

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for temporary waiver of Rule 25-6.100, F.A.C., by Florida Public Utilities Company.

DOCKET NO. 20180195-EI
ORDER NO. PSC-2018-0529-PAA-EI
ISSUED: November 8, 2018

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

NOTICE OF PROPOSED AGENCY ACTION
ORDER GRANTING FLORIDA PUBLIC UTILITIES COMPANY'S
PETITION FOR A TEMPORARY WAIVER OF RULE 25-6.100, F.A.C.

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

I. Background

On October 23, 2018, Florida Public Utilities Company (FPUC) filed a petition pursuant to Section 120.542, Florida Statutes (F.S.), requesting a temporary waiver of Rule 25-6.100, F.A.C., which sets forth customer billing requirements. Pursuant to the rule, utilities are required to render monthly bills. FPUC is requesting that it be granted a temporary waiver from the requirement of Rule 25-6.100, F.A.C., that FPUC render monthly bills to its customers in Jackson, Calhoun, and Liberty Counties until completion of its restoration efforts in response to Hurricane Michael.

Pursuant to Section 120.542(6), F.S., notice of the petition was published in the October 24, 2018 edition of the Florida Administrative Register, Volume 44, Number 208. No comments were received on the petition. We have jurisdiction pursuant to Sections 120.542, 366.03, 366.04, 366.05, 366.051, 366.06, and 366.8260, F.S.

II. FPUC's Petition for Rule Waiver

FPUC is requesting that it be granted a temporary waiver from the requirement of Rule 25-6.100, F.A.C., that FPUC render monthly bills to its customers in Jackson, Calhoun, and Liberty Counties until completion of restoration efforts in response to Hurricane Michael. FPUC states that many of the homes and businesses served by FPUC in its Northwest service territory have been either totally destroyed or rendered uninhabitable as a result of Hurricane Michael. Access to some locations remains limited due to downed trees, other debris, and related hazardous conditions. Even in those areas in which mail service has been reinstated by the U.S. Postal Service, many customers are unable to take delivery due to the condition of their premises. FPUC asserts that due to extraordinary circumstances beyond its control, it is unable to satisfy the requirements of Rule 25-6.100, F.A.C., which requires that “[b]ills shall be rendered monthly and as promptly as possible following the reading of meters.”

FPUC states that its inability to comply with Rule 25-6.100, F.A.C., will place it in jeopardy of regulatory penalties by this Commission, which would constitute a substantial hardship. FPUC further asserts that requiring it to comply with the rule to the letter would impact FPUC very differently than other utilities that were not impacted by Hurricane Michael and would necessitate that FPUC take unprecedented action to effectuate billing that would otherwise detract from its current restoration efforts.

FPUC states that the purpose of Rule 25-6.100, F.A.C., and its underlying statutes is to ensure that utilities provide timely, accurate, and fair bills to their customers with specified information regarding the customer's usage and the rates and fees being assessed. FPUC asserts that a temporary waiver of the rule will serve this purpose because FPUC will not impose any interest or penalties on bills during the suspension period, and billing will be reinstated when service is restored. FPUC further asserts that customers will not experience any negative impact as a result of the waiver and will likely benefit from the waiver by virtue of having additional time to focus their limited resources on recovery as opposed to utility bills. FPUC proposes to suspend billing in Jackson, Calhoun, and Liberty Counties until service is restored to all customers capable of taking service in their respective county. FPUC states that it will not impose late fee penalties or interest on bills during this period and will work with customers on additional payment arrangements as may be necessary. Customers will be promptly notified when billing resumes upon completion of restoration efforts within each county, and FPUC will provide all required information for usage during the suspension period. FPUC states that it is unable to give a firm date upon which it will be able to reinstate billing in the three affected counties, but it will inform our staff when it is able to do so.

III. Legal Standard for Rule Waivers

Section 120.542(2), F.S., authorizes us to grant waivers from our rules “when the person subject to the rule demonstrates that the purpose of the underlying statute will be or has been achieved by other means by the person and when application of a rule would create a substantial hardship or would violate the principles of fairness.” “Substantial hardship” is defined as “a demonstrated economic, technological, legal, or other type of hardship” to the person requesting

the variance. A violation of the “principles of fairness” occurs when “the literal application of a rule affects a particular person in a manner significantly different from the way it affects other similarly situated persons who are subject to the rule.”

IV. Conclusion

We find that FPUC has met the requirements of Section 120.542, F.S. FPUC has demonstrated that the purpose of the underlying statutes will be achieved by other means and that application of Rule 25-6.100, F.A.C., would place a substantial hardship on FPUC. Therefore, we grant FPUC’s petition for a temporary waiver of the requirement in Rule 25-6.100, F.A.C., that FPUC render monthly bills to its customers in Jackson, Calhoun, and Liberty Counties until FPUC completes its restoration efforts in response to Hurricane Michael.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Florida Public Utilities Company’s request for temporary waiver of Rule 25-6.100, Florida Administrative Code, is hereby granted. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no timely protest is received to the proposed agency action, a Consummating Order shall be issued upon the expiration of the protest period, and this docket shall be closed.

By ORDER of the Florida Public Service Commission this 8th day of November, 2018.



CARLOTTA S. STAUFFER
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on November 29, 2018.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.