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GENERAL COUNSEL
(850) 413-6199

Public Service Commission

October 7, 2019

Kenneth J. Plante, Coordinator
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

HAND DELIVERY

Re: Docket No. 20190131-EU; Rule 25-6.030, F.A.C., Storm Protection Plan and Rule 25-6.031, F.A.C., Storm Protection Plan Cost Recovery Clause

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rules:

1. A copy of the proposed rules.
2. There are no materials incorporated by reference in the proposed rules.
3. A copy of the F.A.R. notice.
4. A statement of facts and circumstances justifying the proposed rules.
5. A federal standards statement.
6. Statement of Estimated Regulatory Costs for the rules.

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2019 OCT -7 PM 1:04

COMMISSION
CLERK

JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

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Mr. Kenneth J. Plante
October 7, 2019
Page 2

If there are any questions with respect to these rules, please do not hesitate to call me at 413-3062.

Sincerely,

A handwritten signature in black ink, appearing to read "Adria Harper", with a long, sweeping flourish extending to the right.

Adria E. Harper
Senior Attorney

Enclosures

cc: Office of Commission Clerk

1 **25-6.030 Storm Protection Plan.**

2 (1) Application and Scope. Each utility as defined in Section 366.96(2)(a), F.S., must file a
3 petition with the Commission for approval of a Transmission and Distribution Storm
4 Protection Plan (Storm Protection Plan) that covers the utility’s immediate 10-year planning
5 period. Each utility must file, for Commission approval, an updated Storm Protection Plan at
6 least every 3 years.

7 (2) For the purpose of this rule, the following definitions apply:

8 (a) “Storm protection program” – a category, type, or group of related storm protection
9 projects that are undertaken to enhance the utility’s existing infrastructure for the purpose of
10 reducing restoration costs and reducing outage times associated with extreme weather
11 conditions therefore improving overall service reliability.

12 (b) “Storm protection project” – a specific activity within a storm protection program
13 designed for the enhancement of an identified portion or area of existing electric transmission
14 or distribution facilities for the purpose of reducing restoration costs and reducing outage
15 times associated with extreme weather conditions therefore improving overall service
16 reliability.

17 (c) “Transmission and distribution facilities” – all utility owned poles and fixtures, towers
18 and fixtures, overhead conductors and devices, substations and related facilities, land and land
19 rights, roads and trails, underground conduits, and underground conductors.

20 (3) Contents of the Storm Protection Plan. For each Storm Protection Plan, the following
21 information must be provided:

22 (a) A description of how implementation of the proposed Storm Protection Plan will
23 strengthen electric utility infrastructure to withstand extreme weather conditions by promoting
24 the overhead hardening of electrical transmission and distribution facilities, the
25 undergrounding of certain electrical distribution lines, and vegetation management.

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1 (b) A description of how implementation of the proposed Storm Protection Plan will
2 reduce restoration costs and outage times associated with extreme weather conditions
3 therefore improving overall service reliability.

4 (c) A description of the utility's service area, including areas prioritized for enhancement
5 and any areas where the utility has determined that enhancement of the utility's existing
6 transmission and distribution facilities would not be feasible, reasonable, or practical. Such
7 description must include a general map, number of customers served within each area, and the
8 utility's reasoning for prioritizing certain areas for enhanced performance and for designating
9 other areas of the system as not feasible, reasonable, or practical.

10 (d) A description of each proposed storm protection program that includes:

11 1. A description of how each proposed storm protection program is designed to enhance
12 the utility's existing transmission and distribution facilities including an estimate of the
13 resulting reduction in outage times and restoration costs due to extreme weather conditions;

14 2. If applicable, the actual or estimated start and completion dates of the program;

15 3. A cost estimate including capital and operating expenses;

16 4. A comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified
17 in subparagraph (3)(d)1.; and

18 5. A description of the criteria used to select and prioritize proposed storm protection
19 programs.

20 (e) For the first three years in a utility's Storm Protection Plan, the utility must provide the
21 following information:

22 1. For the first year of the plan, a description of each proposed storm protection project
23 that includes:

24 i. The actual or estimated construction start and completion dates;

25 ii. A description of the affected existing facilities, including number and type(s) of

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1 customers served, historic service reliability performance during extreme weather conditions,
2 and how this data was used to prioritize the proposed storm protection project;

3 iii. A cost estimate including capital and operating expenses; and

4 iv. A description of the criteria used to select and prioritize proposed storm protection
5 projects.

6 2. For the second and third years of the plan, project related information in sufficient
7 detail, such as estimated number and costs of projects under every specific program, to allow
8 the development of preliminary estimates of rate impacts as required by paragraph (3)(h) of
9 this rule.

10 (f) For each of the first three years in a utility's Storm Protection Plan, the utility must
11 provide a description of its proposed vegetation management activities including:

12 1. The projected frequency (trim cycle);

13 2. The projected miles of affected transmission and distribution overhead facilities;

14 3. The estimated annual labor and equipment costs for both utility and contractor
15 personnel; and

16 4. A description of how the vegetation management activity will reduce outage times and
17 restoration costs due to extreme weather conditions.

18 (g) An estimate of the annual jurisdictional revenue requirements for each year of the
19 Storm Protection Plan.

20 (h) An estimate of rate impacts for each of the first three years of the Storm Protection
21 Plan for the utility's typical residential, commercial, and industrial customers.

22 (i) A description of any implementation alternatives that could mitigate the resulting rate
23 impact for each of the first three years of the proposed Storm Protection Plan.

24 (j) Any other factors the utility requests the Commission to consider.

25 (4) By June 1, each utility must submit to the Commission Clerk an annual status report on

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from existing law.

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the utility's Storm Protection Plan programs and projects. The annual status report shall include:

(a) Identification of all Storm Protection Plan programs and projects completed in the prior calendar year or planned for completion;

(b) Actual costs and rate impacts associated with completed activities under the Storm Protection Plan as compared to the estimated costs and rate impacts for those activities; and

(c) Estimated costs and rate impacts associated with programs planned for completion during the next calendar year.

Rulemaking Authority 366.96, FS. Law Implemented 366.96, FS. History—New

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1 **25-6.031 Storm Protection Plan Cost Recovery Clause.**

2 (1) Application and Scope. This rule applies to each utility as defined in Section
3 366.96(2)(a), F.S.

4 (2) After a utility has filed its Transmission and Distribution Storm Protection Plan (Storm
5 Protection Plan), the utility may file a petition for recovery of associated costs through the
6 Storm Protection Plan cost recovery clause. The utility's petition shall be supported by
7 testimony that provides details on the annual Storm Protection Plan implementation activities
8 and associated costs, and how those activities and costs are consistent with its Storm
9 Protection Plan. If the Commission approves the utility's Storm Protection Plan with
10 modifications, the utility shall, within 15 business days, file an amended cost recovery petition
11 and supporting testimony reflecting the modifications.

12 (3) An annual hearing to address petitions for recovery of Storm Protection Plan costs will
13 be limited to determining the reasonableness of projected Storm Protection Plan costs, the
14 prudence of actual Storm Protection Plan costs incurred by the utility, and to establish Storm
15 Protection Plan cost recovery factors consistent with the requirements of this rule.

16 (4) Storm Protection Plan cost recovery clause true-up amounts shall be afforded deferred
17 accounting treatment at the 30-day commercial paper rate.

18 (5) Subaccounts. To ensure separation of costs subject to recovery through the clause, the
19 utility filing for cost recovery shall maintain subaccounts for all items consistent with the
20 Uniform System of Accounts prescribed by this Commission, pursuant to Rule 25-6.014,
21 F.A.C.

22 (6) Recoverable costs.

23 (a) The utility's petition for recovery of costs associated with its Storm Protection Plan
24 may include costs incurred after the filing of the utility's Storm Protection Plan.

25 (b) Storm Protection Plan costs recoverable through the clause shall not include costs

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1 | recovered through the utility's base rates or any other cost recovery mechanism.

2 | (c) The utility may recover the annual depreciation expense on capitalized Storm
3 | Protection Plan expenditures using the utility's most recent Commission-approved
4 | depreciation rates. The utility may recover a return on the undepreciated balance of the costs
5 | calculated at the utility's weighted average cost of capital using the return on equity most
6 | recently approved by the Commission.

7 | (7) Pursuant to the order establishing procedure in the annual cost recovery proceeding, a
8 | utility shall submit the following for Commission review and approval as part of its Storm
9 | Protection Plan cost recovery filings:

10 | (a) Final True-Up for Previous Year. The final true-up of Storm Protection Plan cost
11 | recovery for a prior year shall include revenue requirements based on a comparison of actual
12 | costs for the prior year and previously filed costs and revenue requirements for such prior year
13 | for each program and project filed in the utility's cost recovery petition. The final true-up shall
14 | also include identification of each of the utility's Storm Protection Plan programs and projects
15 | for which costs were incurred during the prior year, including a description of the work
16 | actually performed during such prior year, for each program and project in the utility's cost
17 | recovery petition.

18 | (b) Estimated True-Up for Current Year. The actual/estimated true-up of Storm Protection
19 | Plan cost recovery shall include revenue requirements based on a comparison of current year
20 | actual/estimated costs and the previously-filed projected costs and revenue requirements for
21 | such current year for each program and project filed in the utility's cost recovery petition. The
22 | actual/estimated true-up shall also include identification of each of the utility's Storm
23 | Protection Plan programs and projects for which costs have been and will be incurred during
24 | the current year, including a description of the work projected to be performed during such
25 | current year, for each program and project in the utility's cost recovery petition.

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1 (c) Projected Costs for Subsequent Year. The projected Storm Protection Plan costs
2 recovery shall include costs and revenue requirements for the subsequent year for each
3 program filed in the utility's cost recovery petition. The projection filing shall also include
4 identification of each of the utility's Storm Protection Plan programs for which costs will be
5 incurred during the subsequent year, including a description of the work projected to be
6 performed during such year, for each program in the utility's cost recovery petition.

7 (d) True-Up of Variances. The utility shall report observed true-up variances including
8 sales forecasting variances, changes in the utility's prices of services and/or equipment, and
9 changes in the scope of work relative to the estimates provided pursuant to subparagraphs
10 (7)(b) and (7)(c). The utility shall also provide explanations for variances regarding the
11 implementation of the approved Storm Protection Plan.

12 (e) Proposed Storm Protection Plan Cost Recovery Factors. The utility shall provide the
13 calculations of its proposed factors and effective 12-month billing period.

14 (8) Recovery of costs under this rule does not preclude a utility from proposing inclusion
15 of unrecovered Storm Protection Plan implementation costs in base rates in a subsequent rate
16 proceeding.

17 Rulemaking Authority 366.96, FS. Law Implemented 366.96, FS. History—New _____.

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Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NOS: RULE TITLES:

25-6.030 Storm Protection Plan

25-6.031 Storm Protection Plan Cost Recovery Clause

PURPOSE AND EFFECT: To implement Section 366.96, F.S., which requires the Commission to adopt rules to specify the elements that must be included in the public electric utility's filing for the Commission's review of its storm protection plan and to implement and administer the section.

Docket No. 20190131-EU

SUMMARY: Rule 25-6.030 establishes that a public electric utility must file a storm protection plan that covers the utility's immediate 10-year planning period and which must be updated every 3 years. The rule describes the information that must be included in the storm protection plan and the information needed for the Commission to file an annual report with the executive and legislative branches on the planned and completed storm protection projects and the related rate impacts. Rule 25-6.031 establishes a storm protection plan cost recovery clause for a utility's prudently incurred costs that result from implementing the utility's storm protection plan. The rule sets forth the information a utility must submit in its storm protection plan cost recovery petition when seeking Commission review and approval of storm protection plan costs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2), F.S., and concluded the rules will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. Further, the SERC concludes that the rules will not likely have an adverse impact on economic growth, private-sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rules do not require legislative ratification pursuant to Section 120.541(3), F.S. In addition, the SERC concludes that the rules will have no adverse impact on small businesses, small cities, or small counties. The rules will have minimal impact on state and local revenues and transactional costs. Any implementation or enforcement costs on the Commission will be offset by the additional staff positions and funding provided under the new law. None of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the rules.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 366.96, F.S.

LAW IMPLEMENTED: 366.96, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSONS TO BE CONTACTED REGARDING THE PROPOSED RULE ARE: Adria Harper, (850)413-6082, aharper@psc.state.fl.us or Andrew King, (850)413-6195, aking@psc.state.fl.us., Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.030 Storm Protection Plan.

(1) Application and Scope. Each utility as defined in Section 366.96(2)(a), F.S., must file a petition with the Commission for approval of a Transmission and Distribution Storm Protection Plan (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.

(2) For the purpose of this rule, the following definitions apply:

(a) "Storm protection program" – a category, type, or group of related storm protection projects that are undertaken to enhance the utility's existing infrastructure for the purpose of reducing restoration costs and reducing outage times associated with extreme weather conditions therefore improving overall service reliability.

(b) "Storm protection project" – a specific activity within a storm protection program designed for the enhancement of an identified portion or area of existing electric transmission or distribution facilities for the purpose of reducing restoration costs and reducing outage times associated with extreme weather conditions therefore improving overall service reliability.

(c) "Transmission and distribution facilities" – all utility owned poles and fixtures, towers and fixtures, overhead conductors and devices, substations and related facilities, land and land rights, roads and trails, underground conduits, and underground conductors.

(3) Contents of the Storm Protection Plan. For each Storm Protection Plan, the following information must be provided:

(a) A description of how implementation of the proposed Storm Protection Plan will strengthen electric utility infrastructure to withstand extreme weather conditions by promoting the overhead hardening of electrical transmission and distribution facilities, the undergrounding of certain electrical distribution lines, and vegetation management.

(b) A description of how implementation of the proposed Storm Protection Plan will reduce restoration costs and outage times associated with extreme weather conditions therefore improving overall service reliability.

(c) A description of the utility's service area, including areas prioritized for enhancement and any areas where the utility has determined that enhancement 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.

(d) A description of each proposed storm protection program that includes:

1. A description of how each proposed storm protection program is designed to enhance the utility's existing transmission and distribution facilities including an estimate of the resulting reduction in outage times and restoration costs due to extreme weather conditions;

2. If applicable, the actual or estimated start and completion dates of the program;

3. A cost estimate including capital and operating expenses;

4. A comparison of the costs identified in subparagraph (3)(d)3. and the benefits identified in subparagraph (3)(d)1.; and

5. A description of the criteria used to select and prioritize proposed storm protection programs.

(e) For the first three years in a utility's Storm Protection Plan, the utility must provide the following information:

1. For the first year of the plan, a description of each proposed storm protection project that includes:

i. The actual or estimated construction start and completion dates;

ii. A description of the affected existing facilities, including number and type(s) of customers served, historic service reliability performance during extreme weather conditions, and how this data was used to prioritize the proposed storm protection project;

iii. A cost estimate including capital and operating expenses; and

iv. A description of the criteria used to select and prioritize proposed storm protection projects.

2. For the second and third years of the plan, project related information in sufficient detail, such as estimated number and costs of projects under every specific program, to allow the development of

preliminary estimates of rate impacts as required by paragraph (3)(h) of this rule.

(f) For each of the first three years in a utility's Storm Protection Plan, the utility must provide a description of its proposed vegetation management activities including:

1. The projected frequency (trim cycle);
2. The projected miles of affected transmission and distribution overhead facilities;
3. The estimated annual labor and equipment costs for both utility and contractor personnel; and
4. A description of how the vegetation management activity will reduce outage times and restoration costs due to extreme weather conditions.

(g) An estimate of the annual jurisdictional revenue requirements for each year of the Storm Protection Plan.

(h) An estimate of rate impacts for each of the first three years of the Storm Protection Plan for the utility's typical residential, commercial, and industrial customers.

(i) A description of any implementation alternatives that could mitigate the resulting rate impact for each of the first three years of the proposed Storm Protection Plan.

(j) Any other factors the utility requests the Commission to consider.

(4) By June 1, each utility must submit to the Commission Clerk an annual status report on the utility's Storm Protection Plan programs and projects. The annual status report shall include:

(a) Identification of all Storm Protection Plan programs and projects completed in the prior calendar year or planned for completion;

(b) Actual costs and rate impacts associated with completed activities under the Storm Protection Plan as compared to the estimated costs and rate impacts for those activities; and

(c) Estimated costs and rate impacts associated with programs planned for completion during the next calendar year.

Rulemaking Authority 366.96, FS. Law Implemented 366.96, FS. History—New _____.

25-6.031 Storm Protection Plan Cost Recovery Clause.

(1) Application and Scope. This rule applies to each utility as defined in Section 366.96(2)(a), F.S.

(2) After a utility has filed its Transmission and Distribution Storm Protection Plan (Storm Protection Plan), the utility may file a petition for recovery of associated costs through the Storm Protection Plan cost recovery clause. The utility's petition shall be supported by testimony that provides details on the annual Storm Protection Plan implementation activities and associated costs, and how those activities and costs are consistent with its Storm Protection Plan. If the Commission approves the utility's Storm Protection Plan with modifications, the utility shall, within 15 business days, file an amended cost recovery petition and supporting testimony reflecting the modifications.

(3) An annual hearing to address petitions for recovery of Storm Protection Plan costs will be limited to determining 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 consistent with the requirements of this rule.

(4) Storm Protection Plan cost recovery clause true-up amounts shall be afforded deferred accounting treatment at the 30-day commercial paper rate.

(5) Subaccounts. To ensure separation of costs subject to recovery through the clause, the 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.

(6) Recoverable costs.

(a) The utility's petition for recovery of costs associated with its Storm Protection Plan may include costs incurred after the filing of the utility's Storm Protection Plan.

(b) 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.

(c) 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 using the return on equity most recently approved by the Commission.

(7) Pursuant to the order establishing procedure in the annual cost recovery proceeding, a utility shall submit the following for Commission review and approval as part of its Storm Protection Plan cost recovery filings:

(a) Final True-Up for Previous Year. The final true-up of Storm Protection Plan cost recovery for a prior year shall include revenue requirements based on a comparison of actual costs for the prior year and previously filed costs and revenue requirements for such prior year for each program and project filed in the utility's cost recovery petition. The final true-up shall also include identification of each of the utility's Storm Protection Plan programs and projects for which costs were incurred during the prior year, including a description of the work actually performed during such prior year, for each program and project in the utility's cost recovery petition.

(b) Estimated True-Up for Current Year. The actual/estimated true-up of Storm Protection Plan cost recovery shall include revenue requirements based on a comparison of current year actual/estimated costs and the previously-filed projected costs and revenue requirements for such current year for each program and project filed in the utility's cost recovery petition. The actual/estimated true-up shall also include identification of each of the utility's Storm Protection Plan programs and projects for which costs have been and will be incurred during the current year, including a description of the work projected to be performed during such current year, for each program and project in the utility's cost recovery petition.

(c) Projected Costs for Subsequent Year. The projected Storm Protection Plan costs recovery shall include costs and revenue requirements for the subsequent year for each program filed in the utility's cost recovery petition. The projection filing shall also include identification of each of the utility's Storm Protection Plan programs for which costs will be incurred during the subsequent year, including a description of the work projected to be performed during such year, for each program in the utility's cost recovery petition.

(d) True-Up of Variances. The utility shall report observed true-up variances including sales forecasting variances, 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 implementation of the approved Storm Protection Plan.

(e) Proposed Storm Protection Plan Cost Recovery Factors. The utility shall provide the calculations of its proposed factors and effective 12-month billing period.

(8) Recovery of costs under this rule does not preclude a utility from proposing inclusion of unrecovered Storm Protection Plan implementation costs in base rates in a subsequent rate proceeding.
Rulemaking Authority 366.96, FS. Law Implemented 366.96, FS. History-New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tom Ballinger

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: October 3, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 45, Number 111, June 7, 2019.

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

The rules are proposed to implement Section 366.96, F.S., which was passed by the 2019 Florida Legislature. Rule 25-6.030 establishes that a public electric utility must file a storm protection plan that covers the utility's immediate 10-year planning period and which must be updated every 3 years. The rule describes the information that must be included in the storm protection plan and the information needed for the Commission to file an annual report with the executive and legislative branches on the planned and completed storm protection projects and the related rate impacts. Rule 25-6.031 establishes a storm protection plan cost recovery clause for a utility's prudently incurred costs that result from implementing the utility's storm protection plan. The rule sets forth the information a utility must submit in its storm protection plan cost recovery petition when seeking Commission review and approval of storm protection plan costs.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for these rules.



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: September 19, 2019

TO: Adria E. Harper, Senior Attorney, Office of the General Counsel
Andrew King, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst II, Division of Economics *B.K.G.*

RE: Statement of Estimated Regulatory Costs (SERC) for Proposed Adoption of New Rule 25-6.030, Florida Administrative Code (F.A.C.), Storm Protection Plan and Rule 25-6.031, F.A.C., Storm Protection Plan Cost Recovery Clause.

During the 2019 session, the Florida Legislature passed Senate Bill 796 which added new requirements to Chapter 366, Florida Statutes (F.S.). Specifically, Senate Bill 796 created Section 366.96, F.S., requiring each investor-owned electric utility (IOU) to file a storm protection plan for Commission review. Section 366.96, F.S., also directs the Commission to hold an annual proceeding to allow the recovery of prudently incurred cost to implement the plan through a storm protection plan cost recovery clause. The law became effective on July 1, 2019.

To implement the new law, staff is recommending the adoption of proposed new Rules 25-6.030, Florida Administrative Code (F.A.C.) (Storm Protection Plan) and 25-6.031, F.A.C. (Storm Protection Plan Cost Recovery Clause). Staff is recommending the adoption of the rules so that Commission rules will be consistent with the requirements of the empowering statute enacted during the 2019 legislative session. The attached SERC addresses the considerations required pursuant to Section 120.541, F.S.

Staff held noticed rule development workshops on June 25 and on August 20, 2019, to obtain stakeholder comments on the draft rules. The electric IOUs and interested parties provided comments at the workshops and post workshop written comments. Information provided in the docket was incorporated into the staff's recommended rules.

On August 27, 2019, staff issued a SERC data request to the electric IOUs for which responses were received on September 10, 2019. The responses to staff's SERC data request indicate that the IOUs anticipate that any incremental costs to implement the initial filing of the storm protection plans pursuant to Rule 25-6.030, F.A.C., will be incurred as a result of the enactment of Section 366.96, F.S., rather than the adoption of proposed Rule 25-6.030, F.A.C. The IOUs also indicated that they are still evaluating the incremental resources that will be required to file petitions for storm protection costs and associated cost recovery factors and are, therefore, unable to provide at this time an estimate of incremental cost. The IOUs also indicated that if the Commission repeals Rule 25-6.0342, F.A.C., Electric Infrastructure Storm Hardening,

eliminating the workload for preparing storm hardening plans will be a partial offset to the workload for filing storm protection plans.

The IOUs provided estimated cost to accommodate the billing of new storm protection cost recovery factors pursuant to Rule 25-6.031, F.A.C. The incremental cost to the IOUs to bill a new cost recovery factor is the result of Section 366.96(7), F.S., and not caused by staff's proposed new rules. Therefore, none of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended rules.

At this time, it is difficult to determine whether the electric IOUs' storm protection plans will include additional storm hardening activities when compared to the existing storm hardening plans. If so, this may lead to incremental cost recovery from ratepayers. However, any resulting rate increases are expected to be mitigated to some extent by reduced outage times and are the results of the statutory requirements, rather than the recommended rules.

Section 120.541(2)(c), F.S., requires a SERC to state the cost to the Commission to implement and enforce a rule. Senate Bill 796 provides funding for four additional full time positions to meet the increased workload. The additional workload to the Commission is the result of Section 366.96, F.S., and not caused by staff's proposed new rules.

Finally, the attached SERC concludes that the rules will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rules do not require legislative ratification pursuant to Section 120.541(3), F.S. In addition, the SERC states that the rules will not have an adverse impact on small business and will have no impact on small cities or counties. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-6.030, F.A.C., Storm Protection Plan and Rule 25-6.031, F.A.C.,
Storm Protection Cost Recovery Clause

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth

Yes No

Private-sector job creation or employment

Yes No

Private-sector investment

Yes No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)

Yes No

Productivity

Yes No

Innovation

Yes No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis: During the 2019 session, the Florida Legislature enacted Senate Bill 796 which was incorporated into Chapter 2019-158, Laws of Florida. The Bill created Section 366.96, F.S., relating to electric investor-owned utility (IOU) storm protection plans. The new law became effective on July 1, 2019. To implement the new law, staff is recommending the adoption of new Rule 25-6.030, F.A.C. (Storm Protection Plan) and Rule 25-6.031, F.A.C. (Storm Protection Plan Cost Recovery Clause). Staff is recommending these rules so that the Commission's rules will be consistent with the requirements of the empowering statutes as enacted during the 2019 legislative session.

In response to staff's SERC data request, the electric IOUs stated that the new rules may require more details in the proposed storm protection plan (SPP) in comparison to the currently effective storm hardening plan (SHP). The IOUs stated they expect additional/incremental administrative costs such as preparing and filing the SPP, analysis of program components, responding to discovery, annual hearing support costs, and travel required to support annual hearings. However, the IOUs do not expect significant additional work.

The IOUs provided estimated cost to accommodate the billing of new storm protection cost recovery factors pursuant to Rule 25-6.031, F.A.C. The incremental cost to the IOUs to bill a new cost recovery factor is the result of Section 366.96(7), F.S., and not caused by staff's proposed new rules. Therefore, none of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended rules.

Generally, the IOUs state that they will be able to meet the requirements of the new rules with existing resources and minimal incremental costs. They also state that any estimated incremental costs will be incurred as a result of the specific requirements in Section 366.96(7), F.S. Therefore, any estimated additional transactional costs are caused by statutory changes and not by the rules. None of the rule impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded by an individual utility as a result of the recommended new rules.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

The entities required to comply with the rules include the five electric IOUs. If there were to be new electric IOUs that would come under the jurisdiction of the Commission in the future, they would also be required to comply.

(2) A general description of the types of individuals likely to be affected by the rule.

The types of individuals likely to be affected by the rule would be customers who are served by the five electric IOUs. The ultimate impact on customer bills cannot be determined at this time because they will vary for each IOU's Commission-approved storm protection plans and projects. These regulatory costs will be recovered from the IOU's customers through rates. [Source: Final Bill Analysis, 7/10/2019]

The five electric IOUs, in response to staff's data request, stated that the financial impact of this SPP would be to provide cost savings and other economic benefits from reduced restoration costs and outage times to consumers and improve the overall service reliability. The IOUs believe that the long-term benefits of a more reliable and resilient electric system will mitigate the financial impacts for its customers and will have a positive economic impact.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

The statute requires each electric IOU to file, at least every three years, a storm protection plan for the Commission's review and directs the Commission to hold an annual proceeding to determine the utility's prudently incurred costs to implement the plan and allow recovery of those costs through a storm Protection Plan Cost Recovery Clause. Additionally, Section 366.96(10), F.S. requires that beginning December 1 of the year after the first full year of implementation of the SPP and annually thereafter, the Commission must submit a status report of the utilities' storm protection activities to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The legislature, in recognition of the additional anticipated workload, has provided four additional FTE staff positions and funding for the next three fiscal years.

[source: Final Bill Analysis, 7/10/2019]

Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

None. The rule will only affect the Commission.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

None.

Minimal. Provide a brief explanation.

DEF stated in its response to staff's SERC data request that the implementation of the proposed SPP could lead to additional hardening projects, thereby creating more jobs. Together with creating jobs, the potential reduction in electric outage times would also have a positive impact on Florida's economy.

FPUC also believes that the long-term benefits of a more reliable and resilient electric system will mitigate the dollar impacts for its customers.

An increase in prudent storm protection activities may reduce storm restoration costs and economic losses associated with power outages. Additionally, to the extent that IOU rates and charges increase due to the implementation of the Storm Protection Plan, certain tax revenues of state and local governments may increase [source: Final Bill Analysis, 7/10/2019]

Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

None. The rule will only affect the Commission.

Minimal. Provide a brief explanation.

Please see Section A(3) for discussion regarding incremental transactional costs to be incurred by the electric IOUs. Any economic impacts that might be incurred by the affected entities would be a result of statutory changes promulgated under Section 366.96, F.S., and not caused by staff's recommended new rules. Because estimated additional transactional costs are caused by statutory changes and not by staff's recommended changes to Commission rules, none of the rule impacts/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended new rules.

Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities:
[120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

No adverse impact on small business.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

The five electric IOUs, in response to staff's SERC data request, stated that the financial impact of this SPP would be to provide cost savings and other economic benefits from reduced restoration costs and outage times to consumers and thereby improve the overall service reliability. The IOUs believe that the long-term benefits of a more reliable and resilient electric system will mitigate the financial impacts for its customers and will have a positive economic impact.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

No impact on small cities or small counties.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

Small cities and counties may have an increase in certain state and local tax revenues resulting from higher rates and charges that implement the proposed SPP. [source: Final Bill Analysis, 7/10/2019] However, as noted in Section A(3) above, any economic impacts that might be incurred by affected entities would be a result of statutory changes promulgated under Section 366.97, F.S., and not caused by staff's recommended new Commission rules.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

None.

Additional Information: Staff rule development workshops were held on June 25, 2019, and on August 20, 2019, regarding the new storm protection plan and cost recovery clause rules. Comments from affected utilities and parties were incorporated into the draft rules to provide additional clarification.

The legislative finding of the new Section 366.96, F.S., concludes that it is in the state's interest to strengthen electric utility infrastructure to withstand extreme weather conditions by promoting certain storm hardening activities, and that these activities can effectively reduce restoration costs and outage times and improve overall service reliability for customers.

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.