

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: July 26, 2018
TO: Carlotta S. Stauffer, Commission Clerk, Office of Commission Clerk
FROM: Samantha Cibula, Office of the General Counsel *S.M.C.*
RE: Docket No. 20060508-EI

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

TOM LEE
President



Representative Ellyn Setnor Bogdanoff, Chair
Senator Michael S. "Mike" Bennett, Vice-Chair
Senator Nancy Argenziano
Senator Larcenia J. Bullard
Representative Susan K. Goldstein
Representative Matthew J. "Matt" Meadows

ALLAN G. BENSE
Speaker



F. SCOTT BOYD
EXECUTIVE DIRECTOR
AND GENERAL COUNSEL
Room 120, Holland Building
Tallahassee, Florida 32399-1300
Telephone (850) 488-9110

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

October 27, 2006

Michael G. Cooke
General Counsel
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0860

**Re: Mandatory rulemaking in section 2, chapter 2006-80, and section 44, chapter 2006-230,
Laws of Florida**

Dear Mr. Cooke:

In accordance with its responsibilities under sec. 11.60, F.S., the Joint Administrative Procedures Committee is directed to generally review agency action pursuant to the operation of the Administrative Procedure Act. Subsection 120.54(1)(b), F.S., provides that whenever an act of the Legislature is enacted which requires implementation of the act by rules of an agency, the rules shall be drafted and formally proposed within 180 days after the effective date of the act, unless the act provides otherwise.

Upon initial review, it appears that section 2, chapter 2006-80, Laws of Florida, effective June 7, 2006, and section 44, chapter 2006-230, Laws of Florida, effective June 19, 2006, direct the Commission to adopt rules. Please review the language of these statutory sections and advise whether you expect the rules will be drafted and proposed by the end of the 180 day period.

Please contact me if you have any questions or concerns. Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "John Rosner".

John Rosner
Chief Attorney

(d) The commission's determination of need for a nuclear power plant shall create a presumption of public need and necessity and shall serve as the commission's report required by s. 403.507(4)(a). An order entered pursuant to this section constitutes final agency action. Any petition for reconsideration of a final order on a petition for need determination shall be filed within 5 days after the date of such order. The commission's final order, including any order on reconsideration, shall be reviewable on appeal in the Florida Supreme Court. Inasmuch as delay in the determination of need will delay siting of a nuclear power plant or diminish the opportunity for savings to customers under the federal Energy Policy Act of 2005, the Supreme Court shall proceed to hear and determine the action as expeditiously as practicable and give the action precedence over matters not accorded similar precedence by law.

(e) After a petition for determination of need for a nuclear power plant has been granted, the right of a utility to recover any costs incurred prior to commercial operation, including, but not limited to, costs associated with the siting, design, licensing, or construction of the plant, shall not be subject to challenge unless and only to the extent the commission finds, based on a preponderance of the evidence adduced at a hearing before the commission under s. 120.57, that certain costs were imprudently incurred. Proceeding with the construction of the nuclear power plant following an order by the commission approving the need for the nuclear power plant under this act shall not constitute or be evidence of imprudence. Imprudence shall not include any cost increases due to events beyond the utility's control. Further, a utility's right to recover costs associated with a nuclear power plant may not be raised in any other forum or in the review of proceedings in such other forum. Costs incurred prior to commercial operation shall be recovered pursuant to chapter 366.

Section 44. Section 366.93, Florida Statutes, is created to read:

366.93 Cost recovery for the siting, design, licensing, and construction of nuclear power plants.—

(1) As used in this section, the term:

(a) "Cost" includes, but is not limited to, all capital investments, including rate of return, any applicable taxes, and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear power plant.

(b) "Electric utility" or "utility" has the same meaning as that provided in s. 366.8255(1)(a).

(c) "Nuclear power plant" or "plant" is an electrical power plant as defined in s. 403.503(12) that uses nuclear materials for fuel.

(d) "Preconstruction" is that period of time after a site has been selected through and including the date the utility completes site clearing work. Preconstruction costs shall be afforded deferred accounting treatment and shall accrue a carrying charge equal to the utility's allowance for funds during construction (AFUDC) rate until recovered in rates.

(2) Within 6 months after the enactment of this act, the commission shall establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant. Such mechanisms shall be designed to promote utility investment in nuclear power plants and allow for the recovery in rates all prudently incurred costs, and shall include, but are not limited to:

(a) Recovery through the capacity cost recovery clause of any preconstruction costs.

(b) Recovery through an incremental increase in the utility's capacity cost recovery clause rates of the carrying costs on the utility's projected construction cost balance associated with the nuclear power plant. To encourage investment and provide certainty, for nuclear power plant need petitions submitted on or before December 31, 2010, associated carrying costs shall be equal to the pretax AFUDC in effect upon this act becoming law. For nuclear power plants for which need petitions are submitted after December 31, 2010, the utility's existing pretax AFUDC rate is presumed to be appropriate unless determined otherwise by the commission in the determination of need for the nuclear power plant.

(3) After a petition for determination of need is granted, a utility may petition the commission for cost recovery as permitted by this section and commission rules.

(4) When the nuclear power plant is placed in commercial service, the utility shall be allowed to increase its base rate charges by the projected annual revenue requirements of the nuclear power plant based on the jurisdictional annual revenue requirements of the plant for the first 12 months of operation. The rate of return on capital investments shall be calculated using the utility's rate of return last approved by the commission prior to the commercial inservice date of the nuclear power plant. If any existing generating plant is retired as a result of operation of the nuclear power plant, the commission shall allow for the recovery, through an increase in base rate charges, of the net book value of the retired plant over a period not to exceed 5 years.

(5) The utility shall report to the commission annually the budgeted and actual costs as compared to the estimated inservice cost of the nuclear power plant provided by the utility pursuant to s. 403.519(4), until the commercial operation of the nuclear power plant. The utility shall provide such information on an annual basis following the final order by the commission approving the determination of need for the nuclear power plant, with the understanding that some costs may be higher than estimated and other costs may be lower.

(6) In the event the utility elects not to complete or is precluded from completing construction of the nuclear power plant, the utility shall be allowed to recover all prudent preconstruction and construction costs incurred following the commission's issuance of a final order granting a determination of need for the nuclear power plant. The utility shall recover such costs through the capacity cost recovery clause over a period equal to the period during which the costs were incurred or 5 years, whichever is greater.

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STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
MICHAEL G. COOKE
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

October 30, 2006

Mr. John Rosner, Esquire
Joint Administrative Procedures Committee
Room 120, Holland Building
Tallahassee, FL 32399-1300

Re: Chapters 2006-80 and 2006-230, Laws of Florida

Dear Mr. Rosner:

In response to your October 27, 2006, inquiry regarding the Public Service Commission's rulemaking to implement the provisions of Chapters 2006-80 and 2006-230, Laws of Florida, the Commission currently has two rulemaking dockets underway to adopt the rules required by these laws.

The Commission is scheduled to propose Rule 25-4.084, Florida Administrative Code, on December 19, 2006, which is shortly beyond 180 days from the date Chapter 2006-80, Laws of Florida, became effective. I note, however, that Section 120.54(1)(b), Florida Statutes, applies only to agencies of the executive branch, not to agencies of the legislative branch such as the Commission.

Section 44, Chapter 2006-230, Laws of Florida, requires the Commission to "establish, by rule" a cost recovery mechanism within 6 months after enactment, which is December 18, 2006. The Commission currently plans to propose a rule on November 21, 2006.

Please contact me if I can be of further assistance.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael G. Cooke".

Michael G. Cooke
General Counsel

MGC/ctm

cc: Christiana Moore
Larry Harris ✓

TOM LEE
President

ALLAN G. BENSE
Speaker



THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
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November 20, 2006

Mr. Larry Harris
Associate General Counsel
Public Service Commission
Capital Circle Office Center
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Public Service Commission Rule Chapter 25-6

Dear Mr. Harris:

Thank you for providing me with the latest copy of chapter 25-6. I have completed a review of the changes and prepared the following comments for your consideration and response.

According to my records, a notice of change has not been filed for the rules under consideration. The rules can not be filed for adoption until after the notice of change has been published.

25-6.034(2)(b)

Does this rule contemplate the utilization of other issues of the NESC? If so, each such edition must be incorporated by reference pursuant to section 120.54(1)(i)1., F.S.

25-6.0342(5)

The rule refers to "other applicable standards imposed by state and federal law." Each such standard should be identified and incorporated by reference in the rule.

I am available at your convenience to discuss the foregoing remarks.

Sincerely,

John Rosner
Chief Attorney

1 PART III

2 GENERAL MANAGEMENT REQUIREMENTS

3 25-6.034 Standard of Construction.

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

7 (2) Each utility shall, at a minimum, comply with the National Electrical Safety Code
8 (ANSI C-2) [NESC].

9 (a) For facilities constructed on or after February 1, 2007, the 2007 NESC shall apply.
10 A copy of the 2007 NESC, ISBN number 0781-4893-8, may be obtained from the Institute of
11 Electric and Electronic Engineers, Inc. (IEEE).

12 (b) Facilities constructed prior to February 1, 2007, shall be governed by the edition of
13 the NESC specified by subsections 013.B.1, 013.B.2, and 013.B.3 of the 2007 NESC.

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

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

22 Law Implemented 366.04(2)(c),(f),(5), 366.05(1) FS

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

24

25

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

1 facilities on which third party attachments exist.

2 (d) An estimate of the costs and benefits to the utility of making the electric
3 infrastructure improvements, including the effect on reducing storm restoration costs and
4 customers outages.

5 (e) An estimate of the costs and benefits, obtained pursuant to subsection (6) below,
6 to third-party attachers affected by the electric infrastructure improvements, including the
7 effect on reducing storm restoration costs and customers outages realized by the third-party
8 attachers.

9 (5) Attachments Standards and Procedures: As part of its storm hardening plan, each
10 utility shall maintain written safety, reliability, pole loading capacity, and engineering
11 standards and procedures for attachments by others to the utility's electric transmission and
12 distribution poles (Attachment Standards and Procedures). The Attachment Standards and
13 Procedures shall meet or exceed the edition of the National Electrical Safety Code (ANSI C-2)
14 that is applicable pursuant to Rule 25-6.034(2), F.A.C., and other applicable standards
15 imposed by state and federal law so as to assure, as far as is reasonably practicable, that third-
16 party facilities attached to electric transmission and distribution poles do not impair electric
17 safety, adequacy, or pole reliability; do not exceed pole loading capacity; and are constructed,
18 installed, maintained, and operated in accordance with generally accepted engineering
19 practices for the utility's service territory.

20 (6) Input from Third-Party Attachers: In establishing its storm hardening plan and
21 Attachment Standards and Procedures, or when updating or modifying such plan or
22 Attachment Standards and Procedures, each utility shall seek input from and attempt in good
23 faith to accommodate concerns raised by other entities with existing agreements to share the
24 use of its electric facilities.

25 (7) Dispute Resolution: Any dispute or challenge related to a utility's storm hardening

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

TOM LEE
President



Larry

ALLAN G. BENSE
Speaker



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Telephone (850) 488-9110

Fax

To: Chris Moore	From: John Rosner
Fax: 413-6099	Pages: 2
Phone:	Date: 11/21/2006
Re: Rule Chapter 25-6	CC:

Urgent
 For Review
 Please Comment
 Please Reply
 Please Recycle

● **Comments:**

KEN PRUITT
President



Senator Michael S. "Mike" Bennett, Chair
Representative John Quinones, Vice-Chair
Senator M. Mandy Dawson
Senator Don Gaetz
Representative D. Alan Hays
Representative Scott Randolph

MARCO RUBIO
Speaker



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THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

January 16, 2007

Michael G. Cooke
General Counsel
Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: **Mandatory Rulemaking in Section 44, Chapter 2006-230, Laws of Florida**

Dear Mr. Cooke:

In your letter dated October 30, 2006, you noted that the Commission planned to propose a rule on November 21, 2006 to comply with Section 44, Chapter 2006-230, Laws of Florida. Please apprise me of the rule number.

Sincerely,

A handwritten signature in black ink, appearing to read "John Rosner".

John Rosner
Chief Attorney

JR:kr c:\word\jr\MandatoryRulemakingChapter2006_230



State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: November 1, 2006
TO: Blanca S. Bayó, Commission Clerk and Administrative Services Director
FROM: Lawrence D. Harris, Senior Attorney, Office of the General Counsel *L.D.H.*
RE: Docket No. 060508-EI

The attached correspondence was received from Florida Power & Light Company. Please file in the above-referenced docket file.

LDH
Attachment

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: October 12, 2006

TO: Director, Division of the Commission Clerk & Administrative Services (Bayó)

FROM: Office of the General Counsel (Harris)
Division of Economic Regulation (Hewitt, Kummer, Lester, Lewis, McNulty, Slemkewicz)

RE: Docket No. 060508-EI – Proposed adoption of new rule regarding nuclear power plant cost recovery.

AGENDA: 10/24/06 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Carter

RULE STATUS: Proposal Should Not Be Deferred

SPECIAL INSTRUCTIONS: Rule must be adopted by December 28, 2006

FILE NAME AND LOCATION: S:\PSC\GCL\WP\060508.RCM.DOC

Case Background

Section 366.93, Florida Statutes, which became law on June 19, 2006, codified the Florida Legislature's desire to promote fuel diversity and supply reliability by promoting utility investment in nuclear power plants. The statute is intended to ensure that investor-owned electric utilities are able to recover the cost of planning and constructing nuclear power plants in a fair and timely manner. Section 366.93(2) states "[w]ithin 6 months after the enactment of this act, the commission shall establish, by rule, alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of a nuclear power plant." This recommendation brings specific rule language to the Commission for consideration.

The statute provides that alternative cost recovery mechanisms to allow all prudently incurred costs to be recovered in rates shall include, but are not limited to, recovery through the Capacity Cost Recovery Clause (CCRC) of nuclear plant preconstruction costs and carrying costs on the utility's projected construction cost balance associated with the nuclear power plant. The statute also provides that a utility shall be allowed to increase its base rate charges after the nuclear power plant is placed in commercial service.

Staff is mindful of the Florida legislature's instruction that alternative mechanisms for the recovery of costs associated with nuclear power plant siting, design, licensing and construction are to be established through this rulemaking. The methods the Commission previously used to review and approve costs associated with nuclear power plant construction would not effectively encourage the investment and construction of new nuclear power plants. Construction of a nuclear power plant requires large investments of capital over a long period of time. Therefore, risks must be minimized as much as possible to encourage the necessary investment. Prior to enactment of Section 366.93, F.S., a utility company's concerns about recovering costs may have caused it not to pursue the siting and construction of a nuclear power plant. Because the legislature determined that Florida should increase the diversity of its fuel supply and that doing so would create greater reliability, alternatives to the cost recovery methods the Commission has traditionally used are being established through this rulemaking for investor-owned utilities electing to build new nuclear power plants. With respect to the statutory mandate to establish alternative cost recovery mechanisms, the Commission will be able to consider alternatives during its annual hearing on the capacity cost recovery clause. This may involve a rate structure different than what is traditionally used in this proceeding. Staff considers recovery of preconstruction costs and carrying charges associated with construction work in progress through the capacity cost recovery clause an "alternative cost recovery mechanism." Typically, these costs are included in the cost of the power plant and addressed in a base rate proceeding.

Staff drafted a proposed rule and a notice of rule development workshop was published in the August 4, 2006, Florida Administrative Weekly. Staff held the rule development workshop on August 30, 2006, to discuss the proposed rule and receive comments from interested persons. Progress Energy Florida (PEF) provided written comments in the form of revisions to staff's draft rule in advance of the workshop on August 14, 2006. On August 28, 2006, PEF and Florida Power and Light (FPL) jointly provided joint revised draft rule language for consideration. Representatives of the Office of Public Counsel (OPC), FPL, PEF, Florida Industrial Power Users Group, Florida Retail Federation, Tampa Electric Company, Radey Thomas Yon and Clark law firm, and the Nuclear Energy Institute attended the workshop. Interested persons were also invited to provide written comments after the workshop. On September 13, the Office of Public Counsel filed written comments and PEF and FPL made a joint filing in the form of a revised rule.

This recommendation addresses whether the Commission should propose Rule 25-6.0423, F.A.C., Nuclear Power Plant Cost Recovery, included as Attachment A. The Commission has rulemaking authority pursuant to sections 366.05(1) and 366.93(2), Florida Statutes.

Discussion of Issues

Issue 1: Should the Commission propose Rule 25-6.0423, Florida Administrative Code, Nuclear Power Plant Cost Recovery?

Recommendation: Yes. (Harris, Hewitt, Kummer, Lester, Lewis, McNulty, Slemkewicz)

Staff Analysis: Rule 25-6.0423 establishes alternative cost recovery mechanisms for the siting, design, licensing, and construction of nuclear power plants as required by Section 366.93, Florida Statutes, which was signed into law by Governor Bush on June 19, 2006.

Prior to enactment of Section 363.93, Florida Statutes, the costs of planning and constructing a new nuclear power plant, including an allowance for funds used during construction, would normally be capitalized during the construction period. The costs of the completed plant would not be included in base rates until a subsequent proceeding, such as a base rate proceeding, was concluded. As a result, recovery of costs for a nuclear unit could be delayed for some time, discouraging utilities from pursuing the more expensive investment in nuclear generation.

Summary of Rule 25-6.0423

Subsection (1) sets forth the purpose of the rule: to promote electric utility investment in nuclear power plants and allow for the recovery in rates of all prudently incurred costs; and, to establish alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear power plants.

Subsection (2) establishes definitions for the terms “nuclear power plant,” “cost,” “preconstruction costs,” and “construction costs.”

Subsection (3) provides for the costs expended in preparation for the construction of a nuclear power plant to be afforded deferred accounting treatment and to accrue a carrying charge equal to the utility’s allowance for funds used during construction (AFUDC) until recovered in rates.

Subsection (4) describes the procedures that the utility shall follow to file for cost recovery after the Commission has issued a final order granting a determination of need pursuant to Section 403.519, Florida Statutes. Subsection (4) also describes the types of costs that are eligible for recovery, the parameters of such recovery, and the method that will be used to accomplish the cost recovery.

Subsection (5) codifies a utility’s ability to recover all prudent preconstruction costs and construction costs in the event that a utility elects not to complete or is precluded from completing construction of a nuclear power plant after the Commission has issued a final order determining need for the nuclear power plant. The Capacity Cost Recovery Clause is identified as the mechanism for cost recovery. The time period during which such recovery shall be accomplished is specified. The method of calculating interest accrual on the unrecovered balance is also specified.

Subsection (6) establishes the procedures that the utility shall follow to file for an increase in its base rates after a nuclear power plant and associated systems are placed in commercial service. The method for calculating the increase in base rates is codified as being based on the annualized base revenue requirements for the nuclear power plant for the first 12 months of operations consistent with the cost projections filed in conjunction with the utility's CCRC projection filing. Once the nuclear power plant is included in rate base, recovery through the CCRC will cease, except for the difference between actual and projected construction costs as provided for in Subsection (4)(d). The method for calculating the rate of return on capital investments is codified as being the utility's rate of return last approved by the Commission prior to the date the nuclear power plant is placed in commercial service. If an existing generating plant is retired as a result of operation of a nuclear power plant, the jurisdictional net book value of the retired plant shall be recovered through an increase in base rate charges over a period not to exceed five years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

Subsection (7) codifies the manner in which a utility shall provide the Commission with the budgeted and actual costs of the nuclear power plant following the final order granting a determination of need and until commercial operation of the plant begins.

Inclusion of Post-Workshop Comments

In consideration of the joint comments provided by Progress Energy Florida, Inc. and Florida Power and Light Company, staff revised the initial draft of the rule and organized the subsections in the sequence suggested by the joint comments for purposes of greater clarity. Other revisions made to the rule as a result of comments made at the workshop and/or post-workshop written comments are discussed below.

At Subsection (2)(c) (Attachment A, p. 7, lines 13-19), the joint comments of PEF/FPL included a definition of "preconstruction costs." OPC recommended that the definition of "preconstruction costs" be limited to those costs incurred after a site has been selected, consistent with the provisions of Section 366.93(1)(d), Florida Statutes. Staff agrees with OPC and has revised the definition to clarify that preconstruction costs are limited to costs incurred after a site has been selected consistent with the way the term "preconstruction" is defined in Section 366.93(1)(d), F.S. Therefore, while the proposed draft includes PEF/FPL's definition of preconstruction costs, wording is now included that limits such costs to those costs incurred after a site has been selected.

At Subsection (2)(c) preconstruction costs, and (2)(d) construction costs, (Attachment A, p. 7, lines 13-19 and 20-22) PEF/FPL's joint comments included "litigation costs" among the costs the utility would be entitled to recover through the CCRC. Litigation costs should not be specifically listed as they will be evaluated just like any other project cost.

Subsection (4)(b) (Attachment A, p. 8, lines 6-22) specifies that a utility is entitled to recover its actual and projected preconstruction costs and the related carrying charge through the CCRC. In its post-workshop written comments, OPC asked that procedural protections be included to ensure all parties are provided an opportunity to review the preconstruction costs and projected construction costs submitted by utilities for approval by the Commission. OPC pointed

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out that the expedited schedule typically used for review of fuel costs, including CCRC, may not be adequate for reviewing nuclear preconstruction costs and carrying costs on projected construction costs which could reach hundreds of millions of dollars. OPC suggested that the rule be written to require utilities to file testimony and supporting cost information, and to respond to discovery requests in the CCRC docket, within a certain time frame (for example, filing testimony and supporting data 60 days before intervenor testimony is due). Staff agrees with OPC that it is important to have sufficient time to conduct a thorough review. However, given the fact that the dates for the fuel hearing change from year to year, staff cannot recommend rule language that includes time requirements without a date certain, given the requirements of the Administrative Procedure Act. Therefore, staff suggests that the pre-hearing officer, when establishing the schedule of events in the CCRC docket, give special consideration to the amount of time available for staff and all interested parties to conduct an adequate review of costs associated with nuclear units, but that this time period not be established in the rule.

At Subsection (6)(a) (Attachment A, p. 10, line 16 - p. 11, line 4), to clarify the process that a utility should use to file for an increase in its base rates after the nuclear plant is placed in commercial service, staff added language that states, "[t]he utility shall file a petition for base rate adjustment to include any and all costs the utility is seeking to put in base rates, whether or not those costs have been previously reviewed by the Commission." Staff recommends that it is not appropriate to adjust base rates through an annual clause proceeding. Although the Commission will have already reviewed most costs in the annual CCRC proceeding, any costs that the utility wishes to place in base rates should be included in a petition if the Commission has not previously reviewed them. OPC concurs with staff's position that some sort of limited proceeding should be held to adjust base rates. The IOUs disagree with this requirement and propose that the Commission simply confirm the utility's calculations as submitted.

At Subsection (6)(c) (Attachment A, p. 11, lines 8-12), the utility is permitted to recover, through an increase in base rate charges, the jurisdictional net book value of any existing generating plant that is retired as a result of the operation of the nuclear power plant. Staff recommends language that requires base rates to be reduced by an equal amount at the end of the recovery period. In staff's view, the utility could potentially recover more than the net book value of a retired generating plant through its base rates if the requirement to reduce base rates at the end of the recovery period is not included. OPC's comments concur with staff's recommended language to reduce base rates at the end of the five-year period. The joint comments filed by PEF and FPL did not include this language.

Statement of Estimated Regulatory Cost

Staff prepared a Statement of Estimated Regulatory Costs which is included as Attachment B. In summary, investor owned utilities (IOUs) should have no significant additional costs because of the new rule. IOUs currently must show that expenditures are reasonable and prudently incurred before cost recovery is allowed. IOUs will receive a significant benefit in knowing beforehand that reasonable and prudent investment in new nuclear plant will be recovered as well as allowed recovery of sunk costs if a plant is not completed. The only estimated additional costs reported by one company would be \$10,000 per year for ongoing costs.

Small businesses, small cities, small counties, and individual customers should benefit if an IOU builds a nuclear plant with lower electricity costs and increased fuel diversity. However, there would be negative impacts on small businesses, small cities, small counties, and individual customers if a nuclear plant was started and not finished and the sunk costs were recovered through their electricity bills.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket should be closed. (Harris)

Staff Analysis: Unless comments or requests for hearing are filed, the rule as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

1 **25-6.0423 Nuclear Power Plant Cost Recovery**

2 (1) The purpose of this rule is to establish alternative cost recovery mechanisms for the
3 recovery of costs incurred in the siting, design, licensing, and construction of nuclear power
4 plants that promote electric utility investment in nuclear power plants and allow for the recovery
5 in rates of all such prudently incurred costs.

6 (2) As used in this rule:

7 (a) "Nuclear power plant" or "plant" is an electrical power plant that utilizes nuclear
8 materials as fuel, as defined in section 403.503(12)[Verify that this is (12) or (13)], Florida
9 Statutes.

10 (b) "Cost" includes, but is not limited to, all capital investments including rate of return,
11 any applicable taxes and all expenses, including operation and maintenance expenses, related to
12 or resulting from the siting, licensing, design, construction, or operation of the nuclear power
13 plant.

14 (c) "Pre-site selection costs" are costs that are expended prior to the selection of a site.
15 "Preconstruction costs" are costs that are expended after a site has been selected in preparation
16 for the construction of a nuclear power plant, incurred up to and including the date the utility
17 completes site clearing work. Pre-site selection and preconstruction costs include, but are not
18 limited to, any and all costs associated with preparing, reviewing and defending a Combined
19 Operating License (COL) application for a nuclear power plant; cost of engineering, designing,
20 and permitting the nuclear power plant; costs associated with site and technology selection,
21 clearing, grading, and excavation; and cost of on-site construction facilities (i.e., construction
22 offices, warehouses, etc.

23 (d) "Construction costs" are costs that are expended to construct the nuclear power plant

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25 existing law.

1 including, but not limited to, the costs of constructing nuclear power plant buildings and all
2 associated permanent structures, equipment and systems.

3 (3) Preconstruction and pre-site selection costs shall be afforded deferred accounting
4 treatment and shall accrue a carrying charge equal to the utility's allowance for funds used
5 during construction (AFUDC) until recovered in rates.

6 (4) After the Commission has issued a final order granting a determination of need
7 pursuant to Section 403.519, Florida Statutes:

8 (a) A utility may petition the Commission for cost recovery as permitted under this rule;

9 (b) A utility is entitled to recover, through the Capacity Cost Recovery Clause, its actual
10 and projected preconstruction and pre-site selection costs and the related carrying charge. Such
11 costs will be recovered, on an annual basis, based on the utility's projection. A utility shall
12 annually submit as part of its Capacity Cost Recovery projection filing its projected
13 preconstruction expenditures for the subsequent year and a description of the preconstruction
14 work projected to be performed during such year. A utility shall annually submit for
15 Commission review and approval, as part of its Capacity Cost Recovery final true-up filing,
16 information concerning its actual preconstruction expenditures in the prior year in comparison
17 with its previously filed projected preconstruction expenditures for such prior year and a
18 description of the preconstruction work actually performed during such year. The Commission
19 shall, after review, enter in its order with respect to a utility's Capacity Cost Recovery Clause a
20 finding whether or not such preconstruction costs actually expended by the utility are prudent. In
21 making its determination of prudence the Commission shall apply the standard provided for
22 pursuant to Section 403.519(4)(e), Florida Statutes. Actual preconstruction costs incurred by a
23 utility prior to the issuance of a final order granting a determination of need pursuant to Section

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

1 403.519, Florida Statutes, shall be included in the initial filing made by a utility under this
2 section for review, approval, and a finding with respect to prudence.

3 (c) A utility is entitled to recover, through the utility's Capacity Cost Recovery Clause,
4 the carrying costs on the utility's annual projected construction cost balance associated with the
5 nuclear power plant. The actual carrying costs recovered through the Capacity Cost Recovery
6 Clause shall reduce the AFUDC that would otherwise have been recorded as a cost of
7 construction eligible for future recovery as plant in service. For nuclear power plant need
8 petitions submitted on or before December 31, 2010, the associated carrying costs shall be
9 computed based on the pretax AFUDC rate in effect on June 19, 2006. For nuclear power plant
10 need petitions submitted after December 31, 2010, the utility's pretax AFUDC rate in effect at
11 the time the petition for determination of need is filed is presumed to be appropriate unless the
12 Commission determines otherwise in its need determination order. A utility shall annually
13 submit, as part of its Capacity Cost Recovery Clause projection filing, its projected construction
14 expenditures for the subsequent year and a description of the construction work projected to be
15 performed during such year. A utility shall annually submit, for Commission review and
16 approval, as part of its Capacity Cost Recovery Clause final true-up filing, information
17 concerning its actual construction expenditures in the prior year in comparison with its
18 previously filed projected construction expenditures for such prior year and a description of the
19 construction work actually performed during such year. After its review, the Commission shall
20 enter in its order with respect to a utility's Capacity Cost Recovery Clause a finding whether or
21 not such construction costs actually expended by the utility are prudent. In making its
22 determination of prudence, the Commission shall apply the standard provided for pursuant to
23 Section 403.519(4)(e), Florida Statutes.

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25 existing law.

1 (d) The difference between actual and projected costs as filed in the Capacity Cost
2 Recovery Clause will be included for cost recovery purposes as a component of the over/under
3 recovered balance to be included in the following year's cost recovery proceeding for the
4 Capacity Cost Recovery Clause.

5 (5) Following the Commission' issuance of final order granting a determination of need,
6 in the event the utility elects not to complete or is precluded from completing construction of the
7 nuclear power plant, the utility shall be allowed to recover all prudent pre-site selection costs,
8 preconstruction costs, and construction costs. The utility shall recover such costs through the
9 Capacity Cost Recovery Clause over a period equal to the period during which the costs were
10 incurred or 5 years, whichever is greater. The amount recovered under this section will be the
11 remaining unrecovered Construction Work in Progress (CWIP) balance at the time of
12 abandonment and future payment of all outstanding costs. The unrecovered balance during the
13 recovery period will accrue interest at the utility's overall pretax weighted average midpoint cost
14 of capital on a Commission adjusted basis as reported by the utility in its Earnings Surveillance
15 Report filed in December of the prior year, utilizing the midpoint of return on equity (ROE)
16 range or ROE approved for other regulatory purposes, as applicable.

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Deleted: incurred following the Commission's issuance of a final order granting a determination of need for the nuclear power plant

17 (6) As operating units or systems associated with the nuclear power plant and the nuclear
18 power plant itself are placed in commercial service:

19 (a) The utility shall submit for Commission approval the base rate increase, pursuant to
20 section 366.93(4), separate from petitions for clause recovery, that includes any and all costs
21 reflected in such increase, whether or not those costs have been previously reviewed by the
22 Commission; provided, however, that any actual costs previously reviewed and determined to be
23 prudent in the Capacity Cost Recovery Clause shall not be subject to disallowance or further

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25 existing law.

1 prudence review. The utility shall calculate the increase in base rates resulting from the
2 jurisdictional annual base revenue requirements for the nuclear power plant in conjunction with
3 the Capacity Cost Recovery Clause projection filing for the year the nuclear power plant is
4 projected to achieve commercial operation. The increase in base rates will be based on the
5 annualized base revenue requirements for the nuclear power plant for the first 12 months of
6 operations consistent with the cost projections filed in conjunction with the Capacity Cost
7 Recovery Clause projection filing. At such time as the nuclear power plant is included in base
8 rates, recovery through the Capacity Cost Recovery Clause will cease, except for the difference
9 between actual and projected construction costs as provided in paragraph (4)(d) above.

10 (b) The rate of return on capital investments shall be calculated using the utility's rate of
11 return last approved by the Commission prior to the commercial in-service date of the nuclear
12 power plant.

13 (c) The jurisdictional net book value of any existing generating plant that is retired as a
14 result of operation of the nuclear power plant shall be recovered through an increase in base rate
15 charges over a period not to exceed 5 years. At the end of the recovery period, base rates shall
16 be reduced by an amount equal to the increase associated with the recovery of the retired
17 generating plant.

18 (7) On an annual basis following issuance of the final determination of need order and
19 until commercial operation of the nuclear power plant, a utility shall include the budgeted and
20 actual costs as compared to the estimated in-service costs of the nuclear power plant as provided
21 in the petition for need determination in its annual report filed pursuant to Rule 25-6.135. The
22 estimates provided in the petition for need determination are non-binding estimates. Some costs
23 may be higher than estimated and other costs may be lower. A utility shall provide such revised

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25 existing law.

1 estimated in-service costs as may be necessary in its annual report.

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

3 Law Implemented 366.93 FS.

4 History: New _____.

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STATE OF FLORIDA

COMMISSIONERS:
LISA POLAK EDGAR, CHAIRMAN
J. TERRY DEASON
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Public Service Commission

November 13, 2006

Mr. John Rosner
Chief Attorney
Joint Administrative Procedures Committee
Room 120, Holland Building
Tallahassee, Florida 32399-1300

Re: PSC Rules 25-6.034, 25-6.0341, 25-6.0342, 25-6.0345, 25-6.064, 25-6.078, 25-6.115, F.A.C.

Dear Mr. Rosner:

Attached are the above captioned rules, which the Commission will consider adopting on December 5, 2006. Rules 25-6.034, 25-6.0341, 25-6.0342 are substantially changed from the versions the Commission proposed and were provided to you on July 28, 2006. I wanted to take advantage of your kind offer to review the rules prior to their adoption, in order to make sure we can address any possible concerns in advance. I will be filing the text of the rules with the staff recommendation on November 21, 2006. Thank you for your consideration and assistance, and I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry D. Harris".

Larry D. Harris
Associate General Counsel
413-6076

1 PART III

2 GENERAL MANAGEMENT REQUIREMENTS

3 25-6.034 Standard of Construction.

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

7 (2) Each utility shall, at a minimum, comply with the National Electrical Safety Code
8 (ANSI C-2) [NESC], incorporated by reference in Rule 25-6.0345, F.A.C.

9 (a) For facilities constructed on or after February 1, 2007, the 2007 NESC shall apply.
10 A copy of the 2007 NESC, ISBN number 0781-4893-8, may be obtained from the Institute of
11 Electric and Electronic Engineers, Inc. (IEEE).

12 (b) Facilities constructed prior to February 1, 2007, shall be governed by the edition of
13 the NESC specified by subsections 013.B.1, 013.B.2, and 013.B.3 of the 2007 NESC.

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

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

22 Law Implemented 366.04(2)(c),(f),(5), 366.05(1) FS

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

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1 25-6.0341 Location of the Utility's Electric Distribution Facilities. In order to facilitate safe
2 and efficient access for installation and maintenance, to the extent feasible and cost-effective,
3 electric distribution facilities shall be placed adjacent to a public road, normally in front of the
4 customer's premises.

5 (1) For initial installation, expansion, rebuild, or relocation of overhead facilities,
6 utilities shall use easements, public streets, roads and highways along which the utility has the
7 legal right to occupy, and public lands and private property across which rights-of-way and
8 easements have been provided by the applicant for service.

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

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

17 (4) Where the expansion, rebuild, or relocation of electric distribution facilities affects
18 existing third-party attachments or the facilities of existing joint users, and will result in the
19 relocation of such facilities to a new location adjacent to a public road, the utility shall notify
20 and attempt in good faith to accommodate concerns raised by third-party attachers and joint
21 users, including input and concerns related to the cost impacts of the proposed relocation on
22 attaching entities. The electric utility shall also, to the extent practical, coordinate the
23 construction of its facilities with the affected third-party attachers and joint users.

24 (5) Any dispute or challenge related to the implementation of this rule by a customer,
25 applicant for service, or attaching entity shall be resolved by the Commission.

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

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

3 History-New

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6 25-06.0342 Electric Infrastructure Storm Hardening

7 (1) Application and Scope. This rule is intended to ensure the provision of safe,
8 adequate, and reliable electric transmission and distribution service for operational as well as
9 emergency purposes; require the cost-effective strengthening of critical electric infrastructure
10 to increase the ability of transmission and distribution facilities to withstand extreme weather
11 conditions; and reduce restoration costs and outage times to end-use customers associated
12 with extreme weather conditions. This rule applies to all investor-owned electric utilities.

13 (2) Storm Hardening Plans. Each utility shall, no later than 90 days after the effective
14 date of this rule, file with the Commission for its approval a detailed storm hardening plan.
15 Each utility's plan shall be updated every 3 years, unless the Commission, on its own motion
16 or on petition by a substantially affected person or utility, initiates a proceeding to review and,
17 if appropriate, modify the plans. In a proceeding to approve a utility's plan, the Commission
18 shall consider whether the utility's plan meets the desired objectives of enhancing reliability
19 and reducing restoration costs and outage times in a prudent, practical, and cost-effective
20 manner to the affected parties.

21 (3) Contents of Plan: Each utility storm hardening plan shall contain a detailed
22 description of the construction standards, policies, practices, and procedures employed to
23 enhance the reliability of overhead and underground electrical transmission and distribution
24 facilities in conformance with the provisions of this rule. Each filing shall, at a minimum,
25 address the extent to which the utility's storm hardening plan:

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1 (a) Complies, at a minimum, with the National Electric Safety Code (ANSI C-2)
2 [NESC] that is applicable pursuant to Rule 25-6.034(2), F.A.C.

3 (b) Adopts the extreme wind loading standards specified by Figure 250-2(d) of the
4 2007 edition of the NESC for the following distribution facilities:

5 1. new construction;

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

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

10 (c) Is designed to mitigate damage to underground and supporting overhead
11 transmission and distribution facilities due to flooding and storm surges.

12 (d) Provides for the placement of new and replacement distribution facilities so as to
13 facilitate safe and efficient access for installation and maintenance pursuant to Rule 25-
14 6.0341, F.A.C.

15 (4) Deployment Strategy: Each utility storm hardening plan shall explain the
16 systematic approach the utility will follow to achieve the desired objectives of enhancing
17 reliability and reducing restoration costs and outage times associated with extreme weather
18 events. The utility's storm hardening plan shall provide a detailed description of its
19 deployment strategy including, but not limited to the following:

20 (a) A description of the facilities affected; including technical design specifications,
21 construction standards, and construction methodologies employed.

22 (b) The communities and areas within the utility's service area where the electric
23 infrastructure improvements, including facilities identified by the utility as critical
24 infrastructure and along major thoroughfares pursuant to subparagraph (3)(b)3. are to be
25 made.

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1 (c) The extent to which the electric infrastructure improvements involve joint use
2 facilities on which third-party attachments exist.

3 (d) An estimate of the costs and benefits to the utility of making the electric
4 infrastructure improvements, including the effect on reducing storm restoration costs and
5 customer outages.

6 (e) An estimate of the costs and benefits, obtained pursuant to subsection (6) below,
7 to third-party attachers affected by the electric infrastructure improvements, including the
8 effect on reducing storm restoration costs and customer outages realized by the third-party
9 attachers.

10 (5) Attachment Standards and Procedures: As part of its storm hardening plan, each
11 utility shall maintain written safety, reliability, pole loading capacity, and engineering
12 standards and procedures for attachments by others to the utility's electric transmission and
13 distribution poles (Attachment Standards and Procedures). The Attachment Standards and
14 Procedures shall meet or exceed the edition of the National Electrical Safety Code (ANSI C-2)
15 that is applicable pursuant to Rule 25-6.034(2), F.A.C., and other applicable standards
16 imposed by state and federal law so as to assure, as far as is reasonably practicable, that third-
17 party facilities attached to electric transmission and distribution poles do not impair electric
18 safety, adequacy, or pole reliability; do not exceed pole loading capacity; and are constructed,
19 installed, maintained, and operated in accordance with generally accepted engineering
20 practices for the utility's service territory.

21 (6) Input from Third-Party Attachers: In establishing its storm hardening plan and
22 Attachment Standards and Procedures, or when updating or modifying such plan or
23 Attachment Standards and Procedures, each utility shall seek input from and attempt in good
24 faith to accommodate concerns raised by other entities with existing agreements to share the
25 use of its electric facilities.

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1 (7) Dispute Resolution: Any dispute or challenge to a utility's storm hardening plan,
2 construction standards, deployment strategy, Attachment Standards and Procedures, or any
3 projects implementing any of the above by a customer, applicant for service, or attaching
4 entity shall be resolved by the Commission.

5 (8) Nothing in this rule is intended to conflict with Title 47, United States Code,
6 Section 224, relating to Federal Communications Commission jurisdiction over pole
7 attachments.

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

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

10 History-New .

11
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13 25-6.0345 Safety Standards for Construction of New Transmission and Distribution Facilities.

14 (1) ~~The In compliance with Section 366.04(6)(b), F.S., 1991, the Commission adopts~~
15 ~~and incorporates by reference the 2002 edition of the National Electrical Safety Code (ANSI~~
16 ~~C-2) [NESC], published August 1, 2001, as the applicable safety standards for transmission~~
17 ~~and distribution facilities subject to the Commission's safety jurisdiction. For electrical~~
18 ~~facilities constructed on or after February 1, 2007, the 2007 NESC shall apply. Electrical~~
19 ~~facilities constructed prior to February 1, 2007, shall be governed by the edition of the NESC~~
20 ~~specified by subsections 013.B.1, 013.B.2, and 013.B.3 of the 2007 NESC. Each investor-~~
21 ~~owned public electric utility, rural electric cooperative, and municipal electric system shall, at~~
22 ~~a minimum, comply with the standards in these provisions. Standards contained in the 2002~~
23 ~~edition shall be applicable to new construction for which a work order number is assigned on~~
24 ~~or after the effective date of this rule. A copy of the 2007 NESC, ISBN number 0781-4893-8,~~
25 may be obtained from the Institute of Electric and Electronic Engineers, Inc. (IEEE).

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

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

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

14 (a) DBase Format

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

22 (b) DOS ASCII Text.

- 23 1. - 5.

24 (c) No change.

25 The following format is preferred, but not required:

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1 Completed Electrical Work Orders For PSC Inspection

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

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4

5 (4) No change.

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

11 (a) – (b) No change.

12 (6) Each investor-owned electric ~~public~~ utility, rural electric cooperative, and
13 municipal electric utility shall (without admitting liability) report each accident or
14 malfunction, occurring in connection with any part of its transmission or distribution facilities,
15 to the Commission within 30 days after it learns of the occurrence, provided the accident or
16 malfunction:

17 (a) – (7) No change.

18 Specific Authority 350.127(2) FS.

19 Law Implemented 366.04(2)(f),(6) FS

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

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23 PART IV

24 GENERAL SERVICE PROVISIONS

25 25-6.064 ~~Extension of Facilities; Contribution in Aid of Construction for Installation~~

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

1 of New or Upgraded Facilities.

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

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

10	<u>CIAC_{oh}</u>	<u>≡</u>	<u>Total estimated</u>		<u>Four years</u>		<u>Four years expected</u>
11			<u>work order job</u>	<u>=</u>	<u>expected</u>	<u>=</u>	<u>incremental base</u>
12			<u>cost of installing</u>		<u>incremental base</u>		<u>demand revenue, if</u>
13			<u>the facilities</u>		<u>energy revenue</u>		<u>applicable</u>

14 (a) The cost of the service drop and meter shall be excluded from the total estimated
15 work order job cost for new overhead facilities.

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

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

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

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

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

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

(b) For customers in rate classes that pay both energy charges and demand charges, the CIAC shall be calculated as follows:

$$\text{CIAC}_{\text{oh}} = \frac{\text{Actual or estimated job cost for new poles and conductors and appropriate}}{4 \times \text{nonfuel energy charge per KWH} \times \text{expected annual KWH sales over the new line}} + \frac{4 \times \text{expected demand charge revenues from sales over the new line}}{\text{sales over the new line}}$$

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1 ~~_____ fixtures required to~~
2 ~~_____ provide service,~~
3 ~~_____ excluding transformers,~~
4 ~~_____ service drops, and meters)~~
5 ~~_____ (c) Expected demand charge revenues and energy sales shall be based on an annual~~
6 ~~period ending not more than five years after the extension is placed in service.~~
7 ~~_____ (5) In developing the policy for extending underground distribution facilities to~~
8 ~~customers, the following formula shall be used to determine the contribution in aid of~~
9 ~~construction:~~
10 ~~CIAC_{ug} _____ = _____ (Estimated difference between _____ + _____ CIAC_{oh} (as above)~~
11 ~~_____ the cost of providing the~~
12 ~~_____ distribution line extension~~
13 ~~_____ including not only the distribution~~
14 ~~_____ line extension itself but also~~
15 ~~_____ the transformer, the service drop,~~
16 ~~_____ and other necessary fixtures, with~~
17 ~~_____ underground facilities vs. the cost~~
18 ~~_____ of providing service using overhead~~
19 ~~_____ facilities)~~
20 ~~_____ (6) Nothing in this rule shall be construed as prohibiting a utility from collecting from~~
21 ~~a customer the total difference in cost for providing underground service instead of overhead~~
22 ~~service to that customer.~~
23 ~~_____ (7) In the event that amounts are collected for certain distribution facilities via the~~
24 ~~URD differential tariff as permitted by Rule 25-6.078, F.A.C., that would also be collected~~
25 ~~pursuant to this rule, the utility shall give an appropriate credit for such amounts collected via~~

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1 ~~the URD differential tariff when calculating the line extension CIAC due pursuant to this rule.~~

2 (4)(8) Each utility shall apply the above formulas in subsections (2) and (3) of this
3 rule uniformly to residential, commercial and industrial customers requesting new or upgraded
4 facilities at any voltage level. requiring line extensions.

5 (5) The costs applied to the formula in subsections (2) and (3) shall be based on the
6 requirements of Rule 25-6.0342, Electric Infrastructure Storm Hardening.

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

11 (6)(10) All CIAC calculations under this rule shall be based on estimated work order
12 job costs. In addition, each The utility shall use its best judgment in estimating the total
13 amount of annual revenues and sales which the new or upgraded facilities are each line
14 extension is expected to produce in the near future.

15 (a) A customer may request a review of any CIAC charge within 12 months following
16 the in-service date of the new or upgraded facilities. Upon request, the utility shall true-up the
17 CIAC to reflect the actual costs of construction and actual base revenues received at the time
18 the request is made.

19 (b) In cases where more customers than the initial applicant are expected to be served
20 by the new or upgraded facilities, the utility shall prorate the total CIAC over the number of
21 end-use customers expected to be served by the new or upgraded facilities within a period not
22 to exceed 3 years, commencing with the in-service date of the new or upgraded facilities. The
23 utility may require a payment equal to the full amount of the CIAC from the initial customer.
24 For the 3-year period following the in-service date, the utility shall collect from those
25 customers a prorated share of the original CIAC amount, and credit that to the initial customer

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1 who paid the CIAC. The utility shall file a tariff outlining its policy for the proration of
2 CIAC.

3 ~~(7)(11)~~ The utility may elect to waive all or any portion of the line extension CIAC for
4 customers, even when a CIAC is found to be applicable owing. If hHowever, if the utility
5 waives a the CIAC, the utility shall reduce net plant in service as though the CIAC had been
6 collected, unless the Commission determines that there is a quantifiable benefit to the general
7 body of ratepayers commensurate with the waived CIAC. ~~Commission will reduce the~~
8 ~~utility's net plant in service by an equal amount for ratemaking purposes, as though the CIAC~~
9 ~~had been collected, except when the company's annual revenues from a customer are~~
10 ~~sufficient to offset the unpaid line extension CIAC under subsection (4) or (5).~~ Each utility
11 shall maintain records of amounts waived and any subsequent changes that served to offset the
12 CIAC.

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

16 ~~(8)(13)~~ A detailed statement of its standard facilities extension and upgrade policies
17 shall be filed by each utility as part of its tariffs. The tariffs ~~This policy~~ shall have uniform
18 application and shall be nondiscriminatory.

19 ~~(9)(14)~~ If a utility and applicant are unable to agree on the CIAC amount, ~~in regard to~~
20 ~~an extension,~~ either party may appeal to the Commission for a review.

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

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

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

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1 PART V

2 RULES FOR RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS

3 25-6.078 Schedule of Charges.

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

12 (2) For the purpose of calculating the Estimated Average Cost Differential, cost
13 estimates shall reflect the requirements of Rule 25-6.0342, Electric Infrastructure Storm
14 Hardening.

15 (3)(2) On or before October 15th of each year each utility shall file with the
16 Commission's Division of Economic Regulation Form PSC/ECR 13-E, Schedule 1, using
17 current material and labor costs. If the cost differential as calculated in Schedule 1 varies from
18 the Commission-approved differential by plus or minus 10 percent or more, the utility shall
19 file a written policy and supporting data and analyses as prescribed in subsections (1), (43)
20 and (54) of this rule on or before April 1 of the following year; however, each utility shall file
21 a written policy and supporting data and analyses at least once every 3 ~~three~~ years.

22 (4)(3) Differences in Net Present Value of operational ~~operating and maintenance~~
23 costs, including average historical storm restoration costs over the life of the facilities,
24 between underground and overhead systems, if any, shall ~~may~~ be taken into consideration in
25 determining the overall Estimated Average Cost Differential. Each utility shall establish

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1 sufficient record keeping and accounting measures to separately identify operational costs for
2 underground and overhead facilities, including storm related costs.

3 (5)(4) Detailed supporting data and analyses used to determine the Estimated Average
4 Cost Differential for underground and overhead distribution systems shall be concurrently
5 filed by the utility with the Commission and shall be updated using cost data developed from
6 the most recent 12-month period. The utility shall record these data and analyses on Form
7 PSC/ECR 13-E (10/97). Form PSC/ECR 13-E, entitled "Overhead/Underground Residential
8 Differential Cost Data" is incorporated by reference into this rule and may be obtained from
9 the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida
10 32399-0850, (850) 413-6900.

11 (6)(5) Service for a new multiple-occupancy building shall be constructed
12 underground within the property to be served to the point of delivery at or near the building by
13 the utility at no charge to the applicant, provided the utility is free to construct its service
14 extension or extensions in the most economical manner.

15 (7)(6) The recovery of the cost differential as filed by the utility and approved by the
16 Commission may not be waived or refunded unless it is mutually agreed by the applicant and
17 the utility that the applicant will perform certain work as defined in the utility's tariff, in which
18 case the applicant shall receive a credit. Provision for the credit shall be set forth in the
19 utility's tariff rules and regulations, and shall be no more in amount than the total charges
20 applicable.

21 (8)(7) The difference in cost as determined by the utility in accordance with its tariff
22 shall be based on full use of the subdivision for building lots or multiple-occupancy buildings.
23 If any given subdivision is designed to include large open areas, the utility or the applicant
24 may refer the matter to the Commission for a special ruling as provided under Rule 25-6.083,
25 F.A.C.

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1 (9)(8) The utility shall not be obligated to install any facilities within a subdivision
2 until satisfactory arrangements for the construction of facilities and payment of applicable
3 charges, if any, have been completed between the applicant and the utility by written
4 agreement. A standard agreement form shall be filed with the company's tariff.

5 (10)(9) Nothing in this rule ~~herein contained~~ shall be construed to prevent any utility
6 from waiving ~~assuming~~ all or any portion of a cost differential for ~~of~~ providing underground
7 facilities. ~~distribution systems, provided, however, that such assumed cost differential shall not~~
8 ~~be chargeable to the general body of rate payers, and any such policy adopted by a utility shall~~
9 ~~have uniform application throughout its service area. If, however, the utility waives the~~
10 differential, the utility shall reduce net plant in service as though the differential had been
11 collected unless the Commission determines that there is a quantifiable benefit to the general
12 body of ratepayers commensurate with the waived differential.

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

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

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

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18 PART VII

19 UNDERGROUND ELECTRIC DISTRIBUTION FACILITY CHARGES

20 25-6.115 Facility Charges for Conversion of Existing Overhead ~~Providing~~
21 ~~Underground Facilities of Public~~ Investor-owned Distribution Facilities ~~Excluding New~~
22 ~~Residential Subdivisions.~~

23 (1) Each investor-owned ~~public~~ utility shall file a tariff showing the non-refundable
24 deposit amounts for standard applications addressing ~~new construction and~~ the conversion of
25 existing overhead electric distribution facilities to underground facilities ~~excluding new~~

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1 ~~residential subdivisions~~. The tariff shall include the general provisions and terms under which
2 the public utility and applicant may enter into a contract for the purpose of ~~new construction~~
3 ~~or conversion of~~ existing overhead ~~electric~~ facilities to underground ~~electric~~ facilities. The
4 non-refundable deposit amounts shall be calculated in the same manner as approximate the
5 engineering costs for underground facilities serving each of the following scenarios: urban
6 commercial, urban residential, rural residential, existing low-density single family home
7 subdivision and existing high-density single family home subdivision service areas.

8 (2) For ~~the purposes~~ of this rule, the applicant is the person or entity requesting the
9 conversion seeking the undergrounding of existing overhead electric distribution facilities to
10 underground facilities. In the instance where a local ordinance requires developers to install
11 underground facilities, the developer who actually requests the construction for a specific
12 location is ~~when a developer requests local government development approval, the local~~
13 ~~government shall not be~~ deemed the applicant for purposes of this rule.

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

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

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

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

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

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

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

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

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

13 (a) ~~t~~The estimated cost of construction of the underground distribution facilities based
14 on the requirements of Rule 25-6.0342, Electric Infrastructure Storm Hardening, including the
15 construction cost of the underground service lateral(s) to the meter(s) of the customer(s); and

16 (b) ~~For conversions,~~ the estimated remaining net book value of the existing facilities
17 to be removed less the estimated net salvage value of the facilities to be removed.

18 (9) For the purpose of this rule, the charge for overhead facilities shall be the
19 estimated construction cost to build new overhead facilities, including the service drop(s) to
20 the meter(s) of the customer(s). Estimated construction costs shall be based on the
21 requirements of Rule 25-6.0342, Electric Infrastructure Storm Hardening.

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

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

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

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

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

14 (13~~4~~) Nothing in this rule shall be construed to grant any investor-owned electric
15 utility any right, title or interest in real property owned by a local government.

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

17 Law Implemented ~~366.03~~, 366.04, 366.05 FS.

18 History—New 9-21-92, Amended _____.

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