

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA-2014-0029]

Public Assistance Policy on Insurance, RP9530.1

Comments of the National Rural Electric Cooperative Association

1. Introduction, Background and Summary

The National Rural Electric Cooperative Association (NRECA) is the national service organization dedicated to representing the national interests of cooperative electric utilities and the consumers they serve. NRECA's members are the more than 900 not-for-profit rural electric utilities that provide electric energy to over 42 million people in 47 states or 12 percent of electric customers. Kilowatt-hour sales by rural electric cooperatives account for approximately 11 percent of all electric energy sold in the United States. NRECA's members include 65 generation and transmission ("G&T") cooperatives and 838 distribution cooperatives. Both distribution and G&T cooperatives were formed to provide reliable electric service to their owner-members at the lowest reasonable cost.

As private, not-for-profit entities, electric cooperatives are eligible for reimbursement by FEMA for eligible expenses arising from severe weather, storms, hurricanes, tornadoes, and other natural disasters.¹

NRECA appreciates the opportunity to comment on FEMA's proposed Public Assistance Policy on Insurance. NRECA recognizes FEMA's goal of clarifying and simplifying the Public Assistance Insurance Policy in a way that balances the safeguarding of scarce federal resources with providing consistent and clear advice on the insurance requirements. We applaud FEMA's efforts to work with Applicants and sub-applicants on these important issues.

In general, our comments address the fact that insurance that covers certain electric utility equipment as set forth below is not available to electric cooperatives. Thus, we ask for clarification that FEMA's definition of Equipment in Section VI.G of the proposed policy does not include the following electric utility equipment: pole mounted transmission and distribution lines and equipment including the supporting structures; pole, platform or pad mounted transformers including the supporting structures; switches and similar devices, including the supporting structures. We refer to this equipment as "Electric Utility Equipment Not Covered" and suggest below an additional definition be added to the policy².

¹ The Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended ("Stafford Act") 42 U.S.C. §§5121-5207. P.L. 100-707 (2007).

² Please note that insurance coverage does apply to these items if they are included within a substation *not* excluded under the insurance policy.

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We also recommend a process by which FEMA, Applicants and Subapplicants could test the insurance market on a regular basis in order to verify that insurance coverage for Electric Utility Equipment Not Covered does not exist.

2. Comments

a. **Section VI. Definitions.**

We recommend that FEMA add to the definition of "Equipment" an additional item - "Electric Utility Equipment Not Covered." This recommendation is based on the fact that there is no insurance coverage available for this type of equipment. An up-front recognition in the policy that private, non-profit electric cooperatives cannot acquire insurance for this type of equipment will reduce the administrative burden on FEMA, Applicants and sub-applicants. We recommend below a process by which FEMA could verify the continued lack of existence of insurance coverage for Electric Utility Equipment Not Covered.

The revised definition could read as follows:

"G. Equipment: Tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

G.1. Electric Utility Equipment Not Covered: pole mounted transmission and distribution lines and equipment including the supporting structures; pole, platform or pad mounted transformers including the supporting structures; switches and similar devices, including the supporting structures."

b. **Section VII. Policy.**

Subsection B sets forth the requirement that applicants insure facilities with the "types and extent" of insurance that is "reasonably available,..." Currently, insurance coverage for Electric Utility Equipment Not Covered is not available. We recommend that FEMA's insurance policy recognize that such coverage does not exist for electric cooperatives. In addition, we recommend that FEMA develop a process by which the Agency can satisfy itself on a regular basis that such insurance is not available. To that end, our sister cooperative, Federated Rural Electric Insurance Exchange ("Federated"), is willing to conduct an extensive market search with regard to potential coverage for Electric Utility Equipment Not Covered every 5 years and to provide the results of that search to FEMA.

Federated is the leading provider of property and casualty insurance for rural electric cooperatives in 42 states, insuring 86% of the rural electric cooperatives nationwide. Federated is a reciprocal insurance exchange, owned and governed by the members it insures. Federated's primary goal is to offer its electric cooperative members affordable coverage over the long term,

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so they can focus on serving their communities and making them better, safer, and more vibrant places to live.

Federated has searched the insurance market numerous times in the past in response to requests from FEMA for certification from state insurance departments that insurance for Electric Utility Equipment Not Covered is not reasonably available. Federated has provided detailed information and draft letters to the state insurance departments in Kansas (3 times), Minnesota and Louisiana. This is an extensive search that Federated conducts using an experienced outside broker. The search involves contacting 30+ insurance companies to see if any are willing to quote. Each of the last three times Federated undertook such a search, either no company would quote or an unreasonable preliminary quote of \$1,000,000 in limits for \$500,000 in premium was received, with no guarantee that coverage would actually be written.

As stated above, Federated is willing to undertake this type of search every five years to ensure that market conditions remain the same and that insurance for Electric Utility Equipment Not Covered is not reasonably available.

Section VII B, Subsection 4 b of the policy states, "When multiple hazards cause damage to a property, the applicant must insure against each hazard. The applicant must base its coverage amount for each hazard on the damages caused by each hazard." This level of specificity may become problematic as it can be difficult at times to determine which hazard caused what damage. For example, there could be a situation where an earthquake ruptures a gas line that causes a fire to completely destroy a building. Both the earthquake and the fire caused damage, but it is impossible to determine in what amounts. Many times, earthquake insurance is not carried in an amount equal to full value of the property. We recommend that FEMA recognize in its policy that it may not be possible to determine the extent of damage caused by each hazard.

Section VII D, subsection 2b requires an Applicant that is requesting a modification to the insurance requirement to provide documentation such as "whether the applicant can obtain the amount of insurance coverage (for example, if the amount of insurance FEMA requires *exceeds the value of the property* (emphasis added));" Insurance companies do not insure beyond the value of the property. Most policies contain some type of escalation clause that covers the increased cost of building under replacement cost coverage; however, there is no guaranteed replacement cost for certain types of structures, i.e. historic buildings. NRECA requests clarification of the circumstances in which FEMA would be requiring an amount of insurance in excess of the value of the property.

In addition, electrical substations located in a flood zone do not meet the National Flood Insurance Program's ("NFIP") rules which state that flood insurance is only available for structures which have four walls and a roof. Flood insurance is not otherwise readily available for electrical substations located in a flood zone; therefore, we urge FEMA to recognize the

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restrictions under the NFIP rules and exempt electrical substations in a flood zone from the insurance requirements.

Section VII E addresses certifications from the state insurance commissioners. State insurance commissioners “may certify the types and extent of insurance reasonable to protect against future loss to an insurable facility”. Federated has had experience with this, as detailed above. Most state insurance commission offices are not in a position to do a market search and then certify that insurance coverage is not reasonably available. They do not have the staff or the budget to undertake this. They rely on insurance companies or agencies to do this for them on behalf of insureds. We are also concerned about the requirement that the insurance commissioner’s certification only applies to a declared event and not to future disasters. If this is strictly enforced, state insurance commission offices could be asked to certify the same thing multiple times within a very short span of time, putting an even greater burden on these state agencies. We urge FEMA to consult with the National Association of Insurance Commissioners to verify our concerns that state insurance commission offices do not have the resources to conduct the search and certification processes envisioned by FEMA.

3. Conclusion

NRECA appreciates the opportunity to submit these comments on FEMA’s Public Assistance Policy on Insurance. We recommend that FEMA recognize in the policy the unique situation of private, non-profit electric cooperatives and the lack of insurance coverage for Electric Utility Equipment Not Covered as well as the inability to procure flood insurance for electrical substations located in a flood zone. We stand ready to work with FEMA to develop a process by which FEMA can verify the lack of insurance coverage for certain electric utility equipment.

Respectfully submitted,



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