

Federal Disaster Declarations and FEMA Public Assistance Overview

Key Findings

- FEMA's Public Assistance (PA) Program is the main source of federal disaster funding utilized by electric cooperatives after a disaster is declared under the authorities of the Stafford Act.
- NRECA's not-for-profit members are eligible for Public Assistance as utilities providing the "critical services" of electric power generation, transmission, and distribution.
- Without this assistance to help manage storm response and recovery expenses from natural disasters, many co-op consumer-members living in disaster-stricken areas would face significantly higher electric rates.
- NRECA supports legislation to improve the disaster declaration process and PA programs to help electric cooperatives receive consistent and timely reimbursement and strengthen the resilience of their electric systems through hazard mitigation activities.

Overview of the Federal Disaster Declaration Process

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, also known as the Stafford Act, provides the statutory authority for most federal disaster response activities and guidance for the Federal Emergency Management Agency (FEMA) on how to manage disaster assistance. The Stafford Act gives the President sole authority to issue either an emergency or major disaster declaration authorizing FEMA to provide disaster assistance. To receive a declaration, a Governor or Tribal Executive submits a request using a form and tools developed by FEMA. FEMA will review the request and make a recommendation to the President, but the President is not bound to FEMA's recommendation. In the declaration, the President authorizes the types of Stafford Act assistance FEMA may provide by county. For example, the declaration will list the counties in which FEMA is authorized to provide Public Assistance (PA) and will designate the specific types of PA assistance FEMA is authorized to provide in each county.

FEMA's Public Assistance Program Overview

Under the PA program, the President may authorize FEMA to provide direct federal assistance (such as U.S. Army Corps of Engineers support) and financial assistance (grants) to state, local, tribal, and territorial governments and certain private non-profits, such as electric cooperatives. The Public Assistance program is funded through FEMA's Disaster Relief Fund. Under an emergency declaration, FEMA can provide direct federal and financial assistance for Emergency Work, which is debris removal and emergency protective measures to save lives and protect public health and safety or protect improved property from damage.

- Emergency Work includes emergency power restoration. Under a major disaster declaration, the President can authorize FEMA to provide the same assistance it can under an emergency but can also authorize Permanent Work.
- Permanent Work is the effort to repair, restore, reconstruct, or replace disaster-damaged roads, bridges, water control facilities, buildings and equipment, utilities, parks, recreational, and other

publicly owned facilities. Permanent work includes the repair or replacement of disaster-damaged electric utilities, to code.

PA is provided on a cost-shared basis, with the federal government providing at least 75% of the cost of eligible assistance, and the state or tribe providing the remaining share. After large events, the President will often temporarily raise the federal share of the cost of emergency work to 100% federal for a period of 90 days within the first 120 days from the start of the incident period.

FEMA's Public Assistance Program Reimbursement Process

After the President issues a declaration authorizing PA, grants are issued by FEMA to the state, tribe, or territory, and then that recipient issues subgrants to eligible applicants within their jurisdiction. Only government and certain private non-profit applicants, which includes electric cooperatives, are eligible. PA is a reimbursement program, so electric cooperatives must first show that they incurred the cost before they can draw down grant funds. This means that electric cooperatives might need to take out a loan to perform the work and then seek reimbursement from FEMA. Electric cooperatives may perform work to repair or replace eligible facilities using their own employees, competitively awarded contracts, and mutual aid agreements. All costs must be necessary to perform the FEMA-approved work, reasonable, and adequately documented.

NRECA's Work to Improve the Public Assistance Program and Reimbursement Process

Interest Reimbursement: As noted above, electric cooperatives might need to take out a loan to perform work to restore and repair damaged infrastructure. Financing costs (including interest) to acquire, construct, or replace capital assets are reimburseable expenses; however, FEMA has not uniformly approved these interest expenses in the past. NRECA has been diligently working to pass the FEMA Loan Interest Payment Relief Act to ensure uniform and consistent reimbursement of these costs.

Hazard Mitigation: After catastrophic events, applicants have an opportunity to build back better. All FEMA-funded work must be to the latest codes and standards. If an applicant improves its facility to be more disaster-resilient (example: install steel poles instead of wood poles), the added cost of the more resilient material is eligible as a PA hazard mitigation cost as long as the new pole is replacing a pole that was damaged by the disaster and is improved under the Permanent Work category. Additional costs for hazard mitigation measures are not available for Emergency Work projects. To rectify this issue, NRECA supports the Promoting Opportunities to Widen Electrical Resilience (POWER) Act, which would ensure that Emergency Work projects are also eligible for Public Assistance hazard mitigation funding.

Damage Estimate Challenges: Generally, FEMA expects at least \$1 million in eligible damage and that the damage estimates exceed statewide and local per capita thresholds that are adjusted every year for inflation. In FY24, the statewide threshold was \$1.84 per person. But PA is authorized county-by-county, so FEMA also has a county per capita threshold, which was \$4.60 in FY24. For this reason, co-ops in rural areas might find it difficult to exceed the thresholds required to garner a recommendation from FEMA for a Presidential declaration. NRECA supports legislation including the Regional Impact of Disasters and Emergencies Relief (RIDER) Act, which will make damage assessments more equitable for rural areas.

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