

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: December 10, 2019
TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
FROM: Andrew King, Office of the General Counsel *ak*
RE: Docket No. 20190164-EI

Please file the attached rule certification packet materials for Rules 25-6.0141, 25-6.033, 25-6.036 and 25-6.037, F.A.C., in the docket file listed above.

Thank you.

Attachment

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2019 DEC 10 PM 1:24
COMMISSION
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COMMISSIONERS:
ART GRAHAM, CHAIRMAN
JULIE I. BROWN
DONALD J. POLMANN
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ANDREW GILES FAY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

December 10, 2019

Mr. Ernest Reddick
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

FILED
2019 DEC 10 AM 11:32
OFFICE OF THE GENERAL COUNSEL

Re: Rule Certification Packet for Rule 25-6.0141, F.A.C., Allowance for Funds Used During Construction; Rule 25-6.033, F.A.C., Tariffs; Rule 25-6.036, F.A.C., Inspection of Plant; and Rule 25-6.037, F.A.C., Extent of System Which Utility Shall Operate and Maintain.

Dear Mr. Reddick:

Enclosed for filing is a complete rule certification packet for Rule 25-6.0141, Rule 25-6.033, Rule 25-6.036 and Rule 25-6.037, F.A.C., consisting of:

- (1) One compact disc containing the coded text of the rules;
- (2) There are no materials incorporated by reference into these rules.
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (6) One original and two copies of the summary of the rules;
- (7) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (8) One original and two copies of the summary of the hearings held on the rules.

Please let me know if you have any questions. The contact name and information for this rule are Andrew King, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6195, aking@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink that reads "Andrew King". The signature is written in a cursive style with a large, sweeping "A" and "K".

Andrew King
Senior Attorney

Enclosures

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

25-6.0141

25-6.033

25-6.036

25-6.037

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



ADAM J. TEITZMAN

Commission Clerk
Title

Number of Pages Certified

**DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

25-6.0141

25-6.033

25-6.037

Rules covered by this certification:

Rule No(s).

25-6.0141

25-6.033

25-6.036

25-6.037



Signature of Agency Head

Chairman, Florida Public Service Commission
Title

25-6.0141 Allowance for Funds Used During Construction.

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

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

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

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

b. 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.

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

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

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

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

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

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

1. Projects that are reimbursable by another party.

2. Projects that have been cancelled.

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

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

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

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

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

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

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

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

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

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

(f) Prior to the commencement of construction on a project, a utility may file a petition to seek approval to include an individual project in rate base that would otherwise qualify for AFUDC treatment per paragraph (1)(a).

(g) On a prospective basis, the Commission, upon its own motion, may determine that the potential impact on rates may require the exclusion of an amount of CWIP from a utility's rate base that does not qualify for AFUDC treatment per paragraph (1)(a) and to allow the utility to accrue AFUDC on that excluded amount.

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

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

(b) The cost rates for the components in the capital structure will shall be the midpoint of the last allowed return on common equity, the most recent 13-month average cost of short term debt and customer deposits, and a zero cost

rate for deferred taxes and all investment tax credits. The cost of long term debt and preferred stock will shall be based on end of period cost. The annual percentage rate must shall be calculated to two decimal places.

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

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

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

Where:

M = discounted monthly AFUDC rate

A = annual AFUDC rate

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

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

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

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

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

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

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

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

(8) Each utility must shall include in its Forecasted Surveillance Report a schedule of individual projects that commence during that forecasted period and are estimated to have equal or exceed a gross cost 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 of \$10,000,000. The schedule must shall include the following minimum information:

- (a) Description of the project.
- (b) Estimated total cost of the project.
- (c) Estimated construction commencement date.
- (d) Estimated in-service date.

~~(9) The provisions of this rule are effective January 1, 1996 and shall be implemented by all electric utilities no later than January 1, 1999, or the utility's next rate proceeding, whichever occurs first.~~

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

25-6.033 Tariffs.

(1) ~~A~~ each utility may adopt ~~such additional non-discriminatory~~ rules and regulations governing its relations with customers in addition to those required by Commission rules, ~~as are necessary and which are not inconsistent with these rules or orders of the Commission.~~ But any sSuch rules or and regulations must be consistent with Commission rules and must be filed with shall constitute an integral part of the utility's tariffs and shall be filed with them.

(2) ~~Each utility shall file with the Commission tariffs containing schedules for all rates and charges and copies of all rules and regulations governing the relation of customer and utility.~~

(a) ~~Each utility shall include in its tariffs without limiting them to the following provisions:~~

(2) All tariff filings must conform to Chapter 25-9, Florida Administrative Code, and must include the following provisions:

(a)1. ~~Definitions of classes of customers~~ classes.

(b)2. ~~Rules with which prospective customers must comply with~~ as a condition of receiving service, and the terms of any required ~~contracts required.~~

(c)3. ~~Rules for establishing governing the establishment of credit by customers for payment of service bills.~~

(d)4. ~~Rules governing deposits and interest on deposits.~~

(e)5. ~~Rules governing the procedure for followed in disconnecting and reconnecting service.~~

(f)6. Rules governing a customer's request to discontinue service. ~~Notice by customer required for having service discontinued.~~

(g)7. ~~Rules governing temporary, emergency, auxiliary or stand-by service.~~

(h)8. ~~Rules covering billing periods.~~

(i)9. ~~Rules covering a customer's construction requirements.~~

(j)10. ~~Rules covering a special type of construction commonly requested by customers that which the utility allows to be connected and terms upon which such construction will be permitted.~~ This applies, for example, to a case where a customer desires underground service in overhead territory.

(k)11. ~~Rules covering any such portion of service which the utility furnished, owns, and maintains.~~

(l)12. ~~Rules covering inspection of customer-owned facilities by proper authorities before service is rendered.~~

(3) ~~All tariff filings shall be in the manner and form as prescribed by the Commission under separate Order~~

entitled "~~Rules and Regulations Governing the Construction and Filing of Tariffs by Public Utilities.~~"

~~(3)~~ (4) No rules and regulations, or schedules of rates or charges, or modification or revisions of the same, will shall be effective until filed with and approved by the Commission as ~~provided by Law.~~

~~(5) A copy of the rules contained herein, as promulgated and adopted by the Commission, also a copy of the rate schedules and rules and regulations of the utility as filed with the Commission, shall be kept on file in the local commercial offices of the utility for inspection by its customers. A customer shall, upon request, be furnished a copy of the rate schedule applicable to his service.~~

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.03, 366.05(1), 366.06 FS. History—New 7-29-69, Formerly 25-6.33, Amended

25-6.036 Inspection of Plant.

~~Each utility shall adopt a program of inspection of its electric plant in order to determine the necessity for replacement and repair. The frequency of the various inspection shall be based on the utility's experience and accepted good practice. Each utility shall keep sufficient records to give evidence of compliance with its inspection program.~~

*Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(c), (5), 366.05(1), 366.055, 366.08 FS. History—
New 7-29-69, Formerly 25-6.36, Repealed _____.*

25-6.036 Inspection of Plant.

*Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(c), (5), 366.05(1), 366.055, 366.08 FS. History—
New 7-29-69, Formerly 25-6.36, Repealed _____.*

25-6.037 Extent of Facilities and Equipment That a System Which Utility Must Shall Inspect, Operate, and Maintain.

(1) Each utility ~~must, unless specifically relieved in any case by the Commission from such obligations,~~ shall operate and maintain in safe, efficient, and proper condition, pursuant to Rules 25-6.034, 25-6.0341, 25-6.0345, and 25-6.040, F.A.C. the standards referenced herein, all of the facilities and equipment used in connection with the production, transmission, distribution, regulation, and delivery of electricity to any customer up to the point of delivery. The utility is also responsible for the ~~safe, efficient~~ measurement of electrical consumption consistent with test procedures and accuracies prescribed by the Commission.

(2) Each utility must adopt a program governing the inspection of its electric facilities and equipment in order to determine the necessity for replacement and repair. Each utility must keep records to establish compliance with its inspection program.

Rulemaking Authority 350.127(2), 366.04(6), 366.05(1) FS. Law Implemented 366.03, 366.04(1), (2)(c), (f), (5), (6), 366.05(1), (3) FS. History—New 7-29-69, Amended 4-13-80, _____, Formerly 25-6.37

SUMMARY OF THE RULE

Rule 25-6.0141, F.A.C., allows utilities to recover an allowance for funds used during the construction of certain large projects. Rule 25-6.033, F.A.C., sets minimum requirements for the content of a utility's tariffs and allows utilities to include in their tariffs other rules and regulations so long as they are consistent with Commission rules. Rule 25-6.036, F.A.C., required utilities to inspect their plant and equipment on a regular basis as dictated by experience and good practice. Rule 25-6.037, F.A.C., requires utilities to maintain their plant and equipment in safe, efficient, and proper condition.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

These amendments and repeal were designed to update the wording and readability of the rules. The amendments and repeal were also designed to clarify vague language in Rules 25-6.036 and 25-6.037, F.A.C.; remove an inadequate incorporation by reference in Rule 25-6.033, F.A.C.; and delete a date trigger in Rule 25-6.0141, F.A.C, that had since passed. Finally, one amendment to Rule 25-6.0141, F.A.C., was designed to promote internal consistency within that rule.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.