

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In the Matter of:

INITIATION OF RULEMAKING TO  
ADOPT RULES 25-6.0431 AND  
25-7.0391, F.A.C., RELATING  
TO APPLICATION FOR LIMITED  
PROCEEDINGS, AND TO AMEND RULE  
25-22.0406, F.A.C., CONCERNING  
NOTICE AND PUBLIC INFORMATION  
REQUIREMENTS.

DOCKET NO: UNDOCKETED

FILED: July 28, 2010

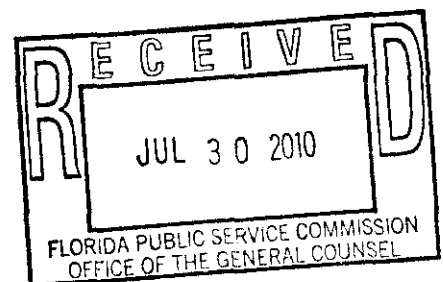
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**COMMENTS OF THE FLORIDA INDUSTRIAL POWER USERS GROUP**

The Florida Industrial Power Users Group (FIPUG), pursuant to Staff's direction, files the filing comments regarding this proposed rulemaking.

**BACKGROUND**

1. The Commission Staff has proposes to adopt and / or amend rules regarding when and for what purpose a utility may use the vehicle of a limited proceeding.
2. FIPUG supports adopting and / or amending such rules so as to put strict requirements on the circumstances under which the limited proceeding may be used. FIPUG is particularly concerned with the use of this mechanism to attempt to recover for a power plant outside of a base rate case.
3. FIPUG further supports Staff's proposal to require the filing of all relevant information with the limited proceeding petition, to the extent such a petition is appropriate, so that interested parties have sufficient information at the beginning of the process to evaluate the utility's request.



## COMMENTS

4. As a preliminary matter, FIPUG notes that the limited proceeding has not historically been used to address power plant additions.<sup>1</sup> FIPUG favors a prohibition on the use of a limited proceeding to include a plant in rate base. Absent that, FIPUG suggests that the rule lower the threshold set out in paragraph (4)(b) of the Staff draft to 1%.

5. Further, FIPUG would suggest, along with its comments in paragraph 4, that a limited proceeding is generally not appropriate for the inclusion of a power plant in rate base. FIPUG believes that consideration of such a large investment should not be handled through a proposed agency action (PAA) procedure. Such a procedure permits rates to go into effect prior to an evidentiary hearing. That is, customers begin to pay rates before it has been established that such rates are appropriate.

6. The construction of a power plant is a long-term project. The utilities know far in advance when the plant will come on line and have sufficient time to make a filing to allow for a full evidentiary hearing *before* rates take effect.<sup>2</sup> Before a large investment goes into rate base, all of the utility's operations should be reviewed and this should be done in an evidentiary hearing prior to any rate change.

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<sup>1</sup> The recent Progress Energy case is an exception to that; however, it was done within context of a pending base rate case.

<sup>2</sup> Though such rates may be held subject to refund, FIPUG does not feel this is sufficient protection. The utility should be required to prove the reasonableness of its investment before it is paid for it.

s/ Vicki Gordon Kaufman

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Attorneys for the Florida Industrial Power Users  
Group

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of FIPUG's Comments have been served by electronic mail and U.S. Mail this 28<sup>th</sup> day of July 2010 upon the following:

Kathryn Cowdery  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399  
[kcowdery@psc.state.fl.us](mailto:kcowdery@psc.state.fl.us)

s/ Vicki Gordon Kaufman

Vicki Gordon Kaufman



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July 28, 2010

Kathryn G.W. Cowdery, Senior Attorney  
Office of General Counsel  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

**Re: FPL Post-Workshop Comments on Draft Amendments Concerning  
Rules 25-6.0431, F.A.C., Relating to Application for Limited Proceedings,  
and 25-22.0406, F.A.C., Concerning Notice and Public Information  
Requirements**

Dear Ms. Cowdery:

Florida Power & Light Company ("FPL" or the "Company") has reviewed both draft rules distributed by Florida Public Service Commission ("PSC" or "Commission") staff and appreciates the opportunity to submit post-workshop comments relative to the rules and items discussed at the June 23, 2010 staff workshop.

### **Introduction**

FPL appreciates that the Commission may feel motivated to provide guidelines with respect to limited proceedings. In consideration of that, FPL suggests that it would be helpful and consistent with the legislative intent for limited proceedings to have provisions that include a timetable and procedural guidelines for how the Commission will reach a conclusion on whether a limited proceeding is appropriate, for how the Commission will define the scope of the proceeding, and for how the Commission will reach a final decision in the proceeding. This could provide Company and other parties useful insight into how the Commission will exercise its limited proceeding authority and the scope of the proceeding, yet provide the requisite flexibility for the Commission to make its determinations on a case-by-case basis under the relevant facts and circumstances as contemplated by the enabling statute, Section 366.076(1), *Florida Statutes*.

FPL notes that the statutes already provide prescriptive measures for seeking and obtaining interim rate relief pursuant to Section 366.071, *Florida Statutes*, and the statutes and Commission rules already provide significant detail on what is required in order to request and obtain general rate relief in a full revenue requirements proceeding. Section 366.076(1) is a separate statute added after the interim rates statute was already in effect<sup>1</sup>, so the legislature clearly intended that it would be used for a different purpose. By its language, the limited proceeding statute is intended as a less prescriptive means of allowing the Commission to adjust rates outside of a general rate case. The Commission should be careful not to import into the limited proceeding mechanism the prescriptive measures that already apply when setting interim rates or permanent rates in a general base rate proceeding, so that the limited proceeding mechanism remains a separate and distinct vehicle for the Commission to act as intended by the legislature.

FPL has no objection to extending the customer notice rule to limited proceedings in order to provide customers prompt notice of the issues to be considered and requested outcome. However, FPL has several comments on the draft rule to recognize some of the practical constraints associated with the draft as it stands.

Attachment A to this letter contains versions of staff's draft rules with FPL's suggested revisions to staff's drafts in redline. Attachment B to this letter contains a version of Attachment A that is annotated with comments indicating the specific reasons for FPL's suggested revisions. FPL understands that Progress Energy Florida ("PEF") and Gulf Power Company ("Gulf") concur with FPL's redlines with the exception of the deadline for beginning to send notice to customers in Rule 25-22.0406. FPL understands that Tampa Electric Company's ("TECO's") redlines are substantially similar to FPL's except for subsections (4) and (5) of 25-6.0431, which TECO did not include, as well as the deadline for beginning to send customer notice in Rule 25-22.0406. FPL's more general comments on each of the draft rules are provided below.

#### **Rule 25-6.0431 – Petition for a Limited Proceeding**

Concerning the draft rule on limited proceedings, subsection (2) of the draft rule appears to contemplate certain filing requirements that must be met depending on the nature of the proceeding. Recognizing that limited proceedings could address a variety of issues and circumstances, FPL appreciates that it may be helpful to lay out certain filing requirements that would apply depending on the nature of the limited proceeding being requested. However, subsection (2)(g), which references the statute on interim rates (s. 366.071) and other provisions of the rule, seem to provide or at least strongly suggest that historical data must be used to determine eligibility for as well as calculate the limited scope request, even though (2)(b) appears to contemplate a limited proceeding could address a projected plant addition.

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<sup>1</sup> Section 366.071, *Florida Statutes*, addressing interim rates was first added in 1980, s. 8, ch. 80-35, while the limited proceeding provision was not added until 1983, s. 13, ch. 83-222.

Though it is not the only purpose of the statute, one of the types of cases that may be appropriate for a limited proceeding is a large capital addition that occurs between rate cases. Requiring an earnings test based on historical data, as apparently called for by subsection (2)(g) of the draft rule, is not contemplated by Section 366.076(1), and could prevent the Commission from using a limited proceeding for this purpose. If the Commission is trying to measure historical results, even using a year end rate base, practical realities would foreclose the ability to seek recovery for 3-6 months after the plant goes in service. That's because, in order to provide the data requested in the rule, the utility must have the final booked actual figures from the plant and then spend time preparing the filing. Absent a rule requiring the use of historical data, the statute on limited proceedings would not foreclose this opportunity because the Company could use forecasted data to demonstrate the need for limited scope relief. FPL believes that the statute was intended to allow for this.

FPL also wishes to address subsection (4) -- which carves out certain instances when a limited proceeding is deemed "inappropriate." Section 366.076(1), is a unique statutorily-authorized mechanism for the Commission to "consider and act upon any matter within its jurisdiction, including any matter the resolution of which requires a public utility to adjust its rates." This statute contemplates a case-by-case determination by the Commission of the matters to be considered and acted upon in a limited proceeding and the issues and scope of the proceeding. Nothing in the statute authorizes or contemplates that the Commission will impose substantive restrictions on types of proceedings that are eligible for determination in a limited proceeding, or apply constraints on receiving a limited scope adjustment that apply in all instances.

FPL's additional specific comments and suggestions on this rule are reflected in the redline versions of the rules attached to this letter.

#### **Application of the File and Suspend Statute**

During the staff workshop on June 23, it was suggested that under the "file and suspend" provisions of Section 366.06(3), *Florida Statutes*, as well as Florida Supreme Court case law, the Commission could not permit a rate increase to take effect on an interim basis without first holding a formal evidentiary hearing. FPL believes this is an incorrect interpretation of the statute and cases.

The cases specifically referenced were the "Wilson" series of cases in 1990, referring to *Citizens v. Wilson*, 568 So. 2d 904 (Fla. 1990) (involving an appeal relating to the rates of Southern Bell Telephone and Telegraph Company "Southern Bell") ("*Wilson I*") and *Citizens v. Wilson*, 571 So. 2d 1300 (Fla. 1990) (involving an appeal relating to the rates of TECO) ("*Wilson II*"). In *Wilson I*, the Florida Supreme Court ruled that the file-and-suspend law permitted a utility to change its rates on an interim basis, but could not enter a final order without giving interested parties the right to a hearing. In *Wilson II*, the Office of Public Counsel ("OPC") argued that the Commission should have afforded it an opportunity for a hearing or proceeded through the Proposed Agency Action ("PAA")

process before taking any final action on an increase in TECO's conservation clause factor. The Florida Supreme Court ruled that OPC was present and participated at the prehearing conference and agenda on the matter in question; therefore OPC waived its right to complain that the final order approving TECO's petition was entered without affording OPC the opportunity for a hearing.

Neither of these cases stands for the proposition that a rate increase cannot take effect on an interim basis without first holding an evidentiary hearing. Indeed, in *Wilson I*, OPC conceded that "the Commission had the right to allow the increased rates in Southern Bell's tariff to go into effect on an interim basis without the necessity of a hearing." *Wilson I*, 568 So. 2d at 906. Rather, these cases support the position reflected in FPL's redline of the draft limited proceeding rule, which is that any increase in rates may take effect on an interim basis subject to refund if the Commission fails to act in a timely manner or if a Commission (PAA) decision is protested. This protects the customers in the event the PAA decision is ultimately overturned, and protects the Company from regulatory lag.

#### **25-22.0406 – Notice and Public Information Requirements**

FPL supports the concept of extending the customer notice rule to apply to limited proceedings in order to supply information to customers and facilitate a prompt review of the costs involved in a limited proceeding that would result in a change in rates.

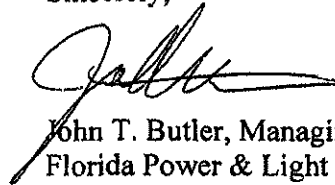
Recognizing that the Commission may want to have more prompt and thorough notification for limited scope proceedings so that they can proceed promptly, FPL has accepted many of the accelerated notice provisions in staff's draft rule without revision in expectation that the requirement of providing prompt customer notice is accompanied by a commitment by the Commission to reaching its decision in a limited proceeding on a prompt schedule. Codifying the procedures for ruling on a limited proceeding request, as addressed in FPL's suggested redline revisions, will demonstrate this commitment. Absent a commitment from the Commission to rule on a limited proceeding petition on an expedited basis, FPL believes that the accelerated time frames for providing customer notice would be inappropriate in that the additional costs may not be justified.

Recognizing certain practical and logistical constraints on the Company's ability to act, FPL has identified several items for consideration and clarification as the Commission moves forward in its development of the customer notice rule. These specific items and comments are reflected in FPL's redlines of this rule, which are attached to this letter.

**Conclusion**

Again, FPL appreciates the opportunity to provide input on staff's draft revisions to Rules 25-6.0431 and 25-22.0406, Florida Administrative Code. Should you or any other member of staff have any questions, please do not hesitate to contact me.

Sincerely,



John T. Butler, Managing Attorney  
Florida Power & Light Company  
(561) 304-5639

cc: Connie Kummer, Chief of Certification and Tariffs, FPSC  
Charles Rehwinkel, Office of Public Counsel  
Vicki Kaufman, Counsel for the Florida Industrial Power Users Group  
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Jim Beasley, Counsel for Tampa Electric Company  
Dianne Triplett, Counsel for Progress Energy Florida  
Beth Keating, Counsel for Florida Public Utilities Company



ATTACHMENT A  
(Redline)

1 25-22.0406 Notice and Public Information on General Rate Increase Requests and Limited  
2 Proceedings by Electric and Gas Utilities.

3 (1) The provisions of this rule shall be applicable to all requests for general rate  
4 increases, and to all limited proceedings filed pursuant to Rules 25-6.0431 and 25-7.0391 that  
5 would result in a change to customer rates, by electric and gas utilities subject to the  
6 Commission's jurisdiction.

7 (2) The following noticing procedures shall apply to requests for a general rate  
8 increase:

9 (a) The utility shall mail a copy of the petition to the chief executive officer of the  
10 governing body of each municipality and county within the service area affected.

11 (b) The utility shall establish a clearly identifiable link on the utility's website to the  
12 address on the Commission's website that provides ~~which allows~~ electronic access to all  
13 documents filed in the rate case docket.

14 (c) Location of MFRs

15 1. Within 15 days after it has been notified by the Commission that the Minimum  
16 Filing Requirements (MFRs) have been met, the utility shall place a copy of the MFRs at its  
17 official headquarters and at a location approved by Commission staff in each municipality in  
18 which service hearings were held in the last general rate case of the utility and through a link  
19 on the utility's website.

20 2. Within 15 days after the case time schedule has been posted to the Commission's  
21 website and electronic notice thereof has been sent to the utility, copies of the MFRs shall be  
22 placed in a location approved by Commission staff in each additional city in which service  
23 hearings are to be held. .

24 3. Copies of the MFRs shall be available for public inspection during the regular  
25 business hours of the location housing the MFRs, and through a link on the utility's website.

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from existing law.

1 (d) Rate Case Synopsis

2 1. Within 15 days after the time schedule for a general rate increase has been posted to  
3 the Commission's website and electronic notice thereof has been sent to the utility, the utility  
4 shall prepare and submit to the Commission staff for approval ~~distribute~~ a synopsis of the rate  
5 request. The synopsis ~~shall be approved by the Commission staff prior to distribution and shall~~  
6 include:

- 7 a. A summary of the section of the MFRs showing a comparison of the present and  
8 proposed rates for all rate classifications and service charges ;  
9 b. A statement of the anticipated major issues involved in the rate case;  
10 c. A copy of the executive summary filed with the MFRs;  
11 d. A description of the ratemaking process and the time schedule established for the  
12 rate case; and  
13 e. The locations at which complete MFRs are available.

14  
15 2. Within 7 days following approval of the synopsis by the Commission staff, ~~c~~Copies  
16 of the synopsis shall be distributed to the same locations as required for the MFRs, to the main  
17 county library within, or most convenient to, the service area, and to the chief executive  
18 officer of each county and municipality within the service area affected.

19 (e) Within 30 days after the time schedule has been posted to the Commission's  
20 website and electronic notice thereof has been sent to the utility-, the utility shall prepare and  
21 submit to the Commission staff for approval ~~begin sending a notice approved by the~~  
22 ~~Commission staff~~ to its customers containing:

- 23 1. A statement that the utility has applied for a rate increase and the general reasons  
24 for the request;  
25 2. The locations at which copies of the MFRs and synopsis are available, including a

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- 1 link on the utility's website to that information;
- 2 3. The time schedule established for the case, and the dates, times and locations of any
- 3 hearings that have been scheduled; and
- 4 4. A comparison of current and proposed rates and service charges;
- 5 5. The docket number assigned to the petition by the Commission's Office of
- 6 Commission Clerk;
- 7 6. A statement that written comments regarding the proposed changes in rates and
- 8 charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak
- 9 Boulevard, Tallahassee, Florida 32399-0850, and that such correspondence should identify the
- 10 docket number assigned to the proceeding; and
- 11 7. A statement that ~~comment~~ complaints regarding service may be made to the
- 12 Commission's Division of Service, Safety & Consumer Assistance at this toll free number:
- 13 (800) 342-3552.
- 14 The utility shall begin sending the notice to customers within 14 days after it has been
- 15 approved by the Commission staff.
- 16 (3) The following noticing procedures shall apply to a limited proceeding filed
- 17 pursuant to Rule 25-6.0431 or 25-7.0391, which would result in a change to customer rates;
- 18 (a) Within 30 days after the time schedule for the limited proceeding has been posted
- 19 to the Commission's website and electronic notice thereof has been sent to the utility, the
- 20 utility shall prepare and submit to the Commission staff for approval ~~begin sending a notice~~
- 21 ~~approved by the Commission staff~~ to its customers and shall begin sending the notice to
- 22 customers within 14 days after it has been approved.
- 23 (b) The notice shall contain:
- 24 1. A statement that the utility has requested a change in rates from the Commission and
- 25 a statement of the amount requested and the general reasons for the change;

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1           2. A statement of where and when the application and supporting documentation is  
2 available for public inspection, including a clearly identified link on the utility's website to  
3 such information;

4           3. A comparison of current and proposed rates and charges;

5           4. The utility's address, telephone number, and website;

6           5. The docket number assigned to the proceeding;

7           6. A statement that written comments regarding the proposed changes in rates and  
8 charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak  
9 Boulevard, Tallahassee, Florida, 32399-0850, and that such correspondence should identify  
10 the docket number assigned to the proceeding; and

11           7. A statement that ~~comment~~plaints regarding service may be made to the  
12 Commission's Division of Service, Safety & Consumer Assistance at this toll free number:  
13 (800) 342-3552.

14           (c) The utility shall establish a clearly identifiable link on the utility's website to the  
15 address on the Commission's website that provides ~~which allows~~ electronic access to all  
16 documents filed in the limited proceeding docket.

17           (4) All customer notices prepared pursuant to this rule shall be ~~mailed~~sent to the  
18 customer's address of record at the time the notice is issued in the manner in which the  
19 customer typically receives the monthly bill, whether electronically or via U.S. mail.

20           (5) ~~All service hearing or commission-scheduled customer forums are scheduled, all~~  
21 customer notices regarding location and time of such service hearings or customer  
22 forums~~meetings~~ shall be sent to customers no less than 14 days and no more than 60 days  
23 prior to the first scheduled service hearing or commission-scheduled customer meeting forum.

24           (6) At least 7 days and not more than 20 days prior to each service hearing or  
25 commission-scheduled customer meeting forum, the utility shall have published in a

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1 newspaper of general circulation in the area in which the hearing is to be held a display  
2 advertisement stating the date, time, location and purpose of the hearing. The advertisement  
3 shall be approved by the Commission staff prior to publication.

4 (7) When the Commission issues proposed agency action and a hearing is subsequently  
5 held, the utility shall give written notice of the hearing to its customers at least 14 days in  
6 advance of the hearing. This notice shall be approved by the Commission staff prior to  
7 distribution.

8 (8) After the Commission's issuance of an order granting or denying a rate change, the  
9 utility shall give notice to its customers of the order and the revised rates. The notice shall be  
10 approved in advance by the Commission staff and transmitted to the customers with the first  
11 bill containing the new rates.

12 Rulemaking Authority 350.127(2), 366.05, 366.06(1), 366.076(2) F.S. Law Implemented  
13 366.03, 366.041(1), 366.05(1), 366.06(1), 366.076 F.S. History--New 9-27-83, Formerly 25-  
14 22.406, Amended 5-27-93, 5-3-99, \_\_\_\_\_.

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16 Rule 25-22.0406 Clean (6-23-10).doc  
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1 25-6.0431 PetiApplication for a Limited Proceeding

2 (1) Each ~~peti~~application for a limited proceeding shall ~~contain~~provide the following  
3 general information to the Commission:

4 (a) ~~The name of the applicant and the address of the applicant's principal place of~~  
5 ~~business;~~All matters required to be included in a petition under Rule 28-106.201, Florida

6 Administrative Code (Initiation of Proceedings);

7 (b) ~~The number(s) of the Commission order(s), in which the Commission most~~  
8 ~~recently considered the applicant's base rates;~~

9 ~~\_\_\_\_\_ (c) The addresses within the service area where the application is available for~~  
10 ~~customer inspection during the time the application is pending.~~

11 ~~\_\_\_\_\_ (2) The following minimum information shall be filed with the utility's application for~~  
12 ~~limited proceeding;~~

13 ~~\_\_\_\_\_ (a) A detailed statement of the reason(s) why the limited proceeding has been~~  
14 ~~requested and why a limited proceeding is the appropriate type of proceeding for consideration~~  
15 ~~of the requested relief.~~

16 ~~\_\_\_\_\_ (c) The number(s) of the Commission order(s), in which the Commission most recently~~  
17 ~~considered the applicant's base rates, including consideration of a settlement agreement~~  
18 ~~concerning base rates;~~

19 ~~\_\_\_\_\_ (2) Each petition by an investor-owned electric utility for a limited proceeding shall~~  
20 ~~provide the following information to the extent the requested information is applicable to the~~  
21 ~~filing;~~

22 (b) If the utility's application includes a request for recovery of a rate base component  
23 e.g., plant in service, accumulated depreciation and depreciation expense, a schedule that  
24 provides the specific rate base components for which the utility seeks recovery on both a  
25 system and jurisdictional basis. Supporting detail shall be provided for each item requested,

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1 including:

2 1. The actual or projected costs(s);

3 2. The date the item was, or is projected to be, placed in service;

4 3. Any corresponding adjustments that are required as a result of adding or removing

5 the requested component(s) from rate base, which may include retirement entries; and

6 4. All supporting detail by primary account as defined by the Uniform System of

7 Accounts, in accordance with Rule 25-6.014, F.A.C.; ~~and~~

8 ~~5. Any other relevant supporting information.~~

9 (b) If recovery is being requested for any return on investment costs, a calculation of

10 the weighted average cost of capital shall be provided for the most recent twelve-month

11 period, using the mid-point of the range of the last authorized rate of return on equity, the

12 current embedded cost of fixed-rate capital, the actual cost of short-term debt, the actual cost

13 of variable-cost debt, and the actual cost of other sources of capital which were used in the last

14 individual rate proceeding of the utility;

15 (c) If the utility is requesting recovery of operating expenses, the following

16 information shall be provided on both a system and jurisdictional basis;

17 1. A detailed description of the expense(s) requested;

18 2. The total cost by primary account pursuant to the Uniform System of Accounts;

19 3. Supporting documentation or calculations; and

20 4. Any allocations that are made between systems, affiliates or related parties. If

21 allocations are made, submit full detail that shows the total amount allocated, a description of

22 the basis of the allocation methodology, the allocation percentage applied to each allocated

23 cost, and the workpapers supporting the calculation of the allocation percentages.

24 (d) Calculations for all items or actions that will create base rate cost savings or base

25 revenue impacts from the implementation of the requested cost recovery items;

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- 1 (ef) A calculation of the proposed revenue change, if any;
- 2 (fg) Schedules for the most recent historical twelve-month period or a projected  
3 twelve-month period, showing that, without any increased rates, the utility will earn below its  
4 authorized rate of return, in accordance with Section 366.071, F.S. The schedules shall  
5 incorporate the revenue change requested in the petition for limited proceeding and shall  
6 consist of a rate base, net operating income, and cost of capital schedule with adjustments to  
7 reflect those consistent with the utility's last rate proceeding;
- 8 (gh) Annualized revenues for the ~~most recent~~ twelve-month period used by the utility  
9 to provide the information required by subsection (2)(f) above, based on using the rates that  
10 would be in effect in that 12-month period without the revenue change requested in the  
11 petition for limited proceeding at the time the utility files its application for limited proceeding;
- 12 (hi) A schedule showing how the utility proposes to allocate any change in revenues to  
13 rate classes;
- 14 (ij) A schedule of current and proposed rates for all rate schedules, along with  
15 workpapers showing how those rates were derived;
- 16 (kj) If the limited proceeding is being requested solely to change the current class cost  
17 allocations or rate structures so as to be revenue neutral, the utility shall provide a copy of all  
18 workpapers and calculations used to calculate requested rates and allocations between  
19 customer classes, and a description of the customer migrations between rate schedules  
20 resulting from the restructuring. In addition, the following schedules, which are incorporated  
21 herein by reference, from Form PSC/ECR/011-E(2/04), entitled "Minimum Filing  
22 Requirements for Investor-Owned Electric Utilities," shall be provided. The schedules can be  
23 obtained from the Commission's Division of Economic Regulation.
- 24 ~~1. Schedule E-1, entitled "Cost of Service Study"~~
- 25 ~~21. Schedule E-6, entitled "Cost of Service Study – Unit Costs, Present Rates"~~

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- 1           32. Schedule E-6b, entitled “Cost of Service Study – Unit Costs, Proposed Rates”
- 2           34. Schedule E-8, entitled “Company Proposed Allocation of the Rate Increase by Rate
- 3 Class”
- 4           45. Schedule E-13a, entitled “Revenue from Sale of Electricity by Rate Schedule”
- 5           56. Schedule E-13c, entitled “Revenue by Rate Schedule – Calculations”
- 6           67. Schedule E-13d, entitled “Revenue by Rate Schedule – Lighting Schedule
- 7 Calculations”
- 8           78. Schedule E-14, Proposed Tariff Sheets and Support for Changes”
- 9           (3) In a limited proceeding ~~petition~~ application:
- 10           (a) Each schedule shall be cross-referenced to identify related schedules. Supporting
- 11 documentation reflecting all calculations or assumptions made shall be filed.
- 12           (b) The original and twenty copies shall be filed with the Office of Commission Clerk.
- 13 To the extent possible, all filings made electronically or on diskette shall be provided in
- 14 Microsoft Word format and all schedules and calculations shall be provided in Excel format
- 15 with formulas intact and unlocked.
- 16           (4) The Commission shall schedule the petition for consideration at an agenda
- 17 conference to be held no more than 60 days after the petition has been filed, during which the
- 18 Commission shall make a determination as to whether to hold the limited proceeding and the
- 19 scope of issues to be decided in the proceeding. In determining whether to hold a A-limited
- 20 proceeding, the Commission may consider ~~is inappropriate in the following circumstances:~~
- 21           ~~— (a) If the utility has the discretion to postpone or phase in any costs such that an~~
- 22 ~~immediate rate increase is not necessary; or~~
- 23           ~~— (b) If the utility’s filing includes more than two separate proposals for which recovery~~
- 24 ~~is sought and the requested rate increase exceeds five percent of the utility’s most recent~~
- 25 ~~twelve month annual jurisdictional base rate revenue. Corresponding adjustments for a given~~

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1 ~~proposal are not subject to the above limitation, whether the nature of the requested relief is~~  
2 ~~such that, based on the desire to conserve the resources of the parties and the Commission and~~  
3 ~~avoid the time and expense associated with a general base rate case, a limited proceeding is~~  
4 ~~the most efficient process.~~

5 (5) A determination of the limited proceeding request shall be processed using the  
6 Commission's proposed agency action procedure. The Commission shall enter its vote on the  
7 proposed agency action within 60 days after the agenda conference vote approving the use of a  
8 limited proceeding and determining the scope of the proceeding as described in subsection (4)  
9 above. If the Commission's proposed agency action is protested, the final decision must be  
10 rendered by the Commission within 5 months of the date the protest is filed. If the petition  
11 involves a requested rate increase, at the expiration of 60 days following the agenda  
12 conference addressing the scope of the proceeding described in subsection (4) above, if the  
13 Commission has not taken action or if the Commission's action is protested by a party other  
14 than the utility, the utility may place its requested rates into effect under bond, escrow, or  
15 corporate undertaking subject to refund upon notice to the Commission and upon filing the  
16 appropriate tariffs. The utility must keep accurate records of amounts received.

17

18 Rulemaking Authority: 350.127(2), 366.05, 366.06(1) 366.076(2) F.S. Law Implemented:

19 366.05, 366.06, 366.076 F.S.

20 History - New: \_\_\_\_\_

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**ATTACHMENT B**  
**(Redline with annotated comments)**

1 25-22.0406 Notice and Public Information on General Rate Increase Requests and Limited  
2 Proceedings by Electric and Gas Utilities.

3 (1) The provisions of this rule shall be applicable to all requests for general rate  
4 increases, and to all limited proceedings filed pursuant to Rules 25-6.0431 and 25-7.0391 that  
5 would result in a change to customer rates, by electric and gas utilities subject to the  
6 Commission's jurisdiction.

**Comment [FPL1]:** To clarify that the rule applies only to limited proceedings that would result in a change to customer rates.

7 (2) The following noticing procedures shall apply to requests for a general rate  
8 increase:

9 (a) The utility shall mail a copy of the petition to the chief executive officer of the  
10 governing body of each municipality and county within the service area affected.

11 (b) The utility shall establish a clearly identifiable link on the utility's website to the  
12 address on the Commission's website that provides ~~which allows~~ electronic access to all  
13 documents filed in the rate case docket.

**Comment [FPL2]:** Revised to link to the PSC website, which already provides electronic access to all documents filed in the docket.

14 (c) Location of MFRs

15 1. Within 15 days after it has been notified by the Commission that the Minimum  
16 Filing Requirements (MFRs) have been met, the utility shall place a copy of the MFRs at its  
17 official headquarters and at a location approved by Commission staff in each municipality in  
18 which service hearings were held in the last general rate case of the utility and through a link  
19 on the utility's website.

20 2. Within 15 days after the case time schedule has been posted to the Commission's  
21 website and electronic notice thereof has been sent to the utility, copies of the MFRs shall be  
22 placed in a location approved by Commission staff in each additional city in which service  
23 hearings are to be held. .

**Comment [FPL3]:** To ensure the utility has notice of the CASR having been posted and so there is a record of the date it is posted.

24 3. Copies of the MFRs shall be available for public inspection during the regular  
25 business hours of the location housing the MFRs, and through a link on the utility's website.

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1 (d) Rate Case Synopsis

2 1. Within 15 days after the time schedule for a general rate increase has been posted to  
3 the Commission's website and electronic notice thereof has been sent to the utility, the utility  
4 shall prepare and submit to the Commission staff for approval ~~distribute~~ a synopsis of the rate  
5 request. The synopsis ~~shall be approved by the Commission staff prior to distribution and shall~~  
6 include:

**Comment [FPL4]:** So the deadline applies to the utility submitting the synopsis to staff for approval since the utility cannot control when the synopsis gets approved.

- 7 a. A summary of the section of the MFRs showing a comparison of the present and  
8 proposed rates for all rate classifications and service charges ;  
9 b. A statement of the anticipated major issues involved in the rate case;  
10 c. A copy of the executive summary filed with the MFRs;  
11 d. A description of the ratemaking process and the time schedule established for the  
12 rate case; and  
13 e. The locations at which complete MFRs are available.

14  
15 2. Within 7 days following approval of the synopsis by the Commission staff, ~~Copies~~  
16 of the synopsis shall be distributed to the same locations as required for the MFRs, to the main  
17 county library within, or most convenient to, the service area, and to the chief executive  
18 officer of each county and municipality within the service area affected.

**Comment [FPL5]:** To allow time for copies to be made and distributed after staff approval.

19 (e) Within 30 days after the time schedule has been posted to the Commission's  
20 website and electronic notice thereof has been sent to the utility, the utility shall prepare and  
21 submit to the Commission staff for approval ~~begin sending a notice approved by the~~  
22 ~~Commission staff~~ to its customers containing:

- 23 1. A statement that the utility has applied for a rate increase and the general reasons  
24 for the request;  
25 2. The locations at which copies of the MFRs and synopsis are available, including a

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1 link on the utility's website to that information;

2 3. The time schedule established for the case, and the dates, times and locations of any  
3 hearings that have been scheduled; and

4 4. A comparison of current and proposed rates and service charges;

5 5. The docket number assigned to the petition by the Commission's Office of  
6 Commission Clerk;

7 6. A statement that written comments regarding the proposed changes in rates and  
8 charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak  
9 Boulevard, Tallahassee, Florida 32399-0850, and that such correspondence should identify the  
10 docket number assigned to the proceeding; and

11 7. A statement that ~~comment/complaints~~ regarding service may be made to the  
12 Commission's Division of Service, Safety & Consumer Assistance at this toll free number:  
13 (800) 342-3552.

**Comment [FPL6]:** Neutral wording  
and encompasses complaints as well as  
other comments.

14 The utility shall begin sending the notice to customers within 14 days after it has been  
15 approved by the Commission staff.

16 (3) The following noticing procedures shall apply to a limited proceeding filed  
17 pursuant to Rule 25-6.0431 or 25-7.0391, which would result in a change to customer rates;

18 (a) Within 30 days after the time schedule for the limited proceeding has been posted  
19 to the Commission's website and electronic notice thereof has been sent to the utility, the  
20 utility shall prepare and submit to the Commission staff for approval ~~begin sending a notice~~  
21 ~~approved by the Commission staff to its customers~~ and shall begin sending the notice to  
22 customers within 14 days after it has been approved.

23 (b) The notice shall contain:

24 1. A statement that the utility has requested a change in rates from the Commission and  
25 a statement of the amount requested and the general reasons for the change;

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from existing law.

1 2. A statement of where and when the application and supporting documentation is  
2 available for public inspection, including a clearly identified link on the utility's website to  
3 such information;

4 3. A comparison of current and proposed rates and charges;

5 4. The utility's address, telephone number, and website;

6 5. The docket number assigned to the proceeding;

7 6. A statement that written comments regarding the proposed changes in rates and  
8 charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak  
9 Boulevard, Tallahassee, Florida, 32399-0850, and that such correspondence should identify  
10 the docket number assigned to the proceeding; and

11 7. A statement that ~~comment~~ plaints regarding service may be made to the  
12 Commission's Division of Service, Safety & Consumer Assistance at this toll free number:  
13 (800) 342-3552.

14 (c) The utility shall establish a clearly identifiable link on the utility's website to the  
15 address on the Commission's website that provides ~~which allows~~ electronic access to all  
16 documents filed in the limited proceeding docket.

17 (4) All customer notices prepared pursuant to this rule shall be ~~mailed~~ sent to the  
18 customer's address of record at the time the notice is issued in the manner in which the  
19 customer typically receives the monthly bill, whether electronically or via U.S. mail.

20 (5) ~~All service hearing or commission-scheduled customer forums are scheduled, all~~  
21 customer notices regarding location and time of such service hearings or customer  
22 forums ~~meetings~~ shall be sent to customers no less than 14 days and no more than 60 ~~30~~ days  
23 prior to the first scheduled service hearing or commission-scheduled customer meeting forum.

24 (6) At least 7 days and not more than 20 days prior to each service hearing or  
25 commission-scheduled customer meeting forum, the utility shall have published in a

**Comment [FPL7]:** Revised since a number of customers have registered to be billed via e-mail and may have a preference for electronic correspondence

**Comment [FPL8]:** Revised for instances where the Commission, depending on the circumstances, elects not to hold service hearings or customer forums. The "commission-scheduled customer forum" language is added so it's clear the notice does not apply to private meetings with customers or other types of customer meetings.

**Comment [FPL9]:** 30 revised to 60 to allow time for customer notices to be sent in conjunction with the regular billing cycle.

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1 newspaper of general circulation in the area in which the hearing is to be held a display  
2 advertisement stating the date, time, location and purpose of the hearing. The advertisement  
3 shall be approved by the Commission staff prior to publication.

4 (7) When the Commission issues proposed agency action and a hearing is subsequently  
5 held, the utility shall give written notice of the hearing to its customers at least 14 days in  
6 advance of the hearing. This notice shall be approved by the Commission staff prior to  
7 distribution.

8 (8) After the Commission's issuance of an order granting or denying a rate change, the  
9 utility shall give notice to its customers of the order and the revised rates. The notice shall be  
10 approved in advance by the Commission staff and transmitted to the customers with the first  
11 bill containing the new rates.

12 Rulemaking Authority 350.127(2), 366.05, 366.06(1), 366.076(2) F.S. Law Implemented  
13 366.03, 366.041(1), 366.05(1), 366.06(1), 366.076 F.S. History—New 9-27-83, Formerly 25-  
14 22.406, Amended 5-27-93, 5-3-99, \_\_\_\_\_.

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1 25-6.0431 ~~Peti~~Application for a Limited Proceeding

**Comment [FPL1]:** Revised to "petition" to track 366.076(1), F.S. and Rule 28-106.201 of the Uniform Rules.

2 (1) Each ~~peti~~application for a limited proceeding shall ~~contain~~provide the following  
3 general information to the Commission:

**Comment [FPL2]:** Revised to track 28-106.201.

4 (a) ~~The name of the applicant and the address of the applicant's principal place of~~  
5 ~~business.~~All matters required to be included in a petition under Rule 28-106.201, Florida  
6 Administrative Code (Initiation of Proceedings);

**Comment [FPL3]:** To acknowledge that the Uniform Rules apply, including the requirement that the petition include the name of the applicant and the address of the applicant's principal place of business.

7 (b) ~~The number(s) of the Commission order(s), in which the Commission most~~  
8 ~~recently considered the applicant's base rates:~~

9 ~~\_\_\_\_\_ (c) The addresses within the service area where the application is available for~~  
10 ~~customer inspection during the time the application is pending.~~

11 ~~\_\_\_\_\_ (2) The following minimum information shall be filed with the utility's application for~~  
12 ~~limited proceeding:~~

13 ~~\_\_\_\_\_ (a) A detailed statement of the reason(s) why the limited proceeding has been~~  
14 ~~requested and why a limited proceeding is the appropriate type of proceeding for consideration~~  
15 ~~of the requested relief.~~

**Comment [FPL4]:** Relocated and added clarifying language that order citation would include consideration of a settlement agreement concerning base rates. Deleted the requirement that the addresses where the application is available for inspection should be included in the petition since staff would not yet have approved the locations and since the Company would already be required to provide notice to customers on its website and elsewhere per the draft customer notice rule. Revised the language on minimum information to be provided since the requirements will differ depending on the nature of the request.

16 ~~\_\_\_\_\_ (c) The number(s) of the Commission order(s), in which the Commission most recently~~  
17 ~~considered the applicant's base rates, including consideration of a settlement agreement~~  
18 ~~concerning base rates:~~

19 ~~\_\_\_\_\_ (2) Each petition by an investor-owned electric utility for a limited proceeding shall~~  
20 ~~provide the following information to the extent the requested information is applicable to the~~  
21 ~~filing:~~

**Comment [FPL5]:** Revised to clarify that the request for recovery could relate to other components of rate base besides plant in service.

22 (b) If the utility's application includes a request for recovery of a rate base component  
23 ~~e.g., plant in service, accumulated depreciation and depreciation expense,~~ a schedule that  
24 provides the specific rate base components for which the utility seeks recovery on both a  
25 system and jurisdictional basis. Supporting detail shall be provided for each item requested,

**Comment [FPL6]:** Depreciation expense is covered by item (c).

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1 including:

- 2 1. The actual or projected costs(s);
- 3 2. The date the item was, or is projected to be, placed in service;
- 4 3. Any corresponding adjustments that are required as a result of adding or removing
- 5 the requested component(s) from rate base, which may include retirement entries; and
- 6 4. All supporting detail by primary account as defined by the Uniform System of
- 7 Accounts, in accordance with Rule 25-6.014, F.A.C.; ~~and~~
- 8 ~~5. Any other relevant supporting information.~~

9 (be) If recovery is being requested for any return on investment costs, a calculation of

10 the weighted average cost of capital shall be provided for the most recent twelve-month

11 period, using the mid-point of the range of the last authorized rate of return on equity, the

12 current embedded cost of fixed-rate capital, the actual cost of short-term debt, the actual cost

13 of variable-cost debt, and the actual cost of other sources of capital which were used in the last

14 individual rate proceeding of the utility;

15 (cd) If the utility is requesting recovery of operating expenses, the following

16 information shall be provided on both a system and jurisdictional basis;

- 17 1. A detailed description of the expense(s) requested;
- 18 2. The total cost by primary account pursuant to the Uniform System of Accounts;
- 19 3. Supporting documentation or calculations; and
- 20 4. Any allocations that are made between systems, affiliates or related parties. If
- 21 allocations are made, submit full detail that shows the total amount allocated, a description of
- 22 the basis of the allocation methodology, the allocation percentage applied to each allocated
- 23 cost, and the workpapers supporting the calculation of the allocation percentages.

24 (ed) Calculations for all items or actions that will create base rate cost savings or base

25 revenue impacts from the implementation of the requested cost recovery items;

**Comment [FPL7]:** Deleted 5. because the language is overly broad and does not provide notice to the applicant of what needs to be included in order to meet the filing requirements.

**Comment [FPL8]:** Revised to clarify that (2)(b) applies to return on utility investment.

**Comment [FPL9]:** Revised to clarify that the rule applies to base rate cost savings and base revenue impacts.

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1 (ef) A calculation of the proposed revenue change, if any,  
2 (fg) Schedules for the most recent historical twelve-month period or a projected  
3 twelve-month period showing that, without any increased rates, the utility will earn below its  
4 authorized rate of return in accordance with Section 366.071, F.S. The schedules shall  
5 incorporate the revenue change requested in the petition for limited proceeding and shall  
6 consist of a rate base, net operating income, and cost of capital schedule with adjustments to  
7 reflect those consistent with the utility's last rate proceeding;

8 (gh) Annualized revenues for the ~~most recent~~ twelve-month period used by the utility  
9 to provide the information required by subsection (2)(f) above, based on using the rates that  
10 would be in effect in that 12-month period without the revenue change requested in the  
11 petition for limited proceeding at the time the utility files its application for limited proceeding;

12 (hi) A schedule showing how the utility proposes to allocate any change in revenues to  
13 rate classes;

14 (ij) A schedule of current and proposed rates for all rate schedules, along with  
15 workpapers showing how those rates were derived;

16 (kj) If the limited proceeding is being requested solely to change the current class cost  
17 allocations or rate structures so as to be revenue neutral, the utility shall provide a copy of all  
18 workpapers and calculations used to calculate requested rates and allocations between  
19 customer classes, and a description of the customer migrations between rate schedules  
20 resulting from the restructuring. In addition, the following schedules, which are incorporated  
21 herein by reference, from Form PSC/ECR/011-E(2/04), entitled "Minimum Filing  
22 Requirements for Investor-Owned Electric Utilities," shall be provided. The schedules can be  
23 obtained from the Commission's Division of Economic Regulation.

24 ~~1. Schedule E-1, entitled "Cost of Service Study"~~  
25 ~~2. Schedule E-6, entitled "Cost of Service Study -- Unit Costs, Present Rates"~~

**Comment [FPL10]:** To clarify that the limited proceeding may not involve a change in revenues.

**Comment [FPL11]:** Revised to make it clear that limited proceedings may be used to seek rate adjustments on a projected basis.

**Comment [FPL12]:** Deleted the reference to the interim rates statute because the limited proceeding statute is a distinct mechanism without the same constraints.

**Comment [FPL13]:** Revised since a projected period may be used and the requirement should be to show what the rates would be absent the requested change.

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- 1        23. Schedule E-6b, entitled “Cost of Service Study – Unit Costs, Proposed Rates”
- 2        34. Schedule E-8, entitled “Company Proposed Allocation of the Rate Increase by Rate
- 3        Class”
- 4        45. Schedule E-13a, entitled “Revenue from Sale of Electricity by Rate Schedule”
- 5        56. Schedule E-13c, entitled “Revenue by Rate Schedule – Calculations”
- 6        67. Schedule E-13d, entitled “Revenue by Rate Schedule – Lighting Schedule
- 7        Calculations”
- 8        78. Schedule E-14, Proposed Tariff Sheets and Support for Changes”

- 9        (3) In a limited proceeding ~~petition~~application:
- 10       (a) Each schedule shall be cross-referenced to identify related schedules. Supporting
- 11       documentation reflecting all calculations or assumptions made shall be filed.
- 12       (b) The original and twenty copies shall be filed with the Office of Commission Clerk.
- 13       To the extent possible, all filings made electronically or on diskette shall be provided in
- 14       Microsoft Word format and all schedules and calculations shall be provided in Excel format
- 15       with formulas intact and unlocked.

16       (4) The Commission shall schedule the petition for consideration at an agenda

17       conference to be held no more than 60 days after the petition has been filed, during which the

18       Commission shall make a determination as to whether to hold the limited proceeding and the

19       scope of issues to be decided in the proceeding. In determining whether to hold a A-limited

20       proceeding, the Commission may consider ~~is inappropriate in the following circumstances:~~

- 21       ~~— (a) If the utility has the discretion to postpone or phase in any costs such that an~~
- 22       ~~immediate rate increase is not necessary; or~~
- 23       ~~— (b) If the utility’s filing includes more than two separate proposals for which recovery~~
- 24       ~~is sought and the requested rate increase exceeds five percent of the utility’s most recent~~
- 25       ~~twelve-month annual jurisdictional base rate revenue. Corresponding adjustments for a given~~

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**Comment [FPL14]:** Intended as an opportunity for a decision on whether to grant the petition for limited proceeding.

**Comment [FPL15]:** Revised to clarify that this is not a limitation on matters that are appropriate for consideration in a limited proceeding.

1 ~~proposal are not subject to the above limitation, whether the nature of the requested relief is~~  
2 ~~such that, based on the desire to conserve the resources of the parties and the Commission and~~  
3 ~~avoid the time and expense associated with a general base rate case, a limited proceeding is~~  
4 ~~the most efficient process.~~

5 (5) A determination of the limited proceeding request shall be processed using the  
6 Commission's proposed agency action procedure. The Commission shall enter its vote on the  
7 proposed agency action within 60 days after the agenda conference vote approving the use of a  
8 limited proceeding and determining the scope of the proceeding as described in subsection (4)  
9 above. If the Commission's proposed agency action is protested, the final decision must be  
10 rendered by the Commission within 5 months of the date the protest is filed. If the petition  
11 involves a requested rate increase, at the expiration of 60 days following the agenda  
12 conference addressing the scope of the proceeding described in subsection (4) above, if the  
13 Commission has not taken action or if the Commission's action is protested by a party other  
14 than the utility, the utility may place its requested rates into effect under bond, escrow, or  
15 corporate undertaking subject to refund upon notice to the Commission and upon filing the  
16 appropriate tariffs. The utility must keep accurate records of amounts received.

17  
18 Rulemaking Authority: 350.127(2), 366.05, 366.06(1) 366.076(2) F.S. Law Implemented:  
19 366.05, 366.06, 366.076 F.S.

20 History - New: \_\_\_\_\_

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22 Rule 25-6.0431 Clean (6-23-10).doc

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**Comment [FPL16]:** The issue of base rate cost savings or revenue impacts is addressed in (2)(e). The concept of "phase in" creates a GAAP problem (FAS 92). In addition, the "two separate proposals" language is vague and the 10 percent revenue threshold is arbitrary and does not have a basis in 366.076(1), F.S.

**Comment [FPL17]:** This expedited time frame and processing the petition using the PAA procedure is consistent with the expedited notice procedures in staff's draft customer notice rule and the intent of 366.076(1), F.S. to have an independent mechanism for adjusting rates based on a limited scope of issues. The requirement of placing the rates into effect subject to refund is intended to ensure that all parties are held harmless in the event of a protest.

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**Susan D. Ritenour**  
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and Regulatory Manager

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July 28, 2010

Ms. Kathryn Cowdery, Senior Attorney  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Limited Proceeding Rulemaking Post Workshop Comments

Dear Ms. Cowdery:

Pursuant to your June 23, 2010 email, enclosed are Gulf Power Company's post-workshop comments to Staff's June 23, 2010 Limited Proceeding Rulemaking Workshop. Please call if you have any questions.

Sincerely,

*Susan D. Ritenour (lw)*

vm

cc: Florida Public Service Commission  
Connie Kummer  
Beggs and Lane  
Jeffrey A. Stone, Esquire

Gulf Power Company has reviewed both draft rules and appreciates the opportunity to provide the following post-workshop comments to the June 23, 2010 Limited Proceeding Rulemaking Workshop. The limited proceeding statute is intended as a flexible means of allowing the Commission to adjust rates outside of a general rate case. Gulf's suggested language is an attempt to retain the Commission's flexibility while providing clarification on timing and process. The goal of the proposed customer notice rule is to provide customers prompt notice of the issues to be considered in a limited proceeding. Gulf's comments on the draft rule are to address a few practical constraints posed by the draft rule. Accompanying this letter are the two rules with suggested language in legislative format.

**Limited Proceeding Rule – 25-6.0431**

Subsections (1)(a) and (b): Added language to include standard requirements for petitions and recognizing settlements as a possible means through which base rates may have been addressed.

Subsection (2)(a): Added language to clarify that the requirements of this subsection apply only when a utility makes a request for recovery of a rate base component.

Subsection (2)(b): Added language to clarify that the requirements of this subsection apply only when a utility makes a request for any return on investment.

Subsection (2)(f): Added language allowing the utility to provide schedules using historical or projected twelve-month period whichever is appropriate given the utility's requested relief. Requiring the use of historical data would restrict the type of cases that are appropriate for limited proceedings. This would restrict the Commission's flexibility that is granted by the limited proceeding statute. The remaining deletions to this subsection were made to remove the requirement that a utility must be earning below its authorized rate of return as a prerequisite for using the limited proceeding process. Such requirement unreasonably restricts the Commission's broad authority to use limited proceedings found in Section 366.076(1), Florida Statutes.

Subsection (2)(g): Change is to address the use of either historical or projected data to support a utility's request.

Subsection (4): This language sets up a timeframe that provides an early determination by the Commission whether a limited proceeding is proper for the requested relief and if so, what issued will be decided in the limited proceeding.

Subsection (6): This language is added to provide a timeline for Commission action on requests for limited proceedings.



**Customer Notice Rule – 25-22.0406**

Subsection (1): Added language to clarify that this section applies to limited proceedings that would result in a change to customer rates.

Subsections (2)(b) and (3)(c) require the utility to establish a clearly identifiable link on its website which allows electronic access to all documents filed in the docket. We suggest this should be revised to require the Company to have a link to the PSC's website where the documents can be found.

Subsections (2)(c), (d), (e) and (3)(a) measure the deadline for taking certain action from the date that the time schedule has posted to the Commission's website. Gulf suggests that the clock should run from the date that the utility is provided notice of the time schedule.

Subsections (2)(e)(7) and (3)(a): Added language setting a 30 day period in which customer notices must be sent by utility. The 30-day period allows the use of bill inserts rather than a costly separate mailing.

Subsection (5): Changed 30 days to 60 days to allow for the use of bill inserts as a means of providing notice.

1 **25-6.0431 PetiApplication for a Limited Proceeding**

2 (1) Each ~~peti~~application for a limited proceeding shall ~~contain~~provide the following  
3 general information to the Commission:

4 (a) ~~The name of the applicant and the address of the applicant's principal place of~~  
5 ~~business.~~All matters required to be included in a petition under Rule 28-106.201, Florida  
6 Administrative Code (Initiation of Proceedings):

7 ~~(b) The number(s) of the Commission order(s), in which the Commission most~~  
8 ~~recently considered the applicant's base rates:~~

9 ~~(c) The addresses within the service area where the application is available for~~  
10 ~~customer inspection during the time the application is pending:~~

11 ~~(2) The following minimum information shall be filed with the utility's application for~~  
12 ~~limited proceeding:~~

13 ~~(a) A detailed statement of the reason(s) why the limited proceeding has been~~  
14 ~~requested and why a limited proceeding is the appropriate type of proceeding for consideration~~  
15 ~~of the requested relief.~~

16 ~~(c) The number(s) of the Commission order(s), in which the Commission most recently~~  
17 ~~considered the applicant's base rates, including consideration of a settlement agreement~~  
18 ~~concerning base rates;~~

19 ~~(2) Each petition by an investor-owned electric utility for a limited proceeding shall~~  
20 ~~provide the following information to the extent the requested information is applicable to the~~  
21 ~~filing:~~

22 ~~(b) If the utility's application includes a request for recovery of a rate base component~~  
23 ~~e.g., plant in service, accumulated depreciation and depreciation expense, a schedule that~~

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

1 provides the specific rate base components for which the utility seeks recovery on both a  
2 system and jurisdictional basis. Supporting detail shall be provided for each item requested,  
3 including:

- 4 1. The actual or projected costs(s);
- 5 2. The date the item was, or is projected to be, placed in service;
- 6 3. Any corresponding adjustments that are required as a result of adding or removing  
7 the requested component(s) from rate base, which may include retirement entries; ~~and~~
- 8 4. All supporting detail by primary account as defined by the Uniform System of  
9 Accounts, in accordance with Rule 25-6.014, F.A.C.; ~~and~~
- 10 ~~5. Any other relevant supporting information.~~

11 ~~(b)~~ If recovery is being requested for any return on investment ~~costs~~, a calculation of  
12 the weighted average cost of capital shall be provided for the most recent twelve-month  
13 period, using the mid-point of the range of the last authorized rate of return on equity, the  
14 current embedded cost of fixed-rate capital, the actual cost of short-term debt, the actual cost  
15 of variable-cost debt, and the actual cost of other sources of capital which were used in the last  
16 individual rate proceeding of the utility;

17 ~~(c)~~ If the utility is requesting recovery of operating expenses, the following  
18 information shall be provided on both a system and jurisdictional basis;

- 19 1. A detailed description of the expense(s) requested;
- 20 2. The total cost by primary account pursuant to the Uniform System of Accounts;
- 21 3. Supporting documentation or calculations; and
- 22 4. Any allocations that are made between systems, affiliates or related parties. If  
23 allocations are made, submit full detail that shows the total amount allocated, a description of

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25 from existing law.

1 the basis of the allocation methodology, the allocation percentage applied to each allocated  
2 cost, and the workpapers supporting the calculation of the allocation percentages.

3 (de) Calculations for all items or actions that will create base rate cost savings or base  
4 revenue impacts from the implementation of the requested cost recovery items;

5 (ef) A calculation of the proposed revenue change, if any;

6 (fg) Schedules for the most recent historical twelve-month period or a projected  
7 twelve-month period, showing that, without any increased rates, the utility will earn below its  
8 authorized rate of return, in accordance with Section 366.071, F.S. The schedules shall  
9 incorporate the revenue change requested in the petition for limited proceeding and shall  
10 consist of a rate base, net operating income, and cost of capital schedule with adjustments to  
11 reflect those consistent with the utility's last rate proceeding;

12 (gh) Annualized revenues for the most recent twelve-month period used by the utility  
13 to provide the information required by subsection (2)(f) above, based on using the rates that  
14 would be in effect in that 12-month period without the revenue change requested in the  
15 petition for limited proceeding at the time the utility files its application for limited proceeding;

16 (hi) A schedule showing how the utility proposes to allocate any change in revenues to  
17 rate classes;

18 (ij) A schedule of current and proposed rates for all rate schedules, along with  
19 workpapers showing how those rates were derived;

20 (kj) If the limited proceeding is being requested solely to change the current class cost  
21 allocations or rate structures so as to be revenue neutral, the utility shall provide a copy of all  
22 workpapers and calculations used to calculate requested rates and allocations between  
23 customer classes, and a description of the customer migrations between rate schedules

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1 resulting from the restructuring. In addition, the following schedules, which are incorporated  
2 herein by reference, from Form PSC/ECR/011-E(2/04), entitled "Minimum Filing  
3 Requirements for Investor-Owned Electric Utilities," shall be provided. The schedules can be  
4 obtained from the Commission's Division of Economic Regulation.

5 ~~1. Schedule E-1, entitled "Cost of Service Study"~~

6 ~~21. Schedule E-6, entitled "Cost of Service Study – Unit Costs, Present Rates"~~

7 ~~32. Schedule E-6b, entitled "Cost of Service Study – Unit Costs, Proposed Rates"~~

8 ~~34. Schedule E-8, entitled "Company Proposed Allocation of the Rate Increase by Rate  
9 Class"~~

10 ~~45. Schedule E-13a, entitled "Revenue from Sale of Electricity by Rate Schedule"~~

11 ~~56. Schedule E-13c, entitled "Revenue by Rate Schedule – Calculations"~~

12 ~~67. Schedule E-13d, entitled "Revenue by Rate Schedule – Lighting Schedule~~

13 ~~Calculations"~~

14 ~~78. Schedule E-14, Proposed Tariff Sheets and Support for Changes"~~

15 (3) In a limited proceeding ~~petition~~ application:

16 (a) Each schedule shall be cross-referenced to identify related schedules. Supporting  
17 documentation reflecting all calculations or assumptions made shall be filed.

18 (b) The original and twenty copies shall be filed with the Office of Commission Clerk.

19 To the extent possible, all filings made electronically or on diskette shall be provided in  
20 Microsoft Word format and all schedules and calculations shall be provided in Excel format  
21 with formulas intact and unlocked.

22 ~~(4) The Commission shall schedule the petition for consideration at an agenda  
23 conference to be held no more than 60 days after the petition has been filed, during which the~~

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1 Commission shall make a determination as to whether to hold the limited proceeding and the  
2 scope of issues to be decided in the proceeding. In determining whether to hold a ~~A~~ limited  
3 proceeding, the Commission may consider ~~is inappropriate in the following circumstances:~~  
4 ~~(a) If the utility has the discretion to postpone or phase in any costs such that an~~  
5 ~~immediate rate increase is not necessary; or~~  
6 ~~(b) If the utility's filing includes more than two separate proposals for which recovery~~  
7 ~~is sought and the requested rate increase exceeds five percent of the utility's most recent~~  
8 ~~twelve month annual jurisdictional base rate revenue. Corresponding adjustments for a given~~  
9 ~~proposal are not subject to the above limitation, whether the nature of the requested relief is~~  
10 ~~such that, based on the desire to conserve the resources of the parties and the Commission and~~  
11 ~~avoid the time and expense associated with a general base rate case, a limited proceeding is~~  
12 ~~the most efficient process.~~  
13 (5) A determination of the limited proceeding request shall be processed using the  
14 Commission's proposed agency action procedure. The Commission shall enter its vote on the  
15 proposed agency action within 60 days after the agenda conference vote approving the use of a  
16 limited proceeding and determining the scope of the proceeding as described in subsection (4)  
17 above. If the Commission's proposed agency action is protested, the final decision must be  
18 rendered by the Commission within 5 months of the date the protest is filed. If the petition  
19 involves a requested rate increase, at the expiration of 60 days following the agenda  
20 conference addressing the scope of the proceeding described in subsection (4) above, if the  
21 Commission has not taken action or if the Commission's action is protested by a party other  
22 than the utility, the utility may place its requested rates into effect under bond, escrow, or  
23 corporate undertaking subject to refund upon notice to the Commission and upon filing the

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1 appropriate tariffs. The utility must keep accurate records of amounts received.

2

3 Rulemaking Authority: 350.127(2), 366.05, 366.06(1) 366.076(2) F.S. Law Implemented:  
4 366.05, 366.06, 366.076 F.S.

5 History - New: \_\_\_\_\_

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7 Rule 25-6.0431 Clean (6-23-10).doc

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1 **25-22.0406 Notice and Public Information on General Rate Increase Requests and**  
2 **Limited Proceedings by Electric and Gas Utilities.**

3 (1) The provisions of this rule shall be applicable to all requests for general rate  
4 increases, and to all limited proceedings filed pursuant to Rules 25-6.0431 and 25-7.0391 that  
5 would result in a change to customer rates, by electric and gas utilities subject to the  
6 Commission's jurisdiction.

7 (2) The following noticing procedures shall apply to requests for a general rate  
8 increase:

9 (a) The utility shall mail a copy of the petition to the chief executive officer of the  
10 governing body of each municipality and county within the service area affected.

11 (b) The utility shall establish a clearly identifiable link on the utility's website to the  
12 address on the Commission's website that provides ~~which allows~~ electronic access to all  
13 documents filed in the rate case docket.

14 (c) Location of MFRs

15 1. Within 15 days after it has been notified by the Commission that the Minimum  
16 Filing Requirements (MFRs) have been met, the utility shall place a copy of the MFRs at its  
17 official headquarters and at a location approved by Commission staff in each municipality in  
18 which service hearings were held in the last general rate case of the utility and through a link  
19 on the utility's website.

20 2. Within 15 days after the case time schedule has been posted to the Commission's  
21 website and electronic notice thereof has been sent to the utility, copies of the MFRs shall be  
22 placed in a location approved by Commission staff in each additional city in which service  
23 hearings are to be held.

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25 from existing law.



1 3. Copies of the MFRs shall be available for public inspection during the regular  
2 business hours of the location housing the MFRs, and through a link on the utility's website.

3 (d) Rate Case Synopsis

4 1. Within 15 days after the time schedule for a general rate increase has been posted to  
5 the Commission's website and electronic notice thereof has been sent to the utility, the utility  
6 shall prepare and submit to the Commission staff for approval ~~distribute~~ a synopsis of the rate  
7 request. The synopsis ~~shall be approved by the Commission staff prior to distribution and shall~~  
8 include:

- 9 a. A summary of the section of the MFRs showing a comparison of the present and  
10 proposed rates for all rate classifications and service charges ;  
11 b. A statement of the anticipated major issues involved in the rate case;  
12 c. A copy of the executive summary filed with the MFRs;  
13 d. A description of the ratemaking process and the time schedule established for the  
14 rate case; and  
15 e. The locations at which complete MFRs are available.

16  
17 2. Within 7 days following approval of the synopsis by the Commission staff, ~~Copies~~  
18 of the synopsis shall be distributed to the same locations as required for the MFRs, to the main  
19 county library within, or most convenient to, the service area, and to the chief executive  
20 officer of each county and municipality within the service area affected.

21 (e) Within 30 days after the time schedule has been posted to the Commission's  
22 website and electronic notice thereof has been sent to the utility-, the utility shall prepare and  
23 submit to the Commission staff for approval ~~begin sending a notice approved by the~~

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1 ~~Commission staff~~ to its customers containing:

2 1. A statement that the utility has applied for a rate increase and the general reasons  
3 for the request;

4 2. The locations at which copies of the MFRs and synopsis are available, including a  
5 link on the utility's website to that information;

6 3. The time schedule established for the case, and the dates, times and locations of any  
7 hearings that have been scheduled; and

8 4. A comparison of current and proposed rates and service charges;

9 5. The docket number assigned to the petition by the Commission's Office of  
10 Commission Clerk;

11 6. A statement that written comments regarding the proposed changes in rates and  
12 charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak  
13 Boulevard, Tallahassee, Florida 32399-0850, and that such correspondence should identify the  
14 docket number assigned to the proceeding; and

15 7. A statement that comment~~complaints~~ regarding service may be made to the  
16 Commission's Division of Service, Safety & Consumer Assistance at this toll free number:  
17 (800) 342-3552.

18 The utility shall begin sending the notice to customers within 30 days after it has been  
19 approved by the Commission staff.

20 (3) The following noticing procedures shall apply to a limited proceeding filed  
21 pursuant to Rule 25-6.0431 or 25-7.0391, which would result in a change to customer rates;

22 (a) Within 30 days after the time schedule for the limited proceeding has been posted  
23 to the Commission's website and electronic notice thereof has been sent to the utility, the

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1 utility shall prepare and submit to the Commission staff for approval ~~begin sending a notice~~  
2 ~~approved by the Commission staff~~ to its customers and shall begin sending the notice to  
3 customers within 30 days after it has been approved.

4 (b) The notice shall contain:

5 1. A statement that the utility has requested a change in rates from the Commission and  
6 a statement of the amount requested and the general reasons for the change;

7 2. A statement of where and when the application and supporting documentation is  
8 available for public inspection, including a clearly identified link on the utility's website to  
9 such information;

10 3. A comparison of current and proposed rates and charges;

11 4. The utility's address, telephone number, and website;

12 5. The docket number assigned to the proceeding;

13 6. A statement that written comments regarding the proposed changes in rates and  
14 charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak  
15 Boulevard, Tallahassee, Florida, 32399-0850, and that such correspondence should identify  
16 the docket number assigned to the proceeding; and

17 7. A statement that comment~~plaints~~ regarding service may be made to the  
18 Commission's Division of Service, Safety & Consumer Assistance at this toll free number:  
19 (800) 342-3552.

20 (c) The utility shall establish a clearly identifiable link on the utility's website to the  
21 address on the Commission's website that provides ~~which allows electronic access to all~~  
22 documents filed in the limited proceeding docket.

23 (4) All customer notices prepared pursuant to this rule shall be ~~mailed~~sent to the

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1 customer's address of record at the time the notice is issued in the manner in which the  
2 customer typically receives the monthly bill, whether electronically or via U.S. mail.

3 (5) ~~At~~ If service hearing or commission-scheduled customer forums are scheduled, all  
4 customer notices regarding location and time of such service hearings or customer  
5 ~~forums~~meetings shall be sent to customers no less than 14 days and no more than 630 days  
6 prior to the first scheduled service hearing or commission-scheduled customer meeting forum.

7 (6) At least 7 days and not more than 20 days prior to each service hearing or  
8 commission-scheduled customer meeting forum, the utility shall have published in a  
9 newspaper of general circulation in the area in which the hearing is to be held a display  
10 advertisement stating the date, time, location and purpose of the hearing. The advertisement  
11 shall be approved by the Commission staff prior to publication.

12 (7) When the Commission issues proposed agency action and a hearing is subsequently  
13 held, the utility shall give written notice of the hearing to its customers at least 14 days in  
14 advance of the hearing. This notice shall be approved by the Commission staff prior to  
15 distribution.

16 (8) After the Commission's issuance of an order granting or denying a rate change, the  
17 utility shall give notice to its customers of the order and the revised rates. The notice shall be  
18 approved in advance by the Commission staff and transmitted to the customers with the first  
19 bill containing the new rates.

20 Rulemaking Authority 350.127(2), 366.05, 366.06(1), 366.076(2) F.S. Law Implemented  
21 366.03, 366.041(1), 366.05(1), 366.06(1), 366.076 F.S. History—New 9-27-83, Formerly 25-  
22 22.406, Amended 5-27-93, 5-3-99, \_\_\_\_\_.

23 Rule 25-22.0406 Clean (6-23-10).doc

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

IN RE: INITIATION OF RULEMAKING TO ADOPT  
RULES 25-6.0431 AND 25-7.0391, F.A.C., RELATING  
TO APPLICATION FOR LIMITED PROCEEDINGS, AND  
TO AMEND RULE 25-22.0406, F.A.C., CONCERNING  
NOTICE AND PUBLIC INFORMATION REQUIREMENTS

Undocketed

July 28, 2010

PROGRESS ENERGY FLORIDA, INC.'S POST-WORKSHOP COMMENTS

Progress Energy Florida, Inc. ("PEF") submits these post-workshop comments regarding the proposed Rule 25-6.031 and proposed amendments to Rule 25-22.0406.<sup>1</sup> PEF appreciates the opportunity to provide these comments. Florida Power & Light Company ("FPL") is submitting red-lined versions of the proposed rules, and with two exceptions (noted below with respect to Rule 25-22.0406), PEF agrees with the proposed changes reflected in FPL's red-lined documents. These suggested changes are explained in more detail below.

**Rule 25-6.0431, F.A.C.**

PEF understands from the workshop that Staff intends for this rule to set forth certain filing requirements for different types of limited proceedings that a utility may bring before the Commission. (Tr. pp. 5-6) Staff also recognizes that it is not feasible to identify a specific set of requirements for each specific type of request. (Tr. p. 10) Rather, this rule attempts to develop a menu of options, with the utility determining if the particular application for limited proceeding falls into the various options set forth in the rule. (Tr. p. 11) PEF does not have an objection to setting out filing requirements in this manner, but PEF believes that the rule should be clarified to reflect this intent. PEF therefore has suggested language and re-organization designed to clarify the requirements for the various types of limited proceedings. Those suggestions are reflected in the rule submitted by FPL.

With respect to certain subsections of the rule, which set forth the specific filing requirements, PEF has concerns with the proposed language and would suggest alternative language or to eliminate

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<sup>1</sup> PEF is not submitting comments regarding Rule 25-7.0391, as that rule applies to gas utilities.

certain language. Specifically, section (2)(b)(5), which requires that the utility include “any other relevant supporting information” in its application for limited proceeding, is too vague and ambiguous to be included as a minimum filing requirement in a rule. PEF understands that it is difficult to identify with particularity every type of information the Staff may find relevant in a particular proceeding. However, for purposes of a rule that purports to set forth mandatory filing requirements, it is unfair to the utility to require “any other relevant supporting information,” when the interpretation of what is “relevant” to that particular application can be so varied. PEF believes the better course is to delete this subsection and if Staff desires to see additional supporting information with respect to this type of application for limited proceeding, such information could be requested through a data request or discovery request.

Section (2)(g), as PEF and other parties indicated at the workshop, implies that a historic earning test must be satisfied as a threshold matter before a limited proceeding can be filed. At the workshop, Staff clarified that this subsection is to provide a historical snapshot of the utility’s earnings at the time of the filing, for informational purposes. (Tr. pp. 24-25) Staff also indicated that, for items to be placed into service in the future, the utility could present a pro-forma adjustment to demonstrate the impact of the new asset on future earnings. (Tr. pp. 26-27) The proposed changes to this subsection clarify the intent of this subsection.

Regarding subsection (k), based on comments from Staff, PEF, as reflected in FPL’s red-lined version, has suggested a clarification that the information in subsection (k) is required only if the utility’s proposed rate structure change is revenue neutral. PEF has suggested that “revenue neutral” be added to the rule for clarification and expanded “rate structure” to class allocations and rate structures. In addition, as was clarified at the workshop, in a proposal by the utility for a revenue neutral reallocation of costs and revised rate design, the overall retail revenue requirements would not change and

therefore, the MFR E-1 “Jurisdictional Cost of Service Study” would not be required. The red-lined version therefore eliminates that schedule.

With respect to subsection (4), Staff indicated at the workshop that this subsection was their attempt to recognize that certain items are too large to be addressed in a limited proceeding and thus subsection (4) provided a mechanism to limit the availability of the limited proceeding for those larger items. (Tr. p. 18; 49) Staff then later suggested that subsection (4) was not intended to be a complete bar to certain types of proceedings. Staff indicated that the word “inappropriate” was intended to be less restrictive than, for example, “mandatory.” (Tr. p. 49) PEF respectfully disagrees with Staff’s interpretation of the word “inappropriate,” and notes that subsection (4) acts as a complete bar to limited proceedings in two enumerated situations. This subsection would be an invalid exercise of delegated legislative authority because it modifies and contravenes the express legislative authority granted the Commission in 366.076.

First, this rule implements Section 366.076, which is entitled in relevant part “Limited proceedings.” Under this statute, the legislature provides that the Commission may conduct a “limited proceeding” to consider the matters set forth in Section 366.076. The proposed rule subsection sets forth two broad circumstances when the Commission may **not** conduct a “limited proceeding.” That prohibition on the exercise of PSC discretion in the rule contravenes the express delegation of discretion in the statute.

Second, the Legislature further granted the Commission the authority in any such limited proceeding to consider and act on any matter within its jurisdiction, including any matter which, when resolved, results in an adjustment to rates. Subsection (4) of the propose rule establishes matters that may involve an adjustment to rates which this and future Commissions may **not** consider and act upon

in any limited proceeding. For this additional reason, this subsection of the rule modifies and contravenes the legislative authority set forth in Section 366.076(1).

Third, the Florida Legislature provided that the Commission's authority to conduct a limited proceeding under 366.076 is invoked on the Commission's own motion or "upon petition," obviously by a party other than the Commission. The rule subsection denies a party this statutory right to petition the Commission to exercise its authority in a limited proceeding for two broad areas. As such, this subsection of the rule modifies and contravenes the legislative authority set forth in 366.076(1).

Finally, the legislature provided that the consideration of any matter requiring an adjustment to rates in a limited proceeding shall be consistent with the provisions of this chapter. The Commission has recognized this means basic due process of notice and the opportunity to be heard. This basic due process is denied under the rule subsection for these two broad areas in which the Commission says the utility has no right to be heard. This also modifies and contravenes the legislative authority set forth in 366.076.

PEF also believes that the Commission would exceed its rulemaking authority by enacting subsection (4). The legislature, in section 366.076(1) or (2), did not provide any authority for the PSC to restrict, across the board, the types of proceedings that can be considered under this statute. What the legislature did provide in section 366.076 is that the Commission's discretion to conduct a limited proceeding to consider and act upon any matter within its jurisdiction, including any matter the resolution of which requires a utility to adjust its rates, is exercised upon petition or its own motion. The Legislature, therefore, intends the Commission to decide whether a limited proceeding is warranted on a case-by-case basis. Staff acknowledged that the limited proceeding is intended to address a specific circumstance that cannot always be identified by classification in a rule in advance of the specific circumstance that might warrant a limited proceeding. As Staff stated, they were going to



have to take it on a case-by-case basis (p. 9, L. 16-19). The PSC also must take limited proceedings on a case-by-case basis consistent with the Legislative intent.

PEF agrees that limited proceedings are unique and should not be routine alternatives for base rate proceedings. That said, however, PEF cannot say when and in what quantity such proceedings might appear necessary. PEF could go years without another limited proceeding. Alternatively, PEF could have a series of limited proceedings in a row driven by now unknown circumstances. What PEF can say is that all parties and ultimately the Commission will have a say under 366.076 whether the petition (or motion) should be a limited proceeding or not or whether it should be expanded to include other matters as 366.076 expressly provides. The attempt to restrict limited proceedings in advance based on some arbitrary size or numerical limit can work to preclude the use of limited proceedings to avoid the costs and time of full blown rate cases in situations that ultimately benefit customers too. Therefore, the suggested changes to subsection (4) allow the Commission to consider the appropriateness of a limited proceeding, given the efficiency of the process as compared to a general base rate case.

Subsection (4) has also been modified to reflect a set time in which the Commission must consider the appropriateness of a limited proceeding, as well as determine the scope of the issues to be decided. As discussed during the workshop, it would be helpful for all parties to have certainty with respect to the timing and scope of the proceeding.

PEF has also proposed subsection (5), which further clarifies the timing of the Commission's consideration of the substantive request made by the utility. PEF believes that this procedure is appropriate, given the clarification of minimum filing requirements for limited proceeding petitions. With this new rule, other parties and Commission Staff should have more of the information needed to assess the utility's petition prior to the Commission determination to hold a limited proceeding hearing

and to decide the scope of the issues in that proceeding identified in proposed subsection (4). As noted by Commission Staff during the workshop, placing PAA rates into effect subject to refund pending a hearing following a protest protects everyone. (Tr. p. 36). Subsection (5) strikes an appropriate balance between providing timely relief and protecting the interests of other parties.

Finally, PEF would like to address comments made by OPC regarding the file and suspend provisions and their applicability to limited proceedings. The statutory authority, section 366.076, provides that the PSC may conduct a limited proceeding, including one involving an adjustment to rates, "to consist with the provisions of this chapter." In previous PSC orders, the Commission has read this language to require the utility to comply with the notice requirements in Chapter 366. It seems that Commission Staff agrees, since they are proposing to incorporate those requirements in the procedural rule for limited proceedings involving a change in rates. There is no rational reason to say that this language in 366.076 requires the PSC to look to some provisions in Chapter 366 and not others. Therefore, the file and suspend provisions are applicable to 366.076 if a tariff is filed. This is what the Florida Supreme Court says in Citizens v. Wilson, 568 So. 2d 904 (Fla. 1990).

#### **Rule 25-22.0406, F.A.C.**

FPL is also submitting a red-lined version of this rule, which reflect proposed changes. PEF agrees with all the changes, with the exception of sections (2)(e)(7) and (3)(a). FPL proposes that notice begin within 14 days of receiving Commission approval. To facilitate taking advantage of regular bill mailings, PEF proposes that notice begin within 30 days of receiving the approval.

PEF agrees with the other changes proposed in FPL's red-lined version, most of which are self-explanatory and intended to clarify the language based on comments at the workshop. For example, Staff clarified that the revised notice requirements for limited proceedings are only intended to apply when the request involves a change in customer rates. The proposed language clarifies this intent. Staff also clarified in the workshop that the establishment of a "clearly identifiable link on the utility's

website” allowing electronic access to all documents filed in the docket can be a direct link to the Commission’s website to avoid the duplication of extensive materials. PEF has suggested that be clarified in the rule.

PEF hopes that Staff and the other parties find these comments to be helpful. PEF appreciates the opportunity to participate in this process.

Respectfully submitted,

\_\_\_/s/ Dianne M. Triplett\_\_\_\_\_

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(850) 224-9115 FAX (850) 222-7560

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July 28, 2010

HAND DELIVERED

Ms. Ann Cole, Director  
Office of Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: UNDOCKETED - Initiation of Rulemaking to Adopt Rules 25-6.0431 and 25-7.0391, F.A.C., Relating to Application for Limited Proceedings, and to Amend Rule 25-22.0406, F.A.C., Concerning Notice and Public Information Requirements

Dear Ms. Cole:

Enclosed for filing in the above-styled matter are the original and ten (10) copies of Tampa Electric Company's Post-Workshop Comments as a follow up to the matters discussed at the Commission's rule development workshop conducted June 23, 2010.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning same to this writer.

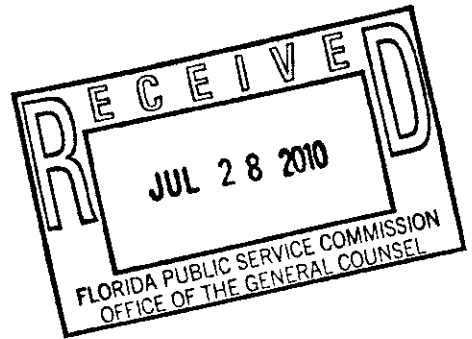
Thank you for your assistance in connection with this matter.

Sincerely,

James D. Beasley

JDB/pp  
Enclosure

- cc: Kathryn Cowdery (w/enc.)
- Charles Rehwinkel (w/enc.)
- Vicki Kaufman (w/enc.)
- Dianne Triplett (w/enc.)
- John Butler (w/enc.)
- Russell Badders (w/enc.)



DOCUMENT NUMBER DATE

06138 JUL 28 09

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Rulemaking to Adopt )  
Rules 25-6.0431 and 25-7.0391, F.A.C., )  
Relating to Application for Limited )  
Proceedings, and to Amend )  
Rule 25-22.0406, F.A.C., Concerning )  
Notice and Public Information )  
Requirements )  
\_\_\_\_\_ )

UNDOCKETED

FILED: July 28, 2010

**TAMPA ELECTRIC COMPANY'S  
POST-WORKSHOP COMMENTS**

Tampa Electric Company ("Tampa Electric" or "the company") appreciates the opportunity to file comments in the above-referenced matter. The comments discussed below are offered for the Commission's consideration.

**Rules 25-6.0431 and 25-7.0391, F.A.C., Application for Limited Proceedings**

Section 366.076, Florida Statutes ("the Statute"), gives the Commission broad authority to conduct limited proceedings "to consider and act upon any matter within its jurisdiction, including any matter the resolution of which requires a public utility to adjust its rates." The Statute clearly permits the Commission or a petitioner to initiate a limited proceeding on any matter within the Commission's jurisdiction. The Commission staff's draft rule appears to address limited proceedings involving rate changes initiated by utilities. Tampa Electric believes the rule should address all filings under the Statute, including those that may not affect rates.

The broad nature of the Statute suggests that, if the Commission believes it is necessary to adopt a rule associated with the Statute, such a rule should prescribe the procedure for requesting a limited proceeding and describe the filing requirements only in a general sense.

DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Prescribing detailed filing requirements is impractical given the variety of matters that could be addressed in such a petition, thereby likely hindering attempts to provide the Commission with useful information on which to base its decision. For the most part, Tampa Electric believes the staff has provided a reasonable description of the types of information to be included with a filing; however, it should be clarified that the information is required only to the extent it is relevant to the filing.

The Commission should refrain from placing limitations on the scope of limited proceeding filings or specifying when it is inappropriate for a petitioner to request a limited proceeding. Such limitations would be inconsistent with the plain statutory authorization that “the Commission may conduct a limited proceeding to consider and act upon any matter within its jurisdiction.” Tampa Electric supports allowing the petitioner to propose the scope of the proceeding and for the Commission, with input from the petitioner and parties, to exercise its authority to determine the issues to be considered based on the unique facts and circumstances of each case.

Tampa Electric has attached specific recommended changes in type-and-strike format that are consistent with the comments expressed above, with some explanatory comments for each such proposed change.

#### **Rule 25-22.0406, F.A.C., Notice and Public Information Requirements**

Tampa Electric is in general agreement with the changes included in staff’s draft rule. The changes for the most part are reasonable requirements relative to providing notice and public information.

The company has a concern relative to the proposed procedure for providing customer notices. Subsection (5) requires notifications to customers no less than 14 days and no more than 30 days prior to the first scheduled service hearing or customer meeting. Tampa Electric would be unable to comply with this requirement within the 16-day window unless it incurred the substantial expense of a separate mailing. Tampa Electric suggests that the window for providing customer notice be expanded to allow companies to include notices in customer bills.

Also, by tying the time frame for customer notice to dates for customer service hearings or customer meetings, the rule creates the presumption that the Commission will hold service hearings or customer meetings with all limited proceedings. While it may be appropriate to hold service hearings or customer meetings in some cases, the matter(s) at issue in a limited proceeding may not necessarily warrant the expense of holding such meetings. Tampa Electric suggests simply requiring companies to provide notice at least 14 days prior to the service hearing or customer meeting, if service hearings have been scheduled. This approach is consistent with the customer notice requirement relative to the technical hearing when a hearing is requested.

Finally, Tampa Electric recommends changing the word “complaints” to “comments” in paragraphs (2)(e)7. and (3)(b)7. The company believes encouraging customers to submit “comments” regarding the company’s service is a more balanced approach that would invite customers to provide the Commission with information about favorable service as well.

Tampa Electric Company's Recommended Changes to Staff Draft of Rule 25-6.0431, F.A.C.

Rule Provision	Comment
<p>25-6.0431 Application Petition for a Limited Proceeding</p> <p>(1) Each application petition for a limited proceeding shall provide contain the following general information to the Commission:</p> <p>(a) <u>The name of the applicant and the address of the applicant's principal place of business</u> All matters required to be included in a petition under Rule 28-106.201, Florida Administrative Code (Initiation of Proceedings):</p>	<p>Subsection (1) requires any petition for limited proceeding to include general information required for all petitions for limited proceedings. Rule 28-106.201, F.A.C. requires:</p> <ul style="list-style-type: none"> <li>• The name and address of each agency affected and each agency's file or identification number, if known;</li> <li>• The name, address, and telephone number of the petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; and an explanation of how the petitioner's substantial interests will be affected by the agency determination;</li> <li>• A statement of when and how the petitioner received notice of the agency decision;</li> <li>• A statement of all disputed issues of material fact. If there are none, the petition must so indicate;</li> <li>• A concise statement of the ultimate facts alleged, including the specific facts the petitioner contends warrant reversal or modification of the agency's proposed action;</li> <li>• A statement of the specific rules or statutes the petitioner contends require reversal or modification of the agency's proposed action, including an explanation of how the alleged facts relate to the specific rules or statutes; and</li> <li>• A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action.</li> </ul>
<p>(b) <u>The number(s) of the Commission order(s), in which the Commission most recently considered the applicant's base rates: A detailed statement of the reason(s) why the limited proceeding has been requested and why a limited proceeding is the appropriate type of proceeding for consideration of the requested relief.</u></p>	<p>Paragraph (1)(b) requires each petition to include a detailed statement of the requested relief and an explanation of why a limited proceeding is appropriate for consideration of the request.</p>

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Tampa Electric Company's Recommended Changes to Staff Draft of Rule 25-6.0431, F.A.C.

Rule Provision	Comment
<p><del>(e) The addresses within the service area where the application is available for customer inspection during the time the application is pending.</del></p>	<p>The requirement to maintain copies of the application for public inspection duplicates a similar provision in the Staff draft changes for Rule 25-22.0406(3)(b)1, F.A.C.</p>
<p><del>(2) The following minimum information shall be filed with the utility's application for limited proceeding: In addition to the foregoing, a petition by an investor owned electric utility for a limited proceeding involving a change in rates shall include:</del></p>	<p>Subsection (2) addresses information required for limited proceedings in which the petitioner is requesting a change in rates.</p>
<p><del>(a) A detailed statement of the reason(s) why the limited proceeding has been requested. The number(s) of the Commission order(s) in which the Commission most recently considered the petitioner's base rates.</del></p>	<p>Paragraph (2)(a) requires references to most recent rate case orders in limited proceedings involving rate changes.</p>
<p><del>(b) An explanation as to whether any change in cost of service may reasonably be postponed or phased in such that an immediate change in rates is not necessary.</del></p>	<p>Paragraph (2)(b) requires a utility to include a statement regarding why the change in rates could not be avoided by postponing or phasing-in costs as opposed to being a stated condition under which limited proceeding relief would be inappropriate.</p>
<p><del>(3) Each petition by an investor owned electric utility for a limited proceeding shall provide the following information to the extent the requested information is applicable to the filing:</del></p>	<p>Subsection (3) requires petitions for limited proceeding to include certain specific information only when applicable to the specific relief requested.</p>
<p><del>(b)(a) If the utility's application includes a request for recovery of plant in service, accumulated depreciation and depreciation expense, a schedule that provides the specific rate base components for which the utility seeks recovery on both a system and jurisdictional basis. Supporting detail shall be provided for each item requested, including:</del></p> <ol style="list-style-type: none"> <li><del>1. The actual or projected costs(s);</del></li> <li><del>2. The date the item was, or is projected to be, placed in service;</del></li> <li><del>3. Any corresponding adjustments that are required as a result of adding or removing the requested component(s) from rate base, which may include retirement entries;</del></li> <li><del>4. All supporting detail by primary account as defined by the Uniform System of Accounts, in accordance with Rule 25-6.014, F.A.C.; and</del></li> <li><del>5. Any other relevant supporting information.</del></li> </ol>	<p>Paragraph (3)(a) requires information related to recovery of plant-in-service only if the filing includes such a request. The requirement in paragraph (3)(a)5. is deleted since the petitioner would provide "other relevant supporting information" to the extent necessary to justify the request.</p>

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Tampa Electric Company's Recommended Changes to Staff Draft of Rule 25-6.0431, F.A.C.

Rule Provision	Comment
<p>(e)(b) If recovery is being requested for any capital costs, a calculation of the weighted average cost of capital shall be provided for the most recent twelve-month period, using the mid-point of the range of the last authorized rate of return on equity, the current embedded cost of fixed rate capital, the actual cost of short term debt, the actual cost of variable cost debt, and the actual cost of other sources of capital which were used in the last individual rate proceeding of the utility;</p>	<p>Paragraph (3)(b) requires information related to recovery of capital costs only if the filing includes such a request. The rule should not require the cost of capital to be based on the mid-point of the range of the last authorized rate of return on equity since the limited proceeding statute does not require requests to be based on the authorized return on equity.</p>
<p>(e)(c) If the utility is requesting recovery of operating expenses, the following information shall be provided on both a system and jurisdictional basis:</p> <ol style="list-style-type: none"> <li>1. A detailed description of the expense(s) requested;</li> <li>2. The total cost by primary account pursuant to the Uniform System of Accounts;</li> <li>3. Supporting documentation or calculations; and</li> <li>4. Any allocations that are made between systems, affiliates or related parties. If allocations are made, submit full detail that shows the total amount allocated, a description of the basis of the allocation methodology, the allocation percentage applied to each allocated cost, and the workpapers supporting the calculation of the allocation percentages.</li> </ol>	<p>Paragraph (3)(c) requires information related to recovery of operating expenses only if the filing includes such a request.</p>
<p>(e)(d) Calculations for all items or actions that will create cost savings or revenue impacts from the implementation of the requested cost recovery items;</p>	
<p>(f)(e) A calculation of the proposed revenue change;</p> <p>(g) Schedules for the most recent twelve-month period showing that, without any increased rates, the utility will earn below its authorized rate of return, in accordance with Section 366.071, F.S. The schedules shall consist of a rate base, net operating income, and cost of capital schedule with adjustments to reflect those consistent with the utility's last rate proceeding;</p>	<p>The limited proceeding statute does not provide that relief can only be granted if not granting the relief would result in the company earning below its authorized rate of return. A better approach would be for the Commission to decide that that requested relief is inappropriate after considering the facts and circumstances unique to the case.</p>
<p>(h)(f) Annualized revenues for the most recent twelve-month period using the rates in effect at the time the utility files its application petition for limited proceeding;</p>	
<p>(h)(g) A schedule showing how the utility proposes to allocate any change in revenues to rate classes;</p>	

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Tampa Electric Company's Recommended Changes to Staff Draft of Rule 25-6.0431, F.A.C.

Rule Provision	Comment
<p>(h) A schedule of current and proposed rates for all rate schedules, along with workpapers showing how those rates were derived;</p> <p>(i) If the limited proceeding is being requested solely to change the current rate structure, the petition shall provide a copy of all workpapers and calculations used to calculate requested rates and allocations between customer classes, and a description of the customer migrations between rate schedules resulting from the restructuring. In addition, the following schedules, which are incorporated herein by reference, from Form PSC/ECR/011-E(2/04), entitled "Minimum Filing Requirements for Investor-Owned Electric Utilities," shall be provided. The schedules can be obtained from the Commission's Division of Economic Regulation.</p>	
<p>1. Schedule E-1, entitled "Cost of Service Study"</p>	
<p>2. Schedule E-6, entitled "Cost of Service Study – Unit Costs, Present Rates"</p>	
<p>3. Schedule E-6b, entitled "Cost of Service Study – Unit Costs, Proposed Rates"</p>	
<p>4. Schedule E-8, entitled "Company Proposed Allocation of the Rate Increase by Rate Class"</p>	
<p>5. Schedule E-13a, entitled "Revenue from Sale of Electricity by Rate Schedule"</p>	
<p>6. Schedule E-13c, entitled "Revenue by Rate Schedule – Calculations"</p>	
<p>7. Schedule E-13d, entitled "Revenue by Rate Schedule – Lighting Schedule Calculations"</p>	
<p>8. Schedule E-14, Proposed Tariff Sheets and Support for Changes"</p>	
<p>(3) In a limited proceeding application:</p>	
<p>(a) Each schedule shall be cross-referenced to identify related schedules. Supporting documentation reflecting all calculations or assumptions made shall be filed.</p>	
<p>(b) The original and twenty copies shall be filed with the Office of Commission Clerk. To the extent possible, all filings made electronically or on diskette shall be provided in Microsoft Word format and all</p>	

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Rule Provision	Comment
<p>schedules and calculations shall be provided in Excel format with formulas intact and unlocked.</p> <p><del>(4) A limited proceeding is inappropriate in the following circumstances:</del></p> <p><del>(a) If the utility has the discretion to postpone or phase in any costs such that an immediate rate increase is not necessary; or</del></p> <p><del>(b) If the utility's filing includes more than two separate proposals for which recovery is sought and the requested rate increase exceeds five percent of the utility's most recent twelve-month annual jurisdictional base rate revenue. Corresponding adjustments for a given proposal are not subject to the above limitation.</del></p>	<p>The use of the word "inappropriate" is vague and does not stand as a clear statement of the Commission's policy. Also, the requirements in (4)(a) and (b) are inconsistent with the broad authority granted to the Commission by the limited proceeding statute.</p> <p>Subsection (4)(a) is more appropriately included as a statement in Subsection (2). Whether the utility could reasonably postpone or phase-in costs should be an issue in the case rather than a stated condition under which a request for relief is appropriate.</p> <p>Subsection (4)(b) is vaguely worded and appears to impose a threshold percentage for revenue increases that is not contemplated by the limited proceeding statute. The Commission should preserve its authority and make a determination about whether the increase is appropriate based on the merits of the parties' arguments.</p>
<p>Rulemaking Authority: 350.127(2), 366.05, 366.06(1) 366.076(2) F.S.                      Law Implemented: 366.05, 366.06, 366.076 F.S.                      History - New:</p>	
<p>Rule 25-6.0431 Clean (6-23-10).doc</p>	

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