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BEFORE THE STATE OF FLORIDA

FLORIDA BUILDING COMMISSION

IN RE: PETITION FOR DECLARATORY STATEMENT BY GENCO FLORIDA, LLC

PETITION FOR DECLARATORY STATEMENT

Petitioner, **GenCo Florida, LLC ("GenCo")**, pursuant to sections 120.565 and 553.775, Florida Statutes, and Rule 28-105.002, Florida Administrative Code, respectfully petitions the Florida Building Commission ("Commission") for a declaratory statement concerning the application of section 553.792(1)(a), Florida Statutes, to GenCo's particular circumstances.

DS 2026-091

I. PETITIONER

GenCo Florida, LLC is a Florida contractor engaged in the installation of permanently installed standby generator systems at existing single-family residential dwellings.

GenCo is licensed to perform electrical and liquefied petroleum gas work associated with residential standby-generator installations and regularly submits permit applications to local enforcement agencies for such work.

Petitioner's contact information is:

GenCo Florida, LLC
1885 S. 8th Street, Fernandina Beach, FL 32034
904-468-3770
chris@gencoflorida.com

II. BASIS FOR DECLARATORY STATEMENT

Section 120.565, Florida Statutes, authorizes a substantially affected person to obtain an agency's opinion concerning the applicability of a statutory provision, agency rule, or agency order to the petitioner's particular circumstances.

Section 553.775(3)(b), Florida Statutes, provides that, upon written request by a substantially affected person, the Florida Building Commission shall issue a declaratory statement pursuant to section 120.565 relating to Part IV of Chapter 553, Florida Statutes.

Section 553.792 is contained within Part IV of Chapter 553.

GenCo is substantially affected by section 553.792 because it regularly submits permit applications for electrical and gas work associated with residential standby-generator installations and must determine:

1. whether those applications are subject to the five-business-day review period established by section 553.792(1)(a)1.; and
2. how the statutory requirement that "the value of the work is less than $15,000" applies when separate electrical and gas permits are required for the same generator installation.

GenCo seeks prospective guidance concerning the application of section 553.792 to its present and future permit applications. GenCo does not request that the Commission determine whether any particular local government's past action violated Florida law.

III. GENCO'S PARTICULAR CIRCUMSTANCES

GenCo regularly installs permanently installed standby generators at existing single-family residential dwellings.

A typical installation involves some or all of the following:

1. installation of a permanently installed standby generator;
2. installation of an automatic transfer switch and associated electrical equipment;
3. electrical wiring, conductors, breakers, disconnects, and connections;
4. installation or modification of natural gas or liquefied petroleum gas piping and associated equipment; and
5. other work incidental to completion of the generator installation.

The electrical and gas portions of the installation are performed pursuant to the applicable contractor licenses and are subject to inspection by the applicable local enforcement agency.

GenCo regularly submits electrical and gas permit applications for this work.

In jurisdictions requiring separate trade permits, GenCo may submit an electrical permit application covering the electrical scope of work and a separate gas permit application covering the gas scope of work.

GenCo uses local-government plans reviewers for applications for which it seeks application of the review periods addressed in this Petition.

GenCo has encountered circumstances in which a local enforcement agency administratively classifies or routes a standby-generator installation as a residential or general building permit even though the work requiring permits consists of electrical and gas work expressly identified in section 553.792(1)(a)1.

The administrative classification affects the review period applied to GenCo's permit application.

This issue has had a substantial and recurring practical effect on GenCo. In some instances, permit applications for residential standby-generator installations, including generator changeouts at existing single-family dwellings, have remained in the local review process for approximately four to six weeks.

GenCo understands that these applications are being routed through a residential or general building-permit review process that involves multiple levels or disciplines of review beyond the electrical and gas trade reviews associated with the work.

As a result, an application involving electrical and gas work that GenCo believes may otherwise satisfy the requirements of section 553.792(1)(a)1. may be subjected to a substantially longer review process based upon the administrative classification or routing assigned to the overall generator installation. This creates uncertainty for GenCo as to whether the Legislature's five-business-day review period is determined by the type and value of the permitted work identified in section 553.792(1)(a)1., or whether a local enforcement agency's administrative classification of the overall installation may instead determine the applicable statutory timeframe.

The resulting delay has direct operational consequences for GenCo and its customers. A generator installation generally cannot proceed until the required permits are issued. Extended review periods therefore delay installation, affect scheduling of electrical and gas personnel, equipment and inspections, and delay completion of standby-power systems for homeowners.

GenCo therefore requires clarification as to whether the statutory review period is determined by the electrical or gas permit and work for which GenCo is applying or may instead be determined by a local enforcement agency's administrative classification of the overall generator installation.

GenCo also encounters generator installations in which separate electrical and gas permit applications each involve less than $15,000 in work but the combined value of the electrical and gas scopes may exceed $15,000.

Accordingly, GenCo requires clarification concerning whether the $15,000 threshold in section 553.792(1)(a)1. applies to the value of the work covered by each permit application or requires aggregation of separately permitted scopes of work comprising the same overall generator installation.

IV. RELEVANT STATUTORY PROVISIONS

Section 553.792(1)(a)1., Florida Statutes, establishes a five-business-day review period for a complete and sufficient application when an applicant uses a local government plans reviewer to obtain specified building permits for an existing single-family residential dwelling and the value of the work is less than $15,000.

The Legislature expressly included within that provision permits for:

- structural work;
- accessory structures;
- alarms;
- electrical work;
- gas work;
- irrigation;
- landscaping;
- mechanical work;
- plumbing; and

- roofing.

Section 553.792(1)(a)2., Florida Statutes, separately establishes a longer review period applicable to certain other building-permit applications.

Because GenCo's generator installations involve electrical and gas work expressly identified in section 553.792(1)(a)1., GenCo requires clarification concerning which statutory review period applies when a local enforcement agency administratively classifies or routes the overall generator installation as a residential or general building permit.

V. QUESTION PRESENTED NO. 1

FIVE-BUSINESS-DAY REVIEW PERIOD

When GenCo Florida, LLC submits a complete and sufficient application for an electrical permit and/or gas permit for work associated with installation or replacement of a permanently installed standby generator at an existing single-family residential dwelling, where the value requirement of section 553.792(1)(a)1., Florida Statutes, is satisfied and GenCo uses the local government's plans reviewer, is GenCo's application subject to the five-business-day review period prescribed by section 553.792(1)(a)1., notwithstanding the local enforcement agency's administrative classification or routing of the overall generator installation as a residential or general building permit and through additional building-permit review disciplines?

GenCo seeks clarification because section 553.792(1)(a)1. expressly identifies electrical and gas permits among the permit categories subject to the five-business-day review period.

The statute does not expressly provide that a qualifying electrical or gas permit application ceases to fall within section 553.792(1)(a)1. because a local enforcement agency administratively associates that work with, or routes the overall installation through, another permit classification or additional review disciplines.

GenCo therefore requests a declaration identifying the review period applicable to its electrical and gas permit applications under these circumstances.

VI. QUESTION PRESENTED NO. 2

CALCULATION OF THE $15,000 THRESHOLD

When GenCo's installation of a permanently installed standby generator requires separate electrical and gas permit applications, and the value of the work within the scope of each individual permit is less than $15,000, does section 553.792(1)(a)1., Florida Statutes, require the values of the separately permitted electrical and gas scopes to be aggregated when determining whether GenCo's individual permit applications qualify for the five-business-day review period?

This issue has substantial practical significance to GenCo.

For example, assume a standby-generator installation requires:

Electrical permit: $10,000 in electrical work.

Gas permit: $7,000 in gas work.

Each permit individually covers less than $15,000 in work.

However, the combined value of the separately permitted electrical and gas scopes is $17,000.

GenCo requires clarification whether each individual permit application remains subject to section 553.792(1)(a)1. because the value of the work within the scope of that permit is less than $15,000, or whether the local enforcement agency must aggregate the separately permitted electrical and gas scopes and treat both applications as exceeding the statutory threshold.

VII. STATUTORY CONTEXT RELEVANT TO THE $15,000 QUESTION

GenCo respectfully requests that the Commission consider the Legislature's treatment of monetary thresholds and project division elsewhere in the same 2026 legislation.

Chapter 2026-63, Laws of Florida, amended section 553.79, Florida Statutes, to establish a separate provision involving certain work valued at less than $7,500 on property containing a single-family dwelling.

In establishing that $7,500 threshold, the Legislature expressly addressed the division of construction projects.

Section 553.79(1)(g)2.b., Florida Statutes, provides:

"A construction project may not be divided into more than one project for the purpose of evading the requirements of this paragraph."

The Legislature therefore expressly prohibited division of a construction project when applying the $7,500 provision.

The Legislature did not include comparable language in section 553.792(1)(a)1. requiring separate permit values to be aggregated, prohibiting division of work among permits, or stating that the $15,000 threshold must be determined according to the aggregate value of the overall construction project.

Instead, section 553.792(1)(a)1. addresses applications to obtain specified **building permits**, expressly identifies electrical and gas permits among those categories, and applies the five-business-day timeframe when **"the value of the work is less than $15,000."**

The difference is significant to GenCo because the Legislature demonstrated that when it intended to prohibit division of a construction project in connection with a monetary threshold, it knew how to state that requirement expressly.

The absence of comparable language in section 553.792(1)(a)1. creates uncertainty concerning whether "the value of the work" refers to the work within the scope of the particular permit application or to the aggregate value of all separately permitted work comprising the larger installation.

GenCo respectfully requests that the Commission determine the significance of this textual distinction and clarify the manner in which the $15,000 threshold must be applied to GenCo's permit applications.

VIII. LEGISLATIVE AND PUBLIC-POLICY CONTEXT

The Florida Legislature enacted Chapter 2026-63, Laws of Florida, as part of legislation addressing building permitting, inspections, and related regulatory procedures.

Among the changes, the Legislature established the five-business-day review period now contained in section 553.792(1)(a)1. for specified permit applications involving existing single-family residential dwellings when the value of the work is less than $15,000.

Electrical and gas permits are expressly included among the permit categories identified by the Legislature.

Within the same legislation, the Legislature addressed a separate $7,500 monetary threshold in section 553.79 and expressly provided that a construction project may not be divided into multiple projects to evade the requirements of that provision.

No equivalent anti-division or aggregation provision appears in section 553.792(1)(a)1.

The questions presented by GenCo also arise against the backdrop of the Legislature's recent treatment of permanently installed standby generators as equipment serving an important hurricane-preparedness function. In 2024, the Legislature enacted Chapter 2024-205, Laws of Florida, amending section 720.3035, Florida Statutes. For purposes of that provision, the Legislature expressly included "exterior fixed generators" and "fuel storage tanks" within the statutory definition of "hurricane protection."

Section 720.3035(6) further states that the provision was enacted "[t]o protect the health, safety, and welfare of the people of the state and to ensure uniformity and consistency in the hurricane protection installed by parcel owners." Although section 720.3035 governs homeowners' associations and does not itself establish local-government permit-review deadlines, it demonstrates the Legislature's express recognition that exterior fixed generators and their associated fuel storage are forms of hurricane protection used to preserve and protect residential structures and improvements.

That legislative concern with the timely availability of residential backup power is also reflected directly in the legislative history of the 2026 permitting legislation. During consideration of HB 803, the Legislature considered language creating a specific permitting process for residential "backup power systems." The proposed provision defined a backup power system as equipment and associated components installed at a one-family or two-family dwelling or townhouse to generate or store electrical energy for intermittent use during utility outages, load management, resiliency, or similar purposes.

Significantly, that proposed language would have required a local enforcement agency to issue the permit for the design, installation, relocation, replacement, or repair of a qualifying backup power system within

one business day after submission of the application. The proposal further provided that the local enforcement agency could not require additional plans review or other approval as a condition of issuing the permit and that a properly licensed contractor could commence work immediately upon submitting the application rather than waiting for issuance of the permit.

Although the enacted legislation ultimately established different permitting provisions, including the five-business-day timeframe now contained in section 553.792(1)(a)1., the progression of the legislation provides relevant context concerning the Legislature's focus on reducing permitting delays for residential backup-power systems. The earlier one-business-day proposal specifically addressed the same type of equipment installed by GenCo and contemplated an expedited process substantially shorter than the ordinary residential building-permit review process.

Read together with the Legislature's 2024 recognition of exterior fixed generators and fuel storage tanks as "hurricane protection," this legislative history demonstrates a recurring legislative concern with residential resiliency, backup power, and avoiding unnecessary delay in the installation or replacement of such systems. GenCo respectfully submits that this history is relevant context in determining how the subsequently enacted five-business-day requirement should apply when GenCo's generator work consists of electrical and gas work expressly identified in section 553.792(1)(a)1.

The questions presented by GenCo therefore concern the proper application of statutory provisions governing expedited residential permitting and have recurring consequences for GenCo's residential generator permit applications.

IX. EFFECT OF THE STATUTORY INTERPRETATION ON GENCO

The requested interpretation directly and substantially affects GenCo's ongoing business operations.

GenCo regularly submits electrical and gas permit applications for residential standby-generator installations.

The statutory review period determines when GenCo can reasonably expect action upon a complete and sufficient permit application and affects GenCo's ability to:

- schedule installations;
- coordinate electrical and gas work;
- coordinate inspections;
- schedule employees and equipment;
- communicate expected installation dates to homeowners; and
- determine whether statutory permit-fee reductions apply when an applicable review deadline is exceeded.

GenCo has experienced review periods of approximately four to six weeks for some residential generator applications, including generator changeouts, when those applications are routed through a residential or general building-permit review process involving additional review disciplines.

Accordingly, the distinction between the five-business-day review period and a longer residential building-permit review process has an actual and recurring operational effect upon GenCo.

The impact may also extend to homeowners awaiting installation or replacement of equipment that Florida law expressly recognizes, in the homeowners' association context, as hurricane protection.

Likewise, interpretation of the $15,000 threshold determines which of GenCo's electrical and gas permit applications qualify for the five-business-day review period.

The circumstances described in this Petition are recurring circumstances encountered by GenCo in the ordinary course of its business.

Accordingly, GenCo seeks a prospective declaration concerning how section 553.792 applies to its permit applications so that GenCo may conduct its future permitting activities consistently with Florida law.

X. REQUESTED DECLARATION

WHEREFORE, Petitioner, **GenCo Florida, LLC**, respectfully requests that the Florida Building Commission issue a Declaratory Statement answering the following two questions:

QUESTION 1 — FIVE-BUSINESS-DAY REVIEW PERIOD

When GenCo submits a complete and sufficient application for an electrical permit and/or gas permit associated with installation or replacement of a permanently installed standby generator at an existing single-family residential dwelling, where the requirements of section 553.792(1)(a)1. are otherwise satisfied, is GenCo's application subject to the five-business-day review period notwithstanding a local enforcement agency's administrative classification or routing of the overall generator installation as a residential or general building permit or through additional building-permit review disciplines?

QUESTION 2 — $15,000 THRESHOLD

When GenCo's standby-generator installation requires separate electrical and gas permit applications, and the value of the work within the scope of each individual permit is less than $15,000, must the values of the separately permitted scopes be aggregated for purposes of section 553.792(1)(a)1., particularly where section 553.79(1)(g) expressly prohibits division of a construction project in connection with the separate $7,500 provision but section 553.792(1)(a)1. contains no comparable aggregation or anti-division requirement?

GenCo respectfully requests such further clarification as the Commission determines appropriate concerning application of section 553.792(1)(a)1. to the circumstances described herein.

Respectfully submitted,

GENCO FLORIDA, LLC

Chris Hartley

Chris Hartley – President GenCo Florida, LLC