

ORIGINAL

M E M O R A N D U M

January 10, 2001

TO : DIVISION OF RECORDS & REPORTING

FROM : MARY ANNE HELTON, ASSOCIATE GENERAL COUNSEL *met*

RE : DOCKET NO. 000543-EI - PROPOSED RULE 25-6.04365,
F.A.C., NUCLEAR DECOMMISSIONING

Attached is an original and three copies of the certification of Rule 25-6.04365. The Department of State must receive the original and two copies of the certification no later than 5:00 p.m., January 10, 2001. The Certification includes:

- (1) An original and two certified copies of Rule 25-6.04365;
- (2) A summary of the rule;
- (3) A summary of the hearing on the rule; and
- (4) A written statement of the facts and circumstances justifying the rule.

CRT04365.MAH
Attachments

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CERTIFICATION OF
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES
FILED WITH THE
DEPARTMENT OF STATE

I do hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., have been complied with; and

(2) There is no administrative determination under subsection 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by paragraph 120.54(3)(a), F.S., and;

(a) Are filed not more than 90 days after the notice; or

(b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but

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not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

 / (e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

 / (f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

 / (g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

 / (h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

 / (i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the small business ombudsman.

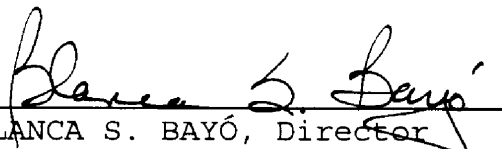
Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule No.

25-6.04365

Under the provision of subparagraph 120.54(3)(e)6., F.S.,
the rules take effect 20 days from the date filed with the
Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



BLANCA S. BAYÓ, Director
Division of Records & Reporting

Number of Pages Certified

(S E A L)

MAH

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.

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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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SUMMARY OF RULE

The rule requires electric utilities to file nuclear decommissioning studies that meet the requirements of subsection (3) of the rule at least once every five years. 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 HEARINGS ON THE RULE

No hearing was requested and none was held.

FACTS AND CIRCUMSTANCES JUSTIFYING THE 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

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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.