




**National Rural Electric  
Cooperative Association**

A Touchstone Energy® Cooperative 

April 15, 2009

James Walke  
Assistant Administrator (Acting)  
Disaster Assistance Directorate  
Federal Emergency Management Agency  
Room 414-B  
500 C Street, SW  
Washington, D.C. 20472

Re: **Draft Fact Sheet DAP 9580.6**  
**Electric Utility Repair (Public and Private Nonprofit)**

Dear Mr. Walke:

I am writing to provide the comments of the National Rural Electric Cooperative Association (NRECA) on the draft *Fact Sheet DAP 9580.6, Electric Utility Repair (Public and Private Nonprofit)* that you sent me by email on February 23, 2009.

NRECA is the national service organization that represents the nation's 916 private, not-for-profit, consumer-owned cooperative electric utilities, which provide electric service to 40 million people in 47 states. Rural electric cooperatives operate "private nonprofit facilities," as defined by the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and are eligible for reimbursement by FEMA for certain expenses incurred in responding to federally declared disasters.

NRECA and its members appreciate the continued willingness of you and your staff to work with members of the private nonprofit community to increase our understanding of FEMA policy and procedures. It appears that this process also has brought about increased awareness within FEMA of the way electric cooperatives operate. The Fact Sheet is one result of this ongoing learning process.

NRECA and its members particularly appreciate the Fact Sheet's (i) establishment of criteria for replacing conductor, (ii) specification of #2 ACSR as the lower cost equivalent replacement for conductor of equal or lesser ampacity, (iii) recognition of the possible eligibility of wind-motion resistant conductor as a mitigation measure in replacing conductor, and (iv) treatment of repair to collateral damage to private property as eligible for reimbursement under certain circumstances. Thank you for your attention to these matters.

As a draft, the Fact Sheet is, of course, a work in progress. In that vein, NRECA offers these comments on a few important elements, in roughly their order of importance to NRECA members.

***1. The Fact Sheet should state clearly that collateral damage includes damage to private property, including crops, whether the damage is on or off an easement.***

NRECA and its members appreciate FEMA's recognition in the Fact Sheet that electric cooperatives sometimes damage private property in restoring electric service and that such damage is eligible for reimbursement:

Rural electric cooperatives often obtain easements from private landowners to access and maintain their transmission and distribution facilities. If private property easements are damaged while making repairs to the disaster-damaged facilities (for example, ruts on the property), the repair to the private property is eligible for FEMA Public Assistance reimbursement.

This is a good start, but needs a little refinement to reflect utility operations accurately. Simply put, in a disaster, the nature of restoring electric service to rural areas likely will involve damage to private property not located on easements. The Fact Sheet should recognize this.

Although rural electric cooperatives do indeed obtain easements from landowners for electric lines, they typically do not obtain easements for *access* to rural lines. When maintaining equipment in good weather, when time is not critical, cooperative trucks and crews typically use a convenient entry to the land and make their way to the maintenance site with a minimum of damage to private property. Sometimes this means moving utility trucks and other equipment along the right of way under or next to the electric lines, but very often it means taking a considerable short cut across a field where there is no express easement. Either way, in good weather, there is little or no damage to private property, and landowners are unlikely to complain.

The situation is different under disaster conditions. Then the weather is likely to be extreme, the ground is likely to be sodden, the number of available pathways are likely to be severely limited, and timely response likely is critical. Under these conditions, cooperatives almost certainly will move equipment along the most direct available path, regardless of easement. In rural areas that path is almost certainly to be across a field. Damage to fields and crops, if there are crops at that time, is the likely result. If the damage is significant – and it frequently is – landowners seek reimbursement and cooperatives pay it. These payments for damage, resulting from efficient response to disaster-caused power outages, should be eligible for reimbursement regardless of whether the damage is on or off an easement.

***2. The Fact Sheet should authorize funding the replacement of a single phase of a multi-phase copper line with ACSR.***

NRECA and its members appreciate FEMA's recognition in the Fact Sheet that sometimes only a single phase of a two- or three-phase line is damaged, but that replacement of that single damaged conductor nevertheless may be eligible for reimbursement:

If only one conductor of a two-or three-phase line qualifies for replacement, FEMA will fund the replacement of the conductor in-kind (for example, hard-drawn copper for hard-drawn copper). It is not cost effective to replace the conductor with #2 ACSR in this case.

Although the Fact Sheet authorizes funding only for in-kind conductor, in practice, an electric utility, when faced with the need to replace only one phase of a multi-phase copper line, almost certainly will replace all phases with ACSR. It makes little engineering sense to have mixed conductors on a multi-phase line. Moreover, replacement copper conductor increasingly may not be available.

In this circumstance, it seems fair for FEMA to fund replacement of the damaged copper line with equivalent ACSR, including funding of any re-poling and component expenses. Such treatment comports with the Fact Sheet's allowing reimbursement for replacing eligible single-phase damaged copper conductor with ACSR. Moreover, replacing damaged copper line with ACSR quite likely would be less expensive than replacing it with in-kind copper conductor, if in-kind conductor is even available. FEMA would reimburse only the replacement of eligible *damaged* line. The cooperative would pay for replacing any additional *undamaged* line.

***3. The Fact Sheet should clearly authorize funding replacement of conductor with ACSR of equal ampacity, whether or not that is #2 ACSR.***

NRECA and its members appreciate FEMA's recognition in the Fact Sheet that reimbursement is available for ACSR used as a replacement for copper:

If FEMA determines that the conductor is eligible for replacement, FEMA will fund the use of #2 Aluminum Conductor Steel Reinforced (ACSR) as the lower cost equivalent replacement of conductor with equal or lesser amp capacity (for example, copper weld conductor (CWC), hard and soft drawn copper wire, and smaller ACSR and Amerductor).

ACSR is widely used by rural electric cooperatives. It makes strong economic and engineering sense to use it as replacement for copper and other conductor of the same or equal ampacity. In many, if not most instances, that means the most cost effective replacement will be #2 ACSR. And, appropriately, the Fact Sheet allows such replacement use of #2 ACSR.

Sometimes, however, the most cost effective replacement will be ACSR of a smaller size. For example, if the smaller #4 ACSR needs to be replaced, the most cost effective replacement will be #4 ACSR, not #2 ACSR.

The Fact Sheet should clearly allow this lower cost replacement. Perhaps the easiest way to do this is simply to remove the reference to “#2” in the Fact Sheet.

***4. The Fact Sheet should not use compliance with codes and standards to distinguish between Emergency Work and Permanent Work. Rather than attempt to distinguish Emergency Work from Permanent Work, FEMA should leave the terms fluid and delete the “Category of Work” section of the Fact Sheet.***

NRECA and its members appreciate FEMA’s attempt in the Fact Sheet to establish a clear distinction between Emergency Work (Categories A and B) and Permanent Work (Category F, for the most part, for electric utilities). The approach appears to be to categorize work that is done “in accordance with acceptable codes and standards” as Permanent Work and other work as Emergency Work.

Unfortunately, this easy-to-understand distinction does not comport with the work cooperatives do and with the way that mutual aid agreements facilitate that work. Simply put, work done as an immediate response to a disaster -- what would commonly be called “emergency work” -- may, in fact, be done to code. That should not automatically make it Category F Permanent Work, however.

When a disaster hits -- a hurricane, or a big ice storm, for example -- cooperatives typically do a quick assessment of the initial and likely additional damage, and decide whether to call for help under a mutual aid agreement. The goal is to restore power as quickly as is safely possible without regard to the niceties of whether necessary restoration work constitutes Emergency Work or Permanent Work.

If the assessment results in a request for aid under a mutual aid agreement, the aiding utility will take the necessary immediate emergency measures to restore power. Sometimes these measures are clearly temporary and it is obvious that, at a later date, permanent repairs will be made in accordance with codes and standards. The aiding utility, for example, may re-string damaged conductor without sagging it to code. A quick fix to restore power. In such circumstances, the draft Fact Sheet’s view of Emergency Work works well.

The problem is that assessment of needs in power restoration is fluid and unpredictable. Many, many times, initial emergency measures, taken early in the disaster by an aiding utility, will nevertheless be in accordance with codes and standards. For example, an aiding utility almost certainly will follow legal requirements in replacing a snapped pole necessary for power restoration. This is because it takes little, if any, extra time to set a pole to code initially. Yet under the draft Fact Sheet, this might be viewed as Permanent Work. And because payments under mutual aid agreements are not reimbursable for Permanent Work (Disaster Assistance Policy 9523.6 at VII(F)(1)(b)(ii)), the paying cooperative unfairly would be denied reimbursement for expenses clearly and appropriately incurred in an emergency response.

For these reasons, the Fact Sheet should not use compliance with codes or standards to distinguish Emergency Work from Permanent Work. In fact, due to the fluid nature of disaster response, there is little, if any, benefit -- and a significant danger of inequity -- in establishing a hard-and-fast distinction between Emergency Work and Permanent Work. Because setting up such a distinction seems to be the only purpose of the Fact Sheet section labeled "Category of Work," we suggest deleting that section entirely.

***5. The Fact Sheet should define certain terms it uses.***

Some important terms in the Fact Sheet are not defined. For clarity of understanding we suggest the following definitions:

contingency contract: a contract contingent upon a federal declaration of emergency or disaster

conductor span: any single conductor installed between two support structures

span: the horizontal distance between two conductor support structures

line section: any series of spans connected in a continuous fashion by a conductor or conductors

certification: documentation demonstrating a status or condition (better would be simply to replace "certification" with "documentation" in the Fact Sheet section on Establishing Pre-Disaster Condition, because that section describes documentation, not certification)

monitoring: please provide guidance on what constitutes appropriate monitoring of Time & Equipment contracts

Thank you for the opportunity to provide these comments.

Respectfully submitted,



Jonathan Hemenway Glazier  
Association Counsel