

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-

RECEIVED - FPSC
2 JUN - 6 AM 8:34
COMMISSION CLERK

DATE: JUNE 6, 2002

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: DIVISION OF ECONOMIC REGULATION (P. LEE) *PSX DM*
OFFICE OF THE GENERAL COUNSEL (C. KEATING) *WCK JAH JDJ*

RE: DOCKET NO. 020327-EI - REQUEST FOR EXTENSION OF TIME
UNTIL JULY 26, 2002, TO FILE DEPRECIATION STUDY FOR
FERNANDINA BEACH ELECTRIC DIVISION WITH IMPLEMENTATION
DATE OF 1/1/03, BY FLORIDA PUBLIC UTILITIES COMPANY.

AGENDA: 06/18/02 - REGULAR AGENDA - PROPOSED AGENCY ACTION -
INTERESTED PERSONS MAY PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\ECR\WP\020327.RCM

CASE BACKGROUND

Rule 25-6.0436(8)(a), Florida Administrative Code, requires investor-owned electric utilities to file a study for each category of depreciable property for Commission review at least once every four years from the submission date of the previous study unless otherwise required by the Commission. Florida Public Utilities Company's (FPUC or company) last depreciation study was filed on April 27, 1998, with an effective date for revised depreciation rates of January 1, 1999. Therefore, FPUC was required to file a new study by April 27, 2002.

By letter dated April 8, 2002, FPUC requested a waiver of the filing deadline imposed by Rule 25-6.0436, Florida Administrative Code, and asked for an extension of ninety days, until July 26, 2002, to file its depreciation study. At staff's request, FPUC filed a formal petition for rule waiver on April 30, 2002.

DOCUMENT NUMBER DATE

05910 JUN-6 02

FPSC-COMMISSION CLERK

DOCKET NO. 020327-EI

DATE: June 6, 2002

Pursuant to Section 120.542(6), Florida Statutes, notice of FPUC's petition was submitted to the Secretary of State for publication in the May 31, 2002, Florida Administrative Weekly. Pursuant to Rule 28-104.003, Florida Administrative Code, persons may file comments concerning a petition for rule waiver within a 14-day period following publication of the notice, which expires June 14, 2002. No comments concerning the petition have been filed as of the date of this recommendation. If any comments are filed after the filing of this recommendation but prior to June 14, staff will advise the Commission accordingly.

The Commission has jurisdiction over this subject matter pursuant to Sections 120.542, 350.115, and 366.06, Florida Statutes.

DISCUSSION OF ISSUES

ISSUE 1: Should Florida Public Utility Company's request for a waiver of Rule 25-6.0436(8)(a), Florida Administrative Code, be granted?

RECOMMENDATION: Yes. The Commission should grant FPUC's rule waiver request for an extension of time to file its depreciation study no later than July 26, 2002. The requested waiver will serve the purposes of the underlying statutes, and FPUC will experience substantial hardship if its Petition is denied. (P. LEE, C. KEATING)

STAFF ANALYSIS: FPUC seeks a waiver of Rule 25-6.0436(8)(a), which provides:

Each company shall file a study for each category of depreciable property for Commission review at least once every four years from the submission date of the previous study unless otherwise required by the Commission.

Under Rule 25-6.0436(8)(a), FPUC was required to file its next depreciation study by April 27, 2002. By its petition, FPUC seeks a ninety-day extension of this date to July 26, 2002. Implementation of revised depreciation rates will be January 1, 2003. FPUC argues that granting this waiver will enable it to comply with Rule 25-6.0436, Florida Administrative Code, in a timely, cost effective, and accurate manner based upon actual fiscal year data in the future.

According to FPUC, the recent acquisition of Atlantic Utilities (South Florida Natural Gas) and the timing of the related work increases along with year-end reporting have compromised its ability to file the depreciation study April 27, 2002. FPUC explains that the Company is involved in current Commission petitions related to the South Florida Natural Gas acquisition including conservation, Purchase Gas Adjustment, and unbundling. FPUC asserts that the increased workload, timing of events, and recent new hires in the accounting department have contributed to its need for a ninety-day delay in the filing of its depreciation study.

Section 120.542(2), Florida Statutes, provides that waivers and variances from agency rules shall be granted:

DATE: June 6, 2002

. . . 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 the rule would create a substantial hardship or would violate principles of fairness. For purposes of this section, "substantial hardship" means a demonstrated economic, technological, legal or other type of hardship to the person requesting the variance or waiver. For purposes of this section, "principles of fairness" are violated 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.

Rule 25-6.0436, Florida Administrative Code, implements a number of Florida Statutes including Sections 350.115 and 366.06(1). Section 350.115 gives the Commission authority to "prescribe by rule uniform systems and classification of accounts for each type of regulated company and approve or establish adequate, fair, and reasonable depreciation rates and charges." Section 366.06(1), Florida Statutes, gives the Commission authority to:

investigate and determine the actual legitimate costs of the property of each utility company, actually used and useful in the public service, and to keep a current record of the net investment of each public utility company, and such property which value, as determined by the Commission, shall be used for rate making purposes and shall be the money honestly and prudently invested by the public utility company in such property less accrued depreciation.

Due to the circumstances described by FPUC, application of the rule would create a substantial hardship, and an extension of the filing time serves the purpose of these underlying statutes by providing the data required by the rule in a cost-effective and accurate manner.

The purpose of depreciation is to systematically spread the recovery of prudently invested capital over the period the plant items represented by this capital are providing service. Depreciation rates should be revised, ideally, as the need is perceived. Commission rules require electric and gas companies to provide depreciation studies at least once every four and five

DATE: June 6, 2002

years, respectively, from the date of the last submitted study, in accordance with Rule 25-6.0436(8)(a) and Rule 25-7.045(8)(a), Florida Administrative Code. These review cycles are based on the perceived relative susceptibility to technological impact for the two industries. Staff believes that granting the petition will allow us to achieve the purposes of timely setting depreciation rates for FPUC.

Staff recommends that FPUC's petition for waiver of the filing deadline established by Rule 25-6.0436(8)(a), should be granted. FPUC should be given until July 26, 2002, to file its depreciation study since it appears a timely filing, given its staffing limitations, would create a substantial hardship. Staff believes that the purposes of the statutes underlying Rule 25-6.0436(8)(a) would be served if the waiver is granted.

ISSUE 2: Should this docket be closed?

RECOMMENDATION: Yes. A consummating order should be issued, and this docket should be closed if no person whose substantial interests are affected by the proposed action files a protest within the 21-day protest period. (C. KEATING)

STAFF ANALYSIS: At the conclusion of the protest period, if no protest is filed, a consummating order should be issued and this docket should be closed.

FLORIDA PUBLIC UTILITIES COMPANY
COMPARISON OF DEPRECIATION EXPENSE

ACCOUNT	FPUC			SFNG			COMBINED COMPANY			
	INVEST. AS OF 11/30/01	CURRENT DEPR. RATES	EXPENSE	INVEST. AS OF 12/14/01	CURRENT DEPR. RATES	EXPENSE	INVEST.	COMB. DEPR. RATES	EXPENSE	CHANGE IN EXPENSE
DISTRIBUTION PLANT	(\$)	(%)	(\$)	(\$)	(%)	(\$)	(\$)	(%)	(\$)	(\$)
375.0 Structures & Improvements	508,087	2.9	14,735	2,790	3.3	92	510,877	2.9	14,815	11
376.1 Mains-Plastic	11,051,350	2.5	276,284	1,015,178	3.0	30,455	12,066,528	2.5	301,663	5,076
376.2 Mains-Steel	19,990,304	2.6	519,748	1,435,777	3.5	50,252	21,426,081	2.7	578,504	(8,504)
378.0 Measuring & Regulating Equipment-General	190,203	3.7	7,038	41,642	3.1	1,291	231,845	3.6	8,346	(18)
379.0 Measuring & Regulating Equipment-City Gate	713,736	3.6	25,694	14,711	2.9	427	728,447	3.6	26,224	(103)
380.1 Services-Plastic	12,601,890	3.5	441,066	542,474	4.1	22,241	13,144,364	3.5	460,053	3,255
380.2 Services-Steel	1,919,911	6.0	115,195	413,912	5.7	23,593	2,333,823	5.9	137,696	1,200
381.0 Meters	3,828,551	3.4	130,171	238,917	3.4	8,123	4,067,468	3.4	138,294	0
382.0 Meter Installations	1,453,354	3.2	46,507	125,729	3.6	4,526	1,579,083	3.2	50,531	503
383.0 House Regulators	1,124,343	3.6	40,476	91,055	3.3	3,005	1,215,398	3.6	43,754	(273)
384.0 Regulator Installations	554,817	3.1	17,199	51,930	3.6	1,869	606,747	3.1	18,809	260
385.0 Industrial M & R Station Equipment	90,675	3.9	3,536	10,599	2.9	307	101,274	3.8	3,848	(5)
387.0 Other Equipment	368,963	3.9	14,390	15,432	2.7	417	384,395	3.9	14,991	(185)
Total Distribution Plant	54,396,184		1,652,039	4,000,146		146,599	58,396,330		1,797,52	1,108
GENERAL PLANT										
390.0 Structures & Improvements	428,589	2.5	10,715	19,567	5.2	1,017	448,156	2.6	11,652	80
391.1 Office Furniture	38,946	4.8	1,869	13,126	3.9	512	52,072	4.6	2,395	(14)
391.2 Office Machines & Equipment	47,510	7.7	3,658	2,268	6.7	152	49,778	7.7	3,833	(23)
391.3 Computers	477,028	8.1	38,639	27,035	20.2	5,461	504,063	8.7	43,853	247
392.1 Transportation-Autos	272,581	11.3	30,802	N/A	N/A	N/A	272,581	11.3	30,802	0
392.2 Transportation-Light Trucks	1,895,989	4.3	81,528	71,884	13.9	9,992	1,967,873	4.7	92,490	(971)
392.4 Transportation-Trailers	28,856	2.7	779	N/A	N/A	N/A	28,856	2.7	779	0
393.0 Stores Equipment	12,997	5.8	754	N/A	N/A	N/A	12,997	5.8	754	0
394.0 Tools, Shop, Garage Equipment	234,261	6.7	15,695	12,047	1.8	217	246,308	6.5	16,010	(98)
395.0 Laboratory Equipment	0	0.0	0	823	2.2	18	823	2.2	18	0
396.0 Power Operated Equipment	235,272	6.0	14,116	42,397	8.5	3,604	277,669	6.4	17,771	(51)
397.0 Communication Equipment	153,907	7.1	10,927	2,803	10.0	280	156,710	7.2	11,283	(75)
398.0 Miscellaneous Equipment	24,915	5.0	1,246	5,156	6.9	356	30,071	5.3	1,594	8
Total General Plant	3,850,851		210,729	197,106		21,609	4,047,957		233,234	(896)
GRAND TOTAL ALL ACCOUNTS	58,247,035		1,862,767	4,197,252		168,208	62,444,287		2,030,76	212