

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 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Harper) *SMC*
Division of Accounting and Finance (Cicchetti) *ALM MC*
Division of Economics (Guffey, Coston) *JGH*

RE: Docket No. 20200237-PU – Amendment of Rules 25-6.0141, F.A.C., Allowance for Funds Used During Construction, and 25-30.116, F.A.C., Allowance for Funds Used During Construction, and adoption of Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction.

AGENDA: 12/01/20 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-6.0141, Florida Administrative Code (F.A.C.), Allowance for Funds Used During Construction, and Rule 25-30.116, F.A.C., Allowance for Funds Used During Construction, describe the requirements and methodology for accruing Allowance for Funds Used During Construction (AFUDC) for investor-owned electric utilities and water and wastewater utilities, respectively. Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction, addresses AFUDC for natural gas utilities, but unlike the Commission's other AFUDC rules, it simply states that "[a] utility may not accrue [AFUDC] without prior Commission approval."

AFUDC is the carrying cost of funding an eligible utility investment during construction. Allowing utilities to accrue AFUDC lets utilities recover the costs they incur to finance

investments before the investments are placed in service and earn a return through base rates. Generally Accepted Accounting Principles (GAAP) governs the recognition and recording of AFUDC.¹

The focus of this rulemaking is to adopt a more comprehensive AFUDC rule for natural gas utilities and to update and clarify and create consistency among all of the Commission's AFUDC rules.

Notices of Development of Rulemaking for all three rules were published in the June 10, 2020 edition of the Florida Administrative Register, Volume 46, No. 113. A rule development workshop was held on June 29, 2020. Representatives from Florida Power & Light Company (FPL), Tampa Electric Company (TECO), Duke Energy Florida, LLC (DEF), Gulf Power Company (Gulf), Florida Public Utilities Company (FPUC), Florida City Gas (FCG), Peoples Gas System (PGS), and the Office of Public Counsel (OPC) participated at the workshop and submitted post-workshop comments.

This recommendation addresses whether the Commission should propose the amendment of Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C. The Commission has jurisdiction pursuant to Sections 350.127(2), 366.05(1), and 367.121(1), Florida Statutes (F.S.).

¹ Moreover, the Commission is authorized to allow AFUDC by Sections 350.115, 366.04(2)(a), (f) 366.06(1), (2), 366.08 F.S.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-6.0141, F.A.C., Allowance for Funds Used During Construction, Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction, and Rule 25-30.116, F.A.C., Allowance for Funds Used During Construction?

Recommendation: Yes. The Commission should propose the amendment of Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., as set forth in Attachment A. The Commission should also certify Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., as minor violation rules. (Cicchetti, Harper, Guffey)

Staff Analysis: Staff recommends that the Commission amend Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., as set forth in Attachment A. Although any additions to Rule 25-7.0141, F.A.C, would technically be amendments to the rule, staff's recommended amendments would in effect create a new rule for natural gas utilities as current Rule 25-7.0141, F.A.C., simply states that "[a] utility may not accrue [AFUDC] without prior Commission approval." Staff's recommended language for Rule 25-7.0141, F.A.C., generally mirrors the Commission's current AFUDC rules for investor-owned electric utilities.

Overall, staff is recommending similar updates and clarifications to all three industry rules for consistency. For all three rules, staff is recommending that a definition section be included in each rule. Staff believes the definition of "project" should be amended to be consistent with the concept of the definition of project in the Commission's storm hardening plan rule² and additional rule language should be added to clarify that a utility may bundle projects under certain circumstances. Staff's more substantive recommended amendments to the rules are discussed in more detail below.

Definition of Project

For all three rules, staff is recommending that a definition section be included in each rule to define "AFUDC" as the carrying cost of funding an eligible utility project investment during its construction. Staff also recommends that the definition of "project" in the rules should be amended to be consistent with the concept of the definition of project in Rule 25-6.030, F.A.C., Storm Protection Plan. As such, staff recommends the definition of "project" under the rules specify that it is temporary with a defined beginning and end and with the goal of placing a specific utility investment into service or public use for the provision of utility service. This definition is necessary because utilities may take part in projects that require construction on a single site or that require multiple sites. Staff believes that the recommended rule language encompasses the concept that a "project" under the rules can include multiple locations or designs within Florida.

²Rule 25-6.030, F.A.C., requires each investor-owned electric utility to file a petition with the Commission for approval of a storm protection plan. The rule describes the information that must be included in the storm protection plan. Paragraph (2)(b) of the rule defines a project as a specific activity designed to enhance a specified portion of existing electric transmission or distribution facilities for the purpose of reducing restoration costs and outage times, and improving overall service reliability.

Bundling of Projects

The rules currently do not have a provision that addresses bundling of projects. Staff is recommending the addition of the following language in all of the AFUDC rules:³

A utility may bundle related projects that achieve a specific outcome if it demonstrates that the total cost of the bundled projects excluding AFUDC is less than the total cost of the unbundled projects.

The large investor-owned electric utilities (IOUs) agree with staff's recommended rule language. In support of this rule language, they suggest the AFUDC rule be amended to define a project in a manner that better recognizes how IOUs make investment and procurement decisions. By recognizing that investments can span more than one location and include more than one design, and thus can be bundled if it is demonstrated that doing so results in a lower total cost than the total costs of the unbundled projects, the IOUs suggest the AFUDC rule will encourage a range of cost effective investments for the benefit of customers.

OPC objects to the proposed wording of the bundling provision. In its comments, OPC argues that the concept of bundling could permit a combination of individual projects such that the commencement date of one of the bundled projects and the in-service date of another bundled project are combined to total a period longer than a year, thereby circumventing the duration restriction. OPC also suggests the bundling concept could permit double recovery of the return on investment on certain projects by allowing the accrual of AFUDC on projects that may otherwise be presumed to be included in Construction Work in Progress (CWIP) in rate base and therefore are recovered through base rates.

Staff appreciates all stakeholder arguments on this point. If the purpose of the bundling of projects was simply to qualify for AFUDC, staff agrees with OPC that it could be problematic. However, the staff's recommended rule language requires a demonstration of cost effectiveness. The AFUDC rule should not be drafted in such a way that it creates a regulatory hurdle to IOU planning and construction of cost-effective projects. Therefore, staff recommends the above rule language.

Threshold for Project Eligibility

Rule 25-6.0141(1), F.A.C., the AFUDC rule pertaining to investor-owned electric utilities, sets forth which projects are eligible and ineligible for AFUDC. The rule currently has a 0.5 percent threshold for eligibility. The rule provides that projects that involve gross additions to plant in excess of 0.5 percent of the sum of the total balance in Account 101, Electric Plant in Service, and Account 106, Completed Construction not Classified, at the time the project commences and are expected to be completed in excess of one year after commencement of construction, or were originally expected to be completed in one year or less and are suspended for six months or more, or are not ready for service after one year, are eligible for AFUDC. Also, the rule further provides that a project is ineligible for AFUDC where gross additions to plant are less than 0.5 percent of the sum of the total balance in Account 101, Electric Plant in Service, and Account 106, Completed Construction not Classified, at the time the project commences.

³ See Draft Rules 25-6.0141(2)(a)2., 25-7.0141(2)(a)2., 25-30.116(2)(a)2., F.A.C.

Staff recommends that the threshold in Rule 25-6.0141, F.A.C., be amended from 0.5 percent to 0.40 percent of the sum of Accounts 101 and 106.⁴ Staff believes that the purpose of the rule, which is to allow AFUDC for certain projects, is not being met because the 0.5 percent threshold is too high. Staff acknowledges the IOUs' argument that due to growing rate base since 1996 when the rule was last amended, projects that are significant in size are currently excluded from eligibility to accrue AFUDC. Staff believes that reducing the threshold will result in a reasonable increase to the number of projects eligible to accrue AFUDC.

OPC argues in its post-workshop comments that the AFUDC threshold should not be amended. OPC asserts that lowering the cost threshold for projects eligible for AFUDC, rather than being covered under CWIP, will result in a compounded accumulation of the utility's average weighted cost of capital (WACC) during the construction period, which is then added to the capital amount of the plant-in-service when the project is completed and placed in service. OPC opines that by lowering the cost threshold, projects that are currently assumed to be included in CWIP in rate base as a result of the CWIP balance implied in the last rate case will now receive AFUDC treatment. In other words, if the cost threshold is lowered, more projects will be eligible for AFUDC in between rate cases.

Further, OPC argues broadening the eligibility of projects for AFUDC would be contrary to the original purpose of the rule, which was to provide threshold language designed to limit projects to those that have material costs and that would take more than one year to complete in order to encourage utility investment in large projects without seeking rate relief. OPC also argues that based on the level of CWIP authorized by the Commission in the utilities' last base rate cases, the reduction in the threshold for AFUDC eligible projects could result in double recovery from customers.

While more projects will be eligible for AFUDC in between rate cases under staff's recommended rule amendments, Sections 366.041(1) and 366.06(1), F.S., the Commission's general ratemaking authority, require the Commission to set just, fair, reasonable, and compensatory rates. Staff believes the recommended amendments comport with these statutory objectives. Furthermore, OPC's comments addressed an earlier draft of the rule with a threshold amount of the lower of \$50 million or .25 percent of the sum of the total balance in Accounts 101, 106, 108 and 111. Staff's recommended rule, however, has a threshold amount of 0.40 percent of Accounts 101 and 106, which reduces the dollar amount of projects eligible for AFUDC compared to the draft upon which OPC commented.

Finally, staff acknowledges that the recommended rule as it is currently written could allow for some cases of double recovery (i.e., a project accrues AFUDC even though a certain amount of CWIP was allowed in a company's last rate case). However, staff's recommended rule allows for less projects qualifying for AFUDC than the draft commented on by OPC, and expected upcoming rate cases should prevent potential double recovery.

No stakeholders requested a change in the threshold for eligible projects in Rule 25-30.116, the

⁴ See Subparagraphs (2)(a)1. and (2)(b)2., and subsection (9) of Draft Rule 25-6.0141, F.A.C.

water and wastewater AFUDC rule, and there was no stakeholder opposition to a \$25,000 threshold in Rule 25-7.0141, F.A.C., the natural gas AFUDC rule. Moreover, staff believes that each threshold amount is appropriate for each of the rules. Staff, therefore, recommends that the Commission keep the current threshold for project eligibility in Rule 25-30.116, F.A.C., and establish the threshold as \$25,000 in Rule 25-7.0141, F.A.C.

Minor Violation Rules Certification

Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., are on the Commission's list of minor violation rules. Pursuant to Section 120.695, F.S., as of July 1, 2017, the agency head shall certify whether any part of each rule filed for adoption is designated as a minor violation rule. A minor violation rule is a rule that would not result in economic or physical harm to a person or an adverse effect on the public health, safety, or welfare or create a significant threat of such harm when violated. Staff recommends that the Commission continue to certify Rules 25-6.0141, 25.7.0141, 25-30.116, F.A.C., as minor violation rules.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b)1., F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. A SERC was prepared for this rulemaking and is appended as Attachment B. As required by Section 120.541(2)(a)1., F.S., the SERC analysis includes whether the rule amendments are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after implementation. Staff notes that none of the impact/cost criteria will be exceeded as a result of the recommended revisions.

The SERC concludes that the amendments to Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., will likely not directly or indirectly increase regulatory costs in excess of \$200,000 within 1 year after implementation. Further, the SERC concludes that the amendment of the rules will not likely increase regulatory costs, including any transactional costs, or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the amendment of the rules do not require legislative ratification, pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the amendments to Rules 25-6.0141, 25-7.0141, 25-30.116, F.A.C., would have no impact on small businesses, would have no implementation or enforcement cost on the Commission or any other state and local government entity, and would have no impact on small cities or small counties. The SERC states that no additional transactional costs are likely to be incurred by individuals and entities required to comply with the requirements.

Conclusion

The Commission should propose the amendment of Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., as set forth in Attachment A. The Commission should certify Rules 25-6.0141, 25-7.0141, 25-30.116, F.A.C., as minor violation rules.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the docket should be closed. (Harper)

Staff Analysis: If no requests for hearing or comments are filed, the rules may be filed with the Department of State and the docket closed. When these rules become effective, staff will bring a recommendation in a separate docket for the Commission's consideration on any other existing Commission rules that need to be amended or repealed.

1 **25-6.0141 Allowance for Funds Used During Construction.**

2 (1) Definition of terms of this rule.

3 (a) Allowance for funds used during construction (AFDUC) is the carrying cost of funding
4 an eligible utility project investment during its construction.

5 (b) A project means a temporary endeavor with a defined beginning and end series of tasks
6 that need to be completed in order to reach a specific outcome (e.g., a specific utility
7 investment placed into service or devoted to public use for the provision of electric service),
8 designed to produce an in-service plant investment result.

9 ~~(2)(4)~~ Construction work in progress (CWIP) or nuclear fuel in process (NFIP) not under a
10 lease agreement that is not included in rate base may accrue ~~allowance for funds used during~~
11 ~~construction (AFUDC)~~, under the following conditions:

12 (a) Eligible projects. The following projects may be included in CWIP or NFIP and accrue
13 AFUDC:

14 1. Projects that involve gross additions to plant in excess of 0.40 ~~0.5~~ percent of the sum of
15 the total balance in Account 101, Electric Plant in Service, and Account 106, Completed
16 Construction not Classified, at the time the project commences and

17 a. Are expected to be completed in excess of one year after commencement of
18 construction, or

19 b. Were originally expected to be completed in one year or less and are suspended for six
20 months or more, or are not ready for service after one year.

21 2. A utility may bundle related projects that achieve a specific outcome if it demonstrates
22 that the total cost of the bundled projects excluding AFUDC is less than the total cost of the
23 unbundled projects.

24 (b) Ineligible projects. The following projects may be included in CWIP or NFIP, but may
25 not accrue AFUDC:

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

1 1. Projects, or portions thereof, that do not exceed the level of CWIP or NFIP included in
2 rate base in the utility's last rate case.

3 2. Projects where gross additions to plant are less than 0.40 ~~0.5~~ percent of the sum of the
4 total balance in Account 101, Electric Plant in Service, and Account 106, Completed
5 Construction not Classified, at the time the project commences.

6 3. Projects expected to be completed in less than one year after commencement of
7 construction.

8 4. Property that has been classified as Property Held for Future Use.

9 (c) Unless otherwise authorized by the Commission, the following projects may not be
10 included in CWIP or NFIP, nor accrue AFUDC:

11 1. Projects that are reimbursable by another party.

12 2. Projects that have been cancelled.

13 3. Purchases of assets which are ready for service when acquired.

14 4. Portions of projects providing service during the construction period.

15 (d) Other conditions. Accrual of AFUDC is subject to the following conditions:

16 1. Accrual of AFUDC is not to be reversed when a project originally expected to be
17 completed in excess of one year is completed in one year or less;

18 2. AFUDC may not be accrued retroactively if a project expected to be completed in one
19 year or less is subsequently suspended for six months, or is not ready for service after one
20 year;

21 3. When a project is completed and ready for service, it must ~~shall~~ be immediately
22 transferred to the appropriate plant account(s) or Account 106, Completed Construction Not
23 Classified, and may no longer accrue AFUDC;

24 4. Where a work order covers the construction of more than one property unit, the AFUDC
25 accrual must cease on the costs related to each unit when that unit reaches an in-service status;
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existing law.

1 5. When the construction activities for an ongoing project are expected to be suspended for
2 a period exceeding six months, the utility must notify the Commission of the suspension and
3 the reason(s) for the suspension, and must submit a proposed accounting treatment for the
4 suspended project; and

5 6. When the construction activities for a suspended project are resumed, the previously
6 accumulated costs of the project may not accrue AFUDC if such costs have been included in
7 rate base for ratemaking purposes. However, the accrual of AFUDC may be resumed when the
8 previously accumulated costs are no longer included in rate base for ratemaking purposes.

9 (e) Subaccounts. Account 107, Construction Work in Progress, and Account 120.1,
10 Nuclear Fuel in Process of Refinement, Conversion, Enrichment and Fabrication, must be
11 subdivided so as to segregate the cost of construction projects that are eligible for AFUDC
12 from the cost of construction projects that are ineligible for AFUDC.

13 (f) Prior to the commencement of construction on a project, a utility may file a petition to
14 seek approval to include an individual project in rate base that would otherwise qualify for
15 AFUDC treatment per paragraph ~~(2)~~(4)(a).

16 (g) On a prospective basis, the Commission, upon its own motion, may determine that the
17 potential impact on rates may require the exclusion of an amount of CWIP from a utility's rate
18 base that does not qualify for AFUDC treatment per paragraph ~~(2)~~(4)(a) and to allow the
19 utility to accrue AFUDC on that excluded amount.

20 ~~(3)~~(2) The applicable AFUDC rate will be determined as follows:

21 (a) The most recent 13-month average embedded cost of capital, except as noted below,
22 must be derived using all sources of capital and adjusted using adjustments consistent with
23 those used by the Commission in the utility's last rate case.

24 (b) The cost rates for the components in the capital structure will be the midpoint of the
25 last allowed return on common equity, the most recent 13-month average cost of short term
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existing law.

1 debt and customer deposits, and a zero cost rate for deferred taxes and all investment tax
2 credits. The cost of long term debt and preferred stock will be based on end of period cost.
3 The annual percentage rate must be calculated to two decimal places.

4 ~~(4)(3)~~ Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to
5 six decimal places, must be employed to ensure ~~insure~~ that the annual AFUDC charged does
6 not exceed authorized levels.

7 (a) The formula used to discount the annual AFUDC rate to reflect monthly compounding
8 is as follows:

9
$$M = \left[\left((1 + A/100)^{1/12} - 1 \right) \right] \times 100$$
 Where:

10 M = discounted monthly AFUDC rate

11 A = annual AFUDC rate

12 (b) The monthly AFUDC rate, carried out to six decimal places, must be applied to the
13 average monthly balance of eligible CWIP and NFIP that is not included in rate base.

14 ~~(5)(4)~~ The following schedules must be filed with each petition for a change in AFUDC
15 rate:

16 (a) Schedule A. A schedule showing the capital structure, cost rates and weighted average
17 cost of capital that are the basis for the AFUDC rate in subsection ~~(3)(2)~~.

18 (b) Schedule B. A schedule showing capital structure adjustments including the unadjusted
19 capital structure, reconciling adjustments and adjusted capital structure that are the basis for
20 the AFUDC rate in subsection ~~(3)(2)~~.

21 (c) Schedule C. A schedule showing the calculation of the monthly AFUDC rate using the
22 methodology set out in this rule.

23 ~~(6)(5)~~ No utility may charge or change its AFUDC rate without prior Commission
24 approval. The new AFUDC rate will be effective the month following the end of the 12-month
25 period used to establish that rate and may not be retroactively applied to a previous fiscal year
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1 unless authorized by the Commission.

2 ~~(7)(6)~~ Each utility charging AFUDC must include in its December Earnings Surveillance
3 Reports to the Commission Schedules A and B identified in subsection (4) of this rule, as well
4 as disclosure of the AFUDC rate it is currently charging.

5 ~~(8)(7)~~ The Commission may, on its own motion, initiate a proceeding to revise a utility's
6 AFUDC rate.

7 ~~(9)(8)~~ Each utility must include in its Forecasted Surveillance Report a schedule of
8 individual projects that commence during that forecasted period and are estimated to have a
9 gross cost in excess of 0.40 ~~0.5~~ percent of the sum of the total balance in Account 101,
10 Electric Plant in Service, and Account 106, Completed Construction not Classified. The
11 schedule must include the following minimum information:

12 (a) Description of the project.

13 (b) Estimated total cost of the project.

14 (c) Estimated construction commencement date.

15 (d) Estimated in-service date.

16 *Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 350.115, 366.04(2)(a), (f)*
17 *366.06(1), (2), 366.08 FS. History—New 8-11-86, Formerly 25-6.141, Amended 11-13-86, 12-*
18 *7-87, 1-7-97, 12-30-19,_____.*

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1 **25-7.0141 Allowance for Funds Used During Construction.**

2 (1) Definition of terms for this rule.

3 (a) Allowance for funds used during construction (AFUDC) is the carrying cost of funding
4 an eligible utility project investment during its construction.

5 (b) A project means a temporary endeavor with a defined beginning and end series of tasks
6 that need to be completed in order to reach a specific outcome (e.g., a specific utility
7 investment placed into service or devoted to public use for the provision of natural gas
8 service), designed to produce an in-service plant investment result.

9 ~~A utility shall not accrue allowance for funds used during construction without prior~~
10 ~~Commission approval.~~

11 (2) Construction work in progress (CWIP) that is not included in rate base may accrue
12 AFUDC under the following conditions:

13 (a) Eligible projects. The following projects may be included in CWIP and accrue
14 AFUDC:

15 1. Projects that involve gross additions to plant in excess of \$25,000 and

16 a. Are expected to be completed in excess of one year after commencement of
17 construction, or

18 b. Were originally expected to be completed in one year or less and are suspended for six
19 months or more, or are not ready for service after one year.

20 2. A utility may bundle related projects that achieve a specific outcome if it demonstrates
21 that the total cost of the bundled projects excluding AFUDC is less than the total cost of the
22 unbundled projects.

23 (b) Ineligible projects. The following projects may be included in CWIP, but may not
24 accrue AFUDC:

25 1. Projects, or portions thereof, that do not exceed the level of CWIP included in rate base

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1 in the company's last rate case.

2 2. Projects where gross additions to plant are less than \$25,000.

3 3. Projects expected to be completed in less than one year after commencement of
4 construction.

5 4. Property that has been classified as Property Held for Future Use.

6 (c) Unless otherwise authorized by the Commission, the following projects may not be
7 included in CWIP nor accrue AFUDC:

8 1. Projects that are reimbursable by another party.

9 2. Projects that have been cancelled.

10 3. Purchases of assets which are ready for service when acquired.

11 4. Portions of projects providing service during the construction period.

12 (d) Other conditions. Accrual of AFUDC is subject to the following conditions:

13 1. Accrual of AFUDC is not to be reversed when a project originally expected to be
14 completed in excess of one year is completed in one year or less;

15 2. AFUDC may not be accrued retroactively if a project expected to be completed in one
16 year or less is subsequently suspended for six months, or is not ready for service after one
17 year;

18 3. When a project is completed and ready for service, it must be immediately transferred to
19 the appropriate plant account(s) or Account 106, Completed Construction Not Classified, and
20 may no longer accrue AFUDC;

21 4. Where a work order covers the construction of more than one property unit, the AFUDC
22 accrual must cease on the costs related to each unit when that unit reaches an in service status;

23 5. When the construction activities for an ongoing project are expected to be suspended for
24 a period exceeding six (6) months, the utility must notify the Commission of the suspension
25 and the reason(s) for the suspension, and must submit a proposed accounting treatment for the

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1 suspended project; and

2 6. When the construction activities for a suspended project are resumed, the previously
3 accumulated costs of the project may not accrue AFUDC if such costs have been included in
4 rate base for ratemaking purposes. However, the accrual of AFUDC may be resumed when
5 the previously accumulated costs are no longer included in rate base for ratemaking purposes.

6 (e) Subaccounts. Account 107, Construction Work in Progress, must be subdivided so as
7 to segregate the cost of construction projects that are eligible for AFUDC from the cost of
8 construction projects that are ineligible for AFUDC.

9 (f) Prior to the commencement of construction on a project, a utility may file a petition to
10 seek approval to include an individual project in rate base that would otherwise qualify for
11 AFUDC treatment per paragraph (2)(a).

12 (g) On a prospective basis, the Commission, upon its own motion, may determine that the
13 potential impact on rates may require the exclusion of an amount of CWIP from a utility's rate
14 base that does not qualify for AFUDC treatment per paragraph (2)(a) and to allow the utility to
15 accrue AFUDC on that excluded amount.

16 (3) The applicable AFUDC rate will be determined as follows:

17 (a) The most recent 13-month average embedded cost of capital, except as noted below,
18 must be derived using all sources of capital and adjusted using adjustments consistent with
19 those used by the Commission in the Company's last rate case.

20 (b) The cost rates for the components in the capital structure will be the midpoint of the
21 last allowed return on common equity, the most recent 13-month average cost of short-term
22 debt and customer deposits and a zero cost rate for deferred taxes and all investment tax
23 credits. The cost of long-term debt and preferred stock will be based on end of period cost.
24 The annual percentage rate will be calculated to two decimal places.

25 (4) Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to
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existing law.

1 six decimal places, must be employed to ensure that the annual AFUDC charged does not
2 exceed authorized levels.

3 (a) The formula used to discount the annual AFUDC rate to reflect monthly compounding
4 is as follows:

5 **$M = [(1 + A/100)^{1/12} - 1] \times 100$**

6 Where:

7 M = discounted monthly AFUDC rate

8 A = Annual AFUDC rate

9 (b) The monthly AFUDC rate, carried out to six decimal places, must be applied to the
10 average monthly balance of eligible CWIP that is not included in rate base.

11 (5) The following schedules must be filed with each petition for a change in AFUDC rate:

12 (a) Schedule A. A schedule showing the capital structure, cost rates and weighted average
13 cost of capital that are the basis for the AFUDC rate in subsection (3).

14 (b) Schedule B. A schedule showing capital structure adjustments including the
15 unadjusted capital structure, reconciling adjustments and adjusted capital structure that are the
16 basis for the AFUDC rate in subsection (3).

17 (c) Schedule C. A schedule showing the calculation of the monthly AFUDC rate using the
18 methodology set out in this rule.

19 (6) No utility may charge or change its AFUDC rate without prior Commission approval.
20 The new AFUDC rate will be effective the month following the end of the 12-month period
21 used to establish that rate and may not be retroactively applied to a previous fiscal year unless
22 authorized by the Commission.

23 (7) Each utility charging AFUDC must include in its December Rate of Return
24 surveillance report to the Commission Schedules A and B identified in subsection (5) of this
25 rule, as well as disclosure of the AFUDC rate it is currently charging.

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1 (8) The Commission may, on its own motion, initiate a proceeding to revise a utility's
2 AFUDC rate.
3 *Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 350.115, 366.05(1),*
4 *366.06(1) FS. History—New 8-11-86, Formerly 25-7.141, Amended 11-13-86, 12-7-87, 11-23-*
5 *95,_____.*

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1 **25-30.116 Allowance for Funds Used During Construction.**

2 (1) Definition of terms for this rule.

3 (a) Allowance for funds used during construction (AFUDC) is the carrying cost of funding
4 an eligible utility project investment during its construction.

5 (b) A project means a temporary endeavor with a defined beginning and end series of
6 tasks that need to be completed in order to reach a specific outcome (e.g., a specific utility
7 investment placed into service or devoted to public use for the provision of utility service),
8 designed to produce an in-service plant investment result.

9 ~~(2)(4)~~ Construction work in progress (CWIP) that is not included in rate base may accrue
10 ~~allowance for funds used during construction (AFUDC)~~, under the following conditions:

11 (a) Eligible projects. The following projects may be included in CWIP and accrue
12 AFUDC:

13 1. Projects that involve gross additions to plant in excess of \$5,000 and
14 ~~a.2.~~ Are expected to be completed in excess of sixty days after commencement of
15 construction, or

16 ~~b.3.~~ Were originally expected to be completed in sixty days or less but are not ready for
17 service after sixty days.

18 2. A utility may bundle related projects that achieve a specific outcome if it demonstrates
19 that the total cost of the bundled projects excluding AFUDC is less than the total cost of the
20 unbundled projects.

21 (b) Ineligible projects. The following projects may be included in CWIP, but may not
22 accrue AFUDC:

23 1. Projects, or portions thereof, that do not exceed the level of CWIP included in rate base
24 in the company's last rate case.

25 2. Projects where gross additions to plant are less than \$5,000.

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1 3. Projects expected to be completed in less than sixty days after commencement of
2 construction.

3 4. Property that has been classified as Property Held for Future Use.

4 (c) Unless otherwise authorized by the Commission, the following projects may not be
5 included in CWIP nor accrue AFUDC:

6 1. Projects that are reimbursable by another party.

7 2. Projects that have been cancelled.

8 3. Purchases of assets which are ready for service when acquired.

9 4. Portions of projects providing service during the construction period.

10 (d) Other conditions. Accrual of AFUDC is subject to the following conditions:

11 1. Accrual of AFUDC is not to be reversed when a project originally expected to be
12 completed in excess of sixty days is completed in sixty days or less;

13 2. AFUDC may not be accrued retroactively if a project expected to be completed in sixty
14 days or less is subsequently suspended for six months, or is not ready for service after sixty
15 days;

16 3. When a project is completed and ready for service, it must ~~shall~~ be immediately
17 transferred to the appropriate plant account(s) or Account 106, Completed Construction Not
18 Classified, and may no longer accrue AFUDC;

19 4. Where a work order covers the construction of more than one property unit, the AFUDC
20 accrual must ~~shall~~ cease on the costs related to each unit when that unit reaches an in-service
21 status;

22 5. When the construction activities for an ongoing project are expected to be suspended for
23 a period exceeding six (6) months, the utility must ~~shall~~ notify the Commission of the
24 suspension and the reason(s) for the suspension, and must ~~shall~~ submit a proposed accounting
25 treatment for the suspended project; and

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1 6. When the construction activities for a suspended project are resumed, the previously
2 accumulated costs of the project may not accrue AFUDC if such costs have been included in
3 rate base for ratemaking purposes. However, the accrual of AFUDC may be resumed when the
4 previously accumulated costs are no longer included in rate base for ratemaking purposes.

5 (e) Subaccounts. Account 105, Construction Work in Progress, must ~~shall~~ be subdivided
6 so as to segregate the cost of construction projects that are eligible for AFUDC from the cost
7 of construction projects that are ineligible for AFUDC.

8 (f) Prior to the commencement of construction on a project, a utility may file a petition to
9 seek approval to include an individual project in rate base that would otherwise qualify for
10 AFUDC treatment per paragraph (2)(a).

11 (g) On a prospective basis, the Commission, upon its own motion, may determine that the
12 potential impact on rates may require the exclusion of an amount of CWIP from a utility's rate
13 base that does not qualify for AFUDC treatment per paragraph (2)(a) and to allow the utility to
14 accrue AFUDC on that excluded amount.

15 ~~(3)(2)~~ The applicable AFUDC rate will ~~shall~~ be determined as follows:

16 a) The most recent 12-month average embedded cost of capital, except as noted below,
17 must ~~shall~~ be derived using all sources of capital and adjusted using adjustments consistent
18 with those used by the Commission in the Company's last rate case.

19 (b) The cost rates for the components in the capital structure will ~~shall~~ be the midpoint of
20 the last allowed return on common equity, the most recent 12-month average cost of short
21 term debt and customer deposits and a zero cost rate for deferred taxes and all investment tax
22 credits. The cost of long term debt and preferred stock will ~~shall~~ be based on end of period
23 cost. The annual percentage rate must ~~shall~~ be calculated to two decimal places.

24 (c) A company that has not had its equity return set in a rate case must ~~shall~~ calculate its
25 return on common equity by applying the most recent water and wastewater equity leverage
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1 formula.

2 ~~(d) The treatment by the Commission of all investment tax credits at a zero cost rate shall~~
3 ~~be contingent upon a ruling from the Internal Revenue Service that such treatment will not, for~~
4 ~~companies elected to be treated under Section 46(f)(2) of the Internal Revenue Code, result in~~
5 ~~the forfeiture of the tax credits. Pending receipt of such a ruling, each utility shall continue to~~
6 ~~use the weighted overall cost of capital calculated in a manner consistent with the final IRS~~
7 ~~Regulation Section 1.46-6 published May 22, 1986, as the cost of the utility's 4% and 10%~~
8 ~~investment tax credits.~~

9 ~~(e) Any such ruling request must be submitted to the Commission by December 15, 1987.~~
10 ~~The AFUDC cost rate for the investment tax credit for any company which fails to submit its~~
11 ~~own letter ruling request to the IRS shall be governed by the first letter ruling issued by the~~
12 ~~IRS in response to a request submitted pursuant to paragraph (2)(d) of this rule.~~

13 ~~(4)(3) Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to~~
14 ~~six decimal places, must ~~shall~~ be employed to ensure ~~insure~~ that the annual AFUDC charged~~
15 ~~does not exceed authorized levels.~~

16 (a) The formula used to discount the annual AFUDC rate to reflect monthly compounding
17 is as follows:

18
$$M = \underline{\underline{\left[\left(1 + \frac{A}{100} \right)^{1/12} - 1 \right] \times 100}} \left[\left(1 + \frac{A}{100} \right)^{1/12} - 1 \right] \times 100$$

19 Where:

20 M = discounted monthly AFUDC rate

21 A = annual AFUDC rate

22 (b) The monthly AFUDC rate, carried out to six decimal places, must ~~shall~~ be applied to
23 the average monthly balance of eligible CWIP that is not included in rate base.

24 ~~(5)(4) The following schedules must ~~shall~~ be filed with each petition for a change in~~
25 ~~AFUDC rate:~~

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1 (a) Schedule A. A schedule showing the capital structure, cost rates and weighted average
2 cost of capital that are the basis for the AFUDC rate in subsection ~~(3)~~(2).

3 (b) Schedule B. A schedule showing capital structure adjustments including the unadjusted
4 capital structure, reconciling adjustments and adjusted capital structure that are the basis for
5 the AFUDC rate in subsection ~~(3)~~(2).

6 (c) Schedule C. A schedule showing the calculation of the monthly AFUDC rate using the
7 methodology set out in this rule.

8 ~~(6)~~(5) No utility may charge or change its AFUDC rate without prior Commission
9 approval. The new AFUDC rate will ~~shall~~ be effective the month following the end of the 12-
10 month period used to establish that rate and may not be retroactively applied to a previous
11 fiscal year unless authorized by the Commission.

12 ~~(7)~~(6) Each utility charging AFUDC must ~~shall~~ include with its Annual Report to the
13 Commission Schedules A and B identified in subsection ~~(5)~~(4) of this rule, as well as
14 disclosure of the AFUDC rate it is currently charging.

15 ~~(8)~~(7) The Commission may, on its own motion, initiate a proceeding to revise a utility's
16 AFUDC rate.

17 ~~(8) Paragraphs (a) and (b) of subsection (1) shall not be effective for any utility until it~~
18 ~~implements final rates in a general rate case initiated after the effective date of this rule. The~~
19 ~~foregoing notwithstanding, those provisions will become effective for all utilities no later than~~
20 ~~January 1, 1989.~~

21 *Rulemaking Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 350.115, 367.081(2),*
22 *367.121(1)(b) FS. History—New 8-11-86, Formerly 25-30.121, Amended 11-13-86, 12-7-*
23 *87,_____.*

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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 20, 2020

TO: Adria E. Harper, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst III, Division of Economics
William F. Coston, Economic Supervisor, Division of Economics

RE: Docket No. 20200237-PU – Statement of Estimated Regulatory Costs for Proposed Amendment of Rules 25-6.0141, F.A.C., Allowance for Funds Used During Construction, and 25-30.116, F.A.C., Allowance for Funds Used During Construction, and adoption of Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.), for the proposed rule modifications in Docket No. 20200327-PU. Commission SERC staff issued a data request on November 5, 2020 to all Commission-regulated electric and natural gas utilities, and to representatives of the larger regulated water and wastewater utilities. The Commission received responses from electric and natural gas utilities on November 12 and 13, 2020.

The water and wastewater utilities did not respond to the SERC data request nor did they participate in the rule development workshop held on June 29, 2020. However, representatives for US Water Services Corporation and UIF stated via email that if the proposed revisions to Rule 25-30.116, F.A.C., had any economic impact, the costs would be minimal.

Proposed Bundling of AFUDC in each Rule

Electric and natural gas utilities stated that bundling of projects should create a positive economic outcome for ratepayers. The utilities' assertion is based on the proposed rules requiring the utilities to ensure that the total cost of bundling projects under AFUDC is less than the total cost without combining projects. SERC staff agrees the proposed rule language regarding bundling of projects ensures no rate impact on customers, and should not have an incremental regulatory cost impact to the utilities.

Modifications to Rule 25-6.0141, F.A.C.

As noted by Duke Energy Florida, LLC (DEF) in its data request response, the proposed modification to reduce the qualifying threshold for AFUDC eligibility could allow more capital projects to qualify for AFUDC. If a lower threshold is approved, DEF notes there is a potential for the asset balance to increase, which could result in an increased rate base when a utility seeks recovery in a future rate proceeding. SERC staff recognizes that in addition to DEF, any utility that

Page 2

increases its use of AFUDC under the new threshold could potentially seek similar recovery in a future rate case. The utilities are not able to project any economic impact to their rates at this time.

Overall, the electric utilities do not anticipate any additional incremental regulatory costs to comply with the rule as a result of the proposed modifications to this rule.

Proposed Rule 25-7.0141, F.A.C.

As noted above, this proposed rule creates an AFUDC threshold for natural gas utilities of \$25,000. Peoples Gas System stated that if the rule was in place during 2020, the utility would have an incremental increase in AFUDC of approximately \$20 million. Several natural gas utilities stated, that generally, most projects would not qualify for AFUDC since most projects are completed in less than one year.

Overall, the natural gas utilities stated that the proposed rule revisions would not create incremental regulatory costs that exceed \$200,000 per year or \$1 million in the aggregate within five years of implementing the rules.

SERC Staff Assessment

SERC staff recognizes that lowering the qualifying threshold, as proposed under the electric rule and establishing a threshold in the proposed natural gas rule, could result in a increase in the utilities' rate base, over time. However, SERC staff notes that the threshold component of these rules, and any potential rate impact, represent the Commission's rate making authority under Chapter 366, F.S., and not an incremental increase in regulatory cost as contemplated in Section 120.541, F.S.

Based on the utilities' responses to data requests and discussions with technical staff that oversee the AFUDC rule, SERC staff believes that the proposed rule modifications will not likely increase regulatory costs, as contemplated by Section 120.541, F.S., including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The proposed rule and rule amendments would not potentially have adverse impacts on small businesses, would have no implementation cost to the Commission or other state and local government entities, and would have no negative impact on small cities or counties.

No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the proposed rule revisions.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS

Docket No. 20200237-PU – Statement of Estimated Regulatory Costs for Proposed Amendment of Rules 25-6.0141, F.A.C., Allowance for Funds Used During Construction, and 25-30.116, F.A.C., Allowance for Funds Used During Construction, and adoption of Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction.

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is “yes”, see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is “yes”, a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth Yes No

Private-sector job creation or employment Yes No

Private-sector investment Yes No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets) Yes No

Productivity Yes No

Innovation Yes No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes No

The utilities stated that no additional incremental regulatory cost will occur to comply with the modifications.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

The modified rule will be applicable to four electric IOUs, eight natural gas IOUs, 78 water utilities and 59 wastewater utilities.

(2) A general description of the types of individuals likely to be affected by the rule.

Types of individuals likely to be affected by these rules would be customers of the above listed utilities.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

- None. To be done with the current workload and existing staff.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None.

- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation. Small counties or cities that become court-appointed receivers and owners of abandoned water and/or wastewater

utilities may benefit from a possible reduction in the number of utilities that are abandoned due to financial issues.

Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.