

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Office of Commission Clerk
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Dated: July 30, 2026

Re: Filing Cover Sheet for Protest of Proposed Agency Action

Method of Filing: Electronic Filing via Florida Public Service Commission Portal

Docket No.: 20260045-EI

Order No.: PSC-2026-0259-PAA-EI

Filed by: Justin Gage, Pro Se

Please except for filing the attached **Petition for Formal Administrative Hearing and Protest of Proposed Agency Action Order No. PSC-2026-0259-PAA-EI** in the following matter:

In re: Formal Complaint of Justin Gage against Duke Energy Florida, LLC regarding the historical accessibility, working clearance, and compliance condition of PME-4 during September 2025 through November 2025.

Petitioner / Filing Party

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This filing is intended as a timely protest of Proposed Agency Action and a request for formal administrative hearing under Section 120.57(1), Florida Statutes, relating to Order No. PSC-2026-0259-PAA-EI.

Respectfully submitted,

/s/ Justin Gage
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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In re: Formal Complaint of Justin Gage against Duke Energy Florida, LLC regarding the historical accessibility, working clearance, and compliance condition of PME-4 during September 2025 through November 2025.

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Petition for Formal Administrative Hearing and Protest of Proposed Agency Action Order No. PSC-2026-0259-PAA-EI

Dated: July 30, 2026

Petitioner, Justin Gage ("Petitioner"), pursuant to Rule 25-22.029, Florida Administrative Code, sections 120.569, 120.57, and 120.80 Florida Statutes, and Rule 28-106.201, Florida Administrative Code, hereby files this Petition for Formal Administrative Hearing and Protest of Proposed Agency Action to protesting Order No: PSC-2026-0259-PAA-EI. Petitioner requests a formal evidentiary Hearing under Section 120.57(1), Florida Statutes, because the Proposed Agency Action affects Petitioner's substantial interests and turns on disputed issues of material fact that cannot lawfully be resolved on written record alone.

Timeliness

Petitioner received notice of Proposed Agency Action Order No. PSC-2026-0259-PAA-EI on July 24, 2026 when the order was transmitted by email and electronically posted by the Florida Public Service Commission to the electronic docket. This Protest and request for formal administrative hearing is filed within 21 days of receipt of the notice of Proposed Agency Action, consistent with the protest period stated in the Commission's notice and the time allowed by applicable law, including Rule 28.106.201, Florida Administrative Code, which requires a statement of when and how notice was received, and sections 120.569 and 120.57 Florida Statutes.

Nature of the Protest and Issue Presented

This Petition presents a clear and controlling question of administrative law: whether the Florida Public Service Commission may lawfully resolve disputed issues of historical material fact concerning the NESC compliance, accessibility, and safety condition of Duke Energy Florida, LLC's PME-4 high-voltage equipment through Proposed Agency Action without first affording the formal evidentiary hearing required by Chapter 120, Florida Statutes. If disputed issues of material fact remain, Florida law requires that they be resolved through a formal evidentiary hearing rather than through Proposed Agency Action.

Sections 120.569 and 120.57(1), Florida Statutes, require a formal evidentiary hearing when disputed issues of material fact must be resolved before final agency action. Section 120.52, Florida Statutes, defines the concepts used under the Administrative Procedure Act, including the distinction between disputed issues of material fact and matters that may be resolved as questions of law. Petitioner contends that this proceeding involves disputed historical facts concerning the

condition, accessibility, operation, and compliance of the PME-4 during the relevant period, and therefore falls within the category of disputes requiring a formal evidentiary hearing under Sections 120.569 and 120.57(1), Florida Statutes.

These factual disputes are material because their resolution will directly affect whether the Commission's proposed findings concerning historical compliance, accessibility, operability, and the existence of any safety-related violation can properly be sustained. Petitioner does not ask the Commission to determine the ultimate merits at this stage. Rather, Petitioner requests the procedural protections required by law so that disputed facts may be resolved through sworn testimony, witness examination, cross-examination, documentary evidence, and credibility determinations based upon a fully developed evidentiary record before an Administrative Law Judge, as contemplated by Section 120.57(1), Florida Statutes.

This Petition is filed pursuant to Sections 120.569 and 120.57(1), Florida Statutes, Rule 25-22.029, Florida Administrative Code, and Rule 28-106.201, Florida Administrative Code, as a point of entry protest to Proposed Agency Action Order No. PSC-2026-0259-PAA-EI. Petitioner elects a formal evidentiary hearing under Section 120.57(1), Florida Statutes, because the Commission's proposed action affects Petitioner's substantial interests and depends upon disputed issues of material fact. Petitioner does not seek reconsideration of factual findings through this protest proceeding. Petitioner seeks only the procedural right to develop and present evidence before any final determination is made regarding disputed issues of material fact.

Exhibit 200 (Commission Transcript). Petitioner attaches and incorporates by reference as Exhibit 200 the official transcript of the July 7, 2026 Florida Public Service Commission Conference, Agenda Item 3 in Docket No. 20260045-EI. Exhibit 200 is material because it

reflects the Commission's discussion of factual issues that Petitioner contends remain genuinely disputed concerning accessibility, working space, operability, and compliance during the relevant period of September 2025 through November 2025. As such, the transcript supports Petitioner's position that disputed issues of material fact remain for resolution through a formal evidentiary hearing under Sections 120.569 and 120.57(1), Florida Statutes.

The disputed issues of material fact requiring a formal evidentiary hearing are identified below.

Findings in Proposed Agency Action Disputed – Issues for Formal Evidentiary Hearing

Petitioner identifies the following disputed findings and issues that must be resolved through a formal evidentiary hearing under Section 120.57(1), Florida Statutes, rather than through Proposed Agency Action:

- 1. Historical NESC compliance and accessibility of PME-4 (September–November 2025).**

Whether the PME-4 was maintained in a condition that satisfied applicable NESC safety and accessibility requirements during the September–November 2025 period is a disputed issue of material fact that can only be resolved through sworn testimony, witness examination, cross-examination, and credibility determinations based on the full evidentiary record.

- 2. Effect of post-correction inspections on establishing past compliance.**

Whether inspections or observations conducted after Duke Energy had already corrected the PME-4 can reliably establish that the equipment was compliant during the earlier disputed period presents a material factual dispute requiring testimony and

cross-examination concerning the timing of inspections, the physical condition of the equipment at each inspection, and the changes made in the interim.

3. Sufficiency and conflict in the evidentiary record regarding violations.

Whether the record is sufficient to establish that no safety-related violation or noncompliant condition existed during the relevant period is a disputed factual question because the record contains conflicting testimony, documentary evidence, photographs, video evidence, and staff and utility representations that must be weighed and tested through formal evidentiary procedures.

4. Existence of safety-related rule and NESC violations during the relevant period.

Whether Duke Energy's PME-4 complied with Commission-adopted safety standards and the NESC during September–November 2025 is a disputed issue of material fact that requires sworn testimony, expert and lay witnesses, cross-examination, and credibility findings, rather than resolution on a paper record.

5. Accuracy and candor of Duke Energy's Representations regarding PME-4

Condition. Whether Duke Energy provided accurate, complete, and non-misleading information to the Commission and to Petitioner concerning the historical condition, clearance, and compliance status of the PME-4 box during September-November 2025 remains disputed issue of material fact, requiring sworn testimony, cross-examination, and credibility determinations regarding Duke Energy's written and verbal representations, internal documentation, and field-level observations.

Prior to the July 7, 2026 Commission meeting, Petitioner submitted numerous exhibits asserting that the PME-4 was in a noncompliant condition during the relevant period and advised that additional evidence, including video evidence, was available if needed. Exhibits 100 and

101 are described as showing that the PSC's own safety supervisor, Tony Velazquez stated in writing that the earlier condition of the PME-4 was not in National Electrical Safety Code ("NESC") compliance during the period in question. (September 2025-November 2025

At the July 7, 2026 Commission meeting, PSC Safety Supervisor Tony Velazquez was described as confirming on the record that, during the relevant period, the panel was not accessible and that code required the equipment to be accessible. He was also described as stating that although the NESC does not provide a single numerical clearance requirement in feet for this situation, the general rules required adequate space for someone to reasonably work. Petitioner further asserted that, after the later PSC site visit that occurred only after Duke Energy had already corrected the condition, Mr. Velazquez answered questions in a manner Petitioner believes confirmed that the PME-4 was not in NESC compliance during the earlier historical period. (September 2025- November 2025) The period that Duke Energy repeatedly stated in writing that there PME-4 Box was in compliance and had proper clearance.

Commissioner Payne allegedly stated that, based on his 37-year utility experience is typical compliance when dealing with switchgear. , (After Petitioner stated that 10-Foot clearance is required on PME-4 equipment) Petitioner contends that these statements underscores why a formal hearing is required: it highlights the central disputed factual question of what working clearance was required, what clearance actually existed, and whether the PME-4 could be safely operated under real-world field conditions during the September-through-November 2025 period.

Petitioner contends that the Commission could not lawfully resolve those issues on a paper record because this case turns on credibility and conflicting evidence. The Commission necessarily had to weigh and choose among Duke Energy's written compliance representations,

alleged field-level documentation by a Duke technician, statements attributed to PSC staff, photographic evidence, video evidence, Exhibits, evidence from the November outage, and the significance of later corrective action. Those are factual and credibility determinations that require evidentiary procedures, not mere legal analysis.

A central unresolved question identified by Petitioner is how the PME-4 could have been safely inspected, maintained, and operated with a six-foot hot stick under the clearance conditions that existed during the relevant period, especially where the door allegedly could not fully open. Petitioner presented that question directly, but states that it was never answered. Petitioner contends that this unanswered operational question lies at the center of the case because a conclusion of compliance cannot be reliably sustained without first resolving how the equipment could have been safely worked under the actual field conditions alleged. Exhibit 13 illustrated Duke Technicians crammed in a bush attempting to force the door of the PME-4 Box open during an emergency response visit. The 6-foot hot stick was resting on the unit in the photo but was never used because the techs could not safely access the unit.

Petitioner further asserted that once Duke Energy had notice of a noncompliant condition involving its own equipment, Duke Energy had a duty to correct that condition, and that continued inaction after notice raised serious safety concerns and becomes gross negligence. Although Commissioner Payne stated that he understood how that all works, the subject was quickly changed and the Petitioner states that he was prevented from fully developing that point during the meeting

July 7, 2026 Meeting Facts

Petitioner identifies the following facts from the July 7, 2026 Commission meeting as especially important to the request for a formal administrative hearing:

- Petitioner stated that he will be representing himself
- Staff recommendation stated that they believe the Petition states a cause of action related to safety compliance of DEF Facilities, which is under Commission jurisdiction as provided under Section 366.04(6) F.S.
- PSC Staff recommendation stated that they believe that the factual allegations contained in the Petitioners complaint are sufficiently clear to show which of DEF'S actions violated Commission rules.
- PSC Safety Supervisor Tony Velazquez allegedly confirmed that during the period in question the panel was not accessible and that code required the equipment to be accessible.
- PSC Safety Supervisor Tony Velazquez allegedly stated that while the NESC did not provide a single specific number of feet for this situation, the general rules required adequate room for someone to reasonably work.
- Petitioner asserted that, after a later PSC visit conducted only after the PME-4 had been brought into compliance, Mr. Velazquez answered questions in a manner Petitioner believes confirmed that the PME-4 had not been in NESC compliance during the earlier period.
- PSC Safety Supervisor Tony Velazquez allegedly confirmed that the PME-4 had high voltage running through it.
- Commissioner Payne stated that, based on 37 years of utility experience, that is typical compliance when dealing with switchgear. (allegedly confirming Petitioners statement that a ten-foot clearance is required for the PME-4)
- Petitioner stated that once Duke Energy was notified that its box was out of compliance, it became Duke Energy's duty to fix it, and that failure to do so raised serious safety concerns.

- Petitioner stated that the proper labels were not on the unit to show that clearance was needed.
- Petitioner stated that he had video and photographic evidence and that he personally witnessed a Duke Energy technician document in a computer on September 4, 2025 that the PME-4 was out of compliance and had improper clearance.
- Petitioner stated that for nearly three months (September 2025-November 2025 Duke Energy denied corrective action.
- Petitioner stated that for nearly three months Duke Energy represented in writing to both Petitioner and the PSC that the PME-4 was in compliance and had proper clearance.
- Petitioner stated that a real emergency exposed the problem when Duke technicians responding to an outage could not safely perform their work at the PME-4 because of the clearance conditions, and Exhibit 13 allegedly showed Duke personnel attempting to work in cramped conditions with a six-foot hot stick.
- Petitioner stated that Duke Energy brought the PME-4 into compliance only after he filed an OSHA complaint. (Nearly 3 months later)
- Petitioner stated that after the OSHA complaint he had video of Duke Energy specialist Ivan White saying the area was being cleared and sod was being laid so technicians could safely use a six-foot hot stick without tripping.
- Petitioner argued that the staff recommendation asserting insufficient evidence and multiple inspections confirming compliance was not supported by the record.
- Petitioner argued that there were not 3 inspections confirming the PME-4 was in compliance and that the first inspection documented the need to bring the PME-4 into compliance, the

second led to corrective action after OSHA pressure, and the third was a PSC visit that occurred only after the corrections had already been made.

- Petitioner stated that the only reason OSHA did not issue any citations was because the complaint could only be an informal complaint because he was not an employee.
- Petitioner stated OSHA classified this complaint as “Serious”
- Petitioner argued that a post-correction inspection cannot establish compliance during the earlier disputed period. (September- November 2025)
- Petitioner presented two questions he believed were critical: first, how the PME-4 could have been safely inspected, maintained, and operated with a six-foot hot stick under the actual clearance conditions during the relevant period; and second, whether Duke Energy still maintained its position that the PME-4 had been compliant throughout that period.
- Petitioner states that the first question was never asked by the Commissioners or answered by Duke Energy, while Duke Energy responded to the second by maintaining its position that the equipment was and had been compliant.
- Petitioner stated that he had an Amended the formal complaint, further identifying the specific NESC provisions at issue.
- Petitioner had a second amended formal complaint prepared and available for filing, which would have further narrowed any potential grounds of opposition that Duke Energy might have asserted during the commission meeting.
- Petitioner stated the issue before the Commission is the condition of the PME-4 during the period in question, not after Duke corrected it.
- Petitioner respectfully requested the Commission to allow the proceedings to move forward based on evidence. (This included the PSC’S own safety supervisors’ confirmation that the

PME-4 was not in NESC Compliance during the period in question and the PSC'S Commissioner Payne Statement confirming that this type of equipment (PME-4) does require the 10-foot clearance to operate.)

- Petitioner stated that the PSC adopts the NESC as the minimum safety standard and that the PSC does regulate this.
- Chairman smith stated that she understood but the NESC has not been violated here by all accounts and that neither Duke nor Staff found a violation.
- Petitioner previously mentioned through exhibits and verbal testimony from PSC Safety Supervisor Tony Valazquez at the meeting clearly confirmed that the panel was not in NESC compliance during the period in question. (September-November 2025)
- Petitioner stated in the complaint and verbally that Duke Energy's written representations to the PSC regarding the PME-4 clearance and compliance were inaccurate and misleading.
- PSC staff recommendation stated that the other possible rule violations, including DEF's false statement to the Commission depend on finding that DEF Violated NESC.

Substantial Interests Affected

Petitioner's substantial interests are directly affected because the Commission's action concerns utility equipment that Petitioner states service his property and is located approximately thirty feet from his residence. Petitioner alleges that the equipment is also located in close proximity to neighboring homes, including one residence where the PME-4 is said to be approximately twenty feet from a master bedroom window.

Petitioner further alleges that the PME-4 is located within a residential subdivision and near areas where neighborhood children regularly play, including around the unit at night. Based on those facts, Petitioner contends that the alleged lack of required clearance and the continued noncompliant condition of the PME-4 created a foreseeable and preventable risk to himself, nearby residents, and utility workers.

Petitioner's substantial interests include his personal safety interest, his property-related interest arising from the location and operation of the equipment, and his procedural rights as the complainant in the Commission proceeding. Petitioner maintains that the Commission's action directly and substantially affects those interests because it resolved disputed historical safety facts without the hearing protections provided by Chapter 120.

Examples of Affected Interests

1. **Risk of delayed or unsafe emergency response.** Petitioner alleges that any failure, fault condition, or emergency involving this high-voltage equipment requires utility personnel to safely access, inspect, and operate the PME-4, and that inadequate clearance or accessibility could delay emergency response or force workers to perform critical tasks under unsafe conditions which could directly affect the Petitioner.
2. **Increased risk of electrical hazards near the home.** Petitioner alleges that because the equipment contains energized high-voltage components, he has a direct personal safety interest in ensuring the equipment is maintained in a condition that allows safe inspection, operation, and maintenance, and that noncompliant conditions could increase the risk of malfunction, electrical failure, arc-flash events, or other hazards near his residence.
3. **Risk from inability to inspect and maintain the equipment.** Petitioner alleges that vegetation and inadequate working space prevented or restricted proper access to the PME-

4 and that if utility personnel cannot fully open the equipment, visually inspect it, perform testing, or conduct maintenance safely, defects or unsafe conditions may go undiscovered until a failure occurs.

4. **Safety of utility workers affecting nearby residents.** Petitioner contends that his safety interests include the safety of utility workers who must enter the neighborhood and operate the PME-4 because conditions requiring workers to operate high-voltage equipment in restricted or obstructed spaces increase the likelihood of mistakes, unsafe positioning, or improper emergency response that could also affect nearby residents.

5. **Exposure to consequences of equipment failure.** Petitioner alleges that because he is located near the PME-4, any electrical failure, fire, explosion, or emergency event involving the equipment could directly affect his property and his ability to safely occupy his home.

6. **The historical condition still matters even after later correction.** Petitioner alleges that although Duke Energy later corrected the access and clearance condition, his substantial safety interests were affected during the earlier period when the PME-4 allegedly lacked proper maintenance, operational access, and working clearance, and that later correction does not eliminate the fact that the condition allegedly existed or that residents and workers were exposed to associated safety concerns during that time.

Ultimate Facts Alleged

Petitioner alleges the following ultimate facts in support of this petition:

1. During the period from September 2025 through November 2025, vegetation and other obstructions around Duke Energy Florida, LLC's PME-4 switchgear restricted working

space and accessibility needed for safe inspection, maintenance, and operation of Duke Energy's PME-4 equipment.

2. During that period, surrounding conditions interfered with the ability to fully open the PME-4 door and to safely use required operating equipment, including a six-foot hot stick, under actual field conditions.
3. Petitioner alleges that on September 4, 2025 a Duke tech did a site visit and confirmed the PME-4 was not in compliance and documented in his computer that the box was not in compliance and didn't have the proper clearance. (exhibits were provided)
4. Petitioner sent many written notifications and formal letters to Duke Energy clearly stating the specific conditions including the improper clearance that made the PME-4 non-compliant and a hazard. (During the relevant period)
5. During the relevant period, Duke Energy repeatedly represented in writing to the Petitioner and the PSC that the PME-4 complied with applicable safety requirements and had proper clearance, while Duke Energy employees later performed corrective work to remove vegetation and restore access and working space around the PME-4. (nearly 3 months later after OSHA pressure)
6. The Petitioners formal complaint as well as the amended formal complaint clearly states the conditions and what NESC Rules were violated.
7. Petitioner alleges that the applicable NESC Provisions including NESC Section 1, Rule 010A, 010B, 012B, 012C and other relating Rules clearly state that equipment must have adequate room for someone to reasonably work. Petitioner further alleges that the PME-4 was not in compliance and violated these NESC Provisions/rules

8. Tony Velazquez, PSC Safety Supervisor stated in writing that the PME-4 was not in NESC compliance during the relevant period and verbally confirmed this in the Commission meeting. (exhibits 100 and 101)
9. The PSC adopts the NESC as the minimum safety standard through Florida Rule 25-6.0345

The record before the Commission contains conflicting evidence regarding whether the PME-4 complied with applicable safety requirements during the relevant period, including conflicting statements, photographs, videos, documentary records, and statements by Duke Energy representatives and Commission staff regarding accessibility, clearance, and code compliance.

Resolution of these disputed issues requires findings regarding the historical condition of the PME-4 during the relevant period, the credibility of witnesses, and the weight of competing evidence concerning accessibility, working clearance, and safety compliance.

These disputed factual issues directly affect Petitioner's substantial interests, including Petitioner's personal safety, the safe operation and maintenance of high-voltage electrical equipment adjacent to Petitioner's property, and Petitioner's property-related interests as the owner and occupant of a residence served by the PME-4.

Standard for Disputed Material Facts. Petitioner does not seek to relitigate disputed factual issues through written argument alone. Rather, Petitioner identifies the following disputed issues of material fact because they cannot be resolved without evaluating conflicting evidence, receiving testimony, allowing cross-examination, and making credibility determinations. When disputed issues of material fact affect a party's substantial interests, sections 120.569 and 120.57, Florida Statutes, require resolution through a formal evidentiary proceeding.

Disputed Issues of Material Fact.

Petitioner disputes the material facts assumed or accepted in Proposed Agency Action Order No. PSC-2026-0259-PAA-EI and identifies the following disputed historical facts requiring formal evidentiary resolution:

1. **Whether the historical condition of the PME-4 during September 2025 through November 2025 satisfied the applicable safety requirements adopted or relied upon by the Commission, including NESC-based requirements.** Duke repeatedly represented to Petitioner and to the Commission that the PME-4 had proper clearance and remained in compliance throughout the relevant period, and Duke's counsel stated at the July 7, 2026 Commission meeting that the PME "has always been in compliance." Petitioner disputes that position and alleges that during the same historical period the PME-4 lacked the accessibility, working space, and operational clearance necessary for safe inspection, maintenance, and operation. Resolution of this dispute requires testimony, documentary evidence, and credibility determinations.
2. **Whether the statements and observations of PSC Safety Supervisor Tony Velazquez are consistent with Duke Energy's claim of continuous compliance.** Duke maintained that the PME-4 remained in compliance throughout the relevant period. Petitioner contends that Exhibit 200, together with Exhibits 100 and 101 referenced in the complaint/protest, reflects statements by PSC Safety Supervisor Tony Velazquez indicating that before vegetation removal the PME-4 lacked the accessibility and working space required by the applicable safety standards. Exhibit 200 is especially material because it records Mr. Velazquez stating that before the vegetation was removed the

bushes were “practically in contact” with one side of the PME, that access to that side of the cabinet was not easily available, and that the code required acceptable access and proper clearance to perform the work. Resolution of the meaning and significance of those statements and observations presents disputed issues of historical fact that cannot be reconciled solely by written submissions and requires testimony and credibility determinations.

3. **Whether the PME-4 had adequate accessibility, working space, and operating clearance during the relevant period.** Duke maintained that the PME-4 had proper clearance and remained compliant. Petitioner disputes that position and alleges that vegetation, restricted door movement, and surrounding obstructions created conditions where safe operation using the six-foot hot stick used in the operating procedure at issue could not reasonably be performed without adequate clearance and workspace. Petitioner also contends the actual space around the cabinet was inadequate for a worker to reasonably inspect, maintain, and operate the equipment under real-world conditions. This factual dispute cannot be resolved without weighing conflicting testimony, technical explanation, and documentary evidence.
4. **Whether a Duke technician documented inadequate clearance or noncompliance on or about September 4, 2025.** Duke’s continued position of compliance conflicts with Petitioner’s allegation that on or about September 4, 2025 a Duke technician observed clearance problems, determined the PME-4 needed to be brought into compliance, and documented that condition in Duke’s internal system. Petitioner alleges he witnessed that entry and requests an opportunity to authenticate and present the underlying records and testimony regarding that documentation. Whether such field-level documentation exists,

what it recorded, and what Duke personnel concluded at that time are disputed historical facts that require testimony and documentary proof.

5. **Whether Duke had notice of the alleged condition before corrective action was**

taken. Duke's position that the PME-4 remained compliant conflicts with Petitioner's allegation that Duke received repeated written notices, letters, photographs, and communications identifying the alleged clearance and accessibility problem, yet continued for nearly three months to assert that the PME-4 had proper clearance and remained compliant. Petitioner further alleges that Duke did not materially correct the condition until after OSHA involvement. Resolution of this dispute requires evidence regarding the timing, content, and receipt of notice, as well as testimony and credibility findings.

6. **Whether Duke's later corrective work shows that the PME-4's earlier condition was**

materially different from its later condition. Duke maintained that the PME-4 had always been in compliance. Petitioner disputes that position and alleges that Duke later removed vegetation, cleared the area, and restored access because the earlier condition allegedly lacked the clearance and working space needed for safe operation, and further alleges that Duke safety specialist Ivan White stated, after OSHA complaint pressure, that the area was being cleared and sodded so technicians could safely use a six-foot hot stick without tripping. The timing, scope, and purpose of the corrective work are therefore material facts because they bear directly on whether the earlier condition reflected routine maintenance or correction of a safety-related accessibility condition. Resolution of this dispute requires live testimony, documentary evidence, and credibility determinations.

7. **Whether the emergency outage response demonstrated the adequacy of the historical access and operability conditions at the PME-4.** Duke maintained that the PME-4 had proper clearance and remained compliant. Petitioner disputes that position and alleges that during the neighborhood outage caused when a Spectrum crew struck an underground high-voltage line, Duke technicians could not safely perform their work at the PME-4 because of the existing clearance conditions, and that Exhibit 13 and related evidence depict the practical access and operability conditions under real-world circumstances. Resolution of this dispute requires testimony from fact witnesses and evaluation of the documentary evidence.
8. **Whether Duke's representations that the PME-4 had proper clearance and remained compliant were accurate during the disputed historical period.** Duke repeatedly represented to Petitioner and to the Commission that the PME-4 was in compliance and had proper clearance. Petitioner disputes those representations and alleges they were inaccurate or inconsistent with the historical field condition, the alleged September 4 documentation, the outage-response circumstances, the PSC safety evidence, and Duke's later corrective work. This factual dispute cannot be resolved without weighing conflicting testimony, documents, and credibility.
9. **Whether the relevant inquiry is the PME-4's corrected condition or its disputed historical condition.** Duke's position and the Proposed Agency Action appear to rely substantially on the PME-4's condition after vegetation removal and corrective work. Petitioner disputes that premise and contends the relevant inquiry is the historical condition that existed during September through November 2025, before corrective action occurred. A determination based on the post-correction condition would not

resolve the disputed issue of whether the PME-4 satisfied the applicable requirements during the historical period before corrective action. Whether the PME-4 satisfied applicable requirements during that earlier period is a material factual issue requiring evidence regarding the condition, accessibility, and operability of the equipment at that time. The fact that corrective action occurred does not, by itself, resolve whether the prior condition satisfied applicable requirements before the correction occurred.

Concluding Paragraph. These disputed facts are material because their resolution will determine whether Duke Energy complied with the Commission-adopted National Electrical Safety Code and other applicable safety requirements during the relevant historical period, whether Duke's representations regarding compliance and proper clearance were accurate, and whether Proposed Agency Action Order No. PSC-2026-0259-PAA-EI may lawfully become final. The disputed issues identified above are not disputes regarding legal interpretation alone; they concern the actual historical physical condition, accessibility, and operability of safety-related utility equipment during the relevant period. The existence of conflicting accounts between Duke Energy's representatives, PSC safety personnel, field observations, documentary evidence, and Petitioner's evidence demonstrates that these disputed issues are evidentiary in nature and cannot be resolved solely through competing written positions. Resolution requires testimony, cross-examination, documentary evidence, and credibility determinations in a formal evidentiary hearing under sections 120.569 and 120.57(1), Florida Statutes. Petitioner therefore requests that the Proposed Agency Action not become final as to these disputed factual issues and that this matter proceed to a formal evidentiary hearing because these disputed factual issues affect Petitioner's substantial interests and cannot be resolved without the procedural protections afforded by a formal evidentiary hearing pursuant to sections 120.569 and 120.57, Florida

Statutes. Petitioner does not request that the Commission resolve these disputed factual issues in Petitioner's favor at this stage; rather, Petitioner requests the opportunity to present evidence and obtain a determination through the formal hearing process required by law.

Applicable Statutes, Rules, and Safety Standards at Issue

Petitioner relies upon the following statutes, rules, and safety standards as grounds for this Petition. These authorities establish the Commission's jurisdiction over electric utility safety standards, the procedures governing objections to Proposed Agency Action, and Petitioner's right to a formal evidentiary hearing when disputed issues of material fact affect substantial interests.

Sections 120.569 and 120.57, Florida Statutes.

These sections govern proceedings in which agency action determines substantial interests.

Where disputed issues of material fact exist, the affected person is entitled to a formal evidentiary hearing under Section 120.57(1), Florida Statutes, rather than an informal proceeding under Section 120.57(2). Petitioner alleges disputed historical issues of material fact concerning the accessibility, working clearance, operation, and safety condition of the PME-4 during the relevant period, and therefore elects a formal hearing under Section 120.57(1).

Section 120.80, Florida Statutes.

Section 120.80 provides the Administrative Procedure Act framework applicable to proceedings before the Florida Public Service Commission and limits an objection to proposed agency action to the issues actually in dispute. Petitioner's protest identifies those disputed issues, including whether the PME-4 had adequate accessibility and working space during the September through November 2025 period, whether Duke Energy's compliance representations were accurate during that period, and what significance should be given to later corrective action.

Section 366.04(6), Florida Statutes.

Section 366.04(6), Florida Statutes, grants the Commission exclusive jurisdiction to prescribe and enforce safety standards for electric utility transmission and distribution facilities and requires the Commission to adopt the National Electrical Safety Code as the applicable minimum safety standard. Petitioner's allegations directly invoke that jurisdiction because they concern the historical safety condition, accessibility, and operational clearance of utility equipment subject to Commission safety regulation.

Rule 25-6.0345, Florida Administrative Code.

Rule 25-6.0345, Florida Administrative Code, adopts the National Electrical Safety Code as the safety standard applicable to electric utility facilities within the Commission's jurisdiction. Petitioner alleges that the PME-4 did not meet NESC-based accessibility and working-space requirements during the relevant historical period and that those disputed facts require formal evidentiary resolution.

Section 1, Rule 010A, 010B, 012B, 012C, NESC and relating Rules clearly states that equipment must have adequate room for someone to reasonably work which would be impossible with the PME-4 door restricted prohibiting it from opening.

Rule 25-22.029, Florida Administrative Code.

Rule 25-22.029 governs the point of entry into proposed agency action proceedings before the Commission. This Petition is filed as Petitioner's point-of-entry protest to Proposed Agency Action Order No. PSC-2026-0259-PAA-EI and requests that the matter proceed to formal hearing because disputed issues of material fact remain unresolved.

Rule 28-106.201, Florida Administrative Code.

Rule 28-106.201 sets forth the required contents of a petition initiating a proceeding involving

disputed issues of material fact. This Petition identifies the agency, docket and order number, the manner in which Petitioner's substantial interests are affected, when and how notice was received, the disputed issues of material fact, the ultimate facts alleged, the statutes and rules at issue, and the relief requested.

Basis for Formal Hearing

The Proposed Agency Action affects Petitioner's substantial interests and presents disputed issues of material fact concerning the historical accessibility, working clearance, operation, and safety condition of the PME-4 switchgear during the September through November 2025 period. Petitioner alleges that those disputed factual issues include whether the PME-4 had the accessibility and working space required for safe inspection, operation, and maintenance under applicable NESC-based safety standards, whether Duke Energy's historical representations of compliance were accurate during that period, and what significance should be given to later corrective work performed around the PME-4. Because these disputed issues of material fact affect Petitioner's substantial interests, Petitioner is entitled to a formal evidentiary hearing under Sections 120.569 and 120.57(1) Florida Statutes, and the Proposed Agency Action may not become final unless and until those disputed factual issues are resolved through the procedures required by Chapter 120, Florida Statutes.

Why This Case Could Not Be Decided Without an Evidentiary Hearing

Petitioner contends that this matter could not lawfully be decided without a formal evidentiary hearing because the Commission was required to do more than interpret law or apply an undisputed standard to undisputed facts. It was required to determine what actually happened in the field during the September-through-November 2025 period, what Duke Energy personnel

observed and documented, what PSC staff meant in their statements about accessibility and code compliance, what the November outage photographs and Exhibit 13 and other exhibits actually demonstrate about field conditions, why Duke Energy later corrected the area, whether the PME-4 door could fully open, and whether the equipment could in fact be safely operated with a six-foot hot stick under the disputed conditions.

Those issues cannot be reliably resolved by simply accepting one written version of events over another. They require witness testimony, cross-examination, documentary proof, explanation of technical practices, and credibility findings regarding competing factual accounts. Petitioner contends that by denying relief without those procedures, the Commission effectively resolved the historical dispute on a paper record even though the central facts remained contested.

Relief Requested

Petitioner respectfully request that the Commission accept this Petition as a timely point-of-entry protest to Proposed Agency Action Order No. PSC-2026-0259-PAA-EI and, because this matter presents disputed issues of material fact affecting Petitioner's substantial interests, conduct a formal evidentiary hearing pursuant to Sections 120.569 and 120.57, Florida Statutes. Only the procedural protections necessary to restore the rights guaranteed by Chapter 120, Florida Statutes, including referral for formal evidentiary proceedings where disputed historical facts may be resolved through sworn testimony, cross-examination, and a complete evidentiary record. Petitioner respectfully requests that the Commission:

1. Accept this Petition as timely and in substantial compliance with Rule 28-106.201.
2. Grant a formal administrative hearing under section 120.57(1), Florida Statutes.
3. Refer this matter for assignment of an administrative hearing

4. Permit discovery, witness testimony, subpoenas, cross-examination, and presentation of documentary evidence as authorized by law.
5. Order preservation of relevant records relating to the PME-4 during the September-through-November 2025 period, including inspection records, work orders, maintenance records, photographs, vegetation-removal documentation, outage-response records, and internal communications concerning compliance.
6. Hold the Proposed Agency Action in Abeyance and set aside or reconsider the prior action to the extent necessary to permit formal resolution of disputed material facts.
7. Grant such other and further relief as is just and proper.

Conclusion

This Petition does not ask the Commission at this stage to finally adjudicate whether Duke Energy violated applicable safety requirements. Rather, it asks the Commission to provide the formal evidentiary hearing required where disputed issues of material fact affect substantial interests. The record presented by Petitioner identifies numerous disputed issues of Material fact that require testimony, witnesses, cross-examination, documentary evidence, and credibility determinations before they can be fairly resolved. Because Petitioners substantial interest is affected and those factual disputes remain unresolved, Petitioner respectfully request that the Commission grant this protest, prevent Proposed Agency Action Order No. PSC-2026-0259-PAA-EI from becoming final, and refer this matter to a formal administrative hearing.

By signing this Petition, Petitioner certifies that it is submitted in good faith after reasonable inquiry, is not interposed for any improper purpose such as to harass or cause unnecessary delay, and is not frivolous or intended to needlessly increase the cost of litigation.

Dated: July 30, 2026

Respectfully submitted,

/S/ Justin Gage

Justin Gage

13114 Fox Glove St

Winter Garden Fl. 34787

407-301-6133

Jgage76@gmail.com

Petitioner, Pro Se

Exhibit List

In re: Protest/Petition before the Public Service Commission

The undersigned submits the following exhibit list in support of the protest/petition. This exhibit list identifies documentary materials offered regarding disputed issues of compliance and the condition of the electrical panel during the relevant period.

Exhibit No.	Title	Date / Relevant Period	Description	Purpose / Relevance
Exhibit 200	July 7, 2026 Commissioner Meeting	July 7, 2026	Materials from the July 7, 2026 (transcript) Commissioner meeting reflecting disputed material facts relevant to the protest/petition.	Offered to show statements, positions, and disputed material facts bearing on the issues raised in this protest/petition.
Exhibit 13	Condition of Panel During Relevant Period	September 2025 to November 2025	Photograph(s) and/or related visual documentation showing the condition of the electrical panel during the relevant period in dispute.	Offered to show the physical condition being disputed and to support the position that the condition shown was not in compliance, contrary to the opposing position that the condition was in compliance.

The above exhibits are identified for consideration in connection with the issues presented in the protest/petition. The descriptions are intended to be concise and may be supplemented or clarified in the body of the filing and any accompanying attachments.

Respectfully submitted,

Dated: July 30, 2026

/S/ Justin Gage
Justin Gage
13114 Fox Glove St

Winter Garden Fl. 34787
407-301-6133
jgage76@gmail.com

Exhibit
200

BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

Yellow highlights represents
Disputed material facts

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 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 1

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 complain
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 complainant.

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 standard

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 -- tha
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 come

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 no
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, 't'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 here 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 wee
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 violation 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, Du 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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1 CERTIFICATE OF REPORTER

2 STATE OF FLORIDA)
3 COUNTY OF LEON)
45 I, DEBRA KRICK, Court Reporter, do hereby
6 certify that the foregoing proceeding was heard at the
7 time and place herein stated.8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.18 DATED this 20th day of July, 2026.
19

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23

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25

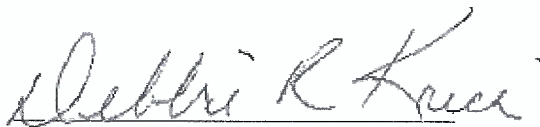

DEBRA R. KRICK
NOTARY PUBLIC
COMMISSION #HH575054
EXPIRES AUGUST 13, 2028

Exhibit
13

3:37 PM

11-21-25

re-Roll

DUKE Emergency
Response Flying
TO access Box

Coiled
Glowing
cable

Hot
Stick

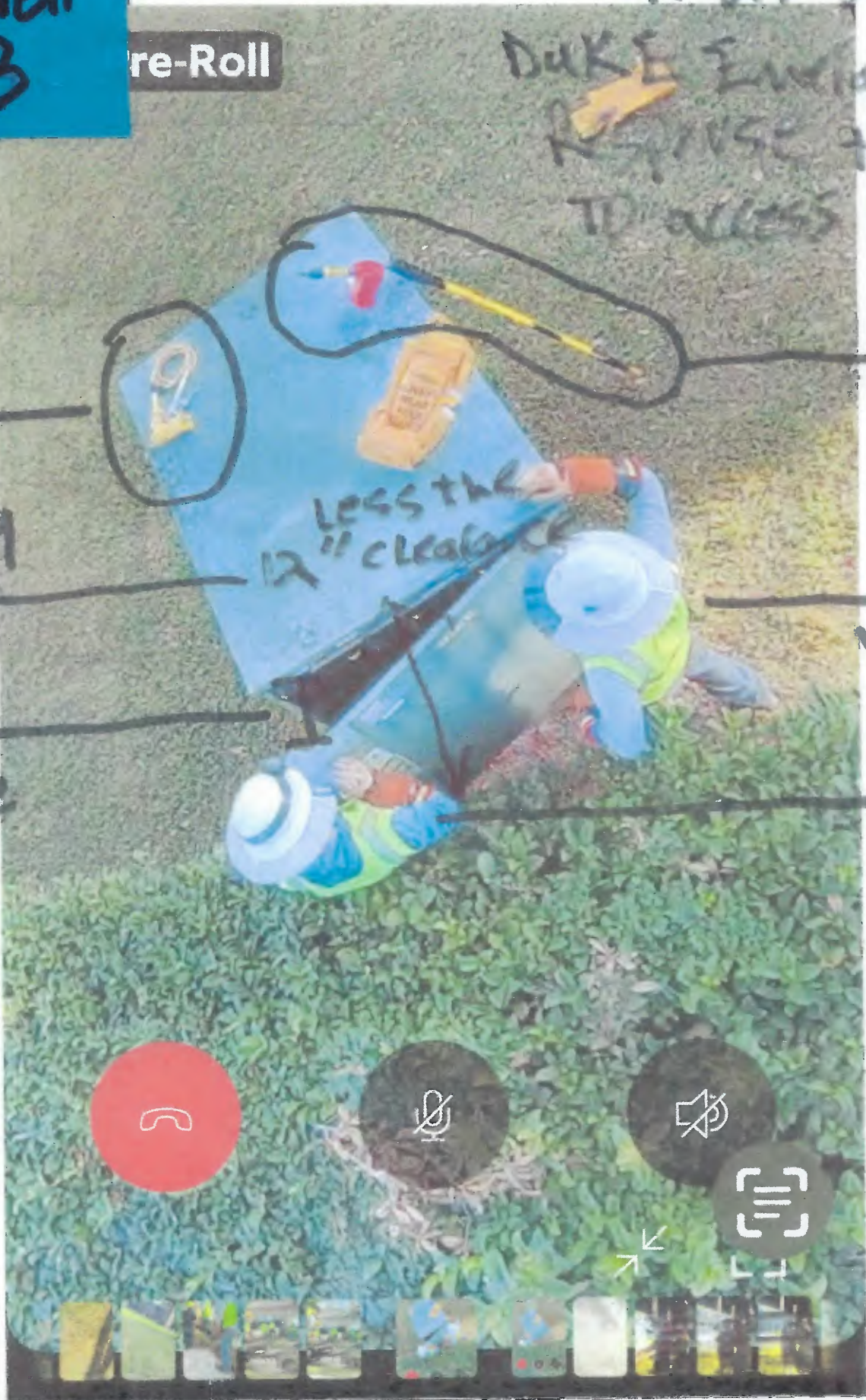
PMEM

LESS THAN
12" clearance

witness

12"
clearance

witness



CERTIFICATE OF SERVICE

Docket No. 20260045-EI

I HEREBY CERTIFY that a true and correct **Petition for Formal Administrative Hearing and Protest of Proposed Agency Action Order No. PSC-2026-0259-PAA-EI** has been furnished by electronic mail (email) on this **30th day of July, 2026**, to the following persons listed below:

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Respectfully submitted,

/S/ Justin Gage

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