



Matthew R. Bernier  
ASSOCIATE GENERAL COUNSEL

October 8, 2020

**VIA ELECTRONIC FILING**

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

Re: *Comments on Staff's Proposed Changes – Rules 25-6.0143 and 25-7.0143, Florida Administrative Code (F.A.C.); Undocketed*

Dear Mr. Teitzman:

Enclosed to be filed in Undocketed Matters on behalf of Duke Energy Florida, LLC (“DEF”) is DEF’s corrected comments on Staff’s proposed changes to Rule 25-6.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4. The original filing of these comments on October 7, 2020 (DN 10971-2020), inadvertently omitted DEF’s redlining of the rule.

Thank you for your assistance in this matter. Please feel free to call me at (850) 521-1428 should you have any questions concerning this filing.

Sincerely,

*/s/ Matthew R. Bernier*

Matthew R. Bernier

MRB/cmw  
Enclosure

cc: Adria E. Harper



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Re: *Comments on Staff's Proposed Changes – Rules 25-6.0143 and 25-7.0143, Florida Administrative Code (F.A.C.); Undocketed*

Dear Mr. Teitzman:

This letter is submitted on behalf of Duke Energy Florida, LLC (“DEF”). DEF appreciates the opportunity to provide comments to Staff’s proposed changes to Rule 25-6.0143 F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4.

On June 10, 2020, the Florida Public Service Commission (“FPSC” or “Staff”) Issued a Notice of Development of Rulemaking for the Proposed Amendment of Rule 25-6.0143, F.A.C., and Proposed Adoption of Rule 25-7.0143, F.A.C. to provide an industry-specific standard for the application in the natural gas industry. Staff conducted a Rulemaking Workshop on June 29, 2020. DEF filed Post-Workshop Comments on July 27, 2020 (04063-2020) re. Rule 25-6.0143. Following the workshop and review of post-workshop comments, Staff provided revised the drafts of Rules 25-6.0143 and 25-7.0143 on September 11, 2020 and requested that utilities file their comments on the proposed changes no later than October 2, 2020. After discussions with Staff, DEF received an extension to October 6, 2020, to file its comments.

As discussed below, DEF believes clarification of terminology used in certain sections of the rule is necessary, so all stakeholders understand the intent of those specific provisions.

**Rule 25-6.0143(1)(e)1**

DEF believes this paragraph requires clarification as to the types of contract labor costs that should be considered. Specifically, DEF believes that the contract labor costs considered for the calculation required by the paragraph should be contractor costs specific to normal storm restoration activities; this would exclude normal contract labor costs that are unrelated to storm restoration activities (such as locates, environmental services, pole inspections, etc.).

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**Rule 25-6.0143(1)(e)8**

DEF believes clarity is needed regarding what is intended to be included within “Payroll and payroll-related costs”. DEF requests that Staff keep a consistent description of what is being referred to throughout the paragraph. DEF also believes that the overtime component of “payroll and payroll related expenses” should be retained, as elimination of that component results in an incomplete picture of payroll related expenses. Finally, DEF seeks clarification of Staff’s interpretation of “in any month in which storm damage restoration activities are conducted” as used in this subsection. DEF routinely conducts “Storm damage restoration” that is unrelated to major, named storms, and therefore clarification is needed to understand if those restoration activities are intended to be included or if Staff’s intent is to more narrowly construe the language to apply to only restoration activities in response to major, named storms.

**Rule 25-6.0143(1)(e)9**

Contractor fuel costs are not separately tracked within DEF’s accounting systems, rather they are typically a component of contractor labor accounted for under paragraph (1)(e)1. Therefore, DEF has proposed the addition of “unless otherwise accounted for under a separate provision of this rule”. To comply with the proposed rule, DEF would be required to manually review all contractor invoices and segregate fuel from the remainder of the invoice; this would be a costly, time-consuming process that would otherwise have no benefit.

**Rule 25-6.0143(1)(e)11**

Vegetation Management contractor costs that are incurred to do normal restoration and maintenance activities are a component of contractor labor accounted for under paragraph (1)(e)1. Vegetation Management contractors that perform the production tree trimming are isolated separately by specific processes and easily identifiable. Therefore, DEF has proposed the addition of “unless otherwise accounted for under a separate provision of this rule.” To comply with the proposed rule, DEF would be required to manually segregate vegetation management contractors from the normal restoration and maintenance activities; this would be a costly, time-consuming process that would otherwise have no benefit.

Thank you for your assistance in this matter. Please feel free to call me at (850) 521-1428 should you have any questions concerning this filing.

Respectfully,

*/s/ Matthew R. Bernier*

Matthew R. Bernier

MRB/cmw/cmck

cc: Ms. Adria Harper, Office of the General Counsel

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

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

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

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

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

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

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1 No. 228.1 costs that are incremental to costs normally charged to non-cost recovery clause  
2 operating expenses in the absence of a storm. All costs charged to Account 228.1 are subject  
3 to review for prudence and reasonableness by the Commission. In addition, capital  
4 expenditures for the removal, retirement and replacement of damaged facilities charged to  
5 cover storm-related damages must ~~shall~~ exclude the normal cost for the removal, retirement  
6 and replacement of those facilities in the absence of a storm. The utility must ~~shall~~ notify the  
7 Director of the Commission Clerk in writing for each incident expected to exceed 1.5 percent  
8 of jurisdictional revenues for the most recent calendar year \$10 million.

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

11 1. Additional contract labor hired for storm restoration activities incurred in any month in  
12 which storm damage restoration activities are conducted. This will be determined by booking  
13 all the costs for contract labor for storm restoration against the reserve and removing any  
14 amount of base savings for the month by comparing the actual O&M for contract labor in  
15 normal restoration activities versus the 3-year average for that month., that are greater than the  
16 actual monthly average of contract labor costs charged to operation and maintenance expense  
17 for the same month in the three previous calendar years. The utility may adjust historical  
18 monthly contract labor costs charged to operation and maintenance expense from calculated  
19 monthly average. Each adjustment shall be accompanied by a detailed explanation of the  
20 nature and derivation of the adjustment;

21 2. Logistics costs of providing meals, lodging, and linens for tents and other staging areas  
22 incurred in any month in which storm damage restoration activities are conducted, that are  
23 greater than the actual monthly average of logistics costs charged to operation and  
24 maintenance expense for the same month in the three previous calendar years;

25 3. Transportation of crews and other personnel for storm restoration incurred in any month

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1 in which storm damage restoration activities are conducted, that are greater than the actual  
2 monthly average of transportation costs charged to operation and maintenance expense for the  
3 same month in the previous three calendar years;

4 4. Vehicle costs for vehicles specifically rented for storm restoration activities incurred in  
5 any month in which storm damage restoration activities are conducted, that are greater than  
6 the actual monthly average of vehicle costs charged to operation and maintenance expense for  
7 the same month in the previous three calendar years;

8 5. Waste management costs specifically related to storm restoration activities incurred in  
9 any month in which storm damage restoration activities are conducted, that are greater than  
10 the actual monthly average of waste management costs charged to operation and maintenance  
11 expense for the same month in the previous three calendar years;

12 6. Rental equipment specifically related to storm restoration activities incurred in any  
13 month in which storm damage restoration activities are conducted, that are greater than the  
14 actual monthly average of rental equipment costs charged to operation and maintenance  
15 expense for the same month in the previous three calendar years;

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

20 8. Payroll, Overtime, Overtime payroll and payroll-related costs for utility personnel  
21 included in storm restoration activities incurred in any month in which storm damage  
22 restoration activities are conducted. This will be determined by booking all costs for payroll,  
23 overtime, and payroll-related costs for storm restoration against the storm reserve and  
24 removing any amount of base savings for the month by comparing the actual O&M for  
25 payroll, overtime and payroll-related costs in normal restoration activities versus the 3-year

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1 ~~average for that month., that are greater than the actual monthly average of overtime payroll~~  
2 ~~and payroll related costs charged to operation and maintenance expense for the same month in~~  
3 ~~the previous three calendar years.~~ The utility may adjust historical monthly payroll and  
4 payroll-related costs charged to operation and maintenance expense from calculated monthly  
5 average. Each adjustment shall be accompanied by a detailed explanation of the nature and  
6 derivation of the adjustment;

7 9. Fuel cost for company ~~and contractor~~ vehicles, ~~to the extent not accounted for under a~~  
8 ~~separate provision of this rule,~~ used in storm restoration activities incurred in any month in  
9 which storm damage restoration activities are conducted. ~~This will be determined by booking~~  
10 ~~all costs for fuel for storm restoration against the reserve and removing any amount of base~~  
11 ~~savings for the month by comparing the actual O&M for fuel in normal restoration activities~~  
12 ~~versus the 3 year average for that month., that are greater than the actual monthly average of~~  
13 ~~fuel costs charged to operation and maintenance expense for the same month in the previous~~  
14 ~~three calendar years.~~ The utility may adjust historical monthly fuel costs charged to operation  
15 and maintenance expense from calculated monthly average. Each adjustment shall be  
16 accompanied by a detailed explanation of the nature and derivation of the adjustment; and

17 10. Cost of public service announcements regarding key storm-related issues, such as  
18 safety and service restoration estimates.;

19 11. Vegetation management costs specifically related to storm restoration activities, ~~to the~~  
20 ~~extent not accounted for under a separate provision of this rule,~~ incurred in any month in  
21 which storm damage restoration activities are conducted. ~~This will be determined by booking~~  
22 ~~all costs for vegetation management for storm restoration against the reserve and removing~~  
23 ~~any amount of base savings for the month by comparing the actual O&M for normal~~  
24 ~~vegetation management versus the 3-year average for that month., that are greater than the~~  
25 ~~actual monthly average of vegetation management costs charged to operation and maintenance~~

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1 ~~expense for the same month in the previous three calendar years.~~ The utility may adjust  
2 historical monthly vegetation management costs charged to operation and maintenance  
3 expense from calculated monthly average. Each adjustment shall be accompanied by a  
4 detailed explanation of the nature and derivation of the adjustment; and

5 12. Other costs or expenses not specifically identified in paragraph 1(e)(1) through  
6 1(e)(11), that are directly and solely attributable to a storm restoration event.

7 (f) The types of storm related costs prohibited from being charged to the reserve under the  
8 ICCA methodology include, ~~but are not limited to,~~ the following:

9 1. Base rate recoverable regular payroll and regular payroll-related costs for utility  
10 managerial and non-managerial personnel;

11 2. Bonuses or any other special compensation for utility personnel not eligible for  
12 overtime pay;

13 3. Base rate recoverable depreciation expenses, insurance costs and lease expenses for  
14 utility-owned or utility-leased vehicles and aircraft;

15 4. Utility employee assistance costs;

16 5. Utility employee training costs incurred prior to 72 hours before the storm event;

17 6. Utility advertising, media relations or public relations costs, except for public service  
18 announcements regarding key storm-related issues as listed above in subparagraph (1)(e)10.;

19 7. Utility call center and customer service costs, except for non-budgeted overtime or other  
20 non-budgeted incremental costs associated with the storm event;

21 8. Tree trimming expenses, incurred in any month in which storm damage restoration  
22 activities are conducted, that are less than the actual monthly average of tree trimming costs  
23 charged to operation and maintenance expense for the same month in the three previous  
24 calendar years;

25 9. Utility lost revenues from services not provided; and

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1 10. Replenishment of the utility's materials and supplies inventories.

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

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

16 2. Uncollectible accounts expenses.

17 (h) A utility may, at its own option, charge storm-related costs as operating expenses  
18 rather than charging them to Account No. 228.1. The utility must ~~shall~~ notify the Director of  
19 the Commission Clerk in writing and provide a schedule of the amounts charged to operating  
20 expenses for each incident exceeding 0.5 percent of jurisdictional revenues for the most recent  
21 calendar year \$5 million. The schedule must ~~shall~~ be filed annually by February 15 of each  
22 year for information pertaining to the previous calendar year.

23 (i) If the charges to Account No. 228.1 exceed the account balance, the excess must ~~shall~~  
24 be carried as a debit balance in Account No. 182.3228.1 and no request for a deferral of the  
25 excess or for the establishment of a regulatory asset is necessary.

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1 (j) A utility may petition the Commission for the recovery of a debit balance in Account  
2 No. ~~182.3228.1~~ discussed in part (1)(i) plus an amount to replenish the storm reserve through  
3 a surcharge, securitization or other cost recovery mechanism.

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

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

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

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

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

25 (b) Charges to this account must ~~shall~~ be made for all losses covered. Detailed supporting

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1 records of charges made to this account must ~~shall~~ be maintained in such a way that the year  
2 the event occurred which gave rise to the loss can be associated with the settlement.

3 Recoveries or reimbursements for losses charged to the account must ~~shall~~ be credited to the  
4 account.

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

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

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

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

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

23 (c) No utility must ~~shall~~ fund any account listed in subsections (1) through (3) unless the  
24 Commission approves such funding. Existing funded provisions which have not been  
25 approved by the Commission must ~~shall~~ be credited by the amount of the funded balance with

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1 a corresponding debit to the appropriate current asset account, resulting in an unfunded  
2 provision.

3 *Rulemaking Authority 366.05(1) FS. Law Implemented 350.115, 366.04(2)(a) FS. History–*  
4 *New 3-17-88, Amended 6-11-07, \_\_\_\_\_.*

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