

ORIGINAL

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 Subject: Docket No. 060172-EU & 060173-EU (Post Hearing Rule Comments & Testimony - Time Warner Telecom)  
 Attachments: Post Hearing Rule Comm & Test 10-02-06.pdf

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ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Rules governing the placement of new electric distribution facilities underground, and the conversion of existing overhead distribution facilities to underground facilities, to address the effects of extreme weather events.

DOCKET NO. 060172-EU  
FILED: October 02, 2006

In re: Proposed amendments to rules regarding overhead electric facilities to allow more stringent construction standards than required by National Electric Safety Code.

DOCKET NO. 060173-EU  
FILED: October 02, 2006

POST HEARING RULE COMMENTS AND TESTIMONY

COMES NOW Time Warner Telecom of Florida, L.P., as an affected party and files this its comments and testimony in the above styled docket:

**GENERAL COMMENTS**

- 1. Time Warner Telecom of Florida, L.P. is a competitive local exchange carrier providing telecommunications service in the State of Florida.
- 2. The name, address and telephone number of Time Warner Telecom of Florida, L.P., and the provider of these comments and testimony is:

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- 3. Time Warner Telecom has previously furnished written and oral comments regarding proposed rules on pole attachments at the staff workshops held on April 17, May 19, and July

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13, 2006. Subsequent to these workshops, the P.S.C. held a rule-making hearing on August 31, 2006 to allow the interested parties and the public to offer testimony and comments on rulemaking regarding pole attachment and National Electric Safety Code standards. These post hearing comments are offered to supplement the record and further amplify Time Warner's previous comments.

4. At the rule-making hearing held on August 31, 2006, BellSouth suggested an advisory committee be formed to reach resolution on proposed rules to be presented as an alternative to those currently under consideration.

5. Time Warner Telecom requested a seat on the advisory committee to participate in negotiations of alternative rules. Time Warner Telecom was denied participation; excluded by the price regulated telecommunications companies by unilateral agreement.

6. These exclusive negotiations, absent the participation of competitive telecommunications carriers, does not comport with the instructions of the Commission and staff to the parties to discuss a possible agreement.

7. Time Warner Telecom asserts that its exclusion from the discussions is clear evidence of the intent of the utilities and the incumbent telecommunications carriers – the pole owners - to circumvent the issues of the competitive carriers by way of a systematic denial of access to the to the process prescribed by the Commission. This type of misconduct demonstrates the type of discriminatory behavior and heavy handed dealings the rule should seek to prevent. The rule must address concerns of competitive carriers and alternatives to current telecommunications technology. For example, cable providers must also be given an opportunity to provide input regarding third-party pole attachments. As Time Warner Telecom has expressed to the Commission, the business practices of the pole owners are

being utilized to attempt to craft a rule adverse to the interests of competitive telecommunications carriers and, as a result, adverse to the interests of the consumers of the State of Florida. Time Warner Telecom asserts that any proposed rule alleged to be a product of the agreement of the industry is a misrepresentation.

8. Time Warner Telecom reiterates that additional language must be inserted in the rule, as is shown in the annotated rule attached hereto as Exhibit 1, to require utilities to bear any increased costs in the relocation, expansion, rebuilding or relocation of electric distribution facilities.

9. Time Warner Telecom is seriously concerned with the proposition in the rule that delegates the authority to the electric companies to establish written safety, reliability, capacity, engineering standards, and procedures for attachments to utility electric distribution poles. This proposal provides for attachment of third party facilities to electric distribution poles only to the extent the attachment does not "impair electric system safety or reliability, do{es} not exceed pole capacity, and are constructed, installed, maintained, and operated in accordance with generally accepted engineering practices for the utility service territory." Such a broad grant of authority to the utility will obviously result in enhancing the ability of the utility to engage in anti-competitive practices the pre-disposition to which is clearly demonstrated by current behavioral patterns of the pole owners.

10. A broad grant of implementation authority to the electric utilities will result in a systematic practice to discourage or prohibit third parties from utilizing electric distribution poles. Such a practice fails to comport with recognized federal law granting usage of utility poles.

11. The proposed rule also provides that no attachments could be made to any electric utility distribution poles except in compliance with the owner's attachment standards and procedures. Mandated compliance will permit a utility to deny pole attachment rights under the guise of safety standards. The standards developed by the pole owners may be specifically calculated to provide a competitive disadvantage to Time Warner Telecom or against any other competing party.

12. Time Warner Telecom states that the Commission should only adopt standards suggested by the utilities regarding pole attachments that are consistent with federal law, including any standards for attachments regarding capacity issues and associated pole attachment fees.

13. Time Warner Telecom contends the Florida Public Service Commission is, in essence, delegating the rule-making process regarding third-party attachment and safety standards to the utility companies. Such a delegation is impermissible under Florida law and has the potential to threaten third-parties with engineering or safety standards which could "regulate off the poles" any third-party attachments. Time Warner Telecom suggests language in portions of the rules to provide for the adoption of the National Electric Safety Code safety standards as the standard for compliance. The Florida Public Service Commission would then review the plan of each utility for consistency with that standard instead of allowing this important regulatory function to become a vehicle for the utilities to control the competitive market. By not allowing each utility to dictate its particular standards, the Florida Public Service Commission can maintain a uniform standard to be applied to all third-party attachments. A uniform standard will ensure no utility will exceed the minimum requirements to an extent that would prevent pole attachments pursuant to

reasonable terms and conditions. A uniform standard will also prevent discriminatory practices and the imposition of additional and unreasonable costs. Time Warner Telecom would be at a distinct disadvantage if pole owners utilized arbitrary standards to transfer costs or to "regulate" attachments on poles so that no additional attachments would be permitted due to wind loading concerns. Time Warner Telecom, as a competitive carrier, would be economically unable to compete if these costs were imposed on its attachments.

14. Time Warner Telecom has a significant number of pole attachments in the Tampa Bay region and the Orlando service regions. For competitive reasons, Time Warner Telecom previously filed a confidential attachment listing the exact number of pole attachments and approximate mileage of fiber optic cable it currently uses to provide service to its customers. Should the Commission or the Legislature mandate all services be placed underground, Time Warner Telecom emphatically would state that such a mandate would impose a significant economic burden on Time Warner Telecom and any other competitive communications carrier utilizing the poles of the electric utilities. The current estimated price for undergrounding each mile of fiber optic cable is \$65,000 per mile. Time Warner Telecom and other competitive carriers have no rate base recovery mechanism or the ability to apply for storm surcharge reconstruction costs to recoup the huge impact of such capital construction costs. These costs could place a competitive carrier at a severe disadvantage by virtue of a capital outlay, literally an outlay costing tens if not hundreds of millions of dollars which could not be recovered in the competitive market place.

15. With the entry of power companies into broadband competition and the concentrated efforts of incumbent telephone companies which own poles, an anti-competitive effort will directly result from a utility suddenly deciding to bury large amounts of its distribution

network or convert large amounts of its overhead to underground distribution. This move would put competitive carriers at a significant competitive disadvantage by forcing the current pole attachments to move underground and spend mass amounts of capital without the ability to recover these capital costs unless the Commission requires the cost of undergrounding to be borne by the pole owners.

16. In addition to these capital costs, Time Warner estimates there will be a significant burden in the increase of the numbers of One Call inquiries. Company employees or contracted service employees will be required to respond to an inordinate number of public requests for location markings of underground utility facilities. While anecdotal evidence suggests underground utility maintenance may be less, Time Warner Telecom believes, based on previous experiences, that maintenance costs are approximately the same for underground versus overhead facilities.

17. Time Warner Telecom is also concerned there may be additional costs for right of way fees for the use of underground of utilities; other costs for right of way crossings such as now currently charged by railroads; or other costs for use of rights of way. These rights of way fees, however, could be offset by a reduction in pole attachment fees paid to other utilities.

18. Time Warner Telecom acknowledges that placing utilities underground should provide for a more secure and more stable environment for cable and other utilities; however, the capital costs to convert and move facilities underground potentially has significant anti-competitive effects upon competitive carriers such as Time Warner Telecom.

19. Rule 25-6.0341, as originally proposed, for instance, requires each utility to begin using public rights of way, including any rebuild or relocation of facilities, whether

underground or overhead. This could result in a large construction expense for competitive carriers who currently attached to facilities running along the back edge or alleyway of lots. The only requirement is that utilities seek input from third party attachers and coordinate the construction of these facilities with those third parties. Any cost implications are potentially left for the third parties to absorb. It is critical that this rule specifically require the electric utilities, the pole owners, to absorb the costs of converting to underground or moving existing facilities.

20. Rule 25-6.0342, as proposed requires the utility to establish and maintain safety, reliability, pole loading capacity and engineering standards for third-party attachments. These attachment procedures are "to meet or exceed the applicable edition of the National Electric Safety Code." Time Warner Telecom is concerned this delegates to each utility an opportunity to set "over engineering" standards and procedures which "exceed" the National Electric Safety Code. The utilities then have the ability under the guise of safety to regulate through costly required engineering standards the competitiveness of carriers such as Time Warner Telecom. As has recently been demonstrated by the behaviors of the pole owners, the input of the third party attachers is neither desired nor appreciated. So while the rule attempts to state that the utility shall seek input from other entities, it does not provide that such input shall be considered seriously, accepted, or utilized in establishing these standards. While the Commission has retained jurisdiction to resolve any disputes arising from the implementation of the rule, development of standards on a case by case and utility by utility basis could take years. The untimely resolution of disputes could favor a variety of utilities including co-ops, municipalities and investor-owned utilities, each having its own standards, which are set according to rule. Time Warner Telecom submits that in each place where the

words “or exceed” are used, they should be deleted and replaced with language to require standards and procedures to “meet” the applicable edition of the National Electric Safety Code and the Commission should review each plan for conformity with this accepted standard. To allow each utility to exceed the National Electric Safety Code, under its own terms, will result in an “over-engineering” standard being imposed upon third-parties effectively regulating third-parties off the poles.

21. Time Warner Telecom also asserts that the benefits to accrue from the proposed rule are potentially the reduction of restoration costs during and after storm and wind-related events. However, many of Time Warner Telecom outages occur when operable cable is severed during the clearing of downed poles and wires from an area during reconstruction after storm-related damage. Customers must then wait for restoration of telecommunications services even though electricity has already been restored. Time Warner Telecom had approximately \$400,000 total in storm-related costs in the past 3 years. These costs were absorbed by Time Warner Telecom. While there are clearly some benefits to placing utilities underground, consideration must also be given to the detriments – for example, troubleshooting underground utilities can be problematic from time to time; flooding during storms can cause outages and overall restoration times may in fact be similar whether utilities are underground or overhead and may not be lessened by undergrounding as is being touted in this proceeding.

#### COMMENTS ON PROPOSED RULES

22. Rule 25-6.034 – Time Warner Telecom proposes that the words in Paragraph 4, “at a minimum”, be stricken. The standard should be the 2002 version of the National Electric Safety Code and not a standard developed by a utility.

23. Rule 25-6.034 - Time Warner Telecom proposes in Paragraph 4(c) new language should be inserted in the rule to provide as follows: "Each plan submitted by the utility pursuant to this rule shall be reviewed by the Florida Public Service Commission for consistency in implementing the standards of the National Electric Safety Code as specified in this rule."

24. Rule 25-6.034 - Paragraph (7) should also contain the following language: "Any plan adopted by the utility pursuant to this rule shall be reviewed for consistency of implementation and consistency in implementing the standards of the National Electric Safety Code."

25. Rule 25-6.0341 (5) – The following language should be inserted as a new Paragraph (5): "Any additional costs resulting from the implementation of this rule shall be born by the utility or the customer as contemplated by the contribution in aid of construction rules and may be recovered by the utility as provided by other applicable rules of the Commission."

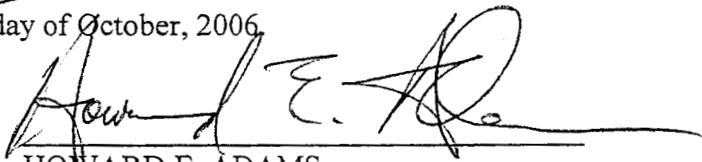
26. Rule 25-6.0342 – Changes to Paragraph (1) relating to third-party attachment standards and procedures. The words "or exceed" regarding the applicable addition of the National Electric Safety Code should be stricken. In addition, a new sentence should be added at the end of (1) to provide: "The provisions of this rule shall not act to impair, restrict, impede, or discriminate against third-party pole attachers or in any way act to prevent legitimate attachment to any pole where such attachment meets the applicable National Electric Safety Code standards."

27. Rule 25-6.0345 Construction Standards - In Paragraph (1), the words "at a minimum," should be stricken from the rule.

#### CONCLUSION

Time Warner Telecom respectfully requests that the Florida Public Service Commission make the amendments to the rule as proposed in these pleadings and as provided in the attached copy of the rule showing the changes to be made and with additions noted. Time Warner Telecom asks that it be allowed to present these comments and that it be allowed to participate fully in any hearing before the Commission as an affected party and to present further argument and oral statements on the proposed rules as may be necessary.

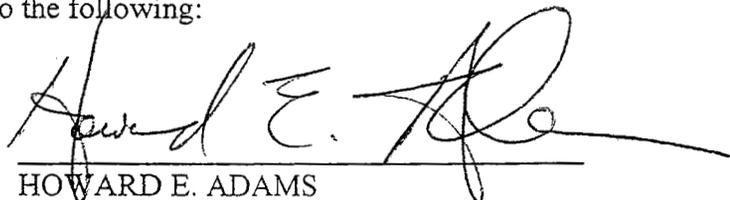
Respectfully submitted this 2<sup>nd</sup> day of October, 2006.



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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served by U.S. Mail this 2<sup>nd</sup> day of October 2006 to the following:



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**EXHIBIT "A" TO TIME WARNER TELECOM'S  
POST HEARING RULE COMMENTS AND TESTIMONY  
WITH CHANGES AND DELETIONS SHOWN TO PROPOSED RULE**

THE FULL TEXT OF THESE PROPOSED RULES AS AMENDED ARE:

PART III

GENERAL MANAGEMENT REQUIREMENTS

25-6.034 Standard of Construction.

(1) Application and Scope. This rule is intended to define construction standards for all overhead and underground electrical transmission and distribution facilities to ensure the provision of adequate and reliable electric service for operational as well as emergency purposes. This rule applies to all investor-owned electric utilities. The facilities of the utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished.

(2) Each utility shall establish, no later than 180 days after the effective date of this rule, construction standards for overhead and underground electrical transmission and distribution facilities that conform to the provisions of this rule. Each utility shall maintain a copy of its construction standards at its main corporate headquarters and at each district office. Subsequent updates, changes, and modifications to the utility's construction standards shall be labeled to indicate the effective date of the new version and all revisions from the prior version shall be identified. Upon request, the utility shall provide access, within 2 working days, to a copy of its construction standards for review by Commission staff at the utility's offices in Tallahassee. The Commission has reviewed the American National Standard Code for Electricity Metering, 6th edition, ANSI C-12, 1975, and the American National Standard Requirements, Terminology and Test Code for Instrument Transformers, ANSI 57.13, and has found them to contain reasonable

standards of good practice. A utility that is in compliance with the applicable provisions of these publications, and any variations approved by the Commission, shall be deemed by the Commission to have facilities constructed and installed in accordance with generally accepted engineering practices.

(3) The facilities of each utility shall be constructed, installed, maintained and operated in accordance with generally accepted engineering practices to assure, as far as is reasonably possible, continuity of service and uniformity in the quality of service furnished.

(4) Each utility shall <sup>1</sup>comply with the applicable edition of the National Electrical Safety Code (ANSI C-2) [NESC].

Deleted: , at a minimum.

(a) The Commission adopts and incorporates by reference the 2002 edition of the NESC, published August 1, 2001. A copy of the 2002 NESC, ISBN number 0-7381-2778-7, may be obtained from the Institute of Electric and Electronic Engineers, Inc. (IEEE).

(b) Electrical facilities constructed prior to the effective date of the 2002 edition of the NESC shall be governed by the applicable edition of the NESC in effect at the time of the initial construction.

~~(c) Each plan submitted by the utility pursuant to this rule shall be reviewed by the Florida Public Service Commission for consistency in implementing the standards of the National Electric Safety Code as specified in this rule.<sup>2</sup>~~

(5) For the construction of distribution facilities, each utility shall, to the extent reasonably practical, feasible, and cost-effective, be guided by the extreme wind loading standards specified by Figure 250-2(d) of the 2002 edition of the NESC. As part of its construction standards, each utility shall establish guidelines and procedures governing the

<sup>1</sup> "at a minimum" was deleted. Set standard does not allow utility to vary or define rule. See Comments ¶ 13, 22.

<sup>2</sup> See Comments/Testimony ¶ 13, 23.

applicability and use of the extreme wind loading standards to enhance reliability and reduce restoration costs and outage times for each of the following types of construction:

(a) new construction;

(b) major planned work, including expansion, rebuild, or relocation of existing facilities, assigned on or after the effective date of this rule; and

(c) targeted critical infrastructure facilities and major thoroughfares taking into account political and geographical boundaries and other applicable operational considerations.

(6) For the construction of underground distribution facilities and their supporting overhead facilities, each utility shall, to the extent reasonably practical, feasible, and cost-effective, establish guidelines and procedures to deter damage resulting from flooding and storm surges.

(7) In establishing the construction standards, the utility shall seek input from other entities with existing agreements to share the use of its electric facilities. Any dispute or challenge to a utility's construction standards by a customer, applicant for service, or attaching entity shall be resolved by the Commission. Any plan adopted by the utility pursuant to this rule shall be reviewed for consistency of implementation and consistency in implementing the standards of the National Electric Safety Code.<sup>3</sup>

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c)(f), (5)(6), 366.05(1)(7)(8) FS.

History—Amended 7-29-69, 12-20-82, Formerly 25-6.34, Amended \_\_\_\_\_.

25-6.0341 Location of the Utility's Electric Distribution Facilities. In order to facilitate safe and efficient access for installation and maintenance, to the extent practical, feasible, and cost-effective, electric distribution facilities shall be placed adjacent to a public road, normally in

<sup>3</sup> See Comments/Testimony ¶ 13, 24.

front of the customer's premises.

(1) For initial installation, expansion, rebuild, or relocation of overhead facilities, utilities shall use easements, public streets, roads and highways along which the utility has the legal right to occupy, and public lands and private property across which rights-of-way and easements have been provided by the applicant for service.

(2) For initial installation, expansion, rebuild, or relocation of underground facilities, the utility shall require the applicant for service to provide easements along the front edge of the property, unless the utility determines there is an operational, economic, or reliability benefit to use another location.

(3) For conversions of existing overhead facilities to underground facilities, the utility shall, if the applicant for service is a local government that provides all necessary permits and meets the utility's legal, financial, and operational requirements, place facilities in road rights-of-way in lieu of requiring easements.

(4) Where the expansion, rebuild, or relocation of electric distribution facilities affects existing third-party attachments, the electric utility shall seek input from and, to the extent practical, coordinate the construction of its facilities with the third-party attacher.

(5) Any additional costs resulting from the implementation of this rule shall be borne by the utility or the customer as contemplated by the contribution in aid of construction rules and may be recovered by the utility as provided by other applicable rules of the Commission.<sup>4</sup>

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c), (5), (6), 366.05(1)(8) FS.

History-New

25-6.0342 Third-Party Attachment Standards and Procedures.

<sup>4</sup> See Comments/Testimony ¶ 8, 25, regarding cost shifting.

(1) As part of its construction standards adopted pursuant to Rule 25-6.034, F.A.C., each utility shall establish and maintain written safety, reliability, pole loading capacity, and engineering standards and procedures for attachments by others to the utility's electric transmission and distribution poles (Attachment Standards and Procedures). The Attachment Standards and Procedures shall meet <sup>5</sup>the applicable edition of the National Electrical Safety Code (ANSI C-2) pursuant to subsection 25-6.034(4) and other applicable standards imposed by state and federal law so as to assure, as far as is reasonably possible, that third-party facilities attached to electric transmission and distribution poles do not impair electric safety, adequacy, or reliability; do not exceed pole loading capacity; and are constructed, installed, maintained, and operated in accordance with generally accepted engineering practices for the utility's service territory. ~~The provisions of this rule shall not act nor be utilized to impair, restrict, impede, or discriminate against third-party pole attachers or in any way act to prevent legitimate attachment to any pole where such attachment meets the applicable National Electric Safety Code standards.~~<sup>6</sup>

Deleted: ~~or exceed~~

(2) No attachment to a utility's electric transmission or distribution poles shall be made except in compliance with such utility's Attachment Standards and Procedures.

(3) In establishing the Attachment Standards and Procedures, the utility shall seek input from other entities with existing agreements to share the use of its electric facilities. Any dispute arising from the implementation of this rule shall be resolved by the Commission.

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(c), (5), (6), 366.05(1)(8) FS.

History New \_\_\_\_\_.

<sup>5</sup> The words "or exceed" have been deleted. Set standard would not allow utility to exceed standard. See Comments/Testimony ¶ 13, 26.

<sup>6</sup> See ¶ 9, 10, 13 Comments/Testimony regarding delegation of standards.

25-6.0345 Safety Standards for Construction of New Transmission and Distribution Facilities.

(1) In compliance with Section 366.04(6)(b), F.S., 1991, the Commission adopts and incorporates by reference the 2002 edition of the National Electrical Safety Code (ANSI C-2), published August 1, 2001, as the applicable safety standards for transmission and distribution facilities subject to the Commission's safety jurisdiction. Each investor-owned ~~public~~ electric utility, rural electric cooperative, and municipal electric system shall<sup>7</sup> comply with the standards in these provisions. Standards contained in the 2002 edition shall be applicable to new construction for which a work order number is assigned on or after the effective date of this rule.

Deleted: ,  
Deleted: at a minimum.

(2) Each investor-owned ~~public~~ electric utility, rural electric cooperative and municipal electric utility shall report all completed electric work orders, whether completed by the utility or one of its contractors, at the end of each quarter of the year. The report shall be filed with the Director of the Commission's Division of Regulatory Compliance and Consumer Assistance ~~Auditing and Safety~~ no later than the 30th working day after the last day of the reporting quarter, and shall contain, at a minimum, the following information for each work order:

- (a) Work order number/project/job;
- (b) Brief title outlining the general nature of the work; ~~and~~
- (c) Estimated cost in dollars, rounded to nearest thousand and; ~~-~~
- (d) Location of project.

(3) The quarterly report shall be filed in standard DBase or compatible format, DOS ASCII text, or hard copy, as follows:

- (a) DBase Format

<sup>7</sup> The text " , at a minimum" was deleted. Set standard would not allow utility to exceed standard. See Comments/Testimony ¶ 13, 27.

Field Name	Field Type	Digits
1. Work orders	Character	20
2. Brief title	Character	30
3. Cost	Numeric	8
4. Location	Character	50
<del>5. Kv</del>	<del>Numeric</del>	<del>5</del>
<del>6. Contiguous</del>	<del>Character</del>	<del>1</del>

(b) DOS ASCII Text.

1. - 5.(c) No change.

The following format is preferred, but not required:

Completed Electrical Work Orders For PSC Inspection

Work Order	Brief Title	Estimated Cost	Location	KV Rating	Contiguous (y/n)

(4) No change.

(5) As soon as practicable, but by the end of the next business day after it learns of the occurrence, each investor-owned electric ~~public~~ utility, rural electric cooperative, and municipal electric utility shall (without admitting liability) report to the Commission any accident occurring in connection with any part of its transmission or distribution facilities which:

(a) - (b) No change.

(6) Each investor-owned electric ~~public~~ utility, rural electric cooperative, and municipal electric utility shall (without admitting liability) report each accident or malfunction, occurring in connection with any part of its transmission or distribution facilities, to the Commission within

30 days after it learns of the occurrence, provided the accident or malfunction:

(a) – (7) No change.

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 366.04(2)(f), (6), 366.05(7) FS.

History–New 8-13-87, Amended 2-18-90, 11-10-93, 8-17-97, 7-16-02, \_\_\_\_\_.

PART IV

GENERAL SERVICE PROVISIONS

25-6.064 ~~Extension of Facilities; Contribution-in-Aid-of-Construction~~ for Installation of New or Upgraded Facilities.

(1) Application and scope Purpose. The purpose of this rule is to establish a uniform procedure by which investor-owned electric utilities subject to this rule will calculate amounts due as contributions-in-aid-of-construction (CIAC) from customers who request new facilities or upgraded facilities ~~require extensions of distribution facilities~~ in order to receive electric service, except as provided in Rule 25-6.078, F.A.C.,

(2) Applicability. ~~This rule applies to all investor owned electric utilities in Florida as defined in Section 366.02, F.S.~~ Contributions-in-aid-of-construction for new or upgraded overhead facilities (CIAC<sub>OH</sub>) shall be calculated as follows:

<u>CIAC<sub>OH</sub></u>	<u>=</u>	<u>Total estimated work order job cost of installing the facilities</u>	<u>=</u>	<u>Four years expected incremental base energy revenue</u>	<u>=</u>	<u>Four years expected incremental base demand revenue, if applicable</u>
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(a) The cost of the service drop and meter shall be excluded from the total estimated work order job cost for new overhead facilities.

(b) The net book value and cost of removal, net of the salvage value, for existing facilities shall be included in the total estimated work order job cost for upgrades to those existing facilities.

(c) The expected annual base energy and demand charge revenues shall be estimated for a period ending not more than 5 years after the new or upgraded facilities are placed in service.

(d) In no instance shall the CIAC<sub>OH</sub> be less than zero.

(3) Contributions-in-aid-of-construction for new or upgraded underground facilities (CIAC<sub>UG</sub>) shall be calculated as follows:

CIAC <sub>UG</sub>	=	CIAC <sub>OH</sub>	+	<u>Estimated difference between cost of providing the service underground and overhead</u>
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(3) Definitions. Actual or estimated job cost means the actual cost of providing the specified line extension facilities, calculated after the extension is completed, or the estimated cost of providing the specified facilities before the extension is completed.

(4) In developing the policy for extending overhead distribution facilities to customers, the following formulas shall be used to determine the contribution in aid of construction owed by the customer.

(a) For customers in rate classes that pay only energy charges, i.e., those that do not pay demand charges, the CIAC shall be calculated as follows:

$$CIAC_{oh} = (\text{Actual or estimated job cost} - (4 \times \text{nonfuel energy for new poles and conductors} - \text{charge per KWH and appropriate fixtures} \times \text{expected annual KWH required to provide service, sales over the new line}) \text{ excluding transformers,})$$

service drops, and meters)

(b) For customers in rate classes that pay both energy charges and demand charges, the

CIAC shall be calculated as follows:

$CIAC_{eh} =$  (Actual or estimated  ~~(4 × nonfuel energy~~  ~~(4 × expected annual~~  
job cost for new  ~~charge per KWH ×~~  ~~demand charge~~  
poles and conductors  ~~expected annual KWH~~  ~~revenues from sales~~  
and appropriate  ~~sales over the new line)~~  ~~over the new line)~~  
fixtures required to  
provide service,  
excluding transformers,  
service drops, and meters)

(c) ~~Expected demand charge revenues and energy sales shall be based on an annual~~  
period ending not more than five years after the extension is placed in service.

(5) ~~In developing the policy for extending underground distribution facilities to~~  
customers, the following formula shall be used to determine the contribution in aid of  
construction:

$CIAC_{ug} =$  (Estimated difference between  ~~+~~  ~~CIAC<sub>eh</sub> (as above)~~  
the cost of providing the  
distribution line extension  
including not only the distribution  
line extension itself but also  
the transformer, the service drop,  
and other necessary fixtures, with  
underground facilities vs. the cost

of providing service using overhead facilities)

~~(6) Nothing in this rule shall be construed as prohibiting a utility from collecting from a customer the total difference in cost for providing underground service instead of overhead service to that customer.~~

~~(7) In the event that amounts are collected for certain distribution facilities via the URD differential tariff as permitted by Rule 25-6.078, F.A.C., that would also be collected pursuant to this rule, the utility shall give an appropriate credit for such amounts collected via the URD differential tariff when calculating the line extension CIAC due pursuant to this rule.~~

~~(4)(8) Each utility shall apply the above formulas in subsections (2) and (3) of this rule uniformly to residential, commercial and industrial customers requesting new or upgraded facilities at any voltage level requiring line extensions.~~

~~(5) The costs applied to the formula in subsections (2) and (3) shall be based on the requirements of Rule 25-6.034, Standards of Construction.~~

~~(9) Each utility shall calculate an appropriate CIAC for line extensions constructed to serve customers who receive service at the primary distribution voltage level and the transmission voltage level. This CIAC shall be based on the actual or estimated cost of providing the extension less an appropriate credit.~~

~~(6)(10) All CIAC calculations under this rule shall be based on estimated work order job costs. In addition, each The utility shall use its best judgment in estimating the total amount of annual revenues and sales which the new or upgraded facilities are each line extension is expected to produce in the near future.~~

~~(a) A customer may request a review of any CIAC charge within 12 months following the in-service date of the new or upgraded facilities. Upon request, the utility shall true-up the CIAC~~

to reflect the actual costs of construction and actual base revenues received at the time the request is made.

(b) In cases where more customers than the initial applicant are expected to be served by the new or upgraded facilities, the utility shall prorate the total CIAC over the number of end-use customers expected to be served by the new or upgraded facilities within a period not to exceed 3 years, commencing with the in-service date of the new or upgraded facilities. The utility may require a payment equal to the full amount of the CIAC from the initial customer. For the 3-year period following the in-service date, the utility shall collect from those customers a prorated share of the original CIAC amount, and credit that to the initial customer who paid the CIAC. The utility shall file a tariff outlining its policy for the proration of CIAC.

~~(7)(11)~~ The utility may elect to waive all or any portion of the line extension CIAC for customers, even when a CIAC is found to be applicable owing. If hHowever, if the utility waives ~~a the CIAC~~, the utility shall reduce net plant in service as though the CIAC had been collected, unless the Commission determines that there is a quantifiable benefit to the general body of ratepayers commensurate with the waived CIAC. Commission will reduce the utility's net plant in service by an equal amount for ratemaking purposes, as though the CIAC had been collected, except when the company's annual revenues from a customer are sufficient to offset the unpaid line extension CIAC under subsection (4) or (5). Each utility shall maintain records of amounts waived and any subsequent changes that served to offset the CIAC.

~~(12)~~ In cases where larger developments are expected to be served by line extensions, the utility may elect to prorate the total line extension costs and CIAC's owed over the number of customers expected to connect to the new line.

~~(8)(13)~~ A detailed statement of its standard facilities extension and upgrade policies shall be filed by each utility as part of its tariffs. The tariffs ~~This policy~~ shall have uniform

application and shall be nondiscriminatory.

~~(9)(14)~~ If a utility and applicant are unable to agree on the CIAC amount, ~~in regard to an extension~~, either party may appeal to the Commission for a review.

Specific Authority 366.05(1), 350.127(2) FS.

Law Implemented 366.03, 366.05(1), 366.06(1) FS.

History—New 7-29-69, Amended 7-2-85, Formerly 25-6.64, Amended \_\_\_\_\_.

#### PART V

#### RULES FOR RESIDENTIAL ELECTRIC UNDERGROUND EXTENSIONS

##### 25-6.078 Schedule of Charges.

(1) Each utility shall file with the Commission a written policy that shall become a part of the utility's tariff rules and regulations on the installation of underground facilities in new subdivisions. Such policy shall be subject to review and approval of the Commission and shall include an Estimated Average Cost Differential, if any, and shall state the basis upon which the utility will provide underground service and its method for recovering the difference in cost of an underground system and an equivalent overhead system from the applicant at the time service is extended. The charges to the applicant shall not be more than the estimated difference in cost of an underground system and an equivalent overhead system.

(2) For the purpose of calculating the Estimated Average Cost Differential, cost estimates shall reflect the requirements of Rule 25-6.034, Standards of Construction.

~~(3)(2)~~ On or before October 15<sup>th</sup> of each year each utility shall file with the Commission's Division of Economic Regulation Form PSC/ECR 13-E, Schedule 1, using current material and labor costs. If the cost differential as calculated in Schedule 1 varies from the Commission-approved differential by plus or minus 10 percent or more, the utility shall file a written policy and supporting data and analyses as prescribed in subsections (1), ~~(43)~~ and ~~(54)~~ of

this rule on or before April 1 of the following year; however, each utility shall file a written policy and supporting data and analyses at least once every 3 ~~three~~ years.

~~(4)(3)~~ Differences in Net Present Value of operational ~~operating and maintenance~~ costs, including average historical storm restoration costs over the life of the facilities, between underground and overhead systems, if any, shall ~~may~~ be taken into consideration in determining the overall Estimated Average Cost Differential. Each utility shall establish sufficient record keeping and accounting measures to separately identify operational costs for underground and overhead facilities, including storm related costs.

~~(5)(4)~~ Detailed supporting data and analyses used to determine the Estimated Average Cost Differential for underground and overhead distribution systems shall be concurrently filed by the utility with the Commission and shall be updated using cost data developed from the most recent 12-month period. The utility shall record these data and analyses on Form PSC/ECR 13-E (10/97). Form PSC/ECR 13-E, entitled "Overhead/Underground Residential Differential Cost Data" is incorporated by reference into this rule and may be obtained from the Division of Economic Regulation, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850) 413-6900.

~~(6)(5)~~ Numbers (5) through (8) renumbered to (6) through (9) No change.

~~(10)(9)~~ Nothing in this rule herein contained shall be construed to prevent any utility from waiving assuming all or any portion of a cost differential for ~~of~~ providing underground facilities, distribution systems, provided, however, that such assumed cost differential shall not be chargeable to the general body of rate payers, and any such policy adopted by a utility shall have uniform application throughout its service area. If, however, the utility waives the differential, the utility shall reduce net plant in service as though the differential had been collected unless the Commission determines that there is a quantifiable benefit to the general

body of ratepayers commensurate with the waived differential.

Specific Authority 350.127(2), 366.04(2)(f), 366.05(1) FS.

Law Implemented 366.03, 366.04(1), ~~(4)~~, 366.04(2)(f), 366.06(1) FS.

History--New 4-10-71, Amended 4-13-80, 2-12-84, Formerly 25-6.78, Amended 10-29-97, \_\_\_.

## PART VII

### UNDERGROUND ELECTRIC DISTRIBUTION FACILITY CHARGES

25-6.115 Facility Charges for Conversion of Existing Overhead Providing Underground Facilities of Public Investor-owned Distribution Facilities Excluding New Residential Subdivisions.

(1) Each investor-owned public utility shall file a tariff showing the non-refundable deposit amounts for standard applications addressing ~~new construction~~ and the conversion of existing overhead electric distribution facilities to underground facilities ~~excluding new residential subdivisions~~. The tariff shall include the general provisions and terms under which the public utility and applicant may enter into a contract for the purpose of ~~new construction or conversion~~ of existing overhead electric facilities to underground electric facilities. The non-refundable deposit amounts shall be calculated in the same manner as approximate the engineering costs for underground facilities serving each of the following scenarios: urban commercial, urban residential, rural residential, existing low-density single family home subdivision and existing high-density single family home subdivision service areas.

(2) For the purposes of this rule, the applicant is the person or entity requesting the conversion seeking the undergrounding of existing overhead electric distribution facilities to underground facilities. In the instance where a local ordinance requires developers to install underground facilities, the developer who actually requests the construction for a specific location is when a developer requests local government development approval, the local

~~government shall not be~~ deemed the applicant for purposes of this rule.

(3) No change:

(a) ~~s~~Such work meets the investor-owned public utility's construction standards;

(b) ~~t~~The investor-owned public utility will own and maintain the completed distribution facilities; and

(c) ~~s~~Such agreement is not expected to cause the general body of ratepayers to incur additional greater costs.

(4) No change.

(5) Upon an applicant's request and payment of the deposit amount, an investor-owned public utility shall provide a binding cost estimate for providing underground electric service.

(6) An applicant shall have at least 180 days from the date the estimate is received, to enter into a contract with the public utility based on the binding cost estimate. The deposit amount shall be used to reduce the charge as indicated in subsection (7) only when the applicant enters into a contract with the public utility within 180 days from the date the estimate is received by the applicant, unless this period is extended by mutual agreement of the applicant and the utility.

(7) – (8) No change:

(a) ~~t~~The estimated cost of construction of the underground distribution facilities based on the requirements of Rule 25-6.034, Standards of Construction, including the construction cost of the underground service lateral(s) to the meter(s) of the customer(s); and

(b) ~~For conversions,~~ the estimated remaining net book value of the existing facilities to be removed less the estimated net salvage value of the facilities to be removed.

(9) For the purpose of this rule, the charge for overhead facilities shall be the estimated construction cost to build new overhead facilities, including the service drop(s) to the meter(s) of

the customer(s). Estimated construction costs shall be based on the requirements of Rule 25-6.034, Standards of Construction.

(10) An applicant requesting to a public utility for construction of underground distribution facilities under this rule may petition challenge the utility's cost estimates the Commission pursuant to Rule 25-22.032, F.A.C.

(11) For purposes of computing the charges required in subsections (8) and (9):

(a) The utility shall include the Net Present Value of operational costs including the average historical storm restoration costs for comparable facilities over the expected life of the facilities.

(b) If the applicant chooses to construct or install all or a part of the requested facilities, all utility costs, including overhead assignments, avoided by the utility due to the applicant assuming responsibility for construction shall be excluded from the costs charged to the customer, or if the full cost has already been paid, credited to the customer. At no time will the costs to the customer be less than zero.

(12) Nothing in this rule shall be construed to prevent any utility from waiving all or any portion of the cost for providing underground facilities. If, however, the utility waives any charge, the utility shall reduce net plant in service as though those charges had been collected unless the Commission determines that there is quantifiable benefits to the general body of ratepayers commensurate with the waived charge.

(13) Nothing in this rule shall be construed to grant any investor-owned electric utility any right, title or interest in real property owned by a local government.

Specific Authority 350.127(2) 366.04, 366.05(1) FS.

Law Implemented 366.03, 366.04, 366.05 FS.

History--New 9-21-92, Amended.