FAST FACTS

Federal Emergency Management Agency (FEMA) Disaster Assistance

Help Keep Not-For-Profit Electric Cooperatives' Rates Reasonable when Disaster Strikes

Issue: Electric cooperatives (co-ops) are eligible for reimbursement by FEMA's Public Assistance Program to help reduce the cost of restoring electric power to consumers after severe disasters – such as floods, hurricanes, tornadoes, and ice storms. Congress made FEMA funding available to co-ops to keep electricity costs down and ensure smooth recoveries from major natural disasters for not-for-profit, consumer-owned utilities. Without FEMA assistance, many co-op consumers living in disaster-stricken areas could face significantly higher electric rates.

Background: Under current federal law and policy, all utility systems receive federal funds and/or assistance for recovery after Presidentially-declared disasters. Investor-owned utilities, as for-profit entities, can use federal tax deductions and other accounting mechanism to offset expenses for restoring power. Not-for-profit co-ops cannot access these tax advantages. Decades ago, Congress took note of the cooperative business model and selected FEMA funds as the appropriate vehicle to offset expenses incurred by electric cooperatives following Presidentially-declared disasters.

Under the Stafford Act's Public Assistance Program, when an electric cooperative service territory is included in a Presidentially-declared disaster area, FEMA may reimburse up to 75 percent of the allowed costs of replacing damaged and destroyed facilities for co-ops. The co-op provides additional funds and is responsible for restoring service to pre-disaster levels.

FEMA has several policies in place that guide the use of disaster funds by co-ops and other not-for-profit entities, including Policy 9580.6, Electric Utility Repair, which guides electric utility repairs after a storm. The policy, adopted in 2009, is intended to standardize the criteria for determining when co-op storm–impacted systems are damaged and the appropriate actions to either repair those systems or to rebuild the damaged line sections to current codes and standards. The policy also sets forth specific visually-observable criteria for determining if the power line is damaged beyond the point where it can be effectively repaired.

Unfortunately, there has been inconsistency in implementation. For instance, FEMA rejected requests for assistance because a co-op did not cut three (3) twenty (20) foot sections of line per mile and send them to a lab for testing annually – a practice clearly not envisioned in FEMA's written policy – in addition to testing post disaster in order to be able to prove that co-op's lines were damaged in the storm. There are many reasons why this falls well outside standard industry practice – chiefly the physical damage to the system when cutting out 60 feet of every mile of line annually. Eventually the decision was overturned and the funds received but only after extensive and expensive efforts over assistance other co-ops have always received from similar storms, but with different regional administrators interpreting the policy.

Electric cooperatives recognize the growing fiscal pressures on FEMA programs, and support developing ways to streamline disaster recovery programs while maintaining our commitment to efficient disaster recovery. Turning the lights back on as efficiently and safely as possible is job number one for co-ops after a disaster strikes. Co-op service territories often include the most rugged terrain of any electric utility, and serve consumers across 75 percent of the land mass of the United States. Co-ops also serve only seven consumers per mile of line on average, yet own and operate 42 percent of the distribution lines in the country, meaning that disasters can have a disproportionate impact on electric cooperatives and our member-consumers.

Legislative Activity: The House of Representatives passed H.R. 1471, the FEMA Disaster Assistance Reform Act of 2015, on February 29, 2016, by voice vote and without opposition. This common-sense legislation provides the first ever reauthorization of FEMA and establishes a study to develop recommendations for reducing costs while improving our nation's emergency management capabilities and federal disaster programs.

In addition, this legislation also requires important reforms to FEMA to reduce red tape. The bill provides for an expedited process for many applicants, including electric cooperatives, by raising the Public Assistance small projects threshold from $35,000 to $1 million. The bill also reinstates a 3 year limitation on FEMA's ability to reclaim funds (a practice known as de-obligation). Reinstating this time limit provides grantees and subgrantees assurance that the Agency will not come back five, seven, or even ten years later to reclaim funds from a long-since-passed disaster.

In the Senate S. 2969, the Disaster Management Act of 2016, was introduced on May 23, 2016 but then pulled from a scheduled markup that week at the last minute due to negotiations on a potential amendment on deobligation. The Senate legislation also includes a pilot project on raising the threshold for simplified procedures to a range between $500,000 and $1 million.

NRECA Position: NRECA encourages the Senate to take up S. 2969 and go to conference with the "FEMA Disaster Reform Act of 2015" (HR 1471) to strengthen and re-authorize the program. Further, Congress must carefully weigh any proposals for retooling or overhauling FEMA. The Public Assistance Program is an effective tool and should remain available for enabling electric cooperatives to quickly restore electric service to consumers' homes and businesses.

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June 2016