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STATE OF FLORIDA



KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

March 6, 2025

Mark Buckles, Director
Rules Ombudsman
The Executive Office of the Governor

VIA EMAIL
Reg.Reform@eog.myflorida.com

Re: PSC Docket No. 20250020-GU: Adoption of New Rule 25-7.150, F.A.C., Natural Gas Facilities Relocation Cost Recovery Clause.

Dear Mr. Buckles:

The Florida Public Service Commission proposed the above-listed rule at their regular agenda conference on March 4, 2025. The Commission has determined that this rule will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b)2.b.(I), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice of the proposed rule, which was published in the March 6, 2025, edition of the FAR (Vol. 51, No. 45). Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendments will not have an adverse effect on small business. Pursuant to your instructions, we have completed and included a copy of the OFARR rulemaking notification form.

If there are any questions with respect to this rule, please contact me at (850) 413-6630 or Susan.Sapoznikoff@psc.state.fl.us.

Sincerely,

/s/ Susan Sapoznikoff

Susan Sapoznikoff
Senior Attorney

Enclosures

cc: Office of the Commission Clerk

RECEIVED-FPSC
2025 MAR -6 AM 11: 19
COMMISSION
CLERK

Office of Fiscal Accountability and Regulatory Reform (OFARR)

Rulemaking Notification Form

(Executive Order 11-211 and Directive dated November 11, 2019, require agencies submit all rulemaking notices to OFARR at least seven days prior to submission to the Florida Administrative Register or FAR for publication)

To: **OFARR Director**

Submitted By: **Name, Title:**

Susan Sapoznikoff

Agency, Board:

Florida Public Service Commission

Phone Number:

850-413-6630

Rulemaking Notification for:

Rule Number(s):

25-7.150, F.A.C.

Rule Summary:

(What do(es) the rule(s) currently do?)
(If all the rules are new, leave this blank)

Summary of proposed changes:

Rule 25-7.150, F.A.C., is a new rule to implement Section 366.99, F.S., which was enacted by the Florida legislature in 2024. The proposed rule is to comply with the statutory mandate in subsection 366.99(6), F.S., which requires the Commission to adopt rules to implement and administer section 366.99, F.S. That statute requires the Commission to establish a cost recovery clause through which public gas utilities may recover costs associated with mandated facilities relocation. The rule sets forth the filing requirements and procedures for a petition to seek cost recovery in an annual clause proceeding. The proposed rule establishes what a utility must include in its petition and establishes a procedure that is in accord with other of the Commission's cost recovery clauses. The rule also gives these utilities the option to include unrecovered costs in a subsequent rate base proceeding.

- The FAR notice will include more than one rule.
- The FAR notice will include new rules.
- The FAR notice will include amendments to existing rules.

Date: Date request sent to OFARR:

Date of anticipated publication:

Does this rule qualify for Rules Ombudsman review in accordance with section 120.54(3)(b), F.S.? Yes No

Please complete this Rulemaking Notification Form (RNF) when submitting rulemaking to OFARR pursuant to Executive Order 11-211 and Directive dated November 11, 2019. If any information or documentation is incomplete or missing the rule packet will be returned without review. OFARR will indicate what information is needed. The revised rule packet in its entirety must be resubmitted.

Rulemaking Notification Form

1. Proposed Rulemaking Activity:

- Notice of Rule Development – Attach the proposed Notice. If no rule text is available, provide clear and succinct explanatory detail as to why this rulemaking is necessary.
- Notice of Proposed Rule – Attach the proposed Notice, SERC Checklist, and SERC (if required), all forms and materials incorporated by reference required by the rule in an appropriate format.
- Notice of Emergency Rule – Attach the proposed Notice. Explain fully why emergency rulemaking is appropriate.
- Notice of Change – Attach the proposed Notice. Explain fully why a change is required per Florida Statutes, section 120.54(3)(d)1. and include all correspondence from the Joint Administrative Procedures Committee (JAPC) or the public. If no document(s) exist, provide a summary of any comments the agency has received from public hearings or workshops held.
- Notice of Withdrawal – Attach the proposed Notice. Explain fully why it is necessary to withdraw the rulemaking. Include any JAPC correspondence.
- Other – Attach the proposed Notice. Include detailed information about the rulemaking.

2. Is this rulemaking included in the agency's Annual Regulatory Plan?

Yes No

3a. Do any of the amendments or new rules:

Increase Fees? Yes No N/A

If yes, list each rule and the amount of the fee increase(s).

Increase Regulation? Yes No N/A

(i.e., Additional Licensure, Continuing Education Requirements, etc.)

If yes, list each rule that will increase regulation.

3b. For each new rule, the following information is required:

Rule Number:

25-7.150. F.A.C.

Rule Title:

Natural Gas Facilities Relocation Cost Recovery Clause

Statute Authorizing Rulemaking:

366.99

Statutory language authorizing rulemaking authority:

(6) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after July 1, 2024.

Rulemaking Notification Form

Statute Mandating Rulemaking:

366.99

Statutory language requiring rulemaking:

(6) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after July 1, 2024.

New rule is due to a Legislative change occurring within the past 24 months: Yes No

Provide chapter law and effective date:

s. 8, ch. 2024-186, July 1, 2024

List each new rule separately.

Use Addendum 3b. to list additional new rules if there will be more than one new rule in the FAR notice.

4. Has the agency received comment(s) either from the public or JAPC regarding rulemaking since the last rulemaking notification?

Yes No

If yes, please summarize the comment(s) including the agency response(s) and attach any applicable documentation.

For Notice of Proposed Rules Only

5. Describe the public need for the proposed rule(s)/amendment(s) by providing clear and succinct explanatory detail of how the proposed rule will address that need.

The creation of a cost recovery clause and proceedings to recover natural gas facilities relocation costs through it are statutorily mandated. Allowing public gas utilities to recover mandated facilities relocation costs through a clause proceeding reduces regulatory lag. Also see the SERC.

6. Has the agency received, been made aware of, contemplated, or reviewed any lower cost regulatory alternatives (LCRA)?

Yes No

Describe in detail the agency response to the LCRA.

Rulemaking Notification Form

7. Summarize qualitative and quantitative *benefits* of the proposed rule(s)/amendment(s). Benefits may include but are not limited to: productivity, efficiency, employment and accessibility, enhancement of health and safety, and protection of the environment.

See the attached SERC.

8. Summarize qualitative and quantitative *costs* of the proposed rule(s)/amendment(s). Costs may include but are not limited to: cost to government in administering the regulation, costs to businesses and professionals in complying with the regulation, adverse effects on the economy, private markets, health, safety and the environment.

See the attached SERC.

9. Does the proposed rule(s) include a sunset provision (not to exceed five years)?

Yes No

If no, please provide clear and succinct explanatory detail, including **specific statutory authority with sub-sections**, setting forth why the proposed rule is mandatory and not discretionary.

Section 366.99, F.S., which this rule implements, mandated rulemaking.

This addendum should be used in conjunction with the Rulemaking Notification Form to list additional new rules that will be part of the same FAR notice. Use as many addendums as necessary to list all new rules.

Addendum 3b

For each new rule, the following information is required:

Rule Number:

25-7.150

Rule Title:

Natural Gas Facilities Relocation Cost Recovery Clause

Statute Authorizing

366.99

Statutory language authorizing rulemaking authority:

(6) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after July 1, 2024.

Rulemaking:

Statute Mandating Rulemaking:

366.99

Statutory language requiring rulemaking:

(6) The commission shall adopt rules to implement and administer this section and shall propose a rule for adoption as soon as practicable after July 1, 2024.

New rule is due to a Legislative change occurring within the past 24 months: Yes No

Provide chapter law and effective date

s. 8, ch. 2024-186, July 1, 2024

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO.: RULE TITLE:

25-7.150 Natural Gas Facilities Relocation Cost Recovery Clause

PURPOSE AND EFFECT: To implement Section 366.99, F.S., which was enacted during the 2024 Legislative session. Section 366.99, F.S., allows for recovery of certain, mandated natural gas facilities relocation costs to be recovered in an annual clause proceeding, rather than in base rates.

Docket No. 20250020-GU

SUMMARY: Rule 25-7.150, F.A.C., is a new rule to implement Section 366.99, F.S., which was enacted by the Florida legislature in 2024. The rule sets forth what a utility must include in its petition for cost recovery, which includes a description of the scope of the mandated facilities relocation and an estimate of the associated costs. The rule also establishes a procedure that is in accord with other of the Commission's cost recovery clauses, by having a final true-up for the previous year and an estimated true-up for the current year, and requiring submission of projected costs for the subsequent year.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The SERC examined the factors required by Section 120.541(2), F.S., and concluded that the rule 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. The proposed rule would have no impact on small business, would have no implementation cost to the Commission or other state and local government entities, and would have no impact on small cities or counties.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 366.99, F.S.

LAW IMPLEMENTED: 366.99, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Sapoznikoff, Office of General Counsel, 2540 Shumard Oak Boulevard, Tallahassee, FL 32399-0850, (850)413-6630, susan.sapoznikoff@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-7.150 Natural Gas Facilities Relocation Cost Recovery Clause.

(1) A utility may file a petition for recovery of natural gas facilities relocation costs through the annual natural gas facilities relocation cost recovery clause (NGFRCRC). The petition seeking such cost recovery must be supported by testimony that provides details of the facilities relocation activities and associated costs.

(2) As part of the NGFRCRC or by a separate filing, a utility must seek a determination that "natural gas facilities relocation costs" are eligible for recovery through the NGFRCRC by providing the following information:

(a) The notification by the authority requiring the facilities relocation per section 366.99(1), Florida Statutes.

(b) A description of the scope of the facilities relocation to be undertaken per the requirements imposed by the authority, and

(c) An estimate of the costs associated with the relocation of the natural gas facilities.

(3) Each year, pursuant to the order establishing procedure in the annual NGFRCRC, a utility must submit the following:

(a) Final True-Up for Previous Year. The final true-up of natural gas facilities relocation cost recovery for a prior year must include revenue requirements based on a comparison of actual costs for the prior year and previously filed projected costs and revenue requirements for such prior year for each project determined to be eligible by the Commission. The final true-up must also include identification of each of the utility's eligible facilities relocation projects for which costs were incurred during the prior year, including a description of the work actually performed during such prior year.

(b) Estimated True-Up for Current Year. The actual/estimated true-up of natural gas facilities relocation cost recovery must include revenue requirements based on a comparison of current year actual/estimated costs and the previously-filed projected costs and revenue requirements for such current year for each eligible project. The actual/estimated true-up must also include identification of each of the utility's eligible facilities relocation projects for which costs have been and will be incurred during the current year, including a description of the work projected to be performed during such current year.

(c) Projected Costs for Subsequent Year. The projected natural gas facilities relocation cost recovery must include costs and revenue requirements for the subsequent year for each eligible project. The projection filing must also include identification of each of the utility's eligible facilities relocation projects for which costs will be incurred during the subsequent year, including a description of the work projected to be performed during such year.

(d) True-Up of Variances. The utility must report observed true-up variances, including sales forecasting variances, changes in the utility's prices of services and/or equipment, and changes in the scope of work relative to the estimates provided pursuant to paragraphs (2)(b) and (2)(c). The utility must also provide explanations for variances regarding the facilities relocation.

(e) Proposed Natural Gas Facilities Relocation Cost Recovery Factors. The utility must provide the calculations of its proposed factors and effective 12-month billing period.

(4) Natural gas facilities relocation cost recovery clause true-up amounts will be afforded deferred accounting treatment at the 30-day commercial paper rate.

(5) Subaccounts. To ensure separation of costs subject to recovery through the clause, the utility filing for cost recovery must maintain subaccounts for all items consistent with the Uniform System of Accounts prescribed by this Commission pursuant to Rule 25-7.014, F.A.C.

(6) Recovery of costs under this rule does not preclude a utility from proposing inclusion of unrecovered natural gas facilities relocation costs in base rates in a subsequent rate proceeding. Recovery of costs under this rule does not preclude inclusion of such costs in base rates in a subsequent rate proceeding, provided that such costs are removed from the NGFRCRC.

Rulemaking Authority 366.99, FS. Law Implemented 366.99, FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cayce Hinton

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 4, 2025

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 50, Number 212, October 29, 2024.

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: February 12, 2025

TO: Susan Sapoznikoff, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst IV, Division of Economics

RE: Docket No. 20250020-GU. Statement of Estimated Regulatory Costs (SERC) for New Rule 25-7.150, Florida Administrative Code (F.A.C.), Natural Gas Facilities Relocation Cost Recovery Clause.

The purpose of this rulemaking is to propose new Rule 25-7.150, F.A.C., to implement Section 366.99, Florida Statutes (F.S.), which was enacted by the Florida Legislature in 2024. The new Rule 25-7.150, F.A.C., allows natural gas utilities to file a petition for recovery of natural gas facilities relocation costs through an annual clause. The rule is applicable to all investor owned natural gas utilities in Florida that are regulated by the Florida Public Service Commission (PSC).

The following items are requirements of the proposed rule that were considered in determining to what extent the rule would impose costs to the investor-owned natural gas utilities:

- Petition with supportive testimony, as stated in subsection 25-7.150(1), F.A.C.
- Petition requirements such as notification, project scope, and estimate of costs as listed in Paragraphs 25-7.150(2)(a)-(c), F.A.C.
- The requirements listed in Paragraphs 25-7.150(3)(a)-(e), F.A.C., such as true-ups, projected costs, and cost recovery factors.
- The accounting requirement listed in Subsection 25-7.150(5), F.A.C.

On January 16, 2025, staff issued a data request to the five investor-owned natural gas utilities that are regulated by the PSC to assess and consider the fiscal impacts of the proposed new rule and to prepare a SERC. Responses were received on January 30, 2025.

The attached SERC addresses the considerations required pursuant to Section 120.541, F.S. The responses indicate that the utilities may incur additional costs, but they would be negligible because the companies have established internal systems and processes to accomplish the rule requirements listed above. The number of entities for which the rule is applicable are five investor-owned natural gas companies. The proposed new rule would not result in negative fiscal impacts to the utilities, as discussed in the attached SERC. A rule development workshop was held on December 16, 2024. No regulatory alternatives were submitted pursuant to Section 120.541(1)(a), F.S. None of the impacts/cost criteria established in Section 120.541(2)(a)-(e), F.S., will be exceeded as a result of the proposed new rule.

cc: SERC file

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-7.150, F.A.C., Natural Gas Facilities Relocation Cost Recovery Clause

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

Economic Analysis: Staff issued a data request to the five-investor owned natural gas utilities under the purview of the Commission. Florida Public Utilities Company (FPUC), Florida City Gas (FCG), and Peoples Gas System, Inc. (PGS) provided responses. FPUC and FCG stated in their joint responses that the companies estimate approximately \$40,000 to prepare supportive testimony, true ups, legal costs, maintenance of subaccounts, notification, prepare descriptions of the scope of facilities to be relocated pursuant to new Rule 25-7.150, F.A.C. The joint responses stated that the estimated cost to implement the new rule is not expected to exceed \$200,000 and expects the costs to decrease after the initial year.¹

PGS stated in its responses that the company may incur incremental costs, such as legal and other administrative costs, but are expected to be immaterial. PGS stated that it has established internal systems and process to accomplish what is required by the new Rule 25-7.150, F.A.C., and therefore does not anticipate material costs to meet the proposed rule requirements. PGS also stated that the costs to implement the rule would not exceed \$200,000.²

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.

Five investor-owned natural gas utilities under the purview of the PSC are required to comply with the rule.

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

Types of individuals likely to be affected by the rule are the five investor-owned natural gas utilities and their customers.

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.

¹ Responses 1-7 in Staff's First Data Request to FPUC and FCG, Document No. 00549-2025.

² Responses 1-7 in Staff's First Data Request to PGS, Document No. 00556-2025.

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

- None.
- 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. FPUC and FCG estimated approximately \$40,000 to comply with the rule requirements.
- 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.
- 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.