relative,
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DATED this 20th day of July, 2026.


DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH575054
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