



(850) 850-521-1708  
bkeating@gunster.com

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FPSC - COMMISSION CLERK

**E-PORTAL FILING**

Mr. Adam Teitzman  
Commission Clerk  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Re:**

DOCKET NO.

In re: Petition for waiver of depreciation study filing requirement in Rule 25-6.0436(4)(a), Florida Administrative Code, by Florida Public Utilities Company – Electric Division

**Dear Mr. Teitzman:**

Attached, for electronic filing, please find a **Petition of Florida Public Utilities Company for Waiver of Rule 25-6.0436(4)(a), Florida Administrative Code**. Should you have any questions whatsoever, please do not hesitate to contact me. Thank you for your assistance in this matter.

Respectfully,

A handwritten signature in blue ink, appearing to read 'Beth Keating', written over a horizontal line.

Beth Keating  
Florida Bar No. 0022756  
Gunster, Yoakley & Stewart, P.A.  
215 South Monroe St., Suite 601  
Tallahassee, FL 32301  
(850) 521-1706

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for waiver of depreciation study filing requirement in Rule 25-6.0436(4)(a), Florida Administrative Code, by Florida Public Utilities Company – Electric Division	Docket No.  Filed: June 17, 2019
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**PETITION OF FLORIDA PUBLIC UTILITIES COMPANY FOR  
WAIVER OF RULE 25-6.0436(4)(a), FLORIDA ADMINISTRATIVE CODE**

The Florida Public Utilities Company (“FPUC” or “Company”), through undersigned counsel and pursuant to Rule 28-104.002, F.A.C., and Section 120.542, Florida Statutes, hereby petitions the Commission for a waiver of Rule 25-6.0436(4)(a), F.A.C., which requires the Company to file its next depreciation study within four years of the filing of its previous depreciation study. In requesting this waiver, FPUC seeks leave to file its depreciation study on or before September 3, 2019. In support of this request, the Company states:

1. The Company is an electric utility with its principal office located at:

Florida Public Utilities Company  
1750 S 14th Street, Suite 200  
Fernandina Beach, FL 32034

2. Please send copies of all notices, pleadings and other communications and documents in this docket to the following:

Beth Keating  
Gunster, Yoakley & Stewart, P.A.  
215 South Monroe St., Suite 601  
Tallahassee, FL 32301

Mike Cassel  
AVP, Florida Public Utilities Company  
1750 S 14<sup>th</sup> Street, Suite 200  
Fernandina Beach, FL 32034  
mcassel@fpuc.com

3. FPUC is an electric utility subject to regulation by the Commission in accordance with Chapter 366, Florida Statutes.

4. Rule 25-6.0436(4)(a), F.A.C., provides, in pertinent part, that:

Each company shall file a study for each category of depreciable property for Commission review at least once every four years from the submission date of the previous study or pursuant to Commission order and within the time specified in the order.

FPUC filed its last depreciation study on July 1, 2015; thus, FPUC's next study is due to be filed on or before July 1, 2019, in accordance with the Rule. By this Petition, the Company however seeks a temporary waiver of the Rule requirement to provide an additional nine (9) weeks to complete the filing, allowing FPUC to file its depreciation study on or before September 3, 2019. Thereafter, FPUC asks that subsequent depreciation study filing dates be calculated from the March filing date.

5. Pursuant to Section 120.542(2), Florida Administrative Code, the Commission is authorized to grant the requested waiver if the application of the Rule would otherwise work an undue hardship on the Company and if the Company can demonstrate that the purpose of the underlying statute will be achieved by other means.

6. Rule 25-6.0436 provides a detailed – and lengthy - list of the items that must be included in the study, and further specifies that the calculations of depreciation rates must be provided using both whole life and remaining life methods. Even under ordinary circumstances, preparing a depreciation study is a time-consuming, difficult task.

7. Similar to the Company's request for temporary waiver to extend the time for filing its natural gas depreciation study<sup>1</sup>, the Company continues to be hindered by constrained resources

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<sup>1</sup> See Order No. PSC-2019-0067-PAA-GU, issued in Docket No. 20180230-GU.

due to the impact of Hurricane Michael on the electric business unit's Northwest division. More critically, the Company has not been able to finalize the numbers reflecting the full impact of the storm on utility plant associated with FPUC's Northwest Division, which presents a challenge for finalizing the Company's depreciation study. Consequently, filing by July 1 will impose an undue hardship on the Company.

8. The purpose of the underlying statutes will still be fulfilled if the Commission grants the requested waiver. Specifically, Section 350.115 authorizes the Commission to "prescribe by rule uniform systems and classifications of accounts for each type of regulated company and approve or establish adequate, fair, and reasonable depreciation rates and charges." Section 366.06(1)<sup>2</sup> authorizes the Commission to:

. . . investigate and determine the actual legitimate costs of the property of each utility company, actually used and useful in the public service, and to keep a current record of the net investment of each public utility company and such property which value, as determined by the Commission, shall be used for ratemaking purposes and shall be the money honestly and prudently invested by the public utility company in such property used and useful in serving the public, less accrued depreciation and shall not include any goodwill or going concern value or franchise value in excess of the payment made therefore.

FPUC only seeks an extension of time in which to file its study; therefore, the purpose of both underlying statutes will still be fulfilled when the Company files the study in September, providing the Commission with the required data. The waiver will simply enable FPUC to prepare the required study without undue hardship and cost imposed on the Company or its accounting personnel.

9. FPUC notes that it intends to request an effective date of January 1, 2020 for depreciation rates approved as a result of its extended depreciation study filing.

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<sup>2</sup> The Company notes Section 366.06 is not specifically referenced in the depreciation rule for natural gas utilities, but is referenced in the corresponding rule applicable to electric utilities, Rule 25-6.0436, F.A.C., but nonetheless appears to provide underlying authority for both depreciation rules.

10. The Company therefore asks that a waiver of Rule 25-6.0436(4)(a), F.A.C., be granted to allow the Company to file its depreciation study by September 3, 2019. FPUC further asks that the filing date for subsequent depreciation studies be calculated from the extended September filing date.

WHEREFORE, the Florida Public Utilities Company asks that the Commission:

1. Grant the request for a temporary waiver of Rule 25-6.0436(4)(a), Florida Administrative Code;
2. Allow the Company until September 3, 2019, to file its next depreciation study; and
3. Calculate the filing dates for subsequent depreciation studies based upon the extended filing date requested herein.

Respectfully submitted this 17<sup>th</sup> day of June, 2019, by:



Beth Keating  
Gunster, Yoakley & Stewart, P.A.  
215 South Monroe St., Suite 601  
Tallahassee, FL 32301

*Attorneys for Florida Public Utilities  
Company*

**Certificate of Service**

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition for Waiver has been furnished via U.S. Mail this 17th day of June, 2019, to the Joint Administrative Procedures Committee, 680 Pepper Building, 111 W. Madison Street, Tallahassee, FL 32399-1400.



Beth Keating  
Gunster, Yoakley & Stewart, P.A.  
215 South Monroe St., Suite 601  
Tallahassee, FL 32301