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March 7, 2017

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Item 1

State of Florida



Public Service Commission

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

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

DATE: February 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Page) *PHP J.M.L.*
Division of Engineering (Moses)
Division of Economics (Rome) *COR P.D. JB*

RE: Docket No. 170022-EI – Proposed amendment of Rule 25-6.0183, F.A.C., Electric Utility Procedures for Generating Capacity Shortage Emergencies.

AGENDA: 03/07/17 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brisé

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-6.0183, Florida Administrative Code (F.A.C.), Electric Utility Procedures for Generating Capacity Shortage Emergencies, informs the Florida Emergency Operations Center and electric utilities of the Florida Reliability Coordinating Council, Inc.'s Generating Capacity Shortage Plan. As a result of several regulatory changes, as well as other developments within the Florida Reliability Coordinating Council, Inc. (FRCC), the July 2007 FRCC Plan¹ has been updated effective December 15, 2016. These revisions align the 2016 Plan with current terminology and federal reliability standards that address capacity issues.

¹ See *In re: Proposed Amendment of Rule 25-6.0183, F.A.C., Electric Utility Procedures for Generating Capacity Shortage Emergencies*, Order No. PSC-08-0238-FOF-EI, (April 14, 2008), (Commission adopted FRCC's Generating Capacity Shortage Plan dated July 2007).

The rule implements Section 366.04(2)(c),(f), and (5) Florida Statutes, (F.S.). Section 366.04(2)(c), F.S., grants the Commission power over electric utilities for the purpose of requiring electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes. Section 366.04(2)(f), F.S., grants the Commission power to prescribe and require the filing of periodic reports and other data as may be reasonably available and as necessary to exercise its jurisdiction. Section 366.04(5), F.S., grants the Commission jurisdiction over the planning, development, and maintenance of a coordinated electric power grid to assure an adequate and reliable source of energy, and avoid further uneconomic duplication of generation, transmission, and distribution facilities.

Staff initiated this rulemaking to update the rule so that the FRCC Plan effective December 15, 2016 is referenced in Rule 25-6.0183, F.A.C. The Commission's Notice of Development of Rulemaking was published in the Florida Administrative Register on November 16, 2016, in Volume 42, No. 223. There were no requests for a rule development workshop, and no workshops were held. No comments from interested parties were received.

This recommendation addresses whether the Commission should propose the amendment of Rule 25-6.0183, F.A.C. The Commission has jurisdiction pursuant to Section 120.54, F.S., and Section 366.05, F.S.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-6.0183, F.A.C.?

Recommendation: Yes. The Commission should propose the amendment of Rule 25-6.0183, F.A.C. as set forth in Attachment A.

Staff Analysis:

The Florida Reliability Coordinating Council (FRCC) is a nonprofit company incorporated in the state of Florida whose mission is to promote and assure the reliability of the bulk power system in peninsular Florida east of the Apalachicola River. FRCC also serves as the regional entity with delegated authority from The North American Electric Reliability Corporation (NERC) for the purpose of proposing and enforcing reliability standards within the FRCC Region. The update of the 2007 FRCC Plan restructures the plan into a new format and aligns it with the NERC Reliability Standards.

The FRCC Plan establishes guidelines and summarizes procedures to be used by Florida's electric utilities and governmental agencies in response to generating capacity shortages that impact or threaten to impact significant numbers of customers. The Commission acts as an informational liaison to all interested parties.

The FRCC Plan addresses energy emergencies caused by a generating capacity shortage. It is designed to provide a coordinated response to various communications, environmental, legal, political and technical concerns which may arise on a state-wide basis during a generating capacity shortage and to minimize impacts of shortages on the people of Florida.

Staff recommends the amendment of Rule 25-6.0183, F.A.C., to incorporate by reference the December 15, 2016 FRCC Plan. Below is a more detailed explanation of the December 15, 2016 FRCC Plan.

The December 15, 2016 FRCC Plan

The December 15, 2016 FRCC Plan documents and summarizes procedures to be used by Florida's electric utilities and governmental agencies in response to generating capacity shortages which impact or threaten to impact significant numbers of customers. It reflects current FRCC committee structures and current staff responsibilities and assigns primary monitoring and implementation of the plan to the FRCC Reliability Coordinator function.

Weather Triggers Which Cause the Issuance of an Advisory

An important revision in the 2016 FRCC Plan is the redefinition of the weather triggers that serve as the basis for the FRCC to issue Generating Capacity Advisories. During the last three years, the FRCC has issued nine Generating Capacity Advisories due to temperature triggers (six advisories for summer and three for winter temperatures). There was consistently more than an adequate generating capacity margin throughout all nine of the advisory periods.

Because of the sufficient capacity margin during these nine advisory periods, the 2016 FRCC Plan eliminates summer temperature triggers and reduces the number of winter temperature cities

from seven cities to three. Because of potential system loads during extreme and sustained cold weather periods, the FRCC does retain the ability to issue Generating Capacity Advisories based on winter temperature triggers.

Energy Emergency Alerts

The 2016 FRCC Plan redefines the Energy Emergency Alert levels by clarifying the criteria associated with three types of Energy Emergency Alerts. Levels one, two and three now contain criteria for increasingly higher emergency alerts as set forth in Attachment A. The earlier 2007 Plan contained only one alert level. The revised alerts range in sequence from Alert 1 for situations in which the FRCC Operating Margin is less than 1.5 times the current Most Severe Single Contingency, up to an Energy Emergency Alert-3 during which a utility is planning to or is implementing Firm Load reductions due to inadequate generating capacity. An Energy Emergency Alert-0 is issued when utility firm load reductions are discontinued and load and Operating Reserve requirements are being met.

Information to the News Media

The 2016 FRCC Plan establishes that information concerning generating capacity shortages shall be specifically provided to local news media by each individual electric utility. This change will promote direct communication between the electrical utilities and the media and enable the media to efficiently and correctly disseminate the information provided by the electric utilities.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54, F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B to this recommendation. The SERC analysis includes whether the rule amendment is likely to have an adverse impact on growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after implementation.²

The SERC concludes that the rule amendment will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation. The SERC states any additional transactional costs, if any, which potentially may result from staff's recommended rule amendment to incorporate the 2016 FRCC Generating Capacity Shortage Plan, are expected to be de minimis. FRCC represented that the 2016 plan has been approved for use by utilities within the FRCC. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact cost/criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

Conclusion

Based on the foregoing, staff recommends the Commission propose the amendment of Rule 25-6.0183, F.A.C.

² Section 120.541(2), F.S.

Issue 2: Should this docket be closed?

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

Staff Analysis: If no requests for hearing or comments are filed, the rule may be filed with the Department of State, and this docket should be closed.

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25-6.0183 Electric Utility Procedures for Generating Capacity Shortage

Emergencies.

The Commission adopts the Florida Reliability Coordinating Council’s Generating Capacity Shortage Plan, dated December 15, 2016 July 2007, which is hereby incorporated by reference into this rule and may be accessed at [Dep’t. of State hyperlink] as the Commission’s plan to address generating capacity shortage emergencies within Florida. ~~A copy of the Generating Capacity Shortage Plan may be obtained from the Director, Division of Engineering, Florida Public Service Commission.~~

Rulemaking Authority 350.127(2), 366.05 FS. Law Implemented 366.04(2)(c), (f), (5) FS.
History—New 2-12-91, Amended 3-19-98, 4-27-03, 5-1-08, _____.

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



FRCC
Generating Capacity Shortage Plan
FRCC-MS-OPRC-015

Effective Date: December 15, 2016

Version: 8

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Classification: Public

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The original signatures are maintained on file.

TITLE	NAME	DATE
Version Author	Hector Sanchez	09/26/2016
Document Review Authority	FRCC Operating Committee	10/12/2016
Document Approval Authority	FRCC Operating Committee	10/12/2016
Document Owner	FRCC Board of Directors	10/27/2016

Document Subject Matter Expert: State Capacity Emergency Coordinator
Original Author: Eric Senkowicz
Effective Date: 12/15/2016
Responsible Department: Operations
Review Cycle: Annual
Last Date Reviewed: 10/12/2016
Next Planned Review Date: 10/12/2017
Retention Period: 7 Years
File Name: frccmsoprc015_gencapshrtpln
Document ID #: FRCC-MS-OPRC-015
Classification: Public

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1.0 Purpose

The purpose of this *FRCC Generating Capacity Shortage Plan (FRCC Plan)* is to document guidelines and summarize procedures to be used by Florida's electric utilities and governmental agencies in response to generating capacity shortages which impact or threaten to impact significant numbers of customers. Generating capacity shortages may be caused by unusually hot or cold weather, fuel supply shortages, transmission disruptions or plant outages.

This *FRCC Plan* is oriented toward energy emergencies caused by a generating capacity shortage. It is designed to provide a coordinated response to the various communications, environmental, legal, political and technical concerns which may arise on a state-wide basis during a generating capacity shortage. Power disruptions limited to a local area that are caused by factors other than a generating capacity shortage are outside of the scope of this *FRCC Plan*.

Based on the interdependency of generation capacity and generator fuel supply, and that a significant portion of electric generation within Florida uses remotely supplied natural gas, the plan specifically distinguishes generating capacity shortages by primary causes. The two types of generating capacity shortages are inadequate generating capability (1) due to abnormally high loads or unavailable generating facilities or (2) due to inadequate fuel supply. The two types have distinct initiating events and may require unique responses to ensure optimal state-wide communication and coordination to minimize impacts of shortages on the people of Florida.

The *FRCC Plan* addresses: 1) procedures to be followed by individual Florida Reliability Coordinating Council (FRCC) Operating Entities (OEs) during a generating capacity shortage on their systems and 2) procedures to be followed by all FRCC OEs to ensure coordinated state-wide action and communication.

2.0 Terms and Definitions

2.1 North American Electric Reliability Corporation (NERC) Glossary of Terms

Unless otherwise noted within this section of the document, the capitalized terms within this procedure are defined in the NERC Glossary of Terms.

2.2 Energy Emergency

Per the NERC Glossary of Terms, a condition when a Load-Serving Entity (LSE) or Balancing Authority (BA) has exhausted all other resource options and can no longer meet its expected Load obligations.

2.3 Energy Emergency Alert (EEA)

A classification of Energy Emergency as outlined in Attachment 1 of the NERC Reliability Standard EOP-002-2.1 or successor NERC Reliability Standard.

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2.4 Firm Operating Margin (w/ use of interruptible load and /or Demand Side Management)

Total Resources – Total Firm Load (includes Firm Sales).

2.5 Firm Sales

Total sales that have the same level of priority as Firm Load for each BA.

2.6 Florida Transaction Management System (FTMS)

The FTMS is a software tool that enables multiple concurrent users to obtain a variety of reliability related services. Each Balancing Authority (BA) and Transmission Operator (TOP) will provide reliability data for use in performing the Operations Planning function. All FRCC BAs must be connected to the FTMS via the FRCCNet. Other Operating Entities (OEs) may connect to the FTMS utilizing the procedures documented in the *FRCC Security Procedures for the Florida Transaction Management System*. The FTMS computer application is hosted, and supported, by a third party vendor, Open Access Technology International (OATI). Access to FTMS is available through the Internet in addition to the FRCCNet.

2.7 FRCC Operating Entities (OEs)

For this document, FRCC OEs include FRCC Balancing Authorities (BAs), FRCC Generator Operators (GOPs), FRCC Transmission Operators (TOPs) and those entities within the FRCC Region that operate as LSEs.

2.8 Generating Capacity Shortage

A generating capacity shortage exists when any one of the FRCC BAs or FRCC LSEs in the state of Florida has, or is forecast to have, inadequate generating capability, including purchased power, to supply its firm load obligations.

2.9 Interruptible or Non-Firm Load or Demand Side Management

All residential and commercial load that can be interrupted for each BA.

2.10 LSE

Secures energy and Transmission Service (and related Interconnected Operations Services) to serve the electrical demand and energy requirements of its end-use customers.

2.11 Most Severe Single Contingency (MSSC)

MSSC in the FRCC as defined in the FRCC procedure titled *Regional Process for Determination of Most Severe Single Contingency* (FRCC-MS-OPRC-008).

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2.12 Operating Margin (w/o use of interruptible load and /or Demand Side Management)

Total Resources – Total Load (includes Firm Sales and Non-Firm Sales).

2.13 Total Firm Load

Sum of all BAs Total Load (including Firm Sales) in FRCC – Sum of all BAs Non-Firm Load (including Non-Firm Sales) in FRCC.

2.14 Total Load

Total Balancing Authority (BA) forecasted peak load (including Firm Sales and Non-Firm Sales) in the FRCC for the current day.

2.15 Total Resources

All available generation and purchased capacity (firm and non-firm) resources that are expected to be counted on to provide the declared output.

3.0 Background

Electricity is a vital part of Florida’s infrastructure. It is critical for the existing and growing residential population, for commerce and industry, and for tourism. FRCC OEs coordinate planning and operations to ensure adequacy and reliability of the electric system long-term. However, during periods of abnormal weather, in the event of multiple unanticipated generating outages, or during fuel supply or fuel availability constraints, there may be occasional times when load serving capacity is also constrained or falls below customer demand. The following plan was developed to facilitate coordinated actions among FRCC OEs and state and local agencies in the event of an anticipated or actual generating capacity shortage so as to protect the health, safety, and welfare of the people of Florida, consistent with good operating practices.

4.0 Applicability

- 4.1 FRCC Balancing Authorities (BAs)
- 4.2 FRCC Generator Operators (GOPs)
- 4.3 FRCC Load Serving Entities (LSEs)
- 4.4 FRCC Reliability Coordinator (RC)
- 4.5 FRCC State Capacity Emergency Coordinator (SCEC)
- 4.6 FRCC Transmission Operators (TOPs)

5.0 Responsibilities

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5.1 FRCC State Capacity Emergency Coordinator (SCEC)

The SCEC is responsible for supporting the appropriate phases as outlined in Section 6.4 and Section 6.5 of this *FRCC Plan*. The mechanisms used by the SCEC to gather and analyze the necessary information include, the FRCC Daily Capacity Assessment Report, weather forecasts and individual FRCC OE notifications and status reports. Upon meeting a phase's criteria, the SCEC shall contact the Chair of the FRCC Operating Committee (OC), the FRCC RC, and the FRCC Senior Management. The SCEC shall also notify (utilizing FRCC communication systems) FRCC OEs' operations personnel of the condition of the FRCC Region's OEs.

5.2 FRCC Director of Operations (or designee)

FRCC Director of Operations (or designee) shall contact the Florida Division of Emergency Management (FDEM), State Warning Point (SWP), the Florida Public Service Commission (FPSC), the Office of Energy of the Florida Department of Agriculture and Consumer Services (Office of Energy) and the natural gas pipeline operators, operating within the FRCC Region. In case the FRCC Director of Operations is unavailable, the SCEC shall make the notifications assigned to the FRCC Director of Operations.

5.3 FDEM

The FDEM is responsible for notifying county and private emergency organizations that are part of its system. FDEM also decides when and if to use the Emergency Broadcast System (EBS) to disseminate messages to citizens. The FDEM will act as an information liaison in areas particularly related to environmental permitting that may impact availability of generators or fuel supply. The suggested EBS messages are included in Attachment A and Attachment B.

5.4 FPSC

The FPSC acts as an informational liaison to all interested parties.

5.5 FRCC OEs

Each FRCC OE participating in this FRCC Plan shall have an energy emergency plan as outlined in Section 6.3 of this document.

The individual FRCC OEs will work with FRCC staff to aggregate Regional data and provide status reports and technical updates to the FPSC staff. FRCC OEs, along with the FRCC RC, will also update the North American Electric Reliability Corporation (NERC) and the Federal Energy Regulatory Commission (FERC) as required. FRCC OEs, along with the FRCC RC, shall also specifically update the United States Department of Energy (U.S. DOE) as appropriate and in accordance with current U.S. DOE, Electric Emergency Incident and Disturbance Report, criteria and reporting protocol. All entity reporting shall comply with appropriate NERC Reliability Standards along with applicable FRCC Regional Reliability Standards.

5.6 FRCC Operating Committee (OC)

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The OC is responsible for review and approval of this document prior to submitting the document to the FRCC Board of Directors for final approval.

5.7 FRCC Board of Directors

The FRCC Board of Directors are responsible for approval of this document.

6.0 FRCC Plan

6.1 Communication

The *FRCC Plan* includes procedures for responding to emergencies with time frames ranging from sudden, unexpected events to those caused by weather systems that can be tracked and provide advance notice. Included in each phase are samples of public appeal/conservation messages. It is anticipated that these or similar FRCC OE specific message packets will be provided to local media in each FRCC OE's service area. Messages correspond with actions required by FRCC OE consumers during each phase.

All communications with the public, the news media, and local and regional governmental agencies shall be the responsibility of the individual FRCC OE and shall be coordinated so as to be as non-conflicting as practical. Additionally, FRCC OE public information departments will share information with each other and the FRCC. FRCC staff will provide updates to NERC staff, as appropriate.

On an ongoing basis, individual FRCC OEs build public awareness of events that could lead to generating capacity problems through information programs (such as bill stuffers, speakers' bureaus, in-school education, etc.) In addition, employees are educated periodically so they can properly and promptly respond to customer inquiries. The messages will change depending on the upcoming season or source of a possible generating capacity shortage.

Even though the FDEM and FPSC are state-wide points of contact specified in the plan, the plan does not pre-empt FRCC OEs from contacting local emergency agencies or initiating local public information activities. In fact, top-down and bottom-up notification is encouraged to enhance the system and provide an information loop to assure continued dissemination of current information to all involved parties.

Individual FRCC OEs shall also assess information activities necessary to heighten consumer and media awareness of the *FRCC Plan*, its phases, and actions that can be taken to attempt to minimize a shortage.

6.2 FRCC Regional Assessment and Communications

Attachment C of this *FRCC Plan* includes summary descriptions of procedures, protocols and processes used by FRCC operations personnel to ensure accurate, timely and appropriate coordination of information and operational data collection. These procedures, protocols and processes include forward looking capacity assessment reports, conference calls, reliability status reports, fuel inventory status reports and various established communication channels. Information is aggregated and used to ensure accurate reliability assessments of the FRCC Region and effective implementation of this

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FRCC Plan.

6.3 Individual FRCC OE Plans

Each FRCC OE participating in this plan shall have an energy emergency plan that will enable it to cope with a generating capacity shortage on its system and to mitigate to the fullest extent practicable the impact of the emergency on its customers and neighboring FRCC OEs and the reliability of the state-wide bulk power system. Each FRCC OE plan shall include procedures for notification of its own emergency and public information personnel. Each FRCC OE plan shall also include a requisite section on specifically coping with a generating capacity shortage directly attributable to a short-term fuel supply or fuel availability constraint. Emergency actions not specifically addressed in this FRCC Plan shall be addressed in the individual FRCC OE plans. A copy of each individual plan shall be maintained with the FRCC and the FPSC (as required by the FPSC).

Each individual FRCC OE's emergency plan or procedures should include (as appropriate for generating and non-generating FRCC OEs) the following items (not necessarily in the sequence shown):

- Purpose and scope
- Supporting plans and procedures
- Department and personnel responsibilities
- Categories and criteria for activation of emergency plan
- Emergency communication centers (phone centers)
- Communication networks
- How and when messages are initiated
- Messages (available at FRCC OEs, faxed as necessary)
- Seasonal public education messages
- Florida Division of Emergency Management notification
- Florida Public Service Commission notification
- County emergency management agencies notification
- Notification of co-generators and non-utility generators
- Winterization as applicable
- Scheduling of generation facilities

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- Fuel supply management
- Procedures to reduce company use of power
- Load reduction guidelines and identification and prioritization of critical loads
- Training
- Plan revision

Each individual FRCC OE's emergency plan or procedures should also include (as appropriate for generating and non-generating FRCC OEs) a complementary section or equivalent procedures that specifically enable it to handle a generation fuel shortage affecting its facilities and to mitigate to the fullest extent practicable the impact of short-term, generating fuel, availability constraints on the reliability of the FRCC Bulk Electric System.

Each individual FRCC OE's short-term generation fuel shortage procedures should include the following items (not necessarily in the sequence shown):

- A procedure for forecasting the extent of a generation fuel shortage
- A fuel inventory plan which recognizes unusual delays or problems with the delivery or production of fuel
- A procedure for notification to the FRCC SCEC and FRCC Director of Operations (or designee)
- A plan to operate all its generation resources to optimize, with appropriate deference to economic dispatch, the conservation of the fuel source in short supply, consistent with good operating practices
- A procedure for individual appeals to large industrial and commercial customers to reduce non-essential uses and to maximize use of any customer-owned generation utilizing energy sources other than the fuel in short supply (if applicable)
- A plan for expanding the use of load management resources or voltage reduction (if applicable)
- A plan for purchasing power from other sources. Emphasis should be placed on need to make use of pre-planned interchange contracts between FRCC OEs, in an effort to minimize use of fuels in short supply and maximize the efficiency of fuel that is available on a Regional basis

6.4 **FRCC Plan Procedural/Process Steps**

The *FRCC Plan* describes the coordinated procedures to be followed by all FRCC OEs during a generating capacity shortfall. The declaration of any phase of this *FRCC Plan* is based on data and activities occurring in the FRCC Region. Declarations will be made by the FRCC RC as appropriate. Declarations will be made on a state-wide basis since media and communication may cross regional boundaries. The *FRCC Plan* consists of the following phases:

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6.4.1 FRCC Generating Capacity Advisory

A Generating Capacity Advisory is primarily for informational purposes. The Advisory is used in anticipation of operating conditions (low temperatures, low Operating Margin or fuel availability) for the current day plus the next two days which require heightened awareness and potential FRCC OE precautionary actions.

A Generating Capacity Advisory will be issued by the FRCC when conditions a, b, or c below are met:

- a) During the months of December through February the temperature projections for up to three days in advance of the current date exceed temperature criteria below:

LOCATION	TEMPERATURE
Jacksonville	21° F and below
Tampa	31° F and below
Miami	40° F and below

- b) The Operating Margin is less than two times the current FRCC MSSC.
- c) The fuel supplies and deliveries, on a State-wide basis **may** be impacted by weather, natural gas production disruptions, natural gas pipeline delivery disruptions, or any other fuel infrastructure impacts within the FRCC resulting in condition (b) above. An *Advisory* for this condition will be issued as: ***FRCC Generating Capacity Advisory / Short-Term Generation Fuel Availability Concern.***

Note: A Generating Capacity Advisory does not indicate an imminent threat of an Energy Emergency. An Advisory declared on the basis of forecasted temperatures will not be rescinded even if the temperature forecast changes.

6.4.1.1 FRCC RC Responsibilities

- 6.4.1.1.1 Review conditions noted in Section 6.4.1 above on a daily basis and declare the Generating Capacity Advisory as necessary.
- 6.4.1.1.2 Notify FRCC OEs of Generating Capacity Advisory condition.
- 6.4.1.1.3 Notify the SCEC of the Generating Capacity Advisory condition.
- 6.4.1.1.4 Notify the adjacent RC of the Generating Capacity Advisory condition.
- 6.4.1.1.5 Review conditions for potential reliability problems.

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6.4.1.2 FRCC SCEC Responsibility

- 6.4.1.2.1 Notify the FRCC Senior Management and the Chair of the FRCC OC of the Generating Capacity Advisory condition.
- 6.4.1.2.2 In case the FRCC Director of Operations is unavailable, the SCEC shall make the notifications assigned to the FRCC Director of Operations.
- 6.4.1.2.3 Initiate multi-day, look-ahead, FRCC Daily Capacity Assessment reporting for FRCC OEs in order to more accurately assess base-line conditions, verify the Region is in the appropriate phase of the plan, focus coordination efforts, enhance situational awareness and increase communication among the FRCC OEs (see Attachment C).
- 6.4.1.2.4 Request (via the FTMS and a FRCC Operating Reliability Subcommittee (ORS) conference call) that all FRCC OEs commence executing their respective procedures for preparing generators for cold weather operation, as appropriate.

6.4.1.3 FRCC OEs

- 6.4.1.3.1 Notify SCEC for any of the conditions listed in Section 6.4.1.
- 6.4.1.3.2 Proceed with executing their respective procedures for preparing generators for cold weather operation, as appropriate.
- 6.4.1.3.3 Implement FRCC OE public awareness programs if appropriate.
- 6.4.1.3.4 Notify FRCC OE emergency personnel if appropriate.
- 6.4.1.3.5 Notify local emergency agencies if appropriate.
- 6.4.1.3.6 Implement short-term generation fuel shortage procedures if appropriate.
- 6.4.1.3.7 Provide status reports as required by the SCEC or RC (see Attachment C).

6.4.1.4 FRCC Director of Operations Responsibility

- 6.4.1.4.1 After notification from the SCEC, the FRCC Director of Operations (or designee) will advise the FDEM, SWP, and FRCC OEs communications personnel of the Generating Capacity Advisory condition to include the following information:
 - a) FRCC generating capacity
 - b) FRCC expected peak load

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- c) Status of major generating unit outages
- d) Expected duration of event
- e) Explanation of FRCC OEs' planned actions, and recommendations of agency actions in support of the FRCC OEs

6.4.1.4.2 If requested by SWP representative, act as single point contact between the SWP and the FRCC OEs.

6.4.1.4.3 Advise FPSC of the Generating Capacity Advisory status providing the same information as provided to SWP.

6.4.1.4.4 Advise FRCC Regional natural gas pipeline operators on issuance of a Generating Capacity Advisory.

6.4.1.5 Public Information

An Advisory does not necessarily indicate an imminent threat of an Energy Emergency. Therefore, information offered is preparatory in nature and serves only to forewarn consumers well in advance that conditions exist for the potential of a generating capacity shortage at some point in the future.

6.4.1.5.1 Notification

In notifying customers and local support agencies, information conveyed generally will not seek specific action responses.

6.4.1.5.2 Local Emergency Agencies

General information about the ramifications of a generating capacity shortfall due to any of the conditions listed in Section 6.4.1 above shall be disseminated to local support agencies by individual FRCC OEs prior to an Energy Emergency Alert (described in Section 6.4.2 below) being declared. The SWP may also use its network to provide information.

6.4.1.5.3 News Media

Information to broadly address the issue shall be provided to local media directly by individual FRCC OEs.

6.4.1.5.4 Messages

Messages are general in substance and offered as media backgrounders rather than as hard news. Example: "Higher than usual demand for electricity is anticipated in the next few days."

6.4.2 Energy Emergency Alerts 1 through 3 and EEA-0 (as defined in the applicable NERC Reliability Standard)

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An EEA 1 through 3 may be initiated up to one day ahead of the current day, and only by the FRCC RC at 1) the FRCC RC's request, or 2) upon the request of a of an energy deficient FRCC OE. The FRCC RC may declare whatever alert level is necessary, and need not proceed through the alerts sequentially.

The FRCC RC after declaring an EEA 1-3 shall notify all FRCC OEs by posting a message on FTMS. The FRCC RC shall also notify all other RCs of the situation by posting a message on the Reliability Coordinator Information System (RCIS). Additionally, conference calls between the FRCC RC and FRCC OEs shall be held as necessary to communicate system conditions. The FRCC RC shall also notify FRCC OEs and the adjacent RC when the EEA has ended.

6.4.2.1 EEA-1 – All Available Resources In Use

An EEA-1 will be declared by the FRCC RC when conditions a, b, or c below are met:

- a) FRCC OE foresees or is experiencing conditions where all available generation resources are committed to meet firm load, firm transactions, and reserve commitments, and is concerned about sustaining its required Contingency Reserves. Also, Non-firm wholesale energy sales (other than those that are recallable to meet reserve requirements) have been curtailed.
- b) Operating Margin < 1.5 times the current FRCC MSSC.
- c) Notification by an individual utility that their generation fuel supplies may be impacted and may decrease below a level adequate to provide for continuous, uninterrupted service to its firm customers resulting in conditions (a) or (b) above. The declaration of an EEA-1 pursuant to such circumstances shall be declared as an "Energy Emergency Alert 1/ Short-Term Generation Fuel Availability Concern".

6.4.2.1.1 FRCC RC Responsibility

- 6.4.2.1.1.1 Notify FRCC OEs of the EEA-1 condition.
- 6.4.2.1.1.2 Notify the SCEC of the EEA-1 condition.
- 6.4.2.1.1.3 Notify the adjacent RC of the EEA-1 condition.
- 6.4.2.1.1.4 Review conditions for potential reliability problems.
- 6.4.2.1.1.5 Convene reliability assessment conference calls, as appropriate.
- 6.4.2.1.1.6 Perform required communications and actions in accordance with applicable NERC Reliability Standards.

6.4.2.1.2 FRCC SCEC Responsibility

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- 6.4.2.1.2.1 Notify the FRCC Senior Management and the Chair of the FRCC OC.
- 6.4.2.1.2.2 Notify FRCC OEs of the EEA-1 condition.
- 6.4.2.1.2.3 In case the FRCC Director of Operations is unavailable, the SCEC shall make the notifications assigned to the FRCC Director of Operations.
- 6.4.2.1.2.4 Initiate multi-day, look-ahead, FRCC Daily Capacity Assessment reporting for FRCC OEs in order to more accurately assess base-line conditions, verify the FRCC Region is in the appropriate phase of the plan, focus coordination efforts, enhance situational awareness and increase communication among the FRCC OEs (see Attachment C).
- 6.4.2.1.3 FRCC OE Responsibility
 - 6.4.2.1.3.1 Implement FRCC OE public awareness programs, if appropriate.
 - 6.4.2.1.3.2 Notify FRCC OE emergency personnel, if appropriate.
 - 6.4.2.1.3.3 Notify local emergency agencies, if appropriate.
 - 6.4.2.1.3.4 Provide status reports as required by the SCEC or RC (see Attachment C).
- 6.4.2.1.4 FRCC Director of Operations Responsibility (or designee)
 - 6.4.2.1.4.1 After notification from the SCEC, the FRCC Director of Operations (or designee) will advise the FDEM, SWP, and FRCC OEs communications personnel of the EEA-1 condition to include the following information:
 - a) FRCC generating capacity
 - b) FRCC expected peak load
 - c) Status of major generating unit outages
 - d) Expected duration of event
 - e) Explanation of FRCC OEs' planned actions, and recommendations of agency actions in support of the FRCC OEs
 - 6.4.2.1.4.2 If requested by SWP representative, act as single point

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contact between the SWP and the FRCC OEs.

6.4.2.1.4.3 Advise FPSC of the EEA-1 condition providing the same information as provided to SWP.

6.4.2.1.4.4 Advise FRCC Regional natural gas pipeline operators on issuance of an EEA-1.

6.4.2.1.5 FDEM

6.4.2.1.5.1 Maintain contact with affected FRCC OEs and/or FRCC SCEC.

6.4.2.1.5.2 Maintain contact with affected counties.

6.4.2.1.5.3 Notify appropriate state agencies, including the Office of Energy.

6.4.2.1.6 FPSC

Maintain communications with FRCC OEs and FDEM as appropriate.

6.4.2.1.7 Office of Energy

Maintain contact with FDEM and other parties as appropriate.

6.4.2.1.8 Public Information

An EEA-1 does not necessarily indicate an imminent threat. Therefore, information offered is preparatory in nature and serves only forewarn consumers that conditions exist for the potential of a generating capacity shortage.

6.4.2.1.8.1 Notification

In notifying customers and local support agencies, information conveyed generally will not seek specific action responses.

6.4.2.1.8.2 Local Emergency Agencies

General information about the ramifications of a generating capacity shortfall due to severe hot, cold, or tropical weather shall be disseminated to local support agencies by individual FRCC OEs prior to an EEA-1. The SWP may also use its network to provide information.

6.4.2.1.8.3 News Media

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Information to broadly address the issue shall be provided to local media directly by individual FRCC OEs.

6.4.2.1.8.4 Messages

Messages are general in substance and offered as media backgrounders rather than as hard news. Example: "Higher than usual demand for electricity is anticipated. FRCC OEs are reminding the public that conservation and the wise use of electricity will lessen the possibility of widespread electric power shortages."

6.4.2.2 EEA-2 Load Management Procedures in Effect

An EEA-2 will be declared by the FRCC RC when conditions a, b, or c below are met:

- a) FRCC OE is no longer able to provide its customers' expected energy requirements, is in an energy deficient condition and has implemented or plans to implement applicable emergency procedures. These procedures may include, but are not limited to:
 - Public appeals to reduce demand;
 - Voltage reduction;
 - Interruption of Non-Firm Load in accordance with applicable contracts (for emergency, not economic, reasons);
 - Demand side management, and
 - FRCC OE load conservation measures
- b) Firm Operating Margin < the current FRCC MSSC.
- c) The fuel supplies and deliveries on a State-wide basis have decreased and may be below a level adequate to provide for continuous, uninterrupted service to firm customers resulting in conditions (a) or (b) above. The declaration of an EEA-2 pursuant to such circumstances will be declared as an "Energy Emergency Alert 2/ Short-Term Generation Fuel Shortage".

6.4.2.2.1 FRCC RC Responsibility

6.4.2.2.1.1 Notify the FRCC OEs of the EEA-2 condition.

6.4.2.2.1.2 Notify the SCEC of the EEA-2 condition.

6.4.2.2.1.3 Notify the adjacent RC of the EEA-2 condition.

6.4.2.2.1.4 Review conditions for potential reliability problems.

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- 6.4.2.2.1.5 Convene reliability assessment conference calls, as appropriate.
- 6.4.2.2.1.6 Perform required communications and actions in accordance with applicable NERC Reliability Standards.
- 6.4.2.2.2 FRCC SCEC Responsibility
 - 6.4.2.2.2.1 Notify the FRCC Senior Management and the Chair of the FRCC OC of the EEA-2 condition.
 - 6.4.2.2.2.2 Notify FRCC OEs' operation personnel of the EEA-2 condition.
 - 6.4.2.2.2.3 In case the FRCC Director of Operations is unavailable, the SCEC shall make the notifications assigned to the FRCC Director of Operations.
 - 6.4.2.2.2.4 Initiate multi-day, look-ahead, FRCC Daily Capacity Assessment reporting for FRCC OEs in order to more accurately assess base-line conditions, verify the Region is in the appropriate phase of the plan, focus coordination efforts, enhance situational awareness and increase communication among the FRCC OEs (see Attachment C).
- 6.4.2.2.3 FRCC OE Responsibility
 - 6.4.2.2.3.1 Implement FRCC OE public awareness programs, if appropriate.
 - 6.4.2.2.3.2 Notify FRCC OE emergency personnel, if appropriate.
 - 6.4.2.2.3.3 Notify local emergency agencies, if appropriate.
 - 6.4.2.2.3.4 Provide status reports as required by the SCEC or FRCC RC (see Attachment C).
- 6.4.2.2.4 FRCC Director of Operations Responsibility
 - 6.4.2.2.4.1 After notification from the SCEC, advise the FDEM, SWP, and FRCC OEs communications personnel of the EEA-2 condition to include the following information:
 - a) FRCC generating capacity.
 - b) FRCC expected peak load.
 - c) Status of major generating unit outages.

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d) Expected duration of event.

e) Explanation of FRCC OEs' planned actions, and recommendations of agency actions in support of the FRCC OEs.

6.4.2.2.4.2 If requested by SWP representative, act as single point contact between the SWP and the FRCC OEs.

6.4.2.2.4.3 Advise FPSC of the EEA-2 status providing the same information as provided to SWP.

6.4.2.2.4.4 Advise FRCC Regional natural gas pipeline operators on issuance of an EEA-2 condition.

6.4.2.2.5 FDEM

6.4.2.2.5.1 Maintain contact with affected FRCC OEs and/or FRCC SCEC.

6.4.2.2.5.2 Maintain contact with affected counties.

6.4.2.2.5.3 Notify appropriate state agencies, including the Office of Energy.

6.4.2.2.6 FPSC

Maintain communications with FRCC OEs and FDEM as appropriate.

6.4.2.2.7 Office of Energy

Maintain contact with FDEM and other parties as appropriate.

6.4.2.2.8 Public Information

An EEA-2 does not necessarily indicate an imminent threat. Therefore, information offered is preparatory in nature and serves only to forewarn consumers that conditions exist for the potential of a generating capacity shortage.

6.4.2.2.8.1 Notification

In notifying customers and local support agencies, information conveyed generally will not seek specific action responses.

6.4.2.2.8.2 Local Emergency Agencies

General information about the ramifications of a generating

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capacity shortfall due to severe hot, cold, or tropical weather shall be disseminated to local support agencies by individual FRCC OEs prior to an EEA-2. The SWP may also use its network to provide information.

6.4.2.2.8.3 News Media

Information to broadly address the issue shall be provided to local media directly by individual FRCC OEs.

6.4.2.2.8.4 Messages

Messages are general in substance and offered as media backgrounders rather than as hard news. Example: "Higher than usual demand for electricity is anticipated. FRCC OEs are reminding the public that conservation and the wise use of electricity will lessen the possibility of widespread electric power shortages."

6.4.2.3 EEA-3 Firm Load interruption imminent or in progress

An EEA-3 will be declared by the FRCC RC when conditions a or b below are met:

- a) FRCC OE is unable to meet minimum Contingency Reserve requirements and Firm Load interruption is imminent or in progress.
- b) The fuel supplies and deliveries on a State-wide basis have decreased to a level that is not adequate to provide for continuous, uninterrupted service to Firm Load customers. The declaration of an EEA-3 pursuant to such circumstances will be declared as an "Energy Emergency Alert 3/ Short-Term Generation Fuel Shortage".

6.4.2.3.1 FRCC OE Firm Load Reduction

6.4.2.3.1.1 When implementing firm load reduction, facilities essential to the health, safety, or welfare of the community should be considered in individual FRCC OE plans and, insofar as the situation makes it practical, their special needs addressed. Although not an exhaustive list, the following types of installations may be included in this category:

- a) Hospitals and similar medical facilities
- b) Police and fire stations
- c) Operation, guidance control, and navigation services for public transportation and shipping, including rail, mass transit, licensed commercial air transportation, and other forms of transportation;

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- d) Communication services, including telephone and telegraph systems, television, and radio stations
- e) Water supply and sanitation services, including waterworks, pumping and sewage disposal activities which cannot be reduced without seriously affecting public health; and;
- f) Federal activities essential for national defence and state and local activities essential for providing emergency services.

Although these types of customers may be given special consideration from the curtailment provisions of this plan, they should be encouraged to install emergency generation equipment if continuity of service is essential. In the case of these types of customers when supplied from multiple sources, (such as a hospital with two feeders) efforts will be made to maintain one source in service at all times. Other customers who, in their opinion, have critical equipment should install emergency or portable generating equipment.

6.4.2.3.1.2 Although not within the definition of essential services, the special situation of life sustaining medical equipment may be considered on a case-by-case basis in the individual FRCC OE plans. Life sustaining medical equipment is defined as equipment:

- which is necessary to sustain the life of the user,
- which has been prescribed by the user's physician, and
- where any interruption of electricity to such equipment poses an immediate threat to the user

Each FRCC OE should consult with customers in this category to ensure that they fully understand the need for sufficient and proper backup power sources. In addition, during emergency conditions, cooperation and coordination should be provided to community service agencies and other governmental units which make special provisions for the needs of those with life sustaining medical equipment.

6.4.2.3.2 FRCC Regional Generation Fuel Supply Response

6.4.2.3.2.1 If an Energy Emergency Alert is declared under section 6.4.2.3, FRCC OEs will immediately begin providing fuel

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inventory and forecast fuel availability data to the FRCC SCEC in order to establish an overall fuel supply assessment of the FRCC Region (see Attachment C) and begin regional mitigating actions as practicable.

6.4.2.3.2.2 Mitigating actions may include specific reliability assessments to improve the effectiveness and efficient use of available FRCC Regional fuel supplies and fuel delivery infrastructure. The assessments may also be used to develop detailed FRCC recommendations of governmental agency actions in support of the FRCC OEs as well as coordinating assistance requests to the adjacent RC.

6.4.2.3.2.3 Although this plan summarizes actions and steps to take in the various short-term generation fuel shortage situations, this plan does not diminish the emphasis that should be placed on the need to make use of pre-planned interchange contracts between FRCC OEs, in an effort to minimize use of fuels in short supply.

6.4.2.3.3 FRCC RC Responsibility

6.4.2.3.3.1 Notify FRCC OEs of the EEA-3 condition.

6.4.2.3.3.2 Notify the SCEC of the EEA-3 condition.

6.4.2.3.3.3 Notify the adjacent RC of the EEA-3 condition.

6.4.2.3.3.4 Review conditions for potential reliability problems.

6.4.2.3.3.5 Convene reliability assessment conference calls as appropriate (see Attachment C).

6.4.2.3.3.6 Notify NERC in accordance with applicable NERC Reliability Standards.

6.4.2.3.3.7 The RC shall initiate fuel inventory and forecast fuel availability status reporting (see Attachment C).

6.4.2.3.4 FRCC SCEC Responsibility

6.4.2.3.4.1 Notify the FRCC Senior Management and the Chair of the FRCC OC of the EEA-3 condition.

6.4.2.3.4.2 Notify FRCC OEs of the EEA-3 condition.

6.4.2.3.4.3 In case the FRCC Director of Operations is unavailable, the SCEC shall make the notifications assigned to the FRCC Director of Operations.

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6.4.2.3.4.4 Initiate multi-day, look-ahead, FRCC Daily Capacity Assessment reporting for FRCC OEs in order to better assess changing conditions, accurately track the status of the Region, verify appropriate parameters and proper phase designation of the plan. The look-ahead reporting also continues to focus coordination efforts, enhance situational awareness and increase communication among the FRCC OEs (see Attachment C).

6.4.2.3.5 FRCC OE Responsibility

6.4.2.3.5.1 Implement applicable FRCC OE emergency plans where appropriate.

6.4.2.3.5.2 Notify the FRCC RC of sudden and unexpected events.

6.4.2.3.5.3 Implement short-term generation fuel shortage procedures as applicable.

6.4.2.3.5.4 All efforts should be made, with appropriate deference to economic dispatch, to preserve fuel types with limited availability or limited inventory, from both an individual FRCC OE perspective and a collective FRCC Regional perspective.

6.4.2.3.5.5 Provide status reports as required by the SCEC or FRCC RC (see Attachment C).

6.4.2.3.6 FRCC Director of Operations Responsibility

6.4.2.3.6.1 After notification from the SCEC, advise the FDEM, SWP, and FRCC OEs of the EEA-3 condition and provide the following information:

- a) FRCC generating capacity
- b) FRCC expected peak load
- c) Geographic areas and number of customers that are expected to be most severely impacted, if available
- d) Status of major generating unit outages
- e) Expected duration of event
- f) Explanation of FRCC OEs' planned actions, and recommendations of agency actions in support of the FRCC OEs

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- 6.4.2.3.6.2 If requested by the SWP representative, act as a single point contact between the SWP and the FRCC OEs.
- 6.4.2.3.6.3 Advise FPSC of the EEA-3 providing the same information as provided to SWP.
- 6.4.2.3.6.4 Advise the Office of Energy of the EEA-3 condition.
- 6.4.2.3.6.5 Advise FRCC Regional natural gas pipeline operators on declaration of an EEA-3.
- 6.4.2.3.6.6 The FRCC Director of Operations shall notify FRCC Senior Management and the designated individual in the following agencies or offices as appropriate:
- Environmental Protection Agency (EPA)
 - Executive Office of the Governor
 - Federal Energy Regulatory Commission (FERC)
 - SERC Reliability Corporation (SERC)
- 6.4.2.3.7 Florida Division of Emergency Management
- 6.4.2.3.7.1 Maintain contact with affected FRCC OEs and/or FRCC SCEC.
- 6.4.2.3.7.2 Maintain Contact with affected counties.
- 6.4.2.3.7.3 Prepare for activation of emergency public information.
- 6.4.2.3.7.4 Prepare for sheltering of evacuees.
- 6.4.2.3.7.5 Notify appropriate state agencies, including the Office of Energy.
- 6.4.2.3.8 Florida Public Service Commission
- 6.4.2.3.8.1 Maintain communications with FRCC OEs and FDEM as appropriate.
- 6.4.2.3.9 Governor's Energy Office
- 6.4.2.3.9.1 Maintain contact with the FDEM and other parties as appropriate.
- 6.4.2.3.10 Public Information
- A Generating Capacity Emergency exists when any one FRCC OE cannot supply its firm load obligations. Messages are specific and call for appropriate safety, conservation and damage control responses to
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minimize the effects of the crisis.

6.4.2.3.10.1 Notification

In notifying customers and local support agencies, messages seek specific action responses.

6.4.2.3.10.2 State Warning Point

The FDEM and SWP will decide when and if to initiate the Emergency Broadcast System message (Attachment A).

6.4.2.3.10.3 Local Emergency Agencies

At this time, safety and/or conservation or system status information shall be disseminated to local agencies. Agencies may decide to activate government access cable television broadcasts and Emergency Broadcast System regional radio broadcasts. The SWP may provide additional information to local agencies.

6.4.2.3.10.4 News Media

At this time, new media shall be advised to activate Emergency phase communications and revise broadcasts accordingly.

6.4.2.3.10.5 Messages

Messages are specific and offered as hard news either in the form of a news release and/or a public service announcement. Example: "Electricity has been temporarily interrupted to some customers because of a shortage of electricity. Rolling blackouts have been implemented to prevent blackout of the "FRCC OE's" entire service territory. We do not know how long these circumstances will last, but FRCC OE employees are working to restore electric service as quickly as possible. Customers with power should continue to reduce consumption of electricity by lowering/raising (depending on season) thermostat settings and shutting off all unnecessary appliances. If your electricity is off, help us restore your power sooner by leaving on just a few indoor lights so you'll know when your power has been restored."

6.4.2.4 EEA-0 – Termination of EEA condition.

An EEA-0 will be declared by the FRCC RC when the energy deficient FRCC OE is

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able to meet its Load and Operating Reserve requirements.

6.4.2.4.1 FRCC RC Responsibility

6.4.2.4.1.1 Notify the FRCC OEs of the termination of the EEA.

6.4.2.4.1.2 Notify the SCEC of the termination of the EEA.

6.4.2.4.1.3 Notify the adjacent RC of the termination of the EEA.

6.4.2.4.1.4 Review conditions for potential reliability problems.

6.4.2.4.1.5 Convene reliability assessment conference calls as appropriate (see Attachment C).

6.4.2.4.1.6 Notify NERC in accordance with applicable NERC Reliability Standards.

6.4.2.4.2 SCEC Responsibility

6.4.2.4.2.1 Notify the FRCC Senior Management and the Chair of the FRCC OC of the termination of the Energy Emergency Alert condition.

6.4.2.4.2.2 Notify the FRCC OEs of the termination of the Energy Emergency Alert condition.

6.4.2.4.2.3 In case the FRCC Director of Operations is not reachable, the SCEC shall make the notifications assigned to the FRCC Director of Operations.

6.4.2.4.3 FRCC OE Responsibility

6.4.2.4.3.1 Notify the RC that Firm Load has been restored.

6.4.2.4.3.2 Provide status reports as required by the SCEC or RC (see Attachment C).

6.4.2.4.4 FRCC Director of Operations Responsibility

6.4.2.4.4.1 Advise SWP of the termination of the EEA condition.

6.4.2.4.4.2 Advise FPSC of the termination of the EEA condition.

6.4.2.4.5 Florida Division of Emergency Management

6.4.2.4.5.1 Maintain contact with affected FRCC OEs and/or FRCC SCEC.

6.4.2.4.5.2 Maintain contact with affected counties.

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6.4.2.4.5.3 Evaluate need for continued sheltering as appropriate.

6.4.2.4.5.4 Inform the Office of Energy.

6.4.2.4.6 Florida Public Service Commission

Maintain communications with FRCC OEs and Florida Division of Emergency Management as appropriate.

6.4.2.4.7 Office of Energy

Maintain contact with the FDEM and other parties as appropriate.

6.4.2.4.8 Public Information

The Restoration is the recovery phase of the Energy Emergency. It marks either an end to rolling blackouts or the resumption of service to customers previously impacted. Messages are specific and are designed to provide system status reports, timing and locations of scheduled repair activities, appropriate safety information and customer self-help instruction.

6.4.2.4.8.1 Notification

In notifying customers and local support agencies, messages indicate termination of the EEA. They also provide safety and system status information and call for specific action responses.

6.4.2.4.8.2 State Warning Point

Upon meeting the criteria for System Load Restoration under EEA-0, the FRCC Director of Operations shall contact the FDEM and SWP and they will decide when and if to initiate the Emergency Broadcast System Load Restoration Message (Attachment B).

6.4.2.4.8.3 Local Emergency Agencies

At this time, safety and system status information shall be disseminated to local agencies by individual FRCC OEs. Agencies may decide to activate government access cable television broadcasts and Emergency Broadcast System regional radio broadcasts. The SWP may also provide additional information to local agencies.

6.4.2.4.8.4 News Media

At this time, news media shall be advised to activate Restoration phase communications and revise broadcasts

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accordingly.

6.4.2.4.8.5 Messages

Messages are specific and offered as hard news either in the form of a news release and/or public service announcement. Example: "The emergency condition has ended and rolling blackouts have been discontinued. Extra service crews will continue to work around the clock to restore power resulting from FRCC OE equipment damage. If your power is out, please call the Customer Service office to report any problems and schedule assistance. Your patience and cooperation during the emergency has been greatly appreciated."

6.5 MAINTAINING EMERGENCY PREPAREDNESS

The FRCC OC has the overall responsibility to maintain emergency preparedness. Each year the FRCC OC will review the current preparedness program in order to determine effectiveness of that program in light of current events and past experiences. This review will include a training exercise which will be held annually.

The FRCC OC is responsible for coordinating the training exercise. The FDEM, the FPSC staff, and representatives from the gas pipeline(s) in the state are to participate in the exercises. The exercises shall consist of a one-day training session for personnel with a major role in the coordination and/or implementation of the activities described within this plan. Such sessions shall include a review of the responsibilities of each individual party along with table-top exercises consisting of one or more possible emergency scenarios.

A group chaired by the FRCC OC Chair and made up of the SCEC, and selected FRCC OC members shall critique the exercises called by the plan versus experiences gained through the year. This group will make an assessment of the adequacy of this *FRCC Plan* and will make recommendations, if any, for improvement or revisions.

7.0 Document Distribution/Notification Requirements

7.1 Distribution Timeframe

This document should be distributed to FRCC OEs within 10 business days of version approval by the FRCC Board of Directors and FPSC Adoption.

7.2 NERC Required Distribution List

7.2.1 None

7.3 Additional Distribution List

7.3.1 FRCC Board of Directors (Plan Modifications Only)
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- 7.3.2 FPSC (Plan Modifications Only)
- 7.3.3 FRCC OC
- 7.3.4 FRCC ORS
- 7.3.5 RC Agent (Director System Operation and Training Staff)
- 7.3.6 FRCC Manager of RC Operations and Oversight
- 7.3.7 FRCC RC Program Administrator
- 7.3.8 FRCC BAs
- 7.3.9 FRCC GOPs
- 7.3.10 FRCC LSEs
- 7.3.11 FRCC TOPs
- 7.3.12 FRCC SCEC

8.0 References

- 8.1 NERC Standard EOP-001-2.1b Emergency Operations Planning
- 8.2 NERC Standard EOP-002-3.1 Capacity and Energy Emergencies
- 8.3 NERC Standard EOP-011-1 Emergency Operations
- 8.4 NERC Standard IRO-014-1 Procedures, Processes, or Plans to Support Coordination Between Reliability Coordinators
- 8.5 *Regional Process for Determination of Most Severe Single Contingency* (FRCC-MS-OPRC-008)

9.0 Attachments

- 9.1 Attachment A: Sample Generating Capacity Emergency Alert Broadcast Message
- 9.2 Attachment B: Sample System Load Restoration Broadcast Message
- 9.3 Attachment C: FRCC Regional Assessment and Communications

10.0 Review and Modification History

Classification: Public

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Review and Modification Log			
Date	Version Number	Description of Review or Modification	Sections Affected
09/26/2016	8	Revised the Advisory/Alert activation process, updated the responsibility titles and aligned the procedure with current processes, currently enforceable NERC Reliability Standard EOP-002-3.1, and the NERC Reliability Standard EOP-011-1 to be effective on April 1, 2017.	All
06/06/2016	7	Moved legacy procedure into new template which required modifying the entire structure and revised document to align with NERC Reliability Standard EOP-002-3.1.	All
09/29/2015	6	Existing FPSC Plan was placed in new template to capture review cycles and document distribution requirements.	All
09/03/2015	6	The Generating Capacity Shortage Drill was conducted on September 3, 2015. In addition, a group chaired by the FRCC OC Chair and made up of the SCEC, and selected FRCC OC members critiqued the exercises called by the plan versus experiences gained through the year. The group assessed the adequacy of the FRCC Generating Capacity Shortage Plan and made minor recommendations not requiring a re-write of the current plan.	N/A
06/04/2014	6	The Generating Capacity Shortage Drill was conducted on June 4, 2014. In addition, a group chaired by the FRCC OC Chair and made up of the SCEC, and selected FRCC OC members critiqued the exercises called by the plan versus experiences gained through the year. The group assessed the adequacy of the FRCC Generating Capacity Shortage Plan and made minor recommendations not requiring a re-write of the current plan.	N/A
12/05/2013	6	The Generating Capacity Shortage Drill was conducted on December 5, 2013. In addition, a group chaired by the FRCC OC Chair and made up of the SCEC, and selected FRCC OC members critiqued the exercises called by the plan versus experiences gained through the year. The group assessed the adequacy of the FRCC Generating Capacity Shortage Plan and made minor recommendations not requiring a re-write of the current plan.	N/A

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12/10/2012	6	The Generating Capacity Shortage Drill was conducted on December 10, 2012. In addition, a group chaired by the FRCC OC Chair and made up of the SCEC, and selected FRCC OC members critiqued the exercises called by the plan versus experiences gained through the year. The group assessed the adequacy of the FRCC Generating Capacity Shortage Plan and made minor recommendations not requiring a re-write of the current plan.	N/A
12/01/2011	6	The Generating Capacity Shortage Drill was conducted on December 1, 2011. In addition, a group chaired by the FRCC OC Chair and made up of the SCEC, and selected FRCC OC members critiqued the exercises called by the plan versus experiences gained through the year. The group assessed the adequacy of the FRCC Generating Capacity Shortage Plan and made minor recommendations not requiring a re-write of the current plan.	N/A
11/04/2010	6	The Generating Capacity Shortage Drill was conducted on November 4, 2010. In addition, a group chaired by the FRCC OC Chair and made up of the SCEC, and selected FRCC OC members critiqued the exercises called by the plan versus experiences gained through the year. The group assessed the adequacy of the FRCC Generating Capacity Shortage Plan and made minor recommendations not requiring a re-write of the current plan.	N/A
12/11/2009	6	The Generating Capacity Shortage Drill was conducted on December 11, 2009. In addition, a group chaired by the FRCC OC Chair and made up of the SCEC, and selected FRCC OC members critiqued the exercises called by the plan versus experiences gained through the year. The group assessed the adequacy of the FRCC Generating Capacity Shortage Plan and made minor recommendations not requiring a re-write of the current plan.	N/A

11.0 Disclaimer

The information, analysis, requirements and/or procedures described herein are not intended to be fully inclusive of all activities that may support compliance to a specific NERC Reliability Standard referenced or implied within the document. Nevertheless, it is the FRCC entities' and other users' responsibility to ensure the most recent version of this document is being used in conjunction with other applicable procedures, including, but not limited to, the applicable NERC Reliability Standards as they may be revised from time to time.

The use of this information in any manner constitutes an agreement to hold harmless and indemnify FRCC and FRCC Member Systems, and FRCC Staff, FRCC Committees and FRCC Member Employees from all claims of any damages. In no event shall FRCC and FRCC Member Systems, and FRCC Staff and FRCC

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Member Employees be liable for actual, indirect, special or consequential damages in connection with the use of this information.

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Attachment A: Sample Generating Capacity Emergency Alert Broadcast Message

(STATE EBS MESSAGE)

“ENERGY EMERGENCY ALERT”

FLORIDA’S ELECTRIC UTILITIES [use: ARE CURRENTLY or ANTICIPATE] ROTATING ELECTRIC POWER TO CUSTOMERS IN THEIR SERVICE TERRITORIES DUE TO WEATHER-RELATED, HIGH DEMAND WHICH EXCEEDS AVAILABLE POWER SUPPLIES.

TO MINIMIZE THE SCOPE AND DURATION OF THE ROLLING BLACKOUTS, THE STATE’S ELECTRIC UTILITIES HAVE ISSUED THE FOLLOWING EMERGENCY PUBLIC APPEALS.

- IF YOUR ELECTRICITY IS ON, DISCONTINUE ALL NON-ESSENTIAL USES; CONSERVATION WILL HELP!
- IF YOUR POWER GOES OUT, TURN OFF ALL MAJOR ELECTRIC APPLIANCES. THIS WILL HELP PREVENT THE SYSTEM SERVING YOUR HOME FROM BEING OVERLOADED. WHEN POWER IS RESTORED, TURN APPLIANCES ON GRADUALLY, AND ONLY AS NEEDED.
- UTILITY PHONE LINES ARE OVERLOADED. PLEASE LEAVE THE LINES OPEN FOR EMERGENCY CALLS. IF YOU ARE THE ONLY HOME OR BUSINESS IN YOUR NEIGHBORHOOD EXPERIENCING AN EXTENDED POWER OUTAGE, CONTACT YOUR LOCAL ELECTRIC UTILITY.

FLORIDA’S ELECTRIC UTILITIES HAVE EXPERIENCED A SIGNIFICANT, WIDESPREAD DISRUPTION TO THE POWER SUPPLY SYSTEM AFFECTING CUSTOMERS THROUGHOUT THE STATE.

RESTORATION OF THE POWER SUPPLY SYSTEM IS UNDER WAY. EFFORTS TO RETURN INDIVIDUAL AND NEIGHBORHOOD ELECTRIC SERVICE, HOWEVER, MAY TAKE SEVERAL HOURS OR MORE.

THE STATE’S ELECTRIC UTILITIES HAVE ISSUED THE FOLLOWING EMERGENCY INFORMATION AND PUBLIC APPEALS:

- IF YOUR ELECTRICITY IS ON, DISCONTINUE ALL NON-ESSENTIAL USES, ESPECIALLY REDUCE USE OF AIR-CONDITIONING/HEATING. CONSERVATION WILL HELP THE RESTORATION EFFORT.
- IF YOUR POWER IS OUT OR GOES OUT — TURN OFF ALL MAJOR ELECTRIC APPLIANCES. THIS WILL HELP PREVENT THE SYSTEM SERVING YOUR HOME FROM BEING OVERLOADED. WHEN POWER IS RESTORED, TURN APPLIANCES ON GRADUALLY, AND ONLY AS NEEDED.

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- UTILITY PHONE LINES ARE OVERLOADED. PLEASE LEAVE THE LINES OPEN FOR EMERGENCY CALLS. IF YOU ARE THE ONLY HOME OR BUSINESS IN YOUR NEIGHBORHOOD EXPERIENCING AN EXTENDED POWER OUTAGE, CONTACT YOUR LOCAL ELECTRIC UTILITY.

STAY TUNED FOR FURTHER ANNOUNCEMENTS.

Classification: Public

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Attachment B: Sample System Load Restoration Broadcast Message

(STATE EBS MESSAGE)

**“SYSTEM LOAD RESTORATION
ENERGY EMERGENCY ALERT – LEVEL 0”**

FLORIDA’S ELECTRIC UTILITIES ANNOUNCED THAT THE WIDESPREAD ELECTRIC POWER EMERGENCY HAS ENDED AND ELECTRIC SERVICE HAS BEEN RESTORED TO MOST AREAS OF THE STATE. SMALLER, LOCALIZED POWER REPAIR AND RESTORATION EFFORTS ARE BEING ADDRESSED BY LOCAL UTILITY CREWS.

**“RESTORATION/OPTIONAL”
(DO NOT USE IF EMERGENCY WAS A SUDDEN POWER LOSS)**

PUBLIC ACTION ON EARLY APPEALS FOR CONSERVATION IS BEING CREDITED WITH SUBSTANTIALLY HELPING SHORTEN THE SCOPE AND DURATION OF THE POWER OUTAGES.

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Attachment C: FRCC Regional Assessment and Communications

The SCEC along with the FRCC RC, perform FRCC Regional reliability functions and assessments under the oversight and, when deemed necessary, under the direction of the FRCC ORS, a subordinate committee to the FRCC OC. ORS along with “reliability only” qualified personnel of the OC make-up the primary channels of communications for the FRCC to quickly assess and respond to reliability impact events or disturbances occurring within the FRCC. Participants are primarily operations personnel from the various FRCC OEs and are in positions to understand, and can quickly communicate the status of their operations from a reliability perspective. The individuals that make-up these official communication channels are FRCC OE personnel that have direct knowledge over their FRCC OE’s status and operations but have been separated from their FRCC OE’s merchant functions. Along with communications, the FRCC has developed information and data gathering tools to ensure Regional assessments are as accurate and Regionally encompassing as possible. Various information and data is typically aggregated and used to ensure accurate reliability assessments of the FRCC. FRCC staff will provide updates to NERC staff, as appropriate.

The descriptions below summarize some of the FRCC Regional protocols, processes and tools used to effectively implement this plan.

A. Enhanced Capacity Assessments Protocol

The normal FRCC Capacity Assessment process requires capacity to be reported on a daily basis, for the current day in the summer and for the next-day in the winter. In order to enhance the SCEC and RC ability to assess FRCC Regional capacity in response to weather, conditions, system events or fuel supply issues, the FRCC SCEC at their discretion may request Enhanced Capacity Assessment reporting by requesting multi-day assessments of capacity that reflect anticipated generation outages along with available fuel supply.

B. FRCC Regional Reliability Assessment Conference Calls

Based on the diversity of issues which may impact FRCC OE operations within the FRCC, the FRCC OEs have established flexible communications protocols, which provide rapid and efficient status reporting mechanisms. These mechanisms include conference calls and redundant group telecommunications tools along with independent electronic messaging applications. The RC at its discretion may quickly convene conference calls to assess state-wide conditions and quickly coordinate appropriate responses from an FRCC Regional perspective. Typically, calls may include pipeline operators or other specific FRCC OE personnel knowledgeable in the particular issue impacting the Region although where discussions move to regional assessments and information exchange becomes privileged sensitive reliability data, calls are limited “reliability only” qualified participants. Finally, the discussions and assessments on these calls are used to determine the assistance and coordination required from a FRCC OE perspective and a governmental agency perspective. This is critical, especially during emergency situations where the proper level of FRCC OE authority is required to ensure Regional responses are adequate and in the best interest of the Region.

C. Fuel Data Status Reporting

In order to enhance the SCEC and RC ability to assess the reliability of the FRCC Region, in response to weather, conditions, system events or fuel supply issues, the FRCC RC, at its discretion may request Fuel

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Data Status reporting be initiated. This process requires the FRCC OEs to report their actual and projected fuel availability along with alternate fuel capabilities, to serve their system loads. This is typically provided in type of fuel and expressed in terms relative to forecast loads or generic terms of unit output, depending on the event initiating the reporting process. Data is aggregated at the FRCC and is provided from a Regional perspective, to the RC, SCEC and governmental agencies as requested. Fuel Data Status reporting is only performed when specifically requested.

D. Gas Pipeline Communications

Protocols are also established with the gas pipeline operators to provide notification of gas pipeline(s) disruptions to the SCEC and to the FRCC Director of Operations, on a timely basis.

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State of Florida



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

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

DATE: January 24, 2017
TO: Pamela Page, Senior Attorney, Office of the General Counsel
FROM: Clyde D. Rome, Public Utility Analyst II, Division of Economics *CDR*
RE: Statement of Estimated Regulatory Costs (SERC) for Recommended Revisions to Chapter 25-6 (Electric Service by Electric Public Utilities), Florida Administrative Code (F.A.C.)

The purpose of this rulemaking initiative is to update Commission Rule 25-6.0183 (Electric Utility Procedures for Generating Capacity Shortage Emergencies), F.A.C. The recommended update is to incorporate by reference the most current version of the Florida Reliability Coordinating Council (FRCC) Generating Capacity Shortage Plan dated December 15, 2016. The recommended rule change would ensure that the Emergency Operations Center and electric utilities are aware of the most current plan.

The update of the prior (2007) FRCC plan involved restructuring the plan into a new format comparable to North American Electric Reliability Corporation (NERC) Reliability Standard EOP-002-3.1. The updated plan revised the advisory/alert activation process, updated the responsibility titles, and aligned the procedure with current processes, NERC Reliability Standard EOP-002-3.1, and the NERC Reliability Standard EOP-011-1 to be effective April 1, 2017. As noted in the attached SERC, 58 electric utilities would be affected by the recommended revisions.

The attached SERC addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). No workshop was requested in conjunction with the recommended rule revisions. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: (Draper, Daniel, Shafer, Moses, Cibula, SERC file)

**Florida Public Service Commission
Statement of Estimated Regulatory Costs
Rule 25-6.0183, F.A.C.**

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

Yes

No

For clarification, please see comments in Sections A(3) and E(1), below.

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

Yes

No

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

A. Whether the rule directly or indirectly:

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

Economic growth Yes No

Private-sector job creation or employment Yes No

Private-sector investment Yes No

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

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

Productivity Yes No

Innovation Yes No

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

Yes No

Economic Analysis:

A summary of the key rule changes is included in the attached memorandum to counsel. Specific elements of the associated economic analysis are identified below in Sections B through F of this SERC.

The purpose of the recommended revision to Rule 25-6.0183, F.A.C., is to incorporate by reference the most current version of the Florida Reliability Coordinating Council (FRCC) Generating Capacity Shortage Plan dated December 15, 2016. The rule change would enable the Emergency Operations Center and electric utilities to be aware of the most current plan.

As discussed in Section D., below, the amendments to Commission rules being recommended at this time are not anticipated to result in significant additional transactional costs. Therefore, none of the rule impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended rule revisions.

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

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

Potentially affected entities include 58 electric utilities. Utilities which come under the jurisdiction of the Commission in the future also would be required to comply.

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

Florida's 58 electric utilities are comprised of 5 investor-owned utilities, 34 municipally-owned electric utilities, 16 rural electric cooperatives, and 3 independent wholesale power generation and distribution companies. Florida's 5 investor-owned electric utilities serve approximately 7.57 million customers.

[Sources: (1) Master Commission Directory, PSC - June 2016; (2) Facts and Figures of the Florida Utility Industry, PSC - March 2016]

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

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

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

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

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

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

- None.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

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

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

The update of the prior (2007) FRCC plan involved restructuring the plan into a new format to align with North American Electric Reliability Corporation (NERC) Reliability Standard EOP-002-3.1. The updated plan revised the advisory/alert activation process, updated the responsibility titles, and aligned the procedure with current processes, NERC Reliability Standard EOP-002-3.1, and the NERC Reliability Standard EOP-011-1 to be effective April 1, 2017.

Several key updates to the 2007 plan which are incorporated in the 2016 plan are discussed individually below:

(1) Redefinition of the Weather Triggers to Initiate an Advisory

The 2007 plan contained temperature-based weather triggers that served as the basis for initiating advisories. Both summer and winter temperature thresholds across seven cities were listed. The streamlined 2016 plan eliminated the summer temperature triggers and reduced the number of winter temperature triggers from seven cities to three. In explanation of the change, FRCC represented that over the last three years, the FRCC has issued nine Generating Capacity Advisories due to temperature triggers. There was consistently more than adequate generating capacity margin throughout all the nine advisory periods. Nevertheless, due to the uncertainty of potential system loads during extreme and sustained cold weather periods (e.g., winter of 2010), the FRCC has retained the ability to declare Generating Capacity Advisories based on winter temperature triggers to ensure statewide communications are enhanced during these potential high system loads.

(2) Description of Energy Emergency Alert Levels

The 2016 plan provides additional clarification and guidance by defining the criteria associated with four specific levels of Energy Emergency Alerts (EEAs). In accordance with NERC Reliability Standard EOP-002-3.1 (currently in effect) and Standard EOP-011-1 (replacement standard to be effective 4/1/17), EEA levels 1, 2, and 3 are assigned criteria commensurate with escalating levels of urgency. For purposes of the plan, an EEA is declared by the FRCC Reliability Coordinator and may be declared up to one day in advance. Progression through EEA levels need not be sequential. EEA level 0 is restored when utility firm load reductions are discontinued and load and operating reserve requirements are being met.

(3) Dissemination of Information to News Media

The 2016 plan provides clearer guidance that information shall be provided to local media by individual utilities. This additional clarification should benefit affected entities by enhancing direct communication between utilities and the media. Utilities have the most direct knowledge of their potential concerns in any given circumstances; thus, the media is able to receive and further disseminate the information quickly and accurately. The Florida Division of Emergency Management State Warning Point also may utilize its information network.

Additional transactional costs, if any, which potentially may result from Staff's recommended rule modifications to incorporate the 2016 FRCC Generating Capacity Shortage Plan, are expected to be de minimis. FRCC represented that the 2016 plan has been approved for use by the utilities within the FRCC.

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

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

- No adverse impact on small business. *[See clarification below.]*
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

Based on a review of investor-owned electric utility annual reports, staff believes that none of the five Florida investor-owned electric utilities would be likely to meet the definition of "small business" as defined in Section 288.703, F.S. The numbers of rural electric cooperatives and independent wholesale power generation and distribution companies, if any, that potentially might meet the definition of "small business" as defined in Section 288.703, F.S., are difficult to estimate. However, as noted in Section D above, any economic impacts that potentially might be incurred by affected entities resulting from the recommended rule changes are expected to be de minimis.

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

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

Based on a review of the "Florida Estimates of Population" published by the Bureau of Economic and Business Research (2015), it is estimated that 14 municipally-owned electric utilities potentially might meet the definition of "small city" as defined in Section 120.52, F.S. Additional transactional costs, if any, which potentially might result from the recommended rule changes, are discussed in Section D above.

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

None.

Additional Information:

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

No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

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

Item 2

State of Florida



Public Service Commission

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

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

DATE: February 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Harper) *DEH SMC*
Division of Accounting and Finance (Golden) *MEY*
Division of Economics (Rome) *CRK & PD* *MC*

RE: Docket No. 160246-WS – Proposed adoption of Rule 25-30.444, F.A.C., Utility Reserve Fund, and 25-30.4445, F.A.C., Notice of Application for Utility Reserve Fund.

AGENDA: 03/07/17 – Regular Agenda – Interested Persons May Participate.

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

RULE STATUS: Proposal May Not Be Deferred. Rules must be proposed by April 1, 2017.

SPECIAL INSTRUCTIONS: None

Case Background

During the 2016 Legislative Session, the Florida Legislature enacted House Bill 491, which was incorporated into Chapter 2016-226, Laws of Florida. The legislation modified Section 367.081(2)(c), F.S., to require the Commission to adopt rules to implement a utility reserve fund for water and wastewater utilities. To implement the new law, staff is recommending adoption of Rule 25-30.444, F.A.C., Utility Reserve Fund, and Rule 25-30.4445, F.A.C., Notice of Application for Utility Reserve Fund. Pursuant to Section 120.74(5), F.S., the Commission must propose rules by April 1, 2017.

The Commission's Notice of Development of Rulemaking was published in the Florida Administrative Register (F.A.R.), on September 26, 2016, in Volume 42, Number 187. A Rule

Docket No. 160246-WS

Date: February 23, 2017

Development Workshop was held on December 16, 2016. Representatives from the Office of Public Counsel (OPC), the Florida Rural Water Association (FRWA), Milian, Swain & Associates, P.A., Coenson & Friedman, P.A., Florida Utility Services 1, LLC, (FUS1), U.S. Water Services Corporation (USW), and Utilities Inc. of Florida (UIF) participated in the workshop.

This recommendation addresses whether the Commission should propose Rules 25-30.444 and 25-30.4445, F.A.C. The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2)(c), 367.081, and 367.121, F.S.

Discussion of Issues

Issue 1: Should the Commission propose Rules 25-30.444 and 25-30.4445, F.A.C.?

Recommendation: Yes. The Commission should propose the adoption of Rules 25-30.444 and 25-30.4445, F.A.C., as set forth in Attachment A. (Harper, Golden, Rome)

Staff Analysis: The purpose of this rulemaking is to create Rules 25-30.444 and 25-30.4445, F.A.C., to implement a utility reserve fund for water and wastewater utilities, consistent with the Florida Legislature's 2016 legislation. Staff is recommending that the Commission propose the rules, as set forth in Attachment A. Below is a more detailed explanation of the rules staff is recommending.

Background

Prior to the 2016 legislation, in most cases, water and wastewater utilities could recover costs incurred for repairing or replacing infrastructure only after the work was completed and the Commission granted a utility's petition for recovery of the repair costs in a rate case or limited proceeding. Water and wastewater utilities' lack of cash reserves, and limited availability of owner, bank, or investor financing affects the ability of the utility to cover repair costs for critical infrastructure. To address concerns over deferred maintenance of critical infrastructure and delay in necessary repairs, the Legislature amended Section 367.081, F.S., to allow utilities to request that the Commission approve a utility reserve fund. The Legislature determined the establishment of a utility reserve fund may reduce borrowing costs and make funding for repairs more readily available.¹ The availability of the reserve funds may allow the utility to avoid or defer the need for a future rate case, the expenses of which are ultimately borne by ratepayers.²

In developing the rules, staff considered suggestions and concerns that were presented in the *Report of the Study Committee on Investor-Owned Water & Wastewater Utility Systems* on which House Bill 491 was based. For example, staff incorporated several of OPC's suggestions such as: offsetting utility plant in service (UPIS) with contributions-in-aid-of-construction (CIAC) to recognize the ratepayers funding of the UPIS through a utility reserve fund; requiring periodic review of a utility's capital improvement plan; placing a possible limit on the percentage increase that may result from implementation of a utility reserve fund surcharge; recognizing possible reductions in operating costs resulting from infrastructure improvements; and annual reporting requirements regarding funds collected, funds spent, and project activity.³

Staff also considered concerns that have been raised in recent years by utility representatives regarding the industry's need for options to obtain additional funding and longer planning periods for necessary infrastructure repair and replacement projects. Some of the stakeholders involved in this rulemaking have opposite views on certain aspects of the rules. Staff has worked to reach a balance between the opposing views while developing rules that will be beneficial to both the ratepayers and utilities.

¹Florida House Bill Analysis, Regulatory Affairs Committee, February 9, 2016; page 3.

²Florida House Bill Analysis, Energy and Utilities Subcommittee, April 15, 2016; page 12.

³*Report of the Study Committee on Investor-Owned Water & Wastewater Utility Systems*, issued February 15, 2013, Attachment IV.6-A, pages 74-75.

Rule 25-30.444, F.A.C., Utility Reserve Fund

Rule 25-30.444, F.A.C., implements Section 367.081(2)(c), F.S., which allows the Commission to authorize a utility reserve fund for water and wastewater utilities. Section 367.081(2)(c), F.S., requires the Commission's rule to include: (a) provisions related to the expenses for which the fund may be used; (b) segregation of the reserve fund accounts; (c) requirements for the utility to maintain a capital improvement plan; and (d) requirements for Commission authorization prior to disbursement from the fund.

Eligible Projects

Subsection 25-30.444(1), F.A.C., provides considerations that shall be applied in determining whether a future infrastructure repair or replacement project is eligible for advance funding through a utility reserve fund and whether a utility reserve fund is the most appropriate methodology to address the required project. Subsection (1) allows consideration of projects to repair or replace existing utility facilities related to the water system, water transmission and distribution system, wastewater treatment system, and wastewater collection system. The rule excludes projects and expenditures related to general plant that are not directly associated with the physical operation of the plant and for which other financing options are generally available, such as office equipment, tools, and vehicles. Projects related to expanding facilities to address future growth are also excluded.

OPC and the utility representatives express different opinions on the scope of the rule and interpret Section 367.081(2)(c), F.S., differently as to what projects and expenses may be considered for the utility reserve fund. OPC argues that the Commission lacks statutory authority to create a utility reserve fund for additional plant that is not considered distribution and collection infrastructure. The utilities and FRWA disagree. In the rule development workshop representatives of FRWA, FUS1, USW, and UIF argued for a more broad interpretation of the statute. USW suggested that a broad interpretation would assist the utilities with making repairs such as a well replacement or complying with new treatment standards required by the Department of Environmental Protection (DEP). Further, FRWA and FUS1 argued that subsection (1) of the rule, which provides a list of eligible projects, should be more expansive and include emergency projects.

Staff's interpretation of Section 367.081(2)(c), F.S., is not as narrow as OPC's interpretation, but it is not as broad as the utilities' interpretation. Section 367.081(2)(c), F.S., provides:

In establishing rates for a utility, upon its own motion or upon the request of a utility, the Commission may authorize a utility to create a utility reserve fund for infrastructure repair and replacement for a utility for existing distribution and collection infrastructure that is nearing the end of its useful life or is detrimental to water quality or reliability of service....

(Emphasis added). Under a narrow interpretation of the statute, the only categories of water plant as defined by the National Association of Regulatory Utility Commissioners' Uniform System of Accounts (NARUC USOA) that could be considered for inclusion in a utility reserve fund would be those listed as transmission and distribution (T&D) plant, which are: the portion of structures

and improvements associated solely with T&D plant; pumping equipment related solely to T&D plant; distribution reservoirs and standpipes; T&D mains; services; meters and meter installations; hydrants; backflow prevention devices; and other plant and miscellaneous equipment related solely to T&D plant. Similarly, this narrow interpretation of the statute would only allow consideration of wastewater repair and replacement projects that are related to collection plant such as collection sewers, collecting structures, and flow measuring devices and installations.

OPC's narrow interpretation would prohibit the Commission from considering projects related to water plant repair or replacement projects related to source of supply and pumping or treatment plant, including: repairs for structures and improvements, pumping equipment, and other plant and miscellaneous equipment related solely to source of supply and pumping equipment and power generation equipment. The Commission would also be prohibited from considering wastewater repair and replacement projects including treatment and disposal plant, reclaimed water treatment plant, power generation equipment, and pumping equipment.

As noted above, the stakeholders discussed examples of necessary repairs that could be considered under a broader interpretation and that would be beneficial in ensuring that customers receive quality service. However, no examples were provided that would suggest that the customers would be harmed by a broader interpretation. Quality and reliability of service is dependent on the proper functioning of all plant components involved in providing the water and wastewater service. Therefore, staff believes that only addressing repair issues related to the transmission and distribution or collection infrastructure needs for the utility facilities is not in the best interests of the customers in the long term. Rather, a broader interpretation of the statute is necessary to encourage utility planning and necessary infrastructure repair, particularly for utilities that lack adequate financial resources to make needed repairs and have a greater risk of experiencing critical component failure. Staff believes a broader interpretation of Section 367.081(2)(c), F.S., is necessary to encourage long-term capital improvement plans and proactive planning, which is consistent with the intent of the Legislature when the statute is read as a whole.

Accordingly, staff is recommending in subsection (1) of the rule to allow the utilities to collect reserve funds for necessary infrastructure repair or replacement projects associated with the physical operation of the utility's water or wastewater systems that are necessary to maintain or improve the quality or reliability of service for customers. Further, subsection (2), which will be discussed below, requires the utility to provide a detailed description of the reason(s) that each repair or replacement project is necessary to maintain or improve the quality or reliability of the water or wastewater service. Staff believes this requirement serves to protect the customers by ensuring that each project is necessary to maintain or improve the quality and reliability of the service, regardless of whether the project relates to a treatment plant or lines.

Also, OPC suggested that the rule be revised to clarify that there is a 30 percent cap annually for all advance funding repairs/projects collectively, not a 30 percent cap for each repair/project. In response to OPC's comments, staff recommends rule language in subsection (1) to clarify that the 30 percent is based on the total increase resulting from implementation of the utility reserve fund surcharge. This target would apply regardless of how many projects are included in the

surcharge. However, the rule does not propose the 30 percent increase as an absolute cap but rather it is a consideration for the Commission to evaluate the surcharge.

OPC also suggested that an additional element should be listed under subsection (1) of the rule's eligible projects and expenses. OPC suggested that project eligibility should be based on whether the project benefits the ratepayers. OPC also commented that the rule should specify any pre-qualification conditions that must be met in order to request a utility reserve fund surcharge. Staff believes the project eligibility requirements in subsection (1) of the rule adequately specify the eligible projects for the reserve fund. Staff believes that subsection (1), coupled with the the rules' detailed noticing, filing, and reporting requirements, which are contained in the latter provisions of the rule that are discussed further below, provide necessary Commission oversight to ensure the funds are being used for necessary repairs to benefit the customers.

Filing Requirements

Subsection 25-30.444(2), F.A.C., provides the information that utilities must submit in an application for a reserve fund. For example, the subsection requires that a utility must provide a capital improvement plan that includes general information about the condition of the utility's facilities and a description of all infrastructure repair and replacement projects that the utility anticipates will be necessary within the next five years, at a minimum. Also, the subsection requires detailed information about the projects that the utility is requesting be included in a utility reserve fund such as: a description of reasons why each project is necessary to either maintain or improve the quality or reliability of the water or wastewater service; whether the projects are required by a regulatory agency, such as DEP; cost estimates; a projected timeline; and a description of any other funding sources that may be available to pay for a portion of the projects. The rule would also allow any utility that has received an Asset Management Plan prepared by FRWA to submit that plan in lieu of preparing a separate capital improvement plan. In addition, the subsection requires a description of the procedures that the utility will implement to segregate the monies collected from the utility reserve fund surcharge on the utility's books and records.

At the rule development workshop, OPC argued that the capital improvement plan filing requirements in subsection (2) are not detailed enough. However, the utilities argued that the requirement of the rule as drafted is too burdensome and the additional information requested by OPC is not necessary to evaluate the requested projects. The utilities argued reserve funds may be needed to pay for emergency work that was not part of the capital improvement plan submitted to the Commission. The statute specifically states that the rule must include a requirement for a capital improvement plan. Section 367.081(2)(c), F.S., provides:

The commission shall adopt rules to govern the implementation, management, and use of the fund, including, but not limited to, rules related to expenses for which the fund may be used, segregation of reserve account funds, *requirements for a capital improvement plan*....

(Emphasis added). To address OPC's and the utilities' concerns, staff recommends that the rule require additional general information about the condition of the utility's facilities, and all repairs or replacements that the utility anticipates making in the next five years, at a minimum. Staff

believes this additional general information will provide a good overview of a utility's condition without requiring additional detail for projects that are not being requested for consideration in the utility reserve fund at that time.

To address the utility companies' concerns about the situations where an emergency may require the use of the funds in the reserve account, staff is recommending language in subsection (5) of the rule to allow for reserve fund disbursements for certain emergency repairs under specific circumstances so that the utilities' access to the funds may be considered in limited emergency situations. Staff believes that the recommended rule language provides a reasonable balance of requiring utilities to provide information which encourages the utility's repair planning while also addressing the need for emergency repairs.

Reporting Requirements

Subsection 25-30.444(3), F.A.C., provides reporting requirements for the utilities in order for the Commission to review the monies collected for the utility reserve fund. The subsection provides several reporting requirements that will continue as long as the utility reserve fund is in effect. The reports include: monthly reports of the money deposited into and disbursed from the utility reserve fund; project status reports every six months; an annual update in the utility's annual report; and an update of the utility's capital improvement plan every three years.

The utility representatives expressed concerns at the rule development workshop that providing quarterly project reports would be too burdensome. Because the utility reserve fund would allow utilities to charge customers for planned repair and replacement projects in advance of the construction or improvements, staff believes reporting requirements are necessary to ensure utilities are acting prudently in the planning process. However, in response to the comments by the utilities, staff is recommending that the rule require semi-annual reporting rather than quarterly project status reporting.

Disbursement of Funds

Subsection 25-30.444(4), F.A.C., lists the information that a utility must provide to the Commission in order to receive Commission authorization for disbursement of the reserve fund monies, whether it be from an escrow account or an authorization to use reserve fund monies secured by an irrevocable letter of credit.

The utility representatives argued that the rule was too restrictive because it did not allow for emergency disbursement of funds. OPC argued its interpretation of the statute would not allow for emergency disbursement of funds under any circumstances and that all disbursements should be allowed only in accordance with the capital improvement plan. While staff disagrees with the utilities' position that the rule should enable a utility to create an emergency fund that is not based on a capital improvement plan, staff believes OPC's interpretation of the statute to exclude the emergency disbursement of funds under any circumstances is too restrictive.

To balance the opposing views, staff is recommending rule language in subsection 25-30.444(4), F.A.C., that allows for reserve fund disbursements for certain emergency repairs under specific circumstances that result from events that were outside the utilities' control such as weather-related damage, accidents, or defective parts. The rule language also requires the utilities to

reimburse the fund for the emergency repairs or describe how the utility reserve fund projects or timeline may be modified to address the funding needs of the previously approved projects. If these options are not possible, the utility may then request a modification of the surcharge. For these reasons, staff believes the rules balance the interests of customers while encouraging utilities to utilize the fund for planning for necessary repairs.

In addition, OPC suggested that the rule be revised to clarify that staff must verify the surcharge funds are being spent by the utility in accordance with the stated purpose. Staff believes additional language is unnecessary and may be confusing because the rule filing and reporting requirements ensure that utilities are acting in accordance with the stated purpose of the utility capital improvement plan and fund collection.

Utility Reserve Fund Modifications

Subsection 25-30.444(5), F.A.C., allows for modification of the reserve fund when a utility must undertake a project that was not anticipated or when the utility must make significant modifications to a previously approved project. To apply for a modification, the utility must provide the necessary information to the Commission including a statement describing why the new project or modification of a previously approved project is necessary and whether the utility is requesting a change in the utility reserve fund surcharge or only acknowledgement of the project modifications. Also, if the new project or project modification is required by a governmental or regulatory agency, the utility must provide the Commission with a copy of the rule, regulation, order, or other regulatory directive that requires the new project or project modification.

Final Disposition of Reserve Fund

Subsection 25-30.444(6), F.A.C., provides the conditions under which the Commission will determine the final disposition of a utility reserve fund. Subsection 25-30.444(6), F.A.C., provides the utility reserve fund surcharge will be discontinued after all approved eligible projects have been completed, sufficient funds have been collected in the utility reserve fund to cover the cost of the approved eligible project, and the final disbursement has been made from the utility reserve fund. The rule provides that during the utility's next rate proceeding, the utility's rate base, capital structure, operating expenses, and rates will be adjusted as needed to reflect the completed projects, and, if applicable, any monies that remain in the utility reserve fund following the last disbursement for the completed eligible project will be refunded to the customers with interest.

The rule also provides a process if there are any changes in utility ownership or if the utility is abandoned, and states that if the utility fails to follow through with the eligible project or comply with the rule requirements, the utility reserve fund may be discontinued and all monies refunded to the customers with interest.

FUS1 suggested that information about the utility reserve funds should be included in the receivership order in the case of abandonment. Staff modified the rule to clarify that the court-appointed receiver shall be responsible for managing the utility reserve fund in accordance with the rule and all applicable Commission orders.

FRWA suggested that when a utility with a reserve fund transfers ownership to a governmental entity, the reserve funds should be automatically refunded to customers prior to the transfer. FRWA's concern is that customers could be harmed because there is no guarantee that the monies would be used for the intended purpose following the transfer. Staff believes such a requirement is outside the Commission's jurisdiction. Section 367.071(4)(a), F.S., provides that the sale of facilities to a governmental authority shall be approved as a matter of right, specifies the criteria for a government transfer, and only requires customer refunds in the event that the utility has a rate case pending before the Commission at the time of the transfer and is charging interim rates. Once the criteria of the statute is met by the governmental entity, the Commission acknowledges the transfer as a matter of right. Since the Commission can neither approve nor deny a transfer to a governmental authority, the transfer acknowledgement is typically processed administratively by Commission staff. However, Section 367.071(4)(a), F.S., and Rule 25-30.038, F.A.C., require that the governmental authority obtain certain information from the utility or Commission prior to taking any official action, including: the utility's most recent income and expense statement, balance sheet, rate base, CIAC, or annual report, which will include information about the utility reserve fund. This will ensure that information about the utility reserve fund is fully disclosed at the time of transfer.

Additional Procedural Comments

In addition to the rule provisions above, there were additional comments from stakeholders related to the rule's procedure that staff is not recommending. The procedural-related comments are discussed below.

At the workshop, USW questioned whether the utilities would be required to use a fixed surcharge or have the ability to propose a variable surcharge that would be designed to better match the funding needs of the projects. For example, if a project requires more funding in the early stages to purchase materials or pay for engineering work, the utility may want to propose a surcharge that would be higher in the beginning and then be reduced later in the project when the funding needs decrease. OPC subsequently suggested that the rule include language to clarify whether the charge to the customer for the utility reserve fund would be the same each month or if it could be varied and how that would be calculated. Paragraph (2)(h) of the recommended Rule 25-30.444, F.A.C., will require that the utility provide a schedule showing the calculation of the proposed utility reserve fund surcharge. The rule language is consistent with other water and wastewater rules, which do not discuss the mechanics of how rates are calculated or require specific rate calculation methodologies. Accordingly, staff believes it would be more appropriate to determine each utility reserve fund surcharge on a case-by-case basis depending on a utility's specific projects and customer base. Staff believes the rule language affords the utilities, stakeholders, and customers the opportunity to explore various ratesetting options that will work best in each case.

OPC also suggested that if the utility reserve fund charge is imposed on customers, the Commission may consider during the utility's next general base rate proceeding whether the infrastructure improvements have resulted in any risk being shifted away from investor to customers, thus supporting a corresponding reduction in the utility's authorized return. Paragraph 25-30.444(6)(a) of the recommended rule states in part: "During the utility's next rate proceeding, the utility's rate base, capital structure, operating expenses, and rates shall be

adjusted as needed to reflect the completed project.” Paragraph (6)(a) also states, “The amount of the new plant assets that are funded through a utility reserve fund shall be offset with an equal addition to contributions-in-aid-of-construction.” Staff believes this language is sufficient to allow future consideration of appropriate ratemaking adjustments to reflect the completed projects. Also, the offsetting addition to CIAC ensures that the customers receive the full benefit of their financial contribution to make those plant repairs or replacements and that the utility will not earn a return on plant that was contributed by the customers.

Further, staff disagrees with OPC’s assertion that the use of a utility reserve fund will reduce the utility’s risk. Staff believes that the utility’s risk will remain unchanged. The utility’s financial risk will not change because there will be no change in the utility’s debt or equity associated with the portion of the plant that is funded through the utility reserve fund. The utility’s debt and equity associated with the remainder of its plant will not be affected by the utility reserve fund.

Also, the utility’s business risk will not change because the utility reserve fund is unlikely to result in a change in the factors that are most commonly used to measure business risk. Specifically, the utility reserve fund is not expected to change the demand variability, sales price variability, input price variability, ability to adjust output prices for changes in input prices, or the extent to which costs are fixed or the operating leverage. Further, an argument could be made that use of a utility reserve fund will actually serve to prevent an increase in a utility’s risk by enabling the utility to avoid increasing its debt to fund the projects that will instead be funded through the utility reserve fund.

In addition, OPC suggested that the rule include language to indicate that customers have a point of entry to participate in the Commission’s proceeding on the utility reserve fund application and to participate in the review process. The rule provides that the utility reserve fund applications may be submitted to the Commission either in a rate-case proceeding or as a stand-alone application. If the application is submitted as part of a rate-case proceeding, substantially affected persons will have an opportunity to participate as with any rate-case proceeding. If the application is submitted as stand-alone application, the application will likely be considered in a Proposed Agency Action (PAA) process. The PAA process affords a point of entry for interested persons to comment at agenda or substantially affected persons to request a hearing. For these reasons, staff believes the utility reserve fund rule need not specify a point of entry in the rule language.

UIF suggested the rule provide a deadline or time frame in which the Commission must process any applications for the utility reserve fund. Staff believes this is unnecessary because the statute does not impose a deadline on the Commission. Moreover, as with all Commission proceedings that the Legislature has not deemed necessary to impose a statutory deadline, staff will process the matter as quickly as possible.

Rule 25-30.4445, F.A.C., Notice of Application of Utility Reserve Fund

Rule 25-30.4445, F.A.C., provides the noticing requirements for the application of a utility reserve fund. Staff modeled the noticing requirements in the rule after the noticing requirements in Rule 25-30.446, F.A.C., for applications for limited proceeding rate increases.

Utility representatives indicated that the rule noticing requirements were burdensome. The utilities suggested that the requirement to publish a notice in a newspaper is no longer an effective means of noticing customers because newspaper subscribership has decreased in recent years, the nearest newspaper is often located in a different city outside a small utility's service area, and a newspaper notice is not required for staff-assisted rate cases. In addition, the utilities stated concerns about the difficulties and costs involved with placing copies of the application at a local library when the utility does not have an office in the service area.

Staff believes noticing is necessary because approval of a utility reserve fund surcharge may result in a rate increase on the customers' bills, and customers should be afforded the opportunity to read the utility's application and provide comments. Also, staff is aware of recent cases where customers requested to review a utility application at a public library. OPC also noted that some customers do not use computers. However, in response to comments on the burdens that may be caused by this provision of the rule, staff did not include a requirement to publish the utility reserve fund notice of application in a newspaper of general circulation, which is required for limited proceedings and file and suspend rate proceedings. Staff also added language to allow additional options for utilities to provide public access to reserve fund applications and their associated MFRs. Additionally, the rule allows a utility that qualifies for staff assistance under Rule 25-30.455, F.A.C., to request assistance with the utility reserve fund process. In those instances, a customer meeting may be held, and the initial customer notice may be deferred.

OPC suggested that the rule be revised to clarify that customer meetings are required before the reserve fund charges can be collected. The statute does not require customer meetings. Staff believes that automatically requiring customer meetings with every reserve fund application may be an unnecessary expense, because there may be some instances where the customers do not object or do not have concerns about the imposition of the reserve fund charge. However, because it is important for customers to have the opportunity to voice concerns about a charge, the rule affords the Commission the discretion to hold a customer meeting consistent with other ratemaking procedures.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54, F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. The SERC is appended as Attachment B to this recommendation. The SERC analysis also includes whether the rule is likely to have an adverse impact on growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after implementation.

The SERC concludes that any economic impacts that might be incurred by affected entities would be a result of statutory changes to Sections 367.081 and 367.0814, F.S., made by the 2016 legislation and are not due to a Commission-initiated rulemaking effort. Staff believes that the new rules will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in Florida within one year after implementation.

Further, the SERC concludes that the rules will not likely have an adverse impact on economic growth, private-sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five

years of implementation. Thus, the new rules do not require legislative ratification pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the new rules will not have an adverse impact on small business and will have no impact on small cities or small counties. No regulatory alternatives were submitted pursuant to Section 120.541(1)(a), F.S. None of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions

Conclusion

Based on the foregoing, staff recommends the Commission propose the adoption of Rules 25-30.444 and 25-30.4445, F.A.C., as set forth in Attachment A.

Issue 2: Should this docket be closed?

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

Staff Analysis: If no requests for hearing or comments are filed, the rules may be filed with the Department of State, and this docket should be closed.

1 25-30.444 Utility Reserve Fund
2 (1) PROJECT ELIGIBILITY. The following considerations shall be applied in
3 determining whether a future infrastructure repair or replacement project is eligible for
4 advance funding through a utility reserve fund and whether a utility reserve fund is the most
5 appropriate methodology to address the requested project.

6 (a) The following projects shall be eligible for a utility reserve fund:

7 1. Projects to repair or replace existing utility infrastructure that is nearing the end of its
8 useful life or is detrimental to water quality or reliability of service that is recorded in the
9 National Association of Regulatory Utility Commissioners' Uniform System of Accounts
10 (NARUC USOA) water utility plant account numbers 304, 305, 306, 307, 308, 309, 310, 311,
11 320, 330, 331, 333, 334, 335, 336, and 339, and wastewater utility plant account numbers 354,
12 355, 360, 361, 362, 363, 364, 365, 366, 367, 370, 371, 374, 375, 380, 381, 382, and 389;

13 2. Future expenditures related to land or land rights recorded in NARUC USOA water
14 utility plant account number 303 or wastewater utility plant account number 353 if the
15 expenditure is necessary to the successful completion of an eligible repair or replacement
16 project;

17 3. Upgrades or enhancements of existing facilities if it can be demonstrated that the
18 upgrade or enhancement is necessary to comply with federal, state, or local regulatory
19 requirements, or provides a more cost-effective or more reliable alternative than an identical
20 replacement, and that the upgrade or enhancement is not designed solely to address future
21 customer growth;

22 4. Repair projects that may be expensed rather than capitalized, as prescribed by Rule 25-
23 30.140(1)(g)(3), F.A.C., if it can be demonstrated that the repair expense is not already
24 reflected in the utility's current rates as an annual or amortized annual expense, or that the
25 annual repair and maintenance expense allowance reflected in the utility's current rates is

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1 insufficient to cover the projected costs of the proposed repair project; or

2 5. If a project includes both the repair or replacement of existing infrastructure and the
3 expansion or improvement of facilities to meet future customer growth, the portion of the
4 project that is related to the repair and replacement of existing infrastructure is eligible if those
5 costs can be identified and segregated from the portion of the project related to the expansion
6 or improvements designed to meet future customer growth.

7 (b) The following projects shall not be eligible for a utility reserve fund:

8 1. Projects to repair or replace general plant that is not directly associated with the physical
9 operation of the utility's water or wastewater systems that are recorded in NARUC USOA
10 water utility plant account numbers 340, 341,342, 343, 344, 345, 346, 347, and 348, and
11 wastewater utility plant account numbers 390, 391, 392, 393, 394, 395, 396, 397, and 398;

12 2. Expenditures related to NARUC USOA water utility plant accounts 301 and 302, and
13 wastewater utility plant accounts 351 and 352, which cover organization and franchise related
14 expenditures;

15 3. Expenditures related to land or land rights recorded in NARUC USOA water utility
16 plant account number 303 or wastewater utility plant account number 353 if the expenditure is
17 necessary solely to meet future customer growth; or

18 4. Capital improvement projects to expand existing facilities or construct new facilities
19 solely to meet future customer growth.

20 (c) When evaluating whether the utility's request to create a utility reserve fund is the most
21 appropriate methodology to address the utility's eligible future infrastructure repair and
22 replacement projects, the following additional factors will be considered:

23 1. Whether the anticipated completion date of the project allows sufficient time to
24 accumulate the funds necessary to fund the project;

25 2. Whether the anticipated completion date is within 24 months of the end of the historic

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1 test year used in a jointly filed rate application, if applicable, thereby making the project
2 eligible for consideration as a pro forma project in the rate proceeding pursuant to Section
3 367.081(2)(a)2., F.S.:

4 3. Whether the contributions-in-aid-of-construction that will result from the utility reserve
5 fund will cause the utility to exceed the service availability policy guidelines provided in Rule
6 25-30.580, F.A.C.:

7 4. Whether any of the eligible projects included in the utility reserve fund will result in the
8 complete elimination of either the water or wastewater treatment process;

9 5. Whether it has been more than seven years since the utility's last rate case, if the request
10 is filed as a stand-alone application or in conjunction with a limited proceeding; or

11 6. Whether the total increase resulting from implementation of the utility reserve fund
12 surcharge will exceed the utility's annual revenues for the most recent 12-month period or test
13 year by more than 30 percent.

14 (2) UTILITY RESERVE FUND FILING REQUIREMENTS. Each applicant that requests
15 approval to create a utility reserve fund shall provide the following information to the
16 Commission. The request may be filed as a stand-alone application or in conjunction with an
17 application for rate increase filed pursuant to Sections 367.081(2)(a), 367.0814, or 367.0822,
18 F.S. If the request is filed in conjunction with an application for rate increase that also
19 requires the applicant's general information, paragraphs (2)(a), (b), and (c) may be omitted
20 from the utility reserve fund portion of the joint application. A utility that qualifies for staff
21 assistance as provided by Rule 25-30.455(1), F.A.C., may also request assistance with the
22 utility reserve fund process.

23 (a) The utility's name as it appears on the utility's certificate, address, telephone number,
24 and, if available, email address and fax number.

25 (b) The name(s), address(es), and telephone number(s) of the person(s) that should be

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1 contacted regarding this application.

2 (c) The address within the service area where the application is available for customer
3 inspection during the time the rate application is pending.

4 (d) A statement of the reason(s) why the utility is requesting approval of a utility reserve
5 fund.

6 (e) A capital improvement plan that includes: a general description of the age and
7 condition of the utility's facilities; a description of all infrastructure repair or replacement
8 projects that the utility anticipates will be necessary within the next five years, at a minimum,
9 even if some projects will not be included in the utility reserve fund; and the following
10 information for each infrastructure repair or replacement project that the utility requests be
11 included in the utility reserve fund:

12 1. A description of each plant asset that will be repaired or replaced, including the
13 NARUC USOA account number for each asset;

14 2. The date each asset was originally placed into service or an estimate of the age of the
15 plant asset(s) as reflected in the utility's depreciation records if the original service date is
16 unknown;

17 3. A detailed description of the reason(s) each repair or replacement project is necessary to
18 maintain or improve the quality or reliability of the water or wastewater service, including
19 whether any asset will be replaced prior to the end of its average service life as provided by
20 Rule 25-30.140, F.A.C.;

21 4. If the repair or replacement project is required by a governmental or regulatory agency,
22 include a copy of the rule, regulation, order, or other regulatory directive that requires the
23 repair or replacement;

24 5. The projected cost to repair or replace each asset, and documentation that supports the
25 utility's calculation of the projected cost. The utility shall make all reasonable efforts to obtain

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1 at least three comparative cost estimates for each requested project. Acceptable forms of
2 projected cost documentation are: an estimate by a professional engineer or other person
3 knowledgeable in design and construction of water and wastewater plants; a bid from a vendor
4 or service provider that includes a description of all work to be completed and an itemized list
5 of all costs associated with the project; vendor information regarding the purchase price of
6 plant components that will be purchased directly by the utility and labor estimates for work
7 that will be performed on the project by a utility employee or contractual service provider,
8 along with a statement that confirms that the employee's or contractual service provider's
9 work on the project is not included in their normal duties; or other information that shows a
10 detailed and verifiable estimate of the projected cost. If the utility is unable to obtain three cost
11 estimates for each project, the utility shall provide a statement explaining what steps the utility
12 took to obtain the estimates, why the utility was unable to obtain three estimates, and any
13 responses received from any contractors solicited.

14 6. Detailed specifications for each asset that can be used to verify the projected repair or
15 replacement cost, such as type, size, quantity, or quality of the materials used to complete the
16 repair or replacement of the asset. If the type, size, quantity, or quality of the components used
17 to make the repair or replacement will be materially different than the plant asset(s) being
18 repaired or replaced, describe the specific differences and why the change is either necessary
19 or provides a better resolution for the repair or replacement;

20 7. If the repair or replacement will change the design of the system, include a statement
21 explaining how the design of the system will change and why the change is either necessary or
22 will provide a better resolution for the repair or replacement;

23 8. A description of any alternatives to the proposed infrastructure repair or replacement
24 project that the utility considered, such as new technologies or interconnection with another
25 utility system, and why the proposed project was determined to be the most cost-effective

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1 option or will provide a better resolution for the repair or replacement;

2 9. If the infrastructure that is being replaced was subject to a non-used and useful
3 adjustment in the utility's last rate proceeding, include a statement explaining whether the
4 utility considered reducing the size of the replacement infrastructure to better match the
5 utility's capacity needs and the results of that analysis;

6 10. A description of any expense increases or decreases that the utility anticipates will
7 occur following completion of the infrastructure repair or replacement project; and

8 11. The projected timeline and anticipated completion date for the repair or replacement
9 project, including a detailed description of any target dates and significant milestones if the
10 project will be completed in multiple phases. If the repair or replacement project is required by
11 a governmental or regulatory agency, include any specific deadlines that have been imposed
12 by that agency, and describe any penalties that will be incurred by the utility if the deadlines
13 are not met.

14 (f) A description of any other funding sources that may be used for the project, including a
15 breakdown of the estimated project costs that will be funded with the utility reserve fund,
16 utility investment, and each available external funding source, such as a bank loan,
17 government loan, or government grant, as applicable.

18 (g) A schedule showing the calculation of the annualized revenues for the most recent 12-
19 month period using the rates in effect at the time the utility files its application for approval to
20 create a utility reserve fund, broken down by customer class and meter size. This schedule
21 may be omitted from the utility reserve fund portion of the application if filed in conjunction
22 with an application for a rate proceeding that also requires an annualized revenue calculation.

23 (h) A schedule showing the calculation of the proposed utility reserve fund surcharge
24 based on the number of bills by customer class and meter size for the most recent 12-month
25 period, or test year if filed in conjunction with an application for a rate proceeding.

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1 (i) Revised tariff sheets incorporating the utility reserve fund surcharge into the tariff. The
2 utility shall show the utility reserve fund surcharge as a separate charge in its tariff and on its
3 customer bills.

4 (j) A statement indicating whether the applicant will secure the utility reserve fund through
5 an interest-bearing escrow account or an irrevocable letter of credit. If the utility's request to
6 create a utility reserve account is approved by the Commission, the utility will be required to
7 provide documentation showing that the escrow account has been established or the
8 irrevocable letter of credit has been obtained prior to implementation of the utility reserve
9 fund surcharge.

10 (k) A description of the procedures that the utility will implement to segregate the monies
11 collected from the utility reserve fund surcharge on the utility's books and records. Separate
12 accounting records must be maintained to record all transactions associated with the
13 collection, deposit, and use of monies designated for the utility reserve fund. A separate bank
14 account may be used to segregate the utility reserve fund monies that are secured through an
15 irrevocable letter of credit but is not required.

16 (l) A statement signed by an officer of the utility that the utility will comply with the
17 noticing requirements in Rule 25-30.4445, F.A.C., if the request is filed as a stand-alone
18 application, Rule 25-22.0407, F.A.C., if the request is filed in conjunction with an application
19 for a rate increase filed pursuant to Sections 367.081(2)(a) or 367.0814, F.S., or Rule 25-
20 30.446, F.A.C., if the request if filed in conjunction with a limited proceeding filed pursuant to
21 Section 367.0822, F.S.

22 (m) An Asset Management Plan prepared by the Florida Rural Water Association may be
23 provided in lieu of a capital improvement plan in paragraph (2)(e).

24 (3) REPORTING REQUIREMENTS. Any utility that receives approval from or is
25 required by the Commission to create a utility reserve fund must keep an accurate and detailed

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1 account of all monies and report to the Commission all monies it receives from the utility
2 reserve fund surcharge. The reporting requirement shall begin when the utility's reserve fund
3 surcharge tariff becomes effective. The utility must file periodic reports as follows:
4 (a) The utility shall file a report with the Commission Clerk's office no later than the 20th
5 of every month indicating the monthly and total amount of money deposited into, and monthly
6 and total amount of disbursements made from the utility reserve fund as of the end of the
7 preceding month. If the utility bills its customers less frequently than once a month, this
8 reporting requirement may be modified to match the utility's normal billing frequency. A copy
9 of a bank statement that separately identifies the utility reserve fund deposits and
10 disbursements may serve as the monthly report.
11 (b) At least once every six months, the utility shall also report the status of all eligible
12 projects included in the utility reserve fund for which work was performed during the last six
13 months including the actual start date, the estimated or actual completion date, the costs
14 incurred during the last six months, and the total cost for any projects completed during the
15 last six months.
16 (c) The reports shall continue as long as the utility reserve fund is in effect and until all
17 funds have been disbursed either to pay for completed eligible projects or as refunds to
18 customers.
19 (d) A request for disbursement from the utility reserve fund escrow account or
20 authorization to use funds secured by an irrevocable letter of credit may be filed in
21 conjunction with the utility's monthly or quarterly reports.
22 (e) The utility shall also separately identify the utility reserve fund in its annual report filed
23 with the Commission each year pursuant to Rule 25-30.110, F.A.C.
24 (f) The utility shall file an updated capital improvement plan with the Commission at least
25 once every three years for as long as the utility reserve fund remains active.

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1 (4) DISBURSEMENT OF FUNDS. A utility requesting disbursement of funds from an
2 escrow account or authorization to use funds secured by an irrevocable letter of credit shall
3 file the following information and supporting documentation:

4 (a) A statement explaining why the disbursement is needed, including a description of the
5 completed project, or if a partial disbursement of funds is necessary prior to completion of the
6 full project, a description of the completed phase of the project, purchase of materials,
7 payments to contractors or vendors, or construction draws, as applicable;

8 (b) The date the project or phase of the project was completed and the replacement asset(s)
9 was placed in service, as applicable;

10 (c) Documentation supporting the amount of the requested disbursement. Acceptable
11 forms of documentation are: invoices, receipts, contractor application and request for payment
12 forms, loan documents, documents showing proof of payment, and other information that
13 shows detailed and verifiable project costs and payments;

14 (d) Documentation showing that the completed work was inspected or approved by the
15 governmental or regulatory authority that required the repair or replacement project, if
16 applicable; and

17 (e) Other documentation that demonstrates the project was completed, such as photographs
18 of the completed work, may be submitted but is not required.

19 (f) A utility may request the disbursement of funds from a utility reserve fund to assist
20 with making an emergency repair or replacement that is critical to the operation of the utility
21 facilities and resulted from events that were out of the utility's control, such as weather related
22 damage, accidents, or defective parts. The utility's request for an emergency disbursement
23 must include the following information:

24 1. The information required in paragraphs (4)(a) through (e) above;

25 2. A description of any future funding sources that may be available to assist the utility

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1 with the emergency repair or replacement costs, such as government assistance for weather
2 damage, insurance benefits, or manufacturer warranties for defective parts;
3 3. A statement explaining how the utility will reimburse the utility reserve fund for the
4 emergency disbursement through future funding sources, such as, government assistance,
5 insurance benefits, manufacturer warranties, bank loans, or utility investment. If no funding
6 sources will be available for reimbursement of the utility reserve fund, the utility shall either
7 provide a statement describing how the utility reserve fund project(s) or timeline may be
8 modified to address the project funding needs without modifying the amount of the utility
9 reserve fund surcharge, or provide the information required in subsection (5) below to request
10 a modification of the utility reserve fund surcharge.

11 (5) UTILITY RESERVE FUND MODIFICATIONS. A utility that must undertake a
12 project that was not anticipated when the utility reserve fund was created or that must make
13 significant modifications to a previously approved project may request a modification of the
14 utility reserve fund at any time following creation of the fund or in the utility's next rate
15 proceeding by filing the following information:

16 (a) A statement describing why the new project or modification of a previously approved
17 project is necessary, and whether the utility is requesting a change in the utility reserve fund
18 surcharge or only acknowledgement of the project modifications. If the new project or project
19 modification is required by a governmental or regulatory agency, include a copy of the rule,
20 regulation, order, or other regulatory directive that requires the new project or project
21 modification; and

22 (b) The information required in paragraphs (2)(e) or (m), and (f), (g), (h), and (i) if the
23 utility is requesting a change in the utility reserve fund surcharge. Also, if the utility reserve
24 fund is secured through an irrevocable letter of credit, the utility shall provide an updated
25 irrevocable letter of credit prior to implementation of the utility reserve fund surcharge

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1 increase.

2 (6) FINAL DISPOSITION OF UTILITY RESERVE FUND.

3 (a) The utility reserve fund surcharge shall be discontinued after all approved eligible
4 projects(s) have been completed, sufficient funds have been collected in the utility reserve
5 fund to cover the cost of the approved eligible project(s), and the final disbursement has been
6 made from the utility reserve fund. During the utility's next rate proceeding, the utility's rate
7 base, capital structure, operating expenses, and rates shall be adjusted as needed to reflect the
8 completed projects. The amount of the new plant assets that are funded through a utility
9 reserve fund shall be offset with an equal addition to contributions-in-aid-of-construction.

10 (b) Any monies that remain in the utility reserve fund following the last disbursement for
11 the completed eligible project(s) shall be refunded to the customers with interest in accordance
12 with Rule 25-30.360, F.A.C.

13 (c) All monies collected and held in the utility reserve fund should remain with the utility
14 regardless of any changes in utility ownership. If a utility's ownership changes through a
15 transfer or abandonment, the Commission shall determine whether the utility reserve fund
16 should be continued as follows:

17 1. In the event that the utility's ownership changes through a transfer as provided in Rule
18 25-30.037, F.A.C., the transfer agreement shall include provisions that state: that the utility
19 reserve fund shall remain with the utility following the close of the sale; that the seller shall
20 provide copies of all documents related to the utility reserve fund to the buyer, including the
21 approved capital improvement plan, financial records, and status reports; whether the buyer
22 requests to continue the utility reserve fund following the transfer; and whether the buyer will
23 assume responsibility for the escrow account or obtain an irrevocable letter of credit to secure
24 the utility reserve fund. If the buyer does not request to continue the utility reserve fund or
25 does not provide sufficient documentation to guarantee the continued security of the utility

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1 reserve fund and compliance with the provisions set forth in this rule, all monies held in the
2 utility reserve fund shall be refunded to the customers with interest in accordance with Rule
3 25-30.360, F.A.C., and the utility reserve fund surcharge and utility reserve fund shall be
4 discontinued. However, if the transfer of ownership is requested pursuant to Rule 25-
5 30.037(5), F.A.C., and will result in the transfer of ownership to an exempt entity other than a
6 governmental utility, the buyer shall not be required to obtain an escrow account or an
7 irrevocable letter of credit.

8 2. In the event that the utility is abandoned as provided in Rule 25-30.090, F.A.C., all
9 monies held in the utility reserve fund and all documents related to the utility reserve fund
10 shall remain with the utility and be turned over to the court-appointed receiver. If the utility
11 remains under Commission jurisdiction following the abandonment, the court-appointed
12 receiver shall be responsible for managing the utility reserve fund in accordance with this rule
13 and all applicable Commission Orders.

14 (d) If the utility fails to follow through with the eligible project(s) covered by the utility
15 reserve fund or comply with the security, fund maintenance, or reporting requirements set
16 forth in this rule, the Commission shall initiate a review of the utility reserve fund and
17 surcharge to determine whether the utility reserve fund and surcharge should be discontinued
18 and whether all monies in the reserve fund should be refunded to the customers with interest
19 in accordance with Rule 25-30.360, F.A.C.

20 *Rulemaking Authority 350.127(2), 367.081(2)(c), 367.121 FS. Law Implemented*
21 *367.081(2)(c) FS. History–New _____.*

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1 25-30.4445 Notice of Application for Utility Reserve Fund.

2 (1) This rule applies to all petitions to create a utility reserve fund filed by a water or
3 wastewater utility that are filed as a stand-alone application. Petitions that are filed in
4 conjunction with another rate proceeding filed pursuant to Sections 367.081(2)(a), 367.0814,
5 or 367.0822, F.S., shall comply with the noticing requirements set forth in Rule 25-22.0407 or
6 25-30.446, F.A.C., as applicable.

7 (2) Upon filing a petition to create a utility reserve fund, the utility shall mail a copy of the
8 petition to the chief executive officer of the governing body of each municipality and county
9 within the service areas included in the rate request. Each copy of the petition shall be
10 accompanied by a statement that a copy of the utility reserve fund minimum filing
11 requirements (MFRs) set forth in Rule 25-30.444, F.A.C., when accepted by the Commission,
12 can be obtained from the petitioner upon request.

13 (3) Within 30 days after the official date of the filing established by the Commission, the
14 utility shall place a copy of the petition and MFRs at its official headquarters and at all
15 business offices it has in the service areas included in the request. Such copies shall be
16 available for public inspection during the utility's regular business hours. If the utility does not
17 have a business office in a service area included in its petition, the utility shall make other
18 arrangements to provide public access to the petition and MFRs. Acceptable public access
19 options are: placing a copy of the petition and MFRs at the main county library, the local
20 community center, or other appropriate location which is within or most convenient to the
21 service area and which is willing to accept and provide public access to the copies; providing
22 customers with information about how to access the petition and MFRs in the utility's docket
23 file on the Commission's Web site; or providing a printed or electronic copy of the petition
24 and MFRs to any customer who requests access to a copy.

25 (4)(a) Within 50 days after the official date of filing established by the Commission, the
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1 utility shall provide, in writing, an initial customer notice to all customers within the service
2 areas included in the utility reserve fund request and to all persons in the same service areas
3 who have filed a written request for service or who have been provided a written estimate for
4 service within the 12 calendar months prior to the month the request is filed. If a utility that
5 qualifies for staff assistance under Rule 25-30.455(1), F.A.C., requests assistance with the
6 utility reserve fund process and a customer meeting is scheduled, the initial customer notice
7 may be combined with the customer meeting notice and provided in accordance with
8 subsection (5) instead of 50 days after the official filing date established by the Commission.

9 (b) The initial customer notice must be approved by Commission staff prior to distribution
10 and shall include the following:

11 1. The date the notice is to be issued;

12 2. A statement that the utility has filed a utility reserve fund request with the Commission
13 and a statement of the general reasons for the request;

14 3. A statement of the location(s) where a copy of the petition and MFRs are available for
15 public inspection and the hours and days when inspection may be made, or instructions on
16 how to obtain a copy if the utility has made alternate public access arrangements as referenced
17 in subsection (3) above;

18 4. A comparison of current utility reserve fund surcharge, if applicable, and the proposed
19 new utility reserve fund surcharge;

20 5. The utility's address, telephone number, and business hours;

21 6. A statement that written comments regarding utility service or the proposed utility
22 reserve fund rates and charges should be addressed to the Office of Commission Clerk, 2540
23 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, and that such comments should
24 identify the docket number assigned to the proceeding;

25 7. A statement that complaints regarding service may be made to the Commission's Office

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1 of Consumer Assistance and Outreach at the following toll-free number: 1(800) 342-3552; and

2 8. The docket number assigned by the Commission's Office of Commission Clerk.

3 (c) The initial customer notice shall be mailed to the out-of-town address of all customers
4 who have provided the utility with an out-of-town address.

5 (5) No less than 14 days and no more than 30 days prior to the date of a customer meeting
6 conducted by the Commission staff, the utility shall provide written notice of the date, time,
7 location, and purpose of the customer meeting to all customers within the service areas
8 designated by the Commission staff. The notice must be approved by Commission staff prior
9 to distribution. The notice shall be mailed to the out-of-town address of all customers who
10 have provided the utility with an out-of-town address.

11 (6) If a proposed agency action order issued in the case is protested and any hearings are
12 subsequently held, the utility shall give notice no less than 14 days and no more than 30 days
13 prior to the date of each hearing held in or near a utility service area included in the utility
14 reserve fund request. No less than 14 days and no more than 30 days prior to the hearing, the
15 utility shall have published in a newspaper of general circulation in the area in which such
16 hearing is to be held a display advertisement stating the date, time, location, and purpose of
17 the hearing. These notices must be approved by Commission staff prior to publication.

18 (7) After the Commission issues an order granting or denying a utility reserve fund
19 request, the utility shall notify its customers of the order and any revised rates. The customer
20 notification must first be approved by Commission staff and shall be distributed no later than
21 with the first bill containing any revised rates.

22 Rulemaking Authority 350.127(2), 367.081(2)(c), 367.121 FS. Law Implemented

23 367.081(2)(c), 367.091, FS. History—New _____.

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State of Florida



Public Service Commission

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

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

DATE: February 22, 2017
TO: Adria Harper, Senior Attorney, Office of the General Counsel
FROM: C. Donald Rome, Jr., Public Utility Analyst II, Division of Economics *CDR*
RE: Statement of Estimated Regulatory Costs (SERC) for Proposed New Rules 25-30.444 and 25-30.4445, Florida Administrative Code (F.A.C.).

During the 2016 session, the Florida Legislature enacted House Bill 491 which was incorporated into Chapter 2016-226, Laws of Florida. Among other things, the legislation created new paragraph 367.081(2)(c), Florida Statutes (F.S.). These laws became effective on July 1, 2016. To implement the new laws, staff is recommending two new rules: Rule 25-30.444, F.A.C., Utility Reserve Fund, and Rule 25-30.4445, F.A.C., Notice of Application for Utility Reserve Fund. Staff is recommending these new rules so that Commission rules will continue to be consistent with the requirements of the empowering statutes as revised during the 2016 legislative session. Therefore, any economic impacts that might be incurred by affected entities would be a result of statutory changes promulgated under paragraph 367.081(2)(c), F.S., and not due to a Commission-initiated rulemaking effort. Key provisions of the new rules that are discussed in the attached SERC are summarized below.

Staff is recommending Rule 25-30.444, F.A.C., to address the legislative requirement that the Commission's rules to implement paragraph 367.081(2)(c), F.S., must include: (a) provisions related to the expenses for which the fund may be used, (b) segregation of the reserve fund accounts, (c) requirements for the utility to maintain a capital improvement plan, and (d) requirements for Commission authorization prior to disbursements from the fund.¹ Recommended Rule 25-30.444, F.A.C., is comprised of six subsections.

Subsection 25-30.444(1), F.A.C., lists the considerations that shall be applied in determining whether or not a future infrastructure repair and replacement project is eligible for advance funding through a reserve fund. Subsection 25-30.444(2), F.A.C., delineates the information that must be provided by utilities in conjunction with an application to create a reserve fund. Subsection 25-30.444(3), F.A.C., establishes the reporting requirements with which utilities must comply to keep an accurate and detailed account of all monies received from the reserve fund surcharge. Subsection 25-30.444(4), F.A.C., details the information that a utility must provide when it seeks a disbursement of reserve fund monies from an escrow account or an authorization to use reserve fund monies secured by an irrevocable letter of credit. Subsection 25-30.444(5), F.A.C., provides a mechanism for utilities to accommodate: (a) new projects, (b) significant

¹ Florida House Bill Analysis and Fiscal Impact Statement, April 15, 2016; page 10.

modifications to existing projects, and (c) changes to reserve fund surcharges, if contingencies arise that were not anticipated when the reserve fund was created. Subsection 25-30.444(6), F.A.C., specifies the conditions under which the final disposition of a utility reserve fund shall be accomplished.

Staff is recommending Rule 25-30.4445, F.A.C., to specify the noticing requirements for requests made by a utility to create a reserve fund that are filed as a stand-alone application (*i.e.*, not as part of a rate case proceeding). The requirements contained in recommended Rule 25-30.4445, F.A.C., are consistent with the requirements of Commission Rule 25-30.446, F.A.C., pertaining to applications for limited proceeding rate increases.

The attached SERC addresses the considerations required pursuant to Section 120.541, F.S. A workshop to solicit input on the recommended rules was conducted by Commission staff on December 16, 2016. Several comments that either were received during the workshop or were otherwise provided during the rulemaking process were incorporated into the draft rules to provide additional clarification. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S. None of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended rules.

cc: (Draper, Daniel, Shafer, Golden, Cibula, SERC file)

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rules 25-30.444 and 25-30.4445, F.A.C.

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

Yes

No

For clarification, please see comments in Sections A(3) and E(1), below.

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

Yes

No

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

A. Whether the rule directly or indirectly:

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

Economic growth Yes No

Private-sector job creation or employment Yes No

Private-sector investment Yes No

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

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

Productivity Yes No

Innovation Yes No

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

Yes

No

Economic Analysis:

A summary of the recommended rule revisions is included in the attached memorandum to Counsel. Specific elements of the associated economic analysis are discussed below in Sections B through F of this SERC.

During the 2016 session, the Florida Legislature enacted House Bill 491 which was incorporated into Chapter 2016-226, Laws of Florida. Among other things, the legislation created new paragraph 367.081(2)(c), Florida Statutes (F.S.). These laws took effect on July 1, 2016. To implement the new laws, staff is recommending two new rules: Rules 25-30.444 and 25-30.4445, Florida Administrative Code (F.A.C.). Staff is recommending these new rules so that agency rules will continue to be consistent with the requirements of the empowering statutes as revised during the 2016 legislative session.

Therefore, any economic impacts that might be incurred by affected entities would be a result of statutory changes promulgated under paragraph 367.081(2)(c), F.S., and not due to a Commission-initiated rulemaking effort. Staff believes that none of the impact/cost criteria established in paragraph 120.541(2)(a), F.S., will be exceeded as a result of the recommended rules.

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

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

Recommended Rules 25-30.444 and 25-30.4445, F.A.C., would affect 145 investor-owned water and wastewater utilities that serve approximately 175,000 Florida customers. Utilities which come under the jurisdiction of the Commission in the future also would be required to comply. It is not anticipated that all utilities under the Commission's jurisdiction will establish reserve funds; however, the number of prospective reserve funds is difficult to estimate.

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

The 145 investor-owned water and wastewater utilities are located in 37 counties.

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

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

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

The evaluation of utilities' requests to establish reserve funds will require additional efforts on the part of Commission staff in the Division of Accounting and Finance, Division of Economics, Division of Engineering, and the Office of General Counsel. The Division of Consumer Assistance and Outreach also would be affected if a customer meeting is necessary. The Commission also may authorize creation of a utility reserve fund upon its own motion. Potential increased review costs that would be incurred by the agency are difficult to estimate; however, any such costs are expected to be de minimis in comparison to the work that is typically performed during a rate proceeding.

The long-term nature of the utility reserve funds potentially may result in additional administrative costs associated with staff's monitoring of the reserve fund; these costs are not typically incurred in most rate proceedings. Again, however, staff does not expect these costs to be significant in comparison with the costs associated with a typical rate proceeding.

Paragraph 367.081(2)(c), F.S., does not provide for the Commission to assess a fee to process a utility's request to establish a reserve fund. Therefore, the recommended new rules do not include an application fee to help defray costs associated with Commission staff's evaluation of the application.

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

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

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

- None
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

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

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

Draft Rules 25-30.444 and 25-30.4445, F.A.C., are being recommended to implement the new provisions of paragraph 367.081(2)(c), F.S. As noted in Section A above, any economic impacts that might be incurred by affected entities [e.g., utilities, customers] would be a result of statutory changes promulgated under paragraph 367.081(2)(c), F.S., and not due to a Commission-initiated rulemaking effort. Key elements of draft Rules 25-30.444 and 25-30.4445, F.A.C., are discussed below.

(1) Background

Prior to the passage of the 2016 legislation, utilities could not begin recovering costs incurred for repairing or replacing infrastructure until after the work was completed and supporting documentation was provided in association with a rate filing, such as a rate case or limited proceeding. This traditional ratemaking approach has been problematic for some utilities that have difficulty covering project costs due to limited cash reserves, limited availability of owner or investor funding, or difficulty obtaining reasonably priced bank financing.

Utilities that lack adequate funding will often delay necessary infrastructure repair or replacement projects. Deferred maintenance of critical infrastructure components can in turn lead to increased service interruptions, increased safety issues, and a general decline in quality of service. A lack of adequate funding may also diminish a utility's ability to obtain competitive bids and hire contractors to work on the needed projects due to concerns over the utility's ability to make full payment when the work is completed. Replacement of a utility's infrastructure system, or even portions of a system, can be quite expensive and result in significant rate increases to customers. Deferred maintenance, high cost financing, and the inability to obtain competitive bids all serve to increase the overall project costs and contribute to even higher rate increases.

Pursuant to paragraph 367.081(2)(c), F.S., utilities now have the option of requesting Commission approval to create a utility reserve fund to begin accumulating funds in advance to pay for specific, planned future repairs or replacements of existing infrastructure that is nearing the end of its useful life or

is detrimental to water quality or reliability of service. A reserve fund may also be created by the Commission on its own motion. A utility's reserve fund will be funded by a portion of the water and/or wastewater service charges billed to the utility's customers. To ensure that the funds will be available for the specified projects when needed, and also to protect the customers who are paying the funds in advance of when those funds will be used, the utility reserve fund will be secured through an escrow account or a letter of credit obtained by the utility.

(2) Potential Benefits to Affected Entities

The new reserve fund option is expected to help utilities maintain or improve the quality and reliability of service to customers by helping utilities address upcoming necessary repairs or replacements more quickly and efficiently. This is particularly beneficial to utilities that have limited cash resources or difficulty obtaining outside financing. Depending on the extent of the repairs or replacements, some utilities may be able to cover the full cost of some projects with monies from the reserve fund and partially offset the cost of some other projects, thereby reducing the amount of outside financing or owner investment that is needed to complete the projects. The availability of the reserve fund also may improve utilities' ability to obtain outside financing and possibly even lower cost financing. These factors may help to reduce the overall cost of the projects, thus reducing the impact of the associated rate increase to utility customers.

Utility ratepayers potentially may benefit from the new statutes and recommended rules from the consistent maintenance or possible improvement in the utility's quality and reliability of service. This is anticipated to result from utilities' improved ability to address necessary infrastructure repair or replacement projects in a more timely and efficient manner through the use of a utility reserve fund. Ratepayers also potentially may benefit from the suggested language included in subparagraph 25-30.444 (1)(c)6., F.A.C., which states that the Commission shall consider whether the utility reserve fund surcharge will exceed the utility's annual revenues for the most recent 12-month period or test year by more than 30 percent. This recommended provision potentially might help to mitigate rate increases to customers in comparison to larger increases through traditional rate case proceedings resulting from deferred maintenance by utilities.

The recommended rules potentially may benefit contractors that are hired by utilities to perform repair and replacement work. Having reserve funds available potentially may create additional work opportunities for contractors resulting from utilities' proactive planning for future repairs; contractors also may benefit from receiving more timely payments for work performed.

State and local government entities that have environmental regulatory authority over water and/or wastewater utilities potentially may benefit from a reduction in regulatory work related to enforcement actions that become necessary when poorly maintained utilities fall out of compliance with government regulations. Local governments that may become court-appointed receivers and owners of abandoned utilities may benefit from a possible reduction in: (a) the number of

utilities abandoned due to financial and environmental compliance issues, and (b) the enforcement work associated with receivership or ownership of those utilities.

(3) Potential Additional Transactional Costs to Affected Entities

(a) General Discussion

Taking advantage of the new recommended rules is optional to utilities except in cases where the Commission acts on its own motion to require the creation of a utility reserve fund (possibly during the context of a traditional rate proceeding). Staff does not anticipate that all 145 regulated utilities will want or need to create a utility reserve fund. For utilities that do ultimately create a reserve fund, additional transactional costs potentially may be incurred; these costs are discussed below.

A utility that does not already have a capital improvement plan may incur additional costs associated with hiring an outside engineering consultant to help determine the utility's necessary future repair or replacement projects and develop a capital improvement plan. Also, a utility may incur additional transactional costs associated with the maintenance of the utility reserve fund after it is approved, such as costs associated with establishing an escrow account, filing reports on the status of the escrow account, and filing the necessary documentation to request disbursements from the escrow account to pay for completed projects. Utilities that qualify to secure the utility reserve fund through a letter of credit are expected to incur some additional transactional costs associated with segregation of the reserve fund surcharges from revenues received, filing regular reports, and obtaining approval to use the collected funds for completed projects.

Staff does not anticipate that additional transactional costs, if any, would be significant in comparison to the costs that would otherwise be incurred if the utility requested approval of those same projects under the traditional approach in a rate case proceeding. Further, it is possible that additional transactional costs may be offset by cost savings resulting from a decrease in the amount or cost of outside financing obtained to pay for the projects, or a reduction in project costs resulting from the utility's ability to address certain repair and replacement projects before the need becomes critical and possibly more expensive. Additional benefits that potentially could offset additional transactional costs are discussed in Section D(2) above.

Ratepayers are not expected to incur additional costs as a result of the recommended new rules other than a possible increase in rates that would have otherwise occurred as part of a regular rate proceeding. As discussed in Section D(2) above, use of a reserve fund potentially could mitigate rate increases to customers in comparison to larger rate increases resulting from traditional rate case proceedings.

(b) Specific Comments by Affected Entities

During the course of this rulemaking initiative, affected entities expressed comments regarding potential additional transactional costs which generally can be categorized into three major subject areas. These items are discussed below.

1. As discussed in paragraph D(3)(a) above, utilities potentially may incur additional transactional costs associated with the compilation of the capital improvement plans required pursuant to paragraph 367.081(2)(c), F.S. Recommended Rule 25-30.444(2)(e), F.A.C., contains staff's suggested listing of the basic capital improvement plan information needed to determine whether a project is appropriate to be covered by a reserve fund and to calculate the proper surcharge billed to customers. Affected entities expressed differing opinions regarding whether or not capital improvement plans also should include information pertaining to projects in addition to those directly associated with the specific request to establish or modify the reserve fund.

In response to suggestions by several participants at a rule development workshop conducted by staff on December 16, 2016, staff amended the draft language of Rule 25-30.444(2)(e), F.A.C., to provide additional clarification regarding the appropriate content of capital improvement plans. Staff believes that the recommended rule language provides a reasonable balance that encourages utilities to plan for future infrastructure repairs or replacements without creating an overly burdensome process where utilities would have to provide information that is not essential for staff to evaluate utilities' applications. Draft Rule 25-30.444(2)(m), F.A.C., also would allow utilities to submit an Asset Management Plan prepared by the Florida Rural Water Association in lieu of a capital improvement plan.

2. As discussed in paragraph D(3)(a) above, utilities potentially may incur additional transactional costs associated with the maintenance of the utility reserve fund after it is established. Among other things, paragraph 367.081(2)(c), F.S., requires the Commission's rules to address the implementation, management and use of the fund, and the segregation of reserve account funds. Recommended Rule 25-30.444(3), F.A.C., sets forth the reporting requirements that utilities with reserve funds must follow. Affected entities opined that the proposed frequency of reporting was excessive, particularly for longer term projects for which less frequent reporting, at least initially, may be sufficient.

In response to suggestions by several participants at the December 2016 rule development workshop, staff amended the draft language of Rule 25-30.444(3)(b), F.A.C., to require semi-annual rather than quarterly project status reporting. The recommended rule language is intended to establish reasonable checks and balances and an appropriate means of accounting for the monies received from the reserve fund surcharges. Staff believes that the reporting requirements included in the recommended rules are necessary because utility customers would be paying for planned repair and replacement projects in advance, before the infrastructure has been determined to be "used and useful."

3. Staff is recommending new Rule 25-30.4445, F.A.C., pertaining to noticing requirements for utilities that file a request for a reserve fund as a stand-alone application rather than as part of a rate case or a limited proceeding. Affected entities expressed concerns with the potential noticing costs that would be associated with recommended Rule 25-30.4445, F.A.C. Possible alternative suggestions included: (a) making the process simpler similar to that used for indexes and pass-throughs, and (b) placing the responsibility for doing the noticing on Commission staff rather than the utility.

Staff modeled the noticing requirements in recommended Rule 25-30.4445, F.A.C., after the noticing requirements in Rule 25-30.446, F.A.C., pertaining to applications for limited proceeding rate increases. Noticing requirements for limited proceedings are less detailed than noticing requirements required for general rate case proceedings filed pursuant to Rule 25-22.0407, F.A.C. Staff believes that the proposed noticing requirements in the new rules are reasonable and necessary because unlike simple indexes and pass-throughs for which the resultant rate increases to customers typically are small, rate increases associated with reserve funds are likely to be larger (although less than those typical of general rate case proceedings) and customers should be notified. Staff also notes that the infrastructure repairs and replacements for which reserve fund surcharges would be collected may be related to addressing water quality issues; therefore, customers should receive notice of the potential reserve fund surcharge to provide customers with an opportunity to express complaints, if any, regarding utility water quality.

In response to suggestions by several participants at the December 2016 rule development workshop, staff made several modifications to the draft language of Rule 25-30.4445, F.A.C. Staff attempted to address the concerns associated with potential noticing costs while maintaining assurance that customers would receive adequate notification of utilities' reserve fund applications. Staff deleted language which would have required utilities that file petitions for the creation of a reserve fund to publish a notice of application in a newspaper of general circulation in the service areas included in the utility reserve fund petition. Staff also added language to allow additional options for utilities to provide public access to reserve fund petitions and their associated MFRs (minimum filing requirements).

Staff has further endeavored to mitigate the cost impacts of noticing for smaller utilities. Recommended Rule 25-30.4445(4)(a), F.A.C., provides that if a utility that qualifies for staff assistance as provided by Rule 25-30.455(1), F.A.C., requests assistance with the utility reserve fund process and a customer meeting will be held for this proceeding, the initial customer notice may be deferred and combined with the required customer meeting notice. Staff also works with utilities that qualify for assistance to develop the wording of customer notices.

Staff recommends that utilities rather than Commission staff be responsible for conducting the noticing required for the establishment of a reserve fund. This is consistent with Commission noticing requirements for other rate-related proceedings. Staff also notes that utilities are more familiar with their service area(s) and have a better idea than staff regarding whom to notice.

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

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

- No adverse impact on small business. *[See clarification below.]*
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

While it is difficult to estimate the number of affected entities that would meet the definition of "Small Business" as defined in Section 288.703, F.S., it is reasonable to assume that many of the affected entities would meet the statutory definition and, therefore, potentially could realize benefits and/or incur additional transactional costs as discussed in Section D, above.

As discussed in Section D(3) above, staff does not anticipate that additional transactional costs, if any, would be significant in comparison to the costs that would otherwise be incurred if the utility requested approval of those same projects under the traditional approach, such as requesting approval of pro forma projects in a rate proceeding. Further, it is possible that additional transactional costs may be offset by cost savings resulting from a decrease in the amount or cost of outside financing obtained to pay for the projects, or a reduction in project costs resulting from the utility's ability to address certain repair and replacement projects before the need becomes critical and possibly more expensive. Additional benefits that potentially could offset additional transactional costs are discussed in Section D(2) above.

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

- No impact on small cities or small counties
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

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

- None.

Additional Information:

A workshop to solicit input on the recommended rules was conducted by Commission staff on December 16, 2016. Several comments that either were received during the workshop or were otherwise provided during the rulemaking process were incorporated into the draft rules to provide additional clarification.

During the December 2016 workshop, affected entities initiated several topics of discussion that were conceptual in nature and pertained to the purpose and operation of prospective utility reserve funds. These discussion topics generally can be categorized into three major subject areas and are discussed below.

(1) "Emergency" Reserve Funds

Several stakeholders suggested that prospective utility reserve funds should be structured so as to be flexible enough to accommodate emergency projects that are not included in a utility's required capital improvement plan when unforeseen circumstances arise and funds are needed to pay for emergency work. The stakeholders represented that the emergency fund concept was discussed during the state Water Study Committee meetings during 2012. The findings ultimately voted on by the Water Study Committee formed the basis for the 2016 statutory language contained in paragraph 367.081(2)(c), F.S.

Other stakeholders opined that the language in paragraph 367.081(2)(c), F.S., enacted during the 2016 legislative session did not provide for the establishment of an emergency fund from which disbursements could be made for sudden unexpected projects. These stakeholders represented that while the emergency fund topic was discussed by the Water Study Committee, the final proposal voted out of the Committee did not specifically reference emergency funds. Staff

believes that because paragraph 367.081(2)(c), F.S., is silent regarding the concept of emergency funds, prospective utility reserve funds should not serve as a savings account or rainy day fund for unplanned repairs in general.

However, in response to suggestions by several participants at the December 2016 rule development workshop, staff made several modifications to the draft language of subsection 25-30.444(4), F.A.C., that would allow reserve fund disbursements for certain emergency repairs under specific circumstances. Staff added recommended paragraph 25-30.444(4)(f), F.A.C., to assist utilities with making an emergency repair or replacement that is critical to the operation of the utility facilities, and which resulted from events that were outside the utility's control, such as weather-related damage, accidents, or defective parts. Other than in the foregoing specific circumstances, staff believes that utility reserve funds should not function as general savings accounts for all unplanned repairs that are not included in a utility's capital improvement plan.

Staff also notes that recommended subsection 25-30.444(5), F.A.C., affords utilities the opportunity to modify utility reserve funds if the need should arise. The draft language in subsection (5) of the recommended rule provides the flexibility for a utility to modify its reserve fund at any time following creation of the fund or in the utility's next rate proceeding, either to accommodate significant modifications to a previously approved project or to undertake a different project that was not anticipated when the utility reserve fund was created. The utility has the option of requesting Commission approval for a change to its reserve fund surcharge or only the Commission's acknowledgment of the project modifications without a change to the surcharge.

(2) Matching of the Timing of Fund Collections and Disbursements

Rule workshop participants discussed the possibility of having flexible surcharge collection rates and flexible reserve fund disbursement provisions to allow for the matching of fund inflows and outflows when money is needed to pay for construction draws for work in progress. Staff confirmed that draft paragraphs 25-30.444(4)(a) and (c), F.A.C., were intended to address periodic construction draws; thus, staff added clarifying language to the draft rules.

(3) Funds of Utilities that are Transferred to Governmental Entities

Several stakeholders suggested that draft subsection 25-30.444(6), F.A.C., should contain special provisions to address the potential disposition of reserve fund monies when a utility is transferred to a governmental entity. One stakeholder suggested that the reserve funds remain with the customers and should be treated similarly to any customer deposits the utility has on hand at the time of the transfer (*i.e.*, refunded to the customers). Staff and other workshop participants observed that the transfer of a utility to a governmental entity occurs as a matter of right pursuant to paragraph 367.071(4)(a), F.S. Therefore, staff believes that the Commission's statutory authority is limited in this regard and the Commission does not have the authority to determine how the governmental entity potentially would administer the reserve fund.

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

No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

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

Item 3

State of Florida



Public Service Commission

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

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

DATE: February 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (Lee) *BE*
Division of Accounting and Finance (Passett, D. Smith) *BE*
Division of Economics (Guffey) *SK9*
Office of the General Counsel (Janjic) *CS*

RE: Docket No. 170030-EI – Petition for limited proceeding for approval to include in base rates the revenue requirement for the Hines chillers uprate project, by Duke Energy Florida, LLC.

AGENDA: 03/07/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: 04/03/17 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

By Order No. PSC-13-0598-FOF-EI, the Commission approved the Revised and Restated Stipulation and Settlement Agreement (RRSSA).¹ Paragraph 16(a) of the RRSSA includes

¹Order No. PSC-13-0598-FOF-EI, issued November 12, 2013, in Docket No. 130208-EI, *In re: Petition for limited proceeding to approve revised and restated stipulation and settlement agreement by Duke Energy Florida, Inc. d/b/a Duke Energy*. The Revised and Restated Agreement resolves outstanding issues in existing, continuing, and prospective Commission dockets, including Docket No. 100437-EI, which involves the examination of the outage and replacement fuel/power costs associated with DEF's Crystal River Unit 3 (CR3) steam generator replacement; Docket No. 130009-EI, the Commission's ongoing Nuclear Cost Recovery Clause; Docket No. 130001-EI, the Fuel and Purchased Power Cost Recovery Clause; Docket No. 130007-EI, the Environmental Cost Recovery Clause; and Docket No. 130091-EI, which involves DEF's petition for approval of a regulatory asset and associated amortization schedule for costs associated with DEF's Commission-approved thermal discharge compliance project.

provisions for Duke Energy Florida, LLC (DEF) to seek recovery of the prudently incurred revenue requirement of power uprates to existing DEF units, which may be placed in-service prior to year-end 2017, through a separate base rate increase at the time each unit is placed in service.

On May 20, 2016, DEF filed a petition for approval to include in base rates the revenue requirement for the Hines Chillers Uprate Project (Hines Project) in Docket No. 160128-EI, pursuant to Paragraph 16(a) of the RRSSA. The Hines Project consists of installation of chiller modules for the existing Hines Energy Center power block units, a large chilled water storage tank, an auxiliary power system, pumps and chilled water supply, return piping, and gas turbine air inlet chiller coils. The installation of the chiller system on the existing Hines Energy Center power block units (Hines Units 1-4) is designed to cool the gas turbine inlet air, thus increasing the capacity of each power block while maintaining fuel efficiency. Hines Units 1-4 have a total installed capacity of approximately 1,900 megawatts (MW). The project is expected to increase the summer capacity of those units by approximately 220 MW to meet the summer peak demand, which DEF projected to grow to 9,439 MW by the summer of 2018.

The Hines Project was granted a determination of need in 2014.² The estimated cost of the project was determined to be reasonable by Order No. PSC-16-0362-TRF-EI,³ and was to be implemented in two phases. Tariff sheets reflecting rate increases associated with Phase 1 were approved to be effective with the first billing cycle of November 2016. Phase 2 was expected to be completed in January 2017. However, DEF delayed the in-service date of the project after it discovered a leak in a water tank that is part of the common equipment. On October 18, 2016, DEF filed a motion requesting withdrawal of the approved tariffs, which was approved by Order No. PSC-16-0521-TRF-EI.⁴

Due to the delay of the in-service date of the project, DEF has continued billing customers consistent with the tariffs that were in effect. This is consistent with provision under Paragraph 16(a) of the RRSSA, which contemplates that customers would not be charged for the project cost until such project is placed into service.

On February 2, 2017, DEF filed the instant petition for approval to include in base rates the revenue requirement associated with the Hines Project, after the work to resolve the tank leak issue had been substantially completed. DEF states that the Hines Project will no longer be completed in two phases; rather, the entire project will now be completed at the same time. DEF currently estimates that the Hines Project will be completed and placed into commercial service by March 2017.

The Commission has jurisdiction pursuant to Section 366.06, Florida Statutes (F.S.).

²Order No. PSC-14-0590-FOF-EI, issued October 21, 2014, in Docket No. 140111-EI, *In re: Petition for determination of cost effective generation alternative to meet need prior to 2018, by Duke Energy Florida, Inc.*

³Order No. PSC-16-0362-TRF-EI, issued August 29, 2016, in Docket No. 160128-EI, *In re: Petition for approval to include in base rates the revenue requirement for the Hines Chillers Uprate Project, by Duke Energy Florida, LLC.*

⁴Issued November 21, 2016, in Docket No. 160128-EI, *In re: Petition for approval to include in base rates the revenue requirement for the Hines Chillers Uprate Project, by Duke Energy Florida, LLC.*

Discussion of Issues

Issue 1: Should the Commission approve DEF's petition to include in base rates the revenue requirement associated with the Hines Project?

Recommendation: Yes. Staff recommends that the \$19,335,560 revenue requirement, based on the most recently available Earnings Surveillance Report (ESR), is the appropriate amount. (Lee, D. Smith, Passett)

Staff Analysis: DEF is seeking to recover its estimated revenue requirement of \$19,363,385 for the Hines Project pursuant to Paragraph 16(a) of the RRSSA. As discussed earlier, the Hines Project will no longer be completed in phases. Therefore, DEF is requesting that the Commission approve the revenue requirement and rate increase for the whole project.

Cost Estimates for Hines Project

In Docket No. 160128-EI, DEF's construction cost estimate for the Hines Project was \$150.6 million, which was approximately \$9 million less than the \$160 million estimate provided in the need determination proceeding in Docket No. 140111-EI. In that proceeding, the Commission found the construction cost estimate comparable to a similar project. In addition, DEF entered into an Engineering Procurement Construction (EPC) contract with an experienced third party contractor. Each piece of equipment must meet all applicable tests before DEF will accept the equipment as complete from the EPC contractor. The Commission determined the estimated cost of the project to be reasonable by Order No. PSC-16-0362-TRF-EI, issued August 29, 2016.⁵

Based on information DEF filed in this docket, the updated construction cost estimate is approximately \$150.6 million, which is the same as the estimate DEF provided in Docket No. 160128-EI. DEF achieved several major project milestones. Specifically, the station service transformer, cooling tower, chiller modules, thermal energy storage tank, secondary pump, battery building, all interconnect piping and electrical equipment, chiller coils and ductwork to support chiller operation have been installed and tested.

As discussed earlier, DEF delayed the in-service date of the project due to the tank leak issue. To ensure that the issue with the tank leak was fully resolved, DEF and its contractor decided to drain the tank, apply a monolithic seal inside the tank, and then completely re-fill the tank to test for additional leaks. The work to resolve the tank leak issue has been substantially completed. Before the project can be completed, DEF must operate the entire system at full capacity to confirm that the equipment meets the performance standard requirements set forth in the contract. Based on DEF's actions and the Commission's prior decision on the reasonableness of the estimated cost, staff recommends that the construction cost estimate be considered reasonable.

While doing the final check of the remaining common equipment, DEF and its contractor discovered an issue with the condensate system. DEF currently anticipates that the project may

⁵Order No. PSC-16-0362-TRF-EI, issued August 29, 2016, in Docket No. 160128-EI, *In re: Petition for approval to include in base rates the revenue requirement for the Hines Chillers Uprate Project, by Duke Energy Florida, LLC*. The order also recognized that costs will be reset in DEF's next general base rate case proceeding if actual costs differ from what was approved in Docket No. 160128-EI.

come on-line by the end of March 2017. However, this in-service date may be pushed back if the issue with the condensate system cannot be resolved by the end of March. The impact of the potential delay of this in-service date to the effective date of the tariff is discussed in Issue 2.

Revenue Requirement

Based on the estimated cost of the Hines Project, DEF calculated a revenue requirement of \$19,363,385.⁶ In accordance with Paragraph 16(a) of the RRSSA, DEF utilized the capital structure from its November 2016 ESR, its most recent actual available at the time of its filing, and a 10.50 percent return of equity to calculate the revenue requirement.⁷ The revenue requirement calculation also includes the recovery of O&M expenses, depreciation expense, property insurance, property tax, and income tax. Subsequent to the filing of its petition using the November 2016 ESR, DEF submitted its most recent ESR for December 2016. Staff has calculated a revised revenue requirement of \$19,335,560 based on the capital structure provided in the December 2016 ESR. This represents a \$27,825 revenue requirement reduction. Staff recommends that the \$19,335,560 revenue requirement based on the most recently available ESR is the appropriate amount as shown on Attachment A.

Conclusion

Staff recommends that the \$19,335,560 revenue requirement based on the most recently available ESR is the appropriate amount as shown on Attachment A.

⁶Exhibit C, p. 1 of 2, of Document No. 01331-17 (DEF's Petition).

⁷November 2016 Earnings Surveillance Report.

Issue 2: Should the Commission approve DEF's proposed tariffs and associated charges?

Recommendation: Yes. The Commission should give staff administrative authority to approve tariffs and associated charges that implement the Commission vote in Issue 1 regarding the Hines Project. The charges should go in to effect with the first billing cycle in April 2017. If the commercial in-service date of the project is delayed, then the tariffs should become effective after the Hines Project is completed and is in commercial service. DEF should notify staff before the delayed implementation. (Guffey)

Staff Analysis: As discussed in Issue 1, staff is recommending a reduction in the revenue requirement for the Hines Project. DEF provided Exhibit D in its petition showing the allocation of DEF's proposed revenue requirement to all its rate classes as a uniform percentage (1.10 percent) consistent with the terms of the RRSSA. Under DEF's proposal, a residential customer who uses 1,000 kilowatt-hours will see a \$0.56 increase on the monthly bill (excluding Gross Receipt Tax). DEF's current and proposed base rate comparisons are shown in Exhibit E to the petition and proposed tariffs are shown in Exhibit F to the petition. DEF requested that the tariffs become effective with the first billing cycle of April 2017. If the commercial in-service date of the Hines Project is delayed, then the tariffs should become effective with the first billing cycle after the project is completed and placed in commercial service. DEF should notify staff before the delayed implementation.

Customer Notification

In its March bill inserts, DEF will notify customers of the request to increase rates associated with the Hines Project to be effective in April. DEF will include a second bill insert in April bills showing all Commission-approved base rates, for all rate classes that are effective April 2017. If the commercial in-service date of the Hines Project is delayed, then DEF should notify staff before the delayed implementation to see if another notice is needed.

Conclusion

Based on the Commission vote in Issue 1, DEF should recalculate the rates and associated charges and file revised tariff sheets (if DEF's proposed rates are affected by the change in the revenue requirements approved in Issue 1) for administrative approval by staff. The proposed tariffs and associated charges should go into effect with the first billing cycle of April 2017. If the commercial in-service date of the project is delayed, then the tariffs and associated charges should become effective at the time the Hines Project is completed and is in commercial service, consistent with Paragraph 16(a) of the RRSSA, which contemplates that customers would not be charged for the project cost until such project is placed into service.

Issue 3: Should this docket be closed?

Recommendation: If Issues 1 and 2 are approved, the tariff should go into effect with the first billing cycle in April 2017, or later if the commercial in-service date is delayed. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Janjic)

Staff Analysis: If Issues 1 and 2 are approved, the tariff should go into effect with the first billing cycle in April 2017, or later if the commercial in-service date is delayed. If a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

DUKE ENERGY FLORIDA, LLC
DOCKET NO. 170030-EI
HINES PROJECT REVENUE REQUIREMENT CALCULATION

Line No.	HINES PROJECT		
	DEF ESR <u>Nov 2016</u>	Commission ESR <u>Dec 2016</u>	
	<u>Capital Structure Weighted Cost: (a)</u>		
1	Long Term Debt	1.80%	1.81%
2	Short Term Debt	0.02%	0.02%
3	Customer Deposits	<u>0.04%</u>	<u>0.04%</u>
4	Total (L1 + L2 + L3)	<u>1.86%</u>	<u>1.87%</u>
5	Overall Rate of Return (a)	<u>6.66%</u>	<u>6.65%</u>
6	Average Jurisdictional Rate Base	\$135,234,000	\$135,234,000
7	Interest Expense (L4 x L6)	\$2,515,352	\$2,528,876
8	Interest Income Tax (L7 x 38.575%)	(\$970,297)	(\$975,514)
9	Operating Expenses	(\$6,212,000)	(\$6,212,000)
10	Operating Expenses Income Tax (L9 x 38.575%)	2,396,279	2,396,279
11	Interest Income Tax (L8)	970,297	975,514
12	Net Operating Income Loss (L9 + L10 + L11)	<u>(\$2,845,424)</u>	<u>(\$2,840,207)</u>
	<u>Revenue Requirement Calculation</u>		
13	Average Jurisdictional Rate Base (L6)	\$135,234,000	\$135,234,000
14	Rate of Return (L5)	6.66%	6.65%
15	Required Return (L13 x L14)	<u>9,006,584</u>	<u>8,993,061</u>
16	Net Operating Income Loss (L12)	(2,845,424)	(2,840,207)
17	Net Operating Income Deficiency (L15 + L16)	<u>11,852,008</u>	<u>11,833,268</u>
18	Net Operating Income Multiplier	1.634	1.634
19	Revenue Requirement (L17 x L18)	<u>\$19,363,385</u>	<u>\$19,335,560</u>
20	Difference		<u>(\$27,825)</u>

Note:

(a) Source - November 2016 ESR and December 2016 ESR, Schedule 4, Page 3 of 4.

Item 4

State of Florida



Public Service Commission

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

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

DATE: February 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Engineering (M. Watts, Knoblauch) *MA*
Division of Accounting and Finance (Galloway, Sowards) *CRS*
Division of Economics (Hudson, Johnson) *TJS EK*
Office of the General Counsel (Janjic) *ALM*

RE: Docket No. 130105-WS – Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC.

AGENDA: 03/07/17 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On April 29, 2013, Consolidated Services of Hendry & Collier, LLC (Consolidated Services or Utility), submitted an application for original water and wastewater certificates in Hendry and Collier Counties, Florida, along with a Petition for Variance from or Waiver of Rules 25-30.033(1)(h), (m), (o), (t), (u), (v) and (w), Florida Administrative Code (F.A.C.). The Utility is a wholly owned subsidiary of Consolidated Citrus Limited Partnership (Consolidated Citrus), which is one of the largest citrus growers in the United States. The primary owner of Consolidated Citrus is King Ranch, one of the largest family-owned land owners in the United States. The Utility's certificated service territory comprises approximately 12,400 acres, which

transverses Hendry and Collier Counties. These properties have traditionally been used for agricultural purposes. This area is located in the South Florida Water Management District, which is considered a critical water supply problem area.

The Florida Public Service Commission (Commission) granted the Utility's petition for temporary rule waiver, waiving the rules for a period of 36 months, pursuant to Order No. PSC-13-0324-PAA-WS (the Waiver Order).¹ The Commission subsequently granted the water and wastewater certificates pursuant to Order No. PSC-13-0484-FOF-WS (the Certificate Order).²

Rules 25-30.033(1)(h), (m), (o), (t), (u), (v) and (w), F.A.C., were amended on January 4, 2016, which had the chief effect of changing the subparagraph references of the requirements being waived and consolidating four of the subparagraphs under one subparagraph. The corresponding subparagraph references of the current rule, which were waived are Rules 25-30.033(1)(j)2., (k)1., (n), and (p), F.A.C., with subparagraph (p) of the current rule encapsulating requirements formerly listed in subparagraphs (t) through (w). A cross reference between the old and new rule designations is provided in the Appendix to this recommendation. The substantive portions of the rules remain unchanged, however. Henceforth, the rule requirements temporarily waived in the Waiver Order will be referred to collectively as "the waived rules," and individually according to the subparagraph references of the current rule.

The waived rules direct the applicant for an original certificate to file information necessary for the granting of certificates and for setting initial rates and charges, including: the number and type of equivalent residential connections (ERCs); the filing of a detailed system map showing the proposed lines, treatment facilities, and the territory to be served; a statement regarding the separate capacities of the proposed lines and treatment facilities in terms of ERCs and gallons per day; a detailed financial statement; a cost study including customer growth projections supporting the proposed rates, charges and service availability charges; a schedule showing the projected costs of the systems; a schedule showing projected operating expenses; and a schedule showing the projected capital structure. The Certificate Order established the due date as October 17, 2016, for filing the information required by the waived rules.

On July 19, 2016, Consolidated Services filed the information required by the waived rules. Upon reviewing the information, staff requested and received additional information, clarifications, and corrections via data requests, email and telephone calls. On August 18, 2016, the Office of Public Counsel (OPC) filed a letter with the Commission identifying its concerns with Consolidated Services' cost study. OPC's primary concern was regarding the inclusion of a royalty expense in the land lease. Staff held a meeting with the Utility and OPC on November 21, 2016, to discuss OPC's and staff's concerns.

¹Order No. PSC-13-0324-PAA-WS, issued on July 15, 2013, in Docket No. 130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC.*

²Order No. PSC-13-0484-FOF-WS, issued on October 15, 2013, in Docket No. 130105-WS, *In re: Application for certificates to provide water and wastewater service in Hendry and Collier Counties, by Consolidated Services of Hendry & Collier, LLC.*

Docket No. 130105-WS

Date: February 23, 2017

This recommendation addresses the requirements of the rules waived in the Waiver Order, and recommends rates and charges for the Utility's water and wastewater services. The Commission has jurisdiction pursuant to Sections 367.031 and 367.045, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: What are the appropriate water and wastewater rates and return on investment for Consolidated Services?

Recommendation: Consolidated Services' water and wastewater rates shown on Schedule Nos. 1 and 2, respectively, are reasonable and should be approved. The approved rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Consolidated Services should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. A return on equity of 11.16 percent, with a range of plus or minus 100 basis points, should also be approved. (Galloway, Sowards, Hudson, Johnson, M. Watts, Janjic)

Staff Analysis: Rules 25-30.033(1)(n) and (p), F.A.C., specifies the requirements for establishing rates and charges for original certificates, including submission of a cost study, growth projections, and data related to the projected plant, capital structure, and operating expenses. Consolidated Services' proposed water and wastewater rates are based on 80 percent of capacity, which is consistent with Commission policy for setting initial rates and charges. Consolidated Services anticipates that 80 percent design capacity will occur seven years after the initiation of construction. The water and wastewater facilities are conceptually designed to be in accordance with the local comprehensive plan's density restrictions. As such, water and wastewater ERCs at 80 percent buildout are anticipated to be 240 for each system. Water and wastewater usage per ERC is estimated at 250 gallons per day (gpd) and 200 gpd, respectively.

Projected Rate Base

Consistent with Commission practice in applications for original certificates, projected rate base is established only as a tool to aid the Commission in setting initial rates and is not intended to formally establish rate base. Consolidated Services' projected rate base calculations are shown on Schedule No. 1 for water service and Schedule No. 2 for wastewater service.

The Utility's projected water and wastewater utility plant in service and contributions in aid of construction (CIAC) are consistent with Commission practice whereby 80 percent of design capacity is used for the described facilities. Accumulated depreciation and amortization of CIAC are based on the average service lives guidelines, as set forth in Rule 25-30.140, F.A.C. In accordance with Rule 25-30.433(2), F.A.C., working capital is based on one-eighth of the operation and maintenance expense for each service. Staff recommends that Consolidated Services' proposed rate base calculations of \$529,339 for water service and \$469,127 for wastewater service shown on Schedule Nos. 1 and 2, respectively, are reasonable and should be approved.

Cost of Capital

Consolidated Services’ projected capital structure consists of 40 percent equity and 60 percent debt. The Utility’s proposed cost of equity of 11.16 percent is consistent with the Commission’s most recent leverage graph formula,³ and its proposed cost of debt of 4.75 is based on the prime rate plus 1 percent. Staff recommends that the Utility’s cost of equity and debt are reasonable. These cost rates and ratios result in an overall cost of capital of 7.31 percent as shown on the following table.

**Table 1-1
 Cost of Capital**

Description	Amount	Weight	Cost Rate	Weighted Cost
Common Equity	\$ 399,386	40%	11.16%	4.46%
Long and Short-Term Debt	\$ 599,079	60%	4.75%	2.85%
Overall Cost of Capital	\$ 998,465	100%		7.31%
Range of Reasonableness			Low	High
Return on Common Equity			10.16%	12.16%

Based on these calculations, staff recommends the appropriate return on equity for Consolidated Services is 11.16 percent, with a range of plus or minus 100 basis points, and the Utility’s initial rates should be based on an overall cost of capital of 7.31 percent.

Net Operating Income

The projected net operating income amounts for water and wastewater services are shown on Schedule Nos. 1 and 2, respectively. They are based on the projected rate base for each system and the projected overall cost of capital of 7.31 percent. The resulting net operating income amounts for potable water and wastewater services are \$38,695 and \$34,293, respectively.

By letter dated August 18, 2016, OPC stated concerns about the Utility’s initial proposal to include both land lease costs and royalties associated with the withdrawal of water. By a letter dated December 29, 2016, the Utility restated its request to include the royalties associated with the withdrawal of water. Staff included in the net operating income an allowance for the Utility’s land lease with its parent company in the amount of \$125 for water (.25 acres) and \$1,125 (2.25 acres) for wastewater which reflects an allowance of \$500 per acre. Staff did not include any allowance for royalties. Staff agrees that it is Commission practice to include either land lease costs or royalties in a utility’s revenue requirement, not both.⁴

³Order No. PSC-16-0254-PAA-WS, issued June 29, 2016, in Docket No. 160006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

⁴Order No. PSC-16-0370-PAA-WS, p.11, issued September 14, 2016, in Docket No. 150149-WS, *In re: Application for staff-assisted rate case in Glades and Highlands Counties by Silver Lake Utilities, Inc.*

Revenue Requirement

The calculations for Consolidated Services' projected water and wastewater revenue requirements are also shown on Schedule Nos. 1 and 2, respectively. The revenue requirement calculation includes operation and maintenance expenses, depreciation and amortization expenses, taxes other than income, as well as a 7.31 percent overall rate of return. The Utility's proposed operation and maintenance expenses appear reasonable and net depreciation and amortization expenses are consistent with the guidelines in Rule 25-30.140, F.A.C. As a limited liability company, Consolidated Services has no income tax expense. Taxes other than income tax are based on regulatory assessment fees of 4.5 percent of the Utility's gross revenues and payroll taxes. Staff recommends that Consolidated Services' revenue requirements for water and wastewater services of \$139,353 and \$120,581, respectively, are reasonable and should be approved.

Rates and Rate Structure

Consolidated Services has structured its rates in accordance with Rule 25-30.033(2), F.A.C., which requires that a base facility and usage rate structure, as defined in Rule 25-30.437(6), F.A.C., be utilized for metered service. Consolidated Services proposed a revenue allocation to the base facility charge of 40 percent for both water and wastewater. Consolidated Services' proposed potable water rates, shown on Schedule No. 1, consist of a base facility charge of \$19.36 and a usage charge of \$3.93 per 1,000 gallons. The Utility's proposed wastewater rates, shown on Schedule No. 2, consist of a base facility charge of \$16.75 for all residential customers and a usage charge of \$3.40 per 1,000 gallons. The Utility did not propose a cap on residential wastewater service. Based on Consolidated Services' estimated total demand per customer, staff recommends a wastewater cap of 8,000 gallons. The proposed rates are designed to generate the Utility's proposed revenue requirement. Staff recommends that Consolidated Services' proposed rates are reasonable and its rate structure is consistent with Commission rules.

Conclusion

Staff recommends that Consolidated Services' water and wastewater rates shown on Schedule Nos. 1 and 2, respectively, are reasonable and should be approved. The approved rates should be effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Consolidated Services should be required to charge the approved rates until authorized to change them by the Commission in a subsequent proceeding. A return on equity of 11.16 percent, with a range of plus or minus 100 basis points, should also be approved.

Issue 2: What are the appropriate service availability charges?

Recommendation: Consolidated Services' proposed service availability charges, as shown on Schedule Nos. 1 and 2, are reasonable and should be approved. The approved charges should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Consolidated Services should be required to collect its approved service availability charges until authorized to change them by the Commission in a subsequent proceeding. (Johnson)

Staff Analysis: Pursuant to Rule 25-30.580(1), F.A.C., the maximum amount of CIAC, net of amortization, should not exceed 75 percent of the total original cost, net of depreciation, of the Utility's facilities and plant when the facilities and plant are at their designed capacity. Rule 25-30.580(2), F.A.C., provides that the minimum amount of CIAC should not be less than the percentage of such facilities and plant that is represented by water transmission and distribution and sewage collection systems.

Consolidated Services' proposed water and wastewater service availability charges, shown on Schedule Nos. 1 and 2, include meter installation charges, as well as main extension charges for water and wastewater, and a plant capacity charge for water. The proposed meter installation charge is based on the estimated cost to install a new water meter. The proposed main extension charges are based on the projected cost of the distribution and collection lines. Consolidated Services' proposed service availability charges, at design capacity, are projected to result in net contribution levels of 76.19 percent for water and 80.55 percent for wastewater. Although the proposed wastewater main extension charge will result in net CIAC that exceeds 75 percent of net plant, the charge is based on the projected cost of the collection lines in the wastewater system. Therefore, staff believes Consolidated Services' proposed charges are consistent with the guidelines in Commission rules.

Based on the above, staff recommends Consolidated Services' proposed service availability charges, as shown on Schedule Nos. 1 and 2, are reasonable and should be approved. The approved charges should be effective for connections made on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Consolidated Services should be required to collect its approved service availability charges until authorized to change them by the Commission in a subsequent proceeding.

Issue 3: Should Consolidated Services' proposed miscellaneous service charges be approved?

Recommendation: Consolidated Services' proposed miscellaneous service charges should be approved and effective for services rendered on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475, F.A.C. Consolidated Services should be required to charge its approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding. (Johnson)

Staff Analysis: Section 367.091(6), F.S., authorizes the Commission to establish, increase, or change a rate or charge other than monthly rates or service availability charges. Rule 25-30.460, F.A.C., defines the various miscellaneous service charges. The purpose of these miscellaneous service charges is to place the cost burden of requesting or causing these services on the cost causer instead of the general body of rate payers. The Utility's request for miscellaneous charges was accompanied by its reason for requesting the charge, as well as the cost justification required by Section 367.091(6), F.S. Consolidated Services' proposed miscellaneous service charges are shown in Table 3-1 below.

**Table 3-1
 Utility's Requested Miscellaneous Service Charges**

Miscellaneous Service Charges	Water		Wastewater	
	During Hours	After Hours	During Hours	After Hours
Initial Connection Charge	\$20	N/A	\$20	N/A
Normal Reconnection Charge	\$20	\$40	\$20	\$40
Violation Reconnection Charge	\$20	\$40	Actual Cost	Actual Cost
Premises Visit Charge (in lieu of Disconnect)	\$20	\$40	\$20	\$40

Source: Utility's requested charges

Since the Utility has not yet begun service, Consolidated Services' proposed charges are based on estimated expenses. When both water and wastewater services are provided, a single charge is appropriate unless circumstances beyond the control of the Utility require multiple actions. These recommended charges fall within the parameters of other miscellaneous service charges approved by the Commission and appear reasonable.⁵

Staff recommends that Consolidated Services' proposed miscellaneous service charges should be approved and effective for services rendered on or after the stamped approval date on the tariff sheets, pursuant to Rule 25-30.475, F.A.C. Consolidated Services should be required to charge its approved miscellaneous service charges until authorized to change them by the Commission in a subsequent proceeding.

⁵See Order Nos. PSC-16-0583-PAA-WS, issued December 29, 2016, in Docket No. 150010-WS, *In re: Application for staff-assisted rate case in Brevard County by Aquarina Utilities, Inc.* and PSC-07-0983-PAA-WS, issued December 10, 2007, in Docket No. 060726-WS, *In re: Application for certificates to provide water and wastewater service in Glades County and water service in Highlands County by Silver Lake Utilities, Inc.*

Issue 4: Should Consolidated Services' request to implement a late payment charge be approved?

Recommendation: Consolidated Services' request to implement a late payment charge should be approved. Consolidated Services should be allowed to implement a late payment charge of \$5.00. The approved charge should be effective for services rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. Consolidated Services should be required to charge its approved late payment charge until authorized to change it by the Commission in a subsequent proceeding. (Johnson)

Staff Analysis: Section 367.091(6), F.S., authorizes the Commission to establish, increase, or change a rate or charge other than monthly rates or service availability charges. The Utility is requesting a \$5.00 late payment charge to recover the cost of supplies and labor associated with processing late payment notices. The Utility's request for a late payment charge was accompanied by its reason for requesting the charge, as well as the cost justification required by Section 367.091(6), F.S. Since the Utility has not yet begun service, Consolidated Services' proposed charges are based on estimated expenses.

Based on staff's research, since the late 1990s, the Commission has approved late payment charges ranging from \$2.00 to \$7.00.⁶ Staff believes the Utility's late payment charge is consistent with previously approved late payment charges. The purpose of this charge is not only to provide an incentive for customers to make timely payment, thereby reducing the number of delinquent accounts, but also to place the cost burden of processing delinquent accounts solely upon those who are cost causers.

Based on the above, staff believes Consolidated Services' request to implement a late payment charge should be approved. Consolidated Services should be allowed to implement a late payment charge of \$5.00. The approved charge should be effective for services rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. Consolidated Services should be required to charge its approved late payment charge until authorized to change it by the Commission in a subsequent proceeding.

⁶See Order Nos. PSC-14-0335-PAA-WS, in Docket No. 130243-WS, issued June 30, 2014, *In re: Application for staff-assisted rate case in Highlands County by Lake Placid Utilities Inc.*; PSC-14-0105-TRF-WS, in Docket No. 130288-WS, issued February 20, 2014, *In re: Request for approval of late payment charge in Brevard County by Aquarina Utilities, Inc.*; PSC-13-0177-PAA-WU, in Docket No. 130052-WU, issued April 29, 2013, *In re: Application for grandfather certificate to operate water utility in Charlotte County by Little Gasparilla Water Utility, Inc.*; PSC-10-0257-TRF-WU, in Docket No. 090429-WU, issued April 26, 2010, *In re: Request for approval of imposition of miscellaneous service charges, delinquent payment charge and meter tampering charge in Lake County, by Pine Harbour Water Utilities, LLC.*; and PSC-11-0204-TRF-SU, in Docket No. 100413-SU, issued April 25, 2011, *In re: Request for approval of tariff amendment to include a late fee of \$14.00 in Polk County by West Lakeland Wastewater.*

Issue 5: Should Consolidated Services be authorized to collect Non-Sufficient Funds Charges (NSF)?

Recommendation: Consolidated Services should be authorized to collect NSF charges. Staff recommends the NSF charges currently set forth in Section 68.065, F.S., for Consolidated Services. The NSF charges should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. Consolidated Services should be required to charge its approved NSF charge until authorized to change it by the Commission in a subsequent proceeding. (Johnson)

Staff Analysis: Section 367.091, F.S., requires rates, charges, and customer service policies to be approved by the Commission. The Commission has authority to establish, increase, or change a rate or charge. Staff believes that Consolidated Services should be authorized to collect NSF charges consistent with Section 68.065, F.S., which allows for the assessment of charges for the collection of worthless checks, drafts, or orders of payment. As currently set forth in Section 68.065(2), F.S., the following NSF charges may be assessed:

- (1) \$25, if the face value does not exceed \$50,
- (2) \$30, if the face value exceeds \$50 but does not exceed \$300,
- (3) \$40, if the face value exceeds \$300,
- (4) or five percent of the face amount of the check, whichever is greater.

Approval of NSF charges is consistent with prior Commission decisions.⁷ Furthermore, NSF charges place the cost on the cost-causer, rather than requiring that the costs associated with the return of the NSF checks be spread across the general body of ratepayers. As such, Consolidated Services should be authorized to collect NSF charges. Staff recommends the NSF charges currently set forth in Section 68.065, F.S., for Consolidated Services. The NSF charges should be effective on or after the stamped approval date on the tariff sheets pursuant to Rule 25-30.475(1), F.A.C. Consolidated Services should be required to charge its approved NSF charge until authorized to change it by the Commission in a subsequent proceeding.

⁷Order Nos. PSC-14-0198-TRF-SU, issued May 2, 2014, in Docket No. 140030-SU, *In re: Request for approval to amend Miscellaneous Service charges to include all NSF charges by Environmental Protection Systems of Pine Island, Inc.*; and PSC-13-0646-PAA-WU, issued December 5, 2013, in Docket No. 130025-WU, *In re: Application for increase in water rates in Highlands County by Placid Lakes Utilities, Inc.*

Issue 6: What are the appropriate initial customer deposits for Consolidated Services' water and wastewater services?

Recommendation: Based on staff's recommended rates and estimated average residential demand, the appropriate initial customer deposits for the residential 5/8" x 3/4" meter size should be \$63 for water and \$54 for wastewater. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for water and wastewater service. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. Consolidated Services should be required to collect its approved customer deposits until authorized to change it by the Commission in a subsequent proceeding. (Johnson)

Staff Analysis: Rule 25-30.311, F.A.C., contains the criteria for collecting, administering, and refunding customer deposits. Customer deposits are designed to minimize the exposure of bad debt expense for the Utility and, ultimately, the general body of ratepayers. Historically, the Commission has set initial customer deposits equal to two times the average estimated bill.⁸ Consolidated Services does not currently have any customers, therefore, staff believes it is appropriate to calculate customer deposits using an average demand of 3,000 gallons a month. Pursuant to Rule 25-30.311(5), F.A.C., after a customer has established a satisfactory payment record and has had continuous service for a period of 23 months, the Utility shall refund the residential customer's deposit.

Based on the staff recommended rates and estimated average residential demand, staff recommends the appropriate initial customer deposits for the residential 5/8" x 3/4" meter size should be \$63 for water and \$54 for wastewater. The initial customer deposits for all other residential meter sizes and all general service meter sizes should be two times the average estimated bill for water and wastewater service. The approved initial customer deposits should be effective for connections made on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475, F.A.C. Consolidated Services should be required to collect its approved customer deposits until authorized to change it by the Commission in a subsequent proceeding.

⁸Order Nos. PSC-13-0611-PAA-WS, issued November 19, 2013, in Docket No. 130010-WS, *In re: Application for increase in water rates in Lee County and wastewater rates in Pasco County by Ni Florida, LLC.* and PSC-14-0016-TRF-WU, issued January 6, 2014, in Docket No. 130251-WU, *In re: Application for approval of miscellaneous service charges in Pasco County, by Crestridge Utility Corporation.*

Issue 7: Should this docket be closed?

Recommendation: If no timely protest to the proposed agency action regarding initial rates and charges is filed with the Commission by a substantially affected person, a Consummating Order should be issued. This docket should be closed administratively upon issuance of a Consummating Order. (Janjic)

Staff Analysis: If no timely protest to the proposed agency action regarding initial rates and charges is filed with the Commission by a substantially affected person, a Consummating Order should be issued. This docket should be closed administratively upon issuance of a Consummating Order.

**Consolidated Services of Hendry & Collier, LLC
 WATER SYSTEM**

Water Rate Base

Utility Plant in Service	\$ 1,899,568
Accumulated Depreciation	(340,159)
Contributions in Aid of Construction (CIAC)	(1,159,872)
Accumulated Amortization of CIAC	121,590
Working Capital Allowance	<u>8,212</u>
Water Rate Base	\$ 529,339

Water Revenue Requirement

Revenue Requirement	\$ 139,353
Operation and Maintenance Expense	65,694
Depreciation Expense	67,245
CIAC Amortization Expense	(41,059)
Taxes Other Than Income	<u>8,779</u>
Total Operating Expense	\$ 100,659
Return on Investment	38,695
Water Rate Base	\$ 529,339
Rate of Return	7.31%

Monthly Water Service Rates

Residential and General Service

Base Facility Charge by Meter Size	
5/8" x 3/4"	\$19.36
3/4"	\$29.04
1"	\$48.40
1 1/2"	\$96.80
2"	\$154.88
3"	\$309.76
4"	\$484.00
Charge per 1,000 gallons	\$3.93

Water Service Availability Charges

Plant Capacity Charge (ERC = 243 gpd)	\$1,600.00
Main Extension Charge (ERC = 243 gpd)	\$2,933.00
Meter Installation Charge –	
5/8" x 3/4"	\$300.00
All other meter sizes	Actual Cost

**Consolidated Services of Hendry & Collier, LLC
 WASTEWATER SYSTEM**

Wastewater Rate Base

Utility Plant in Service	\$ 2,051,698
Accumulated Depreciation	(292,668)
Contributions in Aid of Construction (CIAC)	(1,434,540)
Accumulated Amortization of CIAC	137,342
Working Capital Allowance	<u>7,295</u>
Wastewater Rate Base	\$ 469,127

Wastewater Revenue Requirement

Revenue Requirement	\$ 120,581
Operation and Maintenance Expense	58,357
Depreciation Expense	66,475
CIAC Amortization Expense	(46,479)
Taxes Other Than Income	<u>7,935</u>
Total Operating Expense	\$ 86,288
Return on Investment	34,293
Wastewater Rate Base	\$ 469,127
Rate of Return	7.31%

Monthly Wastewater Service Rates

Residential Service

Base Facility Charge by Meter Size	
All meter sizes	\$16.75
Charge per 1,000 gallons	\$3.40

General Service

Base Facility Charge by Meter Size	
5/8" x 3/4"	\$16.75
3/4"	\$25.12
1"	\$41.88
1 1/2"	\$83.75
2"	\$134.00
3"	\$268.00
4"	\$418.75
Charge per 1,000 gallons	\$3.40

Wastewater Service Availability Charges

Main Extension Charge (ERC = 243 gpd)	\$5,977.00
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Old Rule	New Rule	Short Description
25-30.033(1)(h)	25-30.033(1)(k)1.	No. customers to be served by class\meter size
25-30.033(1)(m)	25-30.033(1)(j)2.	Detailed system map
25-30.033(1)(o)	25-30.033(1)(n)	Capacities of lines/treatment facilities in ERCs, gpd
25-30.033(1)(t)	25-30.033(1)(p)1.-7.	Cost study
25-30.033(1)(u)	25-30.033(1)(p)1.	Schedule of projected system cost
25-30.033(1)(v)	25-30.033(1)(p)4.	Schedule of projected operating expenses
25-30.033(1)(w)	25-30.033(1)(p)3.	Schedule of projected capital structure

Item 5

State of Florida



Public Service Commission

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

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

DATE: February 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Guffey) *SKG*
Office of the General Counsel (Taylor) *WVJ EC*

RE: Docket No. 160245-EI – Petition for approval of a new optional pilot LED streetlight tariff, by Florida Power & Light Company.

AGENDA: 03/07/17 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 8-month effective date: 8/16/17

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2017 FEB 23 AM 10:11
COMMISSION
CLERK

Case Background

On December 16, 2016, Florida Power & Light Company (FPL) filed a petition for approval of a new optional pilot Light Emitting Diode (LED) streetlight tariff (LT-1) and accompanying LED Lighting Agreement (LED Agreement). The term of this pilot program is three years (2017-2019). This petition is consistent with FPL's 2016 rate case settlement, which permits the filing of optional tariffs.¹

Currently, FPL offers LED lighting under its Premium Lighting (PL-1) tariff. FPL proposed the LT-1 tariff in response to customers requesting more LED fixture options and flexible payment methods. The proposed LT-1 tariff sheets (Sheet Nos. 8.735 through 8.738) and LED Agreement (Sheet Nos. 9.140-9.144) are attached to this recommendation as Attachment A.

¹ Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 160021-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

Docket No. 160245-EI
Date: February 23, 2017

On January 12, 2017, FPL responded to staff's first data request and at the February 7, 2017 Agenda Conference the Commission suspended FPL's proposed tariffs. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve FPL's proposed optional LT-1 tariff and the accompanying LED Agreement?

Recommendation: Yes. The Commission should approve FPL's proposed LT-1 tariff and the accompanying LED Agreement effective March 7, 2017. By end of December 2019, FPL should file a petition with the Commission to make permanent, modify, or terminate the optional LT-1 tariff and accompanying LED Agreement. (Guffey)

Staff Analysis:

LED Background Information

In 2009, FPL implemented an LED lighting pilot project in the parking lot of its Juno Beach offices. The project included the installation of eight LED fixtures. The objectives of the pilot were to evaluate the performance of the LED fixtures in the South Florida environment, monitor their energy consumption, and assess the LED lighting. FPL filed a report with the Commission on the results of the Juno Beach pilot on April 1, 2010.² FPL also explained that FPL stays in contact with LED manufacturers, such as GE, American Electric Lighting, and Cree, to continuously gather information regarding LED technology.

Customers have the option of installing customer-owned LED fixtures, utilizing FPL's energy-only rate offering under the Street Lighting (SL-1) tariff. In 2013, FPL began offering FPL-owned LED lighting under its Premium Lighting (PL-1) tariff. The PL-1 tariff was first approved in 1998 and is available to any customer wishing to have lighting installations in streets, parking lots, or homeowners association common areas.³ Customers are required to sign an agreement for a minimum of 20 years and customers are required to pay a lump sum in advance for the construction of LED lighting facilities. FPL stated that currently 653,165 High Pressure Sodium Vapor (HPSV) street light fixtures are in service. Due to the upfront payment requirement and conversion costs from HPSV to LED lighting, FPL explained that only 1,691 LED fixtures have been installed as of June 2016.

Due to the limited interest in LED lighting under the PL-1 tariff and in response to customer feedback, FPL proposed the new LT-1 tariff to offer customers additional lighting options. FPL stated that customers would like to have an alternative of converting from HPSV to LED lighting and pay for those costs through a monthly charge instead of paying an upfront cost. Customers have also requested an easier way to calculate their lighting costs and savings. Finally, customers are requesting wider LED lighting options. FPL is not proposing any changes to the PL-1 tariff. Customers interested in LED lighting include municipalities and builders of subdivisions.

Proposed LT-1 Tariff

As with the currently available PL-1 tariff, FPL's proposed LT-1 tariff is available for lighting private or public streets, roadways, parking lots, home owners' association's common areas, and

² The LED Lighting report was filed in Docket No. 080677-EI, Document No. 02371.

³ Order No. PSC-98-0260-FOF-EI, issued on February 9, 1998, in Docket No. 971256-EI, *In re: Petition for approval of premium lighting and recreational lighting service rates schedules and agreements by Florida Power & Light Company*.

parks. FPL is proposing the LT-1 tariff as a three year pilot program (2017-2019). FPL stated that this approach would allow FPL to receive customer feedback, address customer concerns, as well as evaluate the proposed number of LED fixture tiers.

Furthermore, FPL proposed a phased roll-out of the pilot. The tariff will be introduced in FPL's southern service areas of Miami-Dade and Collier Counties and expanding northward to its entire service territory over a 24-month period. FPL stated in its petition that FPL is concerned that offering the LT-1 tariff throughout its service territory from the outset would create a risk of delays in providing popular LED fixtures if demand outstripped the available supply. Popular LED fixtures include the cobrahead roadway fixtures municipalities use for roadway lighting and post-top square lanterns used in subdivisions.

Monthly LT-1 Charges

The proposed LT-1 charges are comprised of three components: a fixture charge, an energy charge, and a maintenance charge, consistent with other lighting tariffs electric utilities offer. In addition, the LT-1 tariff includes an LED conversion charge for customers that choose to convert existing facilities to LED. The charges are discussed below. All other Commission-approved street lighting cost recovery factors such as fuel or storm recovery charges will apply.

Fixture and Energy Charges

FPL proposed to show the fixture and energy charges in a matrix on Tariff Sheet No. 8.736, as shown on page 2 of Attachment A to the recommendation. The matrix is intended to accommodate a wide range of fixture costs and energy consumption for different LED fixtures. The available LED fixtures will be shown in an LED lighting catalog on the FPL website as opposed to in the tariff itself. The website address is stated in the tariff. FPL asserted that providing a listing of available fixtures on the FPL website is the fastest and most efficient way to offer customers the latest and best LED fixtures. Each fixture will be assigned the appropriate fixture tier and energy tier when it is added to the catalog.

The tiered matrix is comprised of ten fixture tiers and 20 energy tiers. The ten fixture tiers are shown on the X axis and each tier represents the monthly fixture charge for LED fixtures whose installed costs fall within the range covered by that tier. Each tier increases by \$3; tier 1 represents the lowest monthly cost while tier 10 represents the highest monthly cost. The fixture charge is intended to recover the initial capital investment of the fixture and any subsequent replacements resulting from normal failure as needed. The individual fixture cost is based on the estimated cost to install plus carrying costs (cost of capital, depreciation, property tax). This all-in cost is annualized using the asset life, and then divided by 12 to arrive at the monthly fixture cost. The monthly cost is then assigned to the appropriate fixture tier on the LED matrix. FPL provided the calculation of a monthly fixture cost in response to Staff's Data Request No. 11.

The 20 energy tiers are shown on the Y axis and each tier represents the monthly energy charge for fixtures whose energy usage falls within specified wattage ranges. LED wattages can range from 29 watts to 813 watts. Each energy tier increases by \$0.20 and tier A represents the lowest monthly energy charge, while tier T represents the maximum energy charge. FPL provided the calculation of a monthly energy charge in response to Staff's Data Request No. 12.

Maintenance Charge

In addition to the monthly energy and fixture charges discussed above, customers will pay a monthly maintenance charge. The maintenance charge is designed to recover the costs associated with maintaining the LED street light system and includes costs such as repairing conductors, replacing photocells, or replacing connectors.

Utilities typically develop maintenance charges based on estimated maintenance costs by fixture type. FPL explained that it has not found that it costs more to maintain an expensive decorative LED fixture than a standard less expensive LED fixture. Therefore, FPL proposed a flat fee of \$1.72 per fixture applied to FPL-owned fixtures on FPL-owned poles and \$1.20 for FPL-owned fixtures on customer-owned poles and conductors. The proposed maintenance charges are based on historical FPL system-wide maintenance costs and FPL provided the cost support and calculation in response to Staff's First Data Request No. 13.

Conversion Recovery Fee

Customers requesting to convert from HPSV to LED lights under the LT-1 tariff will pay a monthly conversion recovery fee of \$0.97 per fixture. The conversion fee is designed for FPL to recover the remaining net book value and removal cost of the HPSV fixture over the life of the new LED asset. This would enable customers to pay the conversion cost over a period of time rather than paying the lump sum fee upfront. FPL provided the cost support and calculation of the conversion recovery fee in response to Staff's First Data Request No. 14. FPL further noted that it will monitor the net book value of any remaining HPSV fixtures as it is expected to go down as HPSV fixtures are being replaced, and petition the Commission to modify the conversion recovery fee if reductions are observed.

LED Lighting Agreement

Customers taking service under the LT-1 tariff will be required to sign an LED Agreement. The agreement sets forth the specific terms and conditions related to installation or modification of lighting facilities. The LED Agreement's initial term of service will be ten years from the date of initiation of service (lights are energized and billing begins) with automatic successive five year extensions. The Agreement can be terminated by either party in writing at least 90 days prior to the date of termination. If the customer wishes to terminate the Agreement before the normal expiration of either the initial term or the extension term, the customer will be required to pay the facility charge for all facilities being removed (fixtures, poles and wire), that were covered by the LT-1 Agreement, over the remainder of the unexpired term, as well as the estimated cost of removal for the affected facilities.

Conclusion

After the three year pilot term, FPL's intention is to make the optional LT-1 tariff permanent after review of the tariff's popularity. Based on the staff's review of FPL's petition and responses to staff's data request, staff believes FPL's petition to be reasonable and recommends that the Commission approve FPL's proposed LT-1 tariff and the accompanying LED Agreement effective March 7, 2017.

By end of December, 2019, FPL should file a petition with the Commission to make permanent, modify, or terminate the optional LT-1 tariff and accompanying LED Agreement.

Issue 2: Should this docket be closed?

Recommendation: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Taylor)

Staff Analysis: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariff should remain in effect pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.735

LED LIGHTING PILOT

RATE SCHEDULE: LT-1

AVAILABLE:

In specific territories served, upon request of the entity that has jurisdiction over the area being lighted. Contact FPL for available installation territories.

APPLICATION:

For the purpose of lighting streets whether public or private, roadways, and common areas, other than individual residential locations. This includes but is not limited to parking lots, homeowners association common areas, or parks.

TYPE OF INSTALLATION:

FPL-owned fixtures normally will be mounted on poles of FPL's existing distribution system and served from overhead wires. On request of the Customer, FPL will provide special poles or underground wires at the charges specified below. FPL, at its discretion, may offer the customer the option of FPL-owned fixtures attached to poles owned by the customer.

SERVICE:

Service includes energy from dusk each day until dawn the following day and maintenance of FPL-owned Lighting Systems. Maintenance includes replacement or repair of any circuit component to assure the facilities are operational and safe.

LIMITATION OF SERVICE:

Stand-by or resale service is not permitted hereunder. CUSTOMER

CONTRIBUTIONS:

A Contribution-in-Aid-of-Construction (CIAC) will be required for:

- a) the differential cost between employing rapid construction techniques in trenching, backfilling and pole installation work where no obstructions exist, and the added cost to overcome obstructions such as sprinkler systems, paved surfaces (such as sidewalks, curbs, gutters, and roadways), landscaping, sodding and other obstructions encountered along the Lighting System installation route, including repair and replacement. If the Customer elects to perform work such as trenching and restoration, they will be reimbursed by FPL with a credit (not to exceed the total CIAC cost) for the value of this work as determined by FPL;
- b) the installation cost of any new overhead distribution facilities and/or the cost of alterations to existing distribution facilities which are required in order to serve the Lighting System less four (4) times the additional annual non-fuel energy revenue generated by the installation or alteration of the Lighting System, plus where underground facilities are installed, the differential installation cost between underground and overhead distribution facilities.

These costs shall be paid by the Customer prior to the initiation of any construction work by FPL. The Customer shall also pay any additional costs associated with design modifications requested after the original estimate has been made.

(Continued on Sheet No. 8.736)

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.736

(Continued from Sheet No. 8.735)

REMOVAL OF FACILITIES:

If FPL owned Lighting facilities are removed either by Customer request or termination or breach of the agreement, the customer will pay the fixture, pole, and conductor charges for the period remaining on the currently active term of service plus the cost to remove the facilities. **These charges do not apply to street light conversions from FPL owned facilities covered under SL-1 to FPL owned LED facilities under this tariff.** In all cases, should the Customer request termination of the agreement, such termination will require written notice 90 days prior to the date of termination.

Conversion of FPL Owned Streetlights (SL-1 facilities) to LED:

For customers converting Street Lights as per FPL's SL-1 Street Lighting Tariff paying the LED Conversion Recovery charge, there will be no charges for the fixtures being removed. Any other charges for relocation or replacement of FPL owned facilities would still apply.

CHANGE IN FIXTURE SIZE OR TYPE:

At the Customer's request, the Company will upgrade to a higher level of illumination when the changes are consistent with good engineering practices. The customer will pay the original installed cost of the removed fixtures, less any salvage value and depreciation, plus removal costs and will receive a credit for 4 years additional revenue generated by the larger fixtures. If changes are required to the distribution system to support the larger lights, standard CIAC charges as described on sheet 8.735 will also apply. The Customer will pay the Company the net costs incurred in making other fixture changes. Customers converting HPSV fixtures to LED and paying the LED Conversion Recovery Charge will not be charged for the fixtures being removed, as noted in the preceding paragraph. In all cases where luminaires are replaced, the Customer will sign a new service agreement. Billing on the rate for the new luminaire or lamp size will begin as of the next regular billing date. A luminaire may be relocated at the Customer's request upon payment by the Customer of the full cost of removal and reinstallation.

MONTHLY RATES for LED Fixtures*:

Energy Tier	Charge	Fixture Tier									
		1	2	3	4	5	6	7	8	9	10
A	\$ -	1.50	4.50	7.50	10.50	13.50	16.50	19.50	22.50	25.50	28.50
B	\$ 0.20	1.70	4.70	7.70	10.70	13.70	16.70	19.70	22.70	25.70	28.70
C	\$ 0.40	1.90	4.90	7.90	10.90	13.90	16.90	19.90	22.90	25.90	28.90
D	\$ 0.60	2.10	5.10	8.10	11.10	14.10	17.10	20.10	23.10	26.10	29.10
E	\$ 0.80	2.30	5.30	8.30	11.30	14.30	17.30	20.30	23.30	26.30	29.30
F	\$ 1.00	2.50	5.50	8.50	11.50	14.50	17.50	20.50	23.50	26.50	29.50
G	\$ 1.20	2.70	5.70	8.70	11.70	14.70	17.70	20.70	23.70	26.70	29.70
H	\$ 1.40	2.90	5.90	8.90	11.90	14.90	17.90	20.90	23.90	26.90	29.90
I	\$ 1.60	3.10	6.10	9.10	12.10	15.10	18.10	21.10	24.10	27.10	30.10
J	\$ 1.80	3.30	6.30	9.30	12.30	15.30	18.30	21.30	24.30	27.30	30.30
K	\$ 2.00	3.50	6.50	9.50	12.50	15.50	18.50	21.50	24.50	27.50	30.50
L	\$ 2.20	3.70	6.70	9.70	12.70	15.70	18.70	21.70	24.70	27.70	30.70
M	\$ 2.40	3.90	6.90	9.90	12.90	15.90	18.90	21.90	24.90	27.90	30.90
N	\$ 2.60	4.10	7.10	10.10	13.10	16.10	19.10	22.10	25.10	28.10	31.10
O	\$ 2.80	4.30	7.30	10.30	13.30	16.30	19.30	22.30	25.30	28.30	31.30
P	\$ 3.00	4.50	7.50	10.50	13.50	16.50	19.50	22.50	25.50	28.50	31.50
Q	\$ 3.20	4.70	7.70	10.70	13.70	16.70	19.70	22.70	25.70	28.70	31.70
R	\$ 3.40	4.90	7.90	10.90	13.90	16.90	19.90	22.90	25.90	28.90	31.90
S	\$ 3.60	5.10	8.10	11.10	14.10	17.10	20.10	23.10	26.10	29.10	32.10
T	\$ 3.80	5.30	8.30	11.30	14.30	17.30	20.30	23.30	26.30	29.30	32.30

* Catalog of available fixtures and the assigned billing tier for each can be viewed at www.FPL.com/LED

(Continued on Sheet No. 8.737)

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.737

(Continued from Sheet No. 8.736)

Maintenance per Fixture (FPL Owned Fixture and Pole)	\$1.72
Maintenance per Fixture for FPL Fixtures on Customer Pole	\$1.20
LED Conversion Recovery	\$0.97

Notes:

The non-fuel energy charge is 2.850¢ per kWh.
Bills rendered based on "Total" charge. Unbundling of charges is not permitted.

Charges for other FPL-owned facilities:

Wood pole used only for the street lighting system	\$4.92
Standard Concrete pole used only for the street lighting system	\$6.74
Round Fiberglass pole used only for the street lighting system	\$7.98
Decorative Tall Fiberglass pole used only for the street lighting system	\$16.81
Decorative Concrete pole used only for the street lighting system	\$13.65
Underground conductors	3.810 ¢ per foot

BILLING

During the initial installation period:

- Facilities in service for 15 days or less will not be billed;
- Facilities in service for 16 days or more will be billed for a full month.

WILLFUL DAMAGE:

Upon the second occurrence of willful damage to any FPL-owned facilities, the Customer will be responsible for the cost incurred for repair or replacement. If the lighting fixture is damaged, based on prior written instructions from the Customer, FPL will:

- If a commercially available and FPL approved device exists, install a protective shield. The Customer shall pay \$280.00 for the shield plus all associated costs. However, if the Customer chooses to have the shield installed before the second occurrence, the Customer shall only pay the cost of the shield; or
- Replace with a like unshielded fixture. For this, and each subsequent occurrence, the Customer shall pay the estimated costs of the replacement fixture; or
- Terminate service to the fixture. In this case, the lighting facilities will be removed from the field and from billing; the customer will pay the lighting facilities charges for the remaining period of the currently active term of service plus the cost to remove the facilities.

Option selection shall be made by the Customer in writing and apply to all fixtures which FPL has installed on the Customer's behalf on the same account. Selection changes may be made by the Customer at any time and will become effective ninety (90) days after written notice is received.

(Continued on Sheet No. 8.738)

FLORIDA POWER & LIGHT COMPANY

Original No. 8.738

(Continued from Sheet No. 8.737)

OTHER CHARGES

Conservation Charge	See Sheet No. 8.030.1
Capacity Payment Charge	See Sheet No. 8.030.1
Environmental Charge	See Sheet No. 8.030.1
Fuel Charge	See Sheet No. 8.030.1
Storm Charge	See Sheet No. 8.040
Franchise Fee	See Sheet No. 8.031
Tax Clause	See Sheet No. 8.031

SPECIAL CONDITIONS:

Customers whose lights are turned off during sea turtle nesting season will receive a credit equal to the fuel charges associated with the fixtures that are turned off.

TERM OF SERVICE:

Initial term of ten (10) years with automatic, successive five (5) year extensions unless terminated in writing by either FPL or the Customer at least ninety (90) days prior to the current term's expiration. Term of service begins upon execution of the LED Lighting Agreement.

RULES AND REGULATIONS:

Service under this schedule is subject to orders of governmental bodies having jurisdiction and to the currently effective "General Rules and Regulations for Electric Service" on file with the Florida Public Service Commission. In case of conflict between any provision of this schedule and said "General Rules and Regulations for Electric Service", the provision of this schedule shall apply.

FLORIDA POWER & LIGHT COMPANY

Original Sheet 9.140

FPL Account Number: _____

FPL Work Request Number: _____

LED LIGHTING AGREEMENT

In accordance with the following terms and conditions, _____ (hereinafter called the Customer), requests on this ___ day of _____, from FLORIDA POWER & LIGHT COMPANY (hereinafter called FPL), a corporation organized and existing under the laws of the State of Florida, the following installation or modification of lighting facilities at (general boundaries) _____, located in _____, Florida.

(a) Installation and/or removal of FPL-owned facilities described as follows:

<u>Poles</u>				
Pole Type	Existing Pole Count (A)	# Installed (B)	# Removed (C)	New Pole Count (A+B-C)
Wood				
Standard Concrete				
Standard Fiberglass				
Decorative Concrete				
Decorative Fiberglass				

<u>Underground Conductor</u>				
Type	Existing Footage (A)	Feet Installed (B)	Feet Removed (C)	New Footage (A+B-C)
Under Pavement		N/A ⁽¹⁾		
Not Under Pavement				

(1) All new conductor installed is in conduit and billed as Not Under Pavement

(Continued on Sheet No. 9.141)

FLORIDA POWER & LIGHT COMPANY

Original Sheet 9.141

Fixtures ⁽²⁾

Type (HPSV,MV,LED)	Manufacturer	Watts	Lumens	Color Temperature (LED Only)	Style	Existing Fixture Count (A)	# Installed (B)	# Removed (C)	New Fixture Count (A+B-C)

(1) Catalog of available fixtures and the assigned billing tier for each can be viewed at www.fpl.com/LED

(Continue on Sheet No. 9.142)

FLORIDA POWER & LIGHT COMPANY

Original Sheet 9.142

(b) Modification to existing facilities other than described above (explain fully):

That, for and in consideration of the covenants set forth herein, the parties hereto covenant and agree as follows:

FPL AGREES:

1. To install or modify the lighting facilities described and identified above (hereinafter called the Lighting System), furnish to the Customer the electric energy necessary for the operation of the Lighting System, and furnish such other services as are specified in this Agreement, all in accordance with the terms of FPL's currently effective lighting rate schedule on file at the Florida Public Service Commission (FPSC) or any successive lighting rate schedule approved by the FPSC.

THE CUSTOMER AGREES:

2. To pay a contribution in the amount of \$_____ prior to FPL's initiating the requested installation or modification.
3. To purchase from FPL all of the electric energy used for the operation of the Lighting System.
4. To be responsible for paying, when due, all bills rendered by FPL pursuant to FPL's currently effective lighting rate schedule on file at the FPSC or any successive lighting rate schedule approved by the FPSC, for facilities and service provided in accordance with this agreement.
5. To provide access, final grading and, when requested, good and sufficient easements, suitable construction drawings showing the location of existing and proposed structures, identification of all non-FPL underground facilities within or near pole or trench locations, and appropriate plats necessary for planning the design and completing the construction of FPL facilities associated with the Lighting System.
6. To perform any clearing, compacting, removal of stumps or other obstructions that conflict with construction, and drainage of rights-of-way or easements required by FPL to accommodate the lighting facilities.

IT IS MUTUALLY AGREED THAT:

7. Modifications to the facilities provided by FPL under this agreement, other than for maintenance, may only be made through the execution of an additional lighting agreement delineating the modifications to be accomplished. Modification of FPL lighting facilities is defined as the following:
 - a. the addition of lighting facilities;
 - b. the removal of lighting facilities; and
 - c. the removal of lighting facilities and the replacement of such facilities with new facilities and/or additional facilities.

Modifications will be subject to the costs identified in FPL's currently effective lighting rate schedule on file at the FPSC, or any successive schedule approved by the FPSC.

8. Lighting facilities will only be installed in locations that meet all applicable clear zone right-of-way setback requirements.
9. FPL will, at the request of the Customer, relocate the lighting facilities covered by this agreement, if provided sufficient right-of-ways or easements to do so and locations requested are consistent with clear zone right-of-way setback requirements. The Customer shall be responsible for the payment of all costs associated with any such Customer- requested relocation of FPL lighting facilities. Payment shall be made by the Customer in advance of any relocation.

(Continue on Sheet No. 9.143)

FLORIDA POWER & LIGHT COMPANY

Original Sheet 9.143

10. FPL may, at any time, substitute for any luminaire installed hereunder another luminaire which shall be of at least equal illuminating capacity and efficiency.
11. This Agreement shall be for a term of ten (10) years from the date of initiation of service, and, except as provided below, shall extend thereafter for further successive periods of five (5) years from the expiration of the initial ten (10) year term or from the expiration of any extension thereof. The date of initiation of service shall be defined as the date the first lights are energized and billing begins, not the date of this Agreement. This Agreement shall be extended automatically beyond the initial the (10) year term or any extension thereof, unless either party shall have given written notice to the other of its desire to terminate this Agreement. The written notice shall be by certified mail and shall be given not less than ninety (90) days before the expiration of the initial ten (10) year term, or any extension thereof.
12. In the event lighting facilities covered by this agreement are removed, either at the request of the Customer or through termination or breach of this Agreement, the Customer shall be responsible for paying to FPL an amount equal to the fixture, pole, and conductor charges for the period remaining on the currently active term of service plus the cost to remove the facilities.
13. Should the Customer fail to pay any bills due and rendered pursuant to this agreement or otherwise fail to perform the obligations contained in this Agreement, said obligations being material and going to the essence of this Agreement, FPL may cease to supply electric energy or service until the Customer has paid the bills due and rendered or has fully cured such other breach of this Agreement. Any failure of FPL to exercise its rights hereunder shall not be a waiver of its rights. It is understood, however, that such discontinuance of the supplying of electric energy or service shall not constitute a breach of this Agreement by FPL, nor shall it relieve the Customer of the obligation to perform any of the terms and conditions of this Agreement.
14. The obligation to furnish or purchase service shall be excused at any time that either party is prevented from complying with this Agreement by strikes, lockouts, fires, riots, acts of God, the public enemy, or by cause or causes not under the control of the party thus prevented from compliance, and FPL shall not have the obligation to furnish service if it is prevented from complying with this Agreement by reason of any partial, temporary or entire shut-down of service which, in the sole opinion of FPL, is reasonably necessary for the purpose of repairing or making more efficient all or any part of its generating or other electrical equipment.
15. This Agreement supersedes all previous Agreements or representations, either written, oral, or otherwise between the Customer and FPL, with respect to the facilities referenced herein and constitutes the entire Agreement between the parties. This Agreement does not create any rights or provide any remedies to third parties or create any additional duty, obligation or undertakings by FPL to third parties.
16. In the event of the sale of the real property upon which the facilities are installed, upon the written consent of FPL, this Agreement may be assigned by the Customer to the Purchaser. No assignment shall relieve the Customer from its obligations hereunder until such obligations have been assumed by the assignee and agreed to by FPL.
17. This Agreement shall inure to the benefit of, and be binding upon the successors and assigns of the Customer and FPL.
18. The lighting facilities shall remain the property of FPL in perpetuity.
19. This Agreement is subject to FPL's Electric Tariff, including, but not limited to, the General Rules and Regulations for Electric Service and the Rules of the FPSC, as they are now written, or as they may be hereafter revised, amended or supplemented. In the event of any conflict between the terms of this Agreement and the provisions of the FPL Electric Tariff or the FPSC Rules, the provisions of the Electric Tariff and FPSC Rules shall control, as they are now written, or as they may be hereafter revised, amended or supplemented.

(Continue on Sheet No. 9.144)

FLORIDA POWER & LIGHT COMPANY

Original Sheet 9.144

IN WITNESS WHEREOF, the parties hereby caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted:

Customer (Print or type name of Organization)

By: _____
Signature (Authorized Representative)

(Print or type name)

Title: _____

FLORIDA POWER & LIGHT COMPANY

By: _____
(Signature)

(Print or type name)

Title: _____

Item 6

State of Florida



Public Service Commission

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

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

DATE: February 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Division of Economics (Johnson, Hudson) *ST PD GS*
Division of Accounting and Finance (Golden, Wilson) *msj*
Office of the General Counsel (Lherisson) *BL matt for KY*

RE: Docket No. 160145-WU – Application for limited revenue proceeding in St. Johns County, by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.

AGENDA: 03/07/17 – Regular Agenda – Proposed Agency Action – Except Issue Nos. 2 and 3 – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Graham

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

RECEIVED-FPSC
2017 FEB 23 AM 11:33
COMMISSION
CLERK

Case Background

Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility (Camachee or utility) is a Class C utility providing service to approximately 100 water customers in St. Johns County. The utility began operations in 1977. Camachee was granted an original certificate to operate a water utility in St. Johns County in 1988, subsequent to the county turning jurisdiction over to the Commission. The county rescinded Commission jurisdiction in 1989. On January 16, 2009, St. Johns County returned jurisdiction to the Commission. The utility applied for a

grandfather certificate on April 13, 2009, and a staff-assisted rate case (SARC) on April 24, 2009. The utility's rates and charges were last approved in a staff-assisted rate case in 2010.¹

On June 7, 2016, Camachee filed its application for a limited proceeding pursuant to Section 367.0822, Florida Statutes (F.S.). A reduction in water usage has led to the utility being unable to achieve its previously approved revenues with the utility's current rates. Unlike a full rate case, Camachee's request consists of only the recovery of the revenue requirement authorized by the Commission in Docket No. 090230-WU, plus the price index increases authorized since that time, rate case expense incurred in this proceeding, and regulatory assessment fees (RAFs). The utility is seeking to recover no new items of expense, investment, or changes to cost of capital. Staff believes that Camachee has met the filing requirements of Rule 25-30.445, Florida Administrative Code (F.A.C.).

A customer meeting was held October 17, 2016, in the service of area of the utility in St. Augustine and twelve customers attended the meeting. The main concerns brought to staff's attention were that the reduction in water usage might have occurred solely because of a lack of yachts in the marina during the recession, as well as the overall amount of the requested increase. In addition, customers provided written comments expressing that the Commission order the utility to file a SARC, so that a full investigation of Camachee's financials and operations can take place. In addition, on January 25, 2017, the Office of Public Counsel (OPC) requested that the utility file for a SARC in lieu of a limited proceeding. By letter dated February 20, 2017, the utility confirmed its interest in maintaining the request for a limited proceeding.

This recommendation addresses the utility's filing for a limited proceeding rate increase and whether the Commission should grant it. The Commission has jurisdiction to consider this matter pursuant to Sections 367.0822 and 367.0816, F.S.

¹Order No. PSC-10-0126-PAA-WU, issued March 3, 2010, in Docket No. 090230-WU, *In re: Application for staff-assisted rate case in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.*

Discussion of Issues

Issue 1: Should the Commission approve the utility's request for a limited proceeding?

Recommendation: The Commission should approve the utility's request for a limited proceeding rate increase. Camachee should be allowed an annual increase of \$38,196 (43.31 percent), resulting in an adjusted revenue requirement of \$126,395. The adjusted revenue requirement is reflected on Schedule No. 1-A. The appropriate monthly water rates are shown on Schedule No. 2. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days of the date of the notice. (Johnson, Golden)

Staff Analysis: Limited proceedings generally address a specific or significant change that would adversely affect the normal operating income of the utility and are usually narrow in scope.² Staff believes that Camachee's case as filed is sufficiently narrow in scope to qualify for a limited proceeding. Staff also believes that Camachee has met all the minimum filing requirements as set forth in Rule 25-30.445, F.A.C. In the past, the Commission has approved limited proceeding rate increases for a utility that experienced a significant reduction in usage.³

Billing Determinants and Test year Revenues

In its application, Camachee stated that the average annual usage from 2009 through 2015 was 7,505,000 gallons, which is considerably less than the 9,142,000 gallons used in the utility's 2009 SARC. Staff reviewed monthly billing determinants for both 2015 and 2016 and found the gallons to be significantly lower than the gallons used in establishing rates in Camachee's 2009 SARC. Staff relied on billing determinants from 2016 to most accurately represent the current usage of Camachee's customer base. The customer demand was 6,632,340 gallons in 2015 and 7,558,533 gallons in 2016. Staff found that both the residential and commercial customers of the utility had a comparable decrease in usage since the utility's last rate case, indicating that the reduction in demand was not associated exclusively with the marina.

The utility's requested percentage increase was based on revenues of \$78,173, which are the 2015 billing determinants annualized with a price index rate adjustment that became effective June of 2016. As mentioned previously, the customer demand increased from 2015 to 2016. Therefore, in order to determine the appropriate percentage increase, staff believes that 2016 billing determinants should be used to determine the test year revenues. As a result, staff annualized revenues for 2016, which resulted in revenues of \$88,199.

²Order No. PSC-13-0647-PAA-WU, issued December 5, 2013, in Docket No. 130155-WU, *In re: Application for limited proceeding increase in rates in Escambia county by Peoples Water Service Company of Florida, Inc.*

³Id.; See also Order No. PSC-16-0297-PAA-GU, issued July 27, 2016, in Docket No. 160033-GU, *In re: Petition for limited proceeding to restructure rates by St. Joe Natural Gas Company, Inc.*

Revenue Requirement

In its application, the utility proposed a revenue requirement of \$130,003, comprised of the \$114,439 revenue requirement that was authorized in the utility's last staff-assisted rate case by Order No. PSC-10-0126-PAA-WU⁴ (2009 SARC), plus an estimated \$15,564 for the total price index and pass through adjustments that the Commission approved for Camachee for 2010 through 2016. In addition, Camachee requested approval to recover the rate case expense and regulatory assessment fees (RAFs) related to the limited proceeding. The utility did not request any other changes to the operating expenses, cost of capital, or rate base established in its 2009 SARC. Consequently, staff used the revenue requirement, operating expenses, cost of capital, and rate base that were approved by the Commission in the 2009 SARC as the starting point for calculating the adjusted revenue requirement for this limited proceeding.

In its January 25, 2017 letter, OPC objected to Camachee's estimated \$15,564 total price index and pass through revenue increase, and proposed that it would be more appropriate to use the actual revenue increases approved by the Commission. Staff notes that the utility's proposal is consistent with the methodology previously used in a similar limited proceeding approved by the Commission.⁵ However, in the instant case, this method results in an overstatement of the utility's price index and pass through revenue increases when compared to the actual approved price index and pass through revenue increases.

The utility's estimate of \$15,564 was calculated by applying a combined percentage increase for the 2010 through 2016 price index and pass through adjustments to the total revenue requirement approved in the utility's 2009 SARC. However, because Camachee's actual annual revenues have been consistently lower than the approved revenue requirement, the actual revenue increases that resulted from the price index and pass through adjustments were also lower than would have resulted if the utility's revenues had more closely matched the revenue requirement authorized in the 2009 SARC. Specifically, Camachee's actual revenues subsequent to the 2009 SARC have only ranged from \$73,586 to \$84,346, representing approximately 64 percent to 74 percent of the \$114,439 authorized revenue requirement. Based on the utility's actual revenues, the combined actual price index and pass through revenue increases that were approved for Camachee from 2010 through 2016 equal \$10,867, which is \$4,697 less than the utility's estimate. Due to the significant difference between the estimated and actual price index and pass through revenue increases, staff agrees with OPC that it would be more appropriate to use the actual revenue increases of \$10,867 in this case. Consequently, staff has increased the utility's 2009 approved operating expenses by a total of \$10,867 to reflect the operating expense increases that were associated with the price index and pass through adjustments approved from 2010 through 2016. The specific adjustment is broken down between a \$10,377 increase to operation and maintenance expenses and the associated \$490 increase to RAFs for a total adjustment of \$10,867.

Also, the utility is required by Rule 25-30.446, F.A.C., to provide notices of the customer meeting and notices of final rates in this case to its customers. For noticing, staff estimated \$93

⁴Order No. PSC-10-0126-PAA-WU, issued March 3, 2010, in Docket No. 090230-WU, *In re: Application for staff-assisted rate case in St. Johns County by Camachee Island Company, Inc. d/b/a Camachee Cove Yacht Harbor Utility.*

⁵Id.

for postage expense, \$67 for printing expense, and \$9 for envelopes. This results in \$169 for the noticing requirement. The utility paid a \$500 limited proceeding filing fee. The utility also provided documentation to support \$5,280 for accounting services related to this filing. Pursuant to Section 367.0816, F.S., rate case expense is amortized over a four-year period.⁶ Based on the above, staff recommends total rate case expense of \$5,949 ($\$169 + \$500 + \$5,280$), which amortized over four years is \$1,487.

In addition, the operating expenses approved in the 2009 SARC included annual amortized rate case expense of \$1,020 to recover the rate case expense associated with the 2009 SARC. That rate case expense became fully amortized in 2014 and the utility's rates were reduced. However, because staff used the operating expenses approved in the 2009 SARC as the starting point in the instant case, an additional adjustment to remove the previously approved 2009 SARC rate case expense from the operating expenses used in staff's calculations is necessary. Therefore, staff decreased regulatory commission expense by \$1,020. Based on the above, staff's total adjustment to reflect the addition of rate case expense for the instant docket and removal of the 2009 SARC rate case expense is an increase of \$467 ($\$1,487 - \$1,020 = \467). Therefore, staff recommends regulatory commission expense of \$467.

The Commission approved RAFs of \$5,065 in Camachee's 2009 SARC. Based on staff's recommended test year revenues of \$88,199, the utility's RAFs should be \$3,969. Therefore, staff decreased RAFs by \$1,096 to reflect the appropriate test year RAFs. As discussed above, staff also increased operating expenses by \$490 to reflect the RAFs associated with Camachee's previously approved price index and pass through revenue increases, resulting in a net decrease to Taxes Other Than Income (TOTI) of \$607. In addition, staff increased RAFs by \$1,719 to reflect RAFs of 4.5 percent of the change in revenues resulting from the limited proceeding increase.

Based on the above, the appropriate revenue requirement for this limited proceeding is \$126,395, which is an annual increase of \$38,196 (43.31 percent) over the test year revenues. The adjusted revenue requirement of \$126,395 will allow the utility the opportunity to recover its expenses as approved in the 2009 SARC, the expense increases approved in the 2010 through 2016 price index and pass through adjustments, rate case expense associated with the instant case, and the associated RAFs. The adjusted operating expenses and revenue requirement are shown on Schedule No. 1-A, and the adjustments are shown on Schedule No. 1-B.

The adjusted revenue requirement was designed to maintain the 9.67 percent overall rate of return that was authorized in the 2009 SARC when compared to the 2009 approved operating expenses, adjusted only as discussed above, and the 2009 approved water rate base. However, Camachee's 2015 Annual Report indicates that the utility has experienced an increase in its operating expenses and a decrease in its rate base since the 2009 SARC.

For comparison purposes, the last column on Schedule No. 1-A shows an estimate of the operating loss and overall rate of return that the utility is more likely to achieve based on its more recent operating expenses and rate base using the adjusted revenue requirement of \$126,395.

⁶Section 367.0816, F.S., was repealed effective July 1, 2016, pursuant to HB 491, but still applies in this case because it was in effect when the application was filed on June 10, 2016.

Again, for comparison purposes only, staff increased the utility's 2015 operation and maintenance expenses of \$101,152 by \$1,487 to reflect the annual rate case expense associated with this limited proceeding for an adjusted operation and maintenance expense of \$102,639. The utility's 2015 operation and maintenance expenses did not include any rate case expense from the 2009 SARC because it became fully amortized in 2014, therefore, the additional adjustment to remove the prior rate case expense was not necessary for this comparison. Staff also increased Camachee's 2015 TOTI by \$1,719 to reflect the additional RAFs associated with the limited proceeding revenue increase. The comparison shows that Camachee would experience an estimated operating loss of \$1,877 and a negative rate of return of 0.59 percent.

Rates

Staff recommends that the percentage increase of 43.31 percent be applied as an across-the-board increase to existing service rates. The private fire protection rates should be one-twelfth of the approved base facility charge pursuant to Rule 25-30.465, F.A.C. The recommended monthly rates are shown on Schedule No. 2.

Conclusion

The Commission should approve the utility's request for a limited proceeding rate increase. Camachee should be allowed an annual increase of \$38,196 (43.31 percent), resulting in an adjusted revenue requirement of \$126,395. The adjusted revenue requirement is reflected on Schedule No. 1-A. The appropriate monthly water rates are shown on Schedule No. 2. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet pursuant to Rule 25-30.475(1), F.A.C. In addition, the approved rates should not be implemented until staff has approved the proposed customer notice and the notice has been received by the customers. The utility should provide proof of the date notice was given within 10 days of the date of the notice.

Issue 2: What is the appropriate amount by which rates should be reduced four years after the published effective date to reflect the removal of the amortized rate case expense as required by Section 367.0816, F.S?

Recommendation: The water rates should be reduced as shown on Schedule No. 2, to remove rate case expense grossed-up for RAFs and amortized over a four-year period. The decrease in rates should become effective immediately following the expiration of the four-year rate case expense recovery period, pursuant to Section 367.0816, F.S. The utility should be required to file revised tariffs and a proposed customer notice setting forth the lower rates and the reason for the reduction no later than one month prior to the actual date of the required rate reduction. If Camachee files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense. (Johnson, Golden)

Staff Analysis: Section 367.0816, F.S., requires that the rates be reduced immediately following the expiration of the four-year period by the amount of the rate case expense previously included in the rates. The reduction will reflect the removal of revenues associated with the amortization of rate case expense, the associated return on working capital, and the gross-up for RAFs which is \$1,576, which will result in the rate decrease shown on Schedule No. 2.

Camachee should be required to file revised tariff sheets no later than one month prior to the actual date of the required rate reduction. The utility also should be required to file a proposed customer notice setting forth the lower rates and the reason for the reduction. If Camachee Cove files this reduction in conjunction with a price index or pass-through rate adjustment, separate data should be filed for the price index and/or pass-through increase or decrease and the reduction in the rates due to the amortized rate case expense.

Issue 3: Should the recommended rates be approved for Camachee on a temporary basis, subject to refund, in the event of a protest filed by a substantially affected person or party?

Recommendation: Yes. The recommended rates should be approved for the utility on a temporary basis, subject to refund, in the event of a protest filed by a substantially affected person or party. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. Prior to implementation of any temporary rates, the utility should provide appropriate security. If the recommended rates are approved on a temporary basis, the rates collected by the utility should be subject to the refund provisions discussed below in the staff analysis. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission Clerk's office no later than the 20th of every month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund. (Golden, Wilson)

Staff Analysis: This recommendation proposes an increase in rates. A timely protest might delay what may be a justified rate increase resulting in an unrecoverable loss of revenue to the utility. Therefore, in the event of a protest filed by a substantially affected person or party, staff recommends that the recommended rates be approved as temporary rates. The utility should file revised tariff sheets and a proposed customer notice to reflect the Commission-approved rates. The approved rates should be effective for service rendered on or after the stamped approval date on the tariff sheet, pursuant to Rule 25-30.475(1), F.A.C. In addition, the temporary rates should not be implemented until staff has approved the proposed notice, and the notice has been received by the customers. The recommended rates collected by the utility should be subject to the refund provisions discussed below.

The utility should be authorized to collect the temporary rates upon staff's approval of an appropriate security for the potential refund and the proposed customer notice. Security should be in the form of a bond or letter of credit in the amount of \$25,569. Alternatively, the utility could establish an escrow agreement with an independent financial institution.

If the utility chooses a bond as security, the bond should contain wording to the effect that it will be terminated only under the following conditions:

1. The Commission approves the rate increase; or,
2. If the Commission denies the increase, the utility shall refund the amount collected that is attributable to the increase.

If the utility chooses a letter of credit as a security, it should contain the following conditions:

1. The letter of credit is irrevocable for the period it is in effect.
2. The letter of credit will be in effect until a final Commission order is rendered, either approving or denying the rate increase.

If security is provided through an escrow agreement, the following conditions should be part of the agreement:

1. The Commission Clerk, or his or her designee, must be a signatory to the escrow agreement.
2. No monies in the escrow account may be withdrawn by the utility without the prior written authorization of the Commission Clerk, or his or her designee.
3. The escrow account shall be an interest bearing account.
4. If a refund to the customers is required, all interest earned by the escrow account shall be distributed to the customers.
5. If a refund to the customers is not required, the interest earned by the escrow account shall revert to the utility.
6. All information on the escrow account shall be available from the holder of the escrow account to a Commission representative at all times.
7. The amount of revenue subject to refund shall be deposited in the escrow account within seven days of receipt.
8. This escrow account is established by the direction of the Florida Public Service Commission for the purpose(s) set forth in its order requiring such account. Pursuant to *Cosentino v. Elson*, 263 So. 2d 253 (Fla. 3d DCA 1972), escrow accounts are not subject to garnishments.
9. The account must specify by whom and on whose behalf such monies were paid.

In no instance should the maintenance and administrative costs associated with the refund be borne by the customers. These costs are the responsibility of, and should be borne by, the utility. Irrespective of the form of security chosen by the utility, an account of all monies received as a result of the rate increase should be maintained by the utility. If a refund is ultimately required, it should be paid with interest calculated pursuant to Rule 25-30.360(4), F.A.C.

The utility should maintain a record of the amount of the bond, and the amount of revenues that are subject to refund. In addition, after the increased rates are in effect, pursuant to Rule 25-30.360(6), F.A.C., the utility should file reports with the Commission Clerk's office no later than the 20th of every month indicating the monthly and total amount of money subject to refund at the end of the preceding month. The report filed should also indicate the status of the security being used to guarantee repayment of any potential refund.

Issue 4: Should this docket be closed?

Recommendation: No. If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. When the tariff and notice actions are complete, this docket may be closed administratively. (Lherisson)

Staff Analysis: If no person whose substantial interests are affected by the proposed agency action files a protest within twenty-one days of the issuance of the order, a consummating order will be issued. The docket should remain open for staff's verification that the revised tariff sheets and customer notice have been filed by the utility and approved by staff. When the tariff and notice actions are complete, this docket may be closed administratively.

CAMACHEE COVE YACHT HARBOR UTILITY TEST YEAR ENDED 12/31/2015 SCHEDULE OF WATER OPERATING INCOME			SCHEDULE NO. 1-A DOCKET NO. 160145-WU			
	APPROVED IN 2009 SARC	STAFF ADJUSTMENTS	STAFF ADJUSTED TEST YEAR	ADJUST. FOR INCREASE	RECOMMENDED REVENUE REQUIREMENT	COMPARED TO ADJUSTED 2015
1. OPERATING REVENUES	<u>\$114,439</u>	<u>(\$26,240)</u>	<u>\$88,199</u>	<u>\$38,196</u> 43.31%	<u>\$126,395</u>	<u>\$126,395</u>
OPERATING EXPENSES:						
2. OPERATION & MAINTENANCE	\$61,400	\$10,845	\$72,245	\$0	\$72,245	\$102,639
3. DEPRECIATION (NET)	12,881	0	12,881	0	12,881	\$17,633
5. TAXES OTHER THAN INCOME	6,096	(607)	5,489	1,719	7,208	\$8,000
6. INCOME TAXES	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$0</u>
7. TOTAL OPERATING EXPENSES	<u>\$80,377</u>	<u>\$10,238</u>	<u>\$90,615</u>	<u>\$1,719</u>	<u>\$92,334</u>	<u>\$128,272</u>
8. OPERATING INCOME/(LOSS)	<u>\$34,062</u>		<u>(\$2,416)</u>		<u>\$34,061</u>	<u>(\$1,877)</u>
9. WATER RATE BASE	<u>\$352,235</u>		<u>\$352,235</u>		<u>\$352,235</u>	<u>\$318,612</u>
10. RATE OF RETURN	<u>9.67%</u>		<u>(0.69%)</u>		<u>9.67%</u>	<u>(0.59%)</u>

CAMACHEE COVE YACHT HARBOR UTILITY		SCHEDULE NO. 1-B
TEST YEAR ENDED 12/31/2015		DOCKET NO. 160145-WU
ADJUSTMENTS TO OPERATING INCOME		
		<u>WATER</u>
OPERATING REVENUES		
To adjust approved revenue requirement to reflect 2016 revenues.		<u>(\$26,240)</u>
OPERATION AND MAINTENANCE EXPENSES		
1. Limited Proceeding Adjustment		
To reflect total 2010-2016 index and pass through O&M expense increases		<u>\$10,377</u>
2. Regulatory Commission Expense (665)		
a. To reflect 4-year amortization of rate case expense (\$5,949/4).		\$1,487
b. To reflect removal of rate case expense from 2009 SARC.		<u>(1,020)</u>
Subtotal		<u>\$467</u>
TOTAL OPERATION & MAINTENANCE ADJUSTMENTS		<u>\$10,845</u>
TAXES OTHER THAN INCOME		
1. To reflect RAF increase associated with 2010-2016 index and pass through increases.		\$490
2. To reflect the appropriate test year RAFs.		<u>(1,096)</u>
Total		<u>(\$607)</u>

CAMACHEE COVE YACHT HARBOR UTILITY				SCHEDULE NO. 2
MONTHLY WATER RATES				DOCKET NO. 160145-WU
	UTILITY CURRENT RATES	UTILITY PROPOSED RATES	STAFF RECOMMENDED RATES	FOUR YEAR RATE REDUCTION
<u>Residential and General Service</u>				
Base Facility Charge by Meter Size				
5/8"X3/4"	\$13.91	\$23.13	\$19.93	\$0.25
3/4"	\$20.84	\$34.66	\$29.90	\$0.37
1"	\$34.75	\$57.79	\$49.83	\$0.62
1-1/2"	\$69.49	\$115.56	\$99.65	\$1.25
2"	\$111.21	\$184.94	\$159.44	\$1.99
3"	\$222.41	\$369.87	\$318.88	\$3.99
4"	\$347.48	\$577.86	\$498.25	\$6.23
6"	\$694.99	\$1,155.77	\$996.50	\$12.46
Flat Rate	\$71.43	\$118.79	\$102.37	\$1.28
Charge per 1,000 gallons - Residential				
0 - 3,000 gallons	\$2.26	\$3.76	\$3.24	\$0.04
3,001 - 6,000 gallons	\$6.75	\$11.23	\$9.67	\$0.12
6,001 - 12,000 gallons	\$10.14	\$16.86	\$14.53	\$0.18
Over 12,000 gallons	\$13.51	\$22.47	\$19.36	\$0.24
Charge per 1,000 gallons - General Service	\$9.04	\$15.03	\$12.96	\$0.16
<u>Typical Residential 5/8" x 3/4" Meter Bill Comparison</u>				
3,000 Gallons	\$20.69	\$34.41	\$29.65	
5,000 Gallons	\$34.19	\$56.87	\$48.99	
8,000 Gallons	\$61.22	\$101.82	\$87.72	

Item 7

State of Florida



Public Service Commission

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

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

DATE: February 23, 2017

TO: Office of Commission Clerk (Stauffer)

FROM: Office of the General Counsel (Taylor, Mapp, Crawford, Daniel, Friedrich, Hudson, Johnson) *ASC KAM WDT*

RE: Docket No. 150071-SU – Application for increase in wastewater rates in Monroe County by K W Resort Utilities Corp. *DR*

AGENDA: 03/07/17 – Regular Agenda – staff request for reconsideration prior to issuance of post-hearing order – Participation limited to Commission and Staff only

COMMISSIONERS ASSIGNED: Brown, Graham, Patronis

PREHEARING OFFICER: Patronis

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

K W Resort Utilities Corporation (KWRU or Utility) is a Class A Utility providing wastewater service to approximately 2,061 customers in Monroe County. Water service is provided by the Florida Keys Aqueduct Authority (FKAA). Rates were last established for this Utility in its 2007 rate case. According to the Utility's 2014 Annual Report, KWRU had operating revenues of \$1,479,307 and operating expenses of \$1,199,672. On July 1, 2015, the Utility filed its application for the rate increase at issue. KWRU requested that the application be processed using the Proposed Agency Action (PAA) procedure. The test year established for final rates was the 13-month average period ended December 31, 2014.

On February 24, 2016, the Office of Public Counsel (OPC) filed a Notice of Intervention in this docket, and Order No. PSC-16-0114-FOF-SU acknowledging intervention was issued on March 18, 2016. Subsequently, by Order No. PSC-16-0123-PAA-SU (PAA Order), issued

March 23, 2016, the Commission approved a two-phased rate designed to recover a wastewater revenue requirement of \$2,238,046 in Phase I and \$2,485,904 in Phase II. On April 13, 2016, OPC and Monroe County (County) timely filed protests of the PAA Order. By letter dated April 18, 2016, KWRU gave notice that it elected to put the Phase I rates approved in the PAA Order into effect during the pendency of the administrative hearing pursuant to Section 367.081(8), Florida Statutes (F.S.).¹

On April 18, 2016, Harbor Shores Condominium Unit Owners Association, Inc. (Harbor Shores) timely filed a cross-petition. On April 21, 2016, KWRU timely filed a cross-protest. On April 26, 2016, the Harbor Shores' representative was granted qualified representative status. A formal evidentiary hearing and service hearing were held November 7-8, 2016, in Key West. The parties filed briefs on December 9, 2016.

On February 7, 2017, the Commission voted to approve new rates and charges for the Utility. Following the Commission's vote, a computational error was discovered within Issue 34, regarding the appropriate miscellaneous service charges that may be charged by the Utility.

This recommendation addresses the calculation of appropriate miscellaneous service charges. The Commission has jurisdiction pursuant to Sections 367.081, F.S.

¹ Pursuant to Ch. 226-2016, Laws of Florida, Section 367.081(8), F.S., was renumbered as subsection (10). However, this statute was in effect when KWRU implemented the PAA rates.

Discussion of Issues

Issue 1: Should the Commission reconsider, on its own motion, its vote on Issue 34 regarding calculation of miscellaneous service charges?

Recommendation: Yes, the Commission, on its own motion, should reconsider a limited portion of its vote on Issue 34 with respect to the calculation of mileage that factors into the Initial Connection Charge Calculation and the Premises Visit Charge Calculation. If the Commission approves staff's recommendation, staff will incorporate this correction into the final order. Staff should be granted the administrative authority to make fall-out calculations.

Staff Analysis:

As a general rule, administrative agencies have inherent or implied power, comparable to that possessed by courts, to rehear or reopen a cause and reconsider its action or determination therein where the proceeding is in essence a judicial one.² This power, however, must be exercised before an appeal from the original order is filed or before such an order has become final by the lapse of time to file a timely notice of appeal.³ An administrative tribunal has the power, upon its own motion or by request, to correct or amend any orders still under its control, provided the parties will not suffer by reason of the correction or amendment.⁴ Since the final order has not yet issued, staff believes the parties will not be prejudiced by this correction, since they will still have an opportunity to request reconsideration or appeal once the final order is issued.

Calculation Error

On February 7, 2017, the Commission voted to approve Issue 34, which pertains to appropriate miscellaneous service charges. Contained within these miscellaneous charges is a charge for transportation expenses. There were inadvertent calculation errors within staff's breakdown of this charge. The transportation cost for the Initial Connection Charge Calculation (Table 1) and Premises Visit Charge Calculation (Table 2) was multiplied by two to represent two trips for each service, when in fact it should have been calculated for only one trip. This resulted in a doubling of this expense such that the original calculated cost of transportation was \$3.36 for Normal Hours Cost and \$6.72 for After Hours Costs, when the correct charges should have been \$1.68 and \$3.36, respectively. This correction results in lower miscellaneous service charges for both initial connections and premise visits. The Normal Reconnection Charge Calculation is still correct, because the calculation properly reflects a round-trip expense on behalf of the Utility. This is because the Normal Reconnection Charge involves two trips. A first trip to the residence is needed to shut off the water, and a second trip is necessary for reconnection. In contrast, the Initial Connection and Premises Visit Charges both involve only a single trip to the residence, thus a one-way expense calculation is all that's required.

² Reich v. Dept. of Health, 868 So. 2d 1275 (Fla. 1st DCA 2004); Smull v. Town of Jupiter, 854 So. 2d 780 (Fla. 4th DCA 2003).

³ Id.

⁴ Boyd v. Southeastern Tel. Co., 105 So. 2d 889 (Fla. 1958).

The tables below show the new figures, with the corrected numbers highlighted.

Table 1
Initial Connection Charge Calculation

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1 hr)	\$22.50	Labor (Administrative) (\$22.50/hr x 1 hr)	\$22.50
Labor (Field) (\$22.50/hr x 1/3 hr)	\$7.50	Labor (Field) (\$33.75/hr x 1/3hr)	\$11.25
Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00	Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00
Benefits & Insurance (23%)	\$10.81	Benefits & Insurance (23%)	\$11.67
Transportation (\$.56/mile x 3 miles-to/from)	\$1.68	Transportation (\$.56/mile x 6 miles-to/from)	\$3.36
Total	\$59.49	Total	\$65.78

Table 2
Premises Visit Charge Calculation

Activity	Normal Hours Cost	Activity	After Hours Cost
Labor (Administrative) (\$22.50/hr x 1/2 hr)	\$11.25	Labor (Administrative) (\$22.50/hr x 1/2 hr)	\$11.25
Labor (Field) (\$22.50/hr x 1/3 hr)	\$7.50	Labor (Field) (\$33.75/hr x 1/3hr)	\$11.25
Labor (Supervisor) (\$68.00/hr x 1/4hr)	\$17.00	Labor (Supervisor) (\$68.00/hr x 1/4 hr)	\$17.00
Benefits & Insurance (23%)	\$8.22	Benefits & Insurance (23%)	\$9.09
Transportation (\$.56/mile x 3 miles-to/from)	\$1.68	Transportation (\$.56/mile x 6 miles-to/from)	\$3.36
Total	\$45.65	Total	\$ 51.95

**Table 3
 Miscellaneous Service Charges**

Charge	Utility's Existing Charges		Utility's Proposed Charges		Staff's Recommended Charges	
	Normal Hours	After Hours	Normal Hours	After Hours	Normal Hours	After Hours
Initial Connection	\$15.00	N/A	\$75.00	\$125.00	\$59.50	\$65.80
Normal Reconnection	\$15.00	N/A	\$75.00	\$125.00	\$65.80	\$76.10
Violation Reconnection	Actual Cost	N/A	\$150.00	\$225.00	Actual Cost	
Premises Visit	\$20.00	\$45.00	\$65.00	\$125.00	\$45.70	\$52.00

Conclusion

Staff recommends that the Commission, on its own motion, reconsider a limited portion of its vote in Issue 34 with respect to the calculation of mileage that factors into the Initial Connection Charge Calculation and the Premises Visit Charge Calculation, and approve the charges as shown in the tables above. If the Commission approves staff's recommendation, staff will incorporate this correction into the final order. Staff should be granted the administrative authority to make fall-out calculations.

Issue 2: Should this docket be closed?

Recommendation: No, pursuant to the Commission's February 7, vote, this docket should remain open for staff's verification that the Utility has completed the recommended refunds, the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and KWRU has notified the Commission in writing that the adjustments for all applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively

Staff Analysis: Pursuant to the Commission's February 7, vote, this docket should remain open for staff's verification that the Utility has completed the recommended refunds, the revised tariff sheets and customer notice have been filed by the Utility and approved by staff, and KWRU has notified the Commission in writing that the adjustments for all applicable NARUC USOA primary accounts have been made. Once these actions are complete, this docket should be closed administratively