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 December 1, 2020

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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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Yglesias de Ayala, ^{CH} Wendel)
Office of the General Counsel (Dziechciarz, Murphy) ^{TLT}

RE: Application for Certificate of Authority to Provide Telecommunications Service

AGENDA: 12/1/2020 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

SPECIAL INSTRUCTIONS: None

Please place the following Applications for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20200225-TX	Branch Communications, LLC	8956
20200229-TX	Uniti National LLC	8957

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entities listed above for payment by January 30.

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Cowdery) *SMC*
Division of Accounting and Finance (Bulecza-Banks, Cicchetti, Fletcher) *ALM*
Office of Consumer Assistance and Outreach (DeMello, Thompson) *CLM*
Division of Economics (Coston, Guffey, Hudson) *JGH*
Division of Engineering (Ramos) *TB*

RE: Docket No. 20200193-PU – Proposed amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, and repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C., concerning notice, public information, and minimum filing requirements for electric, gas, water, and wastewater applications for rate increase.

AGENDA: 12/01/20 – Regular Agenda – Rule Proposal - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

This rulemaking was initiated to update electric, gas, water, and wastewater utility rate case filing rules and the notice and public information rules. Notices of Rule Development for these rules appeared in the September 1, 2020 edition of the Florida Administrative Register, Vol. 46, No. 171.

A staff rule development workshop was held on September 21, 2020. All regulated industries were represented at the workshop. Participating were the Office of Public Counsel, Tampa

Electric Company, Florida City Gas, Florida Power & Light Company, Peoples Gas System, Gulf Power Company, Utilities, Inc. of Florida (UIF), Pluris Wedgefield, Florida Utility Services 1, LLC, and Investor Owned Utilities, representing twenty-two water and wastewater utilities.

This recommendation addresses whether the Commission should propose the amendment of:

- Rule 25-6.043, F.A.C., Investor-Owned Electric Utility Minimum Filing Requirements; Commission Designee;
- Rule 25-7.039, F.A.C., Natural Gas Utility Minimum Filing Requirements, Commission Designee;
- Rule 25-22.0406, F.A.C., Notice and Public Information on General Rate Increase Requests and Petitions for Limited Proceedings by Electric and Gas Utilities;
- Rule 25-22.0407, F.A.C., Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities;
- Rule 25-30.436, F.A.C., General Information and Instructions Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase; and
- Rule 25-30.437, F.A.C., Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase.

This recommendation also addresses whether the Commission should propose the repeal of:

- Rule 25-30.438, F.A.C., Information Required in Application for Rate Increase From Utilities with Related Parties;
- Rule 25-30.4385, F.A.C., Additional Rate Information Required in Application for Rate Increase;
- Rule 25-30.440, F.A.C., Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase; and
- Rule 25-30.443, F.A.C., Minimum Filing Requirements for Class C Water and Wastewater Utilities.

The Commission has jurisdiction pursuant to Sections 120.54, 350.127(2), 366.04, 366.041, 366.05, 366.06, 366.071, 366.076, 367.081, 367.0812, 367.0814, 367.0817, 367.082, 367.083, 367.091, and 367.121, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, F.A.C., and the repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C.?

Recommendation: Yes, the Commission should propose the amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, F.A.C., and the repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C., as set forth in Attachment A of this recommendation. The Commission should also certify Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, F.A.C., as minor violation rules. (Cowdery, Bulecza-Banks, Fletcher, Cicchetti, Coston, Guffey, Hudson, Ramos, DeMello, Thompson)

Staff Analysis: All the draft amended rules have been revised with non-substantive changes to improve clarity. Staff's recommendations on substantive revisions to these rules are discussed below.

Rule 25-6.043, F.A.C., Investor-Owned Electric Utility Minimum Filing Requirements; Commission Designee

Rule 25-6.043(1), F.A.C., requires electric utilities to file 21 copies of rate case filings. E-filing is optional under the Commission Clerk's e-filing guidelines, but the number of paper copies required by rule must still be filed. Prudent and reasonable copying costs resulting from these rule requirements have historically been included in rate case expense and recovered in rates.

Staff has determined that because rate case documents are accessible on-line, the number of paper copies required by rule may be reduced. The draft amendments to Subsection (1) of Rule 25-6.043, F.A.C., reduce the number of paper copies required to be filed to ten. This change lowers costs to electric utilities by reducing filing and copying costs, while at the same time providing the number of hard copies staff has determined is needed for analyzing rate cases.

Draft Subsection (1) requires the Minimum Filing Requirements (MFRs) to also be provided in Microsoft Excel format with formulas intact and unlocked, and may be provided in media such as a USB flash drive, CD, or DVD, but may not be submitted by e-mail. This format allows staff to review formulas and conduct sensitivity analyses on the filed data. In addition, draft Subsection (1) provides that the paper copies must be provided to the Office of Commission Clerk within seven calendar days of the electronic filing. This amendment was made in response to electric investor-owned utility (IOU) comments that ten paper copies of MFRs would require printing of approximately 100,000 pages of paper, which after printing, need to be assembled into sets, reviewed for quality control, boxed up and transported by truck to the Commission. Staff believes that allowing IOUs this additional time to provide paper copies will provide sufficient time to accomplish these tasks and will not interfere with Commission staff's review of the MFRs.

The Commission designee under Subsection (2) of Rule 25-6.043, F.A.C., is the person who determines if MFRs have been met. This person is currently the Deputy Executive Director, Technical. Staff recommends changing the Commission designee to the Director of the division that has been assigned as the office of primary responsibility (OPR) for the rate filing. This

change is administratively efficient since the OPR will be analyzing the application for completeness.

Rule 25-7.039, F.A.C., Natural Gas Utility Minimum Filing Requirements; Commission Designee

Rule 25-7.039, F.A.C., is very similar to Rule 25-6.043, F.A.C., discussed above, and staff's recommended amendments are likewise very similar. Rule 25-7.039(1), F.A.C., requires gas utilities to file 20 copies of rate case filings with the Commission. For the same reasons as explained for Rule 25-6.043, F.A.C., above, staff is recommending that the number of paper copies required be reduced to ten; the paper copies be provided to the Office of Commission Clerk within seven calendar days of the electronic filing; and an Excel version of the MFRs be provided.

Section (1)(c) of Rule 25-7.039, F.A.C., requires that each schedule must be cross-referenced to identify related schedules as either supporting schedules and/or recap schedules. Staff is recommending that this section be amended to add language stating that if a schedule requires certain information, a utility may on that schedule reference a different schedule that provides that same information. This amendment results in utilities not being required to file duplicate information and is consistent with current language in the electric utility MFR rule, Rule 25-6.043(2), F.A.C.

As in current Rule 25-6.043, the Commission designee under Subsection (2) of Rule 25-7.039, F.A.C., is currently the Deputy Executive Director, Technical. For the same administrative efficiency reason explained above, staff recommends changing the Commission designee to the Director of the division that has been assigned as the OPR for the rate filing.

Subsection (3) of Rule 25-7.039, F.A.C., states that the Commission may grant a waiver to rule requirements upon a showing that production of the data would be impractical or impose an excessive economic burden upon the company. Staff recommends that Subsection (3) of Rule 25-7.039, F.A.C., be deleted because Section 120.542, F.S., and the Uniform Rules of Procedure, Chapter 28-104, F.A.C., contain the requirements for a waiver from or variance of an agency rule. Subsection (3) is therefore unnecessary and could lead to confusion as to the appropriate test for requesting and obtaining a rule waiver.

Rule 25-22.0406, F.A.C., Notice and Public Information on General Rate Increase Requests and Petitions for Limited Proceedings by Electric and Gas Utilities

Existing Rule 25-22.0406(2)(c), F.A.C., requires MFRs to be placed at the utility's official headquarters; at a location approved by Commission staff in each municipality in which service hearings were held in the utility's last general rate case; and at a location in each additional city in which service hearings are to be held in the current rate case. A copy of the synopsis must be placed at those same locations as well as the main county library within or most convenient to the service area. In addition, Rule 25-22.0406, F.A.C., requires utilities to mail a copy of the rate petition to the chief executive officer of the governing body of each municipality and county within the service areas included in the rate request.

Utilities incur significant copying costs to produce sufficient copies for placement at these specified physical locations, the costs of which have historically been passed on to customers in

their rates. Further, staff has found that public buildings, such as libraries and community centers, have indicated that they have limited space and prefer not to have the rate case filings in their facilities.

Draft Rule 25-22.0406(2)(a) and (c)2., F.A.C., replaces the requirements for paper copies with the requirement that a gas or electric utility requesting a general rate increase or limited proceeding must establish clearly identifiable links on its website to provide electronic access to the petition, MFRs, and synopsis. The draft rule deletes the requirement that a copy of the petition and MFRs must be mailed to county and municipal executive officers and, instead, requires the utility to provide the link for electronic access to the documents. The effect of these recommended amendments is to save costs incurred in rate cases by eliminating the cost of copying documents and providing them to various physical locations, and, instead, requiring utilities to provide the link for electronic access to the documents.

Rule 25-22.0407, F.A.C., Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities.

Similar to Rule 25-22.0406, F.A.C., for electric and gas utilities, Rule 25-22.0407, F.A.C., requires water and wastewater utilities to place paper copies of the rate petition, MFRs, and synopsis at the utility's official headquarters, business offices in the service area, and main county library or other appropriate location convenient to the service area. In addition, Rule 25-22.0407, F.A.C., requires water and wastewater utilities to mail a copy of the rate petition to the chief executive officer of the governing body of each municipality and county within the service areas included in the rate request.

As with draft Rule 25-22.0406, F.A.C., the rule amendments delete the requirement that a copy of the petition, MFRs, and synopsis must be mailed to county and municipal executive officers. Instead, draft Rule 25-22.0407(2) requires the utility to notify the appropriate government officer that the utility has petitioned for a general rate increase, to clearly identify the Commission-assigned docket number, and to state that a copy of the petition and MFRs can be accessed on the Commission's website. In addition, draft Rule 25-22.0407(3)(a) requires the utility to notify the appropriate governmental officer that the rate case synopsis can be accessed on the Commission's website.

Draft Rule 25-22.0407(3)(b)5., F.A.C., replaces the requirements to place paper copies at physical locations with the requirement that the water or wastewater utility rate case synopsis include a statement that the MFRs can be accessed on the Commission's website. Draft Rule 25-22.0407(4)(b)3., F.A.C., requires the initial customer notice to include a statement that the MFRs, petition, and rate case synopsis are available on the Commission's website. Draft rule paragraph (8)(c)5. requires the customer meeting notice to include the website address where the staff report of its initial analysis of the case is available.

The effect of these recommended amendments is to save costs incurred in rate cases by eliminating the cost of copying documents and providing them to various physical locations. Instead, utilities would be required to provide clear information that these documents are available for review on-line.

Water and Wastewater Utility Applications for Rate Increase

Staff examined six rules containing requirements for filing water and wastewater utility rate increase applications for Class A, B, and C utilities.¹ Staff is recommending that two obsolete rules be repealed and that the requirements of the remaining four rules be updated, clarified, and consolidated into two rules, resulting in the repeal of two additional rules. In addition, staff is recommending changes to two schedules in the Class A, B, and C water and wastewater utility MFR forms as well as changing the word “sewer” to “wastewater” in all three forms. These changes are discussed below.

Rule 25-30.436, F.A.C., General Information and Instructions Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase

For the same reasons discussed above for gas and electric utility rate case filings, staff is recommending that Rule 25-30.436(4), F.A.C., be amended to require e-filing and to reduce the number of copies of a water or wastewater rate case application, testimony and exhibits, and corrections, updates or other changes. The number of copies required would be reduced from 16 or 20 copies, depending on the document identified, to ten paper copies. The draft amendments also require that an electronic copy be served on each party on the date the application is e-filed.

Staff received comments from UIF and Pluris Wedgfield that although reducing the number of MFR paper copies to ten is an improvement, the draft rule still results in a substantial unnecessary expense for copies, binders and tabs, the expense of which is ultimately borne by the customers. Staff believes that ten paper copies of water and wastewater MFRs is necessary for the same reasons as discussed above for electric and gas MFRs. This change lowers costs to water and wastewater utilities by reducing filing and copying costs, while at the same time providing the number of paper copies staff has determined is needed for analyzing rate cases.

In addition, staff is recommending that this rule’s title be changed to reflect that it applies to all water and wastewater utilities, instead of being limited to Class A and B utilities. This is because Rule 25-30.443(1), F.A.C., Minimum Filing Requirements for Class C Water and Wastewater Utilities, specifically states that Class C utilities must file the information required in Rule 25-30.436, F.A.C. Consistent with this change, since Rule 25-30.436, F.A.C., applies to Class C utilities, staff recommends that draft subsections (4), (5)(g) and (7) of Rule 25-30.436, F.A.C., be amended to reference the Commission MFR Form for Class C utilities. These changes allow a Class C utility to refer to one rule instead of two concerning general information required in an application for a rate increase.

The language in draft paragraph (1)(f) is changed from requiring an affidavit of an officer of the utility that the utility will comply with Rule 25-22.0407, F.A.C., to requiring a statement to that effect signed by an officer of the utility. This change is being made because in order to require the signing of an affidavit, which is made under oath, an agency must have specific legislative

¹The rules addressed in this docket do not pertain to water or wastewater staff assisted rate cases, which are governed by other rules. It should also be noted that the last time a Class C utility filed a rate case that was not staff-assisted was in 2006, in Docket 060540-WU, *In re: Application for increase in water rates in Pasco County by Colonial Manor Utility Company*.

authority. Staff is making the recommended change because there is no statute giving the Commission authority to require an affidavit as set out in paragraph (1)(f).

Draft paragraph (5)(h) of Rule 25-30.436, F.A.C., contains the filing requirement concerning land recorded on the utility's books since rate base was last established. Staff recommends that this language be amended for clarity and consistency with identical language found in the water and wastewater certification and transfer rules, Rules 25-30.033(1)(m), 25-30.034(1)(m), 25-30.035(11), 25-30.036(2)(e), and 25-30.037(2)(s), F.A.C.

Draft section (6) of Rule 25-30.436, F.A.C., states that the Commission designee who determines if minimum filing requirements have been met is the Deputy Executive Director, Technical. Just as staff recommended for Rules 25-6.043 and 25-7.039, F.A.C., above, staff recommends that for administrative efficiency, the Commission designee should be changed to the Director of the division that has been assigned as the OPR for the rate filing.

Draft subsection (7) of the rule states that if the utility cannot file a breakdown of rate case expense within 60 days following the final order, it may request an extension for good cause shown. The rule does not state what would constitute good cause. Staff recommends adding clarity to this subsection by requiring the utility to show good cause such as financial hardship, severe illness, or significant weather events such as hurricanes, but that good cause does not include reasons such as management oversight or vacation time. This language is consistent with the good cause requirements for a utility to obtain an extension of time for filing its regulatory assessment fees under Rule 25-30.120, F.A.C., Form PSC/AIT 124 (12/11).

Rule 25-30.437, F.A.C., Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase

Draft Rule 25-30.437, F.A.C., currently applies only to Class A and B water and wastewater utilities. Rule 25-30.443 for Class C utilities contains essentially the same requirements as Rule 25-30.437, F.A.C. Instead of having two rules with the same requirements, staff is recommending that the requirements in Rule 25-30.443 for Class C utilities be merged into Rule 25-30.437, F.A.C., in renumbered Subsections (1), (2), (4), (5), and (6) The result would be that Rule 25-30.437, F.A.C., would apply to Class A, B, and C utilities, instead of having two separate rules containing substantially the same requirements. The effect is administrative efficiency and clarity that the same requirements apply to Class A, B, and C utilities.

Staff recommends that Subsection (1) of Rule 25-30.437, F.A.C., be amended to state that the forms referenced in the rule are available on the Commission's website, instead of by contacting the Director, Division of Accounting and Finance. In addition, rules accessed on-line will contain a direct link to the forms as filed with the Department of State. This amendment results in administrative efficiency.

New draft Subsection (3) of Rule 25-30.437, F.A.C., identifies the engineering information required for Class A, B, and C water and wastewater utilities in applications for rate cases. Currently, Rule 25-30.440, F.A.C., contains additional engineering information required by Class A and B Water and Wastewater utilities in an application for rate increase. Rule 25-30.443, F.A.C., in turn, requires Class C utilities to provide the engineering information required by Rule

25-30.440, F.A.C. To simplify these rule requirements, staff recommends that the information required by Rule 25-30.440 be moved to Rule 25-30.437 and incorporated in new Subsection (3) so that there will be one rule containing the requirements for engineering information required by Class A, B, and C water and wastewater utilities. The result will be that Rule 25-30.440, F.A.C., would be repealed as unnecessary.

New draft Subsection (3) to Rule 25-30.437, F.A.C., retains the current requirement that a utility must provide the Office of Commission Clerk two paper copies of the additional engineering MFRs, with the exception of the detailed map, of which only one copy is required. Staff received comments that two paper copies is excessive and results in unnecessary cost ultimately borne by customers, and that, instead electronic files should be required along with the proposed required Excel file. It was pointed out that in a recent Utilities Inc., Florida rate case, this requirement amounted to over 16,000 pages. However, staff believes the current requirement of two paper copies is reasonable and should be retained due to the detailed nature of the information provided in the additional engineering MFRs. Given the voluminous nature of these filings, multiple staff are usually assigned to analyze the data, and having only one or no paper copies of the documents may hinder staff.

The MFR Forms for Class A, B, and C Water and Wastewater Utilities

The MFR forms for Class A, B, and C water and wastewater utilities are incorporated by reference in Rule 25-30.437, F.A.C. These forms are renumbered in draft Subsection (1) of that rule to follow current Commission form numbering format. The new form numbers would be as follows: Form PSC 1028 for Class A utilities, Form PSC 1029 for Class B utilities, and Form PSC 1030 for Class C utilities. In addition, the term “sewer” in all forms is changed to “wastewater.” Staff is also recommending a substantive change to the form requirements for certain schedules as explained below and shown in Attachment B.

MFR Form Schedule E-14 for Class A and B water and wastewater utilities and MFR Form Schedule E-6 for Class C utilities are the billing analysis schedules. These schedules are amended in draft PSC Forms 1028, 1029, and 1030.² The Schedule E-14 and E-6 billing analysis schedules currently require utilities to provide a billing analysis for each class of service. The schedules also require that if a rate change occurred during the test year, a separate billing analysis must be provided which coincides with each period.

Staff is recommending that Schedules E-14 and E-6 be amended to require a utility to provide the billing analysis for only the residential class, including residential irrigation. This is because, in terms of evaluating rate structures, staff uses the residential billing analysis for purposes of designing tiers for conservation efforts. For all other classes of service staff does not need the level of detail provided in the billing analysis. Staff is also recommending that these schedules be amended to remove the requirement of providing a billing analysis for every rate change occurring during the test year because it is not necessary for staff’s examination of revenues for

² Schedule E-14 in Forms PSC 1028 and 1029 and Schedule E-6 in Form PSC 1030 are identical. Draft Schedule E-14 shown in Attachment B is from Form PSC 1028.

the test year period.³ These changes result in administrative efficiency and reduce the volume of the Schedule E-14 or E-6 filing for the utility.

Schedule E-2 of the MFR Forms for Class A, B, and C water and wastewater utilities is the revenue schedule at present and proposed rates.⁴ Schedule E-2 requires utilities to provide a calculation of revenues at present and proposed rates using the billing analysis for all classes of service. Staff recommends that this language be amended to require use of the billing analysis for only the residential service class and bills and consumption for all other classes of service. This change is consistent with the changes being recommended for Schedules E-14 and E-6, as discussed above.

In addition, the Explanation section on Schedule E-2 provides that if a rate change occurred during the test year, a revenue calculation must be made for each period. For the same reasons that staff is recommending amendments to Schedules E-14 and E-6, revenue calculations for every rate change occurring during the test year are not necessary for staff's examination of revenues for the test year period. These amendments result in administrative efficiency.

Rule 25-30.438, F.A.C., Information Required in Application for Rate Increase From Utilities with Related Parties

Rule 25-30.438, F.A.C., requires water and wastewater utilities to submit copies of the developer's offering statements as filed with the Division of Land Sales, Department of Business Regulation. This rule is obsolete and should be repealed. In 1986, when this rule was adopted, Section 498.037(14)(b), F.S., required developers to file public offering statements with the Division of Land Sales. However, this statute was repealed in 2008, and since that time, developers have not been required by statute to file offering statements with the Division of Land Sales, a division which no longer exists.

Further, staff does not believe that a developer's offering statement is needed in processing a rate application. If the premise of the requirement was to scrutinize related party activity, staff conducts a thorough review of related party transactions by reviewing the rate filing and following-up as necessary with data requests. The Class A and B utilities annual report filed pursuant to Rule 25-30.110(4)(a), F.A.C., includes schedules requiring information on business contract and transactions with affiliates and related parties.⁵ For these reasons, staff recommends that the Commission repeal Rule 25-30.438, F.A.C., as obsolete and unnecessary.

³Staff notes that the Commission has granted variances to the Schedule E-14 requirement of providing a separate billing analysis that coincides with each period of rate change during the test year. The Commission found that the purpose of the MFR requirement was achieved through the billing analysis schedules provided with the MFRs, which would allow staff and parties to examine revenues for the test year period and the additional billing analysis was not necessary for that determination. Order No. PSC-2016-0530-PAA-WS, issued on November 22, 2016, in Docket No. 160101-WS, *In re: Application for increase in water and wastewater rates by Utilities Inc. of Florida*, and Order No. PSC-2020-0211-PAA-WS, issued on June 25, 2020, in Docket No. 20200139-WS, *In re: Application for increase in water and wastewater rates by Utilities, Inc. of Florida*.

⁴ Schedule E-2 is identical in Forms PSC 1028, 1029, and 1030. Draft Schedule E-2 shown in Attachment B is from Form PSC 1028.

⁵ Schedules E-5, E-7, E-8, and E-10.

Rule 25-30.4385, F.A.C., Additional Rate Information Required in Application for Rate Increases

Rule 25-30.4385, F.A.C., states that the utility shall file an original and three copies of all revised tariff sheets for each service classification in which any change is proposed, except those tariff sheets in which the only change is to the service rates. Staff prepares water and wastewater tariff sheets in all water and wastewater rate cases and does not require utilities to file revised tariff sheets. The reason staff does not require these tariff sheets to be filed is because all water and wastewater tariffs are maintained electronically. In order to maintain formatting standards and consistency of tariffs across all utility classes, once the utility notifies the customers of the Commission-approved rates and charges, staff sends stamped, approved tariffs to the utility. For this reason, staff recommends that this rule be repealed as obsolete and unnecessary.

Rule 25-30.440, F.A.C., Additional Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase

For the reasons discussed above, staff recommends that the requirements of this rule be merged into Rule 25-30.437, F.A.C., Financial, Rate and Engineering Information Required of Class A and B Water and Wastewater Utilities in an Application for Rate Increase. For this reason, staff recommends that Rule 25-30.440, F.A.C., be repealed as unnecessary.

Rule 25-30.443, F.A.C., Minimum Filing Requirements for Class C Water and Wastewater Utilities

If staff's recommendations discussed above are approved by the Commission, Rule 25-30.443, F.A.C., should be repealed as unnecessary. Subsection (1) states that Class C utilities must submit a rate application containing the information required by Rules 25-30.436, 25-30.4385, 25-30.440, 25-30.4415, and 25-30.442, F.A.C. Staff has recommended above that Rule 25-30.436, F.A.C., be amended to specifically apply by its terms to Class C utilities; that Rule 25-30.4385, F.A.C., be repealed as obsolete; and that Rule 25-30.440, F.A.C., be merged into 25-30.437, F.A.C., and therefore repealed. As a result of these amendments, there would be no reason for these rules to be referenced in Rule 25-30.443, F.A.C. In addition, Rule 25-30.4415, Additional Information Required in Application for Rate Increase by Utilities Seeking to Recover the Cost of Investment in the Public Interest, and Rule 25-30.442, Duplicate Information, F.A.C., by their terms apply to Class C utilities, and for that reason, do not need to be referenced in Rule 25-30.443, F.A.C. Subsection (1) would therefore be unnecessary.

Also as discussed above, staff recommends that the requirements in Subsections (2) – (5) of Rule 25-30.443, F.A.C., be merged into Rules 25-30.436 and 25-30.437, F.A.C. As a result of staff's suggested amendments, Rule 25-30.443, F.A.C., should be repealed as unnecessary.

Minor Violation Rules Certification

Pursuant to Section 120.695, F.S., the agency head must certify for each rule filed for adoption whether any part of the rule is designated as a rule the violation of which would be a minor violation. Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, 25-30.437, 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C., are currently listed on the Commission's website as rules for which a violation would be minor because violation of the rules would not result in

economic or physical harm to a person or have an adverse effect on the public health, safety, or welfare or create a significant threat of such harm.

If Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C., are repealed as recommended by staff, these rules will be deleted from the Commission's website listing of minor violation rules after the repeals are certified by the Department of State. The amendments to Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, F.A.C., would not change their status as minor violation rules. Thus, staff recommends that the Commission certify Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, F.A.C., as minor violation rules.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b), 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 C to this recommendation.

The SERC concludes that the rule amendments and repeals 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 economic analysis concludes that the rule amendments and repeals 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 rules do not require legislative ratification pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the rule amendments and repeals will not have an adverse impact on small business and will have no impact on small cities or counties. The SERC also concludes that the recommended amendments and repeals will not result in transactional costs to utilities required to comply with the rule, and, instead, will result in cost reductions and administrative efficiencies. 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 amendments to Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, F.A.C., and recommended repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C.

Conclusion

Staff recommends that the Commission propose the amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, F.A.C., and the repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C., as set forth in Attachment A. The Commission should also certify Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, F.A.C., as minor violation rules.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rules should be filed with the Department of State, and the docket should be closed. (Cowdery)

Staff Analysis: If no requests for hearing, information regarding the SERC, proposals for a lower cost regulatory alternative, or JAPC comments are filed, the rules should be filed with the Department of State, and the docket should be closed.

1 **25-6.043 Investor-Owned Electric Utility Petition for Rate Increase ~~Minimum Filing~~**
2 **Requirements; Commission Designee.**

3 (1) General Filing Instructions.

4 (a) The petition under Sections 366.06 and 366.071, F.S., for adjustment of rates and must
5 include or be accompanied by:

6 1. The information required by Commission Form PSC 1026 (12/20) ~~PSC/AFD/011-E~~
7 ~~(2/04)~~, entitled “Minimum Filing Requirements for Investor-Owned Electric Utilities,” which
8 is incorporated into this rule by reference, and is available at [hyperlink]. ~~The form may be~~
9 ~~obtained from the Commission’s Division of Accounting and Finance. This form is also~~
10 available on the Commission’s website, www.floridapsc.com.

11 2. The exact name of the applicant and the address of the applicant’s principal place of
12 business.

13 3. Prepared Copies of prepared direct testimony and exhibits for each witness testifying on
14 behalf of the utility Company. Each witness’s prefiled testimony and exhibits shall be on
15 numbered pages and all exhibits shall be attached to the witness’s testimony.

16 (b) In compiling the required schedules, a utility must ~~company shall~~ follow the policies,
17 procedures and guidelines prescribed by the Commission in relevant rules and in the utility’s
18 ~~company’s~~ last rate case or in a more recent rate case involving a comparable utility. ~~These~~
19 ~~schedules shall be identified appropriately (e.g., Schedule B-1 would be designated Company~~
20 ~~Schedule B-1—Company basis).~~

21 (c) Each schedule must ~~shall~~ be cross-referenced to identify related schedules as either
22 supporting schedules or recap schedules. If a schedule requires certain information, a utility
23 may on that schedule reference a different schedule that provides that same information.

24 (d) The dimensions of each page, regardless of format, must be 8 ½ by 11 inches, and each
25 page must be numbered. Each page of the filing shall be numbered on 8 1/2 × 11 inch paper.

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1 ~~Each witness' prefiled testimony and exhibits shall be on numbered pages and all exhibits~~
2 ~~shall be attached to the proponent's testimony.~~

3 (e) Except for handwritten official company records, all data in the petition, testimony,
4 exhibits and minimum filing requirements must ~~shall~~ be typed.

5 (f) Each schedule must ~~shall~~ indicate the name of the witness responsible for its
6 presentation.

7 (g) All schedules involving investment data must ~~shall~~ be completed on an average
8 investment basis. Unless a specific schedule requests otherwise, average is defined as the
9 average of 13 monthly balances.

10 (h) The petition and information required by Subsection (1) of this rule must be e-filed by
11 the utility ~~Twenty one copies of the filing, consisting of the petition and its supporting~~
12 ~~attachments, testimony, and exhibits, shall be filed~~ with the Office of Commission Clerk. Ten
13 paper copies of the filing, clearly labeled "COPY," and Commission Form PSC 1026 (12/20)
14 in Microsoft Excel format with formulas intact and unlocked, must be provided to the Office
15 of Commission Clerk within seven calendar days of the electronic filing. Excel files may be
16 provided in media such as a USB flash drive, CD, or DVD, but may not be submitted by e-
17 mail.

18 (i) Any proposed ~~Whenever the company proposes any~~ corrections, updates or other
19 changes to the original filing must be e-filed by the utility originally filed data, 21 copies shall
20 ~~be filed~~ with the Office of Commission Clerk.; Ten paper copies of the proposed corrections,
21 updates or other changes, clearly labeled "COPY," and any schedules in Commission Form
22 PSC 1026 (12/20) that have been changed must be provided to the Office of Commission
23 Clerk within seven calendar days of the electronic filing. Any schedules in Commission Form
24 PSC 1026 (12/20) that have been changed must be provided in Microsoft Excel format with
25 formulas intact and unlocked. Excel files may be provided in media such as a USB flash drive,

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1 CD, or DVD, but may not be submitted by e-mail. On the same day as the e-filing, the utility
2 must serve an electronic copy of the filing on each party. ~~with copies also served on all parties~~
3 ~~at the same time.~~

4 (2) The Director of the division that has been assigned primary responsibility for the filing
5 ~~is Commission Designee: Division of Accounting and Finance shall be the designee of the~~
6 Commission designee for purposes of determining whether the utility has met the minimum
7 filing requirements imposed by this rule. ~~In making this determination, the Director shall~~
8 ~~consider whether information that would have been provided in a particular schedule required~~
9 ~~by this rule has been provided to the same degree of detail in another required schedule that~~
10 ~~the utility incorporates by reference.~~

11 *Rulemaking Authority 350.127(2), 366.05(1), (2), 366.06(1), (3) FS. Law Implemented*
12 *366.04(2)(f), 366.06(1), (2), (3), (4), 366.071 FS. History—New 5-27-81, Formerly 25-6.43,*
13 *Amended 7-5-90, 1-31-00, 2-12-04, _____.*

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1 **25-7.039 Natural Gas Utility Petition for Rate Increase ~~Minimum Filing~~**

2 **Requirements; Commission Designee.**

3 (1) General Filing Instructions.

4 (a) The petition under Sections 366.06 and 366.071, F.S., for an adjustment of rates must
5 include or be accompanied by:

6 1. The information required by Commission Form PSC 1027 (12/20) PSC/AFD-10-G
7 ~~(11/89)~~, entitled “Investor Owned Natural Gas Utilities Minimum Filing Requirements,”
8 which is incorporated into this rule by reference, and is available at [hyperlink]. ~~The form~~
9 ~~may be obtained from the Commission’s Division of Accounting and Finance. This form is~~
10 ~~also available on the Commission’s website, www.floridapsc.com.~~

11 2. The exact name of the applicant and the address of the applicant’s principal place of
12 business.

13 3. Prepared Copies of prepared direct testimony and exhibits for each witness testifying on
14 behalf of the utility company. Each witness’s prefiled testimony and exhibits shall be on
15 numbered pages and all exhibits shall be attached to the witness’s testimony.

16 (b) In compiling the required schedules, a utility must company shall follow the policies,
17 procedures and guidelines prescribed by the Commission in relevant rules and in the utility’s
18 company’s last rate case or in a more recent rate case involving a comparable utility. ~~These~~
19 ~~schedules shall be identified appropriately (e.g. Schedule B-1 would be designated Company~~
20 ~~Schedule B-1—Company basis).~~

21 (c) Each schedule must shall be cross-referenced to identify related schedules as either
22 supporting schedules and/or recap schedules. If a schedule requires certain information, a
23 utility may on that schedule reference a different schedule that provides that same information.

24 (d) The dimensions of each page, regardless of format, must be 8 ½ by 11 inches, and each
25 page must be numbered. ~~Each page of the filing shall be numbered on 8 1/2" × 11" inch paper.~~

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1 ~~Each witness' prefiled testimony and exhibits shall be on numbered pages and all exhibits~~
2 ~~shall be attached to the proponent's testimony.~~

3 (e) Except for handwritten official utility company records, all data in the petition,
4 testimony, exhibits and minimum filing requirements must shall be typed.

5 (f) Each schedule must shall indicate the name of the witness responsible for its
6 presentation.

7 (g) All schedules involving investment data must shall be completed on an average
8 investment basis. Unless a specific schedule requests otherwise, average is defined as the
9 average of thirteen (13) monthly balances.

10 (h) ~~The Twenty (20) copies of the filing, consisting of the petition and its supporting~~
11 ~~attachments, testimony, and exhibits, must be e-filed by the utility shall be filed with the~~
12 ~~Office of Commission Clerk. Ten paper copies of the filing, clearly labeled "COPY," and~~
13 ~~Commission Form PSC 1027 (12/20) in Microsoft Excel format with formulas intact and~~
14 ~~unlocked, must be provided to the Office of Commission Clerk within seven calendar days of~~
15 ~~the electronic filing. Excel files may be provided in media such as a USB flash drive, CD, or~~
16 ~~DVD, but may not be submitted by e-mail.~~

17 (i) ~~Any proposed Whenever the company proposes any~~ corrections, updates or other
18 changes to the original filing must by e-filed by the utility originally filed data, twenty (20)
19 copies shall be filed with the Office of Commission Clerk, Ten paper copies of the proposed
20 corrections, updates or other changes, clearly labeled "COPY," and any schedules in
21 Commission Form PSC 1027 (12/20) that have been changed must be provided to the Office
22 of Commission Clerk within seven calendar days of the electronic filing. Any schedules in
23 Commission Form PSC 1027 (12/20) that have been changed must be provided in Microsoft
24 Excel format with formulas intact and unlocked. Excel files may be provided in media such as
25 a USB flash drive, CD, or DVD, but may not be submitted by e-mail. On the same day as the

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1 ~~e-filing, the utility must serve an electronic copy of the filing on each party. with copies also~~
2 ~~served on all parties at the same time.~~

3 (2) The Director of the division that has been assigned the primary responsibility for the
4 filing is Commission Designee. ~~The Deputy Executive Director, Technical shall be the~~
5 ~~designee of the Commission~~ designee for purposes of determining whether the utility has met
6 the minimum filing requirements imposed by this rule.

7 (3) ~~Waiver of MFR Requirements. The Commission may grant a waiver with respect to~~
8 ~~specific data required by this rule upon a showing that production of the data would be~~
9 ~~impractical or impose an excessive economic burden upon the company.~~

10 *Rulemaking Authority 350.127(2), 366.05(1), 366.06 (3) FS. Law Implemented 366.06(3),*
11 *366.071 FS. History—New 5-27-81, Formerly 25-7.39, Amended 11-21-89, _____.*

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

3 (1) The provisions of this rule apply ~~shall be applicable~~ to all requests for general rate
4 increases and to all limited proceedings filed by electric and gas utilities pursuant to Rules 25-
5 6.0431 and 25-7.0391, F.A.C.

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

7 (a) The utility must establish a clearly identifiable link on the utility's website to provide
8 electronic access to the utility's petition and Minimum Filing Requirements (MFRs). The
9 utility must provide this link ~~shall mail a copy of the petition~~ to the chief executive officer of
10 the governing body of each municipality and county within the service area affected.

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

14 ~~(c) Location of Minimum Filing Requirements:~~

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

19 ~~2. Within 15 days after the time schedule has been posted on the Commission's website,~~
20 ~~copies of the MFRs shall be placed in a location approved by Commission staff in each~~
21 ~~additional city in which service hearings are to be held in the current rate case.~~

22 ~~3. In addition to the locations listed above, if the Commission staff determines that the~~
23 ~~locations listed above will not provide adequate access, the Commission staff will require that~~
24 ~~copies of the MFRs be placed at other specified locations.~~

25 ~~4. Copies of the MFRs shall be available for public inspection during the regular business~~
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existing law.

1 ~~hours of the location hosting the MFRs and through a link on the utility's website.~~

2 ~~(c)(d)~~ Rate Case Synopsis.

3 1. Within 15 days after the time schedule for the case has been posted to the Commission's
4 website, the utility must ~~shall~~ prepare and submit to the Commission staff for approval a
5 synopsis of the rate request. The synopsis must ~~shall~~ include:

6 a. A summary of the section of the MFRs showing a comparison of the present and
7 proposed rates for major services;

8 b. A statement of the anticipated major issues involved in the rate case;

9 c. A copy of the executive summary filed with the MFRs;

10 d. A description of the ratemaking process and the time schedule established for the rate
11 case; and

12 e. The website addresses ~~locations~~ at which complete MFRs are available.

13 2. Within 7 days following approval of the synopsis, the utility must establish a clearly
14 identifiable link on its website to provide electronic access to the synopsis and must provide
15 this link ~~copies of the synopsis shall be distributed to the same locations as required for the~~
16 ~~MFRs, to the main county library within or most convenient to the service area, and to the~~
17 chief executive officer of each county and municipality within the service area affected.

18 ~~(d)(e)~~ Within 15 days after the rate case time schedule has been posted on the
19 Commission's website, the utility must ~~shall~~ prepare and submit a customer notice to
20 Commission staff for approval. The customer notice must ~~shall~~ include:

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

23 2. The locations at which copies of the MFRs and synopsis are available, including the link
24 on the utility's website;

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

2 | 4. A comparison of current rates and service charges and the proposed new rates and
3 | service charges;

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

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

10 | 7. A statement that comments regarding service may be made to the Commission's Office
11 | of Consumer Assistance and Outreach at this toll free number: 1(800) 342-3552.

12 | ~~(e)(f)~~ The utility must ~~shall~~ begin sending the notice to customers within 30 days after it
13 | has been approved by Commission Staff.

14 | (3) The following noticing procedures ~~shall~~ apply to a petition for a limited proceeding
15 | filed pursuant to Rules 25-6.0431 and 25-7.0391, F.A.C.:

16 | (a) The utility must ~~shall~~ establish a clearly identifiable link on the utility's website to the
17 | address on the Commission's website that provides electronic access to all documents filed in
18 | the limited proceeding.

19 | (b) Within 15 days after the time schedule for the limited proceeding has been posted to
20 | the Commission's website, the utility must ~~shall~~ prepare and submit a customer notice to the
21 | Commission staff for approval. The customer notice must ~~shall~~ contain:

22 | 1. A statement that the utility has requested a change in rates, a statement of the amount
23 | requested, and the general reason for the request;

24 | 2. A statement of where and when the petition and supporting documentation are available
25 | for public inspection, including the link on the utility's website;

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- 1 3. A comparison of the current and proposed rates;
- 2 4. The utility's address, telephone number, and website address;
- 3 5. The docket number assigned to the petition by the Commission's Office of Commission
- 4 Clerk;
- 5 6. A statement that written comments regarding the proposed changes in rates and charges
- 6 should be addressed to the Office of Commission Clerk, 2540 Shumard Oak Boulevard,
- 7 Tallahassee, Florida 32399-0850, and that such correspondence should include the docket
- 8 number; and
- 9 7. A statement that comments regarding service may be made to the Commission's Office
- 10 of Consumer Assistance and Outreach at this toll free number: 1(800) 342-3552.
- 11 (c) The utility must ~~shall~~ begin sending the notice to customers within 30 days after it has
- 12 been approved by staff.
- 13 (4) All customer notices prepared pursuant to this rule must ~~shall~~ be sent to the customer's
- 14 address of record at the time the notice is issued, in the manner in which the customer
- 15 typically receives the monthly bill, whether electronically or via U.S. mail.
- 16 (5) All customer notices regarding the locations and time of any service hearings or
- 17 customer meetings must ~~shall~~ be sent to the customer no less than 10 days, or more than 45
- 18 days, prior to the first service hearing or customer meeting.
- 19 (6) At least 7 days and not more than 20 days prior to any service hearing or customer
- 20 meeting, the utility must ~~shall~~ have published in a newspaper of general circulation in the area
- 21 in which the hearing or customer meeting is to be held a display advertisement stating the
- 22 date, time, location and purpose of the hearing or customer meeting. The advertisement must
- 23 ~~shall~~ be approved by the Commission staff prior to publication.
- 24 (7) When the Commission issues proposed agency action and a hearing is subsequently
- 25 held, the utility must ~~shall~~ give written notice of the hearing to its customers at least 14 days in
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1 advance of the hearing. This notice must ~~shall~~ be approved by the Commission staff prior to
2 distribution.

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

7 *Rulemaking Authority 350.127(2), 366.05, 366.06(1) FS. Law Implemented 366.03,*
8 *366.041(1), 366.05(1), 366.06(1), 366.076(1) FS. History—New 9-27-83, Formerly 25-22.406,*
9 *Amended 5-27-93, 5-3-99, 10-8-13,_____.*

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1 **25-22.0407 Notice of and Public Information for General Rate Increase Requests by**
2 **Water and Wastewater Utilities.**

3 (1) This rule applies to all requests for general rate increases made by water and
4 wastewater utilities.

5 (2) Upon filing a petition for a general rate increase, the utility must notify ~~shall mail a~~
6 ~~copy of the petition to the~~ chief executive officer of the governing body of each municipality
7 and county within the service areas included in the rate request that the utility has petitioned
8 for a general rate increase and must clearly identify the Commission-assigned docket number.

9 The notification must ~~Each copy of the petition shall~~ be accompanied by a statement that a
10 copy of the petition and Minimum Filing Requirements (MFRs) ~~when accepted by the~~
11 ~~Commission~~ can be accessed on the Commission's website ~~obtained from the petitioner upon~~
12 request.

13 ~~(3) Within 30 days after the official date of filing established by the Commission, the~~
14 ~~utility shall place a copy of the petition and the MFRs at its official headquarters and at any~~
15 ~~business offices it has in the service areas included in the rate request. Such copies shall be~~
16 ~~have a business office in a service area included in its rate request, the utility shall place a~~
17 ~~copy of the petition and the MFRs at the main county library, the local community center or~~
18 ~~other appropriate location which is within or most convenient to the service area and which is~~
19 ~~willing to accept and provide public access to the copies. If the Commission determines that~~
20 ~~these locations will not provide adequate access, the Commission will require that copies of~~
21 ~~the petition and MFRs be placed at other specified locations.~~

22 ~~(4)(a) Within 30 days after the official date of filing established by the Commission, the~~
23 ~~utility shall place a copy of its rate case synopsis at all locations where copies of the petition~~
24 ~~and MFRs were placed.~~

25 (3)(a)(b) Within 30 days after the official date of filing established by the Commission, the
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1 utility ~~must notify shall mail a copy of its rate case synopsis to~~ the chief executive officer of
2 the governing body of each municipality and county within the service areas included in the
3 rate request that the utility's rate case synopsis can be accessed on the Commission's website.

4 ~~(b)(e)~~ The utility's rate case synopsis must ~~shall~~ be approved by the Commission staff
5 prior to distribution and must ~~shall~~ include the following:

6 1. A summary of the section of the MFRs showing a comparison of the present and
7 proposed rates and charges:

8 2. A statement of the general reasons for the rate request,

9 3. A statement of any anticipated major issues involved in the rate case,

10 4. A description of the ratemaking process and the time schedule established for the rate
11 case; and,

12 5. A statement that the MFRs can be accessed on the Commission's website. ~~The locations~~
13 ~~where complete MFRs are available.~~

14 ~~(4)(5)~~(a) Within 50 days after the official date of filing established by the Commission, the
15 utility must ~~shall~~ provide, in writing, an initial customer notice to all customers within the
16 service areas included in the rate request and to all persons in the same service areas who have
17 filed a written request for service or who have been provided a written estimate for service
18 within the 12 calendar months prior to the month the petition is filed.

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

21 1. The date the notice was issued,

22 2. A statement that the utility has filed a rate request with the Commission and a statement
23 of the general reasons for the request,

24 3. A statement ~~that of the locations where copies of the MFRs, petition, and rate case~~
25 synopsis are available on the Commission's website for public inspection and the hours and

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existing law.

1 ~~days when inspection may be made,~~

2 4. The time schedule established for the case, including the dates, times, and locations of
3 any hearings scheduled,

4 5. A comparison of current rates and charges and the proposed new rates and charges,

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

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

10 8. A statement that complaints regarding service may be made to the Commission's Office
11 of Consumer Assistance and Outreach at the following toll-free number: 1(800)342-3552; and,

12 9. If the utility has not requested a change in its service availability charges as part of its
13 rate request, a statement that the Commission will be reviewing the utility's service
14 availability charges in the pending rate case and that the Commission may adjust those
15 charges.

16 10. The docket number assigned by the Commission's Office of Commission Clerk.

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

19 ~~(5)(6)~~(a) No less than 14 days and no more than 30 days prior to the date of each service
20 hearing, in those cases where the Commission has scheduled a service hearing, the utility must
21 ~~shall~~ provide written notice of the date, time, location, and purpose of the service hearing to all
22 customers within service areas designated by the prehearing officer or the Commission staff.
23 The notice must ~~shall~~ be approved by the Commission staff prior to distribution. The notice
24 must ~~shall~~ be mailed to the out-of-town address of all customers who have provided the utility
25 with an out-of-town address.

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1 (b) No less than 14 days and no more than 30 days prior to the date of the hearing, in all
2 cases, including those in which the Commission has scheduled a service hearing, the utility
3 ~~must shall~~ provide written notice of the date, time, location, and purpose of the hearing to all
4 customers within the service areas included in the rate request. The notice ~~must shall~~ be
5 approved by Commission staff prior to distribution. The notice ~~must shall~~ be mailed to the
6 out-of-town address of all customers who have provided the utility with an out-of-town
7 address.

8 ~~(6)(7)~~ No less than 14 days and no more than 30 days prior to the date of each hearing held
9 in or near a utility service area included in the rate request, the utility ~~must shall~~ have
10 published in a newspaper of general circulation in the area in which such hearing is to be held
11 a display advertisement stating the date, time, location, and purpose of the hearing. The notice
12 ~~must shall~~ be approved by Commission staff prior to publication.

13 ~~(7)(a)(8)~~ When a utility files ~~for~~ a petition for a general rate increase and requests that its
14 case be processed as proposed agency action in accordance with Section 367.081(10), F.S., the
15 utility ~~must shall~~ comply with the requirements of subsections (2), (3), and (4) ~~and (5)~~, of this
16 rule.

17 ~~(b)(a)~~ No less than 14 days and no more than 30 days prior to the date of a customer
18 meeting conducted by the Commission staff, the utility ~~must shall~~ provide written notice of the
19 date, time, location, and purpose of the customer meeting to all customers within service areas
20 designated by the Commission staff. The notice ~~must shall~~ be approved by Commission staff
21 prior to distribution. The notice ~~must shall~~ be mailed to the out-of-town address of all
22 customers who have provided the utility with an out-of-town address.

23 ~~(c)(b)~~ If the proposed agency action order issued in the case is protested and any hearings
24 are subsequently held, the utility ~~must shall~~ give notice in accordance with subsections (5) and
25 (6) and (7), above.

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1 ~~(8)(a)(9)~~ When a utility applies for a staff-assisted rate case in accordance with Section
2 367.0814, F.S., and Rule 25-30.455, F.A.C., and staff-assistance is granted, the requirements
3 of subsections (2), (3), and (4) ~~and (5)~~, of this rule, do ~~shall~~ not apply.

4 ~~(a) Upon receipt of the staff reports, the utility shall place two copies of its application for~~
5 ~~staff assistance and the staff reports at any business offices it has in its service area. Such~~
6 ~~copies shall be available for public inspection during the utility's regular business hours. If the~~
7 ~~utility does not have a business office in its service area, the utility shall place two copies of its~~
8 ~~application and the staff reports at the main county library, the local community center or~~
9 ~~other appropriate location that is within or most convenient to the service area and that is~~
10 ~~willing to accept and provide public access to the copies.~~

11 (b) No less than 14 days and no more than 30 days prior to the date of a customer meeting
12 conducted by the Commission staff, the utility must ~~shall~~ provide, in writing, a customer
13 meeting notice to all customers within its service area and to all persons in the same service
14 areas who have filed a written request for service or who have been provided a written
15 estimate for service within the 12 calendar months prior to the month the petition is filed.

16 (c) The customer meeting notice must ~~shall~~ be approved by the Commission staff prior to
17 distribution and must ~~shall~~ include the following:

- 18 1. The date the notice was issued.
- 19 2. The time, date, location, and purpose of the customer meeting.
- 20 3. A statement that the utility has applied for a staff-assisted rate case and the general
21 reasons for doing so.
- 22 4. A statement that the Commission staff has prepared a staff report of its initial analysis of
23 the case.

24 5.4. The website address where the staff report is available. ~~A statement of the location~~
25 ~~where copies of the application and the staff reports are available for public inspection and the~~
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1 ~~times during which inspection may be made.~~

2 ~~6.5.~~ A comparison of current rates and charges and the proposed new rates and charges.

3 ~~7.6.~~ The utility's address, telephone number, and business hours.

4 ~~8.7.~~ A statement that written comments regarding utility service or the proposed rates and
5 charges should be addressed to the Office of Commission Clerk, 2540 Shumard Oak
6 Boulevard, Tallahassee, Florida 32399-0850, and that such comments should identify the
7 docket number assigned to the proceeding.

8 ~~9.8.~~ A statement that complaints regarding service may be made to the Commission's
9 Office of Consumer Assistance and Outreach at the following toll-free number: 1(800)342-
10 3552.

11 ~~10.9.~~ A statement that the Commission will be reviewing the utility's service availability
12 charges in the pending case and that the Commission may adjust those charges.

13 ~~11.10.~~ The docket number assigned by the Commission's Office of Commission Clerk.

14 (d) The customer meeting notice must ~~shall~~ be mailed to the out-of-town address of all
15 customers who have provided the utility with an out-of-town address.

16 (e) If the proposed agency action order issued in the case is protested and any hearings are
17 subsequently held, the utility must ~~shall~~ give notice in accordance with subsections (5) and (6)
18 ~~and (7)~~, above.

19 ~~(9)(10)~~ After the Commission issues an order granting or denying a rate change, the utility
20 must ~~shall~~ notify its customers of the order and any revised rates. The customer notification
21 must ~~shall~~ be approved by Commission staff and be distributed no later than with the first bill
22 containing any revised rates.

23 *Rulemaking Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 120.569, 120.57,*
24 *367.081(2)(a), 367.0814(1), 367.0817, 367.091, 367.121(1)(a) FS. History—New 5-27-93,*
25 *Amended 5-3-99,_____.*

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1 **25-30.436 General Information and Instructions Required of ~~Class A and B~~ Water**
2 **and Wastewater Utilities in an Application for Rate Increase.**

3 (1) Each applicant for a rate increase must ~~shall~~ provide the following general information
4 to the Commission:

5 (a) The name of the applicant as it appears on the applicant's certificate and the address of
6 the applicant's principal place of business.

7 (b) The type of business organization under which the applicant's operations are
8 conducted; if the applicant is a corporation, the date of incorporation; the names and addresses
9 of all persons who own 5 percent or more of the applicant's stock or the names and addresses
10 of the owners of the business.

11 (c) The number of the Commission order, if any, which previously considered the
12 applicant's rates for the system(s) involved.

13 (d) The address within the service area where the application is available for customer
14 inspection during the time the rate application is pending.

15 (e) Where the utility requests rates which generate less than a fair rate of return, it must
16 provide a statement of assurance that its quality of service will not suffer.

17 (f) A statement ~~An affidavit~~ signed by an officer of the utility that states that the utility will
18 comply with Rule 25-22.0407, F.A.C.

19 (g) A statement whether the applicant requests to have the case processed using the
20 proposed agency action procedure outlined in Section 367.081(10) ~~367.081(8)~~, F.S.

21 (2) The applicant's petition for rate relief will not be deemed filed until the appropriate
22 filing fee has been paid and all minimum filing requirements set forth in this rule and in Rule
23 25-30.437, F.A.C., have been met, including filing of the applicant's prepared direct testimony
24 unless the applicant has filed its petition pursuant to Section 367.081(10) ~~367.081(8)~~, F.S. At a
25 minimum, the direct testimony shall explain why the rate increase is necessary and address
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1 those areas anticipated at the time of filing to be at issue.

2 (3) The applicant must ~~shall~~ state any known deviation from the policies, procedures and
3 guidelines prescribed by the Commission in relevant rules or in the company's last rate case.

4 (4) The rate case application and information required by this rule must be e-filed by the
5 utility with the Office of Commission Clerk. Within seven calendar days after the electronic
6 filing, the utility must provide to the Office of Commission Clerk ten paper copies of the
7 filing, clearly labeled "COPY," and, as applicable, Commission Form PSC 1028 (12/20) for a
8 Class A utility, Form PSC 1029 (12/20) for a Class B utility, or Commission Form PSC 1030
9 (12/20) for a Class C utility, which are incorporated by reference in Rule 25-30.437, F.A.C.
10 For Class A and B utilities, only two copies of Schedule E-14, entitled Billing Analysis
11 Schedules, are required. For Class C utilities, only two copies of Schedule E-6, entitled Billing
12 Analysis Schedules, are required. The applicable Commission Form must be provided in
13 Microsoft Excel format with formulas intact and unlocked. Excel files may be provided in
14 media such as a USB flash drive, CD, or DVD, but may not be submitted by e-mail.

15 ~~(5)~~(4) In the rate case application:

16 (a) Each schedule must ~~shall~~ be cross-referenced to identify related schedules as either
17 supporting schedules or recap schedules.

18 (b) Each page of the filing must ~~shall~~ be consecutively numbered on 8 1/2 x 11-inch paper.

19 (c) Except for handwritten official company records, all data in the petition, exhibits and
20 minimum filing requirements must ~~shall~~ be typed.

21 ~~(d) Sixteen copies shall be filed with the Commission's Office of Commission Clerk,~~
22 ~~except as specifically identified in paragraph (4)(h) below or in Rule 25-30.437, 25-30.4385 or~~
23 ~~25-30.440, F.A.C.~~

24 ~~(d)(e) Any proposed~~ Whenever the applicant proposes any corrections, updates or other
25 changes to the originally filed data must be e-filed by the utility, ~~20 copies shall be filed with~~
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1 the Office of Commission Clerk, Within seven calendar days after the electronic filing, the
2 utility must provide to the Office of Commission Clerk ten paper copies of the filing, clearly
3 labeled "COPY." Any schedules that have been changed must be provided in Microsoft Excel
4 format with formulas intact and unlocked. Excel files may be provided in media such as a
5 USB flash drive, CD, or DVD, but may not be submitted by e-mail. On the same day as the e-
6 filing, the utility must serve an electronic copy of the filing on each party. ~~with copies also~~
7 ~~served on all parties of record at the same time.~~

8 ~~(e)(f)~~ If the capital structure contains zero or negative equity, a return on equity must ~~shall~~
9 be requested, which shall be up to the maximum of the return of the current equity leverage
10 formula established by order of this Commission pursuant to Section 367.081(4), F.S.

11 ~~(f)(g)~~ The provisions of Rule 25-30.433, F.A.C., must ~~shall~~ be followed in preparing the
12 utility's application.

13 ~~(g)(h)~~ Any system that has costs allocated or charged to it from a parent, affiliate or related
14 party, in addition to those costs reported on Schedule B-12 of Commission Form PSC 1028
15 ~~(12/20) PSC/AFD 19 W~~ for a Class A utility, ~~or PSC 1029 (12/20) PSC/AFD 20 W~~ for a
16 Class B utility, or PSC 1030 (12/20) for a Class C utility, which are ~~(incorporated by reference~~
17 in Rule 25-30.437, F.A.C.,) must e-file ~~shall file three copies of~~ additional schedules that
18 show the following information:

19 1. The total costs being allocated or charged prior to any allocation or charging as well as
20 the name of the entity from which the costs are being allocated or charged and its relationship
21 to the utility.

22 2. For costs allocated or charged to the utility in excess of one percent of test year
23 revenues:

24 a. A detailed description and itemization; and

25 b. The amount of each itemized cost.

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- 1 3. The allocation or direct charging method used and the bases for using that method.
 - 2 4. The workpapers used to develop the allocation method, including but not limited to the
3 numerator and denominator of each allocation factor.
 - 4 5. The workpapers used to develop, where applicable, the basis for the direct charging
5 method.
 - 6 6. An organizational chart of the relationship between the utility and its parent and
7 affiliated companies and the relationship of any related parties.
 - 8 7. A copy of any contracts or agreements between the utility and its parent or affiliated
9 companies for services rendered between or among them.
- 10 (h)(i) For any land recorded on the utility's books since rate base was last established, the
11 utility shall file documentation of the utility's right to access and continue use of the land upon
12 which the utility treatment facilities are or will be located. Documentation of continued use
13 must be in the form of a recorded warranty deed, recorded quit claim deed accompanied by
14 title insurance, recorded lease such as a 99-year lease, or recorded easement. The applicant
15 may submit an unrecorded copy of the instrument granting the utility's right to access and
16 continued use of the land upon which the utility treatment facilities are or will be located,
17 provided the applicant files a recorded copy within the time required in the order granting a
18 rate increase. ~~copies of the documents that demonstrate that the utility owns the land upon~~
19 ~~which the utility treatment facilities are located, or that provides for the continued use of the~~
20 ~~land, such as a 99 year lease. The Commission may consider a written easement or other cost-~~
21 ~~effective alternative.~~
- 22 (6)(5) The Director of the division that has been assigned the primary responsibility for the
23 filing is Commission Designee. ~~The Deputy Executive Director, Technical shall be the~~
24 designee of the Commission for purposes of determining whether the utility applicant has met
25 the minimum filing requirements imposed by this rule.

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1 ~~(7)(6)~~ Within 60 days after the issuance of a final order entered in response to an
2 application for increased rates, or, if applicable, within 60 days after the issuance of an order
3 entered in response to a motion for reconsideration of the final order, each utility must shall
4 submit a breakdown of actual rate case expense incurred, in total, in a manner consistent with
5 Schedule No. B-10 of Commission Form PSC 1028 (12/20) for Class A utilities, Form PSC
6 1029 (12/20) for Class B utilities, and Schedule B-7 of Commission Form PSC 1030 (12/20)
7 for Class C utilities, which are incorporated by reference (PSC/AFD Form 19-W or 20-W,
8 ~~whichever is applicable, as described in Rule 25-30.437, F.A.C.)~~. If the deadline prescribed
9 above cannot be met, a utility may request an extension from shall be granted by the Director
10 of the Division of Accounting and Finance for good cause shown, such as financial hardship,
11 severe illness, or significant weather events such as hurricanes, but good cause does not
12 include reasons such as management oversight or vacation time.

13 *Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.083, 367.121*
14 *FS. History—New 11-10-86, Amended 6-25-90, 11-30-93, 1-31-00,_____.*

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1 **25-30.437 Financial, Rate, and Engineering Minimum Filing Requirements**

2 **Information Required ~~for~~ of Class A and B Water and Wastewater Utilities in an**
3 **Application for Rate Increase.**

4 (1) Each ~~Class A or B~~ utility applying for a rate increase must ~~shall~~ provide the
5 information required by Commission Form PSC 1028 (12/20) ~~PSC/AFD 19-W (11/93)~~,
6 entitled “Class A Water and/or Wastewater Utilities Financial, Rate and Engineering
7 Minimum Filing Requirements₂”, ~~or~~ PSC 1029 (12/20) ~~PSC/AFD 20-W (11/93)~~, entitled
8 “Class B Water and/or Wastewater Utilities Financial, Rate and Engineering Minimum Filing
9 Requirements₂”, ~~or~~ PSC 1030 (12/20), entitled “Class C Water and/or Wastewater Utilities
10 Financial, Rate and Engineering Minimum Filing Requirements,” whichever is applicable.

11 Commission Form PSC 1028 (12/20) is available at [hyperlink]; Commission Form PSC 1029
12 (12/20) is available at [hyperlink]; and Commission Form PSC 1030 (12/20) is available at
13 [hyperlink]. These forms are incorporated into this rule by reference and are available on ~~may~~
14 ~~be obtained from~~ the Commission’s website at www.floridapsc.com. ~~Director, Division of~~
15 ~~Accounting and Finance, Florida Public Service Commission, 2540 Shumard Oak Boulevard,~~
16 ~~Tallahassee, Florida 32399-0850.~~

17 (2) In compiling the required schedules, additional instructions are set forth below:

18 ~~(a)(1)~~ Each section of this form must ~~shall~~ be indexed and tabbed, including a table of
19 contents listing the page numbers of each schedule.

20 ~~(b)(2)~~ If information requested in the form described above is not applicable to the
21 applicant, so state and provide an explanation on the specific schedule.

22 ~~(c)(3)~~ If a projected test year is used, provide a complete set of Commission Form PSC
23 1028 (12/20) ~~PSC/AFD 19-W~~ (for Class A utilities), ~~or~~ PSC 1029 (12/20) ~~PSC/AFD 20-W~~
24 (for Class B utilities), or PSC 1030 (12/20) for Class C utilities (as described above), which
25 require a designation of historical or projected information. Such schedules must ~~shall~~ be
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1 submitted for the historical base year, and any year subsequent to the base year and prior to
2 the projected test year, in addition to the projected test year. If no designation is shown on a
3 schedule, submit that schedule for the test year only. In lieu of providing separate pages for
4 the above required schedules, the information required can be combined on the same page by
5 adding additional columns. In the rate base schedules, Section A, the beginning and end of
6 year balances must shall be shown. For any intermediate period or year, only the year-end
7 balance must shall be shown. A schedule must shall also be included which describes in detail
8 all methods and bases of projection, explaining the justification for each method or basis
9 employed. If an historical test year is used, Schedule E-13 is not required.

10 ~~(4) Only two copies of Schedule E-14, entitled Billing Analysis Schedules, be filed with~~
11 ~~the application. Each copy shall be submitted in a separate binder from the other required~~
12 ~~information.~~

13 (d)(5) If a petition for interim rates is filed, a utility must shall demonstrate that it is
14 earning outside the range of reasonableness on rate of return calculated in accordance with
15 Section 367.082(5), F.S. To demonstrate this ~~In doing such~~, the utility must shall submit
16 schedules of rate base, cost of capital and net operating income on an historical basis, with
17 schedules of all adjustments thereto, consistent with Commission Form PSC 1028 (12/20)
18 ~~PSC/AFD-19-W (for a Class A utility), or PSC 1029 (12/20) PSC/AFD-20-W (for a Class B~~
19 ~~utility), or PSC 1030 (12/20) for a Class C utility (described above).~~

20 (3) Each applicant for a rate increase must e-file with the Office of Commission Clerk the
21 additional engineering minimum filing requirements (MFRs), identified in paragraphs (a) – (k)
22 below. Within seven calendar days after e-filing the additional engineering MFRs, the utility
23 must provide to the Office of Commission Clerk two paper copies of the additional
24 engineering MFRs clearly labeled “COPY,” with the exception of the detailed map required
25 by paragraph (a), of which only one copy is required.

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- 1 (a) A detailed map showing:
2 1. The location and size of the applicant's distribution and collection lines as well as its
3 plant sites, and
4 2. The location and respective classification of the applicant's customers.
5 (b) A list of chemicals used for water and wastewater treatment, by type, showing the
6 dollar amount and quantity purchased, the unit prices paid and the dosage rates utilized.
7 (c) The most recent chemical analyses for each water system conducted by a certified
8 laboratory covering the inorganic, organic turbidity, microbiological, radionuclide, secondary
9 and unregulated contaminants specified in Chapter 62-550, F.A.C.
10 (d) All water and wastewater plant operating reports for the test year and the year
11 preceding the test year.
12 (e) The most recent sanitary survey for each water plant and inspection report for each
13 wastewater plant conducted by the health department or the Department of Environmental
14 Protection (DEP).
15 (f) All health department and DEP construction and operating permits.
16 (g) Any Notices of Violation, Consent Orders, Letters of Notice, or Warning Notices from
17 the health department or DEP in the previous five years.
18 (h) A list of all field employees, their duties, responsibilities, and certificates held, and an
19 explanation of each employee's salary allocation method to the utility's capital or expense
20 accounts.
21 (i) A list, by serial number and description, of all vehicles owned or leased by the utility
22 showing the original cost or annual lease expense, who the vehicle is assigned to, and the
23 method of allocation to the utility.
24 (j) A list, by customer, of all complaints received during the test year, with an explanation
25 of how each complaint was resolved.

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1 (k) A copy of all customer complaints that the utility has received regarding DEP
2 secondary water quality standards during the past five years.
3 (4) If a utility is requesting uniform rates for systems that are not already combined in a
4 uniform rate, the information required by this rule must be submitted on a separate basis for
5 each system that has not already been combined in a uniform rate. For those systems already
6 combined in a uniform rate, the utility must ~~should~~ submit the required information as a single
7 system. At a minimum, the following schedules of Form PSC 1030 (12/20), described above,
8 must be filed on a combined basis for all systems included in the filing: A-1, A-2, A-3, A-16,
9 B-1, B-2, B-3, B-4, B-5, B-10, B-11, B-12, plus all "C," "D" and "E" schedules (no "F"
10 schedules are required).

11 (5)(6) In proposing rates, ~~each~~ the utility ~~must~~ ~~shall~~ use the base facility and usage charge
12 rate structure, unless an alternative rate structure is adequately supported by the applicant. The
13 base facility charge incorporates fixed expenses of the utility and is a flat monthly charge.
14 This charge is applicable as long as a person is a customer of the utility, regardless of whether
15 there is any usage. The usage charge incorporates variable utility expenses and is billed on a
16 per 1,000 gallon or 100 cubic feet basis in addition to the base facility charge. The rates are
17 first established with the 5/8" x 3/4" meter as the foundation. For meter sizes larger than 5/8",
18 the base facility charge shall be based on the usage characteristics.

19 *Rulemaking Authority 350.127(2), 367.0812(5), 367.121 FS. Law Implemented 367.081,*
20 *367.0812, 367.082 FS. History—New 6-10-75, Amended 10-16-77, 3-26-81, Formerly 25-*
21 *10.176, Amended 11-10-86, 6-25-90, 11-30-93, _____.*

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1 **25-30.438 Information Required in Application for Rate Increase From Utilities with**

2 **Related Parties.**

3 ~~If the system for which a rate increase is sought has a “related party” which is a land~~
4 ~~developing company, the applicant shall, for the system(s) concerned, submit copies of the~~
5 ~~developer’s offering statements as filed with the Division of Land Sales, Department of~~
6 ~~Business Regulation. “Related party” is defined by Financial Accounting Standards Board,~~
7 ~~FASB 57, App. B paragraph 24(f), March 1982. Developer’s offering statements submitted to~~
8 ~~the Commission in a prior docket may be eliminated from this filing by indicating the docket~~
9 ~~number the offering statement(s) were filed in. In addition, the applicant shall submit a~~
10 ~~statement relative to the amount of the land sales purchase price which is allocated for the cost~~
11 ~~of constructing the applicant’s facilities, the amount for connection collected from the~~
12 ~~purchasers or lots, or any water or wastewater service availability charges.~~

13 *Rulemaking Authority 367.121 FS. Law Implemented 367.081 FS. History—New 11-10-86,*

14 *Repealed*.

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1 **25-30.440 Additional Engineering Information Required of Class A and B Water and**
2 **Wastewater Utilities in an Application for Rate Increase.**

3 Each applicant for a rate increase shall provide two copies of the following engineering
4 information to the Commission, with the exception of subsection (1), of which only one copy
5 is required.

6 (1) ~~A detailed map showing:~~

7 (a) ~~The location and size of the applicant's distribution and collection lines as well as its~~
8 ~~plant sites, and~~

9 (b) ~~The location and respective classification of the applicant's customers.~~

10 (2) ~~A list of chemicals used for water and wastewater treatment, by type, showing the~~
11 ~~dollar amount and quantity purchased, the unit prices paid and the dosage rates utilized.~~

12 (3) ~~The most recent chemical analyses for each water system conducted by a certified~~
13 ~~laboratory covering the inorganic, organic turbidity, microbiological, radionuclide, secondary~~
14 ~~and unregulated contaminants specified in Chapter 62-550, F.A.C.~~

15 (4) ~~All water and wastewater plant operating reports for the test year and the year~~
16 ~~preceding the test year.~~

17 (5) ~~The most recent sanitary survey for each water plant and inspection report for each~~
18 ~~wastewater plant conducted by the health department or the Department of Environmental~~
19 ~~Protection (DEP).~~

20 (6) ~~All health department and DEP construction and operating permits.~~

21 (7) ~~Any Notices of Violation, Consent Orders, Letters of Notice, or Warning Notices from~~
22 ~~the health department or the DEP in the previous five years.~~

23 (8) ~~A list of all field employees, their duties, responsibilities, and certificates held, and an~~
24 ~~explanation of each employees' salary allocation method to the utility's capital or expense~~
25 ~~accounts.~~

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1 ~~(9) A list, by serial number and description, of all vehicles owned or leased by the utility~~
2 ~~showing the original cost or annual lease expense, who the vehicle is assigned to, and the~~
3 ~~method of allocation to the utility.~~

4 ~~(10) Provide a list, by customer, of all complaints received during the test year, with an~~
5 ~~explanation of how each complaint was resolved.~~

6 ~~(11) Provide a copy of all customer complaints that the utility has received regarding DEP~~
7 ~~secondary water quality standards during the past five years.~~

8 *Rulemaking Authority 350.127(2), 367.0812(5), 367.121 FS. Law Implemented 367.081,*
9 *367.0812 FS. History—New 11-10-86, Amended 6-25-90, 2-10-15, Repealed_____.*

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1 **25-30.443 Minimum Filing Requirements for Class C Water and Wastewater**

2 **Utilities.**

3 ~~(1) A Class C Utility seeking a rate increase shall submit an application which contains the~~
4 ~~information required by Rules 25-30.436, 25-30.4385, 25-30.440, 25-30.4415 and 25-30.442,~~
5 ~~F.A.C.~~

6 ~~(2) Each Class C Utility seeking a rate increase shall also provide the information required~~
7 ~~by Commission Form PSC/AFD 18 (6/90), entitled “Financial, Rate and Engineering~~
8 ~~Minimum Filing Requirements—Class C Utilities” which is incorporated into this rule by~~
9 ~~reference. The form may be obtained from the Director, Division of Accounting and Finance,~~
10 ~~Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida~~
11 ~~32399-0850. In compiling the required schedules, additional instructions are set forth below:~~

12 ~~(a) Each section of this form shall be indexed and tabbed, including a table of contents~~
13 ~~listing the page numbers of each schedule.~~

14 ~~(b) If information requested in the form described above is not applicable to the applicant,~~
15 ~~so state and provide an explanation on the specific schedule.~~

16 ~~(c) If a projected test year is used, provide a complete set of the Commission Form~~
17 ~~PSC/AFD 18 (6/90), entitled “Financial, Rate and Engineering Minimum Filing Requirements~~
18 ~~—Class C Utilities” (as described above) which require a designation of historical or projected~~
19 ~~information. Such schedules shall be submitted for the historical base year, and any projected~~
20 ~~year subsequent to the base year and prior to the projected test year, in addition to the~~
21 ~~projected year. If no designation is shown on a schedule, submit that schedule for the test year~~
22 ~~only. In lieu of providing separate pages for the above required schedules, the information~~
23 ~~required can be combined on the same page by adding columns. In the rate base schedules,~~
24 ~~Section A, the beginning and end of year balances shall be shown. For any intermediate~~
25 ~~period or year, only the year-end balance shall be shown. If a historical test year is used,~~
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 ~~Schedule E-5 will not be required. A schedule shall also be included which describes in detail~~
2 ~~all methods and bases of projection, explaining the justification for each method or basis~~
3 ~~employed.~~

4 ~~(d) Only two copies of Schedule E-6, entitled Billing Analysis Schedules shall be filed~~
5 ~~with the application. Each copy shall be submitted in a separate binder from the other required~~
6 ~~information.~~

7 ~~(e) In designing rates, the base facility and usage charge rate structure shall be utilized for~~
8 ~~metered service.~~

9 ~~(3) Within 60 days after the issuance of a final order entered in response to an application~~
10 ~~for increased rates, or, if applicable, within 60 days after the issuance of an order entered in~~
11 ~~response to a motion for reconsideration of such final order, each utility shall submit a~~
12 ~~breakdown of actual rate case expense incurred, in total, in a manner consistent with Schedule~~
13 ~~No. B-10 (PSC/AFD Form 19-W, as described in Rule 25-30.437, F.A.C.). If this deadline~~
14 ~~cannot be met, an extension shall be granted by the Director of the Division of Accounting and~~
15 ~~Finance for good cause shown.~~

16 ~~(4) If a petition for interim rates is filed, a utility shall demonstrate that it is earning~~
17 ~~outside the range of reasonableness on rate of return calculated in accordance with Section~~
18 ~~367.082(5), F.S. To demonstrate this, the utility shall submit schedules of rate base, cost of~~
19 ~~capital and net operating income on an historical basis, with schedules of all adjustments~~
20 ~~thereto, consistent with Commission Form PSC/AFD 18 (6/90), described above.~~

21 ~~(5) If a utility is requesting uniform rates for systems that are not already combined in a~~
22 ~~uniform rate, the information required by this rule must be submitted on a separate basis for~~
23 ~~each system that has not already been combined in a uniform rate. For those systems already~~
24 ~~combined in a uniform rate, the utility should submit the required information as a single~~
25 ~~system. At a minimum, the following schedules of Form PSC/AFD 18 (6/90), described~~

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

1 ~~above, shall be filed on a combined basis for all systems included in the filing: A-1, A-2, A-3,~~
2 ~~A-16, B-1, B-2, B-3, B-4, B-5, B-10, B-11, B-12, plus all “C”, “D” and “E” schedules (no “F”~~
3 ~~schedules are required).~~

4 *Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.082 FS.*
5 *History—New 6-25-90, Amended 11-30-93, Repealed_____.*

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

1 **25-30.4385 Additional Rate Information Required in Application for Rate Increase.**

2 ~~The utility shall file an original and three copies of all revised tariff sheets for each service~~
3 ~~classification in which any change is proposed, except those tariff sheets in which the only~~
4 ~~change is to the service rates.~~

5 *Rulemaking Authority 350.127(2), 367.121 FS. Law Implemented 367.081, 367.121 FS.*

6 *History—New 11-30-93, Repealed_____.*

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

Revenue Schedule at Present and Proposed Rates

Florida Public Service Commission

Company:
 Docket No.:
 Test Year Ended:
 Water [] or Sewer Wastewater []

Schedule: E-2
 Page ___ of ___
 Preparer:

Explanation: Provide a calculation of revenues at present and proposed rates using the billing analysis for the residential service class and bills and consumption for all other classes of service. Explain any differences between these revenues and booked revenues. ~~If a rate change occurred during the test year, a revenue calculation must be made for each period.~~

(1) Class/Meter Size	(2) Number Bills	(3) Consumption in MG	(4) Present Rate	(5) Revenues at Present Rates	(6) Proposed Rate	(7) Revenues at Proposed Rates
Residential 5/8" x 3/4" M Gallons 1" Etc. M Gallons Etc.						
Total Residential						
Average Bill						
General Service 5/8" x 3/4" M Gallons 1" Etc. M Gallons Etc.						
Total Gen. Serv.						
Average Bill						
List Other Classes As Above						
Totals						
Unbilled Revenues Other Revenue Misc. Serv. Charges						
Total Revenue						
Booked Revenue						
Difference (Explain)						

Billing Analysis Schedules

Florida Public Service Commission

Company:

Schedule: E-14

Docket No.:

Page ___ of ___

Test Year Ended:

Preparer:

Water [] or ~~Sewer~~ Wastewater []

Customer Class:

Meter Size:

Explanation: Provide a billing analysis for each the residential class of service, including any separately metered irrigation, by meter size. ~~For applicants having a master metered multiple dwellings, provide number of bills at each level by meter size or number of bills categorized by the number of units. Round consumption to nearest 1,000 gallons and begin at zero. If a rate change occurred during the test year, provide a separate billing analysis which coincides with each period.~~

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Consumpt. Level	Number of Bills	Cumulative Bills	Gallons		Reversed Bills	Consolidated	Percentage of Total
			Consumed (1)x(2)	Cumulative Gallons		Factor [(1)x(6)]+(5)	
0							
1							
2							
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: November 4, 2020

TO: Kathryn Gale Winter Cowdery, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst III, Division of Economics *SKG*

RE: **Statement of Estimated Regulatory Costs** for the Proposed amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, and repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C., concerning notice, public information, and minimum filing requirements for electric, gas, water, and wastewater applications for rate increase.

Commission staff is proposing revisions to Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, Florida Administrative Code (F.A.C.), concerning notice, public information, and minimum filing requirements (MFRs) for electric, gas, water, and wastewater applications for rate increase. The purposes of these proposed rule revisions are to allow for electronic submission of MFRs and reduce the number of paper copies, remove the requirement to place physical copies of rate case documents in Commission-approved locations, and require the utilities to inform customers that all documents in the utility's rate case can be accessed via the Commission's website. These changes will serve to reduce filing costs, which in turn should reduce costs imposed on utility customers.

In addition, the inclusion of Class C water and wastewater utilities in Rules 25-30.436, 25-30.437, and 25-30.440 serves to reduce the number of rules by consolidating existing rules. The proposed repeal of Rules 25-30.438, 25-30.4385, and 25-30.443 will eliminate obsolete rules and eliminates duplicative filing requirements. The proposed rule revisions are discussed in detail in the staff recommendation.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.). Commission staff issued a SERC data request on October 20, 2020 to all Commission-regulated electric, natural gas, water, and wastewater utilities. All responses representing electric, natural gas, water and wastewater utilities stated that the proposed rule revisions will result in regulatory cost savings and enhance administrative efficiency when filing rate cases. The utilities stated that they do not anticipate any incremental regulatory costs due to the proposed rule revisions.

The SERC analysis indicates that the proposed rule amendments will not likely increase regulatory costs, including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The proposed rule amendments would not potentially have adverse

Cowdery
November 4, 2020
Page 2

impacts on small businesses, would have no implementation cost to the Commission or other state and local government entities, and would have no impact on small cities or counties.

No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the proposed rule revisions.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS

Proposed amendment of Rules 25-6.043, 25-7.039, 25-22.0406, 25-22.0407, 25-30.436, and 25-30.437, and repeal of Rules 25-30.438, 25-30.4385, 25-30.440, and 25-30.443, F.A.C., concerning notice, public information, and minimum filing requirements for electric, gas, water, and wastewater applications for rate increase, 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

If the answer to Question 1 is "yes", see comments in Section E.

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

Yes

No

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

A. Whether the rule directly or indirectly:

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

Economic growth Yes No

Private-sector job creation or employment Yes No

Private-sector investment Yes No

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

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

Productivity Yes No

Innovation Yes No

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

Yes

No

Economic Analysis: In response to staff's SERC data request, the electric, natural gas, water and wastewater utilities stated that the utilities do not anticipate any incremental costs to comply with the proposed revisions to the rules. Sebring Gas system stated that it could save approximately \$500 per rate case by not having to place hard copies of the rate case filing at numerous locations within its territory. Post workshop written comments from Florida Power & Light, Gulf Power, Tampa Electric Company, Peoples Gas System, and Florida City Gas stated that implementing the rules as amended will not result in any additional costs to the Commission or to other state and local government entities, and will have no effect on state or local revenues, will not have any adverse impacts on economic growth, private sector job creation or employment, or business competitiveness.

The utilities also stated that the proposed revisions will not increase regulatory cost including transactional costs in excess of \$1 million in the aggregate within 5 years of implementing the rule. The water and wastewater utilities also stated that the financial impact of the proposed rule revisions to reduce the number of paper copies filed will reduce rate case expenses.

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.

The entities required to comply with the rules include the five electric IOUs, eight natural gas IOUs, and all Commission regulated water and wastewater utilities. If there were to be new electric, natural gas, and/or water and wastewater IOUs that would come under the jurisdiction of the Commission in the future, they would also be required to comply with the rule.

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

The types of individuals to be affected by the rule would be the above mentioned electric, natural gas, and water and wastewater IOUs and their customers. The cost savings resulting from the proposed revisions to the MFR and noticing rules will be beneficial to the utilities and their customers.

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

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

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(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.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

The utilities in their SERC data responses and post workshop comments stated that there would be no incremental transactional costs incurred due to the reduced number of copies to be filed and by not having to place paper copies of the MFRs in Commission-approved locations. The revisions will result in cost

reductions and administrative efficiencies.

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

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

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

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

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

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

- None.

Additional Information:

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

- No regulatory alternatives were submitted.
- A regulatory alternative was received from
 - Adopted in its entirety.
 - Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

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: November 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Harper) *SMC*
Division of Accounting and Finance (Cicchetti) *ALM MC*
Division of Economics (Guffey, Coston) *JGH*

RE: Docket No. 20200237-PU – Amendment of Rules 25-6.0141, F.A.C., Allowance for Funds Used During Construction, and 25-30.116, F.A.C., Allowance for Funds Used During Construction, and adoption of Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction.

AGENDA: 12/01/20 – Regular Agenda – Rule Proposal – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

RULE STATUS: Proposal May Be Deferred

SPECIAL INSTRUCTIONS: None

Case Background

Rule 25-6.0141, Florida Administrative Code (F.A.C.), Allowance for Funds Used During Construction, and Rule 25-30.116, F.A.C., Allowance for Funds Used During Construction, describe the requirements and methodology for accruing Allowance for Funds Used During Construction (AFUDC) for investor-owned electric utilities and water and wastewater utilities, respectively. Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction, addresses AFUDC for natural gas utilities, but unlike the Commission's other AFUDC rules, it simply states that "[a] utility may not accrue [AFUDC] without prior Commission approval."

AFUDC is the carrying cost of funding an eligible utility investment during construction. Allowing utilities to accrue AFUDC lets utilities recover the costs they incur to finance

investments before the investments are placed in service and earn a return through base rates. Generally Accepted Accounting Principles (GAAP) governs the recognition and recording of AFUDC.¹

The focus of this rulemaking is to adopt a more comprehensive AFUDC rule for natural gas utilities and to update and clarify and create consistency among all of the Commission's AFUDC rules.

Notices of Development of Rulemaking for all three rules were published in the June 10, 2020 edition of the Florida Administrative Register, Volume 46, No. 113. A rule development workshop was held on June 29, 2020. Representatives from Florida Power & Light Company (FPL), Tampa Electric Company (TECO), Duke Energy Florida, LLC (DEF), Gulf Power Company (Gulf), Florida Public Utilities Company (FPUC), Florida City Gas (FCG), Peoples Gas System (PGS), and the Office of Public Counsel (OPC) participated at the workshop and submitted post-workshop comments.

This recommendation addresses whether the Commission should propose the amendment of Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C. The Commission has jurisdiction pursuant to Sections 350.127(2), 366.05(1), and 367.121(1), Florida Statutes (F.S.).

¹ Moreover, the Commission is authorized to allow AFUDC by Sections 350.115, 366.04(2)(a), (f) 366.06(1), (2), 366.08 F.S.

Discussion of Issues

Issue 1: Should the Commission propose the amendment of Rule 25-6.0141, F.A.C., Allowance for Funds Used During Construction, Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction, and Rule 25-30.116, F.A.C., Allowance for Funds Used During Construction?

Recommendation: Yes. The Commission should propose the amendment of Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., as set forth in Attachment A. The Commission should also certify Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., as minor violation rules. (Cicchetti, Harper, Guffey)

Staff Analysis: Staff recommends that the Commission amend Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., as set forth in Attachment A. Although any additions to Rule 25-7.0141, F.A.C, would technically be amendments to the rule, staff's recommended amendments would in effect create a new rule for natural gas utilities as current Rule 25-7.0141, F.A.C., simply states that "[a] utility may not accrue [AFUDC] without prior Commission approval." Staff's recommended language for Rule 25-7.0141, F.A.C., generally mirrors the Commission's current AFUDC rules for investor-owned electric utilities.

Overall, staff is recommending similar updates and clarifications to all three industry rules for consistency. For all three rules, staff is recommending that a definition section be included in each rule. Staff believes the definition of "project" should be amended to be consistent with the concept of the definition of project in the Commission's storm hardening plan rule² and additional rule language should be added to clarify that a utility may bundle projects under certain circumstances. Staff's more substantive recommended amendments to the rules are discussed in more detail below.

Definition of Project

For all three rules, staff is recommending that a definition section be included in each rule to define "AFUDC" as the carrying cost of funding an eligible utility project investment during its construction. Staff also recommends that the definition of "project" in the rules should be amended to be consistent with the concept of the definition of project in Rule 25-6.030, F.A.C., Storm Protection Plan. As such, staff recommends the definition of "project" under the rules specify that it is temporary with a defined beginning and end and with the goal of placing a specific utility investment into service or public use for the provision of utility service. This definition is necessary because utilities may take part in projects that require construction on a single site or that require multiple sites. Staff believes that the recommended rule language encompasses the concept that a "project" under the rules can include multiple locations or designs within Florida.

²Rule 25-6.030, F.A.C., requires each investor-owned electric utility to file a petition with the Commission for approval of a storm protection plan. The rule describes the information that must be included in the storm protection plan. Paragraph (2)(b) of the rule defines a project as a specific activity designed to enhance a specified portion of existing electric transmission or distribution facilities for the purpose of reducing restoration costs and outage times, and improving overall service reliability.

Bundling of Projects

The rules currently do not have a provision that addresses bundling of projects. Staff is recommending the addition of the following language in all of the AFUDC rules:³

A utility may bundle related projects that achieve a specific outcome if it demonstrates that the total cost of the bundled projects excluding AFUDC is less than the total cost of the unbundled projects.

The large investor-owned electric utilities (IOUs) agree with staff's recommended rule language. In support of this rule language, they suggest the AFUDC rule be amended to define a project in a manner that better recognizes how IOUs make investment and procurement decisions. By recognizing that investments can span more than one location and include more than one design, and thus can be bundled if it is demonstrated that doing so results in a lower total cost than the total costs of the unbundled projects, the IOUs suggest the AFUDC rule will encourage a range of cost effective investments for the benefit of customers.

OPC objects to the proposed wording of the bundling provision. In its comments, OPC argues that the concept of bundling could permit a combination of individual projects such that the commencement date of one of the bundled projects and the in-service date of another bundled project are combined to total a period longer than a year, thereby circumventing the duration restriction. OPC also suggests the bundling concept could permit double recovery of the return on investment on certain projects by allowing the accrual of AFUDC on projects that may otherwise be presumed to be included in Construction Work in Progress (CWIP) in rate base and therefore are recovered through base rates.

Staff appreciates all stakeholder arguments on this point. If the purpose of the bundling of projects was simply to qualify for AFUDC, staff agrees with OPC that it could be problematic. However, the staff's recommended rule language requires a demonstration of cost effectiveness. The AFUDC rule should not be drafted in such a way that it creates a regulatory hurdle to IOU planning and construction of cost-effective projects. Therefore, staff recommends the above rule language.

Threshold for Project Eligibility

Rule 25-6.0141(1), F.A.C., the AFUDC rule pertaining to investor-owned electric utilities, sets forth which projects are eligible and ineligible for AFUDC. The rule currently has a 0.5 percent threshold for eligibility. The rule provides that projects that involve gross additions to plant in excess of 0.5 percent of the sum of the total balance in Account 101, Electric Plant in Service, and Account 106, Completed Construction not Classified, at the time the project commences and are expected to be completed in excess of one year after commencement of construction, or were originally expected to be completed in one year or less and are suspended for six months or more, or are not ready for service after one year, are eligible for AFUDC. Also, the rule further provides that a project is ineligible for AFUDC where gross additions to plant are less than 0.5 percent of the sum of the total balance in Account 101, Electric Plant in Service, and Account 106, Completed Construction not Classified, at the time the project commences.

³ See Draft Rules 25-6.0141(2)(a)2., 25-7.0141(2)(a)2., 25-30.116(2)(a)2., F.A.C.

Staff recommends that the threshold in Rule 25-6.0141, F.A.C., be amended from 0.5 percent to 0.40 percent of the sum of Accounts 101 and 106.⁴ Staff believes that the purpose of the rule, which is to allow AFUDC for certain projects, is not being met because the 0.5 percent threshold is too high. Staff acknowledges the IOUs' argument that due to growing rate base since 1996 when the rule was last amended, projects that are significant in size are currently excluded from eligibility to accrue AFUDC. Staff believes that reducing the threshold will result in a reasonable increase to the number of projects eligible to accrue AFUDC.

OPC argues in its post-workshop comments that the AFUDC threshold should not be amended. OPC asserts that lowering the cost threshold for projects eligible for AFUDC, rather than being covered under CWIP, will result in a compounded accumulation of the utility's average weighted cost of capital (WACC) during the construction period, which is then added to the capital amount of the plant-in-service when the project is completed and placed in service. OPC opines that by lowering the cost threshold, projects that are currently assumed to be included in CWIP in rate base as a result of the CWIP balance implied in the last rate case will now receive AFUDC treatment. In other words, if the cost threshold is lowered, more projects will be eligible for AFUDC in between rate cases.

Further, OPC argues broadening the eligibility of projects for AFUDC would be contrary to the original purpose of the rule, which was to provide threshold language designed to limit projects to those that have material costs and that would take more than one year to complete in order to encourage utility investment in large projects without seeking rate relief. OPC also argues that based on the level of CWIP authorized by the Commission in the utilities' last base rate cases, the reduction in the threshold for AFUDC eligible projects could result in double recovery from customers.

While more projects will be eligible for AFUDC in between rate cases under staff's recommended rule amendments, Sections 366.041(1) and 366.06(1), F.S., the Commission's general ratemaking authority, require the Commission to set just, fair, reasonable, and compensatory rates. Staff believes the recommended amendments comport with these statutory objectives. Furthermore, OPC's comments addressed an earlier draft of the rule with a threshold amount of the lower of \$50 million or .25 percent of the sum of the total balance in Accounts 101, 106, 108 and 111. Staff's recommended rule, however, has a threshold amount of 0.40 percent of Accounts 101 and 106, which reduces the dollar amount of projects eligible for AFUDC compared to the draft upon which OPC commented.

Finally, staff acknowledges that the recommended rule as it is currently written could allow for some cases of double recovery (i.e., a project accrues AFUDC even though a certain amount of CWIP was allowed in a company's last rate case). However, staff's recommended rule allows for less projects qualifying for AFUDC than the draft commented on by OPC, and expected upcoming rate cases should prevent potential double recovery.

No stakeholders requested a change in the threshold for eligible projects in Rule 25-30.116, the

⁴ See Subparagraphs (2)(a)1. and (2)(b)2., and subsection (9) of Draft Rule 25-6.0141, F.A.C.

water and wastewater AFUDC rule, and there was no stakeholder opposition to a \$25,000 threshold in Rule 25-7.0141, F.A.C., the natural gas AFUDC rule. Moreover, staff believes that each threshold amount is appropriate for each of the rules. Staff, therefore, recommends that the Commission keep the current threshold for project eligibility in Rule 25-30.116, F.A.C., and establish the threshold as \$25,000 in Rule 25-7.0141, F.A.C.

Minor Violation Rules Certification

Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., are on the Commission's list of minor violation rules. Pursuant to Section 120.695, F.S., as of July 1, 2017, the agency head shall certify whether any part of each rule filed for adoption is designated as a minor violation rule. A minor violation rule is a rule that would not result in economic or physical harm to a person or an adverse effect on the public health, safety, or welfare or create a significant threat of such harm when violated. Staff recommends that the Commission continue to certify Rules 25-6.0141, 25.7.0141, 25-30.116, F.A.C., as minor violation rules.

Statement of Estimated Regulatory Costs

Pursuant to Section 120.54(3)(b)1., F.S., agencies are encouraged to prepare a statement of estimated regulatory costs (SERC) before the adoption, amendment, or repeal of any rule. A SERC was prepared for this rulemaking and is appended as Attachment B. As required by Section 120.541(2)(a)1., F.S., the SERC analysis includes whether the rule amendments are likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after implementation. Staff notes that none of the impact/cost criteria will be exceeded as a result of the recommended revisions.

The SERC concludes that the amendments to Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., will likely not directly or indirectly increase regulatory costs in excess of \$200,000 within 1 year after implementation. Further, the SERC concludes that the amendment of the rules will not likely increase regulatory costs, including any transactional costs, or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the amendment of the rules do not require legislative ratification, pursuant to Section 120.541(3), F.S.

In addition, the SERC states that the amendments to Rules 25-6.0141, 25-7.0141, 25-30.116, F.A.C., would have no impact on small businesses, would have no implementation or enforcement cost on the Commission or any other state and local government entity, and would have no impact on small cities or small counties. The SERC states that no additional transactional costs are likely to be incurred by individuals and entities required to comply with the requirements.

Conclusion

The Commission should propose the amendment of Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., as set forth in Attachment A. The Commission should certify Rules 25-6.0141, 25-7.0141, 25-30.116, F.A.C., as minor violation rules.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no requests for hearing or comments are filed, the rules should be filed with the Department of State, and the 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 the docket closed. When these rules become effective, staff will bring a recommendation in a separate docket for the Commission's consideration on any other existing Commission rules that need to be amended or repealed.

1 **25-6.0141 Allowance for Funds Used During Construction.**

2 (1) Definition of terms of this rule.

3 (a) Allowance for funds used during construction (AFDUC) is the carrying cost of funding
4 an eligible utility project investment during its construction.

5 (b) A project means a temporary endeavor with a defined beginning and end series of tasks
6 that need to be completed in order to reach a specific outcome (e.g., a specific utility
7 investment placed into service or devoted to public use for the provision of electric service),
8 designed to produce an in-service plant investment result.

9 ~~(2)(4)~~ Construction work in progress (CWIP) or nuclear fuel in process (NFIP) not under a
10 lease agreement that is not included in rate base may accrue ~~allowance for funds used during~~
11 ~~construction (AFUDC)~~, under the following conditions:

12 (a) Eligible projects. The following projects may be included in CWIP or NFIP and accrue
13 AFUDC:

14 1. Projects that involve gross additions to plant in excess of 0.40 ~~0.5~~ percent of the sum of
15 the total balance in Account 101, Electric Plant in Service, and Account 106, Completed
16 Construction not Classified, at the time the project commences and

17 a. Are expected to be completed in excess of one year after commencement of
18 construction, or

19 b. Were originally expected to be completed in one year or less and are suspended for six
20 months or more, or are not ready for service after one year.

21 2. A utility may bundle related projects that achieve a specific outcome if it demonstrates
22 that the total cost of the bundled projects excluding AFUDC is less than the total cost of the
23 unbundled projects.

24 (b) Ineligible projects. The following projects may be included in CWIP or NFIP, but may
25 not accrue AFUDC:

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

1 1. Projects, or portions thereof, that do not exceed the level of CWIP or NFIP included in
2 rate base in the utility's last rate case.

3 2. Projects where gross additions to plant are less than 0.40 ~~0.5~~ percent of the sum of the
4 total balance in Account 101, Electric Plant in Service, and Account 106, Completed
5 Construction not Classified, at the time the project commences.

6 3. Projects expected to be completed in less than one year after commencement of
7 construction.

8 4. Property that has been classified as Property Held for Future Use.

9 (c) Unless otherwise authorized by the Commission, the following projects may not be
10 included in CWIP or NFIP, nor accrue AFUDC:

11 1. Projects that are reimbursable by another party.

12 2. Projects that have been cancelled.

13 3. Purchases of assets which are ready for service when acquired.

14 4. Portions of projects providing service during the construction period.

15 (d) Other conditions. Accrual of AFUDC is subject to the following conditions:

16 1. Accrual of AFUDC is not to be reversed when a project originally expected to be
17 completed in excess of one year is completed in one year or less;

18 2. AFUDC may not be accrued retroactively if a project expected to be completed in one
19 year or less is subsequently suspended for six months, or is not ready for service after one
20 year;

21 3. When a project is completed and ready for service, it must ~~shall~~ be immediately
22 transferred to the appropriate plant account(s) or Account 106, Completed Construction Not
23 Classified, and may no longer accrue AFUDC;

24 4. Where a work order covers the construction of more than one property unit, the AFUDC
25 accrual must cease on the costs related to each unit when that unit reaches an in-service status;

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

1 5. When the construction activities for an ongoing project are expected to be suspended for
2 a period exceeding six months, the utility must notify the Commission of the suspension and
3 the reason(s) for the suspension, and must submit a proposed accounting treatment for the
4 suspended project; and

5 6. When the construction activities for a suspended project are resumed, the previously
6 accumulated costs of the project may not accrue AFUDC if such costs have been included in
7 rate base for ratemaking purposes. However, the accrual of AFUDC may be resumed when the
8 previously accumulated costs are no longer included in rate base for ratemaking purposes.

9 (e) Subaccounts. Account 107, Construction Work in Progress, and Account 120.1,
10 Nuclear Fuel in Process of Refinement, Conversion, Enrichment and Fabrication, must be
11 subdivided so as to segregate the cost of construction projects that are eligible for AFUDC
12 from the cost of construction projects that are ineligible for AFUDC.

13 (f) Prior to the commencement of construction on a project, a utility may file a petition to
14 seek approval to include an individual project in rate base that would otherwise qualify for
15 AFUDC treatment per paragraph (2)~~(4)~~(a).

16 (g) On a prospective basis, the Commission, upon its own motion, may determine that the
17 potential impact on rates may require the exclusion of an amount of CWIP from a utility's rate
18 base that does not qualify for AFUDC treatment per paragraph (2)~~(4)~~(a) and to allow the
19 utility to accrue AFUDC on that excluded amount.

20 (3)~~(2)~~ The applicable AFUDC rate will be determined as follows:

21 (a) The most recent 13-month average embedded cost of capital, except as noted below,
22 must be derived using all sources of capital and adjusted using adjustments consistent with
23 those used by the Commission in the utility's last rate case.

24 (b) The cost rates for the components in the capital structure will be the midpoint of the
25 last allowed return on common equity, the most recent 13-month average cost of short term
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 debt and customer deposits, and a zero cost rate for deferred taxes and all investment tax
2 credits. The cost of long term debt and preferred stock will be based on end of period cost.
3 The annual percentage rate must be calculated to two decimal places.

4 ~~(4)~~~~(3)~~ Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to
5 six decimal places, must be employed to ensure ~~insure~~ that the annual AFUDC charged does
6 not exceed authorized levels.

7 (a) The formula used to discount the annual AFUDC rate to reflect monthly compounding
8 is as follows:

9
$$M = \left[\left((1 + A/100)^{1/12} - 1 \right) \right] \times 100$$
 Where:

10 M = discounted monthly AFUDC rate

11 A = annual AFUDC rate

12 (b) The monthly AFUDC rate, carried out to six decimal places, must be applied to the
13 average monthly balance of eligible CWIP and NFIP that is not included in rate base.

14 ~~(5)~~~~(4)~~ The following schedules must be filed with each petition for a change in AFUDC
15 rate:

16 (a) Schedule A. A schedule showing the capital structure, cost rates and weighted average
17 cost of capital that are the basis for the AFUDC rate in subsection ~~(3)~~~~(2)~~.

18 (b) Schedule B. A schedule showing capital structure adjustments including the unadjusted
19 capital structure, reconciling adjustments and adjusted capital structure that are the basis for
20 the AFUDC rate in subsection ~~(3)~~~~(2)~~.

21 (c) Schedule C. A schedule showing the calculation of the monthly AFUDC rate using the
22 methodology set out in this rule.

23 ~~(6)~~~~(5)~~ No utility may charge or change its AFUDC rate without prior Commission
24 approval. The new AFUDC rate will be effective the month following the end of the 12-month
25 period used to establish that rate and may not be retroactively applied to a previous fiscal year
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 unless authorized by the Commission.

2 ~~(7)(6)~~ Each utility charging AFUDC must include in its December Earnings Surveillance
3 Reports to the Commission Schedules A and B identified in subsection (4) of this rule, as well
4 as disclosure of the AFUDC rate it is currently charging.

5 ~~(8)(7)~~ The Commission may, on its own motion, initiate a proceeding to revise a utility's
6 AFUDC rate.

7 ~~(9)(8)~~ Each utility must include in its Forecasted Surveillance Report a schedule of
8 individual projects that commence during that forecasted period and are estimated to have a
9 gross cost in excess of 0.40 ~~0.5~~ percent of the sum of the total balance in Account 101,
10 Electric Plant in Service, and Account 106, Completed Construction not Classified. The
11 schedule must include the following minimum information:

12 (a) Description of the project.

13 (b) Estimated total cost of the project.

14 (c) Estimated construction commencement date.

15 (d) Estimated in-service date.

16 *Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 350.115, 366.04(2)(a), (f)*
17 *366.06(1), (2), 366.08 FS. History—New 8-11-86, Formerly 25-6.141, Amended 11-13-86, 12-*
18 *7-87, 1-7-97, 12-30-19,_____.*

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

1 **25-7.0141 Allowance for Funds Used During Construction.**

2 (1) Definition of terms for this rule.

3 (a) Allowance for funds used during construction (AFUDC) is the carrying cost of funding
4 an eligible utility project investment during its construction.

5 (b) A project means a temporary endeavor with a defined beginning and end series of tasks
6 that need to be completed in order to reach a specific outcome (e.g., a specific utility
7 investment placed into service or devoted to public use for the provision of natural gas
8 service), designed to produce an in-service plant investment result.

9 ~~A utility shall not accrue allowance for funds used during construction without prior~~
10 ~~Commission approval.~~

11 (2) Construction work in progress (CWIP) that is not included in rate base may accrue
12 AFUDC under the following conditions:

13 (a) Eligible projects. The following projects may be included in CWIP and accrue
14 AFUDC:

15 1. Projects that involve gross additions to plant in excess of \$25,000 and

16 a. Are expected to be completed in excess of one year after commencement of
17 construction, or

18 b. Were originally expected to be completed in one year or less and are suspended for six
19 months or more, or are not ready for service after one year.

20 2. A utility may bundle related projects that achieve a specific outcome if it demonstrates
21 that the total cost of the bundled projects excluding AFUDC is less than the total cost of the
22 unbundled projects.

23 (b) Ineligible projects. The following projects may be included in CWIP, but may not
24 accrue AFUDC:

25 1. Projects, or portions thereof, that do not exceed the level of CWIP included in rate base

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

1 in the company's last rate case.

2 2. Projects where gross additions to plant are less than \$25,000.

3 3. Projects expected to be completed in less than one year after commencement of
4 construction.

5 4. Property that has been classified as Property Held for Future Use.

6 (c) Unless otherwise authorized by the Commission, the following projects may not be
7 included in CWIP nor accrue AFUDC:

8 1. Projects that are reimbursable by another party.

9 2. Projects that have been cancelled.

10 3. Purchases of assets which are ready for service when acquired.

11 4. Portions of projects providing service during the construction period.

12 (d) Other conditions. Accrual of AFUDC is subject to the following conditions:

13 1. Accrual of AFUDC is not to be reversed when a project originally expected to be
14 completed in excess of one year is completed in one year or less;

15 2. AFUDC may not be accrued retroactively if a project expected to be completed in one
16 year or less is subsequently suspended for six months, or is not ready for service after one
17 year;

18 3. When a project is completed and ready for service, it must be immediately transferred to
19 the appropriate plant account(s) or Account 106, Completed Construction Not Classified, and
20 may no longer accrue AFUDC;

21 4. Where a work order covers the construction of more than one property unit, the AFUDC
22 accrual must cease on the costs related to each unit when that unit reaches an in service status;

23 5. When the construction activities for an ongoing project are expected to be suspended for
24 a period exceeding six (6) months, the utility must notify the Commission of the suspension
25 and the reason(s) for the suspension, and must submit a proposed accounting treatment for the

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

1 suspended project; and

2 6. When the construction activities for a suspended project are resumed, the previously
3 accumulated costs of the project may not accrue AFUDC if such costs have been included in
4 rate base for ratemaking purposes. However, the accrual of AFUDC may be resumed when
5 the previously accumulated costs are no longer included in rate base for ratemaking purposes.

6 (e) Subaccounts. Account 107, Construction Work in Progress, must be subdivided so as
7 to segregate the cost of construction projects that are eligible for AFUDC from the cost of
8 construction projects that are ineligible for AFUDC.

9 (f) Prior to the commencement of construction on a project, a utility may file a petition to
10 seek approval to include an individual project in rate base that would otherwise qualify for
11 AFUDC treatment per paragraph (2)(a).

12 (g) On a prospective basis, the Commission, upon its own motion, may determine that the
13 potential impact on rates may require the exclusion of an amount of CWIP from a utility's rate
14 base that does not qualify for AFUDC treatment per paragraph (2)(a) and to allow the utility to
15 accrue AFUDC on that excluded amount.

16 (3) The applicable AFUDC rate will be determined as follows:

17 (a) The most recent 13-month average embedded cost of capital, except as noted below,
18 must be derived using all sources of capital and adjusted using adjustments consistent with
19 those used by the Commission in the Company's last rate case.

20 (b) The cost rates for the components in the capital structure will be the midpoint of the
21 last allowed return on common equity, the most recent 13-month average cost of short-term
22 debt and customer deposits and a zero cost rate for deferred taxes and all investment tax
23 credits. The cost of long-term debt and preferred stock will be based on end of period cost.
24 The annual percentage rate will be calculated to two decimal places.

25 (4) Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 six decimal places, must be employed to ensure that the annual AFUDC charged does not
2 exceed authorized levels.

3 (a) The formula used to discount the annual AFUDC rate to reflect monthly compounding
4 is as follows:

5 **$M = [(1 + A/100)^{1/12} - 1] \times 100$**

6 Where:

7 M = discounted monthly AFUDC rate

8 A = Annual AFUDC rate

9 (b) The monthly AFUDC rate, carried out to six decimal places, must be applied to the
10 average monthly balance of eligible CWIP that is not included in rate base.

11 (5) The following schedules must be filed with each petition for a change in AFUDC rate:

12 (a) Schedule A. A schedule showing the capital structure, cost rates and weighted average
13 cost of capital that are the basis for the AFUDC rate in subsection (3).

14 (b) Schedule B. A schedule showing capital structure adjustments including the
15 unadjusted capital structure, reconciling adjustments and adjusted capital structure that are the
16 basis for the AFUDC rate in subsection (3).

17 (c) Schedule C. A schedule showing the calculation of the monthly AFUDC rate using the
18 methodology set out in this rule.

19 (6) No utility may charge or change its AFUDC rate without prior Commission approval.

20 The new AFUDC rate will be effective the month following the end of the 12-month period
21 used to establish that rate and may not be retroactively applied to a previous fiscal year unless
22 authorized by the Commission.

23 (7) Each utility charging AFUDC must include in its December Rate of Return
24 surveillance report to the Commission Schedules A and B identified in subsection (5) of this
25 rule, as well as disclosure of the AFUDC rate it is currently charging.

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

1 (8) The Commission may, on its own motion, initiate a proceeding to revise a utility's
2 AFUDC rate.
3 *Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 350.115, 366.05(1),*
4 *366.06(1) FS. History—New 8-11-86, Formerly 25-7.141, Amended 11-13-86, 12-7-87, 11-23-*
5 *95,_____.*

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

1 **25-30.116 Allowance for Funds Used During Construction.**

2 (1) Definition of terms for this rule.

3 (a) Allowance for funds used during construction (AFUDC) is the carrying cost of funding
4 an eligible utility project investment during its construction.

5 (b) A project means a temporary endeavor with a defined beginning and end series of
6 tasks that need to be completed in order to reach a specific outcome (e.g., a specific utility
7 investment placed into service or devoted to public use for the provision of utility service),
8 designed to produce an in-service plant investment result.

9 ~~(2)(4)~~ Construction work in progress (CWIP) that is not included in rate base may accrue
10 ~~allowance for funds used during construction (AFUDC)~~, under the following conditions:

11 (a) Eligible projects. The following projects may be included in CWIP and accrue
12 AFUDC:

13 1. Projects that involve gross additions to plant in excess of \$5,000 and

14 ~~a.2.~~ Are expected to be completed in excess of sixty days after commencement of
15 construction, or

16 ~~b.3.~~ Were originally expected to be completed in sixty days or less but are not ready for
17 service after sixty days.

18 2. A utility may bundle related projects that achieve a specific outcome if it demonstrates
19 that the total cost of the bundled projects excluding AFUDC is less than the total cost of the
20 unbundled projects.

21 (b) Ineligible projects. The following projects may be included in CWIP, but may not
22 accrue AFUDC:

23 1. Projects, or portions thereof, that do not exceed the level of CWIP included in rate base
24 in the company's last rate case.

25 2. Projects where gross additions to plant are less than \$5,000.

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

1 3. Projects expected to be completed in less than sixty days after commencement of
2 construction.

3 4. Property that has been classified as Property Held for Future Use.

4 (c) Unless otherwise authorized by the Commission, the following projects may not be
5 included in CWIP nor accrue AFUDC:

6 1. Projects that are reimbursable by another party.

7 2. Projects that have been cancelled.

8 3. Purchases of assets which are ready for service when acquired.

9 4. Portions of projects providing service during the construction period.

10 (d) Other conditions. Accrual of AFUDC is subject to the following conditions:

11 1. Accrual of AFUDC is not to be reversed when a project originally expected to be
12 completed in excess of sixty days is completed in sixty days or less;

13 2. AFUDC may not be accrued retroactively if a project expected to be completed in sixty
14 days or less is subsequently suspended for six months, or is not ready for service after sixty
15 days;

16 3. When a project is completed and ready for service, it must ~~shall~~ be immediately
17 transferred to the appropriate plant account(s) or Account 106, Completed Construction Not
18 Classified, and may no longer accrue AFUDC;

19 4. Where a work order covers the construction of more than one property unit, the AFUDC
20 accrual must ~~shall~~ cease on the costs related to each unit when that unit reaches an in-service
21 status;

22 5. When the construction activities for an ongoing project are expected to be suspended for
23 a period exceeding six (6) months, the utility must ~~shall~~ notify the Commission of the
24 suspension and the reason(s) for the suspension, and must ~~shall~~ submit a proposed accounting
25 treatment for the suspended project; and

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

1 6. When the construction activities for a suspended project are resumed, the previously
2 accumulated costs of the project may not accrue AFUDC if such costs have been included in
3 rate base for ratemaking purposes. However, the accrual of AFUDC may be resumed when the
4 previously accumulated costs are no longer included in rate base for ratemaking purposes.

5 (e) Subaccounts. Account 105, Construction Work in Progress, must ~~shall~~ be subdivided
6 so as to segregate the cost of construction projects that are eligible for AFUDC from the cost
7 of construction projects that are ineligible for AFUDC.

8 (f) Prior to the commencement of construction on a project, a utility may file a petition to
9 seek approval to include an individual project in rate base that would otherwise qualify for
10 AFUDC treatment per paragraph (2)(a).

11 (g) On a prospective basis, the Commission, upon its own motion, may determine that the
12 potential impact on rates may require the exclusion of an amount of CWIP from a utility's rate
13 base that does not qualify for AFUDC treatment per paragraph (2)(a) and to allow the utility to
14 accrue AFUDC on that excluded amount.

15 ~~(3)(2)~~ The applicable AFUDC rate will ~~shall~~ be determined as follows:

16 a) The most recent 12-month average embedded cost of capital, except as noted below,
17 must ~~shall~~ be derived using all sources of capital and adjusted using adjustments consistent
18 with those used by the Commission in the Company's last rate case.

19 (b) The cost rates for the components in the capital structure will ~~shall~~ be the midpoint of
20 the last allowed return on common equity, the most recent 12-month average cost of short
21 term debt and customer deposits and a zero cost rate for deferred taxes and all investment tax
22 credits. The cost of long term debt and preferred stock will ~~shall~~ be based on end of period
23 cost. The annual percentage rate must ~~shall~~ be calculated to two decimal places.

24 (c) A company that has not had its equity return set in a rate case must ~~shall~~ calculate its
25 return on common equity by applying the most recent water and wastewater equity leverage
CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from
existing law.

1 formula.

2 ~~(d) The treatment by the Commission of all investment tax credits at a zero cost rate shall~~
3 ~~be contingent upon a ruling from the Internal Revenue Service that such treatment will not, for~~
4 ~~companies elected to be treated under Section 46(f)(2) of the Internal Revenue Code, result in~~
5 ~~the forfeiture of the tax credits. Pending receipt of such a ruling, each utility shall continue to~~
6 ~~use the weighted overall cost of capital calculated in a manner consistent with the final IRS~~
7 ~~Regulation Section 1.46-6 published May 22, 1986, as the cost of the utility's 4% and 10%~~
8 ~~investment tax credits.~~

9 ~~(e) Any such ruling request must be submitted to the Commission by December 15, 1987.~~
10 ~~The AFUDC cost rate for the investment tax credit for any company which fails to submit its~~
11 ~~own letter ruling request to the IRS shall be governed by the first letter ruling issued by the~~
12 ~~IRS in response to a request submitted pursuant to paragraph (2)(d) of this rule.~~

13 ~~(4)(3) Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to~~
14 ~~six decimal places, must ~~shall~~ be employed to ensure ~~insure~~ that the annual AFUDC charged~~
15 ~~does not exceed authorized levels.~~

16 (a) The formula used to discount the annual AFUDC rate to reflect monthly compounding
17 is as follows:

18
$$M = \frac{[(1 + A/100)^{1/12} - 1] \times 100}{[(1 + A/100)^{1/12} - 1] \times 100}$$

19 Where:

20 M = discounted monthly AFUDC rate

21 A = annual AFUDC rate

22 (b) The monthly AFUDC rate, carried out to six decimal places, must ~~shall~~ be applied to
23 the average monthly balance of eligible CWIP that is not included in rate base.

24 ~~(5)(4) The following schedules must ~~shall~~ be filed with each petition for a change in~~
25 ~~AFUDC rate:~~

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

1 (a) Schedule A. A schedule showing the capital structure, cost rates and weighted average
2 cost of capital that are the basis for the AFUDC rate in subsection (3)~~(2)~~.

3 (b) Schedule B. A schedule showing capital structure adjustments including the unadjusted
4 capital structure, reconciling adjustments and adjusted capital structure that are the basis for
5 the AFUDC rate in subsection (3)~~(2)~~.

6 (c) Schedule C. A schedule showing the calculation of the monthly AFUDC rate using the
7 methodology set out in this rule.

8 ~~(6)~~(5) No utility may charge or change its AFUDC rate without prior Commission
9 approval. The new AFUDC rate will ~~shall~~ be effective the month following the end of the 12-
10 month period used to establish that rate and may not be retroactively applied to a previous
11 fiscal year unless authorized by the Commission.

12 ~~(7)~~(6) Each utility charging AFUDC must ~~shall~~ include with its Annual Report to the
13 Commission Schedules A and B identified in subsection (5)~~(4)~~ of this rule, as well as
14 disclosure of the AFUDC rate it is currently charging.

15 ~~(8)~~(7) The Commission may, on its own motion, initiate a proceeding to revise a utility's
16 AFUDC rate.

17 ~~(8) Paragraphs (a) and (b) of subsection (1) shall not be effective for any utility until it~~
18 ~~implements final rates in a general rate case initiated after the effective date of this rule. The~~
19 ~~foregoing notwithstanding, those provisions will become effective for all utilities no later than~~
20 ~~January 1, 1989.~~

21 *Rulemaking Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 350.115, 367.081(2),*
22 *367.121(1)(b) FS. History—New 8-11-86, Formerly 25-30.121, Amended 11-13-86, 12-7-*
23 *87,_____.*

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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: November 20, 2020

TO: Adria E. Harper, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst III, Division of Economics
William F. Coston, Economic Supervisor, Division of Economics

RE: Docket No. 20200237-PU – Statement of Estimated Regulatory Costs for Proposed Amendment of Rules 25-6.0141, F.A.C., Allowance for Funds Used During Construction, and 25-30.116, F.A.C., Allowance for Funds Used During Construction, and adoption of Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.), for the proposed rule modifications in Docket No. 20200327-PU. Commission SERC staff issued a data request on November 5, 2020 to all Commission-regulated electric and natural gas utilities, and to representatives of the larger regulated water and wastewater utilities. The Commission received responses from electric and natural gas utilities on November 12 and 13, 2020.

The water and wastewater utilities did not respond to the SERC data request nor did they participate in the rule development workshop held on June 29, 2020. However, representatives for US Water Services Corporation and UIF stated via email that if the proposed revisions to Rule 25-30.116, F.A.C., had any economic impact, the costs would be minimal.

Proposed Bundling of AFUDC in each Rule

Electric and natural gas utilities stated that bundling of projects should create a positive economic outcome for ratepayers. The utilities' assertion is based on the proposed rules requiring the utilities to ensure that the total cost of bundling projects under AFUDC is less than the total cost without combining projects. SERC staff agrees the proposed rule language regarding bundling of projects ensures no rate impact on customers, and should not have an incremental regulatory cost impact to the utilities.

Modifications to Rule 25-6.0141, F.A.C.

As noted by Duke Energy Florida, LLC (DEF) in its data request response, the proposed modification to reduce the qualifying threshold for AFUDC eligibility could allow more capital projects to qualify for AFUDC. If a lower threshold is approved, DEF notes there is a potential for the asset balance to increase, which could result in an increased rate base when a utility seeks recovery in a future rate proceeding. SERC staff recognizes that in addition to DEF, any utility that

Page 2

increases its use of AFUDC under the new threshold could potentially seek similar recovery in a future rate case. The utilities are not able to project any economic impact to their rates at this time.

Overall, the electric utilities do not anticipate any additional incremental regulatory costs to comply with the rule as a result of the proposed modifications to this rule.

Proposed Rule 25-7.0141, F.A.C.

As noted above, this proposed rule creates an AFUDC threshold for natural gas utilities of \$25,000. Peoples Gas System stated that if the rule was in place during 2020, the utility would have an incremental increase in AFUDC of approximately \$20 million. Several natural gas utilities stated, that generally, most projects would not qualify for AFUDC since most projects are completed in less than one year.

Overall, the natural gas utilities stated that the proposed rule revisions would not create incremental regulatory costs that exceed \$200,000 per year or \$1 million in the aggregate within five years of implementing the rules.

SERC Staff Assessment

SERC staff recognizes that lowering the qualifying threshold, as proposed under the electric rule and establishing a threshold in the proposed natural gas rule, could result in a increase in the utilities' rate base, over time. However, SERC staff notes that the threshold component of these rules, and any potential rate impact, represent the Commission's rate making authority under Chapter 366, F.S., and not an incremental increase in regulatory cost as contemplated in Section 120.541, F.S.

Based on the utilities' responses to data requests and discussions with technical staff that oversee the AFUDC rule, SERC staff believes that the proposed rule modifications will not likely increase regulatory costs, as contemplated by Section 120.541, F.S., including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The proposed rule and rule amendments would not potentially have adverse impacts on small businesses, would have no implementation cost to the Commission or other state and local government entities, and would have no negative impact on small cities or counties.

No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the proposed rule revisions.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS

Docket No. 20200237-PU – Statement of Estimated Regulatory Costs for Proposed Amendment of Rules 25-6.0141, F.A.C., Allowance for Funds Used During Construction, and 25-30.116, F.A.C., Allowance for Funds Used During Construction, and adoption of Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction.

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 <input type="checkbox"/>	No <input checked="" type="checkbox"/>
If the answer to Question 1 is “yes”, see comments in Section E.	
2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

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 <input type="checkbox"/> No <input checked="" type="checkbox"/>
Private-sector job creation or employment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Private-sector investment	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
(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 <input type="checkbox"/> No <input checked="" type="checkbox"/>
Productivity	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
Innovation	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

(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

The utilities stated that no additional incremental regulatory cost will occur to comply with the modifications.

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.

The modified rule will be applicable to four electric IOUs, eight natural gas IOUs, 78 water utilities and 59 wastewater utilities.

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

Types of individuals likely to be affected by these rules would be customers of the above listed utilities.

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.

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

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

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

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

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation. Small counties or cities that become court-appointed receivers and owners of abandoned water and/or wastewater

utilities may benefit from a possible reduction in the number of utilities that are abandoned due to financial issues.

Other. Provide an explanation for estimate and methodology used.

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

None.

Additional Information:

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

No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

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

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: November 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Brownless) *JSC*
Division of Accounting and Finance (Higgins, Cicchetti) *ALM MC*

RE: Docket No. 20200001-EI – Fuel and purchased power cost recovery clause with generating performance incentive factor.

AGENDA: December 1, 2020 – Regular Agenda – Request for stay pending appellate review- Parties may participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On November 8, 2019, due to the extensive confidential nature of the materials involved, two issues in this docket associated with the February 2017 forced outage at Duke Energy Florida, LLC's (DEF) Bartow Unit 4 power plant were referred to the Division of Administrative Hearings. On October 15, 2020, the Commission issued Order No. PSC-2020-0368-FOF-EI¹ establishing fuel cost recovery for DEF which denied DEF's filed exceptions on these issues and adopted the recommended order issued by the administrative law judge following an evidentiary hearing held on February 4-5, 2020. Order No. PSC-2020-0368-FOF-EI finds that DEF failed to demonstrate that it acted prudently in the operation of its Bartow Unit 4 plant and in restoring the unit to service after the February 2017 forced outage, and that DEF should refund a total of \$16,116,782 to its customers.

¹ Order No. PSC-2020-0368-FOF-EI, issued October 15, 2020, in Docket No. 20200001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor.*

On October 29, 2020, Order No. PSC-2020-0368-FOF-EI was amended by Order No. PSC-2020-0368A-FOF-EI,² to include Attachment A containing the administrative law judge's recommended order and the parties' proposed recommended orders. In all other regards Order No. PSC-2020-0368A-FOF-EI is identical to Order No. PSC-2020-0368-FOF-EI. On November 2, 2020, DEF filed a Notice of Appeal of Order No. PSC-2020-0368-FOF-EI with the Florida Supreme Court, as well as a Motion for Stay Pending Judicial Review with the Commission.

On November 9, 2020, the Office of Public Counsel (OPC), the Florida Industrial Power Users Group (FIPUG), and White Springs Agricultural Chemicals d/b/a PCS Phosphate (PCS Phosphate), collectively referred to herein as Joint Movants, filed a timely Joint Response to the Motion.³

On November 19, 2020, DEF filed an Amended Notice of Appeal of Order No. PSC-2020-0368A-FOF-EI and an Amended Motion for Stay Pending Judicial Review. The Amended Motion for Stay Pending Judicial Review was filed in response to the issuance of amended Order No. PSC-2020-0368A-FOF-EI discussed above. The Motion for Stay Pending Judicial Review and the Amended Motion for Stay Pending Judicial Review are virtually identical and no new arguments are raised in the Amended Motion for Stay Pending Judicial Review that were not presented in the Motion for Stay Pending Judicial Review. For that reason, both the Motion and Amended Motion will be referred to collectively in this recommendation as "Motion."

This recommendation addresses DEF's Motion. The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.05, and 366.06, Florida Statutes (F.S.).

² Order No. PSC-2020-0368A-FOF-EI, issued October 29, 2020, in Docket No. 20200001-EI, *In re: Fuel and purchased power cost recovery clause with generating performance incentive factor*.

³ Arguments regarding whether to grant a stay of Order No. PSC-2020-0368A-FOF-EI have also been presented in the post-hearing briefs filed by the parties on November 10, 2020.

Discussion of Issues

Issue 1: Should Duke Energy Florida, LLC's Motion for Stay Pending Judicial Review be granted?

Recommendation: Yes. DEF has complied with the requirements of Rule 25-22.061(1), F.A.C., and should be granted a stay of the provisions of Order No. PSC-2020-0368A-FOF-EI requiring a refund of \$16.1 million associated with the 2017 Bartow Unit 4 outage. As a condition of the stay, DEF should be required to provide adequate security in the form of a corporate undertaking in the amount of the refund plus interest as determined by Rule 25-6.109, F.A.C. (Brownless, Higgins)

Staff Analysis: Rule 25-22.061, F.A.C., states, in relevant part, as follows:

25-22.061 Stay Pending Judicial Review

(1) When the order being appealed *involves the refund of moneys* to customers or a decrease in rates charged to customers, the Commission *shall*, upon motion filed by the utility or company affected, grant a stay pending judicial proceedings. The *stay shall be conditioned upon* the posting of *good and sufficient bond*, the posting of a *corporate undertaking*, or *such other conditions as the Commission finds appropriate* to secure the revenues collected by the utility subject to refund.

(2) Except as provided in subsection (1), a party seeking to stay a final or nonfinal order of the Commission pending judicial review may file a motion with the Commission, which has authority to grant, modify, or deny such relief. A stay pending review granted pursuant to this subsection may be conditioned upon the posting of a good and sufficient bond or corporate undertaking, other conditions relevant to the order being stayed, or both. In determining whether to grant a stay, the Commission may, among other things, consider:

- (a) Whether the petitioner has demonstrated a likelihood of success on the merits on appeal;
- (b) Whether the petitioner has demonstrated a likelihood of sustaining irreparable harm if the stay is not granted; and,
- (c) Whether the delay in implementing the order will likely cause substantial harm or be contrary to the public interest if the stay is granted.

...

[Emphasis added.]

DEF's Motion for Stay

In its Motion, DEF argues that it is entitled to an automatic stay pursuant to the plain language of Rule 25-22.061(1), Florida Administrative Code (F.A.C.). In support of this position, DEF cites Order No. PSC-05-0144-PCO-WU, issued February 7, 2005, in Docket No. 010503-WU, *In re: Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc. (Aloha)*. In *Aloha*, the utility's request for a rate increase was denied and a hearing

was held on Proposed Agency Action Order No. PSC-04-0122-PAA-WU⁴, which addressed the amount of revenue collected under interim rates to be refunded to customers. By Order No. PSC-04-1050-FOF-WU⁵, the Commission ordered a refund to the utility's customers in the amount of \$276,066, with interest. Aloha appealed this order and filed a motion for stay pending judicial review under Rule 25-22.061(1)(a), F.A.C., the predecessor to Rule 25-22.061(1), F.A.C.⁶ In granting Aloha's motion for stay, DEF argues that the Commission quoted the language of Rule 25-22.061(1)(a), F.A.C., and interpreted it as automatically requiring that the Commission grant a stay when a refund was at issue, as is the case here.

Alternatively, DEF argues that even if it is not entitled to an automatic stay under Rule 25-22.061(1), F.A.C., it meets the criteria to be granted a discretionary stay under the provisions of Rule 25-22.061(2), F.A.C. DEF states that it is likely to prevail on the merits of its appeal for the reasons stated in its Proposed Recommended Order filed with DOAH on March 20, 2020⁷, and its Exceptions to the Recommended Order filed with the Commission on May 12, 2020⁸. [Motion at ¶ 7] Further, staying the implementation of the refund, in DEF's opinion, would not cause substantial harm or be contrary to the public interest. [Motion at ¶ 6] Finally, DEF argues that the public interest favors rate stability and if it wins on appeal, it would be entitled to recover the improperly refunded revenue from its customers creating a situation where there would be a refund followed by recoupments. That is a situation, which according to DEF, the automatic stay provision of Rule 25-22.061(1), F.A.C., was designed to prevent. [Motion at ¶ 7]

Joint Movants' Response

In opposition to DEF's Motion, Joint Movants argue that Rule 25-22.061, F.A.C., does not apply to charges approved by the Commission in this docket, a docket that has a "self-correcting true-up mechanism." [Response at p. 1] Joint Movants state that the "over/under account", also referred to as the "true-up balance" or "true-up variance", allows for DEF to record the \$11.1 million in Bartow Unit 4 replacement fuel costs for future recovery should its appeal be successful. [Response at p. 2] For that reason, according to Joint Movants, the automatic stay is unnecessary, as this true-up mechanism protects the utility and maintains the *status quo* during the pendency of the appeal. [*Id.*]

Joint Movants further argue that Rule 25-22.061, F.A.C., has never been applied to a case where there was a self-correcting true-up mechanism in place, i.e., never applied to the fuel clause docket. [Response at p. 3] Therefore, in Joint Movant's opinion, DEF's reliance on the *Aloha Utilities* case to support imposition of a mandatory stay is misplaced since that case did not involve any type of self-correcting true-up mechanism. Further, Joint Movants cite *GTE Florida Incorporated v. Clark (GTE)*, 668 So. 2d. 971, 972-73 (Fla. 1996), for the proposition that a

⁴ Order No. PSC-04-0122-PAA-WU, issued February 5, 2004, in Docket No. 010503-WU, *In re: Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.*

⁵ Order No. PSC-04-1050-FOF-WU, issued October 26, 2004, in Docket No. 010503-WU, *In re: Application for increase in water rates for Seven Springs System in Pasco County by Aloha Utilities, Inc.*

⁶ The only difference between Rule 25-22.061(1)(a) and Rule 25-22.061(1), F.A.C., is the letter (a). All of the text is identical in both rules.

⁷ DN 01546-2020.

⁸ DN 02889-2020.

utility can recover its lawful expenses through the imposition of a surcharge after winning an appeal of a Commission order denying those expenses without having to file for a stay either at the appellate court or the Commission. [Response at p. 4]

Joint Movants also question the mandatory nature of the application of Rule 25-22.061(1), F.A.C., stay provisions to prohibit the return of money to customers if, as DEF argues, the mandatory “shall” language in the rule requiring the posting a bond or corporate undertaking if a stay is granted can be ignored due to the self-correcting nature of the fuel clause. [Response at p. 4] Joint Movants regard this argument by DEF as an admission that Rule 25-22.061, F.A.C., should not be applied to the fuel clause.

With regard to DEF’s contention that it is entitled to relief under the discretionary provisions of Rule 25-22.061(2), F.A.C., Joint Movants argue that DEF has not demonstrated that it is likely to prevail on the merits. DEF has simply reiterated the same facts argued before both the administrative law judge and the Commission. [Response at p. 5] Further, OPC states that DEF has not shown that it will suffer any harm if the stay is not granted. Again, OPC argues that no harm would be suffered by DEF due to the self-correcting operation of the fuel clause.

Finally, with regard to the \$5 million replacement power costs associated with the installation of pressure plates on the Bartow Unit 4 steam turbine in September 2017, Joint Movants argue that this fuel cost was never explicitly approved as prudent by the Commission. The replacement power costs were never recorded in the “over/under account” and were simply included in 2019 fuel costs and passed along to customers. [Response at p. 3] Now that these costs have been specifically found by the administrative law judge and the Commission to be imprudent, Joint Movants contend that they should not be subject to either an automatic or discretionary stay. [Id.]

Analysis and Conclusion

Section 120.52(16), F.S., defines a “rule” as “each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency” An agency is “obligated to follow its own rules.”⁹ In applying or interpreting rules, the starting point is the plain language of the rule.¹⁰ Courts will not imply a meaning or limitation that the plain language of the rule does not supply.¹¹

Staff agrees with DEF that the plain language of Rule 25-22.061(1), F.A.C., unambiguously states that if the order being appealed requires the utility to make a refund, the Commission *shall*

⁹ *Vantage Healthcare Corp. v. Agency for Healthcare Administration*, 687 So. 2d 306, 308 (Fla. 1st DCA 1997); *Collier County Board of County Commissioners v. Fish & Wildlife Commissioners*, 993 So. 2d 69, 72 (Fla. 2d DCA 2008).

¹⁰ *Arbor Health Care Co. v. State of Florida, et al.*, 654 So. 2d 1020, 1021 (Fla. 1st DCA 1995); *Legal Environmental Assistance Foundation, Inc. v. Board of County Commissioners of Brevard County*, 642 So. 2d 1081, 1083 (Fla. 1994)(rejecting agency’s interpretation of rule that “conflict[ed] with the plain meaning of the regulation.”); *Woodley v. Department of Health and Rehabilitative Services*, 505 So. 2d 676, 678 (Fla. 1st DCA 1987)(agency construction of rule that contradicts unambiguous language is erroneous and cannot stand.); *Citizens of State of Florida v. Wilson*, 568 So. 2d 1267, 1271 (Fla. 1990).

¹¹ *Verizon Florida, Inc. v. Jacobs*, 810 So. 2d 906 (Fla. 2002).

grant a motion for stay pending appeal. Joint Movants do not question that the administrative law judge ordered that DEF *refund* \$16,116,782 without interest.¹² Nor are the Joint Movants asking the Commission to interpret a term used in the rule as the Commission has done in previous cases.¹³ Joint Movants are asking that the Commission find that the rule does not apply because of the nature of this docket, i.e., that the self-correcting nature of the fuel clause provides the same protection to the utility as a stay. In essence, Joint Movants want the Commission to limit the application of the rule to instances in which no “self-correcting true-up mechanism” is at operation. However, there is no such limitation of application stated in the rule itself. DEF has met the requirements for an automatic stay under the provisions of Rule 25-22.061(1); it has been ordered to refund moneys; it has filed an appeal of the order requiring it to do so; and has filed a motion requesting a stay pending judicial proceedings.

Joint Movants’ reliance on the *GTE* decision to justify limitation of the rule is misplaced. The fact that the Commission has the authority to allow surcharges to recoup revenues associated with a successful utility appeal does not extinguish DEF’s ability to request and receive a stay under the provisions of Rule 25-22.061(1), F.S. Rule 25-22.061, F.A.C., was enacted in October 1981 and contained identical language in paragraph (1)(a) to that found in paragraph (1) cited above. Had the Commission interpreted the *GTE* decision as rendering the rule to be redundant, it has had ample opportunity over the last 24 years to modify the rule to reflect that understanding. No such modification has been proposed by either the Commission or the Joint Movants to date. Likewise, staff does not find it persuasive that the rule has not been applied to the fuel clause in the past. Utilities have the right to decide on a case by case basis what remedy is the most appropriate for a particular set of circumstances. Failure to request a remedy does not mean that that remedy is not available.

Staff views the Joint Motion’s request as a request to modify the provisions of Rule 25-22.061(1), F.A.C. Modification of a rule requires compliance with the provisions of Section 120.54(3), F.S., and Rules 28-103.001-.006, F.A.C., e.g., agency notice of intended action; statement of estimated regulatory costs; a hearing, if requested by a substantially affected party; and filing with the Secretary of State of the adopted rule. The Commission cannot unilaterally rewrite its rules without following these procedures.

Having recommended that DEF has met the requirements for an automatic stay pending appeal, the next question concerns compliance with the second sentence of Rule 25-22.061(1), F.A.C.: “The stay *shall* be conditioned upon the posting of good and sufficient bond, the posting of a corporate undertaking, or such other conditions as the Commission finds appropriate to secure the revenues collected by the utility subject to refund.”(Emphasis added.) DEF argues that unlike the first sentence, the last section of the second sentence “provides the Commission with a

¹² Order No. PSC-2020-0368A-FOF-EI at p. 20; Administrative Law Judge’s Conclusion of Law No. 125 (“The total amount to be *refunded* to customers as a result of the imprudence of DEF’s operation of the steam turbine in Period 1 is \$16,116,782, without interest.”)(Emphasis added.)

¹³ Order No. PSC-03-0896-PCO-TP, issued August 5, 2003, in Docket No. 990649-TP, *In re: Investigation into pricing of unbundled network elements (Sprint/VerizonTrack)*(whether the term “customer” included Competitive Local Exchange Companies (CLECs)).

range of options to secure the revenues necessary to make the refund if upheld on appeal.”¹⁴ In this case, DEF argues that the method in which a refund would be implemented in this docket, a reduction in fuel costs in the refund year, makes posting a bond or corporate undertaking unnecessary.¹⁵ Joint Movants take the position that if the mandatory language of the first sentence must be applied to the fuel clause, the mandatory language of the second sentence must be applied as well.

The Commission has historically required either the posting of a bond or corporate undertaking when granting a stay pending appeal whether granted under the automatic provisions of Rule 25-22.061(1) or discretionary provisions of Rule 25-22.062(2), F.A.C. Therefore, staff recommends that DEF be required to provide adequate security in the form of a corporate undertaking as a condition of the stay. The amount to be secured is \$16.1 million plus interest as determined by Rule 25-6.109, F.A.C. Duke Energy Corporation, the parent of DEF, and DEF both have Standard & Poor’s bond ratings of “A-.” In addition, the amount of the potential refund is extremely modest relative to the financial resources available to DEF. Therefore, staff recommends that DEF has sufficient financial capability to support a corporate undertaking of the amount required in this case.

As stated above, staff has recommended that a stay be granted pursuant to the mandatory language used in Rule 25-22.061(1), F.A.C., when refunds are at issue. However, DEF has also alleged that it could also secure a stay under the discretionary provisions of Rule 25-22.061(2), F.A.C. In regard to this assertion, the staff agrees with the Joint Movants that DEF’s reliance on the same arguments in its appeal that were previously rejected by both the administrative law judge and the Commission do not support the conclusion that there is a likelihood of success at the appellate level. Nor has DEF demonstrated that it will sustain irreparable harm if the stay is not granted. Based on these facts, the staff would recommend that a stay pursuant to the discretionary provisions of Rule 25-22.061(2), F.A.C., be denied.

Finally, the fact that the Commission did not specifically vote to allow the de-rating replacement power costs associated with the Bartow Unit 4 outage incurred from May 2017 until September 2019 is irrelevant. The testimony of witness Menendez is clear that DEF requested, and has recovered, all fuel and replacement power costs incurred during this time period including those associated with the de-rating of Bartow Unit 4. [T. 345-55] Contrary to the Joint Movant’s assertion, the Commission has, in fact, voted to allow the Bartow Unit 4 derating costs in the 2018 and 2019 fuel clause dockets.

For these reasons, staff recommends that the Commission find that DEF has complied with the requirements of Rule 25-22.061(1), F.A.C., and should be granted a stay of the provisions of Order No. PSC-2020-0368A-FOF-EI requiring a refund of \$16.1 million associated with the 2017 Bartow Unit 4 outage subject to the posting of a corporate undertaking in the amount of \$16.1 million plus interest as determined by Rule 25-6.109, F.A.C.

¹⁴ DEF’s Post-Hearing Brief at p. 4-5.

¹⁵ *Id.*

Issue 2: Should this docket be closed?

Recommendation: No. At this time there are outstanding issues for DEF to be voted on in this docket at the Special Agenda Conference set for December 15, 2020, which are contingent upon the Commission’s vote on the Motion for Stay Pending Judicial Appeal at issue here. (Brownless)

Staff Analysis: All of DEF’s issues identified in the Prehearing Order, Order No. PSC-2020-0415-PHO-EI, are still outstanding and will be voted on at the Special Agenda Conference to be held on December 15, 2020.¹⁶ The Commission’s decision whether to grant or deny DEF’s Motion will impact its decision on outstanding Issue 1A: “What action should be taken in response to Commission Order No. PSC-2020-0368[A] regarding the Bartow Unit 4 February 2017 outage.” However, a vote will still be required at the Special Agenda Conference on Issue 1A as well as the other outstanding issues. Thus, staff recommends that this docket remain open to resolve those issues.

¹⁶ Issues 1A, 6-11, 16-22, 23A-23D, 27-33, 34-36.

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of the General Counsel (Dziechciarz, Murphy) *TLT*
Division of Engineering (Buys, Ramos) *TB*

RE: Docket No. 20200228-EI – Request to modify filing dates set forth in Order PSC-2020-0097-PCO-EI for storm protection plan and first plan update, by Florida Public Utilities Company.

AGENDA: 12/01/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Polmann

CRITICAL DATES: April 12, 2021 (Current filing date for Florida Public Utilities Company’s initial Storm Protection Plan)

SPECIAL INSTRUCTIONS: None

Case Background

The 2019 Florida Legislature enacted Section 366.96, Florida Statutes (F.S.), entitled “Storm protection plan cost recovery.” Section 366.96(3), F.S., requires each public utility to file a transmission and distribution storm protection plan (SPP) that covers the immediate 10-year planning period, and explains the systematic approach the utility will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. Pursuant to Sections 366.96(5) and 366.96(6), F.S., every three years, each public utility is required to update their plans for a new 10-year planning horizon, and the Florida Public Service Commission (Commission) is required to determine whether it is in the public interest to approve, approve with modification, or deny each utility’s storm protection plan no later than 180 days after the utility files a plan that contains all of the elements required

Docket No. 20200228-EI
Date: November 17, 2020

by Commission Rule. Rules 25-6.030 and 25-6.031, Florida Administrative Code (F.A.C.), implement Section 366.96, F.S.

The Commission has jurisdiction pursuant to Section 366.96, F.S.

Discussion of Issues

Issue 1: Should the Commission approve FPUC's Request to Modify Filing Dates Set Forth in Order No. PSC-2020-0097-PCO-EI for the Company's Storm Protection Plan and Plan Update?

Recommendation: Yes. FPUC should be permitted to defer the filing of its initial Storm Protection Plan from April 12, 2021, as set forth in Order No. PSC-2020-0072-PCO-EI, to April 2022, and the effective period for FPUC's Storm Hardening Plan should be extended from 2021 to 2022. (Buys, Ramos, Dziechciarz, Murphy)

Staff Analysis:

FPUC's Request

On October 16, 2020, FPUC submitted a Request to Modify Filing Dates Set Forth in Order No. PSC-2020-0097-PCO-EI for the Company's Storm Protection Plan and Plan Update (Request). In its Request, FPUC asks that it be allowed to defer the filing of its initial SPP for a period of one year, until 2022, and that it be allowed to follow the applicable provisions of Rule 25-6.030, F.A.C., for subsequent updates to its SPP.

FPUC states that on March 3, 2020, the following dockets were opened to facilitate the Commission's review of the SPPs for each of the investor-owned electric utilities that are subject to the requirements of Section 366.96, F.S.:

- Docket No. 20200067-EI – Tampa Electric Company (TECO) SPP docket
- Docket No. 20200068-EI – Florida Public Utilities Company (FPUC) SPP docket
- Docket No. 20200069-EI – Duke Energy Florida, LLC (DEF) SPP docket
- Docket No. 20200070-EI – Gulf Power Company (Gulf) SPP docket
- Docket No. 20200071-EI – Florida Power & Light Company (FPL) SPP docket

FPUC further states that on March 17, 2020, FPUC requested that it be allowed to defer the filing of its first SPP for a period of one year, from April 10, 2020, to April 10, 2021. FPUC requested the deferral because the full capacity of its limited resources were already being used for the extraordinary and significant rebuilding process following Hurricane Michael, and the regulatory proceedings that were already underway.¹ In addition, FPUC agreed to submit its updated SPP in 2 years (in 2023), instead of within 3 years, as required by Rule 25-6.030, F.A.C., in order to re-align itself with the review period for the updated SPPs of the other investor-owned utilities (TECO, DEF, Gulf, and FPL).

By Order No. PSC-2020-0097-PCO-EI (Extension Order), issued on April 6, 2020, the Prehearing Officer granted FPUC's request to defer the filing of its first SPP, and instructed FPUC to submit its initial SPP on or before April 12, 2021. The Prehearing Officer also instructed FPUC to submit its updated SPP in 2023 (instead of 2024, as contemplated by Rule

¹ See Docket No. 20190156-EI, *In re: Petition for a limited proceeding to recover incremental storm restoration costs, capital costs, revenue reduction for permanently lost customers, and regulatory assets related to Hurricane Michael*, by Florida Public Utilities Company.

25-6.030, F.A.C.), in order to re-align the review of FPUC's SPP update with the review of the other investor-owned utilities.

FPUC notes that following the issuance of the Extension Order, the other investor-owned utilities filed their SPPs, and subsequently entered into a series of settlement agreements.² By Order No. PSC-2020-0293-AS-EI, issued on August 28, 2020, the Commission approved the settlement agreements. A common term in each of the approved settlement agreements was that the investor-owned utilities would file their updated SPPs in 2022, rather than 2023. Accordingly, FPUC asserts that the SPP filing timeline contemplated in the Extension Order will no longer re-align FPUC's SPP review period with the other investor-owned utilities, since it was instructed to file its updated SPP in 2023.

As a result, FPUC argues that it could either: (1) file its initial plan in April 2021, as contemplated by the Extension Order, and then file its update in the next year (in 2022), or (2) delay its initial filing one additional year such that it files in 2022 for the first time. FPUC notes that neither Section 366.96, F.S., nor Rule 25-6.030, F.A.C., provides a specific timeframe by which an investor-owned utility must file its first SPP. In addition, FPUC asserts that given the overall complexity of the SPP filing, it would be unduly burdensome and administratively inefficient to submit its initial SPP in 2021, and then submit an update in 2022, since there would likely be only minimal changes in a 12-month period. Therefore, FPUC requests that the Commission allow it to further defer the filing of its first SPP for an additional year, in April 2022. FPUC also asserts that if the Request is granted, it would not seek to participate in the Commission's SPP Cost Recovery Clause proceeding, conducted pursuant to Rule 25-6.031, F.A.C., in 2021.

In addition, FPUC also requests that the Commission extend the effective period from 2021 to 2022 for its current Storm Hardening Plan, approved by Order No. PSC-2019-0313-PAA-EI, issued on July 29, 2019, in Docket No. 20180148-EI. FPUC emphasizes that if its Request is approved, it will continue to ensure the safety, reliability, and storm resiliency of its transmission and distribution facilities pending the deferred filing of its SPP. FPUC also notes that it is authorized to represent that the Office of Public Counsel (OPC) is not opposed to its Request.

Analysis

Staff recommends that FPUC has demonstrated good cause to defer the filing of its initial SPP for an additional year (from April 2021 to April 2022), and to extend the effective period of its current Storm Hardening Plan for an additional year. Staff concurs with FPUC that neither Section 366.96, F.S., nor Rule 25-6.030, F.A.C., mandates a time by which an investor-owned utility must file its initial SPP. Furthermore, staff recommends that it would be administratively efficient to review all of the SPPs for the investor-owned utilities at the same time. By deferring its initial SPP filing to April 2022, the review of FPUC's initial SPP would take place at the

² The parties to TECO's settlement agreement were the Office of Public Counsel (OPC), Walmart Inc. (Walmart), and the Florida Industrial Power Users Group (FIPUG). The parties to DEF's settlement agreement were OPC, Walmart, and White Springs Agricultural Chemicals, Inc. d/b/a PCS Phosphate – White Springs (PCS Phosphate). The parties to the Gulf and FPL settlement agreements were OPC and Walmart.

same time as the Commission's review of the updated SPPs for the other investor-owned utilities (TECO, DEF, Gulf, and FPL). In addition, staff recommends that it would be inefficient for FPUC to be required to submit its initial SPP in 2021, and then to subsequently be required to file an update one year later in order to re-align the review of its SPP with the review for the other investor-owned utilities.

Staff further recommends that FPUC's request to extend the effective period of its current Storm Hardening Plan from 2021 to 2022 should be granted. Staff recommends that FPUC should be allowed to continue its existing programs and initiatives, without any changes, through 2022, so that FPUC can continue to harden its infrastructure in anticipation of future storms and pending the filing of its initial SPP. Staff notes that FPUC has committed to ensuring the safety, reliability, and storm resiliency of its transmission and distribution facilities pending the deferred filing of its SPP. In addition, FPUC agreed it would not seek to participate in the Commission's SPP Cost Recovery Clause proceeding, conducted pursuant to Rule 25-6.031, F.A.C., in 2021.

Therefore, staff recommends that FPUC's Request should be approved. Staff recommends that FPUC should be permitted to defer the filing of its initial SPP from April 12, 2021, to April 2022, and that the effective period for FPUC's Storm Hardening Plan should be extended from 2021 to 2022.³

³ The exact filing date for the Commission's 2022 review of the SPPs submitted by the investor-owned utilities will be determined by the Prehearing Officer assigned to the dockets when they are established.

Issue 2: Should the docket be closed?

Recommendation: Yes. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon issuance of a Consummating Order, and this docket should be closed. (Dziechciarz, Murphy)

Staff Analysis:

Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon issuance of a Consummating Order, and this docket should be closed.

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Office of Industry Development and Market Analysis (Fogleman) ^{CH}
Office of the General Counsel (Dziechciarz, Passidomo) ^{TLT}

RE: Docket No. 20200236-TP – Proposed extension of permissive dialing in the 850 and 813 area codes.

AGENDA: 12/01/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Brown

CRITICAL DATES: February 20, 2021 – Current start of mandatory ten-digit dialing in the 850 area code
October 16, 2021 – Current start of mandatory ten-digit dialing in the 813 area code

SPECIAL INSTRUCTIONS: None

Case Background

In June and October of 2019, the Florida Public Service Commission (Commission) established two dockets to address area code relief proposals for the 850 and 813 area codes (Docket Nos. 20190135-TP and 20190196-TP, respectively). Both proposals were filed by the North American Numbering Plan Administrator (NANPA) on behalf of the telecommunications industry. The proposals requested that an All-Services Distributed Overlay (Overlay) be implemented for each of the affected areas due to anticipated demand for telephone numbers.

The NANPA proposals included the industry's standard thirteen-month implementation schedule, with a six-month permissive dialing period, for each of the area codes. The permissive

dialing period is the time period in which customers can dial either seven or ten digits to complete a call. At the end of the permissive dialing period, mandatory ten-digit dialing is implemented, and customers that dial only seven digits will receive an audio message informing the customer to dial the number again using ten digits. The permissive dialing period is typically set for six months prior to the forecasted exhaust date for an area code. NANPA forecasted the exhaust for the 850 and 813 area codes as third quarter of 2021 and fourth quarter of 2022, respectively.

On November 6, 2019, the Commission approved the 850 area code Overlay and the corresponding implementation schedules by Order No. PSC-2019-0471-FOF-TP (850 Order). On April 10, 2020, the Commission approved the 813 area code Overlay and the corresponding implementation schedules by Order No. PSC-2020-0098-PAA-TP (813 Order).

Following issuance of the 850 and 813 Orders, NANPA and its telecommunications industry workgroup developed dates by which the industry would notify affected companies and customers of the forthcoming implementation dates, including the end date for permissive dialing (which is the same as the start date for mandatory ten-digit dialing). During this process, the industry workgroup co-chairs distributed several email notifications to directory publishers, coin operated payphone providers, alarm associations, 911 county coordinators, and Public Safety Answering Points (PSAPs). The industry workgroup distributed three email notifications for the 850 Number Planning Area (NPA), and the first of four notifications for the 813 NPA is scheduled for distribution on December 17, 2020.

On October 21, 2020, staff was contacted by two alarm companies, Smith Security System, Inc. and Panhandle Alarm & Telephone Company, Inc., both of which offer service in the 850 NPA. The companies expressed concern regarding their challenges to reprogram alarm equipment in the remaining time before the transition to mandatory ten-digit dialing, which is set to begin on February 20, 2021. The companies indicated that they are facing impediments in accessing their equipment as a result of the COVID-19 pandemic.

On November 5, 2020, the Alarm Association of Florida, Inc. (Alarm Association) advised that its members share similar concerns.¹ The Alarm Association is a statewide association that represents security, fire, and low-voltage customers. Approximately 30 of its contractor members are in the 850 NPA, and approximately 40 of its contractor members are in the 813 NPA. These members have thousands of customer accounts. The Alarm Association indicated that while some equipment can and has been remotely reprogrammed to dial ten digits, other forms of equipment, such as fire alarms, emergency elevator phones, and some medical alert monitors, must be reprogrammed on-site.

The Alarm Association advised that the reduced access to premises, especially residential, as a result of the COVID-19 pandemic, has greatly hindered scheduling reprogramming. The Alarm Association also indicated that the Florida Fire Code (Chapter 633, Florida Statutes) requires that an alarm system be tested after any programming changes to ensure proper system operation, and that this process, depending on the size and location of the system, can take days or in some cases a week or longer.

¹ See FPSC Document No. 11831-2020.

Accordingly, the Alarm Association requested a 90-day extension of the permissive dialing period for both the 850 and 813 NPAs (though it is more urgently needed in the 850 NPA, since the start of mandatory dialing without an extension is set for February 20, 2021, as indicated above). On November 9, 2020, the Florida Fire Marshals and Inspectors Association expressed its support of the Alarm Association's request for a 90-day extension of the permissive dialing period, and echoed the concerns expressed by the Alarm Association.²

The Commission has jurisdiction pursuant to Sections 364.16(7) and 120.80(13)(d), Florida Statutes, and Chapter 47 of the Code of Federal Regulations, Section 52.19.

² See FPSC Document No. 11888-2020.

Discussion of Issues

Issue 1: Should the Commission extend the end of the permissive dialing period for the 850 area code from February 20, 2021, to May 22, 2021?

Recommendation: Yes. The Commission should approve an extension of the permissive dialing period for the 850 area code, as set forth in Order No. PSC-2019-0471-FOF-TP, to May 22, 2021. (Fogleman)

Staff Analysis:

Summary of Concerns of Alarm Industry

Not all alarm equipment can be remotely reprogrammed to dial ten digits. Specifically, the majority of fire alarm systems and emergency elevator phones require on-site reprogramming. Furthermore, some legacy consumer medical devices also require on-site reprogramming. Due to the COVID-19 pandemic, the industry has faced challenges gaining access to thousands of buildings to perform such reprogramming, resulting in a potential public safety risk if the devices cannot be reprogrammed in time. In addition, Smith Security System, Inc. and Panhandle Alarm & Telephone Company, Inc. suggested that insufficient public notice regarding the transition to ten-digit dialing was a compounding factor in their reprogramming challenges.

Smith Security System, Inc., Panhandle Alarm & Telephone Company, Inc., the Alarm Association, and the Florida Fire Marshals and Inspectors Association have requested an extension of the permissive dialing period to provide additional time to reprogram alarms throughout the 850 area code. While Smith Security System, Inc. did not specify a requested time frame, Panhandle Alarm & Telephone Company, Inc. requested an extension of twelve months. The Alarm Association and the Florida Fire Marshals and Inspectors Association requested an extension of 90 days.

NANPA Area Code Exhaust Forecast

In October 2020, NANPA issued its semi-annual exhaust analysis which continues to forecast exhaust of the 850 area code in the third quarter of 2021. As of October 30, 2020, there are 16 available Central Office (CO) codes for assignment. While each CO code has 10,000 consecutive telephone numbers, a code can only be assigned to one rate center.

There are a total of 64 rate centers in the 850 area code, of which 63 are optional pooling rate centers, and one is excluded from pooling. The Pooling Administrator has a total of 712 available blocks of 1,000 telephone numbers for assignment. There are available blocks in all rate centers with the exception of the MUNSON and SNEADS rate centers.

NANPA is forecasting demand for two CO codes in the next six months. Due to the limited number of CO codes in the 850 area code, NANPA notes that it may be necessary to ration code assignments if the implementation of the new area code is delayed. Specifically, if the demand for CO codes exceeds the supply prior to final implementation of the new area code, "Jeopardy" could be declared by NANPA for an NPA. When Jeopardy is declared, Interim Jeopardy

Procedures are put in place and become effective immediately. The Interim Jeopardy procedures state that pooling and non-pooled CO code applications must be submitted through a lottery process, and CO code allocations initially are set at three per month. NANPA is required to convene the industry no later than three weeks after the Jeopardy declaration in order to reach consensus on the final Jeopardy procedures.

850 Outreach Efforts

In order to educate and receive customer input, staff held a customer workshop on September 6, 2019, in Tallahassee. During this workshop, Commission staff and representatives from NANPA gave presentations explaining the area code relief process, the relief options being considered, and the customer impact. Staff also allotted time for customers to ask questions or give comments. There were no customer comments during the workshop; however, staff did receive one customer comment after the workshop in favor of the Overlay alternative.

NANPA and the industry workgroup developed customer education and notification dates after the 850 Order was approved. Part of this process included the distribution of three additional email notifications sent to directory publishers, coin operated payphone providers, alarm associations, 911 county coordinators and PSAPs. The emails were sent in April, July, and October for the 850 NPA. This process has been used in prior Overlays that resulted in the transition to ten-digit dialing. Two contacts at the Alarm Association were included in these emails. Customer notifications for the general public were sent by all telecommunications companies in August, just prior to the beginning of the permissive dialing period beginning August 22, 2020. The Commission also issued its own news release on August 7, 2020.

Industry Workgroup Proposal

Staff advised the industry workgroup for the 850 area code relief implementation of the concerns raised by the alarm industry. If the Commission decides to extend the permissive dialing period for the 850 area code, the industry workgroup has proposed the following timelines for the Commission's consideration. As noted in the Commission's 850 Order, CO codes in the new 448 area code are available only when all assignable CO codes in the 850 area code are assigned.

850/448 NPA	Current Date	Revised Date
End of permissive dialing and start of mandatory 10-digit dialing	February 20, 2021	May 22, 2021
Earliest new 448 NPA central office code activation / in service date	March 20, 2021	June 22, 2021
Earliest date central office codes in the new 448 overlay area may be ordered through NANPA.	January 13, 2021	April 17, 2021

In order for telecommunications carriers to begin incorporating the changes listed above, NANPA must issue a planning letter regarding the actions of the Commission. NANPA's "NPA Code Relief Planning and Notifications Guidelines" states that it will post the planning letter within ten business days of the final written order. Thus, NANPA will not issue a planning letter without a Final Order from the Commission, unless it is specifically directed to do so.

Conclusion

In light of the barriers the alarm industry has faced in reprogramming alarm equipment due to COVID-19, staff recommends approval of the schedule proposed by the industry workgroup. Staff believes that extending the end of the permissive dialing period from February 20, 2021, to May 22, 2021, strikes a reasonable balance between providing additional time to the alarm industry to update equipment and ensure public safety with the need to mitigate the risk of exhausting telephone numbers in the 850 NPA. Also, in order to facilitate this schedule, staff recommends the Commission direct NANPA to issue the planning letter within ten business days of the issuance of the Proposed Agency Action (PAA) Order.

Issue 2: Should the Commission extend the end of the permissive dialing period for the 813 area code from October 16, 2021, to January 22, 2022?

Recommendation: Yes. The Commission should approve an extension of the permissive dialing period for the 813 area code, as set forth in Order No. PSC-2020-0098-PAA-TP, to January 22, 2022. (Fogleman)

Staff Analysis:

Summary of Concerns of Alarm Industry

As noted in Issue 1, the majority of fire alarm systems and emergency elevator phones require on-site reprogramming of equipment from seven-digit dialing to ten-digit dialing. Due to the COVID-19 pandemic, the Alarm Association has requested that the Commission extend the permissive dialing period to provide for additional time for such reprogramming.

NANPA Area Code Exhaust Forecast / 988 National Suicide Prevention Lifeline

When the Commission considered area code relief for the 813 area code, NANPA had forecasted the exhaust by third quarter of 2021. In October 2020, NANPA issued its semi-annual exhaust analysis forecast, and updated the exhaust of the 813 area code to the fourth quarter of 2022. Thus, the expected exhaust for the 813 area code was pushed out more than a year. However, the area code exhaust is no longer the sole issue forcing the transition to ten-digit dialing in this area code.

In July 2020, the Federal Communications Commission adopted rules to establish 988 as the new nationwide three-digit phone number to connect those in crises with suicide prevention and mental health crisis counselors. The rules require all phone service providers to direct all 988 calls to the existing National Suicide Prevention Lifeline by July 16, 2022. To ensure that calls to 988 reach the National Suicide Prevention Lifeline, all providers will be required to implement ten-digit dialing in areas that use both seven-digit dialing and use 988 as the first three numbers in seven-digit phone numbers.

Because 988 is an active prefix in the 813 area code, the 813 NPA will be required to transition to ten-digit dialing. The implementation schedule related to establishing the 988 National Suicide Prevention Lifeline requires the transition to ten-digit dialing before the new exhaust date for the 813 area code.³ Thus, the Commission has a limited time to extend the permissive dialing period in the 813 area code, since permissive dialing cannot be extended to the forecasted exhaust (fourth quarter of 2022) due to the implementation of the National Suicide Prevention Lifeline.

813 Outreach Efforts

In an effort to educate and receive customer input, staff held customer workshops on February 6, 2020, in Tampa, FL, and February 7, 2020, in St. Petersburg, FL. During these workshops, Commission staff and a representative from NANPA explained the area code relief process, the

³ By comparison, the forecasted exhaust date is the controlling factor for the 850 NPA, rather than the 988 implementation schedule.

relief options being considered, and the customer impact. Staff also allotted time for customers to ask questions or give comments. While there were no customers at either workshop, staff did receive one comment afterwards in favor of the Overlay option.

NANPA and the industry workgroup are working to develop customer education and notification dates. Part of this process includes the distribution of four additional email notifications sent to directory publishers, coin operated payphone providers, alarm associations, 911 county coordinators, and PSAPs for the 813 NPA. As previously indicated, this process has been used in prior Overlays that resulted in the transition to ten-digit dialing. These emails are scheduled to be sent on December 17, 2020, March 5, 2021, June 16, 2021, and September 3, 2021. The first customer notification for the general public is scheduled to be sent by all telecommunications companies in March 2021, just prior to the beginning of the permissive dialing period on April 17, 2021.

Industry Workgroup Proposal

Staff advised the industry workgroup for the 813 area code relief implementation of the concerns identified by the alarm industry. If the Commission decides to extend the permissive dialing period for the 813 area code, the industry workgroup has proposed the following timelines for the Commission's consideration. As noted in the 813 Order, CO codes in the new 656 area code are available only when all assignable CO codes in the 813 area code are assigned.

813/656 NPA	Current Date	Revised Date
Start of permissive 10-digit dialing	April 17, 2021	No Change
End of permissive dialing and start of mandatory 10-digit dialing	October 16, 2021	January 22, 2022
Earliest new 656 NPA central office code activation / in service date	November 16, 2021	February 22, 2022
Earliest date central office codes in the new 656 overlay area may be ordered through NANPA.	September 11, 2021	December 18, 2021

In order for telecommunications carriers to begin incorporating the changes listed above, NANPA must issue a planning letter regarding the actions of the Commission. NANPA's "NPA Code Relief Planning and Notifications Guidelines" states that it will post the planning letter within ten business days of the final written order. Thus, NANPA will not issue a planning letter without a Final Order from the Commission, unless it is specifically directed to do so.

Conclusion

In light of the barriers the alarm industry has faced in reprogramming alarm equipment due to COVID-19, staff recommends approval of the schedule proposed by the industry workgroup. While the forecasted exhaust date for 813 has been extended, the implementation of the national suicide prevention number limits the amount of time permissive dialing can be extended. Staff believes that extending the end of the permissive dialing period from October 16, 2021, to January 22, 2022, strikes a reasonable balance between providing additional time to the alarm industry to update equipment, ensuring public safety, mitigating the risk of exhausting telephone

numbers in the 813 NPA, and the implementation of the national suicide prevention number. Also, in order to facilitate this schedule, staff recommends that the Commission direct NANPA to issue the planning letter within ten business days of the issuance of the PAA Order.

Issue 3: Should this docket be closed?

Recommendation: Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon the issuance of a Consummating Order. (Dziechciarz, Passidomo)

Staff Analysis: At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a Consummating Order.

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Blocker, Fletcher, Norris) *ALM* *BF*
Office of the General Counsel (Stiller, Crawford) *JSC*

RE: Docket No. 20200005-WS – Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.

AGENDA: 12/1/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 03/31/21 (Statutory Reestablishment Deadline)

SPECIAL INSTRUCTIONS: None

Case Background

Since March 31, 1981, pursuant to the guidelines established by Section 367.081(4)(a), Florida Statutes (F.S.), and Rule 25-30.420, Florida Administrative Code (F.A.C.), the Commission has established a price index increase or decrease for major categories of operating costs on or before March 31 of each year. This process allows water and wastewater utilities to adjust rates based on current specific expenses without applying for a rate case.

Staff has calculated its proposed 2021 price index by comparing the Gross Domestic Product Implicit Price Deflator Index for the fiscal year ended September 30, 2020. This same procedure has been used each year since 1995 to calculate the price index. The U.S. Department of Commerce, Bureau of Economic Analysis, released its most recent third quarter figures on October 29, 2020.

Docket No. 20200005-WS

Date: November 17, 2020

Since March 31, 1981, the Commission has received and processed approximately 3,800 index and pass through applications. The Commission has jurisdiction over this matter pursuant to Section 367.081, F.S.

Discussion of Issues

Issue 1: Which index should be used to determine price level adjustments?

Recommendation: The Gross Domestic Product Implicit Price Deflator Index is recommended for use in calculating price level adjustments. Staff recommends calculating the 2021 Price Index by using a fiscal year, four quarter comparison of the Implicit Price Deflator Index ending with the third quarter of 2020. (Blocker)

Staff Analysis: In 1993, the Gross Domestic Product Implicit Price Deflator Index (GDP) was established as the appropriate measure for determining the water and wastewater price index. At the same time, the convention of using a four quarter fiscal year comparison was also established and this practice has been used every year since then.¹ The GDP is prepared by the U.S. Department of Commerce. Prior to that time, the Gross National Product Implicit Price Deflator Index (GNP) was used as the indexing factor for water and wastewater utilities. The Department of Commerce switched its emphasis from the GNP to the GDP as the primary measure of U.S. production.

Pursuant to Section 367.081(4)(a), F.S., the Commission, by order, shall establish a price increase or decrease index for major categories of operating costs incurred by utilities subject to its jurisdiction reflecting the percentage of increase or decrease in such costs from the most recent 12-month historical data available. Since 1995, the price index adjustment has been determined by comparing the change in the average GDP for the year ending September 30, instead of the original December 31, in order to more easily meet the statutory deadline.²

In Order No. PSC-2019-0525-PAA-WS, issued December 17, 2019, in Docket No. 20190005-WS, the Commission, in keeping with the practice started in 1993, reiterated the alternatives which could be used to calculate the indexing of utility revenues. Past concerns expressed by utilities, as summarized from utility input in previous hearings, are:

- 1) Inflation should be a major factor in determining the index;
- 2) Nationally published indices should be vital to this determination;
- 3) Major categories of expenses are labor, chemicals, materials and supplies, maintenance, transportation, and treatment expense;
- 4) An area wage survey, Dodge Building Cost Index, Consumer Price Index, and the GDP should be considered;
- 5) A broad measure index should be used; and

¹ Order No. PSC-1993-0195-FOF-WS, issued February 9, 1993, in Docket No. 19930005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*

² Order No. PSC-1995-0202-FOF-WS, issued February 10, 1995, in Docket No. 19950005-WS, *In re: Annual reestablishment of price increase or decrease index of major categories of operating costs incurred by water and wastewater utilities pursuant to Section 367.081(4)(a), F.S.*

- 6) The index procedure should be easy to administer.

Based upon these concerns, the Commission has previously explored the following alternatives:

- 1) Survey of Regulated Water and Wastewater Utilities;
- 2) Consumer Price Index;
- 3) Florida Price Level Index;
- 4) Producer Price Index – previously the Wholesale Price Index; and
- 5) GDP (replacing the GNP).

Over the years, the Commission found that the Survey of Regulated Water and Wastewater Utilities should be rejected because using the results of a survey would allow utilities to pass on to customers all cost increases, thereby reducing the incentives of promoting efficiency and productivity. The Commission has also found that the Consumer Price Index and the Florida Price Level Index should be rejected because of their limited degree of applicability to the water and wastewater industry. Both of these price indices are based upon comparing the advance in prices of a limited number of general goods and, therefore, appear to have limited application to water and wastewater utilities.

The Commission further found that the Producer Price Index (PPI) is a family of indices that measure the average change over time in selling prices received by domestic producers of goods and services. PPI measures price change from the perspective of the seller, not the purchaser, and therefore should be rejected. The bases for these indices have not changed, and staff believes that the conclusions reached in Order No. PSC-2019-0525-PAA-WS should continue to apply in this case. Since 1993, the Commission has found that the GDP has a greater degree of applicability to the water and wastewater industry. Therefore, staff recommends that the Commission continue to use the GDP to calculate water and wastewater price level adjustments. Staff recommends calculating the 2021 Price Index by using a fiscal year, four quarter comparison of the Implicit Price Deflator Index ending with the third quarter of 2020.

The following information provides a historical perspective of the annual price index:

**Table 1-1
 Historical Analysis of the Annual Price Index for Water and Wastewater Utilities**

Year	Commission Approved Index	Year	Commission Approved Index
2009	2.55%	2015	1.57%
2010	0.56%	2016	1.29%
2011	1.18%	2017	1.51%
*2012	2.41%	2018	1.76%
2013	1.63%	2019	2.36%
2014	1.41%	2020	1.79%

The table below shows the historical participation in the Index and/or Pass-Through programs:

Table 1-2
Percentage of Jurisdictional Water and Wastewater Utilities Filing for Indexes and Pass-Throughs

Year	Percentage	Year	Percentage
2009	53%	2015	49%
2010	29%	2016	38%
2011	43%	2017	37%
2012	30%	2018	42%
2013	41%	2019	60%
2014	39%	2020	43%

Issue 2: What rate should be used by water and wastewater utilities for the 2021 Price Index?

Recommendation: The 2021 Price Index for water and wastewater utilities should be 1.17 percent. (Blocker)

Staff Analysis: The U.S. Department of Commerce, Bureau of Economic Analysis, released the most recent third quarter 2020 figures on October 29, 2020. Consistent with the Commission's establishment of the 2020 Price Index last year, staff is using the third quarter 2020 amounts to calculate staff's recommended 2021 Price Index. Using the third quarter amounts allows time for a hearing if there is a protest, in order for the Commission to establish the 2021 Price Index by March 31, 2021, in accordance with Section 367.081(4)(a), F.S. The percentage change in the GDP using the fiscal year comparison ending with the third quarter is 1.17 percent. This number was calculated as follows.

GDP Index for the fiscal year ended 9/30/20	113.849
GDP Index for the fiscal year ended 9/30/19	<u>112.531</u>
Difference	1.318
Divided by 9/30/19 GDP Index	<u>112.531</u>
2021 Price Index	<u><u>1.17%</u></u>

Issue 3: How should the utilities be informed of the indexing requirements?

Recommendation: Pursuant to Rule 25-30.420(1), F.A.C., the Office of Commission Clerk, after the expiration of the Proposed Agency Action (PAA) protest period, should mail each regulated water and wastewater utility a copy of the PAA order establishing the index containing the information presented in Attachment 1. A cover letter from the Director of the Division of Accounting and Finance should be included with the mailing of the order (Attachment 2). The entire package should also be made available on the Commission's website. (Blocker)

Staff Analysis: Staff recommends that the package presented in Attachment 1 be mailed to every regulated water and wastewater utility after the expiration of the PAA protest period, along with a copy of the PAA order once final. The entire package should also be made available on the Commission's website.

In an effort to increase the number of water and wastewater utilities taking advantage of the annual price index and pass-through programs, staff is recommending that the attached cover letter (Attachment 2) from the Director of the Division of Accounting and Finance be included with the mailing of the PAA Order in order to explain the purpose of the index and pass-through applications and to communicate that Commission staff is available to assist them.

Issue 4: Should this docket be closed?

Recommendation: No. Upon expiration of the 14-day protest period, if a timely protest is not received, the decision should become final and effective upon the issuance of a Consummating Order. Any party filing a protest should be required to prefile testimony with the protest. However, this docket should remain open through the end of the year and be closed upon the establishment of the new docket in January 2021. (Stiller, Blocker)

Staff Analysis: Uniform Rule 25-22.029(1), F.A.C., contains an exception to the procedural requirements set forth in Uniform Rule 28-106.111, F.A.C., providing that “[t]he time for requesting a Section 120.569 or 120.57 hearing shall be 14 days from issuance of the notice for PAA orders establishing a price index pursuant to Section 367.081(4)(a), F.S.” Staff therefore recommends that the Commission require any protest to the PAA Order in this docket be filed within 14 days of the issuance of the PAA Order, and that any party filing the protest should be required to prefile testimony with the protest. Upon expiration of the protest period, if a timely protest is not received, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open through the end of the year and be closed upon the establishment of the new docket in January 2021.

FLORIDA PUBLIC SERVICE COMMISSION
 PRICE INDEX APPLICATION
 APPLICABLE TEST YEAR _____

Department of Environmental Protection Public Water System ID NO. _____
 Department of Environmental Protection Wastewater Treatment Plant ID NO. _____

	WATER	WASTEWATER
Operation & Maintenance Expenses ¹	\$ _____	\$ _____
LESS:		
(a) Pass-through Items:		
(1) Purchased Power	_____	_____
(2) Purchased Water	_____	_____
(3) Purchased Wastewater Treatment	_____	_____
(4) Sludge Removal	_____	_____
(5) Other ²	_____	_____
(b) Rate Case Expense Included in Expenses	_____	_____
(c) Adjustments to Operation & Maintenance Expenses from last rate case, if applicable: ³		
(1) _____	_____	_____
(2) _____	_____	_____
Costs to be Indexed	\$ _____	\$ _____
Multiply by Annual Commission-Approved Price Index	<u>1.17</u> %	<u>1.17</u> %
Total Indexed Costs	\$ _____	\$ _____
Add Change in Pass-Through Items: ⁴		
(1) _____	_____	_____
(2) _____	_____	_____
Divide Index and Pass-Through Sum by Expansion Factor for Regulatory Assessment Fees	<u>.955</u>	<u>.955</u>
Increase in Revenue	_____	_____
Divide by Applicable Test Year Revenue ⁵	\$ _____	\$ _____
Percentage Increase in Rates	===== %	===== %

FOOTNOTES APPEAR ON THE FOLLOWING PAGE

PSC 1022 (09/18)

PAGE 1 FOOTNOTES

¹This amount must match last year's annual report.

²Other expense items may include increases in required Department of Environmental Protection testing, ad valorem taxes, permit fees charged by the Department of Environmental Protection or a local government authority, National Pollutant Discharge Elimination System fees, and regulatory assessment fees. These items should not be currently embedded in the utility's rates.

³This may include adjustments that follow a methodology referenced in the Order from a utility's last rate case (i.e. averaged bad debt expense or excessive unaccounted for water percentage applied to chemicals expense).

⁴This may include an increase in purchased power, purchased water, purchased wastewater treatment, sludge hauling, required Department of Environmental Protection testing, ad valorem taxes, and permit fees charged by the Department of Environmental Protection or a local government authority providing that those increases have been incurred within the 12-month period prior to the submission of the pass-through application. Pass-through National Pollutant Discharge Elimination System fees and increases in regulatory assessment fees are eligible as pass-through costs but not subject to the twelve month rule. All pass-through items require invoices. See Rule 25-30.425, F.A.C. for more information.

⁵If rates changed after January 1 of the applicable test year, the book revenues must be adjusted to show the changes and an explanation of the calculation should be attached to this form. See Annualized Revenue Worksheet for instructions and a sample format.

ANNUALIZED REVENUE WORKSHEET

Have the rates charged for customer services changed since January 1, of the applicable test year?

- () If no, the utility should use actual revenues. This form may be disregarded.
- () If yes, the utility must annualize its revenues. Read the remainder of this form.

Annualizing calculates the revenues the utility would have earned based upon the previous year's customer consumption at the most current rates in effect. To complete this calculation, the utility will need consumption data for the previous year to apply to the existing rate schedule. Below is a sample format which may be used.

CALCULATION OF ANNUALIZED REVENUES*
 Consumption Data for Applicable Test Year

	Number of Bill/Gal. Sold	X	Current Rates	Annualized Revenues
Residential Service:				
Bills:				
5/8"x3/4" meters	_____		_____	_____
1" meters	_____		_____	_____
1 1/2" meters	_____		_____	_____
2" meters	_____		_____	_____
Gallons Sold	_____		_____	_____
General Service:				
Bills:				
5/8"x3/4" meters	_____		_____	_____
1" meters	_____		_____	_____
1 1/2" meters	_____		_____	_____
2" meters	_____		_____	_____
3" meters	_____		_____	_____
4" meters	_____		_____	_____
6" meters	_____		_____	_____
Gallons Sold	_____		_____	_____
Total Annualized Revenues for the Applicable Test Year				\$ _____

*Annualized revenues must be calculated separately if the utility consists of both a water system and a wastewater system. This form is designed specifically for utilities using a base facility charge rate structure. If annualized revenues must be calculated and further assistance is needed, contact the Commission Staff at (850) 413-6900.

AFFIRMATION

I, _____, hereby affirm that the figures and calculations upon which the change in rates is based are accurate and that the change will not cause _____ to exceed the range of its last authorized rate of return on equity, which is _____.
(name of utility)

This affirmation is made pursuant to my request for a price index and/or pass-through rate increase, in conformance with Section 367.081(4), Florida Statutes.

Further, I am aware that pursuant to Section 367.081(4)(c), Florida Statutes, whoever makes a false statement in in this affirmation, which statement he or she does not believe to be true in regard to any material matter, is guilty of a felony of the third degree, punishable as provided in Sections 775.082, 775.083, or Section 775.084, Florida Statutes.

Signature: _____
Title: _____
Telephone Number: _____
Fax Number: _____

Sworn to and subscribed before me this _____ day of _____, 20__.

My Commission expires:

(SEAL)

Notary Public
State of Florida

STATEMENT OF QUALITY OF SERVICE

Pursuant to paragraphs 25-30.420(2)(h) and (i), Florida Administrative Code,

(name of utility)

[] does not have any active written complaints, corrective orders, consent orders, or outstanding citations with the Department of Environmental Protection (DEP) or the County Health Departments.

[] does have the attached active written complaint(s), corrective order(s), consent order(s), or outstanding citation(s) with the DEP or the County Health Department(s). The attachment(s) includes the specific system(s) involved with DEP permit number and the nature of the active complaint, corrective order, consent order, or outstanding citation.

Name: _____
Title: _____
Telephone Number: _____
Fax Number: _____
Date: _____

NOTICE TO CUSTOMERS

Pursuant to Section 367.081(4)(a), Florida Statutes, water and wastewater utilities are permitted to adjust the rates and charges to its customers without those customers bearing the additional expense of a public hearing. These adjustments in rates would depend on increases or decreases in noncontrollable expenses subject to inflationary pressures such as chemicals, and other general operation and maintenance costs.

On _____, _____ filed its notice of
(date) (name of utility)
intention with the Florida Public Service Commission to increase water and wastewater rates in _____ County pursuant to this Statute. The filing is subject to review by the Commission Staff for accuracy and completeness. Water rates will increase by approximately _____% and wastewater rates by _____%. These rates should be reflected for service rendered on or after _____.
(date)

Exception

_____ hereby waives the right to implement
(name of utility)
a pass-through rate increase within 45 days of filing, as provided by Section 367.081(4)(b),
Florida Statutes, in order that the pass-through and index rate increase may both be implemented
together 60 days after the official filing date of this notice of intention.

Signature: _____

Title: _____

(To be used if an index and pass-through rate increase are requested jointly.)

NOTICE TO CUSTOMERS

Pursuant to Section 367.081(4)(b), Florida Statutes, water and wastewater utilities are permitted to pass through, without a public hearing, a change in rates resulting from: an increase or decrease in rates charged for utility services received from a governmental agency or another regulated utility and which services were redistributed by the utility to its customers; an increase or decrease in the rates that it is charged for electric power, the amount of ad valorem taxes assessed against its used and useful property, the fees charged by the Department of Environmental Protection in connection with the National Pollutant Discharge Elimination System Program, or the regulatory assessment fees imposed upon it by the Commission; costs incurred for water quality or wastewater quality testing required by the Department of Environmental Protection; the fees charged for wastewater bio solids disposal; costs incurred for any tank inspection required by the Department of Environmental Protection or a local governmental authority; treatment plant and water distribution system operator license fees required by the Department of Environmental Protection or a local governmental authority; water or wastewater operating permit fees charged by the Department of Environmental Protection or a local governmental authority; and consumptive or water use permit fees charged by a water management district.

On _____, _____ filed its notice of
(date) (name of utility)
intention with the Florida Public Service Commission to increase water and wastewater rates in _____ County pursuant to this Statute. The filing is subject to review by the Commission Staff for accuracy and completeness. Water rates will increase by approximately _____% and wastewater rates by _____%. These rates should be reflected on your bill for service rendered on or after _____.
(date)

If you should have any questions, please contact your local utility office. Be sure to have account number handy for quick reference.

COMMISSIONERS:
GARY F. CLARK, CHAIRMAN
ART GRAHAM
JULIE I. BROWN
DONALD J. POLMANN
ANDREW GILES FAY

STATE OF FLORIDA



DIVISION OF
ACCOUNTING AND FINANCE
ANDREW L. MAUREY
DIRECTOR
(850) 413-6900

Public Service Commission

Month Day, 2021

All Florida Public Service Commission
Regulated Water & Wastewater Utilities

Re: Docket No. 20200005-WS - 2021 Price Index

Dear Utility Owner:

Since March 31, 1981, pursuant to the guidelines established by Section 367.081(4)(a), Florida Statutes (F.S.), and Rule 25-30.420, Florida Administrative Code (F.A.C.), the Commission has established a price index increase or decrease for major categories of operating costs. This process allows water and wastewater utilities to adjust rates based on current specific expenses without applying for a rate case. The intent of this rule is to insure that inflationary pressures are not detrimental to utility owners, and that any possible deflationary pressures are not adverse to rate payers. By keeping up with index and pass-through adjustments, utility operations can be maintained at a level sufficient to insure quality of service for the rate payers.

Pursuant to Rule 25-30.420(1)(a), F.A.C., all operation and maintenance expenses shall be indexed with the exception of:

- a) Pass-through items pursuant to Section 367.081(4)(b), F.S.;
- b) Any amortization of rate case expense; and
- c) Disallowances or adjustments made in an applicant's most recent rate proceeding.

Please note that all sludge removal expense should now be removed from operation and maintenance expenses for the purpose of indexing. Incremental increases in this category of expense may now be recovered using a pass-through request.

All Florida Public Service Commission
Regulated Water & Wastewater Utilities
Page 2
Month Day, 2021

Upon the filing of a request for an index and/or pass-through increase, staff will review the application and modify existing rates accordingly. If for no other reason than to keep up with escalating costs, utilities throughout Florida should file for this rate relief on an annual basis. Utilities may apply for a 2021 Price Index anytime between April 1, 2021, through March 31, 2022 by mail or by emailing Applications@psc.state.fl.us. The attached package will answer questions regarding what the index and pass-through rate adjustments are, how to apply for an adjustment, and what needs to be filed in order to meet the filing requirements. While this increase for any given year may be minor, (see chart below), the long-run effect of keeping current with rising costs can be substantial.

Year	Annual Commission Approved Index	Year	Annual Commission Approved Index
1996	2.49%	2009	2.55%
1997	2.13%	2010	0.56%
1998	2.10%	2011	1.18%
1999	1.21%	2012	2.41%
2000	1.36%	2013	1.63%
2001	2.50%	2014	1.41%
2002	2.33%	2015	1.57%
2003	1.31%	2016	1.29%
2004	1.60%	2017	1.51%
2005	2.17%	2018	1.76%
2006	2.74%	2019	2.36%
2007	3.09%	2020	1.79%
2008	2.39%	2021	1.17%

Please be aware that pursuant to Section 837.06, F.S., whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree. Our staff is available at (850) 413-6900 should you need assistance with your filing. If you have any questions, please do not hesitate to call.

Moreover, additional rate relief mechanisms are available to water and wastewater utilities as alternatives to full rate cases. Water and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for water service or \$300,000 or less for wastewater service, or \$600,000 or less on a combined basis, may petition the Commission for staff assistance in alternative rate setting. Please refer to Rule 25-30.456, F.A.C., for additional details. Furthermore, water utilities whose total gross annual operating revenues are \$300,000 or less for water service and wastewater utilities whose total gross annual operating revenues are \$300,000 or less for wastewater service may file an application for a limited alternative rate increase of up

to 20 percent applied to metered or flat recurring rates of all classes of service. Please refer to Rule 25-30.457, F.A.C., for additional details.

In addition, the Commission reminds water and wastewater utilities that the Utility Reserve Fund exists to help address concerns over deferred maintenance of critical infrastructure and delays in necessary repairs. The availability of the reserve funds may allow a utility to avoid or defer the need for a future rate case, the expenses of which are ultimately borne by ratepayers. Please refer to Rule 25-30.444, F.A.C., for additional details.

Sincerely,

Andrew L. Maurey
Director

Enclosures

Item 8

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: November 20, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Draper, Coston, Forrest) *JGH*
Division of Accounting and Finance (Mouring) *ALM*
Office of the General Counsel (Stiller, Crawford, Osborn) *JSC*

RE: Docket No. 20200170-EI – Petition for approval of optional electric vehicle public charging pilot tariffs, by Florida Power & Light Company.

AGENDA: 12/01/20 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 03/19/21 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

Case Background

On June 19, 2020, Florida Power & Light Company (FPL or utility) filed a petition requesting approval of three optional electric vehicle (EV) public charging pilot tariffs. The first tariff, Utility-Owned Public Charging for Electric Vehicles (Rate Schedule UEV), would establish a charging rate for utility-owned fast charging stations. The second set of tariffs, Electric Vehicle Charging Infrastructure Riders for General Service Demand and General Service Large Demand (Rate Schedules GSD-1EV and GSLD-1EV) tariffs, would establish a tariff for third-party public charging stations operating in FPL's service area. The tariffs and associated rates would limit the demand cost associated with general service demand rates billed to the charging stations. The utility requests for the three proposed tariffs to take effect in January 2021 for a period of five years from the effective date of the tariff, unless extended by order of the Commission or terminated early by FPL upon notice to the Commission.

By Order No. PSC-2020-0398-PCO-EI, issued October 26, 2020, the Commission suspended the 60-day file and suspend provision pursuant to Section 366.06(3), Florida Statutes (F.S.). There are sixteen interested persons in this docket.¹ Comments were filed by Advanced Energy Economy (AEE); Tesla, Inc. (Tesla); Electrify America; EVgo Services (EVgo), LLC; Drive Electric Florida; the Edison Electric Institute; Greenlots; and the Florida Petroleum Marketers Association, Inc. These comments have been placed in the docket file. In addition, an email objecting to the proposed UEV rate as being too high has been placed in the docket file.²

In support of its petition for the proposed pilot tariffs, FPL lists several benefits of EVs and cites Section 339.287(1)(f), F.S., that states that “ensuring the prompt installation of adequate, reliable charging stations is in the public interest.” Furthermore, Section 339.287(2), F.S., directs the Florida Department of Transportation, in consultation with the Commission and the Florida Office of Energy, to develop a master plan for electric vehicle charging infrastructure and submit the master plan to the Governor by July 1, 2021.

FPL began voluntarily implementing in 2019 an EV infrastructure pilot called FPL EVolution. Under the EVolution pilot, as of June 2020, FPL has installed 166 Level 2 (4-6 hours to full charge) charging stations at 27 locations with plans to install more than 1,000 additional charging stations over an approximate three-year period. The additional charging stations FPL plans to install will include Level 2 and fast charging stations at locations such as public parks, malls, companies that wish to install charging stations for public and employee use, high-traffic areas along highways such as the Florida Turnpike, Interstate-95, or Interstate-75, and along evacuation routes. Specifically, FPL estimates that it will install 1,150 Level 2 chargers and 218 fast charging stations. FPL stated that the average cost to install a single Level 2 charger is approximately \$5,500 and for a fast charger approximately \$80,000; however, actual cost could vary based on location and technology.

FPL contends that the EVolution pilot will help the state expand the number of EV charging stations and allow FPL to conduct research in areas such as: (1) FPL-owned charging stations, (2) partnering with commercial customers who wish to offer EV charging services on their premises, (3) rate structures, and (4) the effects of charging stations on system load and the electric distribution system.

FPL states that the utility intends to request base rate recovery of the EVolution infrastructure as part of its next base rate proceeding. FPL anticipates the total investment in the FPL EVolution pilot to be \$30 million through the end of 2022; however, a portion of this investment will be offset by any revenues received under the proposed UEV tariff. FPL reflects the revenues, operating expenses, capital additions, and depreciation associated with the current and planned Level 2 and fast charging stations as above-the-line items on the Earnings Surveillance Reports filed with the Commission.

¹ The interested persons are: Walmart, Inc.; Tesla, Inc.; Southern Alliance for Clean Energy; Sierra Club; Corey Ershow and Coley Girouard; the Office of Public Counsel; Florida Solar Energy Center; EVgo; Electrify America, LLC; Drive Electric Florida; Central Florida Clean Cities Coalition; Charge Point; Edison Electric Institute; Greenlots; Advanced Energy Economy; and the Florida Petroleum Marketers Association, Inc.

² Document No. 04130-2020 in Correspondence Section of Docket file.

Commission Jurisdiction

Under its general grant of authority³ and the flexibility afforded by the Florida Supreme Court in construing and applying these statutes,⁴ the Commission has previously approved several EV pilot programs. In 1995, the Commission approved an electric vehicle tariff for Tampa Electric Company.⁵ More recently, in 2017, the Commission addressed EV charging stations owned by utilities in two rate case settlements. In Gulf Power Company's rate case settlement, the Commission permitted the utility to provide EV charging stations on a revenue neutral basis as a pilot program and stated that the Commission "retains the ability to review and make a determination regarding the appropriate regulatory jurisdiction and regulatory treatment of EV charging stations."⁶ In Duke Energy Florida, LLC's (DEF) rate case settlement, the Commission authorized the utility to purchase, install, own, and support Electric Vehicle Service Equipment as part of a five- year pilot program and the agreement provided that DEF may incur up to \$8 million plus reasonable operating expenses.⁷

In last year's session, the Legislature enacted Section 339.287, F.S. This statute recognizes the emerging importance of EV charging stations and the important role of utilities in this effort. Staff also notes that several public utility commissions in other states have approved utilities' provision of EV charging to the public.⁸

Staff has issued four data requests with responses provided by the utility on August 3, August 10, October 2, and November 6, 2020. This recommendation addresses FPL's proposed tariffs as shown in Attachment A to the recommendation. The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, F.S.

³ Section 366.02(2), F.S., provides that "electric utility" means any investor-owned electric utility which owns, maintains, or operates an electric generation, transmission, or distribution system within the state.

⁴ City of Tallahassee v. Florida Pub. Serv. Com'n, 433 So. 2d 505 (Fla. 1983)

⁵ Order No. PSC-95-0853-FOF-EG, issued July 17, 1995, in Docket No. 950517-EG, *In Re: Petition for Approval of New Experimental Electric Vehicle Tariff by Tampa Electric Company*.

⁶ Order No. PSC-17-0178-S-EI, issued May 16, 2017, in Docket No. 160170-EI, *In re: Petition for approval of 2016 depreciation and dismantlement studies, approval of proposed depreciation rates and annual dismantlement accruals and Plant Smith Units 1 and 2 regulatory asset amortization, by Gulf Power Company*.

⁷ Order No. PSC-2017-0451-AS-EU, issued November 20, 2019, in Docket No. 20170183-EI, *In re: Application for limited proceeding to approve 2017 second revised and restated settlement agreement, including certain rate adjustments, by Duke Energy Florida, LLC*.

⁸ Vermont, District of Columbia, California, Ohio, Nevada, and Oregon to name a few.

Discussion of Issues

Issue 1: Should the Commission approve FPL's proposed optional Utility-Owned Public Charging for Electric Vehicles (UEV) pilot tariff?

Recommendation: Yes, staff recommends that the Commission approve FPL's proposed optional UEV pilot tariff, effective January 1, 2021. FPL should file annual reports by January 30, with the first report due January 30, 2022, for the reporting period of January through December 2021. The report should provide capital and operating costs, revenue requirements, revenues collected, and energy sales of its utility-owned fast charging stations, together with updated market rates, to allow the Commission to monitor the reasonableness of the UEV rate. The tariff should remain in effect for a period of five years, unless extended, modified, or terminated by order of the Commission or terminated early by FPL upon notice to the Commission. Before the end of the five-year period, FPL should file no later than September 1, 2025, a petition to extend, modify, or terminate the UEV pilot tariff. (Draper, Coston, Stiller)

Staff Analysis:

Overview of Proposed UEV Tariff

The proposed UEV tariff would apply to customers charging electric vehicles that purchase charging services directly from FPL at certain FPL-owned public fast charging stations. Fast charging stations provide electricity at high voltage (the UEV tariff requires power to be delivered at 50 kilowatts or greater) which results in a charging time of approximately 30 minutes. FPL stated that the determination of which charging stations would use the proposed tariff would be made on a site by site basis and based on the site host's preference. If the UEV tariff is not used, the site host would provide the charging services and pay FPL's otherwise applicable commercial rates and retain the revenues collected for providing charging services.

The user of a utility-owned fast charging station must register an account with FPL's mobile application, including payment information, prior to charging the EV. FPL currently does not have a tariff to charge customers who use charging stations the utility owns and operates under its EVolution pilot and, therefore, FPL is currently not charging drivers for charging services. Currently, the site host for each station is the customer of record and pays FPL standard rates for the electricity delivered to the site. The EV charging services are provided for free by the site host or the site host may charge a fee directly to the EV drivers.

FPL's proposed volumetric rate is \$0.30 per kilowatt-hour (kWh).⁹ FPL explained that the rate was chosen based on a comparison of various automotive fuel alternatives available to customers. Specifically, FPL stated that when comparing the average mileage efficiency of electric vehicles to gasoline-powered vehicles, the electricity price that equates to the same cost per mile is \$0.31 per kWh. Furthermore, public fast charging prices in Florida offered by other providers, such as Tesla, EVgo, and Electrify America, average at \$0.35 per kWh. However, FPL explained that the utility gave more consideration to the Tesla charging rate of \$0.28 per kWh, because at the time the utility did the calculation, Tesla was the only EV provider charging

⁹ FPL's support for the proposed \$0.30 per kWh rate is discussed in paragraphs 21 and 22 of the petition (Document No. 03204-2020) and in response to staff's fourth data request No. 6 (Document No. 11798-2020).

on a per-kWh basis. EVgo and Electrify America offered per-minute charging rates and due to varying charging speeds may present a level of uncertainty when converting to a price per kWh.¹⁰ FPL asserts that the proposed \$0.30 per kWh rate is reasonable compared to the equivalent cost per mile for gasoline-powered vehicles and the EV pricing options offered by non-utility providers.

The proposed \$0.30 per kWh rate is not cost-based. FPL stated that the utility currently does not have data regarding actual sales volumes and operating costs of utility-owned public charging stations and, therefore, developing cost-based rates would be conjectural at this time. To support the proposed “market-based” rates, FPL referred to a decision by the Washington Utilities and Transportation Commission, which approved a pilot tariff for fast charging rate that is comparable to rates being charged by other public charging facilities.

Comments on Proposed UEV Tariff by Interested Persons

Greenlots, the Edison Electric Institute, and Drive Electric in written comments support FPL’s proposed UEV tariff. AEE filed comments in the docket on June 19, 2020.¹¹ AEE explained that it represents a diverse set of businesses and supports the creation of beneficial EV-specific rates. However, AEE expressed concern that FPL’s proposed rate of \$0.30 per kWh is 15 percent lower than the average rate of \$0.35 per kWh offered by non-utility providers, or third parties. AEE asserts that, based on a review of their members, there is “concern that the price differential could inadvertently create a tilted playing field that challenges third-party charging infrastructure development over time.”

Tesla filed comments on June 23, 2020.¹² In its comments, Tesla suggests that the calculation of the FPL proposed rate should not include the price Tesla charges, or in the alternative the rate should be set on FPL’s expected costs of providing charging services. As shown in Chart 1 on page 10 of FPL’s petition, FPL included a Tesla charging rate of \$0.28 per kWh in its calculation of the average charging rate of \$0.35 per kWh offered by non-utility charging stations. Tesla asserts its business model for its charging network is “unique and not necessarily replicable by other charging operators.”

Electrify America, in its comments filed on August 14, 2020, advocated a shared-responsibility model for utility investment that can encourage third-party infrastructure development while limiting ratepayer risk.¹³ Electrify America states that it operates the nation’s largest public fast charging network, including 110 chargers in Florida and several more projects currently under construction. Electrify America states that several jurisdictions have encouraged investment in public charging through the shared-responsibility model. Electrify America did not address the proposed \$0.30 per kWh rate.

EVgo, a competitive supplier of EV charging infrastructure, filed comments on October 5, 2020.¹⁴ EVgo contends that FPL’s petition is premature as there has been no forum in Florida to

¹⁰ In response to staff’s fourth data request No. 6, FPL stated that in October 2020, Electrify America announced a \$0.43/kWh fast charging rate for Guest and Pass members and a \$0.31/kWh rate for Pass+ members.

¹¹ Document No. 09647-2020, in Correspondence Section of Docket file.

¹² Document No. 08820-2020, in Correspondence Section of Docket file.

¹³ Document No. 11195-2020, in Correspondence Section of Docket file.

¹⁴ Document No. 10540-2020, in Correspondence Section of Docket file.

discuss the appropriate role of utilities in owning and operating EV infrastructure. EVgo stated that, given that the role of the utility in owning and operating fast charging infrastructure has not been debated, FPL's proposed UEV tariff should be evaluated in FPL's next rate case. Finally, EVgo states that the proposed \$0.30 per kWh rate creates an uneven playing field if the utility is granted the ability to recover costs of its public charging infrastructure.

The Florida Petroleum Marketers Association, Inc. (FPMA) filed comments on November 10, 2020, objecting to FPL's petition.¹⁵ Specifically, the FPMA states that the Commission does not have the authority to approve pilot programs and does not have authority to permit tariffs for EV charging stations by public utilities. Furthermore, the FPMA asserts that the Commission should not adopt rates that are unfair and biased and that all ratepayers should not have to subsidize the EV infrastructure used by on a small minority of EV owners.

Staff Analysis

FPL asserts that one of the goals of its petition is to learn more about EV driver needs and gather more specific usage and cost data to allow FPL to develop cost-based rates for EV charging services. Staff acknowledges that the proposed UEV tariff is not cost-based, but based on a "market-rate." Fast charging rates vary by provider, by location, and the level of charging offered. Staff believes FPL's calculation of the proposed UEV rate is appropriate for the limited purpose of this pilot and that traditional cost-of-service based rates can not be accurately calculated at this early stage of utility-involvement in the EV market. Staff recommends that FPL's proposed market-based rate is reasonable in the limited context of approving pilot tariffs with the specific goal to collect cost and usage data for utility-owned fast charging stations.

Section 339.287(2)(c)1, F.S., emphasizes the Legislature's intent for an adequate supply of reliable EV charging stations to support and encourage a competitive market. The proposed UEV tariff appears to be consistent with the legislative objectives of Section 339.287, F.S. Allowing FPL to participate in the EV infrastructure build-out in Florida by offering a utility-based rate as an option to EV customers during this nascent stage of EV adoption and the EV charging market development, promotes the public interest and should provide value to EV customers. Staff believes that FPL's proposed tariff will facilitate the development of the competitive EV charging market by allowing the utility, together with other providers, to offer fast charging EV services. The increased availability of EV chargers will remove a barrier to adoption of electric vehicles in Florida.

FPL is not seeking approval of the costs associated with the EVolution pilot in the instant docket. Staff is not prejudging recovery of the EVolution investment and the Commission retains full discretion to evaluate FPL's request in the next rate case for recovery of its EVolution investment and its impact on the general body of ratepayers, including the benefits, if any, to the general body of ratepayers.

FPL explained that the utility will work with the site hosts to determine which fast charging stations installed by FPL under the EVolution pilot will utilize the proposed UEV tariff. Any revenues collected pursuant to UEV tariff would be used by FPL to offset the revenue requirement associated with the EVolution facilities. For any FPL EVolution fast charging

¹⁵ Document No. 11879-2020, in Correspondence Section of Docket file.

stations that will not take service under the proposed UEV tariff, the revenue requirement would be recovered from the general body of ratepayers, if approved by the Commission in the next rate case.

Reporting Requirements

This is the first request by a Florida utility for an EV charging rate applicable to utility-owned fast charging stations. During the pilot period, FPL should file annual reports by January 30 providing capital and operating costs, revenue requirements, revenues collected, and energy sales of its utility-owned fast charging stations. The first annual report would be due January 30, 2022, for the reporting period January through December 2021. In addition, FPL should evaluate and provide any updates to the market rates, i.e., rates charged by non-utility EV charging providers, to maintain consistency with the market rates. The information collected by FPL will allow staff, and interested parties, to monitor the development of the EV charging under the UEV tariff and ultimately determine a cost-based rate. If FPL and/or staff determine that the UEV rate should be modified during the pilot, based on the data collected by the utility, staff will open a docket for Commission consideration. The annual reports should be filed in this docket.

Conclusion

Based on the above, staff recommends that the Commission approve FPL's proposed optional UEV pilot tariff, effective January 1, 2021. FPL should file annual reports by January 30, with the first report due January 30, 2022, for the reporting period of January through December 2021. The report should provide capital and operating costs, revenue requirements, revenues collected, and energy sales of its utility-owned fast charging stations, together with updated market rates, to allow the Commission to monitor the reasonableness of the UEV rate. The tariff should remain in effect for a period of five years, unless extended, modified, or terminated by order of the Commission or terminated early by FPL upon notice to the Commission. Before the end of the five-year period, FPL should file no later than September 1, 2025, a petition to extend, modify, or terminate the UEV pilot tariff.

Issue 2: Should the Commission approve FPL's proposed GSD-1EV and GSLD-1EV pilot tariffs?

Recommendation: Yes, the proposed GSD-1EV and GSLD-1EV pilot tariffs should be approved. FPL should file annual reports by January 30 reporting the number of fast charging stations taking service under the tariffs, the number of fast charging stations that received the benefit of mitigated demand charges, and the annual revenue loss resulting from the reduction in demand-related revenues from fast charging customers. The first annual report would be due January 30, 2022, for the reporting period of January through December 2021. The GSD-1EV and GSLD-1EV pilot tariffs should remain in effect for a period of five years, unless extended, modified, or terminated by order of the Commission. Before the end of the five-year period, FPL should file no later than September 1, 2025, a petition to extend, modify, or terminate the tariffs. (Draper, Coston, Stiller)

Staff Analysis:

Overview of Proposed GSD-1EV and GSLD-1EV Tariffs

The proposed optional pilot tariffs would apply to customers that operate public fast charging stations and would remain in effect for five years. In response to staff's fourth data request No. 5, FPL clarified that the tariff would apply to existing and new charging stations. Since the fast charging stations are typically commercial customers, they are billed on FPL's standard commercial General Service Demand (GSD) or General Service Large Demand (GLSD) rate schedules. The GSD and GLSD rate schedules are comprised of an energy charge (based on the amount of energy, or kWh, consumed) and a dollar per kilowatt (kW) demand charge. The demand charge is billed on the highest usage, or demand, over a specified time interval (30 minutes). This peak usage determines the demand charge for the billing month.

FPL states that the current rate design poses a challenge to the economics of the public fast charging stations that experience a high demand and low levels of kWh energy sales, or utilization. At low levels of utilization, the electric bills incurred by the charging stations result in demand charges being spread over a relatively low volume of energy sales. This is referred to as a low load factor customer. Charging stations with higher kWh sales, i.e., high load factor customers, are able to spread the billed demand cost over more energy sales and are, therefore, more likely to recover their costs.

FPL asserts that the demand charge included in standard demand rate schedules creates a barrier to entry during the early years of the EV market. FPL further states that fast charging providers and potential public charging site hosts have expressed concerns over their ability to recover costs in the early years of the EV market adoption.

To address the challenges FPL identified for public fast charging stations, the utility proposed tariffs that include a demand limiter mechanism. Under the tariffs, the amount of demand billed to the customer would be the lesser of the measured demand or the limited demand as calculated by dividing the kWh sales by a fixed constant of 75 hours. Mathematically, applying the 75 hours constant to the kWh sales results in a reduction in the demand billed to a customer with a load factor of less than ten percent. Customers with a load factor above ten percent would pay

the standard demand charges contained in the GSD and GSLD rate schedules and would not receive a reduction in the electric bill.

Comments on Proposed Tariffs by Interested Persons

Greenlots, the Edison Electric Institute, and Drive Electric in written comments support FPL's proposed GSD-1EV and GSLD-1EV tariffs. EVgo Services supports FPL's proposal; however, EVgo suggests to increase the demand limiter of 75 hours to a limiter of 100 to 200 hours and increase the term of the pilot program from five to ten years. Tesla, Electrify America, and AEE also stated that increasing the demand limiters would help improve fast charging stations' finances. Several interested persons referred to other states that have approved demand limiters of 100 or 200 hours, tariffs that reduce or eliminate demand charges, or no demand charges.

Staff Analysis

The proposed tariffs are not-cost based as FPL will not fully recover its demand-related, or fixed, costs from customers with low load factor fast charging stations. The demand limiter is designed to provide rate relief that will facilitate and encourage the development of EV fast charging infrastructure during this nascent stage of EV adoption and EV charging market development. Staff believes the proposed demand limiter pilot tariffs represent a balanced approach to encourage third-party market development at these early market stages, while limiting ratepayer risk. Staff believes this also aligns with the legislative intent to encourage the installation of EV infrastructure.

The proposed tariff could have an impact on the general body of ratepayers. In response to staff's data request, based on 2019 usage data of 41 fast charging stations, FPL estimated the annual lost revenues to be approximately \$157,000.¹⁶ However, FPL asserts that if the proposed tariffs are successful in accelerating the adoption of EV use, any additional revenues will contribute to the recovery of fixed costs, reducing the impact on the general body of ratepayers.

As discussed above, some interested persons expressed a desire for a larger reduction in the demand charges. However, a larger incentive would have the potential of shifting more costs to the general body of ratepayers. Staff believes that FPL's proposed demand limiter balances the interests of low load factor fast charging stations and the general body of ratepayers that could be impacted by the associated revenue loss when base rates are reset in FPL's next rate case.

Reporting Requirements

To monitor the value provided to fast charging stations by the proposed tariffs, staff recommends that FPL file annual reports, similarly to the reports recommended in Issue 1. Specifically, the reports should include the number of fast charging stations taking service under the tariffs, the number of fast charging stations that received the benefit of mitigated demand charges, and the annual revenue loss resulting from the reduction in demand-related revenues from fast charging customers. The first annual report would be due January 30, 2022, for the reporting period January through December 2021 and the annual reports should be filed in this docket.

¹⁶ Response to staff's first data request No. 1, Document No. 04198-2020.

Conclusion

The proposed GSD-1EV and GSLD-1EV tariffs are designed to mitigate the impact of demand charges on fast charging stations with low utilization levels. Fast charging stations with a load factor over ten percent will pay the traditional tariffed rates. While the discount on the demand charges could cause a potential impact on the general body of ratepayers, staff believes the impact would be minor. Additionally, the proposed pilot tariffs could facilitate the growth of the EV infrastructure in Florida and additional revenues could mitigate any adverse impact on the general body of ratepayers.

Based on the above, the proposed GSD-1EV and GSLD-1EV pilot tariffs should be approved. FPL should file annual reports by January 30 reporting the number of fast charging stations taking service under the tariffs, the number of fast charging stations that received the benefit of mitigated demand charges, and the annual revenue loss resulting from the reduction in demand-related revenues from fast charging customers. The first annual report would be due January 30, 2022, for the reporting period of January through December 2021. The GSD-1EV and GSLD-1EV pilot tariffs should remain in effect for a period of five years, unless extended, modified, or terminated by order of the Commission. Before the end of the five-year period, FPL should file no later than September 1, 2025, a petition to extend, modify, or terminate the tariffs.

Issue 3: Should this docket be closed?

Recommendation: No. If a protest is filed by a substantially affected person within 21 days of the issuance of the order, the tariffs 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 placed into monitoring status upon the issuance of a consummating order so that the utility can file its reports in this docket. (Stiller)

Staff Analysis: If a protest is filed by a substantially affected person within 21 days of the issuance of the order, the tariffs 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 placed into monitoring status upon the issuance of a consummating order so that the utility can file its reports in this docket.

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.936

UTILITY-OWNED PUBLIC CHARGING FOR ELECTRIC VEHICLES (EVs)
(PILOT PROGRAM)

RATE SCHEDULE: UEV

AVAILABLE:

Available to customers charging electric vehicles at certain FPL ("the Company") owned public EV fast charging stations ("the stations") with output power of 50kW or greater where FPL provides charging service and direct billing to the station user.

APPLICATION:

The stations may be accessed by any person ("user") who resides either within or outside the Company's service territory. EV charging service will be available at the Company-owned stations installed at Company or Host locations. The stations will be accessible to the public for charging. Service under this tariff shall terminate five years from the effective date of the tariff, unless extended by order of the Florida Public Service Commission ("FPSC"), or terminated earlier by the Company upon notice to the FPSC.

LIMITATION OF SERVICE:

The user must register an account with the Company's mobile application or network provider, including payment information, prior to charging the EV.

BILLING AND PAYMENT TERMS:

The current rate is set at \$0.30/kWh. Charging network fees as determined by the charging station network provider may apply at certain stations. Vehicle idling fees at a rate up to of \$0.40 per minute following a ten- minute grace period may apply at certain stations located in close proximity to highway corridors or other highly trafficked areas. The rates applicable to the specific station including the rate per kWh, taxes and charging network provider and idle fees will be visible to the users via the app and/or display. Users will be notified when the charging session is complete via the display located at the charging dispenser and through the Company's mobile application and will have the ability to obtain a detailed receipt of the charge session.

RULES AND REGULATIONS:

Service under this rider 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 provisions of this schedule and said "General Rules and Regulations for Electric Service" the provisions of this rider shall apply.

Issued by: Tiffany Cohen, Director, Rates and Tariffs

Effective:

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.106

ELECTRIC VEHICLE CHARGING INFRASTRUCTURE RIDER TO GENERAL SERVICE DEMAND
(OPTIONAL PILOT PROGRAM)

RATE SCHEDULE: GSD-1EV

AVAILABLE:

In all territory served. Service under this rider shall terminate five years from the effective date of the tariff, unless extended by order of the Florida Public Service Commission ("FPSC"), or terminated earlier by the Company upon notice to the FPSC.

APPLICATION:

For electric service required for the purpose of commercial or industrial public electric vehicle charging with a measured Demand in excess of 20 kW and less than 500 kW. Eligible charging installations must be accessible to the public for commercial or general use.

SERVICE:

Single or three phase, 60 hertz and at any available standard distribution voltage. All service required on premises for electric vehicle charging will be furnished through a dedicated meter.

MONTHLY RATE:

All rates and charges under Rate Schedule GSD-1 shall apply.

DEMAND:

The Demand is the kW to the nearest whole kW, as determined from the Company's thermal type meter or, at the Company's option, integrating type meter for the 30-minute period of Customer's greatest use during the month as adjusted for power factor. In no month shall the billed demand be greater than the value in kW determined by dividing the kWh sales for the billing month by 75 hours per month.

TERM OF SERVICE:

Not less than one year.

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.

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective:

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.311

ELECTRIC VEHICLE CHARGING INFRASTRUCTURE RIDER TO GENERAL SERVICE LARGE DEMAND
(OPTIONAL PILOT PROGRAM)

RATE SCHEDULE: GSLD-1EV

AVAILABLE:

In all territory served. Service under this rider shall terminate five years from the effective date of the tariff, unless extended by order of the Florida Public Service Commission ("FPSC"), or terminated earlier by the Company upon notice to the FPSC.

APPLICATION:

For electric service required for the purpose of commercial or industrial public electric vehicle charging with a measured demand of 500 kW and less than 2,000 kW. Eligible charging installations must be accessible to the public for commercial or general use.

SERVICE:

Single or three phase, 60 hertz and at any available standard distribution voltage. All service required on premises for electric vehicle charging will be furnished through a dedicated meter.

MONTHLY RATE:

All rates and charges under Rate Schedule GSLD-1 shall apply.

DEMAND:

The Demand is the kW to the nearest whole kW, as determined from the Company's thermal type meter or, at the Company's option, integrating type meter for the 30-minute period of Customer's greatest use during the month as adjusted for power factor. In no month shall the billed demand be greater than the value in kW determined by dividing the kWh sales for the billing month by 75 hours per month.

TERM OF SERVICE:

Not less than one year.

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.

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective:

FLORIDA POWER & LIGHT COMPANY Sixty-First-Second Revised Sheet No. 8.010
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Issued by: Tiffany Cohen, Director, Rates and Tariffs
 Effective:

Item 9

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Hampson, Smith II, Coston) *JGH*
Office of the General Counsel (Trierweiler) *JSC*

RE: Docket No. 20200209-EI – Petition for approval of proposed disposition of voluntary solar partnership rider and program, by Florida Power & Light Company.

AGENDA: 12/01/20 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 60-Day Suspension Date Waived by FPL until 12/1/2020

SPECIAL INSTRUCTIONS: None

Case Background

On September 4, 2020, Florida Power & Light Company (FPL or utility) filed a petition for approval of proposed disposition of its Voluntary Solar Partnership Rider and Program (SolarNow or program). SolarNow was first approved in 2014 (2014 Order) as a three-year pilot with a termination date of December 31, 2017.¹ The program offers FPL customers an opportunity, for \$9 per month, to participate in a voluntary program designed to fully-fund the construction and operation of solar photovoltaic generation facilities and support programs to educate customers on solar energy. These solar facilities are located in communities throughout FPL's service territory. Customers may enroll or cancel their enrollment at any time.

¹ Order No. PSC-14-0468-TRF-EI, issued August 29, 2014, in Docket No. 20140070-EI, *In re: Petition for approval of voluntary solar partnership pilot program and tariff, by Florida Power & Light Company.*

In 2017, the Commission approved a one-year extension to allow FPL to gather additional data regarding the durability of customer interest over a more substantial period.² In 2018, the Commission approved an additional one-year extension to allow FPL to complete and evaluate research regarding how the SolarNow pilot program and a planned new shared solar program, SolarTogether, would impact each other.³ In December 2019, the Commission approved an additional one-year extension to allow FPL to further assess the potential overlap of the SolarNow pilot program and the pending SolarTogether petition.⁴ On March 20, 2020, the Commission approved the optional SolarTogether program and tariff.⁵ The SolarTogether program allows FPL customers to subscribe to a portion of new solar capacity built through the program and to receive a credit on their bill based on a portion of the system savings produced by that solar capacity.

In this instant petition, FPL proposed to extend SolarNow until December 31, 2025, while ceasing construction of additional SolarNow assets in 2021, which is discussed in Issue 1 of the recommendation. Additionally, FPL has proposed to accelerate depreciation of all SolarNow assets over a five-year period from 2021 to 2025, to coincide with the program's expiration, which is discussed in Issue 2 of the recommendation. FPL's proposal to accelerate the depreciation of the SolarNow assets is designed to align with the proposed termination of the program in December 2025. Under the proposed tariff language, the program would remain open to current and new participants. FPL's proposed SolarNow tariff revision, as shown in Attachment A to this recommendation, extends the termination date for service under the program from December 31, 2020 to December 31, 2025, and removes language to provide greater clarity on the SolarNow expiration.

On September 9, 2020, FPL waived the 60-day file and suspend provision of Section 366.06(3), Florida Statutes (F.S.), until the December 1, 2020 Agenda Conference. During the evaluation of the petition, staff issued one data request to FPL for which responses were filed on October 16, 2020. FPL filed a revised tariff to clarify language in response to staff's first data request, No. 12.⁶ In response to an informal meeting with staff, FPL filed clarifying responses to staff's questions on November 9, 2020. The Commission has jurisdiction over this matter pursuant to Sections 366.05, 366.06, and 366.075, F.S.

² Order No. PSC-2017-0499-TRF-EI, issued December 29, 2017, in Docket No. 20170212-EI, *In re: Petition for one-year extension of voluntary solar partnership rider and program, by Florida Power & Light Company.*

³ Order No. PSC-2018-0581-TRF-EI, issued December 17, 2018, in Docket No. 20180160-EI, *In re: Petition for 12-month extension of voluntary solar partnership rider and program, by Florida Power & Light Company.*

⁴ Order No. PSC-2019-0544-TRF-EI, issued December 20, 2019, in Docket No. 20190190-EI, *In re: Petition for approval of twelve-month extension of voluntary solar partnership rider and program, by Florida Power & Light Company.*

⁵ Order No. PSC-2020-0084-S-EI, issued March 20, 2020, in Docket No. 20190061-EI, *In re: Petition for approval of FPL SolarTogether program and tariff, by Florida Power & Light Company.*

⁶ Document No. 11292-2020, FPL's response to Staff's First Data Request, No. 12.

Discussion of Issues

Issue 1: Should the Commission approve FPL's proposed extension and revisions to the SolarNow tariff?

Recommendation: Yes. The Commission should approve FPL's proposed extension and revisions to the SolarNow tariff, Tariff Sheet No. 8.930. FPL's proposed revisions to the tariff would extend service under the SolarNow pilot program through December 31, 2025, and would provide clarity regarding the program's expiration. This tariff should remain open to existing and new participants through its expiration. The revised tariff, as shown in Attachment A, should be effective January 1, 2021 through December 31, 2025. Once construction of new assets has ended, FPL should file for administrative approval by staff a revised SolarNow tariff to reflect the removal of the reference to construction of solar facilities. (Hampson)

Staff Analysis:

Description of the Current SolarNow Program

SolarNow is designed to be fully-funded by participating customers who voluntarily contribute to the program. Participants contribute to the revenue requirement associated with constructing and operating solar structures and the funding of educational outreach events hosted by the utility. The revenue requirement includes a return, depreciation, operations and maintenance expenses, and other costs such as property taxes and insurance. As required by the 2014 Order, marketing and administrative expenses are capped at 20 percent of participant contributions. FPL has met this requirement each year since SolarNow's inception.

Since 2016, FPL has demonstrated that the revenues received under SolarNow exceed the revenue requirement of the solar facilities. FPL projects that the customer contributions for 2020 will total \$5,658,000 by year end, while the 2020 revenue requirement for the program will total \$5,386,000 by year end.⁷ The electricity generated by the solar facilities displaces fuel that otherwise would have been used for generation, resulting in avoided fuel costs. FPL calculated the 2020 fuel savings to be \$67,000, resulting in an estimated positive net impact to all customers of \$340,000.

As of August 2020, SolarNow had 51,049 total participants. Participation over the lifetime of the program has exceeded FPL's expectations, with enrollment peaking at 58,000 participants, over 4 times the "high participation" case presented in the original 2014 filing. When evaluating the potential market overlap between SolarTogether and SolarNow, FPL found that the introduction of SolarTogether had minimal impact on the SolarNow's participation. On Page 7 of the petition, FPL stated that although 420 residential customers left the program in favor of SolarTogether, 1,799 residential customers maintain dual enrollment, or approximately 3.4 percent of SolarNow participants.

In its petition, FPL discussed several reasons why it proposed ending the program, despite exceeding the utility's expectations. In 2014, opportunities for customers to participate in solar

⁷ Amounts reflect actuals through June 2020 and forecasted data for July 2020 – December 2020. See Document No. 11292-2020, FPL's response to Staff's First Data Request, No. 3, Attachment No. 1.

programs were narrow and customer awareness of solar generation was likewise limited. However, in the six years since the program's inception, cost-effective, large-scale solar has become far more prevalent. The lessons learned from SolarNow have allowed FPL to initiate its SolarTogether initiative. As such, customers now have the opportunity to participate in a program which shares the economic benefits of solar with both participants and non-participants.

FPL Proposal Regarding Construction of New Assets

As directed by the 2014 Order, FPL is required to size construction of SolarNow's solar projects based on the level of participation, so that participant contributions will approximate the project's revenue requirement net of estimated avoided fuel and emissions costs. FPL stated that it would not install any additional solar structures after approximately March 21, 2021, but would continue to enhance existing sites.⁸ In response to additional questions from staff, FPL stated that the final asset to be constructed is still under negotiation; as a result, there is still uncertainty regarding the asset's completion date. FPL also stated that if the project does not come to fruition, the utility intends to replace it with a comparable project. In addition, once construction of new assets has ended, the contributions from participants would be used to pay for the depreciation of existing assets at an accelerated rate, as discussed in Issue 2. In response to staff's first data request No. 6, FPL stated that if at the end of SolarNow there is a revenue requirement shortfall, the utility and its shareholders would absorb these costs, as directed by the 2014 Order.⁹

Program Participation

In its petition, FPL stated that the tariff would remain open to new participants after FPL ceases construction of new assets, as other program benefits would still be available to participants. Specifically, the utility asserts that the solar assets would continue to provide renewable generation, promote awareness and community engagement, and education. FPL plans to continue to partner with various host sites to offer benefits, as well as expand educational outreach about solar generation.

FPL stated that after construction of new assets ends, communication to participants would no longer reference the construction of new solar facilities and would instead focus on the program's education and community activities. The utility agreed to provide any future communication and marketing materials to participants for staff review to ensure that the materials accurately reflect that any voluntary contributions would contribute towards the maintenance and enhancement of the solar facilities and educational activities, and not further construction. Furthermore, as discussed in the 2014 Order, the utility stated that through the NextEra Energy Foundation, it would continue contributing \$200,000 in annual charitable contributions during the remaining life of SolarNow.

Staff believes that once construction of new assets has ended, the SolarNow tariff should reflect that the program would be designed to maintain and enhance the solar assets and provide

⁸ FPL provided a list of all SolarNow projects that are either planned or currently under construction. See Document No. 11292-2020, FPL's response to Staff's First Data Request, No. 11.

⁹ Order No. PSC-14-0468-TRF-EI states "FPL explained that should SolarNow be terminated after the three-year trial period, and in the event that participant contributions and avoided/fuel emission benefits do not cover the remaining revenue requirements, FPL and its shareholders will absorb the difference below-the-line."

educational activities and that no further construction would occur. In response to staff's request, FPL submitted on November 9, 2020, a draft revised SolarNow tariff that removes the reference regarding the construction of facilities. Staff believes the revised tariff, as provided on November 9, 2020, is appropriate and once construction of new assets has ended, FPL should file for administrative approval by staff a revised SolarNow tariff to reflect the removal of the reference to construction of solar facilities.

Conclusion

After review of FPL's petition, responses to staff's data request, and discussions with the utility, staff recommends that the Commission should approve FPL's proposed extension and revisions to the SolarNow tariff, Tariff Sheet No. 8.930. FPL's proposed revisions to the tariff would extend service under the SolarNow pilot program through December 31, 2025, and would provide clarity regarding the program's expiration. This tariff should remain open to new participants through its expiration. The revised tariff, as shown in Attachment A, should be effective January 1, 2021 through December 31, 2025. Once construction of new assets has ended, FPL should file for administrative approval by staff a revised SolarNow tariff to reflect the removal of the reference to construction of solar facilities.

Issue 2: Should the Commission approve FPL's request to accelerate the depreciation of its SolarNow assets?

Recommendation: Yes. The Commission should approve FPL's request to use accelerated depreciation related to its SolarNow assets, on the condition that the utility remove all revenues, expenses, plant in service, and accumulated depreciation associated with the SolarNow Program from its Minimum Filings Requirements in any rate proceeding the utility may file which impacts 2021 through 2025 customer rates. (Smith II)

Staff Analysis: In its petition, FPL requested accelerated depreciation for its assets related to the SolarNow program.¹⁰ FPL explained that the reason for accelerating the depreciation of these assets is to coordinate the end of the SolarNow program with the recovery of the net book value of the assets related to the program.¹¹ The utility proposes to depreciate the remaining net book value of all assets in the SolarNow program over the remaining five years of the program (2021-2025). The utility explained that this would achieve FPL's objective of having the customer contributions fund the SolarNow program's costs.¹² The projected net book value of the SolarNow assets as of December 31, 2020 is \$24,293,852.

The goal of depreciation is to spread the recovery of an asset's costs over the useful life of the asset. The current depreciation rates applicable to most of FPL's SolarNow assets are based on an anticipated 30-year life. Use of accelerated depreciation is appropriate in instances where an asset has become obsolete or not cost-effective to maintain. However, obsolescence is not the reason for accelerating the depreciation in this case insofar as these assets would not be retired early but are expected to be in service, on average, an additional 17 years after program termination.¹³

Staff considered two reasons why it may be appropriate for these assets to be depreciated on an accelerated basis as proposed by FPL. First, accelerated depreciation would reduce the likelihood of non-participant rate impacts during this program extension if FPL's participant attrition rates are reasonably accurate. The total participant contributions associated with the program over its 11 year period (2014-2025), based on the \$9 monthly charge and FPL's anticipated customer attrition rates of 2-3 percent per month, are sufficient to allow the recovery of all program costs incurred over the period from the program participants, including full recovery of the SolarNow assets. Achieving full recovery of the SolarNow assets prior to the program's conclusion protects the general body of ratepayers by removing any future depreciation expense and return on rate base that could potentially be transferred to them. Second, the primary purposes of the assets placed in service for the SolarNow pilot program are expected to be realized by the end of the program in 2025. Those purposes include offering FPL's customers an opportunity to contribute to new solar photovoltaic generation facilities and to promote customer education and solar awareness objectives as the solar market developed. FPL's recently approved SolarTogether program provides customers with an opportunity to contribute to solar development.

¹⁰Document No. 06079-2020, Petition by Florida Power & Light Company for Approval of Proposed Disposition of Voluntary Solar Partnership Rider and Program, p.9.

¹¹See Id.

¹²See Id.

¹³Document No. 11292-2020, FPL's response to Staff's First Data Request, No. 4.

FPL provided a calculation of the depreciation expense at current rates and the proposed accelerated rates.¹⁴ Those calculations reflect an annual increase in depreciation expense of \$3,960,140 for the final five years of the program.¹⁵ The utility also provided a calculation showing that the increased revenue requirement, due to the accelerated depreciation, would exceed the customer contributions and system savings for the remaining years of the program.¹⁶ However, according to FPL, the program produced a surplus of revenue from previous years. This surplus would largely offset the revenue shortfall through the end of the program, if the utility's participant attrition rates are accurate.

Staff believes FPL's forecast of the SolarNow expenses through 2025 have a relatively high degree of certainty, while the forecast of program revenues based on customer contributions is much less certain. In its petition, the utility projects a participant attrition rate of 2-3 percent per month over the final five years of the program. This attrition rate could be partially offset by new participants joining the program. However, if the utility's planned cessation of new solar construction for purposes of this program or any other factors cause that attrition rate to be higher than anticipated, the utility's projected revenue surplus at the conclusion of the program may not materialize and may in fact result in a revenue shortfall. Staff believes it is important to ensure that any potential revenue shortfall is not borne by FPL's general body of ratepayers.

As discussed in Issue 1, the 2014 Order requires that at the conclusion of the program, any revenue requirement exceeding revenue was to be recorded below-the-line, and absorbed by the utility's shareholders.¹⁷ To date, the program has had a surplus of revenues; therefore, the general body of ratepayers has not borne any of the costs associated with this program. However, staff believes certain regulatory actions are necessary to protect the general ratepayers from any potential revenue shortfalls which may be realized through 2025 resulting from the proposed accelerated depreciation rates combined with potentially higher than estimated attrition rates. According to FPL's projections, a program revenue shortfall begins to occur in 2021, and is projected to grow each year thereafter until the end of the SolarNow program.¹⁸ These shortfalls, without additional measures recommended below, would possibly be included in the utility's next rate proceeding, and ultimately affect the base rates of the general body of ratepayers.

Staff believes the Commission can ensure compliance with the 2014 Order by requiring FPL to move the SolarNow program below the line in its next rate case. To this end, staff recommends that the utility be required to make adjustments to its MFRs when it files its next general rate case impacting 2021 through 2025 customer rates.¹⁹ These MFR adjustments should remove all revenues, expenses, plant in service, and accumulated depreciation related to the SolarNow

¹⁴Document No. 11292-2020, FPL's response to Staff's First Data Request, No. 5.

¹⁵Increase in depreciation expense for 2021 equals \$4,843,915 - \$883,775 and for 2022-2025 equals \$4,834,459 - \$874,319.

¹⁶Document No. 11292-2020, FPL's response to Staff's First Data Request, No. 4.

¹⁷Order No. PSC-14-0468-TRF-EI, issued in Docket No. 140070-EI, on August 29, 2014, *In re: Petition for approval of voluntary solar partnership pilot program and tariff, by Florida Power & Light Company.*

¹⁸Document No. 11838-2020, Letter dated 11/9/20, with attached additional information regarding the SolarNow program.

¹⁹Order No. PSC-2020-0312-PAA-EI, issued in Docket No. 20200182-EI, on September 15, 2020, *In re: Joint petition for declaratory statement regarding application of MFR requirements in Rule 25-6.043(1), F.A.C. or, in the alternative, petition for variance, by Florida Power & Light Company and Gulf Power Company.*

program. By adjusting the MFRs in this manner, any revenue shortfall is borne by FPL's shareholders rather than FPL's general body of ratepayers, as originally intended by the utility, and mandated by the 2014 Order. At the same time, if any surplus remains after final disposition of the program, it may be donated by the shareholders to STEAM-related charities, as referenced on page 10 of the Petition.

Staff believes that the accelerated depreciation of SolarNow assets as proposed by FPL, with the MFR adjustments staff proposes, is appropriate given that the purpose of the assets in this voluntary program is achieved within the period of the program. Staff's suggested regulatory treatment will also protect the general body of ratepayers from financial harm, both during the period of the program and after the program's conclusion. Therefore, staff recommends approval of FPL's request for accelerated depreciation, with the condition the utility removes all revenues, expenses, plant in service, and accumulated depreciation associated with the SolarNow program from its MFRs in any rate proceeding the utility may file which impacts 2021 through 2025 customer rates.

Issue 3: Should this docket be closed?

Recommendation: If Issues 1 and 2 are approved and 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. (Trierweiler)

Staff Analysis: If Issues 1 and 2 are approved and 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.

FLORIDA POWER & LIGHT COMPANY

~~Third~~ ~~Fourth~~ Revised Sheet No. 8.930
Cancels ~~Third~~ ~~Second~~ Revised Sheet No. 8.930

VOLUNTARY SOLAR PARTNERSHIP RIDER
(OPTIONAL PILOT PROGRAM)

RATE SCHEDULE: VSP

AVAILABLE:

In all territory served by FPL ("the Company") to customers receiving service under any FPL metered rate schedule. This voluntary solar partnership pilot program ("VSP Program", "the Pilot") provides customers an opportunity to participate in a program designed to construct and operate commercial-scale, distributed solar photovoltaic facilities located in communities throughout FPL's service territory. Service under this rider shall terminate December 31, ~~2020~~, unless extended by order of the Florida Public Service Commission ("FPSC"), or terminated earlier by the Company upon notice to the FPSC.

APPLICATION:

Available upon request to all customers in conjunction with the otherwise applicable metered rate schedule.

LIMITATION OF SERVICE:

Any customer under a metered rate schedule who has no delinquent balances with the Company is eligible to elect the VSP Program. A customer may terminate participation in the VSP Program at any time and may be terminated from the Pilot by the Company if the customer becomes subject to collection action on the customer's service account.

CHARGES:

Each voluntary participant shall agree to make a monthly contribution of \$9.00, in addition to charges applied under the otherwise applicable metered rate schedule. Customer billing will start on the next scheduled billing date upon notification of service request. The VSP Program contribution will not be prorated if the billing period is for less than a full month.

Upon participant's notice of termination, no VSP Program contribution will be assessed in the billing period in which participation is terminated.

TERM OF SERVICE:

Not less than one (1) billing period.

SPECIAL PROVISIONS:

Upon customer request, program participation may continue at a new service address if the customer moves within FPL's service territory.

RULES AND REGULATIONS:

Service under this rider 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 provisions of this schedule and said "General Rules and Regulations for Electric Service" the provisions of this rider shall apply.

Issued by: Tiffany Cohen, Director, Rates and Tariffs
Effective: ~~January 1, 2020~~

Item 10

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Coston) *JGH*
Office of the General Counsel (Brownless) *JSC*

RE: Docket No. 20200227-EI – Petition for approval of a COVID-19 small business assistance program, by Florida Power & Light Company.

AGENDA: 12/01/20 – Regular Agenda – Tariff Filing - Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 12/14/20 (60-Day Suspension Date)

SPECIAL INSTRUCTIONS: None

Case Background

On October 15, 2020, Florida Power & Light Company (FPL or utility) filed a petition requesting approval of its Main Street Recovery Credit Program Rider (MSR). The proposed tariff is designed to provide financial assistance to small business customers impacted by the COVID-19 global pandemic. Specifically, the proposed tariff would allow qualifying General Service, General Service Time of Use, and General Service Constant Usage customers to receive a 10 percent credit toward their monthly bill through December 31, 2021. FPL is requesting the Commission's consideration on an expedited basis to allow the tariff to be effective for eligible customers the month following approval by the Commission.

On October 16, 2020, FPL filed a revised tariff sheet No. 8.010, Index of Rate Schedules, to correct a scrivener's error in its initial filing. The proposed Tariff Sheet Nos. 8.010 and 8.805 in legislative format are shown in Attachment A to this recommendation. During the review of this petition, staff issued a data request to FPL for which responses were received on November 4,

Docket No. 20200227-EI
Date: November 17, 2020

2020. 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 MSR tariff?

Recommendation: Yes, the Commission should approve FPL's proposed MSR Tariff Sheet Nos. 8.010 and 8.805, as shown in Attachment A, effective January 1, 2021. The proposed MSR tariff provides qualifying small business customers the opportunity to receive a 10 percent monthly energy credit through December 31, 2021. (Coston)

Staff Analysis: The impact of the COVID-19 pandemic on Florida's economy has been broad and far-reaching. In response to the economic challenges resulting from recent events, FPL has taken various actions to assist customers affected by the pandemic and its impact on the economy. FPL stated that it took many measures and initiatives at the onset of the pandemic to address the needs of its customers and continues to evaluate opportunities to provide additional support.

The utility noted that certain segments of its small business customer population, especially those in underserved and lower income communities, have been impacted by the COVID-19 pandemic due to required long-term closures and reductions of in-person patronage. In an effort to provide financial assistance to its small business customers, FPL proposed a new initiative, the Main Street Recovery Credit program. FPL stated that this new program would provide assistance to small businesses that may be most impacted by the economic effects of the pandemic. In addition, this program is designed to augment the objectives of the utility's current economic development tariffs, which are designed for its medium-to-large business customers.

This program will offer qualifying customers a 10 percent energy charge credit on their bill each month through December 2021. To qualify, a customer must receive service under the General Service, General Service Time of Use, or General Service Constant Usage rate schedule; not exceed a monthly demand of 21 kilowatts; and meet *one* of the following criteria:

- The customer resumes business operations in a space that was previously inoperative for a minimum of six months; or
- The customer is a new business account; or
- The customer is located in an "Opportunity Zone," as defined by the U.S. Department of the Treasury.

FPL considered several factors when developing the qualification criteria for the program. In determining the closure impact qualification, the utility noted that most small businesses were required to shut down in the March/April time-frame and remained closed until at least September, demonstrating an approximate six-month closure period. Staff believes FPL's six-month approach is reasonable given the impact of the pandemic; however, the utility stated that it is not opposed to considering additional time parameters.¹ In addition, the utility believes the

¹ FPL's Response to Staff's First Data Request, Question 2.

economic impact of the pandemic has increased the challenges of opening new small businesses, and allowing new customers to qualify for the program would support their development and expansion.²

Additionally, FPL noted that Opportunity Zones are designated by the U.S. Department of the Treasury, pursuant to the Opportunity Zone Program, which was created by the Federal Tax Cuts and Jobs Act of 2017. This program is designed to encourage businesses, developers and financial institutions to invest long-term capital in low-income census tract areas. FPL stated that there are approximately 170,000 qualifying customers operating in Opportunity Zones within its service territory.³

To enroll in the program, a qualifying customer would submit an application request at any point prior to December 2021. FPL would notify potential customers about the program through its traditional communication protocol, which includes e-newsletters, social media and its website. In addition, the utility would execute targeted communications to small businesses in its Opportunity Zones.

Once enrolled, each month's bill credit would be calculated using the customer's prior month Base Energy Charge multiplied by the percentage discount. For new businesses, the first month's credit will be estimated based on previous service, premise size, and estimated energy usage for similar businesses. The credit would be applied to a customer's bill as a separate, program-specific line credit. Under this program, FPL anticipates approximately \$16 million in credits would be issued to participating customers over the term of the program.⁴ The utility stated that it does not "intend to track or account for the lost revenues associated with the credit for purposes of recovery between rate cases or in FPL's next rate case."⁵ Therefore, it is staff's understanding that any lost revenues associated with this tariff will not affect the general body of ratepayers.

Conclusion

Staff has reviewed the petition and the responses to staff's data request and believes the proposed tariff will provide assistance to qualifying small businesses impacted by the economic challenges resulting from the COVID-19 pandemic. The Commission should approve FPL's proposed MSR Tariff Sheet Nos. 8.010 and 8.805, as shown in Attachment A, effective January 1, 2021. The proposed MSR tariff allows qualifying small business customers the opportunity to receive a 10 percent monthly energy credit through December 31, 2021.

² FPL's Response to Staff's First Data Request, Question 3.

³ FPL's Response to Staff's First Data Request, Question 1.

⁴ FPL's Response to Staff's First Data Request, Question 5.

⁵ FPL's Response to Staff's First Data Request, Question 4.

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. (Brownless)

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 Sixty-~~Second~~ Third Revised Sheet No. 8.010
 Cancels ~~Sixty-Second~~ ~~Sixty-First~~ Revised Sheet No. 8.010

INDEX OF RATE SCHEDULES		
<u>RATE SCHEDULE</u>	<u>DESCRIPTION</u>	<u>SHEET NO.</u>
BA	Billing Adjustments	8.030
SC	Storm Charge	8.040
GS-1	General Service - Non Demand (0-20 kW)	8.101
GST-1	General Service - Non Demand - Time of Use (0-20 kW)	8.103
GSD-1	General Service Demand (21-499 kW)	8.105
GSDT-1	General Service Demand - Time of Use (21-499 kW)	8.107
BOC	General Service Load Management Program	8.109
NSMR	Non-Standard Meter Rider	8.120
GSCU-1	General Service Constant Usage	8.122
RS-1	Residential Service	8.201
RTR-1	Residential Time of Use Rider	8.203
CU	Common Use Facilities Rider	8.211
ROC	Residential Load Management Program	8.217
GSLD-1	General Service Large Demand (500-1999 kW)	8.310
GSLDT-1	General Service Large Demand - Time of Use (500-1999 kW)	8.320
CS-1	Curtailable Service (500-1999 kW)	8.330
CST-1	Curtailable Service -Time of Use (500-1999 kW)	8.340
GSLD-2	General Service Large Demand (2000 kW +)	8.412
GSLDT-2	General Service Large Demand - Time of Use (2000 kW +)	8.420
HLFT	High Load Factor - Time of Use	8.425
CS-2	Curtailable Service (2000 kW +)	8.432
CST-2	Curtailable Service -Time of Use (2000 kW +)	8.440
CST-3	Curtailable Service -Time of Use (69 kV or above)	8.542
CS-3	Curtailable Service (69 kV or above)	8.545
GSLD-3	General Service Large Demand (69 kV or above)	8.551
GSLDT-3	General Service Large Demand - Time of Use (69 kV or above)	8.552
OS-2	Sports Field Service	8.602
MET	Metropolitan Transit Service	8.610
CILC-1	Commercial/Industrial Load Control Program (Closed Schedule)	8.650
CDR	Commercial/Industrial Demand Reduction Rider	8.680
SL-1	Street Lighting	8.715
SL-1M	Street Lighting Metered Service	8.718
PL-1	Premium Lighting	8.720
OL-1	Outdoor Lighting	8.725
SL-2	Traffic Signal Service	8.730
SL-2M	Traffic Signal Metered Service	8.731
LT-1	LED Lighting	8.735
RL-1	Recreational Lighting	8.743
SST-1	Standby and Supplemental Service	8.750
ISST-1	Interruptible Standby and Supplemental Service	8.760
EDR	Economic Development Rider	8.800
<u>MSR</u>	<u>FPL Main Street Recovery Credit Program Rider</u>	<u>8.805</u>
DSMAR	Demand Side Management Adjustment Rider	8.810
TR	Transformation Rider	8.820
SDTR	Seasonal Demand - Time of Use Rider	8.830
OSP-1	Supplemental Power Services Rider Pilot	8.845
EFEDR	Existing Facility Economic Development Rider	8.900
CISR	Commercial/Industrial Service Rider	8.910
VSP	Voluntary Solar Partnership Pilot Program	8.930
STR	FPL SolarTogether Rider	8.932

Issued by: Tiffany Cohen, Senior Director, Regulatory Rates, Cost of Service and Systems Director, Rates and Tariffs
 Effective: March 3, 2020

FLORIDA POWER & LIGHT COMPANY

Original Sheet No. 8.805

FPL MAIN STREET RECOVERY CREDIT PROGRAM RIDER

AVAILABLE:

In all territory served.

In order to provide assistance to certain small businesses that have been impacted by the COVID-19 global pandemic, an energy charge credit of 10% (FPL Main Street Recovery Credit) that is based on the applicant's qualifying bill is available under this Rider for load associated with: (1) a small business customer that resumes business operations in a space that was previously inoperative for a minimum of six months; (2) initial permanent service to new small business establishments; and (3) small businesses located in "Opportunity Zones," as defined by the Florida Department of Economic Opportunity or the United States Department of Treasury. The FPL Main Street Recovery Credit available under this Rider is limited to Customers who make an application to the Company no earlier than the effective date of this Rider and no later than the expiration of this Rider. The load eligible to receive the FPL Main Street Recovery Credit may not exceed 21 kW at a single delivery point.

TERMS OF SERVICE:

For new businesses, the first month's credit will be based on previous service, premise size, and estimated kWh consumption for similar businesses. For new businesses thereafter, and for all existing businesses, including small businesses located in Opportunity Zones, the Credit will be based on the customer's prior month's consumption. Upon approval of the application, the credit amount will be applied each month to the customer's monthly bill for the remainder of the program. All approved applicants will receive the credit until December 2021, regardless of when the application was submitted.

The program terminates December 31, 2021.

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.

Issued by: Tiffany Cohen, Senior Director, Regulatory Rates, Cost of Service and Systems
Effective:

Item 11

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Guffey) *JGH*
Office of the General Counsel (Tierweiler) *JSC*

RE: Docket No. 20200201-EU – Joint petition for approval of modification to territorial agreement in Lake and Sumter Counties, by City of Leesburg and Duke Energy Florida, LLC.

AGENDA: 12/01/20 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On August 27, 2020, Duke Energy Florida, LLC. (Duke), and the City of Leesburg (Leesburg) filed a joint petition for approval of the first amendment to their existing territorial agreement (First Amendment) in Lake and Sumter Counties. Duke and Leesburg are parties to a currently effective territorial agreement that was approved by the Commission in 2015.¹ The proposed First Amendment to the current territorial agreement and maps depicting the modified territorial boundaries are included in Attachment A to this recommendation.

¹ Order No. PSC-15-0278-PAA-EU, issued July 7, 2015, in Docket No. 150077-EU, *In re: Joint petition for approval of territorial agreement in Lake and Sumter counties by the City of Leesburg and Duke Energy Florida, Inc.*

Docket No. 20200201-EU

Date: November 17, 2020

During the review process, staff issued a data request to the joint petitioners to which responses were received on October 14, 2020. The Commission has jurisdiction over this matter pursuant to Section 366.04, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission approve Leesburg's and Duke's proposed First Amendment to their existing territorial agreement in Lake and Sumter Counties?

Recommendation: Yes. The Commission should approve Leesburg's and Duke's proposed First Amendment to their existing territorial agreement in Lake and Sumter Counties. The approval of the First Amendment will allow the parties to reallocate land and form more compact, contiguous service areas for future development. The reallocation of land will enable Leesburg and Duke to avoid duplication of facilities and serve their customers efficiently. The proposed amendment is in the public interest and will not cause a decrease in reliable electric service to existing and future customers of either utility. (Guffey)

Staff Analysis: Pursuant to Section 366.04(2)(d), F.S., and Rule 25-6.0440(2), Florida Administrative Code (F.A.C.), the Commission has the jurisdiction to approve territorial agreements between and among rural electric cooperatives, municipal electric utilities, and other electric utilities. Unless the Commission determines that the agreement will cause a detriment to the public interest, the agreement should be approved.²

Proposed First Amendment to the Territorial Agreement

Leesburg and Duke executed their First Amendment to the Territorial Agreement (see Attachment A) on August 28, 2020. The intent of the First Amendment is to reallocate vacant land pursuant to Article III and modify the territorial boundaries pursuant to Section 3.1 of the agreement. The exchange of land will form more compact and contiguous service territories for future development and avoid duplication of facilities in Lake and Sumter Counties. There are no customer or infrastructure transfers contemplated in this proposed First Amendment. Through the First Amendment, the joint petitioners seek to more accurately define the portions of their respective service areas and gain operational efficiencies.

In response to staff's data request, the joint petitioners stated that the land areas proposed to be reallocated are currently vacant. Therefore, no notice to customers was required pursuant to Rule 25-6.0440(1), F.A.C. However, staff notes that there are conceptual plans for a residential development of approximately 900 dwelling units in the area allocated to Leesburg. Although the area reallocated to Duke has no conceptual development plans at the moment, future development for this area is projected to be equal to that of Leesburg's conceptual development plans.

As stated in paragraph 6 of the petition, with the exception of the modifications contained in the First Amendment, the terms and conditions of the existing agreement remain unchanged and in effect. The First Amendment to the existing Agreement will become effective and enforceable upon the issuance of the Commission's Order and will remain in effect until July 29, 2045.

² *Utilities Commission of the City of New Smyrna Beach v. Florida Public Service Commission*, 469 So. 2d 731 (Fla. 1985).

Conclusion

After review of the joint petition, the proposed First Amendment to the Territorial Agreement, and the petitioners' joint responses to staff's data request, staff recommends that the Commission should approve Leesburg's and Duke's proposed First Amendment to their existing territorial agreement in Lake and Sumter Counties. The approval of the First Amendment will allow the parties to reallocate land and form more compact, contiguous service areas for future development. The reallocation of land will enable Leesburg and Duke to avoid duplication of facilities and serve their customers efficiently. The proposed amendment is in the public interest and will not cause a decrease in reliable electric service to existing and future customers of either utility.

Issue 2: Should this docket be closed?

Recommendation: Yes. If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order. (Trierweiler)

Staff Analysis: If no protest is filed by a person whose substantial interests are affected within 21 days of the issuance of the Order, this docket should be closed upon the issuance of a Consummating Order.

AMENDMENT TO THE TERRITORIAL AGREEMENT

BETWEEN

THE CITY OF LEESBURG

AND

DUKE ENERGY FLORIDA, LLC

IN

LAKE AND SUMTER COUNTIES

**FIRST AMENDMENT TO THE TERRITORIAL AGREEMENT
BETWEEN
THE CITY OF LEESBURG AND
DUKE ENERGY FLORIDA, LLC**

THIS FIRST AMENDMENT TO THE TERRITORIAL AGREEMENT ("First Amendment"), by and between the City of Leesburg and Duke Energy Florida, LLC. (DEF) (collectively, "Parties," or individually a "Party"), is subject to the approval of the Florida Public Service Commission (the "Commission").




WHEREAS, Leesburg and Duke Energy Florida, LLC are Parties to an existing territorial agreement ("Agreement") delineating their respective service territories in Lake and Sumter Counties which was approved by the Commission in Order No. PSC-15-0313-CO-EU, issued August 4, 2015 in Docket No. 150077-EU.

WHEREAS, the Parties desire, pursuant to Article III, Transfer of Customers and Facilities, and specifically, pursuant to Section 3.1 In General, to modify the territorial boundaries in Lake and Sumter counties.

NOW THEREFORE, the Parties agree as follows:

1. The territorial boundary modification as set forth in the Attachment 1, based on sound economic considerations and good engineering practices would be better served if reallocated to the service territory of the other Party.
2. There are no customers to be transferred within the reallocated areas.
3. The map pages in Attachment 1 shall replace map page 15 in Sumter County and map page 23 in Lake County in the existing Agreement.
4. Upon approval the Commission, this First Amendment to the Territorial Agreement, shall be amended herein and otherwise in full effect until July 29, 2045 and shall remain in effect until and unless either Party provides written notice of termination.

IN WITNESS WHEREOF, each Party hereto has executed this First Amendment by their duly authorized representative on this 28th of August, 2020.

THE CITY OF LEESBURG	DUKE ENERGY FLORIDA, LLC.
	
Elise Dennison Mayor of the City of Leesburg	Catherine Stempien State President Duke Energy Florida, LLC
ATTEST: 	ATTEST: <i>/s/ Matthew R. Bernier</i>
City Clerk	Matthew R. Bernier Associate General Counsel Attorney for Duke Energy Florida, LLC

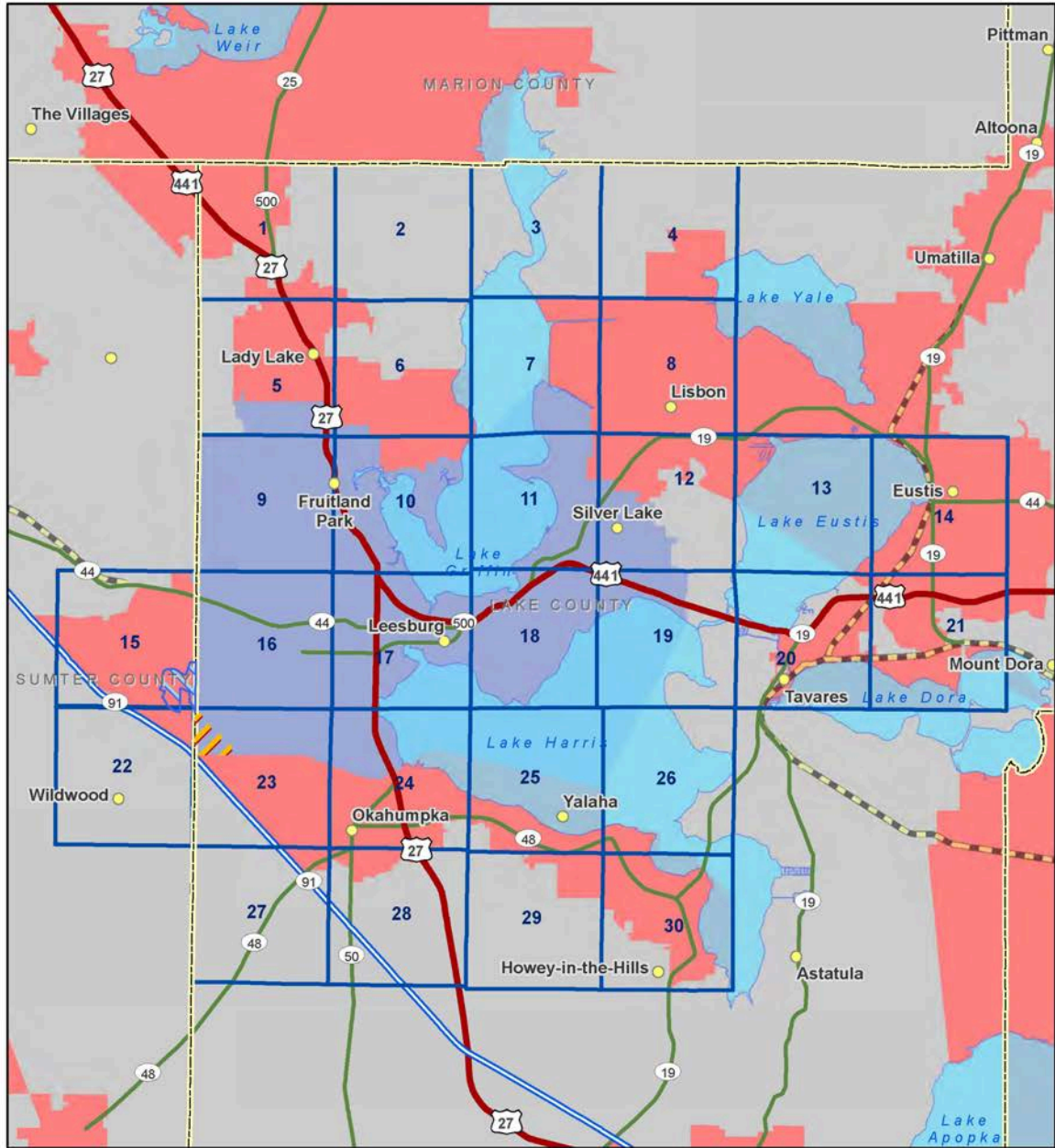
REVISED BOUNDARY MAPS*

IN

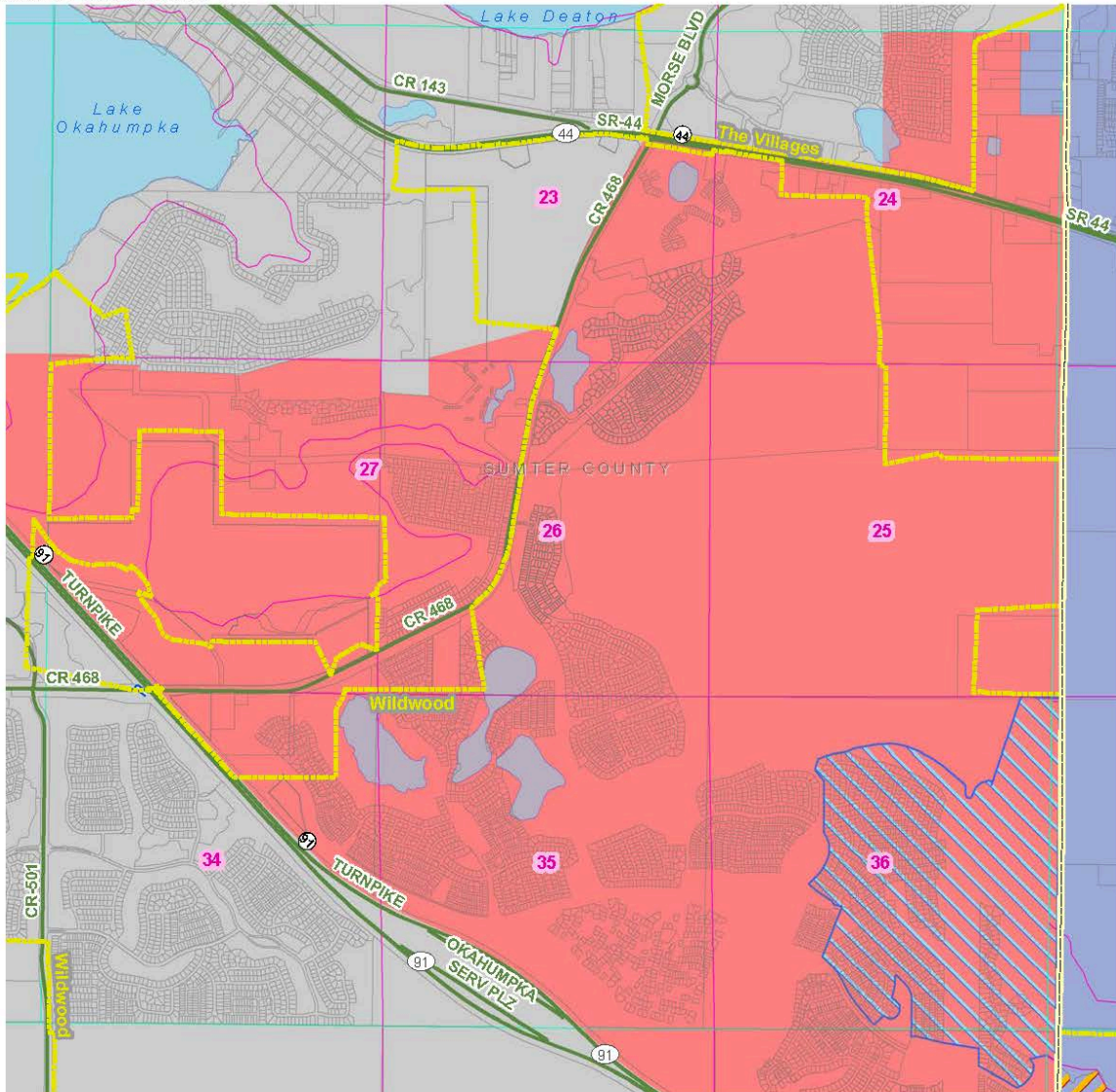
SUMTER AND LAKE COUNTIES

*Demonstrates redrawn area map pages and final map pages versions

**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 LAKE AND SUMTER COUNTIES
 PAGE INDEX**



**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 SUMTER COUNTY**

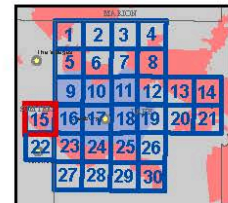


See 19S24E, Southwest Quadrant -- page 16

See 20S23E, Northwest Quadrant -- page 22

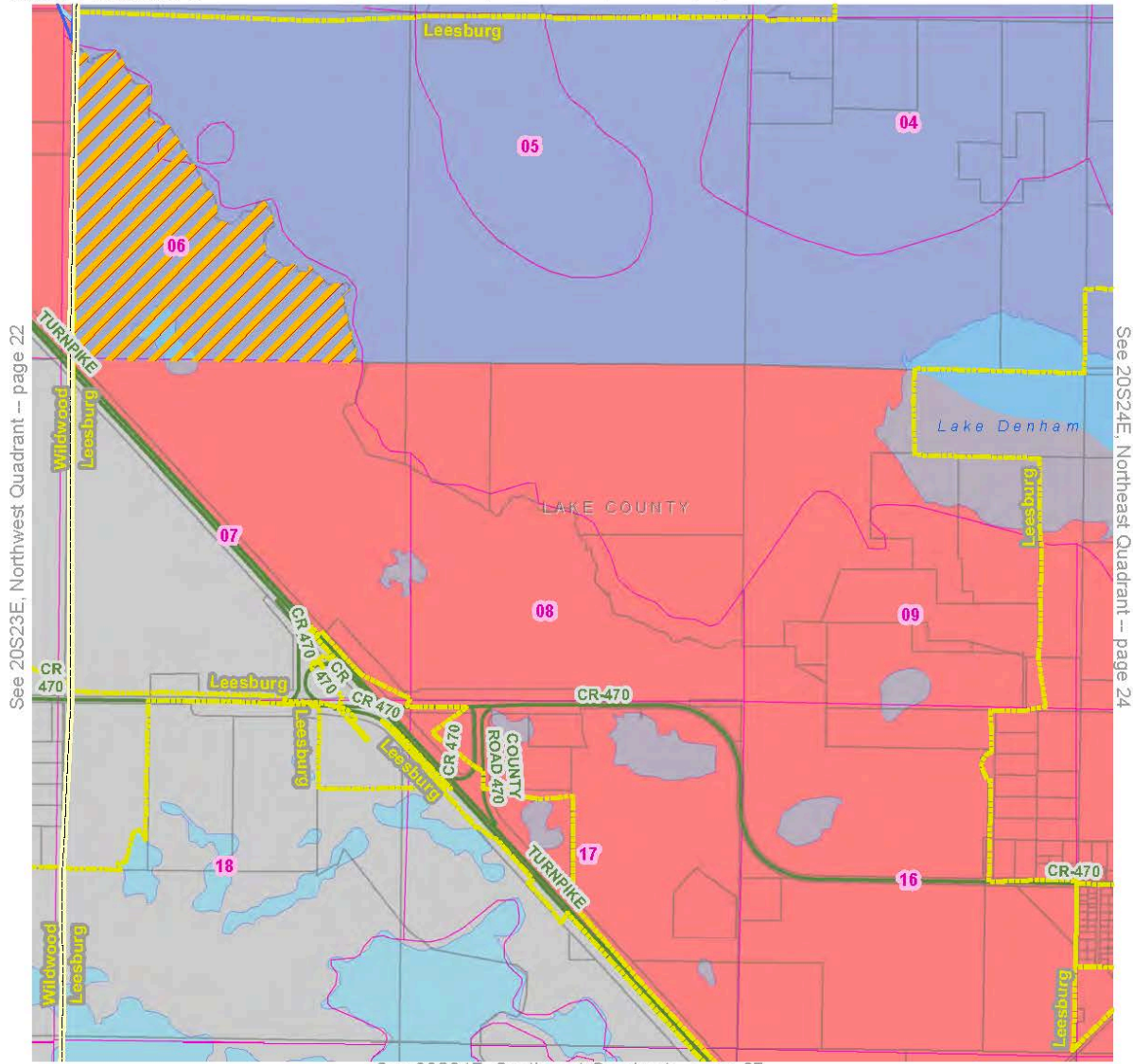
- | | | | | |
|----------------------------|----------------------------|---------------------|--------------------|----------------------|
| Service Territory | Proposed Revisions | Limited Access | Water | County |
| Not Part of This Agreement | Redraw to City of Leesburg | Highway | Township and Range | City/Place Boundary |
| City of Leesburg | Redraw to Duke | Major Road | Section | City and Place Names |
| Duke Energy Florida | | Major Railroad Line | Parcel | |

Quadrant: Southeast
Township: 19S
Range: 23E
County: SUMTER COUNTY, FL



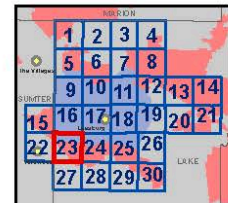
**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 LAKE COUNTY**

See 19S24E, Southwest Quadrant -- page 16

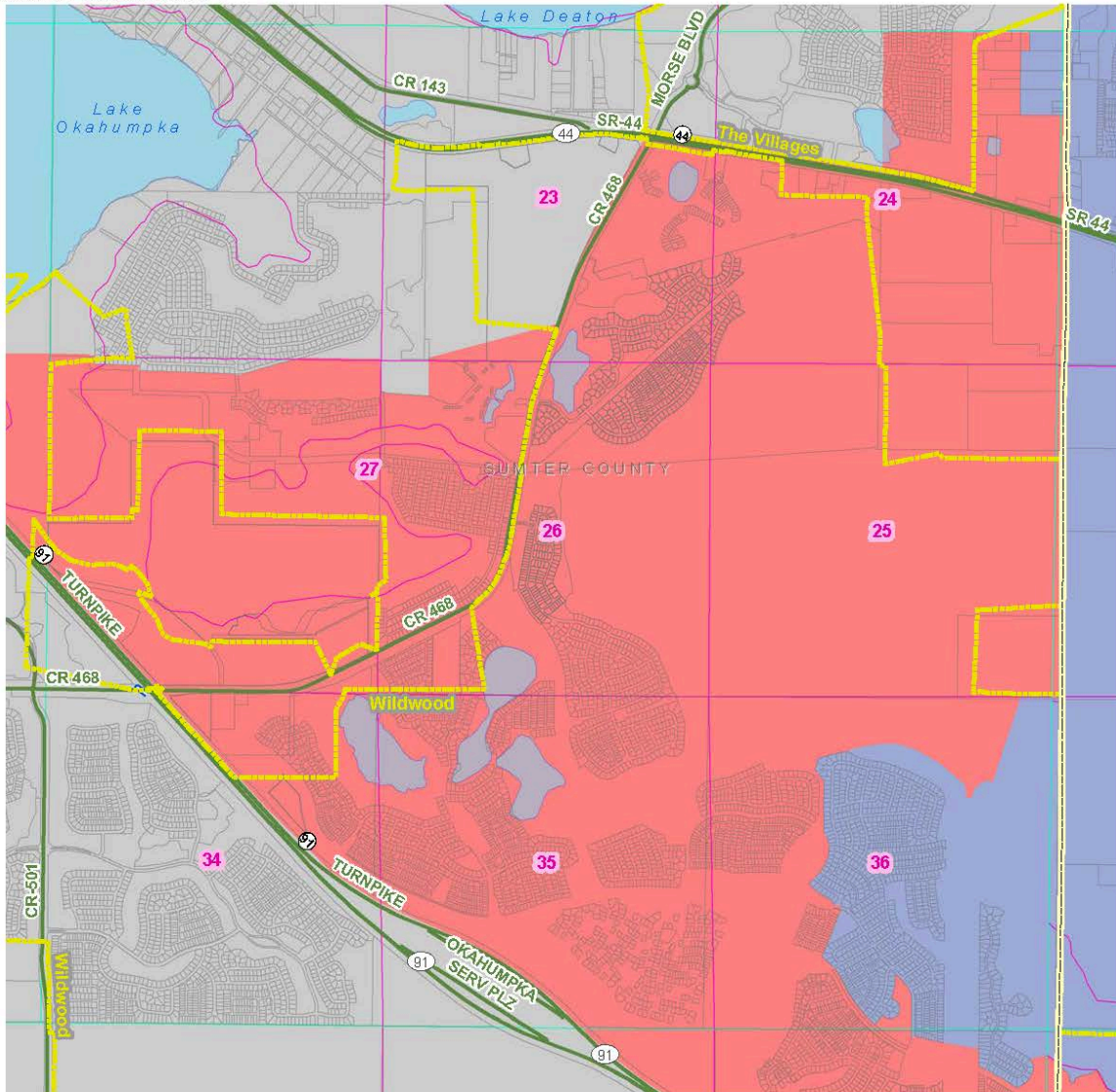


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|----------------------------|----------------------------|---------------------|--------------------|----------------------|
| Service Territory | Proposed Revisions | Limited Access | Water | County |
| Not Part of This Agreement | Redraw to City of Leesburg | Highway | Township and Range | City/Place Boundary |
| City of Leesburg | Redraw to Duke | Major Road | Section | City and Place Names |
| Duke Energy Florida | | Major Railroad Line | Parcel | |

Quadrant: Northwest
Township: 20S
Range: 24E
County: LAKE COUNTY, FL



**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 SUMTER COUNTY**

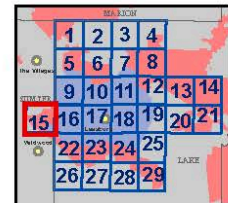


See 19S24E, Southwest Quadrant -- page 16

See 20S23E, Northwest Quadrant -- page 22

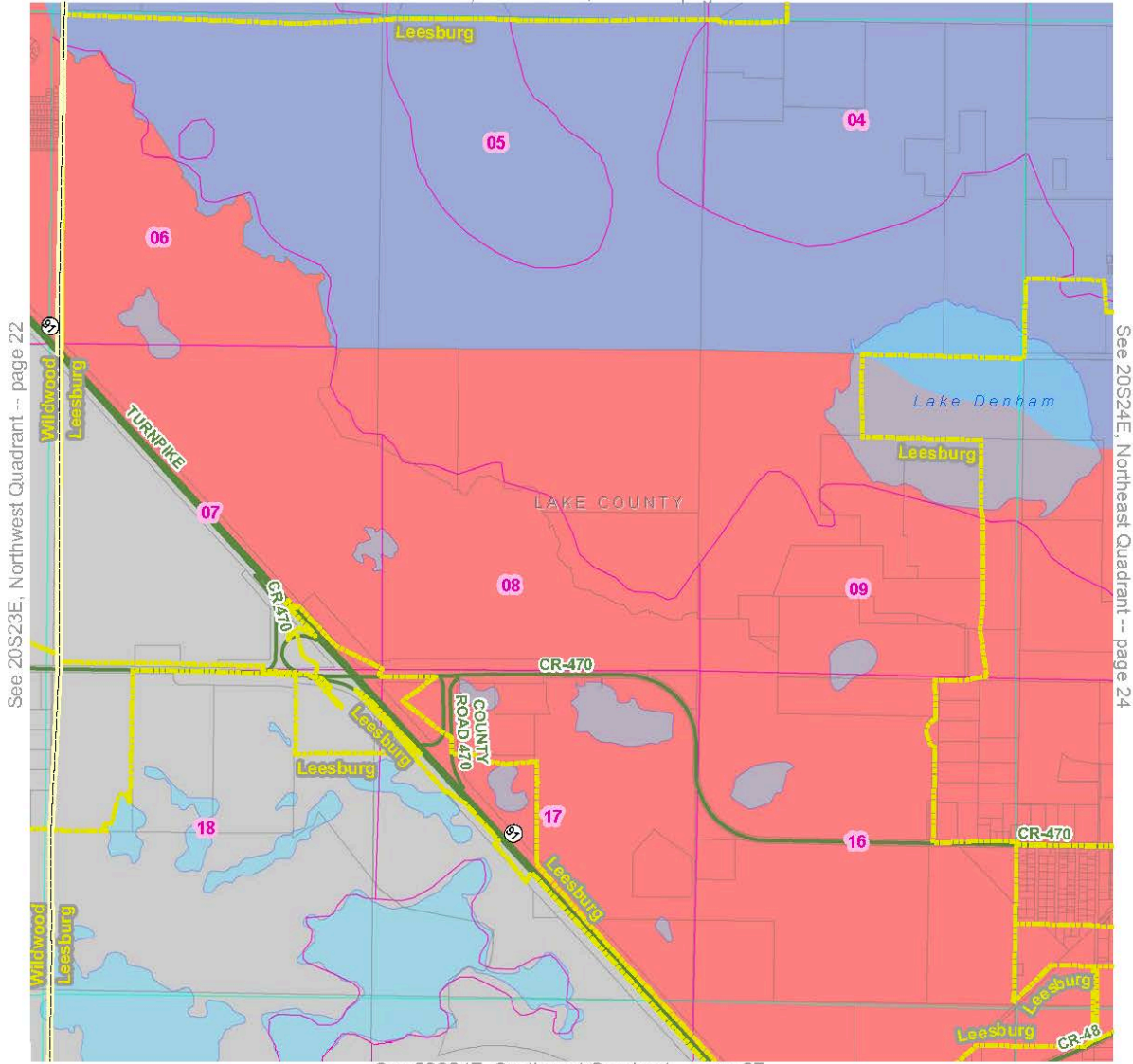
- | | | | |
|----------------------------|---------------------|--------------------|----------------------|
| Service Territory | Limited Access | Water | County |
| Not Part of This Agreement | Highway | Township and Range | City/Place Boundary |
| City of Leesburg | Major Road | Section | City and Place Names |
| Duke Energy Florida | Major Railroad Line | Parcel | |

Quadrant: Southeast
Township: 19S
Range: 23E
County: SUMTER COUNTY, FL



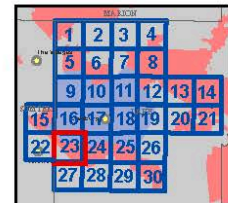
**DUKE ENERGY - CITY OF LEESBURG
 TERRITORIAL AGREEMENT - AMENDMENT
 LAKE COUNTY**

See 19S24E, Southwest Quadrant -- page 16



- | | | | |
|----------------------------|---------------------|--------------------|----------------------|
| Service Territory | Limited Access | Water | County |
| Not Part of This Agreement | Highway | Township and Range | City/Place Boundary |
| City of Leesburg | Major Road | Section | City and Place Names |
| Duke Energy Florida | Major Railroad Line | Parcel | |

Quadrant: Southeast
Township: 20S
Range: 24E
County: LAKE COUNTY, FL



RESOLUTION NO. 10,703


RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA AUTHORIZING THE MAYOR AND CITY
CLERK TO EXECUTE A MODIFICATION TO THE
TERRITORIAL AGREEMENT BETWEEN THE CITY OF
LEESBURG AND DUKE ENERGY FLORIDA, LLC; AND
PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF
LEESBURG, FLORIDA:


THAT the Mayor and City Clerk are hereby authorized to execute a Modification to
the Territorial Agreement with Duke Energy Florida, LLC, whose address is 299 First Avenue
North, St. Petersburg, Florida 33701.

THAT this resolution shall become effective immediately.

PASSED AND ADOPTED by the City Commission of the City of Leesburg,
Florida, at a regular meeting held the 24th day of August 2020.


Elise A. Dennison, Mayor

ATTEST:


City Clerk

Item 12

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Kunkler, Smith II) *JKH*
Office of the General Counsel (Stiller, Crawford) *JSC*

RE: Docket No. 20200191-GU – Petition for approval of amortization rate for Starnik customer information system and other software accounting adjustments, by Florida City Gas.

AGENDA: 12/01/20 – Regular Agenda – Proposed Agency Action -- Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Fay

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

On August 6, 2020, Florida City Gas (FCG or Company) filed a request for approval of amortization rate for Starnik customer information system (CIS) and other software accounting adjustments (Petition). The Company's request is in accordance with Section 366.115, Florida Statutes (F.S.), and Rules 25-7.045(2)(a) and 25-7.045(3)(b), Florida Administrative Code (F.A.C.), which require that: (i) "[n]o utility shall change any existing depreciation rate or initiate any new depreciation rate without prior Commission approval," and (ii) "[u]pon establishing a new account or subaccount classification, each utility shall request Commission approval of a depreciation rate for the new plant category."

Pursuant to Rule 25-7.045(3)(a), F.A.C., gas utilities are required to maintain depreciation rates and accumulated depreciation reserves in accounts or subaccounts in accordance with the

Uniform System of Accounts for Public Utilities and Licensees, as found in the Code of Federal Regulations, which is incorporated by reference in Rule 25-7.045(1), F.A.C.¹

In its Petition, FCG explains that their current billing system, referred to as the Oracle Utilities Customer Care & Billings (CC&B) system, has been in service since April 2006, when FCG was owned by Nicor Gas. FCG further explains that prior to June 2020, the Company was contracting with Southern Company for the use of CC&B, and therefore had no direct control over modifying or improving the system to meet FCG's specific needs. In June 2020, FCG replaced CC&B with Starnik CIS. The net asset value on FCG's books for CC&B is \$0.²

According to FCG, the new Starnik CIS software will increase customer information system functionalities, including providing an integrated, state-of-the-art billing system and customer platform that will enhance FCG customers' digital experience.³ FCG further states that the Starnik CIS will tie into FCG's field operations software to offer the Company increased customer support capabilities.⁴

In addition to Starnik CIS, FCG is also requesting approval of other software accounting adjustments. These other adjustments are related to traditional capitalized software and future Software-as-a-Service (SaaS) arrangements.

FCG's current depreciation rates were established when the Commission approved the Stipulation and Settlement (2018 Settlement) entered into between the Company and the Office of Public Counsel to resolve the Company's last rate case and depreciation study.⁵

Staff is not aware of any public comments or concerns regarding this matter.

The Commission has jurisdiction in this matter pursuant to Sections 366.04, 366.05, and 366.06, F.S.

¹Code of Federal Regulations, Title 18, Subchapter C, Part 101, for Major Utilities, as revised April 1, 2013.

²Document No. 04264-2020, Petition for Approval of Amortization Rate for Starnik Customer Information System and Other Software Accounting Adjustments by Florida City Gas, pg. 3.

³*Id.*

⁴*Id.*

⁵Order No. PSC-2018-0190-FOF-GU, issued on April 20, 2018, in Docket No. 20170179-GU, *In re: Petition for rate increase by Florida City Gas.*

Discussion of Issues

Issue 1: Should the Commission approve FCG's request to establish new subaccounts within FERC account 303 – Miscellaneous Intangible Plant for its Starnik CIS software and traditional capitalized software arrangements, and, if so, what are the appropriate corresponding depreciation rates?

Recommendation: Yes, new subaccounts within FERC account 303 – Miscellaneous Intangible Plant and annual depreciation rates applicable to FCG's new Starnik CIS software and traditional software arrangements should be approved. The Commission should approve the establishment of subaccount 303.20 – Software as a Service – 20 years, for the Starnik CIS software. The appropriate annual depreciation rate for this subaccount is 5 percent. The Commission should also approve the establishment of two subaccounts for traditional capitalized software arrangements, subaccount 303.01 - Software Non-Enterprise, and subaccount 303.02 - Computer Software. The appropriate annual depreciation rates for traditional capitalized software for subaccounts 303.01 and 303.02 are 10 percent and 8.3 percent, respectively. As proposed by FCG, the Company should transfer all plant balances to and record all future acquisition amounts of Starnik CIS software and traditional software arrangements in these proposed subaccounts. (Kunkler)

Staff Analysis:

Starnik CIS

FCG states that Starnik CIS is a cloud-based SaaS system that offers an all-in-one, real-time solution for managing the business processes of: (1) receiving gas consumption measurement data; (2) accurately billing; and (3) ensuring consistent collection of revenues for services rendered to customers.⁶ According to the Company, the Starnik CIS software enhances FCG's ability to effectively manage and accurately bill all customer segments, including residential, commercial, industrial, and transportation service providers (TSP), within a single system.⁷ The total capital cost associated with Starnik software is \$5.2 million as of August 2020.⁸

FCG stated that the Starnik CIS software is currently recorded in subaccount 391.11, Computer Software.⁹ This account has an approved amortization period of 12 years. The Company is requesting authorization to establish a new subaccount specifically for the Starnik CIS software within FERC account 303, Miscellaneous Intangible Plant. If approved by the Commission, the Company will transfer the balance of \$5.2 million from account 391.11 to the newly established subaccount 303.20 - Software as a Service. The Company indicates that it is proposing to transfer the recording of these assets from General Plant accounts to Intangible Plant accounts to provide consistency with how its parent company, Florida Power & Light Company (FPL), records its capitalized software for both traditional and SaaS arrangements.¹⁰

⁶Document No. 09485-2020, Florida City Gas's response to Staff's First Data Request, No. 3.

⁷*Id.*

⁸Document No. 09485-2020, Florida City Gas's response to Staff's First Data Request, No. 2.

⁹Document No. 09485-2020, Florida City Gas's response to Staff's First Data Request, No. 1.

¹⁰Document No. 11994-2020, Florida City Gas's response to Staff's Third Data Request, No. 7a.

The Company also is requesting an amortization period of 20 years for this Starnik CIS-specific subaccount with an annual depreciation rate of 5 percent. A zero percent net salvage value (NSV) is associated with these assets.¹¹ The Company makes clear in its petition that the proposed 20-year average service life (ASL) or amortization period is for accounting purposes only and will have no impact on consumer base rates during the current settlement term, approved in Order No. PSC-2018-0190-FOF-GU.¹²

To support the Company's proposed 20-year ASL for Starnik CIS, FCG referenced Docket No. 20120015-EI,¹³ in which FPL requested to extend the depreciable life of its newly implemented general ledger accounting system, SAP,¹⁴ from five to 20 years, in order to more closely align with the period in which customers would experience the benefit of the system.¹⁵ The Commission approved a settlement in that docket which, although not precedential, recognized a depreciable life of 20 years for the SAP system.¹⁶ FCG also referenced Docket No. 20200059-EI,¹⁷ in which Gulf Power Company sought to extend the depreciable life of its newly implemented Customer Account Management System, CAMS, from seven to 20 years. The Commission approved Gulf's amortization rate for CAMS in Order No. PSC-2020-0210-PAA-EI, issued June 25, 2020.¹⁸

FCG states that its requested extension of the Starnik CIS amortization period will serve to better align the costs of Starnik CIS to the expected useful life of the software. The Company further explains that extending the amortization period will have the added benefit of decreasing the revenue requirement associated with Starnik CIS when the Company's base rates are next set.¹⁹

Given the circumstances presented by FCG, staff agrees that a 20-year life is a more accurate reflection of the expected service life of the Starnik CIS system, and will result in a more appropriate depreciation expense. Staff also agrees with FCG's proposed zero NSV. With these parameters, a 5 percent depreciation rate appears reasonable. Staff believes that FCG's request to establish the subaccount 303.20 – Software as a Service as the subaccount for this asset is appropriate.

¹¹Rules 25-6.0436(1)(e) and 25-6.0436(1)(m), F.A.C., specify the Commission's depreciation rate formulae and methodologies.

¹²Order No. PSC-2018-0190-FOF-GU, issued on April 20, 2018, in Docket No. 20170179-GU, *In re: Petition for rate increase by Florida City Gas*.

¹³Document No. 04264-2020, Petition for Approval of Amortization Rate for Starnik Customer Information System and Other Software Accounting Adjustments by Florida City Gas, pg. 4.

¹⁴SAP general ledger accounting system is produced by the enterprise software company of the same name, SAP

¹⁵Document No. 01616-2012, in Docket No. 20120015-EI, Direct testimony of Kim Ousdahl and Exhs. KO-1 through KO-13, Pg. 14.

¹⁶Order No. PSC-2013-0023-S-EI, issued January 14, 2013, in Docket No. 20120015-EI, *In re: Petition for increase in rates by Florida Power & Light Company*, p. 21.

¹⁷Document No. 04264-2020, Petition for Approval of Amortization Rate for Starnik Customer Information System and Other Software Accounting Adjustments by Florida City Gas, pg. 5.

¹⁸Order No. PSC-2020-0210-PAA-EI, issued June 25, 2020, in Docket No. 20200059-EI, *In re: Petition for approval of amortization rate for customer account management system, by Gulf Power Company*.

¹⁹Document No. 04264-2020, Petition for Approval of Amortization Rate for Starnik Customer Information System and Other Software Accounting Adjustments by Florida City Gas, pg. 4.

Traditional Software

FCG states that traditional software is software that has been developed or obtained for internal use, whereas SaaS arrangements involve cloud computing arrangements.²⁰ FCG is currently recording traditional software arrangements in subaccount 391.10 – Software Non-Enterprise and subaccount 391.11 – Computer Software.

Subaccount 391.10 currently has a depreciation rate of 10 percent, while subaccount 391.11 currently has a depreciation rate of 8.3 percent. The Company is requesting to transfer the remaining balances for these traditional software assets to newly established subaccounts 303.01 – Software Non-Enterprise and subaccount 303.02 – Computer Software (see Issue 2). The Company is also requesting to use these proposed subaccounts for all similar acquisitions in the future, with no change to depreciation rates. FCG explains that the reason for this proposed transfer is to allow the Company to separately identify traditional capitalized software, which is maintained on the Company's internal servers, and use a depreciation rate based on the anticipated useful life of the software, from SaaS arrangements, which are maintained on a vendor's servers ("Cloud Computing").²¹ Staff believes FCG's proposal as relates to the establishment of the proposed subaccounts for traditional capitalized software at the proposed depreciation rates is reasonable.

Conclusion

For the reasons outlined in this analysis staff recommends approval of FCG's proposal to establish new subaccount 303.20 – Software as a Service, for purposes of recording Starnik CIS assets at an annual depreciation rate of 5 percent. Staff also recommends that the Commission approve FCG's proposed subaccounts, 303.01 - Software Non-Enterprise and 303.02 – Computer Software, established to allow the in-transfer of the balances of traditional software assets currently recorded in subaccounts 391.10 and 391.11, respectively. Staff recommends that these new subaccounts, 303.01 and 303.02, feature the same depreciation rates of 10 percent and 8.3 percent as the current subaccounts, respectively. In addition, staff recommends that FCG record all going-forward acquisitions of like assets to these new subaccounts.

²⁰Document No. 11994-2020, Florida City Gas's response to Staff's Third Data Request, No. 7a.

²¹*Id.*

Issue 2: If the Commission approves staff's recommendation in Issue 1, should any accounting entries or adjustments be authorized, and if so, what should be the effective date?

Recommendation: If the Commission approves staff's recommendation in Issue 1, staff recommends the Commission authorize accounting entries to reflect the new amortization rate, but the implementation date of the adjustments should be on the date of the issuance of a final Commission Order in this docket, rather than August 1, 2020, as proposed by FCG. (Smith II)

Staff Analysis: FCG filed its Petition on August 6, 2020. FCG explained in a response to staff's data request that it placed \$5.2 million related to Starnik CIS software into Account 391.11 - Computer Software in June 2020.²² FCG further explained that it began recording amortization expense related to the Starnik system that same month at the currently approved 12-year rate.²³

FCG explained that if the Commission approves its request, the Company would transfer \$5.2 million related to the Starnik CIS from Account 391.11 to the requested subaccount within Account 303.²⁴ Additionally, FCG stated that it will true-up, and then transfer, the accumulated amortization associated with the Starnik software from Account 111 – Accumulated provision for amortization of electric plant to Account 404 – Amortization of limited-term electric plant.²⁵ FCG explained that it would record amortization expense for June and July at the currently approved 12-year rate.²⁶ The Company further clarified that, with Commission approval, it would begin using the new 20-year rate in August.²⁷ This would reduce depreciation expense from \$35,600 per month to \$21,500. As discussed in Issue 1, any remaining balances related to traditional software also would be transferred from Accounts 391.10 and 391.11 to Account 303.01 (10-year amortization rate) or Account 303.02 (12-year amortization rate), as appropriate.

Staff agrees with FCG's general approach to the accounting adjustments. However, staff disagrees with FCG's proposal to implement the new rate on August 1, 2020. Staff believes that the amortization expense for the Starnik CIS software should be recorded using the new 20-year life depreciation rate (5 percent per annum) beginning on the date of the issuance of a final Commission order in this docket. This is in accordance with Rule 25-7.045(2)(a), F.A.C., which states that no utility may initiate a new depreciation rate without prior Commission approval. As such, amortization expense recorded from the in-service date through the date of a final Commission order would be accrued at the existing 12-year amortization rate (8.3 percent per annum), after which the accrual would be recorded at the requested 20-year rate (5.0 percent per annum).

Staff recommends the Commission authorize FCG to make the appropriate accounting adjustments, as outlined above, reflecting the requested 20-year amortization rate beginning on the date of the issuance of a final Commission Order in this docket

²²Document No. 09485-2020, FCG's Responses to Staff's First Data Request, No. 1.

²³*Id.*

²⁴*Id.*

²⁵*Id.*

²⁶Document No. 11481-2020, FCG's Responses to Staff's Second Data Request, No. 1.

²⁷*Id.*

Issue 3: Should the Commission approve FCG’s request to establish new sub-accounts within FERC Account 303 – Miscellaneous Intangible Plant for its future SaaS arrangements, and, if so, what are the appropriate corresponding depreciation rates?

Recommendation: No. The Commission should deny FCG’s request to establish new sub-accounts within FERC Account 303 – Miscellaneous Intangible Plant for its future SaaS software arrangements. (Smith II)

Staff Analysis: The Company requested Commission approval of the establishment of various 303 subaccounts for future SaaS arrangements to reflect different service lives. The proposed amortization rates for these accounts mirror FCG’s Starnik CIS software request by matching the amortization rate to the specific terms of the service contract and the Company’s assessment of how long the software will be utilized.

The requested subaccounts and corresponding amortization rates are:

- Account 303.10 Software as a Service – 2 years
- Account 303.11 Software as a Service – 3 years
- Account 303.12 Software as a Service – 4 years
- Account 303.13 Software as a Service – 5 years
- Account 303.14 Software as a Service – 6 years
- Account 303.15 Software as a Service – 7 years
- Account 303.16 Software as a Service – 8 years
- Account 303.17 Software as a Service – 9 years
- Account 303.18 Software as a Service – 10 years
- Account 303.19 Software as a Service – 15 years²⁸

FCG stated that it currently does not have any plant balances to transfer into these subaccounts.²⁹ Nor does the Company have any current or pending SaaS arrangements that it plans to capitalize and record to any of these subaccounts.³⁰ Given the fact that there are no assets in place to evaluate or analyze in order to recommend appropriate amortization rates or net salvage values, staff believes FCG’s request to establish these subaccounts is premature. Therefore, staff recommends the Company’s request to establish specific SaaS subaccounts 303.10 through 303.19 should be denied at this time.

²⁸Document No. 09485-2020, FCG’s Responses to Staff’s First Data Request, No. 4.

²⁹*Id.*

³⁰Document No. 11994-2020, FCG’s Responses to Staff’s Third Data Request, No. 3.

Issue 4: Should this docket be closed?

Recommendation: If no protest to this proposed agency action is filed by a substantially affected person within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed. (Stiller)

Staff Analysis: If no protest to this proposed agency action is filed by a substantially affected person within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed.

Item 13

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Ward, Coston) *JGH*
Office of the General Counsel (Osborn, Crawford) *JSC*

RE: Docket No. 20200206-GU – Petition for approval of 2019 true-up, projected 2020 true-up, and 2021 revenue requirements and surcharges associated with cast iron/bare steel pipe replacement rider, by Peoples Gas System.

AGENDA: 12/01/20 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 04/01/21 (8-Month Effective Date)

SPECIAL INSTRUCTIONS: None

Case Background

On September 1, 2020, Peoples Gas System (PGS) filed a petition for approval of its final 2019 true-up, projected 2020 true-up, and 2021 revenue requirement and surcharges associated with the cast iron/bare steel replacement rider (CI/BSR Rider or rider). The rider was originally approved in Order No. PSC-12-0476-TRF-GU (2012 order) to recover the cost of accelerating the replacement of cast iron and bare steel pipes through a surcharge on customers' bills.¹ PGS's current surcharges were approved in Order No. PSC-2019-0549-TRF-GU.² In the 2012 order, the Commission found that "replacement of these types of pipelines is in the public interest to

¹ Order No. PSC-12-0476-TRF-GU, issued September 18, 2012, in Docket No. 20110320-GU, *In re: Petition for approval of Cast Iron/Bare Steel Pipe Replacement Rider (Rider CI/BSR), by Peoples Gas System.*

² Order No. PSC-2019-0549-TRF-GU, issued December 30, 2019, in Docket No. 20190171-GU, *In re: Petition for approval of 2018 true-up, projected 2019 true-up; and 2020 revenue requirements and surcharges associated with cast iron/bare steel pipe replacement rider.*

improve the safety of Florida's natural gas infrastructure, and reduce the possibility of loss of life and destruction of property should an incident occur."

In Order No. PSC-17-0066-AS-GU, the Commission approved a comprehensive settlement agreement between PGS and the Office of Public Counsel (OPC).³ The settlement agreement, in part, added problematic plastic pipe (PPP) installed in the company's distribution system to eligible replacements under the rider. PPP was manufactured before 1983 and has significant safety concerns. In certain areas, the PPP is interspersed with, or connected to, the cast iron/bare steel pipe that is being replaced under the rider. As provided for in the settlement agreement, PPP replacements are included in the calculation of the 2021 rider surcharges.

On June 8, 2020, PGS filed a petition for a base rate increase in Docket No. 20200051-GU. As part of the rate case, PGS requested to start billing the interruptible service rate classes (SIS, IS, and ISLV) the CI/BSR Rider surcharges effective January 1, 2021. Currently, interruptible service customers are not paying a CI/BSR surcharge. After discussion with staff, PGS decided to remove the request with regards to the interruptible service rate classes from Docket No. 20200051-GU and request consideration in the instant docket.

On October 22, 2020, PGS filed a Joint Motion for Approval of Settlement Agreement in the rate case docket.⁴ Included in the Settlement Agreement is a provision to move \$23.6 million of the 2021 CI/BSR revenue requirement related to PGS's CI/BSR investments made through December 31, 2020 (\$200.7 million) from recovery through the CI/BSR surcharges to recovery through base rates effective January 1, 2021. The instant petition reflects this provision of the Settlement Agreement and excludes the \$23.6 million from the calculation of the 2021 CI/BSR surcharges.

In its petition, PGS waived the 60-day file-and-suspend provision of Section 366.06(3), Florida Statutes (F.S.). The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, F.S.

³ Order No. PSC-17-0066-AS-GU, issued February 28, 2017, in Docket No. 20160159-GU, *In re: Petition for approval of settlement agreement pertaining to Peoples Gas System's 2016 depreciation study, environmental reserve account, problematic plastic pipe replacement, and authorized ROE.*

⁴ Document No. 11470-2020, in Docket No. 20200051-GU. A Commission hearing is scheduled for November 19, 2020, to consider a settlement in this docket.

Discussion of Issues

Issue 1: Should the Commission approve PGS's request to apply the CI/BSR surcharge to the interruptible service rate classes?

Recommendation: Yes, the Commission should approve PGS's request to apply the CI/BSR surcharge to the interruptible service rate classes effective January 1, 2021. This ensures that all customers are contributing towards the CI/BSR replacement costs. (Ward)

Staff Analysis: The CI/BSR Rider charges have been in effect since January 2013. In PGS's original petition, the utility excluded its interruptible service customers from the CI/BSR Rider surcharge. Interruptible service customers include the following rate classes: Small Interruptible Service (SIS), Interruptible Service (IS), and Interruptible Service – Large Volume (ISLV). In response to staff's first data request, PGS stated that at the time of the original petition, a majority of interruptible service customers were directly connected to an interstate pipeline and did not use a large portion of PGS's distribution system.

After further consideration, the utility believes that all customers benefit from the replacement of aging infrastructure, which allows the utility to maintain a safe, reliable system. Therefore, the utility believes that it is "fair and reasonable for customers in these rate classes to contribute a proportional cost of the program."⁵ The proposed 2021 factors for these rate classes are included in Tariff Sheet No. 7.806 (Attachment B).

In Exhibit D of its petition, PGS provided CI/BSR factor calculations for all rate classes with and without the interruptible rate classes. The non-interruptible rate classes benefit from PGS's proposal by receiving a minor reduction in their CI/BSR factor. Staff notes that since the allocation of the CI/BSR costs to the rate classes is based on the percent of total plant allocated to the rate classes in PGS's last rate case, the interruptible service classes only receive a small percent allocation of the total CI/BSR costs.⁶ Based on the average therm usage for interruptible customers provided by PGS in its 2020 rate case filing, staff calculated the monthly bill impact of the proposed CI/BSR surcharges for an SIS customer to be \$117, for an IS customer to be \$182, and for an ISLV customer to be \$50.⁷

Conclusion

Staff has reviewed PGS's filings and supporting documentation and believes that interruptible service customers benefit from the replacement of the utility's aging infrastructure under this rider. Therefore, the Commission should approve PGS's request to apply the CI/BSR surcharge to the interruptible service rate classes effective January 1, 2021. This ensures that all customers are contributing towards the CI/BSR replacement costs.

⁵ PGS's response to Staff's First Data Request, Question 5.

⁶ The SIS rate class is allocated 2.47 percent, the IS class 1.97 percent, and the ISLV rate class 0.04 percent of the total CI/BSR costs.

⁷ Under current rates, without fuel, the average monthly bill is \$10,450 for an SIS, \$27,851 for an IS customer, and \$48,000 for an ISLV customer.

Issue 2: Should the Commission approve PGS's proposed CI/BSR Rider surcharges for the period January through December 2021?

Recommendation: Yes, the Commission should approve PGS's proposed CI/BSR Rider surcharges for the period January through December 2021. (Ward)

Staff Analysis: The CI/BSR Rider charges have been in effect since January 2013. Rider PPP charges have been in effect since 2017. In 2020, PGS's cast iron and bare steel replacement activity focused in the areas of Miami, Tampa, St. Petersburg, Orlando, Jacksonville, Eustis, Daytona, and Ocala. In 2021, PGS states it will focus on replacement projects in Miami, Tampa, St. Petersburg, Orlando, Jacksonville, Avon Park, Daytona, and Ocala. The projected completion date for the CI/BSR replacement program is 2022 for mains and services. The replacement of PPP is expected to continue until 2028.

Attachment A to this recommendation contains tables which display the replacement progress and forecasts for CI/BSR (Table 2) and for PPP (Table 3). Additionally, PGS provided Table 1 which consolidates the actual and projected CI/BSR and PPP miles replaced investment for each year of the program and the corresponding revenue requirements.

True-ups by Year

PGS's calculation for the 2021 revenue requirement and surcharges includes a final true-up for 2019, an actual/estimated true-up for 2020, and projected costs for 2021. Pursuant to the 2012 order, the capital expenditures for 2017 through 2019 exclude the first \$1 million of facility replacements each year because that amount is included in rate base. PGS has included depreciation expense savings as discussed in the 2012 order; however, the utility has not identified any operations and maintenance savings.⁸

Final True-up for 2019

Exhibit A of the petition shows that the revenues collected for 2019 were \$10,398,531 compared to a revenue requirement of \$13,781,390, resulting in an under-recovery of \$3,382,859. The final 2018 over-recovery of \$15,885, 2019 under-recovery of \$3,382,859, and interest of \$15,576 associated with any over- and under-recoveries results in a final 2019 under-recovery of \$3,382,549.

Actual/Estimated 2020 True-up

In Exhibit B of the petition, PGS provided actual revenues for January through July and forecast revenues for August through December of 2020, totaling \$18,660,466, compared to an actual/estimated revenue requirement of \$19,287,435, resulting in an under-recovery of \$626,969. The final 2019 under-recovery of \$3,382,549, 2020 under-recovery of \$626,969, and interest of \$14,824 associated with any over- and under-recoveries results in a total 2020 under-recovery of \$4,024,341.

⁸ Order No. PSC-12-0476-TRF-GU, issued September 18, 2012, required PGS to identify and report any O&M and depreciation expense savings in its annual petitions for recovery of the CI/BSR Rider surcharge.

Projected 2021 Costs

Exhibit C of the petition shows PGS projects investment or capital expenditures of \$35,475,247 for the replacement of cast iron/bare steel infrastructure and PPP in 2021. As shown in Table 1 of Attachment A of the recommendation, this consists of the CI/BSR infrastructure investment of \$16,171,113 and the PPP investment of \$19,304,134. The return on investment (which includes federal income taxes, regulatory assessment fees, and bad debt), depreciation expense (less savings), and property tax expense associated with that investment is \$1,427,069. After adding the total 2020 under-recovery of \$4,024,341, the total 2021 revenue requirement is \$5,451,411. Table 2-1 displays the 2021 revenue requirement calculation.

**Table 2-1
 2021 Revenue Requirement**

2021 Projected Expenditures	\$35,475,247
Return on Investment	\$1,295,164
Depreciation Expense (less savings)	170,926
Property Tax Expense	(39,021 ⁹)
2021 Revenue Requirement	\$1,427,069
Plus 2020 Under-recovery	4,024,341
Total 2021 Requirement	\$5,451,411

Source: Page 1 of 3 in Exhibit C in petition (Docket No. 20200206-GU).

Proposed Surcharges

As established in the 2012 order, the total 2021 revenue requirement is allocated to rate classes using the same methodology that was used for the allocation of mains and services in the cost of service study used in PGS's most recent rate case. After calculating the percentage of total plant costs attributed to each rate class, the respective percentages were multiplied by the 2021 revenue requirement resulting in the revenue requirement by rate class. Dividing each rate class's revenue requirement by projected therm sales provides the rider surcharge for each rate class. In the instant petition, PGS has requested to alter the allocation methodology to include interruptible service customers in the CI/BSR surcharge.

If the Commission approves Issue 1, the proposed 2021 rider surcharge for residential customers would be \$.02188 per therm (compared to the current surcharge of \$.09203). The 2021 monthly bill impact will be \$.44 for a residential customer who uses 20 therms. The reduction in the surcharges is the result of a Settlement Agreement filed in the rate case docket, as discussed in the case background, which moves \$23.6 million of the 2021 revenue requirement to recovery through base rates effective January 1, 2021. The proposed Tariff Sheet No. 7.806 is Attachment B to this recommendation.

⁹ As a result of the proposed transfer of the current CI/BSR assets into base rates in Docket No. 20200051-GU, the CI/CBR Rider will receive an offsetting property tax credit in 2021.

Conclusion

Staff reviewed PGS's filings and supporting documentation and believes that the calculations are consistent with the methodology approved in the 2012 order and are reasonable and accurate. Therefore, staff recommends approval of PGS's proposed 2021 CI/BSR Rider surcharges to be effective for the period January through December 2021.

Issue 3: Should this docket be closed?

Recommendation: Yes. If Issues 1 and 2 are approved and 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. (Osborn, Crawford)

Staff Analysis: If Issues 1 and 2 are approved and 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.

Table 1
PGS's' CI/BSR Replacement Program Progress

	CI/BS Miles Replaced	PPP Miles Replaced	CI/BS Investment \$	PPP Investment \$	CI/BS Revenue Requirement \$	PPP Revenue Requirement \$
2017	51		17,588,366	2,915,802	6,868,302	74,021
2018	62	56	27,035,678	15,890,424	8,510,823	848,201
2019	52	42	35,821,371	17,425,589	11,075,229	2,706,161
2020	51	50	33,672,240	12,523,353	14,872,709	4,414,726
2021	30	50	16,171,113	19,304,134	1,206,157	220,912
2022	5	50	3,306,701	18,282,717	2,643,484	2,506,862
2023		50	0	18,739,785	2,864,957	4,636,325
2024		50		19,208,280	2,830,125	6,783,015
2025		50		19,688,487	2,788,208	8,954,706
2026		45		18,327,034	2,746,064	11,070,133
2027		45		18,616,695	2,703,903	13,083,051
2028		28		13,452,047	2,661,753	14,831,134

Source: Response to staff's first data request.

Table 2
PGS's CI/BSR Replacement Progress

Year	Main Replacements					Service Replacements	
	Replaced Cast Iron (miles)	Replaced Bare Steel (miles)	Remaining Cast Iron at Year End (miles)	Remaining Bare Steel at Year End (miles)	Total Miles Remaining of CI/BS Mains	Replaced Number of Bare Steel Services	Total Number of Remaining Bare Steel Services
2012			100	354	454		14,978
2013	13	38	87	316	403	907	14,071
2014	2	18	85	298	383	7,964	6,107
2015	26	60	59	238	297	1,019	5,088
2016	15	35	44	203	247	1,050	6,963
2017	15	36	29	178	207	1,135	4,279
2018	10	52	18	126	144	1,970	2,309
2019	8	44	10	76	86	649	1,660
2020	4	47	6	29	35	1,000	660
2021	5	25	1	4	5	660	0
2022	1	4	0	0	0	0	0

Source: Response to staff's first data request.

Table 3
PGS's PPP Replacement Program Progress

	PPP (miles)	Total Remaining PPP Mains (miles)	Replaced Number of PPP Services	Total Number of Remaining PPP Services
2016	0	551	0	-
2017	**	509	1,396	26,841
2018	56	461	3,941	24,741
2019	42	418	2,349	20,420
2020	50	368	Not yet Determined	-
2021	50	318	Not yet Determined	-
2022	50	268	Not yet Determined	-
2023	50	218	Not yet Determined	-
2024	50	168	Not yet Determined	-
2025	50	118	Not yet Determined	-
2026	45	73	Not yet Determined	-
2027	45	28	Not yet Determined	-
2028	28	0	Not yet Determined	-

Source: Response to staff's first data request.

Peoples Gas System
 a Division of Tampa Electric Company
 Original Volume No. 3

~~Ninth-Tenth~~ Revised Sheet No. 7.806
 Cancels ~~Eighth-Ninth~~ Revised Sheet No. 7.806

**CAST IRON/BARE STEEL REPLACEMENT RIDER
 RIDER CI/BSR**

The monthly bill for Gas Service in any Billing Period shall be increased by the CI/BSR Surcharge determined in accordance with this Rider. CI/BSR Surcharges approved by the Commission for bills rendered for meter readings taken on or after January 1, ~~2020~~2021, are as follows with respect to Customers receiving Gas Service under the following rate schedules:

<u>Rate Schedule</u>	<u>CI/BSR Surcharge</u>
Residential/Residential Standby Generator /	
Residential Gas Heat Pump Service	\$ 0.0218800203 per therm
Small General Service	\$ 0.0170606508 per therm
General Service – 1/ Commercial Standby Generator Service /	
Commercial Gas Heat Pump Service	\$ 0.0087203264 per therm
General Service – 2	\$ 0.0084003048 per therm
General Service – 3	\$ 0.0075602648 per therm
General Service – 4	\$ 0.0048904790 per therm
General Service – 5	\$ 0.0020500007 per therm
Commercial Street Lighting	\$ 0.0141404634 per therm
Natural Gas Vehicle Service	\$ 0.0201107622 per therm
Wholesale	\$ 0.0064104424 per therm
<u>Small Interruptible Service</u>	<u>\$0.00081 per therm</u>
<u>Interruptible Service</u>	<u>\$0.00022 per therm</u>
<u>Interruptible Service – Large Volume</u>	<u>\$0.00001 per therm</u>

The CI/BSR Surcharges set forth above shall remain in effect until changed pursuant to an order of the Commission.

CI/BSR Surcharges shall be determined in accordance with the provisions of this Rider set forth below.

Definitions

For purposes of this Rider:

“Eligible Replacements” means the following Company plant investments that (i) do not increase revenues by directly connecting new customers to the plant asset, (ii) are in service and used and useful in providing utility service and (iii) were not included in the Company’s rate base for purposes of determining the Company’s base rates in its most recent general base rate proceeding:

Mains and service lines, as replacements for existing materials recognized/identified by the Pipeline Safety and Hazardous Materials Administration as being obsolete and that present a potential safety threat to operations and the general public, including cast iron, wrought iron, bare steel, and specific polyethylene/plastic facilities, and regulators and other pipeline system components the installation of which is required as a consequence of the replacement of the aforesaid facilities.

“CI/BSR Revenues” means the revenues produced through CI/BSR Surcharges, exclusive of revenues from all other rates and charges.

Issued By: T. J. Szelistowski, President
 Issued On: ~~November 12, 2019~~

Effective: ~~January 1, 2020~~

Item 14

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Economics (Ward, Coston) *JGH*
Office of the General Counsel (Osborn, Crawford) *JSC*

RE: Docket No. 20200207-GU – Joint petition for approval of GRIP cost recovery factors for January 2021 through December 2021, by Florida Public Utilities Company, Florida Public Utilities Company-Fort Meade, and Florida Division of Chesapeake Utilities Corporation.

AGENDA: 12/01/20 – Regular Agenda – Tariff Filing – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Administrative

CRITICAL DATES: 8-Month Effective Date: 04/03/21 (60 day suspension date waived by the utility)

SPECIAL INSTRUCTIONS: None

Case Background

On September 3, 2020, Florida Public Utilities Company (FPUC), Florida Public Utilities Company-Fort Meade (Fort Meade), and Florida Division of Chesapeake Utilities Corporation (Chesapeake), collectively the companies, filed a joint petition for approval of their gas reliability infrastructure program (GRIP or program) cost recovery factors for the period January through December 2021. The GRIP for FPUC and Chesapeake was first approved in Order No. PSC-12-0490-TRF-GU (2012 order) to recover the cost of accelerating the replacement of cast iron and bare steel distribution mains and services, including a return on investment, through a

surcharge on customers' bills.¹ Fort Meade's GRIP was originally approved in Order No. PSC-15-0578-TRF-GU, and allowed Fort Meade to file its annual petition for GRIP factors concurrently with FPUC and Chesapeake.² The current GRIP charges for January through December 2020 were approved in Order No. PSC-2019-0502-TRF-GU.³

In a September 17, 2020 email, the companies waived the 60-day file and suspend provision of Section 366.06(3), Florida Statutes (F.S.). On October 21, 2020, staff issued a data request to the companies, for which the companies filed responses on October 30, 2020. The proposed tariff sheets are contained in Attachment B (FPUC), Attachment C (Chesapeake), and Attachment D (Fort Meade). The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.05, and 366.06, F.S.

¹ Order No. PSC-12-0490-TRF-GU, issued September 24, 2012, in Docket No. 20120036-GU, *In re: Joint petition for approval of Gas Reliability Infrastructure Program (GRIP) by Florida Public Utilities Company and the Florida Division of Chesapeake Utilities Corporation.*

² Order No. PSC-15-0578-TRF-GU, issued December 21, 2015, in Docket No. 20150191-GU, *In re: Joint petition for approval to implement gas reliability infrastructure program (GRIP) for Florida Public Utilities Company-Fort Meade and for approval of GRIP cost recovery factors by Florida Public Utilities Company, Florida Public Utilities Company-Fort Meade, and the Florida Division of Chesapeake Utilities Corporation.*

³ Order No. PSC-2019-0502-TRF-GU, issued November 25, 2019, in Docket No. 20190173-GU, *In re: Joint petition for approval of GRIP cost recovery factors, by Florida Public Utilities Company, Florida Public Utilities Company-Fort Meade, and Florida Division of Chesapeake Utilities Corporation.*

Discussion of Issues

Issue 1: Should the Commission approve FPUC's, Fort Meade's, and Chesapeake's proposed GRIP surcharges for the period January through December 2021?

Recommendation: Yes, the Commission should approve FPUC's, Fort Meade's, and Chesapeake's proposed GRIP surcharges for the period January through December 2021. (Ward)

Staff Analysis: The GRIP surcharges have been in place since January 2013 for FPUC and Chesapeake, while Fort Meade's surcharges were first implemented in January 2017. In response to staff's data request, the companies stated that replacement projects in Lake Worth, West Palm Beach, Palm Beach, Winter Haven, and Lake Wales were completed in 2020. Additional replacement projects in Lake Worth, Palm Beach, West Palm Beach, Lantana, Lake Alfred, Haines City, and Plant City were projected to continue into 2021. Attachment A provides an update of mains and services replaced and replacement forecasts. The companies stated that they prioritize the potential replacement projects focusing on areas of high consequence and areas more susceptible to corrosion.

FPUC's True-ups by Year

FPUC's calculation for the 2021 GRIP revenue requirement and surcharges includes a final true-up for 2019, an actual/estimated true-up for 2020, and projected costs for 2021. FPUC was authorized to recover \$747,727 of annual GRIP expenses in base rates; therefore, the \$747,727 is excluded from the GRIP surcharge calculation.

Final True-up for 2019

FPUC stated that the revenues collected through the GRIP surcharges for 2019 were \$9,210,533, compared to a revenue requirement of \$9,820,941, resulting in an under-recovery of \$610,408. The 2018 over-recovery of \$2,616,870, the 2019 under-recovery of \$610,408, and interest of \$59,250 associated with any over- and under-recoveries results in a final 2019 over-recovery of \$2,065,712.

Actual/Estimated 2020 True-ups

FPUC provided actual revenues for January through July 2020 and estimated revenues for August through December 2020, totaling \$9,184,211, compared to an actual/estimated revenue requirement for 2020 of \$10,931,270, resulting in an under-recovery of \$1,747,059. The 2019 over-recovery of \$2,065,712, the 2020 under-recovery of \$1,747,059, and interest of \$12,577 results in a total 2020 over-recovery of \$331,231.

Projected 2021 Costs

FPUC expects capital expenditures of \$17,750,000 for the replacement of cast iron/bare steel infrastructure in 2021. The return on investment (which includes federal income taxes, regulatory assessment fees, and bad debt), depreciation expense, and property tax and customer notification expense associated with that investment is \$11,695,318. Subtracting the revenue requirement for bare steel replacement included in base rates results in a 2021 revenue requirement of \$10,947,591. After subtracting the total 2020 over-recovery of \$331,231, the 2021 revenue requirement is \$10,616,361. Table 1-1 shows FPUC's 2021 revenue requirement calculation.

**Table 1-1
 FPUC 2021 Revenue Requirement Calculation**

2021 Projected Expenditures	\$17,750,000
Return on Investment	\$7,317,570
Depreciation Expense	2,398,413
Property Tax and Customer Notice Expense	<u>1,979,335</u>
2021 Revenue Requirement	\$11,695,318
Less Revenue Requirement in Base Rates	<u>747,727</u>
2021 GRIP Revenue Requirement	\$10,947,591
Less 2020 Over-recovery	<u>331,231</u>
2021 Total Revenue Requirement	\$10,616,361

Source: Schedule C-2, page 4 of 18 in petition (Docket No. 20200207-GU).

Chesapeake’s True-ups by Year

Chesapeake’s calculation for the 2021 GRIP revenue requirement and surcharges includes a final true-up for 2019, an actual/estimated true-up for 2020, and projected costs for 2021. Chesapeake does not have a replacement recovery amount embedded in base rates.

Final True-up for 2019

Chesapeake stated that the revenues collected for 2019 were \$4,099,554, compared to a revenue requirement of \$3,703,085, resulting in an over-recovery of \$396,469. The 2018 over-recovery of \$192,146, 2019 over-recovery of \$396,469, and interest of \$11,270 associated with any over- and under-recoveries results in a final 2019 over-recovery of \$599,885.

Actual/Estimated 2020 True-up

Chesapeake provided actual GRIP revenues for January through July 2020 and estimated revenues for August through December 2020, totaling \$3,053,757, compared to an actual/estimated revenue requirement of \$3,951,203, resulting in an under-recovery of \$897,446. The 2019 over-recovery of \$599,885, 2020 under-recovery of \$897,446, and interest of \$2,807 associated with any over- and under-recoveries results in a total 2020 under-recovery of \$294,754.

Projected 2021 Costs

Chesapeake projects capital expenditures of \$250,000 for the replacement of cast iron/bare steel infrastructure in 2021. Chesapeake has almost completed its infrastructure replacement project, two years ahead of the originally scheduled completion date of 2022, with only one replacement project in Plant City scheduled for 2021. The return on investment (calculated on the total GRIP investment installed to date), depreciation expense, and property tax and customer notification expense to be recovered in 2021 totals \$3,843,929. After adding the total 2020 under-recovery of \$294,754, the total 2021 revenue requirement is \$4,138,683. Table 1-2 shows Chesapeake’s 2021 revenue requirement calculation.

**Table 1-2
 Chesapeake 2021 Revenue Requirement Calculation**

2021 Projected Expenditures	\$250,000
Return on Investment	\$2,380,672
Depreciation Expense	779,113
Property Tax and Customer Notice Expense	684,144
2021 Revenue Requirement	\$3,843,929
Plus 2020 Under-recovery	294,754
2021 Total Revenue Requirement	\$4,138,683

Source: Schedule C-2, page 10 of 18 in petition (Docket No. 20200207-GU).

Fort Meade’s True-ups by Year

Fort Meade started its replacement program in 2016 and first implemented GRIP surcharges in January 2017. Unlike FPUC and Chesapeake, only bare steel services (and no mains) require replacement in Fort Meade. Fort Meade’s replacement program was completed in 2019.

Final True-up for 2019

Fort Meade stated that the revenues collected for 2019 were \$29,923, compared to a revenue requirement of \$24,087, resulting in an over-recovery of \$5,836. Adding the 2018 under-recovery of \$3,693, the 2019 over-recovery of \$5,836, and \$29 for interest associated with any over- and under-recoveries, the final 2019 over-recovery is \$2,113.

Actual/Estimated 2020 True-up

Fort Meade provided actual GRIP revenues for January through July 2020 and estimated revenues for August through December 2020 totaling \$29,315, compared to an actual/estimated revenue requirement of \$25,474, resulting in an over-recovery of \$3,841. Adding the 2019 over-recovery of \$2,113, the 2020 over-recovery of \$3,841, and interest of \$33 associated with any over- and under-recoveries, the resulting total 2020 true-up is an over-recovery of \$5,987.

Projected 2021 Costs

Fort Meade projects capital expenditures of \$0 for the replacement of cast iron/bare steel infrastructure in 2021, as the replacement program was completed in 2019. Therefore, the 2021 GRIP factors are designed to only recover the remaining 2020 over-recovery of \$5,987 and the revenue requirement of \$25,474 associated with the 2020 year-end total investment (\$25,474 - \$5,987 = \$19,487).

Proposed Surcharges for FPUC, Chesapeake, and Fort Meade

As established in the 2012 order approving the GRIP program, the total 2021 revenue requirement is allocated to the rate classes using the same methodology used for the allocation of mains and services in the cost of service study used in the utilities’ most recent rate case. The respective percentages were multiplied by the 2021 revenue requirements and divided by each rate class’ projected therm sales to provide the GRIP surcharge for each rate class.

The proposed 2021 GRIP surcharge for FPUC's residential customers on the Residential Service (RS) schedule is \$0.22417 per therm (compared to the current surcharge of \$0.22312 per therm). The monthly bill impact is \$4.48 for a residential customer using 20 therms per month. The proposed FPUC tariff page is shown in Attachment B.

The proposed 2021 GRIP surcharge for Chesapeake's residential customers on the FTS-1 schedule is \$0.11567 per therm (compared to the current surcharge of \$0.10585). The monthly bill impact is \$2.31 for a residential customer using 20 therms per month. The proposed Chesapeake tariff pages are contained in Attachment C.

The proposed 2021 GRIP surcharge for Fort Meade's residential customers on the RS schedule is \$0.16325 per therm (compared to the current surcharge of \$0.24865). The monthly bill impact is \$3.27 for a residential customer using 20 therms per month. The proposed Fort Meade tariff page is shown in Attachment D.

Conclusion

Staff believes the calculation of the 2021 GRIP surcharge revenue requirement and the proposed GRIP surcharges for FPUC, Chesapeake, and Fort Meade are reasonable and accurate. Staff recommends approval of FPUC's, Chesapeake's, and Fort Meade's proposed GRIP surcharges for the period January through December 2021.

Issue 2: Should this docket be closed?

Recommendation: Yes. If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs 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. (Osborn, Crawford)

Staff Analysis: If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs 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.

Table 1
FPUC Pipe Replacement Program Progress

Year	Mains (Miles)					Number of Services				
	Replaced	Replaced	Remaining	Remaining	Total	Replaced	Replaced	Remaining	Remaining	Total
	Cast Iron	Bare Steel	Cast Iron at Year-End	Bare Steel at Year-End		Cast Iron	Bare Steel	Cast Iron at Year-End	Bare Steel at Year-End	
Jul-12			0.9	197.10	198.00			0	7980	7980
2012		6.00	0.9	191.10	192.00		91	0	7889	7889
2013	0.6	26.40	0.3	164.70	165.00		2071	0	5818	5818
2014		38.00	0.3	126.70	127.00		1275	0	4543	4543
2015		30.00	0.3	96.70	97.00		605	0	3938	3938
2016		22.50	0.3	74.20	74.50		555	0	3383	3383
2017		10.30	0.3	63.90	64.20		335	0	3048	3048
2018		6.80	0.3	57.10	57.40		98	0	2950	2950
2019	0.3	4.10	0	53.00	53.00		475	0	2475	2475
2020		18.00	0	35.00	35.00		550	0	1925	1925
2021		18.00	0	17.00	17.00		900	0	1025	1025
2022		17.00	0	0.00	0.00		1025	0	0	0

Table 2
Chesapeake Pipe Replacement Program Progress

Year	Mains (Miles)					Number of Services				
	Replaced	Replaced	Remaining	Remaining	Total	Replaced	Replaced	Remaining	Remaining	Total
	Cast Iron	Bare Steel	Cast Iron at Year-End	Bare Steel at Year-End		Cast Iron	Bare Steel	Cast Iron at Year-End	Bare Steel at Year-End	
Jul-12			0	152.00	152.00			0	762	762
2012		5.00	0	147.00	147.00		34	0	728	728
2013		3.00	0	144.00	144.00		139	0	589	589
2014		19.00	0	125.00	125.00		47	0	542	542
2015		34.00	0	91.00	91.00		284	0	258	258
2016		25.10	0	65.90	65.90		-81	0	339	339 **
2017		22.80	0	43.10	43.10		18	0	321	321
2018		19.80	0	23.30	23.30		91	0	230	230
2019		28.00	0	17.30	17.30		99	0	131	131 ***
2020		15.70	0	1.60	1.60		50	0	81	81
2021		1.60	0	0.00	0.00		81	0	0	0
2022		0.00	0	0.00	0.00		0	0	0	0

** A total of 111 YTD bare steel services were replaced in 2016. Plus a correction to increase total services remaining by 192 (4th Qtr of 2016). The net equals -81.

***A total of 28 miles YTD of bare steel mains were replaced in 2019. Offset by a reconciliation to total mains remaining of 22 (2nd Qtr of 2019). The net equals a 6 mile mains reduction.

Table 3
Fort Meade Pipe Replacement Program Progress

Year	Mains (Miles)					Number of Services				
	Replaced	Replaced	Remaining	Remaining	Total	Replaced	Replaced	Remaining	Remaining	Total
	Cast Iron	Steel	Cast Iron at Year-End	Steel at Year-End		Cast Iron	Steel	Cast Iron at Year-End	Steel at Year-End	
Jan-16			0	0	0			0	250	250
2016		0	0	0	0		29	0	221	221
2017		0	0	0	0		111	0	110	110
2018		0	0	0	0		20	0	90	90
2019		0	0	0	0		90	0	0	0

Florida Public Utilities Company
F.P.S.C. Gas Tariff
No. 35.4
Third Revised Volume No. 1
Sheet No. 35.4

~~Fourteenth-Fifteenth~~ Revised Sheet
Cancels ~~Thirteenth-Fourteenth~~ Revised

BILLING ADJUSTMENTS

(Continued from Sheet No. 35.3)

Gas Reliability Infrastructure Program (GRIP)

Applicability

The bill for gas or transportation service supplied to a Customer in any Billing Period shall be adjusted as follows:

The GRIP factors for the period from the first billing cycle for January 2020₁ through the last billing cycle for December 202₁ are as follows:

<u>Rate Class</u>	<u>Rates Per Therm</u>
Rate Schedule RS	\$0.2231222417
Schedule GS-1	\$0.44188-15180
Rate Schedule GS-2	\$0.44188-15180
Rate Schedule GSTS-1	\$0.4418815180
Rate Schedule GSTS-2	\$0.4418815180
Rate Schedule LVS	\$0.0926910221
Schedule LVTS	\$0.0926910221
Schedule IS	\$0.0586406114
Schedule ITS	\$0.0586406114
Schedule GLS	\$0.4928880046
Rate Schedule GLSTS	\$0.4928880046
Rate Schedule NGV	\$0.44188-15180
Rate Schedule NGVTS	\$0.4418815180

Issued by: Kevin Webber Jeffrey Householder, President & CEO
Effective: JAN 01 2020

Florida Division of Chesapeake Utilities Corporation ~~Eighth-Ninth~~ Revised Sheet No. 105.1
 Original Volume No. 4 Cancels ~~Seventh-Eighth~~ Sheet No. 105.1

*RATE SCHEDULES
 MONTHLY RATE ADJUSTMENTS*

Rate Schedule MRA

7. GAS REPLACEMENT INFRASTRUCTURE PROGRAM (GRIP):

Applicability:

All Customers receiving Transportation Service from the Company and are assigned to or have selected rate schedules FTS-A, FTS-B, FTS-1, FTS-2, FTS-2.1, FTS-3, FTS-3.1, FTS-4, FTS-5, FTS-6, FTS-7, FTS-8, FTS-9, FTS-10, FTS-11, FTS-12, and FTS-13.

The Usage Rate for Transportation Service to each applicable rate classification shall be adjusted by the following recovery factors. The recovery factors for all meters read for the period January 1, 2020 through December 31, 2020 for each rate classification are as follows:

<u>Rate Schedule</u>	<u>Classification of Service</u>	<u>Rate per therm</u>
FTS A	< 130 therms	\$0.5863474443
FTS-B	> 130 therms up to 250 therms	\$0.1792321667
FTS-1	> 0 up to 500 therms	\$0.1058511567
FTS-2	> 500 therms up to 1,000 therms	\$0.1196913791
FTS-2.1	> 1,000 therms up to 2,500 therms	\$0.1181814624
FTS-3	> 2,500 therms up to 5,000 therms	\$0.0493606057
FTS-3.1	> 5,000 therms up to 10,000 therms	\$0.0590007469
FTS-4	> 10,000 therms up to 25,000- therms	\$0.0663207904
FTS-5	> 25,000 therms up to 50,000 therms	\$0.0741109368
FTS-6	> 50,000 therms up to 100,000 therms	\$0.0524606387
FTS-7	> 100,000 therms up to 200,000 therms	\$0.0704307896
FTS-8	> 200,000 therms up to 400,000 therms	\$0.0689808472
FTS-9	> 400,000 therms up to 700,000 therms	\$0.1457517979
FTS-10	> 700,000 therms up to 1,000,000 therms	\$0.08765107899
FTS-11	> 1,000,000 therms up to 2,500,000	\$0.0958114366
FTS-12	> 2,500,000 therms up to 12,500,000	\$0.0297003326
FTS-13	> 12,500,000 therms	N/A

(Continued to Sheet No. 105.2)

Issued by: ~~Michael P. Masters~~ Jeffrey Householder, President
 Effective: JAN-01-2020
 Chesapeake Utilities Corporation

Florida Public Utilities Company-Fort Meade
 F.P.S.C. Gas Tariff
 Original Volume No. 1

~~Third~~Fourth Revised Sheet No. 64
 Cancels ~~Second~~Third Revised Sheet No. 64

BILLING ADJUSTMENTS

Gas Reliability Infrastructure Program (GRIP)

Applicability

The bill for gas or transportation service supplied to a Customer in any Billing Period shall be adjusted as follows:

The GRIP factors for the period from the first billing cycle for January 2020 through the last billing cycle for December 2020 are as follows:

<u>Rate Class</u>	<u>Rates Per Therm</u>
Rate Schedule RS	\$0.24865-16325
Rate Schedule GS-1	\$0.07705-01959
Rate Schedule GS-2	\$0.07705-01959
Rate Schedule GSTS-1	\$0.07705-01959
Rate Schedule GSTS-2	\$0.07705-01959
Rate Schedule LVS	\$0.00000
Rate Schedule LVTS	\$0.00000
Rate Schedule IS	\$0.00000
Rate Schedule ITS	\$0.00000
Rate Schedule GLS	\$0.00000
Rate Schedule GLSTS	\$0.00000
Rate Schedule NGV	\$0.00000
Rate Schedule NGVTS	\$0.00000

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Issued by: Jeffrey Householder, President & CEO

Effective: JAN-01-2018

Chesapeake Utilities Corporation

Item 15

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: November 17, 2020

TO: Office of Commission Clerk (Teitzman)

FROM: Division of Accounting and Finance (Cicchetti) *ALM, MC*
Office of the General Counsel (Brownless, Schrader) *JBC*

RE: Docket No. 20180013-PU – Petition to establish a generic docket to investigate and adjust rates for 2018 tax savings, by Office of Public Counsel.

AGENDA: December 1, 2020 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: Graham, Brown, Clark

PREHEARING OFFICER: Brown

CRITICAL DATES: None

SPECIAL INSTRUCTIONS: None

Case Background

This docket was opened to address the tax effects of the Tax Cuts and Jobs Act of 2017 (TCJA) on regulated utilities in the State of Florida. Separate dockets were opened for all electric and natural gas utilities, all of which have been resolved. The fifteen water and wastewater utilities that included federal income taxes in their revenue requirements were addressed in this docket. Order No. PSC-2019-0350-PAA-PU, issued August 22, 2019, found that thirteen of the fifteen water and wastewater utilities, including Utilities Inc. of Florida (UIF), were not required to reduce their base rates to account for the reduction in the federal corporate income tax rate as they were not earning above their allowed rate of return.

On September 12, 2019, Office of the Public Counsel (OPC) filed a timely protest of Order No. PSC-2019-0350-PAA-PU with regard to UIF only. Order No. PSC-2019-0397-PCO-PU, issued October 2, 2019, set a final hearing for March 3-4, 2020. On February 6, 2020, OPC and UIF filed a joint motion to approve Settlement Agreement and to hold the hearing schedule in

Docket No. 20180013-PU

Date: November 17, 2020

abeyance. This was granted by Order No. PSC-2020-0053-PCO-PU, issued February 13, 2020. The approved Settlement Agreement required UIF to file Minimum Filing Requirements (MFR) for a comprehensive rate proceeding on or before July 31, 2020, and if UIF did so, OPC agreed to withdraw its request for hearing filed on September 12, 2019. UIF filed its MFRs in Docket No. 20200139-WS on June 30, 2020. In accord with the Settlement Agreement, OPC filed a notice of withdrawal of its protest of Order No. PSC-2019-0350-PAA-PU on July 10, 2020. This recommendation addresses OPC's notice of withdrawal of its protest, and whether it is appropriate to close this docket at this time.

The Commission has jurisdiction over this matter pursuant to Sections 366.04, 366.041, 366.07, 367.011, 367.081 and 367.121, Florida Statutes (F.S.).

Discussion of Issues

Issue 1: Should the Commission acknowledge OPC's withdrawal of its Petition Requesting Evidentiary Hearing on Protested Portions of PAA Order No. PSC-2019-0350-PAA-PU?

Recommendation: Yes. The Commission should acknowledge the withdrawal of OPC's petition and make Order No. PSC-2019-0350-PAA-PU final and effective. (Brownless, Cicchetti)

Staff Analysis: It is a well established legal principle that the plaintiff's right to take a voluntary dismissal is absolute.¹ Once a voluntary dismissal is taken, the trial court loses all jurisdiction over the matter, and cannot reinstate the action for any reason.² Both of these legal principles have been recognized in administrative proceedings.³ In *Saddlebrook Resorts, Inc. v. Wiregrass Ranch, Inc.*, 630 So. 2d 1123, 1128 (Fla. 2d DCA 1993), the court concluded that "the jurisdiction of any agency is activated when the permit application is filed . . . [and] is only lost by the agency when the permit is issued or denied or when the permit applicant withdraws its application prior to completion of the fact-finding process." In this case, the hearing has not yet occurred, so the fact-finding process is not complete. Staff therefore recommends that the Commission acknowledge OPC's withdrawal of its protest as a matter of right, which is in accord with past Commission decisions.⁴

OPC was the only entity that filed a protest of PAA Order No. PSC-2019-0350-PAA-PU, and OPC has now withdrawn its protest. The protest period for that order expired September 12, 2019. As such, Order No. PSC-2019-0350-PAA-PU should now become final and effective

¹ *Fears v. Lunsford*, 314 So. 2d 578, 579 (Fla. 1975)

² *Randle-Eastern Ambulance Service, Inc. v. Vasta, Elena, etc.*, 360 So. 2d 68, 69 (Fla. 1978)

³ *Orange County v. Debra, Inc.*, 451 So. 2d 868 (Fla. 1st DCA 1983); *City of Bradenton v. Amerifirst Development Corporation*, 582 So. 2d 166 (Fla. 2d DCA 1991); *Saddlebrook Resorts, Inc. v. Wiregrass Ranch, Inc.*, 630 So. 2d 1123 (Fla. 2d DCA 1993), *aff'd*, 645 So. 2d 374 (Fla. 1994).

⁴ See Order No. PSC-11-0453-FOF-EI, issued October 10, 2011, in Docket No. 100358-EI, *In re: Investigation into the design of Commercial Time-of-Use rates by Florida Power & Light pursuant to Order No. PSC-10-0153-FOF-EI* and Order No. PSC-07-0725-FOF-EU, issued September 5, 2007, in Docket No. 060635-EU, *In re: Petition for determination of need for electrical power plant in Taylor County by Florida Municipal Power Agency, JEA, Reedy Creek Improvement District, and City of Tallahassee.*

Issue 2: Should this docket be closed?

Recommendation: Yes. All issues associated with the TCJA having now been resolved, staff recommends that this docket be closed. (Brownless, Cicchetti)

Staff Analysis: This docket was opened to address the impacts of the TCJA on Florida regulated utilities. Separate dockets were opened for all electric and natural gas utilities, all of which have now been resolved. The fifteen Florida water and wastewater utilities that were impacted by the TCJA were addressed in this docket. The tax issues regarding thirteen of these water and wastewater utilities were resolved by Order No. PSC-2019-0350-PAA-PU. The remaining two utilities, Gold Coast Utility Corporation and St. James Utility Company, were not resolved in that order due to the fact that neither utility had filed its 2018 Annual Report. Separate dockets were established for these utilities⁵ and Proposed Agency Action (PAA) orders were issued in each docket on September 4, 2020.⁶ The protest period for each order ran on September 25, 2020. No protests were filed and Consummating Orders for each docket were issued on September 28, 2020,⁷ making PAA Order Nos. PSC-2020-0300-PAA-WS and PSC-2020-0301-PAA-WS final. All issues associated with the TCJA having now been resolved, staff recommends that this docket be closed.

⁵Docket No. 202000148-WS, *In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Gold Coast Utility Corporation*; Docket No. 20200149-WS, *In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for St. James Utility Company*.

⁶Order No. PSC-2020-0300-PAA-WS, issued September 4, 2020, in Docket No. 20200148-WS, *In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for Gold Coast Utility Corporation*; Order No. PSC-2020-0301-PAA-WS, issued September 4, 2020, in Docket No. 2020149-WS, *In re: Consideration of the tax impacts associated with Tax Cuts and Jobs Act of 2017 for St. James Utility Company*.

⁷ Order Nos. PSC-2020-0325-CO-WS and PSC-2020-0326-CO-WS.