

STATE OF FLORIDA

Commissioners:
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DIVISION OF APPEALS
DAVID SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

December 4, 2000

Mr. Carroll Webb
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

RE: Docket No. 000543-EI - Proposed Rule 25-6.04365,
F.A.C., Nuclear Decommissioning

Dear Mr. Webb:

Enclosed is an original copy of the following materials concerning the above referenced proposed rules:

1. A copy of the rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. No statement of estimated regulatory costs was prepared.

If there are any questions with respect to this rule, please do not hesitate to call on me.

Sincerely,

Mary Anne Helton
Associate General Counsel

cc: Div. of R&R

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DOCUMENT NUMBER - DATE

10447 DEC-4 8

FPSC-RECORDS/REPORTING

1 | 25-6.04365 Nuclear Decommissioning.

2 | (1) Purpose. The purpose of this rule is to codify the
3 | Commission's policy of requiring each utility that owns a nuclear
4 | generating plant to ensure there are sufficient funds on hand at
5 | the time of decommissioning to meet all required expenses by
6 | establishing appropriate decommissioning accruals. This rule
7 | requires each utility to file a Nuclear Decommissioning Study on a
8 | regular basis, the purpose of which is to obtain sufficient
9 | information to update cost estimates based on new developments,
10 | additional information, technological improvements, and forecasts;
11 | to reevaluate alternative methodologies; and to revise the annual
12 | accrual needed to recover the costs.

13 | (2) Definitions. For the purpose of this rule, the following
14 | definitions shall apply:

15 | (a) "Contingency Costs." A specific provision for
16 | unforeseeable elements of cost within the defined project scope,
17 | which is particularly important where previous experience relating
18 | estimates and actual costs has shown that unforeseeable events that
19 | will increase costs are likely to occur.

20 | (b) "Decommissioning." The process of safely managing,
21 | dismantling, removing, or converting for reuse the materials and
22 | equipment that remain at the nuclear generating unit following its
23 | retirement that results in an amendment to the licensing status of
24 | a nuclear power plant from operational to possession-only and
25 | possibly unrestricted use.

CODING: Words underlined are additions; words in ~~struck~~
~~through~~ type are deletions from existing law.

1 (3) Nuclear Decommissioning Study. Each utility shall file
2 a site-specific nuclear decommissioning study at least once every
3 five years from the submission date of the previous study unless
4 otherwise required by the Commission. At a minimum, each utility's
5 nuclear decommissioning study shall include:

6 (a) A narrative describing each nuclear unit, including the
7 in-service date, the date of operating license expiration, and the
8 status of any license renewal request.

9 (b) A list of all entities owning an interest in each nuclear
10 unit, the percentage of ownership by each entity, and documentation
11 showing the status of each entity in providing its share of the
12 total decommissioning costs.

13 (c) A narrative explaining plans for spent nuclear fuel
14 storage and removal at each nuclear unit, including, at a minimum,
15 the date on-site spent fuel pool storage capacity will be lost, the
16 date spent nuclear fuel is expected to be removed from the plant
17 site, and the estimated costs for on-site dry storage to
18 accommodate the decommissioning of the unit.

19 (d) The decommissioning study methodology.

20 (e) A summary of the major assumptions used in the study.

21 (f) The methodology selected to decommission each nuclear
22 unit and support for the selection.

23 (g) The method of providing financial assurance. If funding
24 is selected, show the amounts qualified and nonqualified for each
25 year since the prior study, and also the method assumed in the

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1 calculation of the proposed annual accrual.

2 (h) The total utility and jurisdictional decommissioning cost
3 estimates in current dollars for each unit.

4 (i) The total utility and jurisdictional decommissioning cost
5 estimates in future dollars for each unit.

6 (j) For each year, the estimated amount of decommissioning
7 expenditures and the sources of funds.

8 (k) The projected date each nuclear unit will no longer be
9 included in rate base for ratemaking purposes.

10 (l) For each nuclear unit, a comparison of the current
11 approved annual decommissioning accruals with those proposed.
12 Current accruals shall be identified as to the effective date and
13 proposed accruals to the proposed effective date.

14 (m) The assumed fund earnings rate, net of tax, used in the
15 calculation of the decommissioning accrual and supporting
16 documentation for the rate proposed by the utility.

17 (n) The methodology and escalation rate used in converting
18 the current estimated decommissioning costs to future estimated
19 decommissioning costs and supporting documentation and analyses.

20 (o) The annual revenue requirement of the proposed
21 decommissioning cost estimates.

22 (p) A reconciliation of the decommissioning fund balance and
23 the decommissioning reserve balance as of the effective date of the
24 revised decommissioning accruals proposed by the utility. The
25 reconciliation shall show the fund balances by category. The fund

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1 balance may involve estimates.

2 (q) A summary and explanation of material differences between
3 the current study and the utility's last filed study including, at
4 a minimum, changes in methodology and assumptions.

5 (r) Supporting schedules, analyses, and data, including the
6 contingency allowance, used in developing the decommissioning cost
7 estimates and annual accruals proposed by the utility. Supporting
8 schedules shall include the inflation and funding analyses.

9 (4) Accumulation of Annual Accruals.

10 (a) The decommissioning annual accrual shall be calculated
11 using the current cost estimates escalated to the expected dates of
12 actual decommissioning.

13 (b) Decommissioning accruals shall be accumulated monthly
14 based on a Commission approved method to assure that the costs for
15 decommissioning are provided for at the expiration of the nuclear
16 unit's operating license.

17 (c) A utility shall not change its annual nuclear
18 decommissioning accruals without prior Commission approval.

19 (5) Nuclear Decommissioning Fund Performance. The Commission
20 will review and evaluate each utility's investment performance to
21 determine whether the decommissioning fund earned at least the rate
22 of inflation.

23 (6) License Renewal. Each utility shall provide the Director
24 of the Division of Economic Regulation with a written summary of
25 communications concerning major milestones between the Nuclear

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1 Regulatory Commission and the utility concerning license renewal
2 within 21' days of receipt or mailing by the utility. Major
3 milestones include notice of intent to request a license renewal,
4 submittal of application, issuance of renewal license, and decision
5 to continue or cease operations.

6 Specific Authority: 350.127(2), F.S.

7 Law Implemented: 366.041, 366.06(1), F.S.

8 History: New _____.

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NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 000543-EI

RULE TITLE:

RULE NO.:

Nuclear Decommissioning

25-6.04365

PURPOSE AND EFFECT: The purpose and effect of this rule is to codify the Commission's policy concerning nuclear decommissioning as established in In re: Investigation of the appropriate accounting and ratemaking treatment of decommissioning and depreciation costs of nuclear powered generators, Order No. 12356, 83 F.P.S.C. 8:182 (1983); In re: Petitions for approval of an increase in the accrual of nuclear decommissioning costs by Florida Power Corporation and Florida Power & Light Company, Order No. 21928, 89 F.P.S.C. 9:471 (1989); and In re: Petitions for Increase in Annual Accruals for Nuclear Decommissioning Costs by Florida Power and Light Company and Florida Power Corporation, Order No. PSC-95-1531-FOF-EI, 95 F.P.S.C. 12:165 (1995).

SUMMARY: The rule requires electric utilities to file nuclear decommissioning studies at least once every five years that meet the requirements of subsection (3) of the rule. In addition, the rule prescribes the method for calculating the accumulation of decommissioning accruals, establishes fund performance guidelines, and requires utilities to notify the Commission of communications with the Nuclear Regulatory Commission about major

milestones concerning license renewal.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory costs was prepared.

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

SPECIFIC AUTHORITY: 350.127(2), FS

LAW IMPLEMENTED: 366.041, 366.06(1), FS

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.04365 Nuclear Decommissioning.

(1) Purpose. The purpose of this rule is to codify the Commission's policy of requiring each utility that owns a nuclear generating plant to ensure there are sufficient funds on hand at

the time of decommissioning to meet all required expenses by establishing appropriate decommissioning accruals. This rule requires each utility to file a Nuclear Decommissioning Study on a regular basis, the purpose of which is to obtain sufficient information to update cost estimates based on new developments, additional information, technological improvements, and forecasts; to reevaluate alternative methodologies; and to revise the annual accrual needed to recover the costs.

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

(a) "Contingency Costs." A specific provision for unforeseeable elements of cost within the defined project scope, which is particularly important where previous experience relating estimates and actual costs has shown that unforeseeable events that will increase costs are likely to occur.

(b) "Decommissioning." The process of safely managing, dismantling, removing, or converting for reuse the materials and equipment that remain at the nuclear generating unit following its retirement that results in an amendment to the licensing status of a nuclear power plant from operational to possession-only and possibly unrestricted use.

(3) Nuclear Decommissioning Study. Each utility shall file a site-specific nuclear decommissioning study at least once every five years from the submission date of the previous study unless

otherwise required by the Commission. At a minimum, each utility's nuclear decommissioning study shall include:

(a) A narrative describing each nuclear unit, including the in-service date, the date of operating license expiration, and the status of any license renewal request.

(b) A list of all entities owning an interest in each nuclear unit, the percentage of ownership by each entity, and documentation showing the status of each entity in providing its share of the total decommissioning costs.

(c) A narrative explaining plans for spent nuclear fuel storage and removal at each nuclear unit, including, at a minimum, the date on-site spent fuel pool storage capacity will be lost, the date spent nuclear fuel is expected to be removed from the plant site, and the estimated costs for on-site dry storage to accommodate the decommissioning of the unit.

(d) The decommissioning study methodology.

(e) A summary of the major assumptions used in the study.

(f) The methodology selected to decommission each nuclear unit and support for the selection.

(g) The method of providing financial assurance. If funding is selected, show the amounts qualified and nonqualified for each year since the prior study, and also the method assumed in the calculation of the proposed annual accrual.

(h) The total utility and jurisdictional decommissioning

cost estimates in current dollars for each unit.

(i) The total utility and jurisdictional decommissioning cost estimates in future dollars for each unit.

(j) For each year, the estimated amount of decommissioning expenditures and the sources of funds.

(k) The projected date each nuclear unit will no longer be included in rate base for ratemaking purposes.

(l) For each nuclear unit, a comparison of the current approved annual decommissioning accruals with those proposed. Current accruals shall be identified as to the effective date and proposed accruals to the proposed effective date.

(m) The assumed fund earnings rate, net of tax, used in the calculation of the decommissioning accrual and supporting documentation for the rate proposed by the utility.

(n) The methodology and escalation rate used in converting the current estimated decommissioning costs to future estimated decommissioning costs and supporting documentation and analyses.

(o) The annual revenue requirement of the proposed decommissioning cost estimates.

(p) A reconciliation of the decommissioning fund balance and the decommissioning reserve balance as of the effective date of the revised decommissioning accruals proposed by the utility. The reconciliation shall show the fund balances by category. The fund balance may involve estimates.

(q) A summary and explanation of material differences between the current study and the utility's last filed study including, at a minimum, changes in methodology and assumptions.

(r) Supporting schedules, analyses, and data, including the contingency allowance, used in developing the decommissioning cost estimates and annual accruals proposed by the utility. Supporting schedules shall include the inflation and funding analyses.

(4) Accumulation of Annual Accruals.

(a) The decommissioning annual accrual shall be calculated using the current cost estimates escalated to the expected dates of actual decommissioning.

(b) Decommissioning accruals shall be accumulated monthly based on a Commission approved method to assure that the costs for decommissioning are provided for at the expiration of the nuclear unit's operating license.

(c) A utility shall not change its annual nuclear decommissioning accruals without prior Commission approval.

(5) Nuclear Decommissioning Fund Performance. The Commission will review and evaluate each utility's investment performance to determine whether the decommissioning fund earned at least the rate of inflation.

(6) License Renewal. Each utility shall provide the Director of the Division of Economic Regulation with a written summary of

communications concerning major milestones between the Nuclear Regulatory Commission and the utility concerning license renewal within 21 days of receipt or mailing by the utility. Major milestones include notice of intent to request a license renewal, submittal of application, issuance of renewal license, and decision to continue or cease operations.

Specific Authority: 350.127(2), F.S.

Law Implemented: 366.041, 366.06(1), F.S.

History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pat Lee.

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: November 28, 2000.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:
Volume 26, Number 20, May 19, 2000.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least 48 hours prior to the

hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

The Commission's policy concerning nuclear decommissioning is established in In re: Investigation of the appropriate accounting and ratemaking treatment of decommissioning and depreciation costs of nuclear powered generators, Order No. 12356, 83 F.P.S.C. 8:182 (1983); In re: Petitions for approval of an increase in the accrual of nuclear decommissioning costs by Florida Power Corporation and Florida Power & Light Company, Order No. 21928, 89 F.P.S.C. 9:471 (1989); and In re: Petitions for Increase in Annual Accruals for Nuclear Decommissioning Costs by Florida Power and Light Company and Florida Power Corporation, Order No. PSC-95-1531-FOF-EI, 95 F.P.S.C. 12:165 (1995). The purpose of the rulemaking is to codify these agency statements as rules, as required by Section 120.54(1), Florida Statutes.

In addition, new requirements have been added concerning license renewal reporting requirements. The information in subsection (6) is necessary because license extensions impact the estimated costs of decommissioning.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards regarding nuclear decommissioning study requirements. However, the Nuclear Regulatory Commission does require an external funded reserve for nuclear decommissioning, and the Code of Federal Regulations, Part 10, Section 50.75, requires that licensees provide reasonable financial assurance that funds will be available for decommissioning through prepayment prior to the start of operation; an external sinking fund; or a surety method, insurance, or other guarantee method. Additionally, the Internal Revenue Service has minimal requirements pertaining to the control of nuclear decommissioning funds qualified under Internal Revenue Code Section 468A. Further, the IRS requires specific regulatory authority on certain issues in order to approve the company's treatment of decommissioning costs for tax purposes.