

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Adoption and Amendment
of Rules Relating to Storm Protection Plans
and Storm Protection Plan Cost Recovery
Clause

DOCKET NO. 20190131-EU

DATED: JULY 15, 2019

POST-WORKSHOP COMMENTS OF THE FLORIDA RETAIL FEDERATION

The Florida Retail Federation (“FRF”), pursuant to instructions given at the Rule Development Workshop held on June 25, 2019, is pleased to provide these comments regarding the rules subject to adoption, amendment, and repeal in the above-styled docket. In summary, the FRF is a statewide organization with more than 8,000 members who provide retail goods and services to their customers, and members of the FRF purchase retail electric service from every investor-owned utility (“IOU”) in Florida. The rules adopted through these proceedings will implement Senate Bill 796, which establishes the Storm Protection Plan Cost Recovery Clause, a new cost recovery charge by which Florida’s IOUs can recover a wide range of costs associated with enhancing the ability of their transmission and distribution systems to withstand the effects of major storms. For convenience, the IOUs’ plans that are required by the statute and the rules will be referred to as their “Storm Protection Plans,” or simply as their “Plans.” The new charges will be abbreviated as “SPPCRCs.” The various rules under consideration here, particularly proposed Rule 25-6.030, F.A.C., and Rule 25-6.031, F.A.C., and all related rules are referred to in these comments for convenience simply as the “Rules.”

All of the FRF's members require safe, adequate, and reasonably priced electricity for the conduct of their business operations. The FRF has long advocated that utilities should have rates that are sufficient to provide safe, adequate, and reliable service at the lowest possible cost, and the utilities have generally agreed with this principle. In these rulemaking proceedings, the Commission will implement yet another special cost recovery charge, and the FRF asks that in these rules, the Commission ensure that customers get exactly that: safe, adequate, and reliable service at the lowest possible cost.

To that end, which is obviously in the public interest, the FRF asks the Commission to ensure that the rules and the procedures established by the Rules accomplish the following.

1. Prevent double recovery of costs recovered through base rates and SPPCRCs.
2. Prevent recovery of unreasonable and imprudently incurred costs.
3. Select and prioritize projects based on engineering and cost-effectiveness.
4. Ensure the most cost-effective financing of Storm Plan projects.
5. Require rigorous analysis and accounting of benefits and costs.
6. Require collection of reliable, valid forensic data.
7. Provide for full due process in Storm Plan approval and SPPCRC dockets.
8. Ensure transparency of Storm Protection Plan costs to Customers.
9. Timing of eligibility of Plan expenditures for recovery through the SPPCRC
10. Ensure appropriate review of Plan modifications between filings.
11. Ensure consistency with other Commission rules and ratemaking actions.
12. Reductions in IOUs' financial risk must be reflected in lower ROEs.

SPECIFIC COMMENTS AND DISCUSSION

The FRF offers the following detailed comments, including some proposed rule language.

1. Prevent Double Recovery of Costs.

This is specifically required by the statute and a fundamental principle of fair, just, and reasonable ratemaking. No more need be said.

2. Prevent Recovery of Unreasonable and Imprudently Incurred Costs.

This is another obvious requirement of fair, just, and reasonable ratemaking. Key measures that the Commission should include in the Rules to ensure that the IOUs do not recover unreasonable or imprudent costs are: (a) to require thorough, detailed cost and benefit data and information on all proposed Plan projects in the Plan approval filings, and also in the cost recovery filings; (b) require full due process such that all parties have the opportunity to conduct full discovery on the utilities' Plan and cost recovery filings with sufficient time to vet the utilities' costs and develop their cases, which can and should be accomplished by setting all filings pursuant to the Rules directly for hearing instead of using the PAA process

3. Ensure Most Cost-Effective Financing of Storm Plan Projects.

The Rules should ensure that utilities finance their Storm Protection Plans and projects using the most cost-effective financing available – that is, in the manner that provides the Plan's benefits and services to customers at the lowest possible cost. To that

end, and following the purpose of proposed subsection (3)(f) of the Rules as proposed in the Notice of Development of Rulemaking, namely to mitigate the rate impacts of Plans and projects, the FRF proposes that the Rules include the following as subsection (3)(g) of the Rules.

(3)(g) – A description of all reasonably available financing alternatives that could mitigate the rate impact of part or all of the utility’s proposed Storm Protection Plan for the three-year, five-year, and ten-year periods following the Plan’s implementation. Such financing alternatives shall include, at a minimum, (i) securitization of expenditures where the expenditures over the first three years of the utility’s Plan exceed one billion dollars (\$1,000,000,000.00); and (ii) use of alternative commercially available financing with bonds, commercial paper, or other credit instruments in lieu of financing with the utility’s general capital structure and costs of capital, where the expenditures over the first three years of the utility’s Plan exceed five hundred million dollars (\$500,000,000.00).

4. Ensure Sound Project Selection and Prioritization Based on Engineering and Cost-Effectiveness Principles.

The Rules should require a demonstration by the utility that its selection of potential projects, and the prioritization of all projects, including upgrades and hardening of transmission lines and facilities, hardening of overhead distribution facilities, undergrounding projects, and any other projects, are based on objective engineering principles and maximizing net benefits of Plan projects to customers. For example, projects should be selected on the basis of providing maximum reliability improvements and customer benefits relative to project cost; e.g., a project with a benefit-to-cost ratio of 2.5 should be prioritized ahead of a project with a benefit-to-cost ratio of 1.5, and a project that, for the same cost, would avoid 20,000 MWH of customer outages should be prioritized ahead of a project that would avoid 5,000 MWH of outages. These

requirements could be included in proposed subsection 25-6.030(3)(b)2., F.A.C. For example, consider the following language:

2. A description of all ~~any~~ alternative storm protection projects that were considered in selecting and prioritizing projects included in the proposed Plan, including analyses of all projects considered based on objective engineering and cost-effectiveness principles, including engineering reliability considerations, and the reasons for selecting the projects included in the Plan and also including the reasons for not selecting the alternative projects.

5. Require Rigorous Analysis and Accounting of Plan Benefits and Costs.

That Storm Protection Plan projects and spending should be cost-beneficial and cost-effective to customers is a fundamental principle of fair, just, and reasonable ratemaking. Accordingly, the Rules should require rigorous measurement of, accounting for, and analysis of the benefits and costs of Plans and Plan projects. The Rules must require clear standards for the valuation of benefits in economic – dollars and cents – terms and for the evaluation of benefits in terms of the actual, measured physical impacts of Plan projects in terms of their performance in achieving fewer storm-caused outages, shorter outages, faster restoration times. Perhaps the economic value of benefits can be evaluated using the established Expected Unserved Energy technique. Of course, accurate cost accounting, both of direct Plan costs and of storm restoration costs in areas where Plan projects have been implemented compared to areas where they have not been implemented is necessary for adequate evaluation of Plan impacts, net benefits, and cost-effectiveness.

6. Require Collection of Reliable Forensic Data.

The Rules should require the utilities to collect sound, reliable forensic data by which the benefits, the performance effectiveness, and the cost-effectiveness of the IOUs' Plans can be evaluated. That Storm Protection Plan projects and spending should be cost-beneficial to customers is a fundamental principle of fair, just, and reasonable ratemaking. Accordingly, the FRF recommends that the Rules should require rigorous measurement of, accounting for, and analysis of the benefits and costs of Plans and Plan projects. This can only be accomplished with reliable, valid forensic data on the performance of Plan projects in real-life storm events. The Rules must require the IOUs to collect and report such data, and that they be required to report the raw data together with any adjustments that they make. The FRF asks that the Rules require these data to be reported annually, much as the utilities now report their distribution reliability data that is reported in their Electric Utility Distribution Reliability Reports listed on the Commission's website.

7. Provide for Full Due Process in Storm Plan Approval and SPPCRC Dockets.

The Rules should provide for full due process in the Commission's consideration and approval of the IOUs' Storm Protection Plans and their SPPCRCs. At the very least, the first round of Storm Protection Plan approval proceedings should be set directly for hearing upon filing and should not be processed using the Proposed Agency Action ("PAA") process. The PAA process has been used to prevent any party other than the Public Counsel from conducting discovery until after the PAA order is issued, which puts

all of these substantially interested persons and parties at a significant disadvantage in being able to develop their cases. This will be even more critical in this context, where the Commission will decide whether to approve the IOUs' Storm Protection Plans within 180 days following filing.

8. Ensure Transparency of Storm Protection Plan Costs to Customers.

Just as all utility customers are entitled to receive safe and reliable service at the lowest possible cost, all utility customers are entitled to know what they are paying for. The Rules should require that the IOUs' Storm Protection Plan Cost Recovery Charges be shown as a separate line item on customers' bills. The Commission should not let the IOUs bury their Storm Protection Plan costs like the Nuclear Cost Recovery Charges were buried within the Capacity Cost Recovery Charges. Customers deserve to know what they are paying for, and the Commission must ensure that customers receive this basic consideration from the IOUs. One would reasonably believe that the IOUs would be proud for their customers to know what they – the Customers – are paying for, and what they are getting, especially for something as meaningful as storm resiliency and reliability, but the IOUs' comments at the workshop were clearly directed toward burying their Storm Protection Plan costs in another clause.

9. Timing of Plan Expenditure Eligibility for Cost Recovery through the SPPCRC.

At the workshop, Commission Staff announced their position that, under the Rules, only costs incurred after an IOU's Plan is approved will be eligible for recovery

through the utility's SPPCRC. While this may create somewhat perverse incentives for the IOUs to put off meritorious Storm Protection Plan projects so that they will be able to recover the costs immediately, instead of normal recovery through base rates until the next rate case, the FRF agrees with the Staff that SPPCRC recovery should only be available for costs incurred – money actually spent on Storm Protection Plan projects – after the utility's Plan is approved.

10. Modification of Plans. Please see the following proposed provisions, which are derived from and follow the structure of Commission Rule 25-17.0836, F.A.C., **Modification to Existing Contracts; Explanation of When Approval Is Required**, which is part of the Commission's rules for cogeneration and small power production.

25-6.0301 Modification to Existing Storm Protection Plans; Explanation of When Approval Is Required.

(1) Each investor-owned utility shall notify the Commission Clerk, the Director of the Division of Economics, the General Counsel, and the Office of Public Counsel of all modifications to the utility's Storm Protection Plan that, individually or cumulatively, in any calendar year result in an increase of more than 1.0 percent in the amount that the utility seeks to recover through the Storm Protection Plan Charge. At a minimum, the following information shall be submitted:

- (a) A description of the modification or modifications;
- (b) A copy of the documents that evidence the modification;
- (c) A detailed statement explaining whether the utility's existing Storm Protection Plan would be viable if none of the proposed modifications were made;
- (d) A statement indicating whether the completion date of any project or similar component of the utility's approved Storm Protection Plan will change because of the modifications; and
- (e) A reasonably detailed analysis of the costs and benefits to the utility's customers that would result from the modifications.

(2) In order for a utility to recover any increase in its Storm Protection Plan costs resulting from the modifications, Commission approval is

required for (a) any modification, or group of modifications, proposed for implementation within a calendar year that results in an increase of more than 1.0 percent of the utility's projected costs for its Storm Protection Plan for the given calendar year, or (b) any modification that involves postponing a project in the utility's approved Storm Protection Plan in order to implement a different project, where the cost of the postponed project is more than 2.0 percent of the utility's approved Storm Protection Plan costs for the given calendar year.

(3) In cases where approval of a modification, or group of modifications, is required for utility cost recovery, the utility shall file with the Office of Commission Clerk a petition for approval of the modification to the utility's Storm Protection Plan that provides the information required by paragraphs (1)(a) through (e) above. The petition shall also comply with the filing requirements of the Florida Administrative Code, including, without limitations, the requirements of Chapter 28-106, F.A.C.

(4) The Commission shall only approve modifications where the utility has demonstrated by a preponderance of the evidence that the benefits to the utility's customers are greater than the costs associated with the modifications.

(5) On its own motion, the Commission may review a Storm Protection Plan modification, or group of modifications, to determine whether the modification requires approval or to determine whether any proposed modification, regardless whether its cost impact exceeds the percentage values specified above, should be approved for cost recovery based on a full consideration of the benefits and costs of the proposed modification or modifications.

11. Consistency with Other Rules.

The Rules adopted here should ensure that where the utilities implement projects through their Plans that are based on appropriate analyses of the benefits and costs of such projects, the benefits and costs assigned by the utility and approved by the Commission to Plan projects are applied consistently in other contexts and to similar projects where the benefits and costs are similar or identical. For example, at least FPL has indicated that it intends to pursue undergrounding primary voltage distribution

laterals as part of its Storm Protection Plan. Such undergrounding projects will provide significant benefits in terms of avoided storm restoration costs, especially where the converted laterals are in rear-lot locations surrounded by vegetation. The same benefits should be accorded to other undergrounding projects pursuant to Rule 25-6.078, F.A.C., and Rule 25-6.115, F.A.C. It is virtually certain that other examples and applications of this general principle – consistent treatment for projects that provide similar or identical benefits – will be identified as the utilities’ Plans are reviewed, implemented, and evolve over time.

12. Further Reductions in IOUs’ Risk Must Be Reflected in Lower ROEs.

While not at issue in these rulemaking proceedings, the FRF must note that the requirement that the Commission provide for recovery of storm protection costs, which would normally be recovered through base rates, through the SPPCRC and the ultimate implementation of the SPPCRCs for Florida’s IOUs will reduce the IOUs’ risks even further than they have already been reduced by the plethora of cost recovery charges already used by the IOUs. This additional risk reduction must be recognized when the IOUs’ rates of return on equity (“ROEs”) are set in future rate cases. FPL currently has highest percentage of cost recovery through its base rates, 68.5 percent of a residential customer’s bill for 1,000 kWh. FPUC has the lowest, at 26.4 percent. Duke Energy Florida, Tampa Electric Company, and Gulf Power Company range between 52.8 percent and 64.2 percent. Having such low percentages of their revenues subject to recovery through base rates that are set in periodic general base rate cases greatly reduces the

IOUs' risk profiles, and this must, as a matter of fair and just ratemaking, be reflected in the Commission's future decisions on ROEs.

The Florida Retail Federation appreciates the Commission's consideration of these comments.

Respectfully submitted this 15th day of July, 2019.

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