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Undocketed–In Re: Rule 25-7.150, Florida Administrative Code (F.A.C.), Natural Gas
Facilities Relocation Cost Recovery Clause

OPC Post-Workshop Comments

Dear Ms. Sapoznikoff:

On November 19, 2024, the Florida Public Service Commission (Commission) issued its Notice of Development of Rulemaking for the Undocketed, In Re: Rule 25-7.150, Florida Administrative Code (F.A.C.), Natural Gas Facilities Relocation Cost Recovery Clause, to implement Section 366.99, Florida Statutes (Fla. Stat.). Section 366.99, Fla. Stat., requires that the Commission adopt rules to implement and administer a clause to recover the costs of relocating natural gas facilities due to a mandate, statute, law, ordinance, or agreement between the utility and an authority. The authority is defined as the Department (of Transportation) or governmental entities that have jurisdiction and control of public roads. *See* Section 337.401, Fla. Stat.

On December 16, 2024, Commission Staff held its workshop and proposed receiving post workshop comments on Friday, January 3, 2025. To the extent the Office of Public Counsel (OPC) has comments, concerns, or a position on the language of the proposed rule at this time, we are filing these comments consistent with Commission Staff's request.

Proposed Rule 25-7.150, Florida Administrative Code

OPC asserts that the purpose of the Section 366.99, Fla. Stat., is to mitigate the impact of unexpected costs imposed by governmental authorities due to road relocations impacting the company's facilities which are beyond the control of the utility. OPC has some general concerns regarding implementation of the statute. OPC is concerned that utilities might attempt to expand the scope of projects included in this clause beyond the intent of the statute. Therefore, it should be made readily apparent from the plain language of the rule that the projects are limited to relocation or reconstruction of existing facilities, not new construction or expansion of facilities to meet growth, new planned developments or new projects even if proposed by planning department

of a local governmental entity. For example, new or road widening construction to a new planned community that does not move existing facilities. If existing facilities must be relocated or reconstructed and/or expanded due to a new construction project for an existing planned development, those costs should be coordinated such that customers do not have to pay twice.

While the statute allows the utility to proceed with implementing a plan without the implementation being *per se* imprudent, it does not state that implementation ensures cost recovery under this clause. The rule should state that should a project be determined to be ineligible for recovery under the clause, if previously included, those cost must be removed.

OPC also has some specific concerns with the rule language as proposed. The concerns are related to the petition approval process rather than the three-year recovery process proposed, as most of the projects and their associated costs each year should be identifiable with sufficient time for annual filings.

Section (1) OPC is concerned about the potential for double cost recovery of relocation costs associated these natural gas facilities. Currently, relocation costs associated with governmental activities is recovered in base rates based on an amount requested by the utilities in their most recent rate case. Once this clause is implemented, there is a significant potential for double recovery of at least some of these costs. The companies should be required to affirm in its petition that it does not contain any double recovery with an explanation in its testimony. Neither Commission Staff nor OPC should be required to conduct discovery to ensure that double recovery is not taking place. The current draft of the rule requires that “[t]he petition seeking such cost recovery must be supported by testimony that provides details of the facilities relocation activities and associated costs.” OPC recommends that Section (1) include language at the end of this last sentence “including an explanation whether any of these costs are being recovered in base rates and how they have been excluded from clause recovery.”

Section (2) The proposed draft language allows for the company to seek approval of relocation costs in the clause or in a separate proceeding. OPC asserts that new relocation or reconstruction projects should be requested in a separate petition with the required information outside the clause proceeding prior to the inclusion of the costs. Parties should have sufficient time to ensure that the proposed costs are eligible for clause recovery.

The proposed Section (2)(a) rule language requires inclusion of the mandate, statute, law, ordinance, or agreement between the utility and authority, but does not define authority as used in the statute. OPC suggests that that “authority” be identified as the Department of Transportation and local governmental entities. Further, the language of the rule should clarify that the only the Department of Transportation or local governmental entity projects, defined in the statute as the authorities, are recoverable through this clause.

The proposed Section (2)(b) rule language also requires a description of the scope of the facilities relocation to be undertaken per the requirements imposed by the authority. However, Section (3) of the proposed rule uses the word project in conjunction with facilities relocation. Thus, for clarity and consistency, OPC proposes the following change to Section (2)(b) - “a

description of the project and scope of the facilities relocation or reconstruction to be undertaken per the requirements imposed by the authority.”

Proposed General Considerations.

OPC would support additional consideration for each submission by utilities of their efforts and accomplishments in achieving a positive alternative outcome to the relocation of a gas line by capturing the occasions when their prior planning, coordination, and collaboration with other stakeholders resulted in cost-savings or positive results during the time period in question. Due to the emerging/short notice nature of the requirements to move gas lines to make way for construction projects, many of these projects need to be accomplished in an expeditious manner, and that can lead to increased costs. However, in situations where utility employees leverage their talents to achieve creative solutions that capture efficiencies and cost-savings, everyone wins. Capturing these wins presents the Commission with a more complete picture of the entire process for their analysis, while promoting creative solutions and encouraging cost savings.

OPC respectfully raises these concerns, proposed language, and suggestions for the Commission’s consideration.

Respectfully Submitted,

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