

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Minimum Filing Require-)
ment Report of Florida Public)
Utilities Company (Marianna)
Electric Division) in compliance)
with 366.06(3), Florida)
Statutes.)
_____)

DOCKET NO. 910076-EI
ORDER NO. 24171
ISSUED: 2-27-91

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
J. TERRY DEASON
BETTY EASLEY
GERALD L. GUNTER
MICHAEL MCK. WILSON

NOTICE OF PROPOSED AGENCY ACTION

ORDER REQUIRING FILING IN COMPLIANCE WITH
SECTION 366.03(3), FLORIDA STATUTES

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are adversely affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code.

During the sunset review of the Public Service Commission, the Florida Legislature enacted Section 366.06(3)(a), Florida Statutes, which requires that each public utility with total annual sales in excess of 1 million megawatt-hours file a report every 4 years, or 4 years from its most recently completed rate case. All other public electric utilities are required to file on a 5 year basis. The report is to consist of, at a minimum, the modified minimum filing requirements (MMFR) then required by this Commission by rule, for rate proceedings pursuant to Section 366.06, Florida Statutes. Copies of this report are to be served on Public Counsel and each party to the utility's most recent rate case concurrently with its filing with this Commission. Within 10 days of the receipt of this report, this Commission shall make copies available to the public at no more than the actual cost of reproducing the report.

DOCUMENT NUMBER-DATE

01944 FEB 27 1991

-PSC-RECORDS/REPORTING

Section 366.06(3)(b), Florida Statutes, requires that the Commission implement this reporting procedure for all public utilities within 18 months of the effective date of the act, October 1, 1989. Approximately one-third of the public utilities are required to file a MMFR report each 6 months after the effective date of the act. In determining the order of filing for the particular public utilities, this Commission shall consider the time interval since each utility's last rate case.

Because there are six public electric utilities, two are required to file during each 6 month period beginning October 1, 1989. The six utilities, and the date of their last rate case orders, are as follows:

Florida Power & Light Company	7/24/84
Gulf Power Company	1/25/85
Tampa Electric Company	12/13/85
Florida Power Corporation	1/04/88
Florida Public Utilities Company	
Marianna Division (FPUC-M)	7/12/89
Fernandina Beach Division (FPUC-FB)	11/27/89

This Commission issued Order No. 21532 on July 12, 1989, for Docket No. 880558-EI - Petition of Florida Public Utilities Company for Rate Increase for Marianna Division. Because of the date of Florida Public Utilities Company's Marianna Division's (FPUC-M) last rate order, FPUC-M should be included in the third 6 month period beginning October 1, 1990, as prescribed by Section 366.06(3)(b), Florida Statutes. Thus, we find that FPUC-M shall file the MMFR report required by Section 366.06(3), Florida Statutes.

As noted, Section 366.06(3)(b), Florida Statutes, requires one-third of the electric utilities to file a report within the third 6 month period beginning October 1, 1990. In order to meet this requirement, FPUC-M must file its report no later than Monday, April 1, 1991. Because the statute requires one-third of the utilities to file reports during each 6 month period, no extensions of time for filing shall be granted.

According to Section 366.06(3)(a), Florida Statutes, by requiring mandatory filing of this report, the legislature intended to ensure that Public Counsel and other substantially affected persons would periodically receive the necessary information to ascertain the reasonableness of the utility's rates and charges. The filing of a full set of minimum filing requirements in lieu of

ORDER NO. 24171
DOCKET NO. 910076-EI
PAGE 3

the report meets the intent of Section 366.06(3)(a). Thus, we find that the utility may be relieved of its burden to file the report only by filing a petition, the tariffs, and the minimum filing requirements necessary to initiate a rate increase or a rate decrease prior to the April 1, 1991, filing deadline.

In Docket No. 880558-EI, the test years evaluated by this Commission were those with calendar years ending in 1987, 1988 and 1989. The Utility's MMFR report shall be completed on a historical 1989 and 1990 calendar year basis as noted in the Table of Contents of Attachment 1. We find that these base periods shall provide sufficient data to review the actual earnings of the utility for the historical 1989 and 1990 calendar years. We also find that the use of historical data for review purposes is appropriate due to the relatively recent conclusion of the company's last rate case in July 1989.

FPUC-M's report shall follow the same format as the minimum filing requirements (MFRs) filed by FPUC in its last rate case in Docket No. 881056-EI (Petition of Florida Public Utilities Company for rate increase in Fernandina Beach Division). We find that it is appropriate for the Marianna Division to follow the format of the Fernandina Beach Division's schedules because they will enable this Commission to comply with the intent of Section 366.06(3), Florida Statutes. These schedules will allow this Commission and other interested parties to obtain the necessary information to ascertain the reasonableness of FPUC-M's rates and charges.

Pursuant to Section 366.06(3)(a), Florida Statutes, each utility is required to serve Public Counsel, and each party to its most recent rate case, a copy of this report. In FPUC-M's most recent rate case filing, Docket No. 880558-EI, the only party who participated was Public Counsel. Thus, we find that Public Counsel shall be served a copy of the report concurrently with the filing of 20 copies of the report with this Commission.

It is, therefore,

ORDERED by the Florida Public Service Commission that Florida Public Utilities Company's Marianna Electric Division shall be required to file a report containing, at a minimum, the modified minimum filing requirements required by Section 366.06(3), Florida Statutes. It is further

ORDERED that this report shall meet the requirements set out in the body of this Order and in Section 366.06(3), Florida Statutes. It is further

ORDER NO. 24171
DOCKET NO. 910076-EI
PAGE 4

ORDERED that this report shall be due by April 1, 1991. It is further ordered

ORDERED that this Order shall become final unless an appropriate petition for a formal proceeding is received by the Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on the date indicated in the Notice of Further Proceedings or Judicial Review.

By ORDER of the Florida Public Service Commission, this 27th day of February, 1991.

STEVE TRIBBLE, Director
DIVISION OF RECORDS AND REPORTING

(S E A L)
MAP/MAB:bmi
FPUCMAR.MAB

by: *Kay Dizon*
Chief, Bureau of Records

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by

ORDER NO. 24171
DOCKET NO. 910076-EI
PAGE 5

Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on March 20, 1991.

In the absence of such a petition, this order shall become effective on the day subsequent to the above date as provided by Rule 25-22.029(6), Florida Administrative Code.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on the date described above, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.

M E M O R A N D U M

February 26, 1991

TO : DIVISION OF RECORDS AND REPORTING
FROM : DIVISION OF LEGAL SERVICES (PALECKI, BIRCHFIELD) *MP*
RE : DOCKET NO. 910076-EI - MINIMUM FILING REQUIREMENT REPORT *MAB*
OF FLORIDA PUBLIC UTILITIES COMPANY (MARIANNA ELECTRIC
DIVISION) IN COMPLIANCE WITH 366.06(3), FLORIDA STATUTES.

24171

Attached please find a NOTICE OF PROPOSED AGENCY ACTION - ORDER REQUIRING FILING IN COMPLIANCE WITH SECTION 366.03(3), FLORIDA STATUTES in the above referenced docket which is ready to be issued.

MAP/MAB:bmi
Attachment
FPUCMAR.MAB

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01944 FEB 27 1991

-PSC-RECORDS/REPORTING