

August 4, 2006

Ms. Blanca Bayo, Director
Division of Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RE: Florida Public Service Commission Dockets No. 060173-EU and 06172-EU

Dear Ms. Bayo:

Enclosed for filing in the above dockets are the original and fifteen copies of Rule Comments and Testimony for each docket. These are supplemental comments of Time Warner Telecom with regard to the above-proposed rule dockets.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to me.

Thank you for your assistance in this matter.

Sincerely,



Howard E. Adams

HEA/jnb

Enclosures, as stated.

DOCUMENT NUMBER-DATE

07010 AUG-4 8

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rules governing the placement of new electric distribution facilities underground, and the conversion of existing overhead distribution facilities to underground facilities, to address the effects of extreme weather events.

DOCKET NO. 060172-EU
FILED: August 4, 2006

In re: Proposed amendments to rules regarding overhead electric facilities to allow more stringent construction standards than required by National Electric Safety Code.

DOCKET NO. 060173-EU
FILED: August 4, 2006

RULE COMMENTS AND TESTIMONY

COMES NOW Time Warner Telecom of Florida, L.P., as an affected party and files this its comments and testimony in the above styled dockets:

GENERAL COMMENTS

1. Time Warner Telecom of Florida, L.P. is a competitive local exchange carrier providing telecommunications service in the State of Florida.
2. The name, address and telephone number of Time Warner Telecom of Florida, L.P., and the provider of these comments and testimony is:

Carolyn Marek
Vice President of Governmental Affairs
Time Warner Telecom of Florida, L.P.
233 Bramerton Court
Franklin, Tennessee 37069
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3. Time Warner Telecom has previously furnished written and oral comments regarding these proposed rules at the staff workshops held on April 17, May 19, and July 13, 2006.

4. Time Warner Telecom asserts that the Public Service Commission currently does not have jurisdiction over pole attachments, pole attachment rates or charges for pole attachments by third party pole attachers. While Time Warner Telecom does not object to the Florida Public Service Commission exercising jurisdiction over pole attachments, the Florida Public Service Commission has currently chosen not to exercise its jurisdiction as may be delegated to the State through the Federal Communications Commission. Other commenters also assert the Public Service Commission may lack legislative authority to exercise pole attachment jurisdiction. Time Warner Telecom asserts that the proposed rules, to the extent they may allow additional charges or costs to be assessed to third-party pole attachers, are in violation of Federal Communications Commission rules and regulations which set pole attachment rates in the absence of State jurisdiction over these issues.

5. Time Warner Telecom suggests additional language be inserted in the rule as is shown in the annotated rule attached hereto as Exhibit 1, which provides that utilities and its customers shall bear any increased costs in the relocation, expansion, rebuilding or relocation of electric distribution facilities.

6. Time Warner Telecom also states that the Florida Public Service Commission is in essence delegating what the rules and regulations regarding third-party attachment and safety standards shall be to the electric utilities of Florida. Such a delegation is impermissible under Florida administrative law but also has the potential to threaten third-party attachers with engineering or safety standards which in essence will “regulate off the poles” any third-party attachments. Time Warner Telecom suggests language in the portions of the rules which would provide that the adoption of the National Electric Safety Code safety standards shall become the standard for compliance. The Florida Public Service Commission shall review

each plan of each utility for consistency with that standard. By not allowing each utility to develop its own standards which exceed the standard or develop implementation methods regarding these standards, the Florida Public Service Commission can maintain a uniform standard to be applied to all third-party attachers. Such a standard would ensure that each utility in its implementation would not exceed the minimum requirements to such an extent that local implementation standards, engineering practices or local safety standards would prevent an attacher from being allowed to attach to the pole.

7. Time Warner Telecom is currently attached to thousands of poles in Florida. As a competitive carrier, Time Warner Telecom is uncertain as to whether or not the rule will provide that costs may be shifted from electric utilities. Potentially any undergrounding, rebuilding or relocation of facilities in order to provide storm hardening may disadvantage Time Warner Telecom as a competitive carrier if such costs are allowed to be shifted to the attacher as a result of “safety” standards. Further, the standards developed by the electric utility may be calculated to provide as a competitive disadvantage to Time Warner Telecom where such poles are owned by another competitive incumbent telecommunications company or utility seeking a competitive advantage. Time Warner Telecom would be at a distinct disadvantage if the utilities or incumbent telecommunication companies utilized these standards to either transfer costs or used these standards to “regulate” attachers on the poles so that no further attachments would be allowed because of wind loading concerns. Time Warner Telecom as a competitive carrier would be economically and competitively unable to compete if these costs were imposed on Time Warner Telecom.

COMMENTS ON PROPOSED RULES

8. Rule 25-6.034 – Time Warner Telecom would propose that in Paragraph 4, the words

“at a minimum” would be stricken. The standard that should be adopted is the 2002 version of the code and not a standard developed by a utility.

9. Rule 25-6.034 - Time Warner Telecom proposes in Paragraph 4(c) new language should be inserted in the rule to provide as follows “Each plan submitted by the utility pursuant to this rule shall be reviewed by the Florida Public Service Commission for consistency in implementing the standards of the National Electric Safety Code as specified in this rule.”

10. Rule 25-6.034 - Paragraph (7) should also have inserted the following language. “Any plan adopted by the utility pursuant to this rule shall be reviewed for consistency of implementation and consistency in implementing the standards of the National Electric Safety Code.”

11. Rule 25-6.0341 (5) – The following language should be inserted as a new Paragraph (5): “Any additional costs resulting from the implementation of this rule shall be born by the utility or the customer as contemplated by the contribution in aid of construction rules and may be recovered by the utility as provided by other applicable rules of the Commission.”

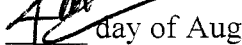
12. Rule 25-6.0342 – Changes to Paragraph (1) relating to third-party attachment standards and procedures. The words “or exceed” regarding the applicable addition of the National Electric Safety Code shall be stricken. In addition, a new sentence shall be added at the end of (1) to provide: “The provisions of this rule shall not act to impair, restrict, impede, or discriminate against third-party pole attachers or in any way act to prevent legitimate attachment to any pole where such attachment meets the applicable National Electric Safety Code standards.”

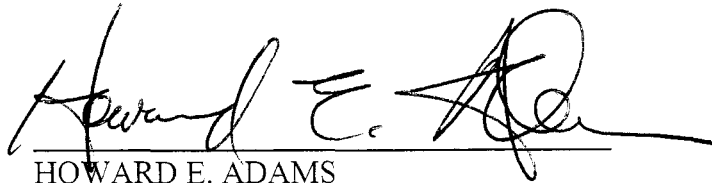
13. Rule 25-6.0343 – The following changes are suggested: A new sentence is added to paragraph (1)(b) to provide: “The construction standards provided in this rule shall not act to impair, restrict, impede, or discriminate against third-party attachers from attaching to poles where such attachments do not violate the safety standards of the applicable National Electric Safety Code.” In Paragraph (1)(d) the words “at a minimum” shall be stricken. Paragraph (3) shall be amended to strike the words “or exceed”. Paragraph (4) shall be amended to provide: “The Commission shall review for consistency the construction standards and attachment standards and procedures developed by the utility pursuant to this rule. These standards shall be consistent with the National Electric Safety Code as adopted pursuant to this rule.” Paragraph (4) is further amended to provide: “Any additional costs for expansion, rebuilding or relocation of the electric distribution facility shall be born by the utility or the customer as provided by the contribution in aid of construction rules and may be recovered as provided by other appropriate rules of the Commission to recover these costs.”

14. Rule 25-6.0345 Construction Standards - In Paragraph (1), the words “at a minimum,” shall be stricken from the rule.

CONCLUSION

Time Warner Telecom respectfully requests that the Florida Public Service Commission make the amendments to the rule as proposed in these pleadings and as provided in the attached copy of the rule showing the changes to be made and with additions noted. Time Warner Telecom asks that it be allowed to present these comments and testimony and that it be allowed to participate fully in the hearing as an affected party and to present further argument and oral statements on the proposed rules as may be necessary.

Respectfully submitted this  day of August, 2006.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by

U.S. Mail this 4th day of August 2006 to the following:

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EXHIBIT "A" TO TIME WARNER TELECOM'S RULE COMMENTS AND TESTIMONY WITH CHANGES AND DELETIONS SHOWN TO PROPOSED RULE

THE FULL TEXT OF THESE PROPOSED RULES AS AMENDED ARE:

PART III

GENERAL MANAGEMENT REQUIREMENTS

25-6.034 Standard of Construction.

(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 investor-owned electric utilities. The facilities of the utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished.

(2) Each utility shall establish, no later than 180 days after the effective date of this rule, construction standards for overhead and underground electrical transmission and distribution facilities that conform to the provisions of this rule. Each utility shall maintain a copy of its construction standards at its main corporate headquarters and at each district office. Subsequent updates, changes, and modifications to the utility's construction standards shall be labeled to indicate the effective date of the new version and all revisions from the prior version shall be identified. Upon request, the utility shall provide access, within 2 working days, to a copy of its construction standards for review by Commission staff at the utility's offices in Tallahassee. 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.~~

(3) The facilities of each utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished.

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

Deleted: at a minimum.

(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.

(c) Each plan submitted by the utility pursuant to this rule shall be reviewed by the Florida Public Service Commission for consistency in implementing the standards of the National Electric Safety Code as specified in this rule.²

(5) For the construction of distribution facilities, each utility shall, to the extent reasonably practical, feasible, and cost-effective, be guided by 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

¹ "at a minimum" was deleted. Set standard does not allow utility to vary or define rule. See Comments ¶ 6, 7, 8.

² See Comments/Testimony ¶ 6, 7, 8, 9.

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.

(6) For the construction of underground distribution facilities and their supporting overhead facilities, each utility shall, to the extent reasonably practical, feasible, and cost-effective, establish guidelines and procedures to deter damage resulting from flooding and storm surges.

(7) In establishing the construction standards, the utility shall seek input from other entities with existing agreements to share the use of its electric facilities. Any dispute or challenge to a utility's construction standards by a customer, applicant for service, or attaching entity shall be resolved by the Commission. Any plan adopted by the utility pursuant to this rule shall be reviewed for consistency of implementation and consistency in implementing the standards of the National Electric Safety Code.³

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c)(f), (5)(6), 366.05(1)(7)(8) FS.

History—Amended 7-29-69, 12-20-82, Formerly 25-6.34, Amended _____.

25-6.0341 Location of the Utility's Electric Distribution Facilities. In order to facilitate safe and efficient access for installation and maintenance, to the extent practical, feasible, and cost-effective, electric distribution facilities shall be placed adjacent to a public road, normally in

³ See Comments/Testimony ¶ 6, 7, 10.

front of the customer's premises.

(1) For initial installation, expansion, rebuild, or relocation of overhead facilities, utilities shall use easements, 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.

(2) 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.

(3) For conversions of existing overhead facilities to underground facilities, the utility shall, 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.

(4) Where the expansion, rebuild, or relocation of electric distribution facilities affects existing third-party attachments, the electric utility shall seek input from and, to the extent practical, coordinate the construction of its facilities with the third-party attacher.

(5) Any additional costs resulting from the implementation of this rule shall be born by the utility or the customer as contemplated by the contribution in aid of construction rules and may be recovered by the utility as provided by other applicable rules of the Commission.⁴

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c), (5), (6), 366.05(1)(8) FS.

History-New

25-6.0342 Third-Party Attachment Standards and Procedures.

⁴ See Comments/Testimony ¶ 7, 11, regarding cost shifting.

(1) As part of its construction standards adopted pursuant to Rule 25-6.034, F.A.C., each utility shall establish and maintain written safety, reliability, pole loading capacity, and engineering standards and procedures for attachments by others to the utility's electric transmission and distribution poles (Attachment Standards and Procedures). The Attachment Standards and Procedures shall meet ⁵the applicable edition of the National Electrical Safety Code (ANSI C-2) pursuant to subsection 25-6.034(4) and other applicable standards imposed by state and federal 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 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. The provisions of this rule shall not act nor be utilized to impair, restrict, impede, or discriminate against third-party pole attachers or in any way act to prevent legitimate attachment to any pole where such attachment meets the applicable National Electric Safety Code standards.⁶

Deleted: or exceed

(2) No attachment to a utility's electric transmission or distribution poles shall be made except in compliance with such utility's Attachment Standards and Procedures.

(3) In establishing the Attachment Standards and Procedures, the utility shall seek input from other entities with existing agreements to share the use of its electric facilities. Any dispute arising from the implementation of this rule shall be resolved by the Commission.

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c), (5), (6), 366.05(1)(8) FS.

History New _____.

⁵ The words "or exceed" have been deleted. Set standard would not allow utility to exceed standard. See Comments/Testimony ¶ 6, 7, 12.

⁶ See ¶ 6, 12, Comments/Testimony regarding delegation of standards.

25-6.0343 Municipal Electric Utilities and Rural Electric Cooperatives.

(1) Standards of Construction.

(a) 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 municipal electric utilities and rural electric cooperatives.

(b) Each utility shall establish, no later than 180 days after the effective date of this rule, construction standards for overhead and underground electrical transmission and distribution facilities that conform to the provisions of this rule. Each utility shall maintain a copy of its construction standards at its main corporate headquarters and at each district office. Subsequent updates, changes, and modifications to the utility's construction standards shall be labeled to indicate the effective date of the new version and all revisions from the prior version shall be identified. Upon request, the utility shall provide access, within 2 working days, to a copy of its construction standards for review by Commission staff in Tallahassee. The construction standards provided in this rule shall not act nor be utilized to impair, restrict, impede, or discriminate against third-party attachers or in any way prevent legitimate attachment to any pole where such attachments meet the standards of the applicable National Electric Safety Code.⁷

(c) The facilities of each utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished.

(d) Each utility shall⁸ comply with the applicable edition of the National Electrical Safety Code (ANSI C-2) [NESC].

Deleted:
 Deleted: at a minimum.

⁷ See Comments/Testimony ¶ 6 regarding delegation of standards.

⁸ The text “, at a minimum” was deleted. Set standard would not allow utility to exceed standard. See Comments/Testimony ¶ 6, 7, 13.

1. 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).

2. 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.

(e) For the construction of distribution facilities, each utility shall, to the extent reasonably practical, feasible, and cost-effective, be guided by 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:

1. new construction;

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

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

(f) For the construction of underground distribution facilities and their supporting overhead facilities, each utility shall, to the extent reasonably practical, feasible, and cost-effective, establish guidelines and procedures to deter damage resulting from flooding and storm surges.

(2) Location of the Utility's Electric Distribution Facilities. In order to facilitate safe and efficient access for installation and maintenance, to the extent practical, feasible, and cost-effective, electric distribution facilities shall be placed adjacent to a public road, normally in

front of the customer's premises.

(a) For initial installation, expansion, rebuild, or relocation of overhead facilities, utilities shall use easements, 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.

(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 shall, 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.

(3) Third-Party Attachment Standards and Procedures.

(a) As part of its construction standards adopted pursuant to subsection (1), each utility shall establish and maintain written safety, reliability, pole loading capacity, and engineering standards and procedures for attachments by others to the utility's electric transmission and distribution poles (Attachment Standards and Procedures). The Attachment Standards and Procedures shall meet ⁹the applicable edition of the National Electrical Safety Code (ANSI C-2) pursuant to subsection (1)(d) of this rule and other applicable standards imposed by state and federal 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 safety, adequacy, or reliability:

Deleted: or exceed

⁹ The text "or exceed" has been deleted. Set standard would not allow utility to exceed standard. See Comments/Testimony ¶¶ 6, 7, 13.

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.

(b) No attachment to a utility's electric transmission or distribution poles shall be made except in compliance with such utility's Attachment Standards and Procedures.

(4) In establishing the construction standards and the attachment standards and procedures, the utility shall seek input from other entities with existing agreements to share the use of its electric facilities. Any dispute or challenge to a utility's construction standards by a customer, applicant for service, or attaching entity shall be resolved by the Commission. Where the expansion, rebuild, or relocation of electric distribution facilities affects existing third-party attachments, the electric utility shall seek input from and, to the extent practical, coordinate the construction of its facilities with the third-party attacher. The Commission shall review for consistency the construction standards and attachment standards and procedures developed by the utility pursuant to this rule. These standards shall be consistent with the National Electric Safety Code as adopted pursuant to this rule. Any additional costs for expansion, rebuilding or relocation of the electric distribution facility shall be born by the utility or the customer as provided by the contribution in aid of construction rules and may be recovered by the utility as provided by other appropriate rules of the Commission.¹⁰

(5) If the Commission finds that a municipal electric utility or rural electric cooperative utility has demonstrated that its standards of construction will not result in service to the utility's general body of ratepayers that is less reliable, the Commission shall exempt the utility from compliance with the rule.

Specific Authority: 350.127, 366.05(1) F.S.

Law Implemented: 366.04(2)(c)(f), (5), (6), 366.05(8)F.S.

¹⁰ Set standard would not allow utility to exceed standard. See Comments/Testimony ¶ 6, 7, 13.

History New.

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

(1) In compliance with Section 366.04(6)(b), F.S., 1991, the Commission adopts and incorporates by reference the 2002 edition of the National Electrical Safety Code (ANSI C-2), published August 1, 2001, as the applicable safety standards for transmission and distribution facilities subject to the Commission's safety jurisdiction. Each investor-owned public electric utility, rural electric cooperative, and municipal electric system shall¹¹ comply with the standards in these provisions. Standards contained in the 2002 edition shall be applicable to new construction for which a work order number is assigned on or after the effective date of this rule.

Deleted: ,

Deleted: at a minimum.

(2) Each investor-owned public electric utility, rural electric cooperative and municipal electric utility shall report all completed electric work orders, whether completed by the utility or one of its contractors, at the end of each quarter of the year. The report shall be filed with the Director of the Commission's Division of Regulatory Compliance and Consumer Assistance ~~Auditing and Safety~~ no later than the 30th working day after the last day of the reporting quarter, and shall contain, at a minimum, the following information for each work order:

- (a) Work order number/project/job;
- (b) Brief title outlining the general nature of the work; ~~and~~
- (c) Estimated cost in dollars, rounded to nearest thousand and;
- (d) Location of project.

(3) The quarterly report shall be filed in standard DBase or compatible format, DOS ASCII text, or hard copy, as follows:

¹¹ The text ", at a minimum" was deleted. Set standard would not allow utility to exceed standard. See Comments/Testimony ¶ 6, 7, 14.

(a) DBase Format

Field Name	Field Type	Digits
1. Work orders	Character	20
2. Brief title	Character	30
3. Cost	Numeric	8
4. Location	Character	50
5. Kv	Numeric	5
6. Contiguous	Character	1

(b) DOS ASCII Text.

1. - 5.(c) No change.

The following format is preferred, but not required:

Completed Electrical Work Orders For PSC Inspection

Work Order	Brief Title	Estimated Cost	Location	KV Rating	Contiguous (y/n)

- (4) No change.

(5) As soon as practicable, but by the end of the next business day after it learns of the occurrence, each investor-owned electric ~~public~~ utility, rural electric cooperative, and municipal electric utility shall (without admitting liability) report to the Commission any accident occurring in connection with any part of its transmission or distribution facilities which:

- (a) - (b) No change.

(6) Each investor-owned electric ~~public~~ utility, rural electric cooperative, and municipal electric utility shall (without admitting liability) report each accident or malfunction, occurring in

connection with any part of its transmission or distribution facilities, to the Commission within 30 days after it learns of the occurrence, provided the accident or malfunction:

(a) – (7) No change.

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(f), (6), 366.05(7) FS.

History–New 8-13-87, Amended 2-18-90, 11-10-93, 8-17-97, 7-16-02, _____.

PART IV

GENERAL SERVICE PROVISIONS

25-6.064 ~~Extension of Facilities;~~ Contribution-in-Aid-of-Construction for Installation of New or Upgraded Facilities.

(1) Application and scope Purpose. The purpose of this rule is to establish a uniform procedure by which investor-owned electric utilities ~~subject to this rule will~~ calculate amounts due as contributions-in-aid-of-construction (CIAC) from customers who request new facilities or upgraded facilities ~~require extensions of distribution facilities~~ in order to receive electric service, except as provided in Rule 25-6.078, F.A.C.

(2) Applicability. This rule applies to all investor owned electric utilities in Florida as defined in Section 366.02, F.S. Contributions-in-aid-of-construction for new or upgraded overhead facilities (CIAC_{OH}) shall be calculated as follows:

<u>CIAC_{OH}</u>	<u>≡</u>	<u>Total estimated work order job cost of installing the facilities</u>	<u>=</u>	<u>Four years expected incremental base energy revenue</u>	<u>=</u>	<u>Four years expected incremental base demand revenue, if applicable</u>
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(a) The cost of the service drop and meter shall be excluded from the total estimated work order job cost for new overhead facilities.

(b) The net book value and cost of removal, net of the salvage value, for existing facilities shall be included in the total estimated work order job cost for upgrades to those existing facilities.

(c) The expected annual base energy and demand charge revenues shall be estimated for a period ending not more than 5 years after the new or upgraded facilities are placed in service.

(d) In no instance shall the CIAC_{OH} be less than zero.

(3) Contributions-in-aid-of-construction for new or upgraded underground facilities (CIAC_{UG}) shall be calculated as follows:

<u>CIAC_{UG}</u>	<u>=</u>	<u>CIAC_{OH}</u>	<u>±</u>	<u>Estimated difference between cost of providing the service underground and overhead</u>

~~(3) Definitions. Actual or estimated job cost means the actual cost of providing the specified line extension facilities, calculated after the extension is completed, or the estimated cost of providing the specified facilities before the extension is completed.~~

~~(4) In developing the policy for extending overhead distribution facilities to customers, the following formulas shall be used to determine the contribution in aid of construction owed by the customer:~~

~~(a) For customers in rate classes that pay only energy charges, i.e., those that do not pay demand charges, the CIAC shall be calculated as follows:~~

$$\begin{aligned}
 \text{CIAC}_{\text{oh}} = & \text{(Actual or estimated job cost} \text{---} (4 \times \text{nonfuel energy} \\
 & \text{for new poles and conductors} \text{---} \text{charge per KWH} \\
 & \text{and appropriate fixtures} \text{---} \times \text{expected annual KWH} \\
 & \text{required to provide service,} \text{---} \text{sales over the new line)} \\
 & \text{excluding transformers,}
 \end{aligned}$$

service drops, and meters)

(b) For customers in rate classes that pay both energy charges and demand charges, the

CIAC shall be calculated as follows:

$$CIAC_{oh} = (\text{Actual or estimated} \quad (4 \times \text{nonfuel energy} \quad (4 \times \text{expected annual} \\ \text{job cost for new} \quad \text{charge per KWH} \times \quad \text{demand charge} \\ \text{poles and conductors} \quad \text{expected annual KWH} \quad \text{revenues from sales} \\ \text{and appropriate} \quad \text{sales over the new line}) \quad \text{over the new line}) \\ \text{fixtures required to} \\ \text{provide service,} \\ \text{excluding transformers,} \\ \text{service drops, and meters})$$

(c) Expected demand charge revenues and energy sales shall be based on an annual period ending not more than five years after the extension is placed in service.

(5) In developing the policy for extending underground distribution facilities to customers, the following formula shall be used to determine the contribution in aid of construction:

$$CIAC_{ue} = (\text{Estimated difference between} \quad + \quad CIAC_{oh} \text{ (as above)}) \\ \text{the cost of providing the} \\ \text{distribution line extension} \\ \text{including not only the distribution} \\ \text{line extension itself but also} \\ \text{the transformer, the service drop,} \\ \text{and other necessary fixtures, with} \\ \text{underground facilities vs. the cost}$$

of providing service using overhead facilities)

~~(6) 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 to that customer.~~

~~(7) In the event that amounts are collected for certain distribution facilities via the URD differential tariff as permitted by Rule 25-6.078, F.A.C., that would also be collected pursuant to this rule, the utility shall give an appropriate credit for such amounts collected via the URD differential tariff when calculating the line extension CIAC due pursuant to this rule.~~

~~(4)(8) Each utility shall apply the above 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, requiring line extensions.~~

~~(5) 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.~~

~~(9) Each utility shall calculate an appropriate CIAC for line extensions constructed to serve customers who receive service at the primary distribution voltage level and the transmission voltage level. This CIAC shall be based on the actual or estimated cost of providing the extension less an appropriate credit.~~

~~(6)(10) All CIAC calculations under this rule shall be based on estimated work order job costs. In addition, each The utility shall use its best judgment in estimating the total amount of annual revenues and sales which the new or upgraded facilities are each line extension is expected to produce in the near future.~~

~~(a) A customer may request a review of any CIAC charge within 12 months following the in-service date of the new or upgraded facilities. Upon request, the utility shall true-up the CIAC~~

to reflect the actual costs of construction and actual base revenues received at the time the request is made.

(b) In cases where more customers than the initial applicant are expected to be served by the new or upgraded facilities, the utility shall prorate the total CIAC over the number of end-use customers 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 a payment equal to the full amount of the CIAC from the initial customer. For the 3-year period following the in-service date, the utility shall collect from those customers a prorated share of the original CIAC amount, and credit that to the initial customer who paid the CIAC. The utility shall file a tariff outlining its policy for the proration of CIAC.

~~(7)(11)~~ The utility may elect to waive all or any portion of the line extension CIAC for customers, even when a CIAC is found to be applicable owing. ~~If h~~ However, if the utility waives ~~a the~~ CIAC, the utility shall reduce net plant in service as though the CIAC had been collected, unless the Commission determines that there is a quantifiable benefit to the general body of ratepayers commensurate with the waived CIAC. Commission will reduce the utility's net plant in service by an equal amount for ratemaking purposes, as though the CIAC had been collected, except when the company's annual revenues from a customer are sufficient to offset the unpaid line extension CIAC under subsection (4) or (5). Each utility shall maintain records of amounts waived and any subsequent changes that served to offset the CIAC.

~~(12) In cases where larger developments are expected to be served by line extensions, the utility may elect to prorate the total line extension costs and CIAC's owed over the number of customers expected to connect to the new line.~~

~~(8)(13)~~ A detailed statement of its standard facilities extension and upgrade policies shall be filed by each utility as part of its tariffs. The tariffs ~~This policy~~ shall have uniform

application and shall be nondiscriminatory.

~~(9)(14)~~ If a utility and applicant are unable to agree on the CIAC amount, ~~in regard to an extension~~, either party may appeal to the Commission for a review.

Specific Authority 366.05(1), 350.127(2) FS.

Law Implemented 366.03, 366.05(1), 366.06(1) FS.

History—New 7-29-69, Amended 7-2-85, Formerly 25-6.64, Amended.

PART V

RULES FOR RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS

25-6.078 Schedule of Charges.

(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.

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

~~(3)~~(2) On or before October 15th 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), ~~(43)~~ and ~~(54)~~ 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 ~~three~~ years.

(4)(3) Differences in Net Present Value of operational ~~operating and maintenance costs,~~ 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 to separately identify operational costs for underground and overhead facilities, including storm related costs.

(5)(4) 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.

(6)(5) Numbers (5) through (8) renumbered to (6) through (9) No change.

(10)(9) Nothing in this rule herein contained shall be construed to prevent any utility from waiving assuming all or any portion of a cost differential for ~~of~~ providing underground facilities, distribution systems, provided, however, that such assumed cost differential shall not be chargeable to the general body of rate payers, and any such policy adopted by a utility shall have uniform application throughout its service area. If, however, the utility waives the differential, the utility shall reduce net plant in service as though the differential had been collected unless the Commission determines that there is a quantifiable benefit to the general

body of ratepayers commensurate with the waived differential.

Specific Authority 350.127(2), 366.04(2)(f), 366.05(1) FS.

Law Implemented 366.03, 366.04(1), ~~(4)~~, 366.04(2)(f), 366.06(1) FS.

History—New 4-10-71, Amended 4-13-80, 2-12-84, Formerly 25-6.78, Amended 10-29-97, .

PART VII

UNDERGROUND ELECTRIC DISTRIBUTION FACILITY CHARGES

25-6.115 Facility Charges for Conversion of Existing Overhead ~~Providing Underground~~
~~Facilities of Public Investor-owned~~ Distribution Facilities ~~Excluding New Residential~~
~~Subdivisions.~~

(1) Each ~~investor-owned~~ public utility shall file a tariff showing the non-refundable deposit amounts for standard applications addressing ~~new construction and~~ the conversion of existing overhead electric distribution facilities to underground facilities ~~excluding new residential subdivisions~~. 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 ~~new construction or~~ conversion of existing overhead ~~electric~~ facilities to underground ~~electric~~ facilities. The non-refundable deposit amounts shall be calculated in the same manner as approximate 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.

(2) For ~~the purposes~~ of this rule, the applicant is the person or entity requesting the conversion seeking the undergrounding of existing overhead electric distribution facilities to underground 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 ~~when a developer requests local government development approval, the local~~

~~government shall not be~~ deemed the applicant for purposes of this rule.

(3) No change:

(a) ~~s~~Such work meets the investor-owned public utility's construction standards;

(b) ~~t~~The investor-owned public utility will own and maintain the completed distribution facilities; and

(c) ~~s~~Such agreement is not expected to cause the general body of ratepayers to incur additional ~~greater~~ costs.

(4) No change.

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

(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.

(7) – (8) No change:

(a) ~~t~~The estimated cost of construction of the underground distribution facilities based on the requirements of Rule 25-6.034, Standards of Construction, including the construction cost of the underground service lateral(s) to the meter(s) of the customer(s); and

(b) ~~For conversions,~~ 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.

(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.

(10) An applicant ~~requesting to a public utility for~~ construction of underground distribution facilities under this rule may petition challenge the utility's cost estimates the Commission pursuant to Rule 25-22.032, F.A.C.

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

(a) The utility shall include the Net Present Value of operational costs including the average historical storm restoration costs for comparable facilities over the expected life of the facilities.

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

(12) Nothing in this rule shall be construed to prevent any utility from waiving all or any portion of the cost for providing underground facilities. If, however, the utility waives any charge, the utility shall reduce net plant in service as though those charges had been collected unless the Commission determines that there is quantifiable benefits to the general body of ratepayers commensurate with the waived charge.

(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 350.127(2) 366.04, 366.05(1) FS.

Law Implemented 366.03, 366.04, 366.05 FS.

History—New 9-21-92, Amended _____.