

State of Florida



## Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

**-M-E-M-O-R-A-N-D-U-M-**

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**DATE:** March 29, 2007

**TO:** Commission Clerk (Cole)

**FROM:** Office of the General Counsel (Harris, Fleming)  
Division of Economic Regulation (Slemkewicz, Hewitt)

**RE:** Docket No. 070011-EI – Proposed amendment of Rule 25-6.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4.

**AGENDA:** 04/10/07 – Regular Agenda – Rule Proposal - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All

**PREHEARING OFFICER:** Pending

**RULE STATUS:** Proposal May Be Deferred

**SPECIAL INSTRUCTIONS:** None

**FILE NAME AND LOCATION:** S:\PSC\GCL\WP\070011.RCM.DOC

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### Case Background

Prior to Hurricane Andrew in 1992, Florida investor-owned electric utilities (“IOUs”) were able to purchase commercial insurance for their transmission and distribution facilities at reasonable and affordable prices. Accruals were made to a property insurance reserve to cover items such as insurance deductible amounts. Due to the level of damage caused by Hurricane Andrew, however, the price of commercial insurance for Florida IOU transmission and distribution facilities became cost prohibitive and uneconomical. As a result, the Commission authorized Florida IOUs to begin operating under a self-insurance program for their transmission and distribution facilities. Each IOU was required to file a study to determine the appropriate

accumulated target level for the property damage reserve<sup>1</sup> and the appropriate annual accrual amount to achieve and maintain that target level over time. The target levels and annual accrual amounts were subject to review in rate change proceedings or whenever changes were sought in the target levels or the annual accrual amounts.

Until the 2004 hurricane season, each of the IOU's self-insurance programs was adequate to cover the costs incurred for storm damage restoration. However, the combined effects of the damages caused by Hurricanes Charley, Frances, Ivan and Jeanne during 2004 far exceeded the amounts that had been accumulated in four of the five IOU's property damage reserves. As a result, Florida Power & Light Company ("FPL") and Progress Energy Florida, Inc. ("PEF") filed petitions seeking to recover storm damage restoration costs that exceeded the amounts in their property damage reserves.<sup>2</sup> Gulf Power Company ("GULF") sought approval of a stipulation for recovery of storm damage costs between GULF and various parties.<sup>3</sup> Tampa Electric Company ("TECO") also filed a petition seeking approval of a stipulation with various parties concerning the accounting treatment of storm damage restoration costs.<sup>4</sup> TECO, however, did not request that a surcharge be implemented. To date, Florida Public Utilities Company ("FPUC") has not filed a petition for recovery of storm restoration expenses.

The GULF and TECO stipulations were approved as filed.<sup>5</sup> The FPL and PEF petitions, however, were litigated before the Commission. FPL and PEF were ultimately allowed to implement surcharges to recover the amount of storm damage restoration costs approved by the Commission.<sup>6</sup> In each of these four cases, each IOU employed a different methodology to determine the amount of storm damage restoration costs that should be charged to the property damage reserve and the amount, if any, to be recovered from ratepayers through a surcharge. Staff's primary objective for these recommended rule amendments is to establish a single, consistent, and uniform methodology for determining which storm damage restoration costs can appropriately be charged to the property damage reserve by each of the Florida IOUs.

Staff prepared a preliminary rule, which was published in the Florida Administrative Weekly ("FAW") on February 3, 2006, along with a notice of rule development workshop to be held March 10, 2006. Pre-workshop comments were received from the Edison Electric Institute ("EEI"), Florida Industrial Power User's Group ("FIPUG"), FPL, GULF, PEF, TECO, and the

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<sup>1</sup> Account 228.1 is titled "Accumulated Provision for Property Insurance." Throughout this recommendation, this account will be referred to as the "property damage reserve."

<sup>2</sup> Docket 041291-EI, Petition for authority to recover prudently incurred storm restoration costs related to 2004 storm season that exceed storm reserve balance, by Florida Power & Light Company. Docket 041272-EI, Petition for approval of storm cost recovery clause for recovery of extraordinary expenditures related to Hurricanes Charley, Frances, Jeanne, and Ivan, by Progress Energy Florida, Inc.

<sup>3</sup> 050093-EI - Petition for approval of stipulation and settlement for special accounting treatment and recovery of costs associated with Hurricane Ivan's impact on Gulf Power Company.

<sup>4</sup> 050225-EI - Joint petition of Office of Public Counsel, Florida Industrial Power Users Group, and Tampa Electric Company for approval of stipulation and settlement as full and complete resolution of any and all matters and issues which might be addressed in connection with matters regarding effects of Hurricanes Charley, Frances, and Jeanne on Tampa.

<sup>5</sup> GULF in Order No. PSC-05-0250-PAA-EI, issued March 4, 2005; TECO in Order No. PSC-05-0675-PAA-EI, issued June 20, 2005.

<sup>6</sup> FPL in Order No. PSC-05-0937-FOF-EI, issued September 21, 2005; PEF in Order No. PSC-05-0748-FOF-EI, issued July 14, 2005.

Office of Public Counsel (“OPC”). Representatives of these entities attended the rule development workshop held March 10, 2006, as well as a representative of the Florida Retail Federation (“FRF”).

On February 2, 2007, a second notice of rule development workshop was published in the FAW, with a copy of the rule as revised by staff following the first workshop. To facilitate discussion at the February 21, 2007, workshop, staff requested that interested persons provide comments on staff’s revised rule in type-and-strike format. Language was provided by GULF and a joint filing by FPL and PEF. FIPUG and OPC also provided brief comments prior to the workshop. At the February 21, 2007, workshop, representatives of PEF, FPL, GULF, TECO, OPC and FIPUG participated. GULF provided brief post-workshop comments on March 2, 2007. On March 15, 2007, staff conducted a conference call to take final comments and suggestions on the draft rule prior to the preparation of this Recommendation. Staff has made changes to the recommended rule, where appropriate, to reflect the comments and concerns raised by the workshop participants in their written comments and at the workshops and conference call.

This recommendation addresses whether the Commission should propose amendments to Rule 25-6.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4, included as Attachment A. The Commission has rulemaking jurisdiction pursuant to Sections 120.54 and 366.05(1), Florida Statutes.

## **Discussion of Issues**

**Issue 1:** Should the Commission propose amendments to Rule 25-6.0143, Florida Administrative Code, Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4?

**Recommendation:** Yes. (Harris, Slemkewicz, Hewett)

**Staff Analysis:** Staff recommends Rule 25-6.0143 be amended to provide guidance to investor-owned electric utilities for determining the types of storm damage restoration costs that can be charged to Account 228.1, Accumulated Provision for Property Insurance. Staff recommends no changes be made to Account 228.2, Accumulated Provision for Injuries and Damages, and one technical change to Account 228.4, Accumulated Miscellaneous Operating Provisions, to add a cross-reference to three new paragraphs in Account 228.1. Staff's recommended amendments to the rule only address which costs the IOUs can place in ("charge to") Account 228.1. These rule amendments do not affect which costs a utility may choose to include in a petition for cost recovery following a hurricane or other significant property loss. As explained in the background, staff recommends establishment of a standardized accounting methodology that all Florida IOUs will follow. This standardization will provide a benefit to staff, the IOUs, and other parties who participate in IOU cost recovery dockets.

The rule amendments will require the establishment of a separate subaccount for storm related damage expenses and accruals, the "storm damage subaccount." The recommended rule amendments will also require use of the Incremental Cost and Capitalization Approach ("ICCA") methodology and delineate types of expenses that are expressly allowed or prohibited from being charged to the storm damage subaccount.

### **Summary Of Staff's Recommended Rule Amendments:**

25-6.0143(1)(b) [page 13, lines 11-14] adds a reference to new paragraphs (1)(f), (g) and (h), and adds insurance proceeds to the list of credits to the account.

25-6.0143(1)(c) [page 13, lines 15-19] requires the establishment of a separate subaccount for storm-related damages to the utility's property, or property leased from others.

25-6.0143(1)(d) [page 13, line 20 – page 14, line 9] requires the use of an Incremental Cost and Capitalization Approach methodology.

25-6.0143(1)(e) [page 14, line 10 – page 15, line 4] provides a non-exclusive list of the types of costs which are allowed to be charged to the storm damage subaccount.

25-6.0143(1)(f) [page 15, line 5 – page 16, line 1] provides a non-exclusive list of types of costs which are prohibited from being charged to the storm damage subaccount.

25-6.0143(1)(g) [page 16, lines 2-16] allows deferred accounting treatment for storm restoration related costs prior to Commission determination of suitability for inclusion in the storm damage subaccount.

25-6.0143(1)(h) [page 16, lines 17-22] allows the utility the option of expensing storm related costs, rather than charging them to the storm damage subaccount.

25-6.0143(1)(i) [page 16, line 23 – page 17, line 1] specifies that negative storm damage subaccount balances may be treated as a debit balance, without the necessity of petitioning for establishment of a regulatory asset.

25-6.0143(1)(j) [page 17, lines 2-4] allows the utility to petition for recovery of a debit balance through a surcharge, securitization, or other cost recovery mechanism.

25-6.0143(1)(k) [page 17, lines 5-6] requires prior Commission approval before a utility changes a property damage reserve target accumulated balance.

25-6.0143(1)(l) [page 17, lines 7-12] establishes the requirement that IOUs file storm damage self-insurance studies by January, 2011, and every 5 years thereafter.

25-6.0143(1)(m) [page 17, lines 13-18] requires an annual report from each utility regarding its efforts to obtain commercial insurance.

25-6.0143(4)(b) [page 18, lines 21-22] is amended to add a reference to new paragraphs (1)(f), (g) and (h).

Incremental Cost and Capitalization Approach [Paragraph (1)(d), page 13, line 20 – page 14, line 9]

Currently, each of Florida's IOUs use different accounting methods for tracking expenses related to damage to its transmission and distribution systems. Also, the IOUs have used different methods for determining the amount of costs to be recovered in their 2004 and 2005 storm cost recovery petitions. This lack of consistency greatly increases the workload of staff and other interested parties seeking to review a utility's storm related costs. It also increases auditing efforts and creates a great deal of discovery.

In the cost recovery proceedings the Commission has decided, the Commission has consistently issued orders approving the ICCA methodology for storm cost recovery. The Commission has not established this policy for the accounting treatment of storm damage restoration costs and the charging of these costs to the property damage reserve. Staff believes that the policy to be established for storm accounting should be consistent with the guidance provided by the storm cost recovery orders, and therefore recommends the ICCA methodology be established for storm restoration cost accounting. Accordingly, staff has drafted new paragraph (1)(d) to Rule 25-6.0143 to require the use of the ICCA methodology for accounting purposes.

The ICCA methodology is designed to prevent double recovery. Under the ICCA, a utility only charges to the storm damage subaccount those storm restoration costs that are not already being recovered through base rates ("incremental" costs). For example, a utility would not be able to charge the normal base salaries of employees working on storm restoration, but would be able to charge overtime costs related to storm restoration activities to the storm damage subaccount.

In their first set of workshop comments, the IOUs disagreed with establishment of the ICCA methodology for accounting purposes. In their second set of pre-workshop comments, the IOUs did not seek to change the ICCA as the basic methodology to be used for storm accounting. At the February 21, 2007, workshop, all participants expressed support for the ICCA methodology. The IOUs expressed the need for the rule amendments to be drafted in such a way as to allow for a "full" ICCA approach: one which allows recovery of all incremental costs above base rates. In order to achieve this full approach, staff has drafted new paragraphs (1)(e), (f) and (g).

Items included in the Storm Damage Subaccount [Paragraph (1)(e), page 14, line 10 – page 15, line 4]

As previously discussed, the recommended rule amendments only prescribe a utility's accounting treatment of storm damage restoration costs. The rule amendments have no effect on costs an IOU might choose to include in a storm cost recovery petition. The intent of these rule amendments is to standardize the way all Florida IOUs account for storm damage restoration costs. Staff believes the Commission's previous storm cost recovery orders provide guidance on which costs are eligible for recovery through a storm cost recovery petition. Staff therefore recommends that this guidance be extended to the methodology IOUs use to account for such costs.

In its February 14, 2007, comments, GULF suggested the addition of a new paragraph 25-6.0143(1)(e), which would provide a non-exhaustive list of the types of costs which are allowed to be charged to the storm damage subaccount. GULF suggests that such a list is needed to balance the list of types of costs to be excluded from the storm damage subaccount in paragraph (1)(f), and is necessary to accomplish the purpose of the rule: to provide standardization and guidance to Florida IOUs on the accounting of storm damage restoration costs. At the February 21, 2007, workshop, there appeared to be general support for the inclusion of this paragraph in the rule.

Staff believes that any ICCA compatible cost, not specifically excluded, would be appropriate for inclusion in the storm damage subaccount. Staff agrees with GULF that the addition of a non-exhaustive list of types of costs to be charged to the storm damage subaccount assists in accomplishing the purpose of the rule, and will be helpful in providing guidance to Florida IOUs regarding accounting for storm damage restoration costs. Staff therefore recommends the inclusion of new paragraph (1)(e) in the amendments to Rule 25-6.0143. The specific list of items is taken from prior Commission orders where staff believes the Commission has clearly established the appropriateness of inclusion under the ICCA approach.

Items excluded from the Storm Damage Subaccount [Paragraph (1)(f), page 15, line 5 – page 16, line 1]

New paragraph 25-6.0143(1)(f) contains a non-exhaustive list of types of costs which are prohibited from being charged to the storm damage subaccount. This list of exceptions comes directly from the Commission's decisions in the 2004 and 2005 hurricane cost recovery dockets. In their type-and-strike comments at the second workshop, PEF and FPL propose deletion of this list. GULF proposed adding a new paragraph [(1)(e)] to add a list of items which would be suitable for inclusion in the subaccount, to balance the list of excluded items.

In their type-and-strike comments, PEF and FPL suggest the deletion of the list of types of costs to be excluded from the storm damage subaccount. The IOUs expressed the concern that the list of exclusions is too broad, and that some valid incremental costs will be disallowed based on their categorization as a type of excluded cost. As discussed above, GULF's comments

suggested retention of excluded types of costs, but inclusion of a corresponding list of types of costs that would be specifically included in the storm damage subaccount.

Staff does not agree with the type-and-strike comments of PEF and FPL to delete the list of costs which are excluded from the storm damage subaccount. Failure to include specific exclusions in the rule will result in different IOUs seeking to charge different costs, which frustrates the basic intent of the rule and will result in continued litigation. Further, staff does not agree that a list of types of excluded costs would prohibit recovery of a specific, valid incremental expense item. Staff believes the list of excluded types of costs creates the right balance, where the company bears the burden of demonstrating those costs which it seeks to charge to the storm damage subaccount are truly incremental to base rates.

Deferred Accounting Treatment [Paragraph (1)(g), page 16, lines 2-16]

Following the February 21, 2007, workshop, staff became aware of a potential omission in the framework of the draft rule amendments. The draft rule amendments contained provisions for those types of expenses which clearly could or could not be charged to the storm damage subaccount. There was, however, no provision for those types of costs relating to storm damage restoration activities which the Commission has not clearly determined should or should not be chargeable to the storm damage subaccount. Further, due to financial reporting requirements, a company would be required to report these costs on its balance sheet, whether or not a petition for recovery was pending. Staff therefore determined the need for a new paragraph which would allow deferred accounting treatment for this third category of storm restoration costs: those costs which the Commission has not yet established the appropriate disposition or accounting treatment.

Deferred accounting treatment means the company will not be required to report the impact of deferred costs on its income statement until the Commission makes a determination of the disposition of those costs. Once the Commission determines the appropriate treatment, those which are chargeable to the storm damage subaccount are charged to the account, while those that are not are reported on the income statement in some other way.

Paragraph (1)(g) was discussed at the March 15, 2007, conference call, and there is agreement that the concept of deferred accounting treatment for the third category of costs is valid and helps further the intent and purpose of the rule. Staff recommends that new paragraph (1)(g) be included in the amendments to Rule 25-6.0143.

Expensing Storm Costs [Paragraph (1)(h), page 16, lines 17-22]

New paragraph 25-6.0143(1)(h) allows IOUs to expense storm-related costs, rather than charge those costs to a storm damage subaccount and seek recovery through a surcharge or securitization. In 2004, TECO choose this method of recovering storm costs. Staff believes the IOUs should maintain the flexibility to expense storm damage restoration costs in one year, at the utility's discretion.

In their type-and-strike comments, PEF and FPL suggested deletion of this provision from the rule amendments. GULF's type-and-strike included this provision, with modifications to the language. OPC and FIPUG supported the inclusion of this paragraph. After review, staff believes the Commission's storm recovery orders clearly establish that a utility should have the option of expensing storm related costs. Staff recommends that this language remain in the rule amendments, with the wording changes suggested by GULF.

Debit Balances, Regulatory Assets, and Cost Recovery [Paragraphs (1)(i) and (j), page 16, line 23 – page 17, line 4]

Charging expenses to the storm damage subaccount, in excess of any accumulated balance, would create a negative balance in that account. New paragraphs 25-6.0143(1)(i) and (j) allow an IOU to create a negative (debit) balance in the storm damage subaccount, without the necessity of petitioning the Commission for creation of a regulatory asset. If the balance is negative, the utility has the option of petitioning the Commission for cost recovery or expensing the costs.

A "regulatory asset" is an accounting concept, whereby a regulated utility may create an account with a negative balance, but the utility is assured of the opportunity to recover that negative balance in the future, usually in the next rate case, by order of the regulatory commission. Regulatory assets are useful in promoting investor confidence, since the creation of a regulatory asset is assurance that the company will have the opportunity to recover the balance in the future, while preventing frequent rate adjustment proceedings.

Under current accounting practices, IOUs are required to petition the Commission to convert a negative balance into a regulatory asset. Staff recommends that the rule establish that such a petition is unnecessary for storm damage restoration costs only. Staff believes the automatic creation of a regulatory asset in the storm damage subaccount is consistent with the intent of these rule amendments: to establish one storm account where storm-related expenses are consolidated, for ease of eventual recovery, in a consistent manner. Paragraph (1)(j) allows a utility to petition the Commission for recovery of a negative balance.

Based on prior Commission orders, staff recommends that a utility be allowed to petition the Commission for recovery of negative storm damage subaccount balances through a surcharge, securitization, or other cost recovery mechanism.

Annual Reports and Target Balances [Paragraphs (1) (k) and (l), page 17, lines 5-12]

New paragraphs 25-6.0143(1)(k) and (l) require IOUs not change their storm reserve target balance without Commission approval and file self-insurance studies every five years. Staff recommends both these provisions are necessary to accomplish the intent of the rule amendments. Staff believes the IOUs should file a study, every five years, regarding their self-insurance programs. Receipt of this study will allow the Commission to determine whether the utility's target balance is appropriate or should be reset, whether the current accrual amounts are appropriate, etc. Staff makes the corresponding recommendation that IOUs not be allowed to change the property damage reserve target balance without prior Commission approval. The



storm reserve target balance is the benchmark for whether charges to the storm damage subaccount will create a negative account balance, which determines future cost recovery petitions. Staff believes it appropriate that the balance not be changed without prior Commission review and approval.

The IOU's comments suggested the deletion of the five year reporting requirement. The IOUs state that self-insurance studies are extremely intensive and require significant resources to prepare. The IOUs suggest that rather than a mandatory five year period, utilities only file self-insurance studies when necessary. Other workshop participants agreed with the reporting sections of the recommended rule amendments.

After review, staff believes the reporting sections of the rule are integral to the scheme of Commission oversight and monitoring of IOU storm management, accounting, and cost recovery. Staff therefore continues to recommend that utilities be required to file the self-insurance study at least every five years.

Insurance Studies and Commercial Insurance [Paragraph (m), page 17, lines 13-18]

Recommended new paragraph 25-6.0143(1)(m) requires each utility file an annual report on its ability to obtain commercial transmission and distribution insurance. As discussed in the case background, the Commission only created the self-insurance fund within the property damage reserve after 1992's Hurricane Andrew made commercially available insurance either unavailable or unaffordable. Staff believes that Florida's electric ratepayers should be the insurers of last resort only if commercial insurance cannot be obtained.

To this end, staff recommends that the rule amendments require each IOU report annually on its efforts to obtain commercial insurance. Staff believes IOUs should continue to seek commercial insurance, and if it becomes available, allow the Commission to determine whether purchasing such coverage is in the best interests of Florida's ratepayers, and how the costs of that insurance should be recovered.

During these rulemaking proceedings, FIPUG suggested that the possibility of a risk-management pool for Florida utilities be explored, not necessarily in this proceeding. GULF also brought to staff's attention efforts that it and other Florida IOUs are exploring regarding commercial insurance and the possible creation of some form of risk management pool or capture. Staff believes exploring these opportunities is in the best interests of Florida's ratepayers and that this issue is of great importance. Staff is concerned that mere inclusion of GULF's suggested language that a utility be allowed to charge the costs of subsequently purchased commercial insurance to the storm damage subaccount until the utility's next base rate case fails to give this issue the weight it deserves. Since the rule amendments recommended by staff only address the proper accounting treatment of storm damage restoration costs, staff does not believe language of the type suggested by GULF is suitable for inclusion in these rule amendments at this time.

Staff believes that further proceedings must be conducted to fully explore all options and assure all opportunities are pursued for the benefit of Florida ratepayers. Accordingly, staff

recommends that if the Commission votes to propose these rule amendments, once they are adopted and become effective staff conduct a workshop to fully explore the transmission and distribution insurance/risk-management pool issue and the proper method of recovery of insurance premiums or other costs of participation.

### Treatment of Reimbursements from Mutual Aid Agreements

In the draft version of the rule amendments, staff included a requirement that the IOUs credit any revenues received from mutual aid agreements, in excess of the utility's incremental costs, to the storm damage subaccount.<sup>7</sup> All utility comments, as well as those from the Edison Electric Institute, raised concern with staff's treatment of revenues received as reimbursements for Florida utility crews which travel to other utility service territories to assist with storm restoration.

A utility's base rates are designed to recover all of the utility's operating costs, including the costs of its line crews. When a crew is dispatched to another utility as part of a mutual aid agreement, the crew's costs for that period of time are still being recovered in the sending utility's base rates. When the sending utility is reimbursed by the receiving utility for the costs of crews provided under a mutual aid agreement, a portion of the reimbursement constitutes double recovery, since the sending utility bills not only for the incremental costs (gas, travel time, food, etc.) but for the regular salaries of the crew and depreciation of its assigned equipment. In order to maintain consistency with the full ICCA approach, the draft rule amendments required any non-incremental revenues received by the sending utility be credited to the storm damage account, since those non-incremental revenues have already been recovered in base rates.

However, after review of the written comments submitted by the IOUs and the full discussion of this issue conducted at the February 21, 2007, workshop, staff now recommends the rule amendments not contain this provision. While staff still believes there could be some double-recovery of expenses, staff is persuaded that the benefits of mutual aid agreements to Florida ratepayers, combined with the extreme difficulty of the accounting that would be required to implement this provision, significantly outweigh any potential double recovery that may occur. By removing this provision from the recommended rule, staff only intends to continue the current treatment of mutual-aid reimbursements. Staff does not intend that removal of this provision from the recommended rule constitutes in any way a decision on the proper treatment of mutual-aid reimbursements, or a departure from current practices.

### Statement of Estimated Regulatory Costs

Staff prepared a Statement of Estimated Regulatory Costs ("SERC") which is included as Attachment B. In summary, IOUs should have no significant additional costs because of these

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<sup>7</sup> Under Mutual Aid Agreements, IOUs pledge to assist one another with restoration of service following severe disruptions. For example, to recover from the 2004 storms, utilities from as far away as Canada traveled to Florida to assist with restoration. Florida crews do likewise, frequently traveling north to assist with restoration following severe winter storms. This mutual aid is intended to be "at-cost;" an IOU is not supposed to make any profit on this service, only being reimbursed by the receiving utility for the actual costs of sending crews.

rule amendments, and there should be no significant costs on local governments, small businesses, or ratepayers.

IOUs should see lower overall total costs since the recommended rule amendments will reduce the amount of litigation over which charges to the property damage reserve are appropriate. While there might be higher IOU costs associated with more frequent storm damage study filings, the IOUs currently track and maintain separate records of storm damage costs and restoration activities.

There should be no negative impacts on small businesses, small cities, or small counties. Furthermore, to the extent that this rule reduces overall costs to IOUs, that reduction in costs should provide an indirect benefit to ratepayers.

Docket No. 070011-EI

Date: March 29, 2007

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no requests for hearing or comments are filed, the rule amendments as proposed should be filed for adoption with the Secretary of State and the docket should be closed. (Harris)

**Staff Analysis:** Unless comments or requests for hearing are filed, the rule as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

1 **25-6.0143 Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4.**

2 (1) Account No. 228.1 Accumulated Provision for Property Insurance.

3 (a) This account may be established to provide for losses through accident, fire, flood,  
4 storms, nuclear accidents and similar type hazards to the utility's own property or property  
5 leased from others, which is not covered by insurance. This account would also include  
6 provision for the deductible amounts contained in property loss insurance policies held by the  
7 utility as well as retrospective premium assessments stemming from nuclear accidents under  
8 various insurance programs covering nuclear generating plants. A schedule of risks covered  
9 shall be maintained, giving a description of the property involved, the character of risks  
10 covered and the accrual rates used.

11 (b) Except as provided in paragraphs (1)(f), (1)(g), and (1)(h) Charges to this account  
12 shall be made for all occurrences in accordance with the schedule of risks to be covered which  
13 are not covered by insurance. Recoveries, insurance proceeds or reimbursements for losses  
14 charged to this account shall be credited to the account.

15 (c) A separate subaccount shall be established for that portion of Account No. 228.1  
16 which is designated to cover storm-related damages to the utility's own property or property  
17 leased from others that is not covered by insurance. The records supporting the entries to this  
18 account shall be so kept that the utility can furnish full information as to each storm event  
19 included in this account.

20 (d) In determining the costs to be charged to cover storm-related damages, the utility  
21 shall use an Incremental Cost and Capitalization Approach methodology (ICCA). Under the  
22 ICCA methodology, the costs charged to cover storm-related damages shall exclude those  
23 costs that normally would be charged to non-cost recovery clause operating expenses in the  
24 absence of a storm. Under the ICCA methodology for determining the allowable costs to be

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1 charged to cover storm-related damages, the utility will be allowed to charge to Account No.  
2 228.1 costs that are incremental to costs normally charged to non-cost recovery clause  
3 operating expenses in the absence of a storm. All costs charged to Account 228.1 are subject  
4 to review for prudence and reasonableness by the Commission. In addition, capital  
5 expenditures for the removal, retirement and replacement of damaged facilities charged to  
6 cover storm-related damages shall exclude the normal cost for the removal, retirement and  
7 replacement of those facilities in the absence of a storm. The utility shall notify the Director  
8 of the Commission's Division of Economic Regulation in writing for each incident expected  
9 to exceed \$10 million.

10 (e) The types of storm related costs allowed to be charged to the reserve under the  
11 ICCA methodology include, but are not limited to, the following:

12 1. Additional contract labor hired for storm restoration activities;

13 2. Logistics costs of providing meals, lodging, and linens for tents and other staging  
14 areas;

15 3. Transportation of crews for storm restoration;

16 4. Vehicle costs for vehicles specifically rented for storm restoration activities;

17 5. Waste management costs specifically related to storm restoration activities;

18 6. Rental equipment specifically related to storm restoration activities;

19 7. Materials and supplies used to repair and restore service and facilities to pre-storm  
20 condition, such as poles, transformers, meters, light fixtures, wire, and other electrical  
21 equipment, excluding those costs that normally would be charged to non-cost recovery clause  
22 operating expenses in the absence of a storm;

23 8. Overtime payroll and payroll-related costs for utility personnel included in storm  
24 restoration activities;

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- 1           9. Fuel cost for company and contractor vehicles used in storm restoration activities;  
2 and  
3           10. Cost of public service announcements regarding key storm-related issues, such as  
4 safety and service restoration estimates.  
5           (f) The types of storm related costs prohibited from being charged to the reserve under  
6 the ICCA methodology include, but are not limited to, the following:  
7           1. Base rate recoverable regular payroll and regular payroll-related costs for utility  
8 managerial and non-managerial personnel;  
9           2. Bonuses or any other special compensation for utility personnel not eligible for  
10 overtime pay;  
11           3. Base rate recoverable depreciation expenses, insurance costs and lease expenses for  
12 utility-owned or utility-leased vehicles and aircraft;  
13           4. Utility employee assistance costs;  
14           5. Utility employee training costs incurred prior to 72 hours before the storm event;  
15           6. Utility advertising, media relations or public relations costs, except for public  
16 service announcements regarding key storm-related issues as listed above in subparagraph  
17 (e)10.;  
18           7. Utility call center and customer service costs, except for non-budgeted overtime or  
19 other non-budgeted incremental costs associated with the storm event;  
20           8. Tree trimming expenses, incurred in any month in which storm damage restoration  
21 activities are conducted, that are less than the actual monthly average of tree trimming costs  
22 charged to operation and maintenance expense for the same month in the three previous  
23 calendar years;  
24           9. Utility lost revenues from services not provided; and  
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1           10. Replenishment of the utility's materials and supplies inventories.

2           (g) Under the ICCA methodology for determining the allowable costs to be charged to  
3 cover storm-related damages, certain costs may be charged to Account 228.1 only after review  
4 and approval by the Commission. Prior to the Commission's determination of the  
5 appropriateness of including such costs in Account No. 228.1, the costs may be deferred in  
6 Account No. 186, Miscellaneous Deferred Debits. The deferred costs must be incurred prior  
7 to June 1 of the year following the storm event. By September 30 a utility shall file a petition  
8 for the disposition of any costs deferred prior to June 1 of the year following the storm event  
9 giving rise to the deferred costs. These costs include, but are not limited to, the following:

10           1. Costs of normal non-storm related activities which must be performed by  
11 employees or contractors not assigned to storm damage restoration activities ("back-fill  
12 work") or normal non-storm related activities which must be performed following the  
13 restoration of service after a storm by an employee or contractor assigned to storm damage  
14 restoration activities in addition to the employee's or contractor's regular activities ("catch-up  
15 work"); and

16           2. Uncollectible accounts expenses.

17           (h) A utility may, at its own option, charge storm-related costs as operating expenses  
18 rather than charging them to Account No. 228.1. The utility shall notify the Director of the  
19 Commission's Division of Economic Regulation in writing and provide a schedule of the  
20 amounts charged to operating expenses for each incident exceeding \$5 million. The schedule  
21 shall be filed annually by February 15 of each year for information pertaining to the previous  
22 calendar year.

23           (i) If the charges to Account No. 228.1 exceed the account balance, the excess shall be  
24 carried as a debit balance in Account No. 228.1 and no request for a deferral of the excess or  
25



1 for the establishment of a regulatory asset is necessary.

2 (j) A utility may petition the Commission for the recovery of a debit balance in  
3 Account No. 228.1 plus an amount to replenish the storm reserve through a surcharge,  
4 securitization or other cost recovery mechanism.

5 (k) A utility shall not establish or change an annual accrual amount or a target  
6 accumulated balance amount for Account No. 228.1 without prior Commission approval.

7 (l) Each utility shall file a Storm Damage Self-Insurance Reserve Study (Study) with  
8 the Commission Clerk by January 15, 2011 and at least once every 5 years thereafter from the  
9 submission date of the previously filed study. A Study shall be filed whenever the utility is  
10 seeking a change to either the target accumulated balance or the annual accrual amount for  
11 Account No. 228.1. At a minimum, the Study shall include data for determining a target  
12 balance for, and the annual accrual amount to, Account No. 228.1.

13 (m) Each utility shall file a report with the Director of the Commission's Division of  
14 Economic Regulation providing information concerning its efforts to obtain commercial  
15 insurance for its transmission and distribution facilities and any other programs or proposals  
16 that were considered. The report shall also include a summary of the amounts recorded in  
17 Account 228.1. The report shall be filed annually by February 15 of each year for information  
18 pertaining to the previous calendar year.

19 (2) Account No. 228.2 Accumulated Provision for Injuries and Damages.

20 (a) This account may be established to meet the probable liability, not covered by  
21 insurance, for deaths or injuries to employees or others and for damages to property neither  
22 owned nor held under lease by the utility. When liability for any injury or damage is admitted  
23 or settled by the utility either voluntarily or because of the decision of a Court or other lawful  
24 authority, such as a workman's compensation board, the admitted liability or the amount of the

1 settlement shall be charged to this account.

2 (b) Charges to this account shall be made for all losses covered. Detailed supporting  
3 records of charges made to this account shall be maintained in such a way that the year the  
4 event occurred which gave rise to the loss can be associated with the settlement. Recoveries  
5 or reimbursements for losses charged to the account shall be credited to the account.

6 (3) Account No. 228.4 Accumulated Miscellaneous Operating Provisions.

7 (a) This account may be established for operating provisions which are not covered  
8 elsewhere. This account shall be maintained in such a manner as to show the amount of each  
9 separate provision established by the utility and the nature and amounts of the debits and  
10 credits thereto. Each separate provision shall be identified as to purpose and the specific  
11 events to be charged to the account to ensure that all such events and only those events are  
12 charged to the provision accounts.

13 (b) Charges to this account shall be made for all costs or losses covered. Recoveries  
14 or reimbursements for amounts charged to this account shall be credited hereto.

15 (4)(a) The provision level and annual accrual rate for each account listed in  
16 subsections (1) through (3) shall be evaluated at the time of a rate proceeding and adjusted as  
17 necessary. However, a utility may petition the Commission for a change in the provision level  
18 and accrual outside a rate proceeding.

19 (b) If a utility elects to use any of the above listed accumulated provision accounts,  
20 each and every loss or cost which is covered by the account shall be charged to that account  
21 and shall not be charged directly to expenses except as provided for in paragraphs (1)(f),  
22 (1)(g) and (1)(h). Charges shall be made to accumulated provision accounts regardless of the  
23 balance in those accounts.

24 (c) No utility shall fund any account listed in subsections (1) through (3) unless the  
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1 Commission approves such funding. Existing funded provisions which have not been  
2 approved by the Commission shall be credited by the amount of the funded balance with a  
3 corresponding debit to the appropriate current asset account, resulting in an unfunded  
4 provision.

5 Specific Authority 366.05(1) FS.

6 Law Implemented 350.115, 366.04(2)(a) FS.

7 History-New 3-17-88, amended.

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