

ORIGINAL

DOCKETS 060172-EU AND 060173-EU
INFRASTRUCTURE HARDENING RULEMAKING
COMPARISON OF FPL PROPOSAL TO STAFF'S MAY 19 PROPOSAL

25-6.034 Standard of Construction.

Subsection (1) *Application and Scope. This rule is intended to define construction standards for all overhead and underground electrical transmission and distribution facilities to ensure the provision of adequate and reliable electric service for operational as well as emergency purposes. This rule applies to all electric utilities, including municipal electric utilities and rural electric cooperative utilities, unless otherwise specified.*

FPL Comment: None

Subsection (2) *Each utility shall establish and maintain construction standards for overhead and underground electrical transmission and distribution facilities that conform to the provisions of this rule. No later than 90 180 days after the effective date of this rule, each utility shall file five copies of its construction standards with the Director of Economic Regulation. This filing shall be deemed proprietary confidential business information pursuant to Section 366.093, Florida Statutes. In the event a utility subsequently modifies its construction standards, the utility shall file its revised standards, labeled to indicate the effective date of the new version and identifying all revisions from the prior version, together with a type and strike annotated copy of the previous version showing the modifications. A copy of the utility's construction standards as filed with the Commission, including Attachment Standards and Procedures pursuant to subsection 8 of this rule, shall be made available by the utility for public inspection. The utility shall, upon request, furnish a copy of its construction standards in effect at the time to any person requesting a copy. Any challenge by a customer, or applicant for service or attaching entity to the utility's filed construction standards shall be handled pursuant to Rule 25-22.032.*

FPL Comment: FPL will need at least 180 days from approval of new rules to develop and finalize its new construction standards. Providing public access to complete sets of FPL's transmission and distribution construction standards raises security and trade secret concerns. The standards should be protected as proprietary confidential business information and access provided only on a case-by-case, as-needed basis subject to appropriate protective orders. FPL will continue to provide open access (including on-line access) to those construction standards governing connections to customer premises. The nature of the standards does not lend itself to identifying changes in type-and-strike format, but a transmittal letter will be provided with the new versions outlining all changes from the previous version.

Subsection (3) *The facilities of each utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to*

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assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished.

FPL Comment: **None**

Subsection (4) *Each utility shall, at a minimum, comply with the applicable edition of the National Electrical Safety Code (ANSI C-2) [NESC].*

(a) The Commission adopts and incorporates by reference the 2002 edition of the NESC, published August 1, 2001. A copy of the 2002 NESC, ISBN number 0-7381-2778-7, may be obtained from the Institute of Electric and Electronic Engineers, Inc. (IEEE).

(b) Electrical facilities constructed prior to the effective date of the 2002 edition of the NESC shall be governed by the applicable edition of the NESC in effect at the time of the initial construction.

FPL Comment: **None**

Subsection (5) *For the construction of distribution facilities, each utility shall, to the extent reasonably practical, ~~and~~ feasible and cost-effective, adopt the extreme wind loading standards specified by Figure 250-2(d) of the 2002 edition of the NESC. As part of its construction standards, each utility shall establish guidelines and procedures governing the applicability and use of the extreme wind loading standards to enhance reliability and reduce restoration costs and outage times for each of the following types of construction:*

(a) new construction;

(b) major planned work, including expansion, rebuild, or relocation of existing facilities, assigned on or after the effective date of this rule; and

(c) targeted critical infrastructure facilities and major thoroughfares taking into account political and geographical boundaries and other applicable operational considerations.

FPL Comment: **Consistent with the discussion at the May 19 workshop, FPL has clarified that the extreme wind loading standards need not be applied to the construction of distribution facilities where it would not be practical, feasible or cost-effective to build to those standards.**

Subsection (6) *For the construction of underground facilities and their supporting overhead facilities, each utility shall, to the extent reasonably practical, ~~and~~ feasible and cost-effective, establish guidelines and procedures to deter damage resulting from flooding and storm surges. ~~in areas designated as Surge Zones by the Department of Community Affairs, Division of Emergency Management.~~*

FPL Comment: **Consistent with the discussion at the May 19 workshop, FPL has clarified that guidelines and procedures for deterring damage to underground facilities from flooding and storm surge should take into account the cost-effectiveness of the**

protective measures. In addition, FPL recommends striking references to DCA-designated flood zones and instead using local flooding ordinances as a basis in order to avoid discrepancies between the elevations and other construction requirements applicable to buildings and the electrical facilities serving them.

Subsection (7) *Location of the utility's electric distribution facilities.*

(a) For initial installation, expansion, rebuild, or relocation of overhead distribution facilities, utilities shall use easements, areas covered by franchise agreements and permits, public streets, roads and highways along which the utility has the legal right to occupy, and public lands and private property across which rights-of-way and easements have been provided by the applicant for service or such other locations where the utility has a legal right to place its facilities. To the extent practical, ~~and~~ feasible and cost-effective, facilities shall be placed in easements in front of the customer's premises adjacent to a public road for all new facilities and major upgrades or rebuilds affecting a ~~customer or~~ contiguous group of customers served by the same distribution line.

(b) For initial installation, expansion, rebuild, or relocation of underground facilities, the utility shall require the applicant for service to provide easements along the front edge of the property, unless the utility determines there is an operational, economic, or reliability benefit to use another location.

(c) For conversions of existing overhead facilities to underground facilities, the utility may, if the applicant for service is a local government that provides all necessary permits and meets the utility's legal, financial, and operational requirements, place facilities in road rights-of-way in lieu of requiring easements.

In all cases, the locations must be provided by the applicant in a reasonable time to meet construction requirements, meet all requirements of Rule 25-6.076, be satisfactory to the utility, and comply with all applicable federal, state and local laws, regulations and ordinances.

FPL Comment: **FPL recommends adding the word “distribution” to the title of this subsection, to clarify the type of facilities to which it applies. In view of Staff’s stated preference to have Subsection (7)(a) be mandatory rather than permissive, FPL has added references to all types of locations where it may need to place its facilities. FPL has also added “cost-effective” to Subsection (7)(a) consistent with the language used in Subsections (5) and (6). FPL has added a paragraph at the end of Subsection (7) to clarify that applicants are to provide access promptly and in compliance with Rule 25-6.076 (Rights of Way and Easements) and all applicable legal requirements.**

Subsection (8) *As part of its construction standards, each utility shall establish and maintain written safety, reliability, capacity and engineering standards and procedures for attachments by others to the utility's electric transmission or distribution poles (Attachment Standards and Procedures). Such Attachment Standards and*

Procedures shall meet or exceed the NESC and other applicable standards imposed by law so as to assure, as far as is reasonably possible, that third-party facilities attached to electric transmission and distribution poles do not impair electric system safety, adequacy, or reliability; do not exceed pole loading capacity; and are constructed, installed, maintained, and operated in accordance with generally accepted engineering practices for the utility's service territory. No attachment to an electric utility's transmission or distribution poles shall be made except in compliance with such utility's Attachment Standards and Procedures as filed with the Commission.

FPL Comment: FPL recommends wording as suggested and agreed upon in the May 19 workshop clarifying the nature of the written standards that each utility is to establish and maintain. Please see the joint comments of FPL, PEF, TECO and Gulf Power on pole attachment issues for a full discussion of this issue.

Subsection (9) The Commission has reviewed the American National Standard Code for Electricity Metering, 6th edition, ANSI C-12, 1975, and the American National Standard Requirements, Terminology and Test Code for Instrument Transformers, ANSI-57.13, and has found them to contain reasonable standards of good practice. A utility that is in compliance with the applicable provisions of these publications, and any variations approved by the Commission, shall be deemed by the Commission to have facilities constructed and installed in accordance with generally accepted engineering practices.

FPL Comment: FPL continues to recommend against deletion of existing Subsection (2). Clarification of the metering standards that constitute generally accepted engineering practice helps avoid customer misunderstandings or disputes over metering issues. FPL has not identified any other rule in Chapter 25 that is comparable to, or overlapping or inconsistent with, existing Subsection (2).

**25-6.0345 Safety Standards for Construction of New Transmission and
Distribution Facilities**

FPL has no comments or suggested revisions for Staff's proposed Rule 25-6.0345.

25-6.064

Contribution--in--Aid--of--Construction: Installation of New or Upgraded Facilities

Overall:

As an alternative to the proposed edits and comments that follow, leaving the rule “as is” would be acceptable. Changes to this rule are not required to enable the infrastructure “hardening” measures. In fact, Staff’s proposed revisions raise a host of complicated issues that could delay the rule-making central to hardening. If it is deemed that revisions to this rule would still be desirable, then this could be considered in a future proceeding.

Subsection (1) Application and scope: The purpose of this rule is to establish a uniform procedure by which investor-owned electric utilities calculate amounts due as contribution-in-aid-of-construction (CIAC) from customers who require new facilities; ~~other than standard installations~~, or for upgrades to existing facilities resulting from changes in the customer’s demand on the system, in order to receive electric service, except as provided in Rule 25-6.078.

FPL Comments:

FPL recommends deleting Staff’s inserted clause “other than standard installations.” The implication is that only atypical or non-standard installations should be subjected to the revenue test or other provisions of this rule. FPL does not currently apply this rule in a selective manner and does not believe the application should be narrowed going forward as this might shift costs onto the general body of customers.

Subsection (2) Contribution-in-aid-of-construction shall be calculated as set forth below:

$$\text{CIAC}_{\text{OH}} = \left\{ \begin{array}{l} \text{Estimated} \\ \text{cost of} \\ \text{overhead} \\ \text{facilities} \\ \text{(excluding} \\ \text{service} \\ \text{drops and} \\ \text{meters)} \end{array} \right\} - 4 \times \left\{ \begin{array}{l} \left(\begin{array}{l} \text{Base energy charge per kWh x} \\ \text{expected incremental annual kWh} \\ \text{sales over the new facilities} \end{array} \right) \\ + \\ \left(\begin{array}{l} \text{If applicable, base demand charge per kW x} \\ \text{expected incremental average monthly kW} \\ \text{over the new facilities x 12} \end{array} \right) \end{array} \right\}$$

Subsection (3) *CIAC for underground distribution facilities shall be calculated as set forth below:*

$$\text{CIAC}_{\text{UG}} = \left(\begin{array}{l} \text{Estimated Total Cost of} \\ \text{Underground Facilities} \\ \text{(including services} \\ \text{and meters)} \end{array} - \begin{array}{l} \text{Estimated Total Cost of} \\ \text{Overhead Facilities} \\ \text{(including service drops} \\ \text{and meters)} \end{array} \right) + \text{CIAC}_{\text{OH}}$$

<i>CIAC</i>	=	<i>Cost of installing the facilities</i>	-	<i>4 x nonfuel energy charge per kWh x expected incremental annual kWh sales over the new facilities</i>	-	<i>4 x expected annual demand charge revenues from incremental sales over the new facilities</i>
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- ~~For the purposes of the above formula, costs are defined as follows:~~
- ~~(a) The cost of all new overhead and underground line extensions shall be the total estimated work order job cost.~~
- ~~(b) There shall be no charge for the overhead transformer, service drop and meter for new standard overhead installations.~~
- ~~(c) The total cost of installing new underground service shall be reduced by the cost of a standard overhead service installation.~~
- ~~(d) The cost of upgrades to existing facilities shall be the estimated work order job cost including any costs of removal less any salvage.~~
- ~~(e) For customers in rate classes that pay only energy charges, demand charge revenues shall be zero.~~
- ~~(f) Expected demand charge revenues and energy sales shall be based on an annual period ending not more than 5 years after the extension is placed in service.~~

FPL Comments: Staff has attempted to combine the rule's current two formulas into one. The stated intent was to "simplify" the rule, not

change its effect. Unfortunately, this has not been successful. Under the best of circumstances, a large number of convoluted “definitions” for each element in the formula would be required. Most importantly, the utilities’ implementation costs appear certain to outweigh any possible benefits that could accrue. Some examples of these significant costs are: retraining of personnel (hundreds of personnel in FPL’s case) on how to interpret the new language; rewriting, publishing and distributing designer’s operational procedures, and; programming revisions to major computer systems. Therefore insufficient value is derived if the true bottom line effect on customer’s CIAC is unchanged.

FPL has proposed two minor adjustments to the existing CIAC_{OH} formula. The first, as agreed to during the May 19 workshop, is a clarification – changing the word “nonfuel” to “base.” This properly labels the true charge all utilities use in practice. The types of costs being subjected to the CIAC “revenue test” are always recovered through base rates, not through other “nonfuel” rate structure components such as; conservation, environmental and capacity clauses. The second is removal of the exclusion for transformers from the estimated costs component. The cost of transformers is also recovered through base rates. This differs from the cost for services and meters which are recovered through a separate rate component – the customer charge – which is not included in the CIAC revenue test. As the revenue test stands, the revenues reflect the underlying transformer costs, but the estimated overhead facilities’ cost does not. The effect of this inconsistency is an under-collection of CIAC which would be passed on to the general body of customers.

Subsection (4) *Nothing in this rule shall be construed as prohibiting a utility from collecting from a customer the total difference in cost for providing underground service instead of overhead service or a non-standard vs. standard level of service to that customer.*

FPL Comments: Reinstitute subsection (6) from the existing rule. Staff struck it in their proposal. Also, added a clarifying clause for collection of above-standard service costs.

Subsection (5~~3~~) *Each utility shall apply the formulas in subsections (2) and (3) of this rule uniformly to residential, commercial and industrial customers requesting new or upgraded facilities at any voltage level.*

FPL Comments: Reflects FPL’s recommended reinstatement of the two formulas instead of Staff’s proposed single one.

Subsection (64) *The costs applied to the formula in subsections (2) and (3) shall be based on the requirements of Rule 25-6.034, Standards of Construction.*

FPL Comments: **As in Subsection (6), reflects FPL's recommended reinstatement of the two formulas instead of Staff's proposed single one. Note that there is no subsection (5) in the numbering of Staff's proposal.**

Subsection (76) *Each utility shall use its best judgment in estimating the total amount of revenues and sales which new or upgraded facilities are expected to produce in a 4-year time frame commencing with the in-service date of the new or upgraded facilities. At the end of the 4-year period over which the revenues were estimated, a customer may request that the utility true-up the CIAC using actual revenues. Any resulting payments to the customer, or from the customer to the utility, shall not include interest. Any amount to be refunded to the customer shall not exceed the original CIAC.~~If the amount of the estimated credit to the CIAC is disputed, at the customer's request, the utility shall true-up the CIAC collected using actual revenues at the end of the 4-year period over which the CIAC was estimated.~~*

FPL Comment: **FPL's proposed alternative language preserves the customer's ability to request a true-up, but does not impose the administratively burdensome – and potentially logistically impossible – task of keeping track of individual customers. For example, under Staff's proposal, a customer could request a true-up on day 1 and FPL would be required to track the revenues and locate the customer once the 4 years had elapsed – even if they were no longer an FPL customer. It is FPL's understanding that this settlement process is not unilateral (i.e., whichever party is found to be owing is obligated to compensate the other in a timely manner).**

Subsection (87) *The utility may elect to waive all or any portion of the CIAC for customers, even when a CIAC is found to be applicable. However, if the utility waives the CIAC, the utility shall reduce net plant in service as though the CIAC had been collected. Each utility shall maintain records of amounts waived and any subsequent changes that served to offset the CIAC.*

FPL Comments: **None.**

Subsection (98) *In cases where more customers than the initial applicant are expected to be served in the near term by the new or upgraded facilities, the utility ~~shall~~ may, upon mutual agreement from all affected customers, elect to prorate the total CIACs, over those multiple the number of customers at the time of initial connection.*

~~expected to be served by the new or upgraded facilities within a period not to exceed 3 years commencing with the in-service date of the new or upgraded facilities. The utility may require an advance equal to the full amount of the CIAC from the initial customer. As additional customers connect to the facilities subject to the CIAC, the utility shall collect from those customers a pro-rated CIAC, and credit that amount to the initial customer who paid the CIAC. In the event the projected growth in customers or usage does not materialize by the end of the 3 year period, the remaining CIAC shall be retained by the utility to offset the cost of the construction. The utility shall file a tariff outlining its policy for the proration of CIAC.~~

FPL Comments: Staff's suggestion presents many logistical challenges. This would present the same initial-customer tracking problems described in the comments on subsection (7) plus the requirement to track as each new customer requests connection, which would at a minimum require some significant computer systems and process changes to try to ensure consistent execution. Additionally, the pro-ration itself is at best complex, if not impossible to execute. For example, if a single new customer is served off the facilities in each of the subsequent years, the pro-ration amounts required from each in order to connect would need to be recalculated & redistributed amongst those already connected. This scenario is illustrated below:

	<u>Day 1</u>	<u>Pro-Rata Adjustments</u>			<u>Net</u>
		<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	
Initial Customer	\$120	(\$60)	(\$20)	(\$10)	\$30
Customer 2		\$60	(\$20)	(\$10)	\$30
Customer 3			\$40	(\$10)	\$30
Customer 4				\$30	\$30

Additionally, Staff puts the utility in the position of requiring additional payment from these customers for connection which is likely to generate customer complaints. This pro-ration calculations could be further complicated if any differences occur between the actual and initially estimated revenues.

FPL's proposal instead relies on establishing any possible CIAC sharing at the outset of construction when there's a higher degree of certainty, rather at some variable time in the future. Additionally, it benefits from the mutual agreement of customers. Finally, the requirement for filing a tariff outlining the pro-ration policy is covered in subsection (10).

Subsection (109) *A detailed statement of its policies pursuant to this rule standard facilities extension and upgrade policies shall be filed by each utility as part of its tariffs. The tariffs shall have uniform application and shall be nondiscriminatory.*

FPL Comments: FPL's language simplifies and better reflects the revised titling of this rule

Subsection (1140) If a utility and applicant are unable to agree on the CIAC amount, either party may appeal to the Commission for a review.

FPL Comments: None.

Rule 25-6.078

Schedule of Charges.

Overall:

As an alternative to the proposed edits and comments that follow, leaving the rule “as is” would be acceptable. Changes to this rule are not required to enable the infrastructure “hardening” measures. In fact, Staff’s proposed revisions raise a host of complicated issues that could delay the rule-making central to hardening. If it is deemed that revisions to this rule would still be desirable, then this could be considered in a future proceeding.

Subsection (1) Each utility shall file with the Commission a written policy that shall become a part of the utility’s tariff rules and regulations on the installation of underground facilities in new subdivisions. Such policy shall be subject to review and approval of the Commission and shall include an Estimated Average Cost Differential, if any, and shall state the basis upon which the utility will provide underground service and its method for recovering the difference in cost of an underground system and an equivalent overhead system from the applicant at the time service is extended. The charges to the applicant shall not be more than the estimated difference in cost of an underground system and an equivalent overhead system.

FPL Comment: None.

Subsection (2) For the purposes of calculating the Estimated Average Cost Differential, cost estimates shall reflect the requirements of Rule 25-6.034, Standards of Construction.

FPL Comment: None.

Subsection (3) On or before October 15 of each year each utility shall file with the Commission’s Division of Economic Regulation Form PSC/ECR 13-E, Schedule 1, using current material and labor costs. If the cost differential as calculated in Schedule 1 varies from the Commission-approved differential by plus or minus 10 percent or more, the utility shall file a written policy and supporting data and analyses as prescribed in subsections (1), (4) and (5) of this rule on or before April 1 of the following year; however, each utility shall file a written policy and supporting data and analyses at least once every 3 years.

FPL Comment: None.

Subsection (4) Differences in operational ~~operating and maintenance~~ costs, which can include both expense and capital components, including ~~average historical~~ storm restoration costs over the life of the facilities, between underground and overhead systems, if any, shall ~~may~~ be taken into consideration in determining the overall Estimated Average Cost Differential. Each utility shall establish sufficient record keeping and accounting measures, which may be on a sampling basis, to separately identify storm related operational ~~operating and maintenance~~ costs for underground and overhead facilities.

FPL Comment: For the reasons discussed below, FPL does not support requiring differences in operational costs to be taken into account when calculating the Estimated Average Cost Differential.

First, as discussed at the May 19 workshop, producing a reasonably accurate operational cost differential between overhead and underground facilities will be very difficult to accomplish. A likely outcome is that instead of “getting the pot right,” the result – due to the various assumptions and/or simplifications – ends up distorting the true cost picture to the detriment of either the customers paying CIAC or the general body of customers. A couple examples of the challenges with developing such estimates are:

(i) Similar operational activities receive different accounting treatments (i.e., expensed v. capitalized) depending on whether they are performed for underground or overhead facilities making direct comparisons of their respective total costs difficult.

(ii) Each cost element cannot be appropriately forecasted as a single value. To do so would require oversimplifying what are inherently dynamic, complex and interdependent costs to basic average values. This clearly could introduce large errors and misleading results. To effectively portray the differential impacts, modeling – with probability distributions for each cost component that also reflect the relationships between them – would be required. It would take a substantial amount of time and resources to ensure reasonably accurate approximations – which are also likely different between the utilities.

(iii) Because these are new subdivisions, they are a product of today’s overhead and underground technologies, as well as, current construction and operational work methods. As a result, historical costs – which reflect the existing infrastructure – are typically not good proxies for potential future costs.

(iv) External factors can cause operational costs to vary substantially from year to year.

Second, if one were to assume that one could quantify an operational cost differential between overhead and underground service, that the differential would favor underground service, and that adjusting CIAC to reflect this differential could provide an inducement for customers to take underground service, there is no compelling hardening-related reason to provide financial inducements for underground facilities in new subdivisions. Today, over $\frac{3}{4}$ of new service accounts in FPL’s service territory are installed with

underground facilities, so there is little potential for influencing behavior by offering financial inducements to those developers to install underground facilities in lieu of overhead facilities.

FPL does not object, per se, to Staff's proposed requirement that utilities adopt recordkeeping and accounting measures to facilitate separately identifying storm-related operational costs for underground and overhead facilities – provided that this can be met with an appropriately designed sampling program. FPL understood that Staff, and other participants in the May 19 workshop, concurred with the use of sampling, which is likely to yield better and more consistent data while being less disruptive and more cost-effective than trying to collect data on 100% of the facilities. Such a "census" approach would be logistically impossible since the forensic determination of causes naturally proceeds at a slower pace than the actual restoration, or worse yet, could alternatively impede the restoration progress by burdening it with the data collection activities. Also, resources to perform this data collection (both internal and external) continue to be in short supply during storm restoration.

Subsection (5) Detailed supporting data and analyses used to determine the Estimated Average Cost Differential for underground and overhead distribution systems shall be concurrently filed by the utility with the Commission and shall be updated using cost data developed from the most recent 12-month period. The utility shall record these data and analyses on Form PSC/ECR 13-E (10/97). Form PSC/ECR 13-E, entitled "Overhead/Underground Residential Differential Cost Data" is incorporated by reference into this rule and may be obtained from the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850) 413-6900.

FPL Comment: None.

Subsection (6) Service for a new multiple-occupancy building shall be constructed underground within the property to be served to the point of delivery at or near the building by the utility at no charge to the applicant, provided the utility is free to construct its service extension or extensions in the most economical manner.

FPL Comment: None.

Subsection (7) The recovery of the cost differential as filed by the utility and approved by the Commission may not be waived or refunded unless it is mutually agreed by the applicant and the utility that the applicant will perform certain work as defined in the utility's tariff, in which case the applicant shall receive a credit. Provision for the credit shall be set forth in the utility's tariff rules and regulations, and shall be no more in amount than the total charges applicable.

FPL Comment: None.

Subsection (8) *The difference in cost as determined by the utility in accordance with its tariff shall be based on full use of the subdivision for building lots or multiple-occupancy buildings. If any given subdivision is designed to include large open areas, the utility or the applicant may refer the matter to the Commission for a special ruling as provided under Rule 25-6.083, F.A.C.*

FPL Comment: **None.**

Subsection (9) *The utility shall not be obligated to install any facilities within a subdivision until satisfactory arrangements for the construction of facilities and payment of applicable charges, if any, have been completed between the applicant and the utility by written agreement. A standard agreement form shall be filed with the company's tariff.*

FPL Comment: **None.**

Subsection (10) *Nothing herein contained shall be construed to prevent any utility from absorbing all or any portion of the costs of providing underground distribution systems, provided, however, that such costs in excess of a comparable overhead system shall not be chargeable to the general body of ratepayers, and any such policy adopted by a utility shall have uniform application throughout its service area.*

FPL Comment: **None.**

25-6.115 Facility Charges for Conversion of Existing Overhead Investor-owned Distribution Facilities.

Subsection (1) *Each investor-owned utility shall file a tariff showing the non-refundable deposit amounts for standard applications addressing the conversion of existing overhead electric distribution facilities to underground facilities. The tariff shall include the general provisions and terms under which the public utility and applicant may enter into a contract for the purpose of converting existing overhead facilities to underground facilities. The non-refundable deposit amounts shall be calculated in the same manner as the engineering costs for underground facilities serving each of the following scenarios: urban commercial, urban residential, rural residential, existing low-density single family home subdivision and existing high-density single family home subdivision service areas.*

FPL Comment: None

Subsection (2) *For purposes of this rule, the applicant is the person or entity seeking the undergrounding of existing overhead electric distribution facilities. In the instance where a local ordinance requires developers to install underground facilities, the developer who actually requests the construction for a specific location is deemed the applicant for purposes of this rule.*

FPL Comment: None.

Subsection (3) *Nothing in the tariff shall prevent the applicant from constructing and installing all or a portion of the underground distribution facilities provided:*

- (a) such work meets the investor-owned utility's construction standards;*
- (b) the investor-owned utility will own and maintain the completed distribution facilities; and*
- (c) such agreement is not expected to cause the general body of ratepayers to incur costs in excess of the costs the utility would incur for the installation.*

FPL Comment: None.

Subsection (4) *Nothing in the tariff shall prevent the applicant from requesting a non-binding cost estimate which shall be provided to the applicant free of any charge or fee.*

FPL Comment: None.

Subsection (5) Upon an applicant's request and payment of the deposit amount, an investor-owned utility shall provide a binding cost estimate for providing underground electric service.

FPL Comment: None.

Subsection (6) An applicant shall have at least 180 days from the date the estimate is received, to enter into a contract with the public utility based on the binding cost estimate. The deposit amount shall be used to reduce the charge as indicated in subsection (7) only when the applicant enters into a contract with the public utility within 180 days from the date the estimate is received by the applicant, unless this period is extended by mutual agreement of the applicant and the utility.

FPL Comment: None.

Subsection (7) The charge paid by the applicant shall be the charge for the proposed underground facilities as indicated in subsection (8) minus the charge for overhead facilities as indicated in subsection (9) minus the non-refundable deposit amount. The applicant shall not be required to pay an additional amount which exceeds 10 percent of the binding cost estimate.

FPL Comment: None.

Subsection (8) For the purpose of this rule, the charge for the proposed underground facilities shall include:

(a) the estimated cost of construction of the underground distribution facilities including the construction cost of the underground service lateral(s) to the meter(s) of the customer(s); and

(b) the estimated remaining net book value of the existing facilities to be removed less the estimated net salvage value of the facilities to be removed.

FPL Comment: None.

Subsection (9) For the purpose of this rule, the charge for overhead facilities shall be the estimated construction cost to build new overhead facilities, including the service drop(s) to the meter(s) of the customer(s). Estimated construction costs shall be based on the requirements of Rule 25-6.034, Standards of Construction.

FPL Comment: None.

Subsection (10) An applicant requesting construction of underground distribution

facilities under to this rule may challenge the utility's cost estimates pursuant to Rule 25-22.032, F.A.C.

FPL Comment: None.

Subsection (11) For the purposes of the computing the charges required in subsections (8) and (9):

(a) ~~The utility shall include the net present value of operating and maintenance costs and the average historical storm restoration costs for comparable facilities over the expected life of the facilities. A utility may establish by tariff a Government Adjustment Factor (GAF) for the purpose of encouraging conversion of overhead facilities to underground in circumstances where such conversions are well suited to reducing potential storm restoration and other costs associated with the facilities. Specifically, the GAF will operate to reduce the charges required under subsections (8) and (9) in those instances where the applicant is a local government subject to the utility's tariff and has met the utility's requirements as specified in the tariff. The reduction in charges calculated on the basis of the GAF specified in a utility's tariff shall be added to the utility's plant in service. The applicant must include in any project qualifying for the GAF all overhead facilities, up to and including all services, within the area designated for conversion. The GAF shall not be applicable to any road construction or improvement projects for which state or federal funds are available.~~

FPL Comment: **FPL recommends revising Subsection (11)(a) as shown above, in order to target reductions in conversion charges to those circumstances where the conversions involve substantial, contiguous areas and are thus most likely to be beneficial to the general body of customers. Isolated conversions involving only one or a small number of customers would not meaningfully affect the level of restoration work after extreme weather in the area where the conversions are made, because overhead restoration crews would still have to investigate and repair overhead equipment for the interspersed customers who did not convert.**

FPL's GAF proposal is designed to focus on specifically the type of conversion "footprint" that most benefits the general body of customers. Those targeted conversions could then receive the full conversion benefits that they justify, without dilution by the averaging inherent in Staff's proposal. FPL's GAF proposal also requires that the applicant for qualifying conversion projects be a local government, or sponsored by a local government, because they are in the best position to deliver the sort of conversion projects that fit the desired profile. Moreover, local governments can ensure 100% participation by affected customers and eliminate the barriers (e.g., property access, permitting, coordination of road closures, etc.) that otherwise could interfere with implementation of conversion projects.

FPL's GAF proposal is also preferable to Staff's Subsection (11)(a) because it is tariff-based. Whereas Staff's proposal provides no guidance as to how overhead-to-underground cost differentials are to be determined and no mechanism for review and approval of those differentials, the GAF proposal requires a utility to file for Commission review and approval of both the level of the GAF percentage and the specific applicability terms that a conversion project would have to meet to qualify for the GAF reduction. This will facilitate Commission monitoring of the GAF both in its original form and as it may be modified from time to time based on accumulated information and experience. Another advantage of FPL's tariff-based approach is that it has flexibility to accommodate differences that may exist among utilities as to the applicability terms and GAF percentage that best suit their respective electric systems. In this regard, FPL notes that it is not necessary or appropriate to quantify as part of this rulemaking a size threshold for qualifying conversion projects or the appropriate level of the GAF percentage. Rather, those issues are properly the subject of utility-specific tariff filings.

Staff's subsection (11)(a) contemplates that, in addition to the storm recovery cost differential associated with conversion, utilities must take into account the net present value of the difference in operating and maintenance costs for underground and overhead facilities. FPL's GAF proposal would not either require or forbid utilities to take this difference into account. For the reasons discussed above, FPL believes that the GAF proposal is preferable to Staff's Subsection (11)(a) and should be substituted for it. If, however, Staff does not adopt the GAF proposal, FPL recommends that Subsection (11)(a) be revised so that utilities are not required to take the operating and maintenance cost differential into account. The problems and uncertainties involved in calculating such a differential are outlined in the comments on Rule 25-6.078 above and apply equally here.

(b) If the applicant chooses to construct or install all or a part of the requested facilities, all costs, including overhead assignments, avoided by utility due to the applicant assuming responsibility for construction shall be subtracted from the CIAC charged to the customer, or if the full CIAC has already been paid, credited to the customer. At no time will the CIAC be less than zero.

FPL Comment: FPL has no objection in principle to Staff's proposed Subsection (11)(b) and proposes no changes to it at this time. However, FPL would like to clarify that, its calculations of credits to applicants that construct all of part of their own facilities are already done in accordance with the procedure

described in Subsection (11)(b). This specifically includes any avoided overhead assignments.

Subsection (12) *Nothing herein contained shall be construed to prevent any utility from absorbing all or any portion of the cost of providing underground distribution systems an underground conversion charge calculated pursuant to Subsections (7) through (11) above; provided, however, that such costs in excess of a comparable overhead system the portion of an underground conversion charge that is absorbed by a utility shall not be chargeable to the general body of ratepayers, and any such policy adopted by a utility shall have uniform application throughout its service area.*

FPL Comment: FPL's proposed revision is to clarify that Subsection (12) does not apply to a reduction in the underground conversion charge resulting from the application of FPL's proposed Subsection (11)(a).

Subsection (13) *Nothing in this rule shall be construed to grant any investor-owned electric utility any right, title or interest in real property owned by a local government. Specific Authority 366.04, 366.05(1) FS.*

FPL Comment: None.