STATE OF FLORIDA ORIGINAL

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Public Service Commission

April 13, 2007

Mr. Scott Boyd, Executive Director
Joint Administrative Procedures
Committee
Room 120 Holland Building
Tallahassee, FL 32399-1300

RE: Docket No. 070011-EI – Proposed Amendment of Rule 25-6.0143, F.A.C., Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4

Dear Mr. Boyd:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal standards statement.
5. A statement of estimated regulatory costs.

If there are any questions with respect to this rule, please do not hesitate to call me.

Sincerely,

Larry D. Harris
Associate General Counsel

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Enclosures
cc: Division of the Commission Clerk
and Administrative Services

DOCUMENT NUMBER-DATE
03172 APR 13 07
FPSC-COMMISSION CLERK

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

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

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

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

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

(d) In determining the costs to be charged to cover storm-related damages, the utility shall use an Incremental Cost and Capitalization Approach methodology (ICCA). Under the ICCA methodology, the costs charged to cover storm-related damages shall exclude those costs that normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. Under the ICCA methodology for determining the allowable costs to be charged to cover storm-related damages, the utility will be allowed to charge to Account No.

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228.1 costs that are incremental to costs normally charged to non-cost recovery clause operating expenses in the absence of a storm. All costs charged to Account 228.1 are subject to review for prudence and reasonableness by the Commission. In addition, capital expenditures for the removal, retirement and replacement of damaged facilities charged to cover storm-related damages shall exclude the normal cost for the removal, retirement and replacement of those facilities in the absence of a storm. The utility shall notify the Director of the Commission's Division of Economic Regulation in writing for each incident expected to exceed $10 million.

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

1. Additional contract labor hired for storm restoration activities;

2. Logistics costs of providing meals, lodging, and linens for tents and other staging areas;

3. Transportation of crews for storm restoration;

4. Vehicle costs for vehicles specifically rented for storm restoration activities;

5. Waste management costs specifically related to storm restoration activities;

6. Rental equipment specifically related to storm restoration activities;

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

8. Overtime payroll and payroll-related costs for utility personnel included in storm restoration activities;

9. Fuel cost for company and contractor vehicles used in storm restoration activities; and

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<u>10. Cost of public service announcements regarding key storm-related issues, such as safety and service restoration estimates.</u>

<u>(f) The types of storm related costs prohibited from being charged to the reserve under the ICCA methodology include, but are not limited to, the following:</u>

<u>1. Base rate recoverable regular payroll and regular payroll-related costs for utility managerial and non-managerial personnel;</u>

<u>2. Bonuses or any other special compensation for utility personnel not eligible for overtime pay;</u>

<u>3. Base rate recoverable depreciation expenses, insurance costs and lease expenses for utility-owned or utility-leased vehicles and aircraft;</u>

<u>4. Utility employee assistance costs;</u>

<u>5. Utility employee training costs incurred prior to 72 hours before the storm event;</u>

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

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

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

<u>9. Utility lost revenues from services not provided; and</u>

<u>10. Replenishment of the utility's materials and supplies inventories.</u>

<u>(g) Under the ICCA methodology for determining the allowable costs to be charged to cover storm-related damages, certain costs may be charged to Account 228.1 only after review</u>

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and approval by the Commission. Prior to the Commission's determination of the appropriateness of including such costs in Account No. 228.1, the costs may be deferred in Account No. 186, Miscellaneous Deferred Debits. The deferred costs must be incurred prior to June 1 of the year following the storm event. By September 30 a utility shall file a petition for the disposition of any costs deferred prior to June 1 of the year following the storm event giving rise to the deferred costs. These costs include, but are not limited to, the following:

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

2. Uncollectible accounts expenses.

(h) A utility may, at its own option, charge storm-related costs as operating expenses rather than charging them to Account No. 228.1. The utility shall notify the Director of the Commission's Division of Economic Regulation in writing and provide a schedule of the amounts charged to operating expenses for each incident exceeding $5 million. The schedule shall be filed annually by February 15 of each year for information pertaining to the previous calendar year.

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

(j) A utility may petition the Commission for the recovery of a debit balance in Account No. 228.1 plus an amount to replenish the storm reserve through a surcharge, securitization or other cost recovery mechanism.

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

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

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

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

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

(b) Charges to this account shall be made for all losses covered. Detailed supporting records of charges made to this account shall be maintained in such a way that the year the event occurred which gave rise to the loss can be associated with the settlement. Recoveries or reimbursements for losses charged to the account shall be credited to the account.

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

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

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

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

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

(c) No utility shall fund any account listed in subsections (1) through (3) unless the Commission approves such funding. Existing funded provisions which have not been approved by the Commission shall be credited by the amount of the funded balance with a corresponding debit to the appropriate current asset account, resulting in an unfunded provision.

Specific Authority 366.05(1) FS.

Law Implemented 350.115, 366.04(2)(a) FS.

History-New 3-17-88, <u>amended</u> ______.

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Notice of Proposed Rule

PUBLIC SERVICE COMMISSION
RULE NO: RULE TITLE

25-6.0143: Use of Accumulated Provision Accounts 228.1, 228.2, and 228.4

PURPOSE AND EFFECT: To standarize the way investor-owned electric utilities account for damage to utility property from extreme weather events.

SUMMARY: The rule amendments require establishment of a separate subaccount for storm related damages, and require use of an incremental cost capitalization approach to account for such damages. The rule establishes categories of costs which may and may not be charged to the account; deferred accounting treatment prior to Commission determination and certain reporting requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC shows that there should be no negative impact on small businesses and local governments. Utilities should see lower overall costs, and there should be no significant impact on ratepayers.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 366.05(1) FS

LAW IMPLEMENTED: 350.115, 366.04(2)(a) FS

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry Harris, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850 (850) 413-6076. Reference Docket No. 070011-EI.

THE FULL TEXT OF THE PROPOSED RULE IS:

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

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

(a) No change.

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

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

(d) In determining the costs to be charged to cover storm-related damages, the utility shall use an Incremental Cost and Capitalization Approach methodology (ICCA). Under the ICCA methodology, the costs charged to cover storm-related damages shall exclude those costs that normally would be charged to non-cost recovery clause operating expenses in the absence of a storm. Under the ICCA methodology for determining the allowable costs to be charged to cover storm-related damages, the utility will be allowed to charge to Account No. 228.1 costs that are incremental to costs normally charged to non-cost recovery clause operating expenses in the absence of a storm. All costs charged to Account 228.1 are subject to review for prudence and reasonableness by the Commission. In addition, capital expenditures for the removal, retirement and replacement of damaged facilities charged to cover storm-related damages shall exclude the normal cost for the removal, retirement and replacement of those facilities in the absence of a storm. The utility shall notify the Director of the Commission's Division of Economic Regulation in writing for each incident expected to exceed $10 million.

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

1. Additional contract labor hired for storm restoration activities;

2. Logistics costs of providing meals, lodging, and linens for tents and other staging areas;

3. Transportation of crews for storm restoration;

4. Vehicle costs for vehicles specifically rented for storm restoration activities;

5. Waste management costs specifically related to storm restoration activities;

6. Rental equipment specifically related to storm restoration activities;

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

8. Overtime payroll and payroll-related costs for utility personnel included in storm restoration activities;

9. Fuel cost for company and contractor vehicles used in storm restoration activities; and

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

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

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

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

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

4. Utility employee assistance costs;

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

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

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

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

9. Utility lost revenues from services not provided; and

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

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

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

2. Uncollectible accounts expenses.

(h) A utility may, at its own option, charge storm-related costs as operating expenses rather than charging them to Account No. 228.1. The utility shall notify the Director of the Commission's Division of Economic Regulation in writing and provide a schedule of the amounts charged to operating expenses for each incident exceeding $5 million. The schedule shall be filed annually by February 15 of each year for information pertaining to the previous calendar year.

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

(j) A utility may petition the Commission for the recovery of a debit balance in Account No. 228.1 plus an amount to replenish the storm reserve through a surcharge, securitization or other cost recovery mechanism.

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

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

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

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

(a)- (b) No Change.

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

(a) – (b) No Change.

(4)(a) No Change.

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

(c) No Change.

Specific Authority 366.05(1) FS.

Law Implemented 350.115, 366.04(2)(a) FS.

History-New 3-17-88, amended ________.

NAME OF PERSON ORIGINATING PROPOSED RULE: John Slemkewicz

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 10, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Volume 33, Number 5, February 2, 2007

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STATEMENT OF FACTS AND CIRCUMSTANCES JUSTIFYING RULE

As a result of Hurricane Andrew in 1992, Florida Investor-Owned electric utilities found commercial insurance either unavailable or cost prohibitive, and the Commission established a self-insurance program for damage to electric utility transmission and distribution facilities. The self insurance programs were inadequate to cover damages following the 2004 and 2005 storm seasons, and several electric utilities petitioned the Commission to recover storm restoration costs from ratepayers. While processing the petitions, the Commission determined the storm restoration cost accounting methodologies used by the utilities vary, greatly increasing litigation in cost recovery proceedings. In order to reduce future litigation, the Commission is prescribing a uniform accounting methodology that all electric utilities must follow, while prescribing types of costs which are and are not appropriate for inclusion in the storm restoration cost subaccount.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

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: October 31, 2006

TO: Office of General Counsel (Harris)

FROM: Division of Economic Regulation (Hewitt)

RE: Statement of Estimated Regulatory Costs for Proposed Amendments to Rule 25-6.0143, F.A.C., Use of Accumulated Prevision Accounts 228.1, 228.2, and 228.4

SUMMARY OF THE RULES

Rule 25-6.0143, F.A.C., Use of Accumulated Prevision Accounts 228.1, 228.2, and 228.4, contains the guidance to investor owned electric utilities (IOUs) for dealing with storm damage accounting issues.

The proposed rule amendments would provide IOUs with a uniform and standardized methodology to identify and charge the costs of storm damage repairs. The proposed rule amendments would also create a separate subaccount to cover storm-related damages to the utility's owned or leased property that is not covered by insurance. An Incremental Cost and Capitalization Approach methodology would be required which would exclude normal costs that would ordinarily be charged elsewhere absent a storm. Included in the proposed rule changes are: the types of storm damage restoration costs that can be charged to Account 228.1, a uniform methodology for placing storm damage costs in a separate account; costs that are expressly prohibited, including base rate recoverable costs, regular payroll, employee training, tree trimming, replenishment of materials and supply inventories, and lost revenues for services not provided; the option of charging storm-related costs as operating expenses; and a requirement for a storm damage study to be filed at least once every five years.

ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

All five electric investor owned utilities (IOUs) would be affected by the proposed rule changes.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Commission would benefit because there should be less time spent litigating storm damage cost recoveries. However, there could be additional staff time required to review storm damage studies if there are more studies filed. The net cost savings is unknown. There should be no impact on agency revenues. There should be no negative impact on other state and local government entities.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

IOUs could have reduced total costs associated with the rule because there would be fewer reasons for litigation to determine the appropriate charges to the property damage reserve. IOUs could have some additional costs if they file storm damage studies on a more frequent basis than they would without the rule change. The amount of additional costs would be determined by the cost of a study and the number of additional studies. IOUs currently track and maintain separate records of storm damage restoration costs and activities. Therefore, the IOUs should have minimal additional costs to implement the proposed methodology for determining the appropriate costs to be charged to the property damage reserve.

The main benefit would be to establish a single, consistent, and uniform methodology for determining which storm damage costs can be charged to the property damage reserve.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

The rule applies to large utility businesses but could have an indirect benefit to the unregulated small businesses, small cities, and small counties that are customers of the IOUs if there are fewer litigation costs and more efficiency in booking storm damage costs. There should be no negative impacts on small businesses, cities, or counties.

CH:kb

cc: Mary Andrews Bane
Chuck Hill
John Slemkewicz
Hurd Reeves