

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Proposed Amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and Repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C., Concerning Notice, Public Information, and Minimum Filing Requirements for Electric, Gas, Water, and Wastewater Applications for Rate Increase.

Docket No. 20200193-PU

Filed: October 5, 2020

**FLORIDA POWER & LIGHT COMPANY AND GULF POWER  
COMPANY'S POST-WORKSHOP COMMENTS  
RULES 25-6.043 and 25-22.0406, F.A.C.**

Florida Power & Light Company ("FPL") and Gulf Power Company ("Gulf") thank Staff for conducting its workshop on September 21, 2020 to discuss proposed revisions to, among others, Rule 25-6.043, F.A.C. ("Electric MFR Rule")<sup>1</sup>, and Rule 25-22.0406, F.A.C. ("Public Information Rule").<sup>2</sup> FPL and Gulf support Staff's efforts to revise these rules to allow for filing and communication to stakeholders through electronic means, a change that will largely eliminate the requirement to produce and provide paper copies. FPL and Gulf believe that Staff's proposed changes will improve the efficiency of the processes related to petitions for rate increases, simplify and facilitate the ability of stakeholders to access information, reduce administrative burdens, and eliminate the need to print literally hundreds of thousands of paper documents. We appreciate the opportunity to offer these written comments for Staff's consideration.

Pursuant to Staff's comments at the workshop, FPL and Gulf's requested revision to Staff's proposed Electric MFR Rule, which only requests a change in the timing for providing the 10 paper copies to the Commission, is reflected in strike and type format in the discussion below. Aside from this one requested modification and two points of clarification, FPL and Gulf fully support all of Staff's proposed revisions to both the Electric MFR Rule and the Public Information Rule.

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<sup>1</sup> Rule 25-6.043, F.A.C., Investor-Owned Electric Utility Petition for Rate Increase ~~Minimum Filing Requirements~~; Commission Designee.

<sup>2</sup> Rule 25-22.0406, F.A.C., Notice and Public Information on General Rate Increase Requests and Petitions for Limited Proceedings by Electric and Gas Utilities.

## **Rule 25-6.043, F.A.C. - Electric MFR Rule**

The Electric MFR Rule, adopted in 2004 at a time when Commission proceedings relied largely on the filing and provision of paper copies, established the filing requirement when an electric utility petitioned the Commission for a rate increase. Among other requirements, the utility had to file 21 paper copies of its filing. The Rule defines the “filing” to include “the petition and its supporting attachments, testimony, and exhibits.” The supporting attachments include the MFRs, Dismantlement Studies, Depreciation Studies, and in some cases Storm Studies. In the 16 years that have passed since that time, technology and the way we use it in our daily lives, and especially in our work activities, has changed dramatically. The Commission now requires the electronic filing of nearly all other petitions, pleadings, correspondence, and communications through its electronic web portal. Communications with the Commission Clerk and Commission Staff are now conducted almost exclusively through e-mail.

FPL and Gulf strongly support Commission Staff’s proposal to modify the Electric MFR Rule to accommodate electronic filing where paper was required in the past. We believe the changes that Staff is considering make sense not only now, but as a forward looking Rule that will make sense in the future as we move closer to the elimination of all paper and rely entirely on electronic filings and communications. While we would like to see an Electric MFR Rule at some point that eliminates the need for any paper, we understand that at present there remains a continuing desire for Staff to receive some paper copies. We believe that our proposal strikes a fair balance that supports the philosophy of moving away from paper and towards electronic filings, while at the same time accommodating Staff’s need for the 10 paper copies of the utility’s filing.

FPL and Gulf fully support Staff’s recommended changes to Sections (1)(a) through (1)(g) of the Electric MFR Rule. Our proposal for further revision relates only to section (1)(h), which includes the requirement for the utility to deliver 10 paper copies of its filing at the time it makes its electronic filing. Assuming the 10 paper copies will still be required, FPL and Gulf request a slight modification to section (1)(h), which would only change the time within which the 10 paper copies would be delivered to Staff. The proposed revisions, with FPL and Gulf’s requested changes, are as follows:

**1(h) The petition and information required by Subsection (1) of this rule must be e-filed by the utility. ~~Twenty one copies of filing, consisting of the petition and its supporting attachments, testimony, and exhibits, shall be filed with the Office of Commission Clerk, and must be accompanied by ten paper copies clearly labeled "COPY" and an Excel version of Commission Form PSC 1026 (XX/XX). Ten paper copies clearly labeled "COPY" must be provided to the Office of Commission Clerk within one week (seven calendar days) of the electronic filing.~~**

In short, for the reasons addressed below, FPL and Gulf are asking the Staff and the Commission to consider allowing the utilities one week (seven calendar days) after making their electronic filing to provide the 10 paper copies of the complete filing to the Commission Clerk or to Staff. With this change, Commission Staff would still receive the 10 copies of the filing, but the utility will not have to build that extra time into their plan to file the rate case.

Rate cases continue to get more and more complicated, and require the production of more and more data. As an example, FPL and Gulf have estimated the volume of materials that will be required when their next request for rate relief is filed. We estimate that each complete set of documents that make up the filing will consist of approximately 10,000 pages. Each set will include the petition, all testimony and exhibits to testimony, MFRs, the Depreciation and Dismantlement Studies, and potentially other materials that may need to be filed. The production of 21 paper copies would require printing approximately 210,000 pieces of paper. The reduced requirement to provide 10 paper copies means we still need to print about 100,000 pages of paper to comply with the rule. Once printed, copies will need to be assembled into sets, with each set containing all of the appropriate documents in the correct sequence. Quality control reviews follow, after which all of the complete sets are boxed up. The 50 or so boxes of materials are then loaded into a truck and transported to the Commission.

The process described in the preceding paragraph takes significant time and manpower, and adds days to a process that is always on a very tight time schedule. For these reasons, FPL and Gulf respectfully request modification of the proposed rule to allow for the delivery of the 10 paper copies of the filing within one week (seven calendar days) of the electronic filing.

In addition to this requested change, FPL and Gulf have one other question related to this rule, but just a point of clarification. With respect to the requirement to provide an Excel version of the MFRs to accompany the filing, we would like to confirm that the expectation is that the utility will provide this file on a flash drive or CD. This is the approach we recommend. If on the other hand Staff prefers to receive the Excel file as an attachment to an email, it will have to be delivered as attachments to multiple emails because of the size of the files, and we would need to be advised who the recipient of those e-mails would be.

### **Rule 25-22.0406 - Public Information Rule**

As with the Electric MFR Rule, the changes proposed by Staff to the Public Information Rule reflect a recognition that we have moved away from the need to provide tens of thousands of pages of documents in order to communicate with customers and stakeholders. We believe that making materials available through electronic means is actually a much more effective way to disseminate the information required by the rule. FPL and Gulf support Staff's proposed changes, but have one question that is again simply a point of clarification.

Staff's draft eliminates the requirement in section (2)(a) to mail copies of the petition and case synopsis to municipalities and counties. In place of this language, the proposed revision now says "The utility must provide a copy of the petition to the chief executive officer of the governing body of each municipality and county within the service area affected."<sup>3</sup> Our question relates to the way we will make that information available to local government.

FPL and Gulf see two potential ways of satisfying this requirement. One would be to send an email with a pdf of the documents attached. However, we believe the better approach would be to send an email that either directs the reader to the utility's website, or includes a direct link to the petition and, where required, to the synopsis. Firewalls and cyber security programs are increasingly blocking communications, and our concern is that the communications to our customers, with attachments, may be blocked and prevented from getting through. An email with

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<sup>3</sup> The same requirement to "provide a copy" of the rate case synopsis to the chief executive of each county and municipality within the service area affected also appears in section (2)(c)2 of the Public Information Rule. The clarification sought with respect to section (2)(a) applies equally to section (2)(c)2.

no attachments, but with directions to the utility's website and/or a link included, is much more likely to make its way to the recipient. With respect to this rule, FPL and Gulf simply seek clarification on the preferred approach to be used by the utilities to provide the identified information, or access to the identified information, to customers and stakeholders.

### **Statement of Estimated Regulatory Costs ("SERC")**

At the conclusion of the workshop, Staff asked participants to review the pending proposed rule revisions to identify potential economic or financial impacts of the proposed revisions. Section 120.54(3), Fla. Stats., referring to the SERC, requires the Agency's notice of intended action to consider the factors enumerated in Section 120.541, Fla. Stats. (Statement of Estimated Regulatory Costs). In that respect, FPL and Gulf offer the following comments.

FPL and Gulf do not believe the proposed rule revisions addressed in these comments will have any adverse impact, either directly or indirectly, on:

- Economic growth, private sector job creation or employment, or private sector investment, either now or within the next five years;
- Business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation, either now or in the next five years;
- Regulatory costs, including any transactional costs, either now or in the next five years.

In addition to the foregoing, FPL and Gulf do not believe that the number of individuals and entities likely to be required to comply with the Electric MFR Rule and the Public Information Rule will change. In fact, as outlined earlier in these comments, we believe the proposed revisions to the referenced rules will actually facilitate a more efficient process that will likely reduce rather than increase costs.

Finally, FPL and Gulf do not believe there will be any cost to the agency or to other state and local government entities of implementing and enforcing the proposed rules, nor will there be any effect on state or local revenues.

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FPL and Gulf thank you for the opportunity to submit these post-workshop comments on the Electric MFR Rule and the Public Information Rule. We look forward to receipt of the referenced rules in the form that they will be proposed to the Commission, and we remain available to respond to any additional Staff questions.

Respectfully submitted this 5th day of October 2020.

By: /s/Kenneth M. Rubin

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by electronic delivery to the following parties of record this 5th day of October, 2020:

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