

**IN RE: PROPOSED ADOPTION OF RULE 25-6.030, F.A.C., STORM PROTECTION PLAN AND RULE 25-6.031, F.A.C., STORM PROTECTION COST RECOVERY CLAUSE, AND PROPOSED AMENDMENT OR REPEAL OF Rule 25-6.0143, Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4, Rule 25-6.034, Standard of Construction, Rule 25-6.0341, Location of the Utility’s Electric Distribution Facilities, Rule 25-6.0342, Electric Infrastructure Storm Hardening, Rule 25-6.0343, Municipal Electric Utility and Rural Electric Cooperative Reporting Requirements, Rule 25-6.0345, Safety Standards for Construction of New Transmission and Distribution Facilities, Rule 25-6.044, Continuity of Service, Rule 25-6.0455, Annual Distribution Service Reliability Report, Rule 25-6.061, Relocation of Poles, Rule 25-6.064, Contribution-in-Aid-of-Construction for Installation of New or Upgraded Facilities, Rule 25-6.077, Installation of Underground Distribution Systems within New Subdivisions, Rule 25-6.078, Schedule of Charges, Rule 25-6.081, Construction Practices, Rule 25-6.115, Facility Charges for Conversion of Existing Overhead Investor-owned Distribution Facilities**

**DOCKET NO. 20190131**

**FILED: July 15, 2019**

**FLORIDA POWER & LIGHT COMPANY’S POST-WORKSHOP COMMENTS**

FPL thanks Staff for conducting a very useful and informative workshop on June 25, 2019 to discuss proposed rules and rule amendments that would implement the storm protection plan provisions of newly enacted Section 366.96, Florida Statutes. The comments by Staff and other participants at the workshop have been quite beneficial in helping FPL to formulate and refine these more specific, written comments on the rule making.

These comments are divided into three parts. Initially, FPL will provide an overview of the issues about the rule proposals that are of principal interest. Next FPL will address the specific topics that Staff identified for comment at the workshop. Finally, attached are proposed revisions to Staff’s initial drafts of Rules 25-6.030 (“Rule 030”) and 25-6.031 (“Rule 031”) that were

attached to the notice for the June 25 workshop; in addition, FPL has attached proposed revisions to existing Rules 25-6.0143 and 25-6.115.

### **Overview**

FPL's principal concern with Staff's proposed rules is that they contemplate an impractical, if not infeasible, level of detail for the Storm Protection Plan ("SPP") that is to be submitted for Commission approval under Rule 030. Under existing Rule 25-6.0342, FPL and other utilities have always provided a high level of detail for the first year of their three-year infrastructure hardening plans, but that rule provides and all parties have understood that Years 2 and 3 of the plans necessarily would contain considerably less detail. This reflects the reality that transmission and distribution ("T&D") planning is affected by too many variables for it to be practical or desirable to lock in a detailed set of location-specific projects that will be undertaken multiple years into the future. Rather, everyone benefits from utilities taking a careful look one year out and focusing their resources on where the reliability and resilience of the T&D system can most benefit from hardening projects in that year. FPL has proposed revisions to Rules 030 and 031 that would change the focus of the SPP from identifying individual, location-specific projects over a multi-year horizon, to identifying types or categories of projects (referred to as "programs" in FPL's proposed revisions) that would describe what sorts of storm protection measures the utility intends to undertake, and a yearly "not to exceed" budget for those programs. Under FPL's proposal, the SPP filed pursuant to Rule 030 would also include more granular detail on specific projects to be undertaken in the first year of the SPP, and then the same sort of detail would be provided sequentially for each subsequent year as part of the annual cost recovery filing under Rule 031. FPL believes that this approach would be much more compatible with the realities of utility T&D planning while providing ample detail and opportunity for review with respect to each year's specific activities when that information is available.

Another significant FPL concern with Staff's proposed rules is their apparent intent to preclude utilities from seeking recovery of storm protection costs incurred by the utility after it has filed an SPP but before the Commission has approved that SPP. FPL believes that this limitation is unnecessary and counterproductive. Analogous to practice under the Commission's Environmental Cost Recovery Clause, utilities should be allowed to seek recovery of costs incurred pursuant to an SPP once it has been filed, with the understanding that if the Commission were to disapprove the SPP or modify it in a way that resulted in the costs not fitting within the approved scope of the SPP, then those costs would be ineligible for recovery as part of the SPP. This approach fully protects customers from the possibility of paying for work that the Commission has not approved, but allows utilities to begin as soon as possible (and at their risk) to move forward with the important work of storm protection. FPL has proposed revisions to Rule 030 that would implement this change.

In addition, FPL has proposed changes to Rules 030 and 031 that would do the following:

- provide a more complete definition of “transmission and distribution facilities”;
- clarify that the addition or replacement of equipment within the existing T&D infrastructure would be eligible for inclusion within an SPP;
- focus the comparison of costs and benefits on the “not to exceed” budgets in an SPP to the benefits that are projected for the nature and scope of the programs included in the SPP;
- use the “not to exceed” budgets for years 1-3 to calculate the rate impact and focus that calculation on the traditional measure of a “typical” 1,000-kWh residential bill;
- clarify that the annual clause hearing schedule under Rule 031 will be separate from the schedule for other clause dockets but be structured so that it too results in approved factors to become effective at the beginning of each calendar year;

- define an SPP “modification” requiring prior Commission approval to be the addition of a new program to the SPP or an increase in the “not to exceed” budget for an existing program;
- contemplate potential transfers of cost recovery in both directions between base rate and clause recovery when base rates are reset;
- clarify that the AFUDC rate will be used to calculate the return for deferred accounting treatment of SPP costs; and
- conform the description of the weighted average cost of capital to recent discussions with the IRS concerning clause-related normalization issues.

Each of FPL’s proposed revisions is identified by redlining to the original Staff proposals for Rules 030 and 031.

#### **FPL Comments on Staff Topics**

- **Timing of SPP filing and clause proceeding.** FPL recommends that costs incurred pursuant to a program in a filed SPP be potentially eligible for recovery once the SPP plan is filed, recognizing that the utility could recover the costs through the clause only if the SPP were ultimately approved with the program to which the costs relate. FPL recommends a separate clause proceeding. While we have not proposed to include specifics on the timing for that proceeding in Rule 031, FPL’s recommendation is for something like a final true-up filing in March, a combined estimated/actual true-up and projection filing in May, and a final hearing in August/September, to set clause factors that would go into effect in the following January.
- **Granularity of detail for “projects” vs. “programs” terminology.** As noted above, FPL does not consider it productive or feasible to provide “project” level detail more than one year out and has proposed revisions to Rules 030 and 031 to focus the SPP process on

programs for types and categories of activities, and on “not to exceed” budgets for those programs.

- **Use of “existing” facilities.** FPL recommends that additions and replacements of equipment as well as extensions of existing facilities be eligible for inclusion within the scope of an SPP. Often the best way to strengthen existing infrastructure is expanding and upgrading the equipment within it, so it would be counter-productive to apply a restrictive interpretation of “existing facilities” that would exclude such measures from an SPP.
- **Base vs. clause recovery.** FPL recommends that utilities have the flexibility to propose (subject to Commission review and approval) transfer of storm protection-related costs to or from base rates when base rates are reset. In between base rate proceedings, a utility should be permitted to include for clause recovery any capital items that are part of an SPP and were not included in the utility’s last test year. For SPP expenses, recovery should be permitted to the extent that the level of expense exceeds the utility’s baseline, which FPL suggests could be defined as the forecasted year used to last reset base rates and reflected on the utility’s Minimum Filing Requirements, an average of the most recent three year actuals, or some combination of the two (such as the use of MFRs until three years of actuals are available following the most recent test year). In addition, there are multiple items related to capital SPP investments that need to be addressed such as the recovery of unrecovered investment and removal costs associated with early retirement of capital assets pursuant to approved SPP programs, appropriate cost recovery mechanism for property taxes, and impacts to future depreciation studies and resulting depreciation rates.
- **Cost and benefits analyses.** FPL recommends that the comparison of costs and benefits be limited to the first three years of an SPP and focus on a comparison of the “not to exceed” budget for the SPP programs to the identifiable, estimated quantitative and

qualitative benefits of those programs. This comparison should be similar to the evaluation of costs and benefits contained in the infrastructure hardening plans that have been filed pursuant to the existing Rule 25-6.0432.

- **Annual Report.** FPL recommends that the annual report focus on the immediately prior year's actuals only, rather than multi-year projections.
- **Amendment or Repeal of existing PSC rules.** FPL believes that provisions for filing and approval of infrastructure hardening plans in existing Rule 25-6.0432 are superseded by the SPP process of Rule 030 and should be deleted. Any remaining provisions on reporting in that rule could either be left intact or transferred to Rule 030. Existing Rule 25-6.115 should be amended to provide credits to applicants for underground distribution conversions, where all or part of their desired conversion is specifically identified in an approved SPP or annual projection filing under Rules 030 or 031. Existing Rule 25-6.0143 should be amended to include both non-cost recovery clause operating expenses and the storm protection cost recovery clause expenses in the absence of a storm when determining incremental vegetation management costs to charge to the storm reserve.
- **Questions 6(a) through 6(h)**
  - **6(a) -- What process should be utilized by the Commission to consider petitions to approve utility Storm Protection Plans? What should be the timing of Storm Protection Plan filings and related Commission actions?**  
See comments above.
  - **6(b) -- How, if at all, are the ten storm preparedness initiatives established by Order No. PSC-06-0351-PAA-EI, issued April 25, 2006, in Docket No. 060198-EI, impacted by SB 796?** FPL believes that the ten storm initiatives remain effective, although it may be appropriate to include them within the

scope of SPPs filed pursuant to Rule 030 to the extent they contribute to and are part of a utility's programs for the strengthening and increased resilience of existing electric transmission and distribution facilities.

- **6(c) -- How, if at all, are the pole inspection and reporting requirements established by Order No. PSC-06-0144-PAA-EI, issued February 27, 2006, in Docket No. 060078-EI, impacted by SB 796?** FPL believes that the pole inspection and reporting requirements remain effective, although it may be appropriate to include them within the scope of SPPs filed pursuant to Rule 030.
- **6(d) -- How, if at all, will the existing PSC rules included in this notice of rulemaking workshop be impacted by SB 796 and the new rules on Storm Protection Plans and the Storm Protection Plan Cost Recovery Clause?**  
See comments above.
- **6(e) -- What should be the timing of utility Storm Protection Plan Cost Recovery Clause filings and related Commission actions, including the annual hearing?** See comments above.
- **6(f) -- How, if at all, does SB 796 impact the method of recovery of vegetation management expenses?** Incremental vegetation management costs that are part of an approved SPP should be eligible for recovery through the storm protection cost recovery clause.
- **6(g) -- What process should be utilized by the Commission to ensure that Storm Protection Plan costs do not include costs recovered through a utility's base rates?** Utilities should be required to demonstrate whether each type of SPP cost is included in base rates and, if so, establish a baseline for those types of costs that are recovered in base rates such that only costs of each

type in excess of the baseline are eligible for recovery through the storm protection cost recovery clause.

- **6(h) -- For billing purposes, how will the factors established in the Storm Protection Plan Cost Recovery Clause be treated?** FPL recommends that storm protection cost recovery clause factors be included with the other clause factors that are combined into a single line item on customer bills.

Respectfully submitted,

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**PROPOSED COMMENTS TO RULE 25-6.030 STORM PROTECTION PLAN – FOR DISCUSSION**

Proposed Comments	Purpose
<p><b>25-6.030 Storm Protection Plan.</b></p> <p>(1) Purpose and Procedures. The objective of a utility’s Transmission and Distribution Storm Protection Plan (Storm Protection Plan) is to strengthen electric utility infrastructure to withstand extreme weather conditions through overhead hardening and increased resilience of the utility’s existing electric transmission and distribution facilities, undergrounding of electric distribution facilities, and vegetation management, thereby reducing outage times and restoration costs associated with extreme weather events and improving overall service reliability. <u>Strengthening and increased resilience of existing electric transmission and distribution facilities includes the addition and replacement of equipment and facilities within the existing infrastructure, technology improvements, pole inspection programs and grid monitor and support systems.</u> Each electric public utility must file a petition with the Commission <u>no later than March 1 of the year the plan is filed</u> for the approval of a Storm Protection Plan that covers the utility’s immediate 10-year planning period. Each utility must file, for Commission approval, an updated Storm Protection Plan at least every 3 years.</p>	<p>Clarify that Plan may include new equipment and facilities added within existing infrastructure to strengthen and increase its resilience; clarify due date of petition for approval of Plan</p>
<p>(2) Definitions.</p> <p>(a) “Storm protection <del>project</del><u>program</u>” – For purposes of this rule, storm protection <del>project</del> <u>program</u> means <u>a category or type of activity that is undertaken for</u> the enhancement, <u>strengthening,</u> replacement, or undergrounding of <del>a specified portion of</del> existing electric transmission or distribution facilities <u>and managing vegetation</u> for the purpose of reducing restoration costs, reducing outage times, and improving overall service reliability.</p> <p>(b) “Transmission and distribution facilities” – For purposes of this rule, transmission and distribution facilities include all electric public utility owned <del>poles and fixtures, towers and fixtures, overhead conductors and devices, land and land rights, roads and trails, underground conduits, and underground conductors.</del><u>assets maintained in accounts or subaccounts within the transmission and distribution functions in accordance with the Uniform System of Accounts for Public Utilities and Licensees as found in the Code of Federal Regulations, Title 18, Subchapter C, Part 101, for Major Utilities, as revised April 1, 2018.</u></p>	<p>Re-focus Plan on identifying and describing the categories and types of storm protection activities rather than individual projects to be undertaken, in order to address realistically a 10-year planning horizon; reconcile definition of “transmission and distribution facilities” with how that term is used in the USOA</p>
<p>(3) Contents of the Plan. Each utility’s Storm Protection Plan must contain a description of how the proposed plan will replace and strengthen the utility’s existing transmission and distribution facilities and manage vegetation in order to reduce restoration costs and outage times associated with extreme weather events and enhance overall service reliability. Each</p>	

<p>Storm Protection Plan must contain the following information:</p> <p>(a) A description of the criteria used to select and prioritize proposed storm protection <del>programs</del><u>projects</u>.</p>	
<p>(b) A <u>detailed</u> description of each proposed storm protection <del>program</del><u>jeet</u> that includes:</p> <ol style="list-style-type: none"> <li>1. <u>A description of how the proposed storm protection program is designed and projected to strengthen the utility’s existing transmission and distribution facilities and an estimate of the resulting reduction in outage times and restoration costs due to extreme weather events;</u><del>The projected construction start and completion dates;</del></li> <li>2. A description of any alternative storm protection <del>programs</del><u>jeets</u> that were considered, including the reasons for not selecting the alternative;</li> <li>3. <u>A year-by-year “not to exceed” budget for each storm protection program, for each of the first three years of the plan;</u></li> <li>4. <u>A comparison of the “not to exceed” costs identified in (b)(3) and benefits identified in (b)(1);</u></li> <li>5. <u>For the first year of the plan, the description of each storm protection program shall also include a program-by-program identification of the specific projects that the utility intends to undertake for that year, with (where feasible) a</u> <del>A description of how the proposed storm protection project is projected to strengthen the utility’s existing transmission and distribution facilities and an estimate of the resulting reduction in outage times and restoration costs due to extreme weather events;</del></li> <li>4. <u>A description of the affected existing facilities, including number and type(s) of customers served, historic service reliability performance (non-storm and storm) during extreme weather events, and how this data was used to prioritize the proposed storm protection projects;</u></li> <li>5. <u>A cost estimate including capital and operating expenses, both fixed and variable;</u></li> <li>6. <u>A comparison of the costs identified in (e) and benefits identified in (e);</u> and</li> <li>7. <u>Any other factors the utility requests the Commission to consider.</u></li> </ol>	<p>Conform Plan content requirements to focus on programs rather than individual projects, while providing project-level detail for the first year of the Plan on those types of programs where it is feasible to do so</p>
<p>(c) A description of the utility’s service area, including areas prioritized for enhancement and any areas where the utility has determined that the strengthening of the utility’s existing transmission and distribution facilities would not be feasible, reasonable, or practical. Such description must include a general map, number of customers served within each area, and the utility’s reasoning for prioritizing certain areas for enhanced performance and for designating other areas of the system as not feasible, reasonable, or practical.</p>	
<p>(d) A description of each vegetation management activity including:</p>	<p>Consistent with Plan focus</p>

<p>1. The projected <del>locations and</del> frequency <u>(trim cycle) for transmission and distribution overhead facilities;</u>  <del>2. The projected miles of affected transmission and distribution overhead facilities; and</del>  <del>2.3. The estimated annual labor and equipment costs for both utility and contractor personnel; and</del>  <del>3.4. An estimate of how the incremental vegetation management activity proposed in the Storm Protection Plan will reduce outage times and restoration costs due to extreme weather events; and</del>  <del>4. For the first year of the plan, the utility shall identify the projected geographic area(s) and total miles of affected transmission and distribution overhead facilities.</del></p>	<p>on programs, provide for vegetation management to be described by geographic area(s) and total miles to be addressed, in order to retain flexibility to focus activities most efficiently</p>
<p>(e) An estimate of the annual jurisdictional revenue requirements and resulting <u>residential</u> rate impacts for <u>the first three years each year</u> of the Storm Protection Plan <del>for residential, commercial, and industrial customers.</del></p>	<p>Limit rate impact estimates to first three years (per the statute) and focus on typical 1,000 kWh residential bill (per standard practice)</p>
<p>(f) A description of any <del>project or</del> deployment strategy alternatives that could mitigate the resulting rate impact for the first three years of the proposed Storm Protection Plan.</p>	<p>Reduce overlap with subsection (b)(2) above</p>

**PROPOSED COMMENTS TO RULE 25-6.031 STORM PROTECTION PLAN COST RECOVERY CLAUSE –  
FOR DISCUSSION**

<b>Proposed Comments</b>	<b>Purpose</b>
<p><b>25-6.031 Storm Protection Plan Cost Recovery Clause.</b></p> <p>(1) Purpose. The purpose of this rule is to establish a recovery mechanism for costs prudently incurred to implement an approved Transmission and Distribution Storm Protection Plan (Storm Protection Plan).</p>	
<p>(2) After the Commission has <del>issued a final order</del> approving a utility's Storm Protection Plan, a utility may file a petition for recovery of associated costs through the storm protection plan cost recovery clause. <u>The petition may seek recovery for costs incurred after the date that the utility's Storm Protection Plan was filed.</u> A utility's <u>cost recovery</u> petition shall be supported by testimony that provides details on the annual <u>programs,</u> activities and <u>associated costs</u> that are the subject of its petition <u>and shows that they are consistent with the approved Storm Protection Plan.</u></p>	<p>Clarifies that a utility may seek recovery of costs incurred once it has filed its Plan, if those costs are consistent with the Plan as ultimately approved</p>
<p>(3) An annual hearing will be conducted to determine the reasonableness of projected Storm Protection Plan costs, the prudence of actual Storm Protection Plan costs incurred by the utility, and to establish Storm Protection Plan cost recovery factors. <u>The annual hearing under this rule will be held separately from and prior to the annual hearing held to set fuel, capacity, environmental and conservation factors, with the intent that approved Storm Protection Plan cost recovery factors will go into effect at the beginning of the following calendar year.</u></p>	<p>Clarifies that the Storm Protection Clause hearing schedule will be separate from the schedule for the other clause hearing, with the intent that factors will be approved to be effective at the beginning of each calendar year</p>
<p>(4) Deferred accounting treatment. Storm Protection Plan costs shall be afforded deferred accounting treatment at the <u>utility's most recently approved pretax allowance for funds used during construction (AFUDC) rate at the time deferred cost recovery is sought</u><del>30-day commercial paper rate</del>, except for projected costs that are recovered on a projected basis in one annual cycle.</p>	<p>Clarifies that the AFUDC rate will be used to calculate the return for deferred accounting treatment of SPP costs</p>
<p>(5) Subaccounts. To ensure separation of costs subject to recovery through the clause, each utility filing for cost recovery shall maintain subaccounts for all items consistent with the Uniform System of Accounts prescribed by this Commission, pursuant to Rule 25-6.014, F.A.C.</p>	
<p>(6) Recoverable costs.</p> <p>(a) Storm Protection Plan costs recoverable through the clause shall not include costs recovered through the utility's base rates or any other cost recovery mechanism: <u>provided that</u></p>	<p>Clarifies that, consistent with practice for other clauses, transfers can be made in both directions between base</p>

<p><u>a utility may petition the Commission for approval to transfer costs from base rate to clause recovery or vice versa when its base rates are reset.</u></p> <p>(b) The utility may recover the annual depreciation expense on capitalized Storm Protection Plan expenditures using the utility’s most recent Commission-approved depreciation rates. The utility may recover a return on the undepreciated balance of the costs calculated at the utility’s weighted average cost of capital <u>using the return on equity most recently</u> approved by the Commission <u>in a rate case or settlement order.</u></p>	<p>rate and clause recovery when base rates are next reset</p> <p>Details on determining clause WACC are currently being addressed with the IRS</p>
<p>(7) Pursuant to the order establishing procedure in the annual cost recovery proceeding, a utility shall submit the following each year for Commission review and approval as part of its cost recovery filings:</p> <p>(a) Final True-Up for Previous Years. A utility shall submit its final true-up of Storm Protection Plan revenue requirements based on actual costs for the prior year and previously filed costs and revenue requirements for such prior year and a description of the work actually performed during such year.</p> <p>(b) Estimated True-Up and Projections for Current Year. A utility shall submit its actual/estimated true-up of projected Storm Protection Plan revenue requirements based on a comparison of current year actual/estimated costs and the previously-filed estimated costs and revenue requirements for such current year and a description of the work projected to be performed during such year.</p> <p>(c) Projected Costs for Subsequent Years. A utility shall submit its projected Storm Protection Plan costs and revenue requirements for the subsequent year and a description of the work projected to be performed during such year.</p> <p>(d) True-Up of Variances. The utility shall report observed true-up variances including sales forecasting <u>errors</u> <u>variances</u>, changes in the utility’s prices of services and/or equipment, and changes in the scope of work relative to the estimates provided pursuant to subparagraphs (7)(b) and (7)(c). The utility shall also provide explanations for variances regarding the deployment of the approved Storm Protection Plan.</p> <p>(e) Proposed Storm Protection Plan Cost Recovery Factors. The utility shall provide the calculations of its proposed factors to be effective for the 12-month billing period beginning January 1 following the annual proceeding.</p>	<p>“Variance” more appropriately describes the normal and inevitable differences between sales forecasts and the actual level of sales</p>
<p>(8) Any request to modify an approved Storm Protection Plan must be through a petition filed pursuant to Rule 25-6.030, F.A.C., separate from any petition for cost recovery. Once a Storm Protection Plan modification has been approved, the utility may file a petition to revise its cost</p>	<p>Defines what constitutes a “modification” for which approval would need to be sought in a utility’s</p>

<p>recovery factors to reflect the modification. <u>A “modification” is any change to an approved Storm Protection Plan that adds one or more new programs or increases the annual “not to exceed” budget for one or more of the existing programs in the Plan.</u></p>	<p>Plan-approval proceeding</p>
<p>(9) Contemporaneously with the required filing in paragraph (7)(a) of this rule, a utility must submit a status report on the utility’s Storm Protection Plan <del>projects</del><u>programs</u>. The status report shall include:</p> <p>(a) Identification of all projects <u>that were</u> completed <u>in the year covered by paragraph (7)(a)</u> or planned for completion <u>within the years covered by paragraph (7)(b) and (c)</u>;</p> <p>(b) Actual costs and rate impacts associated with each completed project as compared to the estimated costs and rate impacts for each project; and</p> <p>(c) Estimated costs and rate impacts associated with each project planned for completion.</p>	<p>Clarifies that projects completed in the “final true-up” year would be identified as well as projects planned for completion in the “estimated/actual” and “projection” years</p>

**25-6.0143 Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4.**

(1) Account No. 228.1 Accumulated Provision for Property Insurance.

(a) This account may be established to provide for losses through accident, fire, flood, storms, nuclear accidents and similar type hazards to the utility's own property or property leased from others, which is not covered by insurance. This account would also include provisions for the deductible amounts contained in property loss insurance policies held by the utility as well as retrospective premium assessments stemming from nuclear accidents under various insurance programs covering nuclear generating plants. A schedule of risks covered shall be maintained, giving a description of the property involved, the character of risks covered and the accrual rates used.

(b) Except as provided in paragraphs (1)(f), (1)(g) and (1)(h) charges to this account shall be made for all occurrences in accordance with the schedule of risks to be covered which are not covered by insurance. Recoveries, insurance proceeds or reimbursements for losses charged to this account shall be credited to the account.

(c) A separate subaccount shall be established for that portion of Account No. 228.1 which is designated to cover storm-related damages to the utility's own property or property leased from others that is not covered by insurance. The records supporting the entries to this account shall be so kept that the utility can furnish full information as to each storm event included in this account.

(d) In determining the costs to be charged to cover storm-related damages, the utility shall use an Incremental Cost and Capitalization Approach methodology (ICCA). Under the ICCA methodology, the costs charged to cover storm-related damages shall exclude those costs that normally would be charged to non-cost recovery clause operating expenses or the storm protection cost recovery clause operating expenses in the absence of a storm. Under the ICCA methodology for determining the allowable costs to be charged to cover storm-related damages, the utility will be allowed to charge to Account No. 228.1 costs that are incremental to costs normally charged to non-cost recovery clause operating expenses or the storm protection cost recovery clause operating expenses in the absence of a storm. All costs charged to Account 228.1 are subject to review for prudence and reasonableness by the Commission. In addition, capital expenditures for the removal, retirement and replacement of damaged facilities charged to cover storm-related damages shall exclude the normal cost for the removal, retirement and replacement of those facilities in the absence of a storm. The utility shall notify the Director of the Commission Clerk in writing for each incident expected to exceed \$10 million.

(e) The types of storm related costs allowed to be charged to the reserve under the ICCA methodology include, but are not limited to, the following:

1. Additional contract labor hired for storm restoration activities;
2. Logistics costs of providing meals, lodging, and linens for tents and other staging areas;
3. Transportation of crews for storm restoration;
4. Vehicle costs for vehicles specifically rented for storm restoration activities;
5. Waste management costs specifically related to storm restoration activities;
6. Rental equipment specifically related to storm restoration activities;
7. Materials and supplies used to repair and restore service and facilities to pre-storm condition, such as poles, transformers, meters, light fixtures, wire, and other electrical equipment, excluding those costs that normally would be charged to non-cost recovery clause operating expenses in the absence of a storm;
8. Overtime payroll and payroll-related costs for utility personnel included in storm restoration activities;
9. Fuel cost for company and contractor vehicles used in storm restoration activities; and
10. Cost of public service announcements regarding key storm-related issues, such as safety and service restoration estimates.

(f) The types of storm related costs prohibited from being charged to the reserve under the ICCA methodology include, but are not limited to, the following:

1. Base rate recoverable regular payroll and regular payroll-related costs for utility managerial and non-managerial personnel;
2. Bonuses or any other special compensation for utility personnel not eligible for overtime pay;
3. Base rate recoverable depreciation expenses, insurance costs and lease expenses for utility-owned or utility-leased vehicles and aircraft;
4. Utility employee assistance costs;
5. Utility employee training costs incurred prior to 72 hours before the storm event;
6. Utility advertising, media relations or public relations costs, except for public service announcements regarding key storm-related issues as listed above in subparagraph (1)(e)10.;
7. Utility call center and customer service costs, except for non-budgeted overtime or other non-budgeted incremental costs

associated with the storm event;

8. Tree trimming expenses, incurred in any month in which storm damage restoration activities are conducted, that are less than the actual monthly average of tree trimming costs charged to operation and maintenance expense for the same month in the three previous calendar years;

9. Utility lost revenues from services not provided; and

10. Replenishment of the utility's materials and supplies inventories.

(g) Under the ICCA methodology for determining the allowable costs to be charged to cover storm-related damages, certain costs may be charged to Account 228.1 only after review and approval by the Commission. Prior to the Commission's determination of the appropriateness of including such costs in Account No. 228.1, the costs may be deferred in Account No. 186, Miscellaneous Deferred Debits. The deferred costs must be incurred prior to June 1 of the year following the storm event. By September 30 a utility shall file a petition for the disposition of any costs deferred prior to June 1 of the year following the storm event giving rise to the deferred costs. These costs include, but are not limited to, the following:

1. Costs of normal non-storm related activities which must be performed by employees or contractors not assigned to storm damage restoration activities ("back-fill work") or normal non-storm related activities which must be performed following the restoration of service after a storm by an employee or contractor assigned to storm damage restoration activities in addition to the employee's or contractor's regular activities ("catch-up work"); and

2. Uncollectible accounts expenses.

(h) A utility may, at its own option, charge storm-related costs as operating expenses rather than charging them to Account No. 228.1. The utility shall notify the Director of the Commission Clerk in writing and provide a schedule of the amounts charged to operating expenses for each incident exceeding \$5 million. The schedule shall be filed annually by February 15 of each year for information pertaining to the previous calendar year.

(i) If the charges to Account No. 228.1 exceed the account balance, the excess shall be carried as a debit balance in Account No. 228.1 and no request for a deferral of the excess or for the establishment of a regulatory asset is necessary.

(j) A utility may petition the Commission for the recovery of a debit balance in Account No. 228.1 plus an amount to replenish the storm reserve through a surcharge, securitization or other cost recovery mechanism.

(k) A utility shall not establish or change an annual accrual amount or a target accumulated balance amount for Account No. 228.1 without prior Commission approval.

(l) Each utility shall file a Storm Damage Self-Insurance Reserve Study (Study) with the Commission Clerk by January 15, 2011 and at least once every 5 years thereafter from the submission date of the previously filed study. A Study shall be filed whenever the utility is seeking a change to either the target accumulated balance or the annual accrual amount for Account No. 228.1. At a minimum, the Study shall include data for determining a target balance for, and the annual accrual amount to, Account No. 228.1.

(m) Each utility shall file a report with the Director of the Commission Clerk providing information concerning its efforts to obtain commercial insurance for its transmission and distribution facilities and any other programs or proposals that were considered. The report shall also include a summary of the amounts recorded in Account 228.1. The report shall be filed annually by February 15 of each year for information pertaining to the previous calendar year.

(2) Account No. 228.2 Accumulated Provision for Injuries and Damages.

(a) This account may be established to meet the probable liability, not covered by insurance, for deaths or injuries to employees or others and for damages to property neither owned nor held under lease by the utility. When liability for any injury or damage is admitted or settled by the utility either voluntarily or because of the decision of a Court or other lawful authority, such as a workman's compensation board, the admitted liability or the amount of the settlement shall be charged to this account.

(b) Charges to this account shall be made for all losses covered. Detailed supporting records of charges made to this account shall be maintained in such a way that the year the event occurred which gave rise to the loss can be associated with the settlement. Recoveries or reimbursements for losses charged to the account shall be credited to the account.

(3) Account No. 228.4 Accumulated Miscellaneous Operating Provisions.

(a) This account may be established for operating provisions which are not covered elsewhere. This account shall be maintained in such a manner as to show the amount of each separate provision established by the utility and the nature and amounts of the debits and credits thereto. Each separate provision shall be identified as to purpose and the specific events to be charged to the account to ensure that all such events and only those events are charged to the provision accounts.

(b) Charges to this account shall be made for all costs or losses covered. Recoveries or reimbursements for amounts charged to this account shall be credited hereto.

(4)(a) The provision level and annual accrual rate for each account listed in subsections (1) through (3) shall be evaluated at the time of a rate proceeding and adjusted as necessary. However, a utility may petition the Commission for a change in the provision level and accrual outside a rate proceeding.

(b) If a utility elects to use any of the above listed accumulated provision accounts, each and every loss or cost which is covered by the account shall be charged to that account and shall not be charged directly to expenses except as provided for in paragraphs (1)(f), (1)(g) and (1)(h). Charges shall be made to accumulated provision accounts regardless of the balance in those accounts.

(c) No utility shall fund any account listed in subsections (1) through (3) unless the Commission approves such funding. Existing funded provisions which have not been approved by the Commission shall be credited by the amount of the funded balance with a corresponding debit to the appropriate current asset account, resulting in an unfunded provision.

*Rulemaking Authority 366.05(1) FS. Law Implemented 350.115, 366.04(2)(a) FS. History—New 3-17-88, Amended 6-11-07.*

### **25-6.115 Facility Charges for Conversion of Existing Overhead Investor-owned Distribution Facilities.**

(1) Each investor-owned utility shall file a tariff showing the non-refundable deposit amounts for standard applications addressing the conversion of existing overhead electric distribution facilities to underground facilities. The tariff shall include the general provisions and terms under which the public utility and applicant may enter into a contract for the purpose of converting existing overhead facilities to underground facilities. The non-refundable deposit amounts shall be calculated in the same manner as the engineering costs for underground facilities serving each of the following scenarios: urban commercial, urban residential, rural residential, existing low-density single family home subdivision and existing high-density single family home subdivision service areas.

(2) For purposes of this rule, the applicant is the person or entity requesting the conversion of existing overhead electric distribution facilities to underground facilities. In the instance where a local ordinance requires developers to install underground facilities, the developer who actually requests the construction for a specific location is deemed the applicant for purposes of this rule.

(3) Nothing in the tariff shall prevent the applicant from constructing and installing all or a portion of the underground distribution facilities provided:

- (a) Such work meets the investor-owned utility's construction standards;
- (b) The investor-owned utility will own and maintain the completed distribution facilities; and
- (c) Such agreement is not expected to cause the general body of ratepayers to incur additional costs.

(4) Nothing in the tariff shall prevent the applicant from requesting a non-binding cost estimate which shall be provided to the applicant free of any charge or fee.

(5) Upon an applicant's request and payment of the deposit amount, an investor-owned utility shall provide a binding cost estimate for providing underground electric service.

(6) An applicant shall have at least 180 days from the date the estimate is received to enter into a contract with the public utility based on the binding cost estimate. The deposit amount shall be used to reduce the charge as indicated in subsection (7) only when the applicant enters into a contract with the public utility within 180 days from the date the estimate is received by the applicant, unless this period is extended by mutual agreement of the applicant and the utility.

(7) The charge paid by the applicant shall be the charge for the proposed underground facilities as indicated in subsection (8) minus the charge for overhead facilities as indicated in subsection (9) minus the non-refundable deposit amount. The applicant shall not be required to pay an additional amount which exceeds 10 percent of the binding cost estimate. In the event the investor-owned utility has identified all or a portion of the applicant's underground conversion project for completion as part of its storm protection plan approved under Rule 25-6.030, then the applicant will not be required to pay the charge for the project or portion thereof covered by the storm protection plan.

(8) For the purpose of this rule, the charge for the proposed underground facilities shall include:

(a) The estimated cost of construction of the underground distribution facilities based on the requirements of Rule 25-6.0342, F.A.C., Electric Infrastructure Storm Hardening Standards of Construction, including the construction cost of the underground service lateral(s) to the meter(s) of the customer(s); and

(b) The estimated remaining net book value of the existing facilities to be removed less the estimated net salvage value of the facilities to be removed.

(9) For the purpose of this rule, the charge for overhead facilities shall be the estimated construction cost to build new overhead facilities, including the service drop(s) to the meter(s) of the customer(s). Estimated construction costs shall be based on the requirements of Rule 25-6.0342, F.A.C., Electric Infrastructure Storm Hardening.

(10) An applicant requesting construction of underground distribution facilities under this rule may challenge the utility's cost estimates pursuant to Rule 25-22.032, F.A.C.

(11) For purposes of computing the charges required in subsections (8) and (9):

(a) The utility shall include the Net Present Value of operational costs including the average historical storm restoration costs for comparable facilities over the expected life of the facilities.

(b) If the applicant chooses to construct or install all or a part of the requested facilities, all utility costs, including overhead assignments, avoided by the utility due to the applicant assuming responsibility for construction shall be excluded from the costs charged to the customer, or if the full cost has already been paid, credited to the customer. At no time will the costs to the customer be less than zero.

(12) Nothing in this rule shall be construed to prevent any utility from waiving all or any portion of the cost for providing underground facilities. If, however, the utility waives any charge, the utility shall reduce net plant in service as though those charges had been collected unless the Commission determines that there is quantifiable benefits to the general body of ratepayers commensurate with the waived charge.

(13) Nothing in this rule shall be construed to grant any investor-owned electric utility any right, title or interest in real property owned by a local government.

*Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.03, 366.04, 366.05 FS. History—New 9-21-92, Amended 2-1-07.*