

State of Florida



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: April 22, 2021

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Harper) *SMC*
Division of Accounting and Finance (Fletcher, Mouring) *ALM*
Division of Economics (Coston, Guffey) *JGH*

RE: Docket No. 20210062-OT – Proposed amendment of Rule 25-6.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4 and proposed new Rule 25-7.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4.

AGENDA: 05/04/21 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-6.0143, Florida Administrative Code (F.A.C.), Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4., provides the standards for the application of Accumulated Provision Accounts 228.1, 228.2, and 228.4 for investor-owned electric utilities. The Commission does not currently have a corresponding rule on this subject for investor-owned natural gas utilities. Adoption of new Rule 25-7.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4, would create a new rule for the standards for the application of Accumulated Provision Accounts 228.1, 228.2, and 228.4 for natural gas utilities.

The focus of this rulemaking is to amend Rule 25-6.0143, F.A.C., for clarity and specificity. Rule 25-7.0143, F.A.C., is being created to provide an industry-specific standard for the

application of Accumulated Provision Accounts 228.1, 228.2, and 228.4 for the natural gas utilities. In general, the amendment of Rule 25-6.0143, F.A.C., and the adoption of new Rule 25-7.0143, F.A.C., is intended to provide requirements for the application of Accumulated Provision Accounts 228.1, 228.2, and 228.4, specifically as they apply to storm-related damages.

The Notice of Development of Rulemaking for Rule 25-6.0143, F.A.C., was published in the June 7, 2019 edition of the Florida Administrative Register, Volume 45, No. 111, in conjunction with the Commission's rulemaking on Rules 25-6.030 and 25-6.031, F.A.C., the storm protection plan and storm protection plan cost recovery clause rulemaking. During the development of those rules, staff determined that Rule 25-6.0143, F.A.C., needed to be updated.

In the course of considering potential amendments to Rule 25-6.0143, F.A.C., staff determined that the gas industry needed a rule similar to Rule 25-6.0143, F.A.C. Accordingly, a Notice of Development of Rulemaking for new Rule 25-7.0143, F.A.C., was published in the June 10, 2020 edition of the Florida Administrative Register, Volume 46, No. 113.

A rule development workshop on both rules was held on June 29, 2020. Representatives from Florida Power & Light Company (FPL), Tampa Electric Company (TECO), Duke Energy Florida, LLC (DEF), Gulf Power Company (Gulf), Florida Public Utilities Company (FPUC), Florida City Gas (FCG), Peoples Gas System (PGS), and the Office of Public Counsel (OPC) participated at the workshop and submitted post-workshop comments.

This recommendation addresses whether the Commission should propose the amendment of Rule 25-6.0143, F.A.C., and propose the adoption of new Rule 25-7.0143, F.A.C. The Commission has jurisdiction pursuant to Section 366.05(1), Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-6.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4., and propose the adoption of Rule 25-7.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4?

Recommendation: Yes. The Commission should propose the amendment of Rule 25-6.0143, F.A.C., and propose the adoption of Rule 25-7.0143, F.A.C., as set forth in Attachment A. The Commission should also certify Rules 25-6.0143 and 25-7.0143, F.A.C., as minor violation rules. (Mouring, Harper, Guffey)

Staff Analysis: Staff recommends that the Commission amend Rule 25-6.0143, F.A.C., and adopt new Rule 25-7.0143, F.A.C., as set forth in Attachment A. Staff's recommended language for Rule 25-7.0143, F.A.C., generally mirrors the Commission's current use of accumulated provision accounts rule for investor-owned electric utilities. Both rules address the categories of storm-related costs eligible for certain accounting. As such, the recommended amendments discussed below for Rule 25-6.0143, F.A.C., are also reflected in staff's recommended language for Rule 25-7.0143, F.A.C.

Rule 25-7.0143, F.A.C.

Draft Rule 25-7.0143, F.A.C., is virtually identical to the electric rule, Rule 25-6.0143, F.A.C., in that both rules address the storm related costs that will be allowed to be charged to the reserve under the Incremental Cost and Capitalization Approach (ICCA) methodology. Also, draft Rule 25-7.0143, F.A.C., provides an accounting mechanism for probable liability that is not covered by insurance and a "catch-all" account for operating provisions that are not covered elsewhere in the rule. This account must 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.

In addition, draft Rule 25-7.0143, F.A.C., requires the utility to show the level and annual accrual rate for each account listed in the rule so it can be evaluated at the time of a rate proceeding and adjusted as necessary. Pursuant to the draft rule, a utility may petition the Commission for a change in the provision level and accrual of a certain account outside a rate proceeding under certain, specified circumstances, but a utility may not fund any account listed in the rule unless the Commission approves such funding.

The only substantive difference between the electric and gas rules is that the gas rule does not have the subsection (1)(m) requirement that the utility must submit additional reports on insurance. Staff believes that this type of insurance may not be available to the gas utilities, and thus, to require a gas utility to provide this kind of storm insurance would be extremely uneconomical. Accordingly, staff believes an insurance provision would not be feasible for gas utilities and the proposed rule should not require it.

Subsection (1) of Both Rules

Subsection (1) of draft Rules 25-6.0143 and 25.7.0143, F.A.C., contain provisions for an account 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. Staff recommends updating this subsection of the rules to require a utility to notify the Commission Clerk in writing for each incident expected to exceed 1.5 percent of jurisdictional revenues for the most recent calendar year.

Staff also recommends updating subsection (1) in Rule 25-6.0143, F.A.C., and including a provision in new Rule 25-7.0143, F.A.C., for the storm-related costs that will be allowed to be charged to the reserve under the ICCA methodology. For each of the identified accounts, a calculation is made to compare the actual average costs for a specific calendar month to the actual average costs of that same month for each of the previous three years. The actual costs for a specific calendar month that are in excess of actual average costs of that same month for each of the previous three years, would be identified as incremental costs.¹ For example, staff recommends that rule language be included to address contract labor and payroll expenses incurred in storm restoration activities and that such costs must be incurred in any month in which storm damage restoration activities are conducted. Staff recommends similar clarifications and rule language be added to address the fuel costs for both company and contractor vehicles used in storm restoration activities, as well as the vegetation management costs that are specifically related to storm restoration activities for the utilities. For all of these cost categories, staff's recommended rule language requires that the costs must be greater than the actual monthly average of contract labor or payroll costs charged to operation and maintenance expense for the same month in the three previous calendar years, and each adjustment must be accompanied by a detailed explanation of the nature of the adjustment. Finally, staff is also recommending an added "catch-all" provision to the rules, which provides that for any other costs or expenses not specifically identified in the rules but that are directly and solely attributable to a storm restoration event, such costs must be explained.

With regard to the payroll costs, DEF commented that staff's draft language in Subsection (1) of Rule 25-6.0143, F.A.C., is unclear as to which payroll expenses were eligible. It is staff's intention that the rule language allow for *all* payroll and payroll-related costs, including overtime payroll, to be eligible. Staff believes the rule as reflected in Attachment A is sufficient to address this point. The other stakeholders agreed that staff's recommended language was sufficient and clear in this regard.

Minor Violation Rules Certification

Pursuant to Section 120.695, F.S., as of July 1, 2017, the agency head shall certify whether any part of each rule filed for adoption is designated as a minor violation rule. A minor violation rule is a rule that would not result in economic or physical harm to a person or an adverse effect on the public health, safety, or welfare or create a significant threat of such harm when violated. Staff recommends that the Commission certify Rule 25-6.0143, F.A.C., and Rule 25-7.0143, F.A.C., as minor violation rules.

¹ In its post-workshop comments, FPUC, indicated that developing a three-year average may be challenging, and it did not believe that "incremental" should be determined by the previous three years spending. FPUC recommends a yearly average instead. Staff preferred three years because it is consistent with the current rule on tree trimming, and staff believes this is reasonable. Also, staff's rule language allows for the utilities to make adjustments to the baseline three-year average when accompanied by a detailed explanation of the nature and derivation of the adjustment.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b)1., F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. A SERC was prepared for this rulemaking and is appended as Attachment B. As required by Section 120.541(2)(a)1., F.S., the SERC analysis includes whether the rule amendments and rule adoption are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after implementation. Staff notes that none of the impact/cost criteria will be exceeded as a result of the recommended amendments to Rule 25-6.0143 or the adoption new Rule 25-7.0143.

Based on the utilities' responses to data requests and discussions with technical staff that oversee the accumulated provision rules, the recommended proposed rule amendments and proposed new rule will not likely increase regulatory costs, as contemplated by Section 120.541, F.S., including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The proposed new rule and rule amendments would not potentially have adverse impacts on small businesses, would have no implementation cost to the Commission or other state and local government entities, and would have no negative impact on small cities or counties.

No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the proposed rule amendments or the adoption of the new rule.

Conclusion

The Commission should propose the amendment of Rule 25-6.0143, F.A.C., and the adoption of Rule 25-7.0143, F.A.C., as set forth in Attachment A. The Commission should certify Rule 25-6.0143, F.A.C., and Rule 25-7.0143, F.A.C., as minor violation rules.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rules should be filed with the Department of State, and the docket should be closed. (Harper)

Staff Analysis: If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rules should be filed with the Department of State, and the docket should be closed.

1 **25-6.0143 Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4.**

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

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

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

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

20 (d) In determining the costs to be charged to cover storm-related damages, the utility must
21 ~~shall~~ use an Incremental Cost and Capitalization Approach methodology (ICCA). Under the
22 ICCA methodology, the costs charged to cover storm-related damages must shall exclude
23 those costs that normally would be charged to non-cost recovery clause operating expenses in
24 the absence of a storm. Under the ICCA methodology for determining the allowable costs to
25 be charged to cover storm-related damages, the utility will be allowed to charge to Account
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existing law.

1 No. 228.1 costs that are incremental to costs normally charged to non-cost recovery clause
2 operating expenses in the absence of a storm. All costs charged to Account 228.1 are subject
3 to review for prudence and reasonableness by the Commission. In addition, capital
4 expenditures for the removal, retirement and replacement of damaged facilities charged to
5 cover storm-related damages must ~~shall~~ exclude the normal cost for the removal, retirement
6 and replacement of those facilities in the absence of a storm. The utility must ~~shall~~ notify ~~the~~
7 ~~Director~~ of the Commission Clerk in writing for each incident expected to exceed 1.5 percent
8 of jurisdictional revenues for the most recent calendar year ~~\$10 million~~.

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

11 1. Additional contract labor hired for storm restoration activities incurred in any month in
12 which storm damage restoration activities are conducted, that are greater than the actual
13 monthly average of contract labor costs charged to operation and maintenance expense for the
14 same month in the three previous calendar years. The utility may adjust historical monthly
15 contract labor costs charged to operation and maintenance expense from calculated monthly
16 average. Each adjustment shall be accompanied by a detailed explanation of the nature and
17 derivation of the adjustment;

18 2. Logistics costs of providing meals, lodging, and linens for tents and other staging areas;

19 3. Transportation of crews and other personnel for storm restoration;

20 4. Vehicle costs for vehicles specifically rented for storm restoration activities;

21 5. Waste management costs specifically related to storm restoration activities;

22 6. Rental equipment specifically related to storm restoration activities;

23 7. Materials and supplies used to repair and restore service and facilities to pre-storm

24 condition, such as poles, transformers, meters, light fixtures, wire, and other electrical

25 equipment, excluding those costs that normally would be charged to non-cost recovery clause

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1 operating expenses in the absence of a storm;

2 8. ~~Payroll Overtime payroll~~ and payroll-related costs for utility personnel included in
3 storm restoration activities incurred in any month in which storm damage restoration activities
4 are conducted, that are greater than the actual monthly average of payroll and payroll-related
5 costs charged to operation and maintenance expense for the same month in the previous three
6 calendar years. The utility may adjust historical monthly payroll and payroll-related costs
7 charged to operation and maintenance expense from calculated monthly average. Each
8 adjustment shall be accompanied by a detailed explanation of the nature and derivation of the
9 adjustment;

10 9. Fuel cost for company and contractor vehicles used in storm restoration activities
11 incurred in any month in which storm damage restoration activities are conducted, that are
12 greater than the actual monthly average of fuel costs charged to operation and maintenance
13 expense for the same month in the previous three calendar years. The utility may adjust
14 historical monthly fuel costs charged to operation and maintenance expense from calculated
15 monthly average. Each adjustment shall be accompanied by a detailed explanation of the
16 nature and derivation of the adjustment; and

17 10. Cost of public service announcements regarding key storm-related issues, such as
18 safety and service restoration estimates;:-

19 11. Vegetation management costs specifically related to storm restoration activities
20 incurred in any month in which storm damage restoration activities are conducted, that are
21 greater than the actual monthly average of vegetation management costs charged to operation
22 and maintenance expense for the same month in the previous three calendar years. The utility
23 may adjust historical monthly vegetation management costs charged to operation and
24 maintenance expense from calculated monthly average. Each adjustment shall be accompanied
25 by a detailed explanation of the nature and derivation of the adjustment; and

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1 12. Other costs or expenses not specifically identified in paragraph (1)(e)1. through
2 (1)(e)11. that are directly and solely attributable to a storm restoration event.

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

5 ~~1. Base rate recoverable regular payroll and regular payroll related costs for utility~~
6 ~~managerial and non-managerial personnel;~~

7 ~~1.2.~~ Bonuses or any other special compensation for utility personnel not eligible for
8 overtime pay;

9 ~~2.3.~~ Base rate recoverable Depreciation expenses, insurance costs and lease expenses for
10 utility-owned or utility-leased vehicles and aircraft;

11 ~~3.~~ 4. Utility employee assistance costs;

12 ~~4.5.~~ Utility employee training costs incurred prior to 72 hours before the storm event;

13 ~~5.6.~~ Utility advertising, media relations or public relations costs, except for public service
14 announcements regarding key storm-related issues as listed above in subparagraph (1)(e)10.;

15 ~~6.7.~~ Utility call center and customer service costs, except for non-budgeted overtime or
16 other non-budgeted incremental costs associated with the storm event;

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

21 ~~7.9.~~ Utility lost revenues from services not provided; and

22 ~~8.10.~~ Replenishment of the utility's materials and supplies inventories.

23 (g) Under the ICCA methodology for determining the allowable costs to be charged to
24 cover storm-related damages, certain costs may be charged to Account 228.1 only after review
25 and approval by the Commission. Prior to the Commission's determination of the

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1 appropriateness of including such costs in Account No. 228.1, the costs may be deferred in
2 Account No. 186, Miscellaneous Deferred Debits. The deferred costs must be incurred prior to
3 June 1 of the year following the storm event. By September 30 a utility must ~~shall~~ file a
4 petition for the disposition of any costs deferred prior to June 1 of the year following the storm
5 event giving rise to the deferred costs. These costs include, ~~but are not limited to~~, the
6 following:

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

12 2. Uncollectible accounts expenses.

13 (h) A utility may, at its own option, charge storm-related costs as operating expenses
14 rather than charging them to Account No. 228.1. The utility must ~~shall~~ notify ~~the Director of~~
15 the Commission Clerk in writing and provide a schedule of the amounts charged to operating
16 expenses for each incident exceeding 0.5 percent of jurisdictional revenues for the most recent
17 calendar year \$5 million. The schedule must ~~shall~~ be filed annually by February 15 of each
18 year for information pertaining to the previous calendar year.

19 (i) If the charges to Account No. 228.1 exceed the account balance, the excess must ~~shall~~
20 be carried as a debit balance in Account No. 182.3 ~~228.1~~ and no request for a deferral of the
21 excess or for the establishment of a regulatory asset is necessary.

22 (j) A utility may petition the Commission for the recovery of a debit balance in Account
23 No. 182.3 discussed in paragraph (1)(i) ~~228.1~~ plus an amount to replenish the storm reserve
24 through a surcharge, securitization or other cost recovery mechanism.

25 (k) A utility must ~~shall~~ not establish or change an annual accrual amount or a target

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1 accumulated balance amount for Account No. 228.1 without prior Commission approval.

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

8 (m) Each utility must ~~shall~~ file a report with ~~the Director of~~ the Commission Clerk
9 providing information concerning its efforts to obtain commercial insurance for its
10 transmission and distribution facilities and any other programs or proposals that were
11 considered. The report must ~~shall~~ also include a summary of the amounts recorded in Account
12 228.1. The report must ~~shall~~ be filed annually by February 15 of each year for information
13 pertaining to the previous calendar year.

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

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

21 (b) Charges to this account must ~~shall~~ be made for all losses covered. Detailed supporting
22 records of charges made to this account must ~~shall~~ be maintained in such a way that the year
23 the event occurred which gave rise to the loss can be associated with the settlement.

24 Recoveries or reimbursements for losses charged to the account must ~~shall~~ be credited to the
25 account.

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1 (3) Account No. 228.4 Accumulated Miscellaneous Operating Provisions.
2 (a) This account may be established for operating provisions which are not covered
3 elsewhere. This account must ~~shall~~ be maintained in such a manner as to show the amount of
4 each separate provision established by the utility and the nature and amounts of the debits and
5 credits thereto. Each separate provision must ~~shall~~ be identified as to purpose and the specific
6 events to be charged to the account to ensure that all such events and only those events are
7 charged to the provision accounts.
8 (b) Charges to this account must ~~shall~~ be made for all costs or losses covered. Recoveries
9 or reimbursements for amounts charged to this account must ~~shall~~ be credited hereto.
10 (4)(a) The provision level and annual accrual rate for each account listed in subsections (1)
11 through (3) must ~~shall~~ be evaluated at the time of a rate proceeding and adjusted as necessary.
12 However, a utility may petition the Commission for a change in the provision level and
13 accrual outside a rate proceeding.
14 (b) If a utility elects to use any of the above listed accumulated provision accounts, each
15 and every loss or cost which is covered by the account must ~~shall~~ be charged to that account
16 and must ~~shall~~ not be charged directly to expenses except as provided for in paragraphs (1)(f),
17 (1)(g) and (1)(h). Charges must ~~shall~~ be made to accumulated provision accounts regardless of
18 the balance in those accounts.
19 (c) No utility must ~~shall~~ fund any account listed in subsections (1) through (3) unless the
20 Commission approves such funding. Existing funded provisions which have not been
21 approved by the Commission must ~~shall~~ be credited by the amount of the funded balance with
22 a corresponding debit to the appropriate current asset account, resulting in an unfunded
23 provision.
24 *Rulemaking Authority 366.05(1) FS. Law Implemented 350.115, 366.04(2)(a) FS. History—*
25 *New 3-17-88, Amended 6-11-07, _____.*

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1 **25-7.0143 Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4.**

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

3 (a) This account may be established to provide for losses through accident, fire, flood,
4 storms and similar type hazards to the utility's own property or property leased from others,
5 which is not covered by insurance. A schedule of risks covered must be maintained, giving a
6 description of the property involved, the character of risks covered and the accrual rates used.

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

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

16 (d) In determining the costs to be charged to cover storm-related damages, the utility must
17 use an Incremental Cost and Capitalization Approach methodology (ICCA). Under the ICCA
18 methodology, the costs charged to cover storm-related damages must exclude those costs that
19 normally would be charged to non-cost recovery clause operating expenses in the absence of a
20 storm. Under the ICCA methodology for determining the allowable costs to be charged to
21 cover storm-related damages, the utility will be allowed to charge to Account No. 228.1 costs
22 that are incremental to costs normally charged to non-cost recovery clause operating expenses
23 in the absence of a storm. All costs charged to Account 228.1 are subject to review for
24 prudence and reasonableness by the Commission. In addition, capital expenditures for the
25 removal, retirement and replacement of damaged facilities charged to cover storm-related

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1 damages must exclude the normal cost for the removal, retirement and replacement of those
2 facilities in the absence of a storm. The utility must notify the Commission Clerk in writing
3 for each incident expected to exceed 1.5 percent of jurisdictional revenues for the most recent
4 calendar year.

5 (e) The types of storm related costs allowed to be charged to the reserve under the ICCA
6 methodology include the following:

7 1. Additional contract labor hired for storm restoration activities incurred in any month in
8 which storm damage restoration activities are conducted, that are greater than the actual
9 monthly average of contract labor costs charged to operation and maintenance expense for the
10 same month in the three previous calendar years. The utility may adjust historical monthly
11 contract labor costs charged to operation and maintenance expense from calculated monthly
12 average. Each adjustment must be accompanied by a detailed explanation of the nature and
13 derivation of the adjustment;

14 2. Logistics costs of providing meals, lodging, and linens for tents and other staging areas;

15 3. Transportation of crews and other personnel for storm restoration;

16 4. Vehicle costs for vehicles specifically rented for storm restoration activities;

17 5. Waste management costs specifically related to storm restoration activities;

18 6. Rental equipment specifically related to storm restoration activities;

19 7. Materials and supplies used to repair and restore service and facilities to pre-storm
20 condition, excluding those costs that normally would be charged to non-cost recovery clause
21 operating expenses in the absence of a storm;

22 8. Payroll and payroll-related costs for utility personnel included in storm restoration
23 activities incurred in any month in which storm damage restoration activities are conducted,
24 that are greater than the actual monthly average of payroll and payroll-related costs charged to
25 operation and maintenance expense for the same month in the three previous calendar years.

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1 The utility may adjust historical monthly payroll and payroll-related costs charged to
2 operation and maintenance expense from calculated monthly average. Each adjustment must
3 be accompanied by a detailed explanation of the nature and derivation of the adjustment;

4 9. Fuel cost for company and contractor vehicles used in storm restoration activities
5 incurred in any month in which storm damage restoration activities are conducted, that are
6 greater than the actual monthly average of fuel costs charged to operation and maintenance
7 expense for the same month in the three previous calendar years. The utility may adjust
8 historical monthly fuel costs charged to operation and maintenance expense from calculated
9 monthly average. Each adjustment must be accompanied by a detailed explanation of the
10 nature and derivation of the adjustment;

11 10. Cost of public service announcements regarding key storm-related issues, such as
12 safety and service restoration estimates;

13 11. Vegetation management expenses specifically related to storm restoration activities
14 incurred in any month in which storm damage restoration activities are conducted, that are
15 greater than the actual monthly average of vegetation management costs charged to operation
16 and maintenance expense for the same month in the previous three calendar years. The utility
17 may adjust historical monthly vegetation management costs charged to operation and
18 maintenance expense from calculated monthly average. Each adjustment must be
19 accompanied by a detailed explanation of the nature and derivation of the adjustment; and

20 12. Other costs or expenses not specifically identified in paragraph (1)(e)1. through
21 (1)(e)11. that are directly and solely attributable to a storm restoration event.

22 (f) The types of storm related costs prohibited from being charged to the reserve under the
23 ICCA methodology include the following:

24 1. Bonuses or any other special compensation for utility personnel not eligible for
25 overtime pay;

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- 1 2. Depreciation expenses, insurance costs and lease expenses for utility-owned or utility-
2 leased vehicles and aircraft;
- 3 3. Utility employee assistance costs;
- 4 4. Utility employee training costs incurred prior to 72 hours before the storm event;
- 5 5. Utility advertising, media relations or public relations costs, except for public service
6 announcements regarding key storm-related issues as listed above in subparagraph (1)(e)10.;
- 7 6. Utility call center and customer service costs, except for non-budgeted overtime or other
8 non-budgeted incremental costs associated with the storm event;
- 9 7. Utility lost revenues from services not provided; and
- 10 8. Replenishment of the utility's materials and supplies inventories.

11 (g) Under the ICCA methodology for determining the allowable costs to be charged to
12 cover storm-related damages, certain costs may be charged to Account 228.1 only after review
13 and approval by the Commission. Prior to the Commission's determination of the
14 appropriateness of including such costs in Account No. 228.1, the costs may be deferred in
15 Account No. 186, Miscellaneous Deferred Debits. The deferred costs must be incurred prior to
16 June 1 of the year following the storm event. By September 30 a utility must file a petition for
17 the disposition of any costs deferred prior to June 1 of the year following the storm event
18 giving rise to the deferred costs. These costs include the following:

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

25 (h) A utility may, at its own option, charge storm-related costs as operating expenses

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1 rather than charging them to Account No. 228.1. The utility must notify the Commission Clerk
2 in writing and provide a schedule of the amounts charged to operating expenses for each
3 incident exceeding 0.5 percent of jurisdictional revenues for the most recent calendar year.
4 The schedule must be filed annually by February 15 of each year for information pertaining to
5 the previous calendar year.

6 (i) If the charges to Account No. 228.1 exceed the account balance, the excess must be
7 carried as a debit balance in Account No. 182.3 and no request for a deferral of the excess or
8 for the establishment of a regulatory asset is necessary.

9 (j) A utility may petition the Commission for the recovery of a debit balance in Account
10 No. 182.3 discussed in paragraph (1)(i) plus an amount to replenish the storm reserve through
11 a surcharge, securitization or other cost recovery mechanism.

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

14 (l) Each utility must file a Storm Damage Self-Insurance Reserve Study (Study) with the
15 Commission Clerk by January 15, 2022 and at least once every 5 years thereafter from the
16 submission date of the previously filed study. A Study must be filed whenever the utility is
17 seeking a change to either the target accumulated balance or the annual accrual amount for
18 Account No. 228.1. At a minimum, the Study must include data for determining a target
19 balance for, and the annual accrual amount to, Account No. 228.1.

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

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

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1 the settlement must be charged to this account.

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

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

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

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

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

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

24 (c) No utility must fund any account listed in subsections (1) through (3) unless the
25 Commission approves such funding. Existing funded provisions which have not been

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1 approved by the Commission must be credited by the amount of the funded balance with a
2 corresponding debit to the appropriate current asset account, resulting in an unfunded
3 provision.

4 Rulemaking Authority 366.05(1) FS. Law Implemented 350.115, 366.04(2)(a) FS. History -
5 New.

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State of Florida



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: March 29, 2021

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

FROM: Sevini K. Guffey, Public Utility Analyst III, Division of Economics *SKG*

RE: Statement of Estimated Regulatory Costs for Proposed Amendment of Rule 25-6.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4 and Proposed New Rule 25-7.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.), for the proposed modifications to Rule 25-6.0143, F.A.C., and proposed new Rule 25-7.0143, F.A.C. Commission SERC staff issued a data request on January 25, 2021 to all Commission-regulated electric and natural gas utilities. The Commission received responses from electric and natural gas utilities on February 2, 4, 5, and 12, 2021. Representatives for the electric and natural gas Investor-Owned Utilities (IOUs) participated in the rule development workshop held on June 29, 2020.

NOTE: Since SERC staff issued its data request based on the October 2020 version of these draft rules, there have been additional revisions to the rules based on utilities' comments. However, the revisions do not affect this SERC assessment.

Proposed Revisions to Rule 25-6.0143, F.A.C.

The proposed revisions clarify and add specificity to limitations on eligibility and application of certain provisions in the current rule. FPUC-Electric stated that it will incur an estimated annual cost of \$19,000 to comply with the proposed revisions if the company needs to adjust its historical data. However, at this time, the company does not foresee the need to adjust its historical data. Other electric IOUs stated that they would utilize existing resources to comply with the revised rule and if they were to incur incremental regulatory costs, the costs would be immaterial.

Overall, the electric utilities stated that the proposed rule revisions would not create incremental regulatory costs that exceed \$200,000 per year or \$1 million in the aggregate within five years of implementing the rules.

A.Harper
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Proposed New Rule 25-7.0143, F.A.C.

The proposed new rule will provide natural gas IOUs a standard for the application of Accumulated Provision Accounts 228.1, 228.2, and 228.4. As noted, this proposed new rule creates an industry-specific standard which will be beneficial to the natural gas utilities. Several natural gas utilities stated that they would incur estimated annual costs ranging from \$4,000 to \$72,000 to prepare and file a petition for storm cost recovery and would also incur estimated costs ranging from \$20,000 to \$100,000 to prepare and file a Storm Damage Self-Insurance Reserve Study. FPUC-Gas stated that it will incur an estimated annual cost of \$19,000 to comply with the proposed revisions if the company needs to adjust its historical data. However, at this time, the company does not foresee the need to adjust its historical data.

Overall, the natural gas utilities stated that the proposed new rule would not create incremental regulatory costs that exceed \$200,000 per year or \$1 million in the aggregate within five years of implementing the rules.

SERC Staff Assessment

Based on the utilities' responses to data requests and discussions with technical staff that oversee the accumulated provision rules, SERC staff believes that the proposed rule modifications and proposed new rule will not likely increase regulatory costs, as contemplated by Section 120.541, F.S., including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The proposed new rule and rule amendments would not potentially have adverse impacts on small businesses, would have no implementation cost to the Commission or other state and local government entities, and would have no negative impact on small cities or counties.

No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the proposed rule revisions.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS

Rule 25-6.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4 and Rule 25-7.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4

NOTE: Since SERC staff issued its data request based on the October 2020 version of these draft rules, there have been additional revisions to the rules based on utilities' comments. However, the revisions do not affect the SERC.

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 <input type="checkbox"/> No <input checked="" type="checkbox"/>
<p>(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.]</p> <p style="text-align: center;">Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p> <p>Economic Analysis:</p> <p>Most electric IOUs stated that they will utilize existing resources to make any adjustments to historical contract labor, payroll, fuel, and vegetation management costs pursuant to the proposed revised rule. If there would be any additional incremental costs, they would be immaterial. FPUC-Electric estimates approximately \$19,000 annually to comply with the proposed revisions to Rule 25-6.0143, FAC, if the company needs to do so. FPUC stated that at this time, the company does not foresee the need to adjust its historical data.</p> <p>Natural gas IOUs stated that they will be able to meet the requirements of Rule 25-7.0143, F.A.C., with existing resources and/or through contract services.</p> <p>Natural gas IOUs estimated the following costs to prepare and file a petition for storm cost recovery pursuant to Section (1)(g) of the proposed rule:</p> <ul style="list-style-type: none">FCG: \$72,000FPUC: \$10,000PGS: not expected to be materialSebring Gas: \$4,000St. Joe Gas: the company indicated that the costs are unknown <p>FPUC-Gas estimated up to an additional \$19,000 annually to make adjustments to historical data pursuant to Section (1)(e) of the proposed new rule if the company needs to do so. FPUC stated that at this time, the company does not foresee the need to adjust its historical data.</p> <p>Natural gas IOUs estimated the following costs to prepare and file a Storm Damage Self-Insurance Reserve Study pursuant to the proposed new rule:</p> <ul style="list-style-type: none">FCG: \$80,000FPUC: \$50,000PGS: \$50,000 - \$100,000Sebring Gas: \$20,000 and the subsequent 5-year updates \$5,000St. Joe Gas: the company indicated that the costs are unknown	

<p>B. A good faith estimate of: [120.541(2)(b), F.S.]</p> <p>(1) The number of individuals and entities likely to be required to comply with the rule.</p>
--

Rule 25-6.0143, F.A.C., will be applicable to five electric IOUs and Rule 25-7.0143 will be applicable to eight natural gas IOUs.

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

Types of individuals likely to be affected by these rules would be customers of the above listed utilities.

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.
- 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.
- 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.
- 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.

(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.

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

- None.

Additional Information: Both electric and natural gas IOUs stated that their respective rules would be beneficial to them. The stated benefits are:

- Add greater guidance and clarity
- Eliminate disputes in types of storm costs charged and help avoid litigated issues
- Establish a single, consistent, and uniform methodology for all utilities for determining storm costs incurred that can be charged to the property damage reserve
- Benefit all stakeholders participating in storm cost recovery proceedings
- Enable gas utilities to know in advance the allowable costs for recovery
- Ability to use three-year averages simplifies the methodology in calculating incremental versus non-incremental costs
- Ability to adjust the three-year average to calculate the storm restoration costs offers a reasonable way to identify incremental costs
- Creation of new Rule 25-7.0143, F.A.C., that specifically applies to gas IOUs provides consistency and clarity for the gas industry
- Establish a financial reserve

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.