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OFFICE OF THE GENERAL COUNSEL
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Public Service Commission

December 4, 2020

Ms. Kaley Flynn
Rules Ombudsman in
The Executive Office of the Governor
Reg.Reform@eog.myflorida.com

SENT VIA E-MAIL

Re: Docket No. 20200237-PU; Rule 25-6.0141, F.A.C., Allowance for Funds Used During Construction, Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction and 25-30.116, F.A.C., Allowance for Funds Used During Construction.

Dear Ms. Flynn:

The Florida Public Service Commission proposed the above-listed rules at their regular agenda conference on December 1, 2020. The Commission has determined that these rules will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b)2.b.(I), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notices of the proposed rules, which were published in the December 4, 2020, edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC examined the factors required by Section 120.541(2), F.S., and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would be no transactional costs likely to be incurred by individuals and entities, including government entities, required to comply with the rule. Pursuant to your instructions, we have filled out and included a copy of the OFARR rulemaking notification form.

If there are any questions with respect to these rules, please contact me at aharper@psc.state.fl.us.

Sincerely,

/s/ Adria E. Harper
Adria E. Harper
Senior Attorney

Enclosures
cc: Office of the Commission Clerk

RECEIVED-FTSC
2020 DEC -4 AM 11:50
COMMISSION
CLERK

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE:

25-6.0141 Allowance for Funds Used During Construction.

PURPOSE AND EFFECT: To update and clarify the Commission's allowance for funds used during construction (AFUDC) policy for investor-owned electric utilities.

Docket No. 20200237-PU

SUMMARY: The rule amendments update and clarify the rule and include the addition of a definition section; clarification that a utility may bundle projects under certain circumstances; the lowering of the threshold for projects eligible for AFUDC; and the amendment of the formula for calculating the discounted monthly AFUDC rate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would no transactional costs likely to be incurred by individuals and entities, including government entities, required to comply with the rule.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

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.

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.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adria Harper, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, aharper@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS: [TYPE AND STRIKE VERSION]

25-6.0141 Allowance for Funds Used During Construction.

(1) Definition of terms of this rule.

(a) Allowance for funds used during construction (AFUDC) is the carrying cost of funding an eligible utility project investment during its construction.

(b) A project means a temporary endeavor with a defined beginning and end series of tasks that need to be completed in order to reach a specific outcome (e.g., a specific utility investment placed into service or devoted to public use for the provision of electric service), designed to produce an in-service plant investment result.

(2)(H) 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 ~~0.40~~ ~~0.5~~ percent of the sum of the total balance in Account 101, Electric Plant in Service, and Account 106, Completed Construction not Classified, at the time the project commences and

a. through b. No change.

2. A utility may bundle related projects that achieve a specific outcome if it demonstrates that the total cost of the bundled projects excluding AFUDC is less than the total cost of the unbundled projects.

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

1. No Change.

2. Projects where gross additions to plant are less than 0.40 ~~0.5~~ percent of the sum of the total balance in Account 101, Electric Plant in Service, and Account 106, Completed Construction not Classified, at the time the project commences.

3. through 4 No change.

(c) No change.

(d) No change.

1. through 2 No change.

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

4. through 6 No change.

(e) No change.

(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 (2)(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 (2)(1)(a) and to allow the utility to accrue AFUDC on that excluded amount.

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

(a) through (b) No change.

(4)(3) Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to six decimal places, must be employed to ensure ~~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) No change.

(5)(4) The following schedules must 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 (3)(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 (3)(2).

(c) No change.

(6)(5) No utility may charge or change its AFUDC rate without prior Commission approval. The new AFUDC rate will 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.

(7)(6) Each utility charging AFUDC must 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.

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

(9)(8) Each utility must include in its Forecasted Surveillance Report a schedule of individual projects

that commence during that forecasted period and are estimated to have a gross cost in excess of 0.40 ~~0.5~~ percent of the sum of the total balance in Account 101, Electric Plant in Service, and Account 106, Completed Construction not Classified. The schedule must include the following minimum information:

(a) through (d) No change.

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, 12-30-19, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Andrew Maurey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 46, Number 113, June 10, 2020.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE:

25-7.0141 Allowance for Funds Used During Construction

PURPOSE AND EFFECT: To update and clarify the Commission's allowance for funds used during construction (AFUDC) policy for natural gas utilities.

Docket No. 20200237-PU

SUMMARY: The amendments update and clarify the rule to set forth the Commission's current policy on AFUDC for natural gas utilities. The amendments to the rule include the addition of a definition section; clarification that a utility may bundle projects under certain circumstances; identifies which projects are eligible and ineligible for AFUDC; the establishment of a threshold for projects eligible for AFUDC; and the establishment of the methodology for determining the AFUDC rate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would be no transactional costs likely to be incurred by individuals and entities, including government entities, required to comply with the rule.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

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.

RULEMAKING AUTHORITY: 350.127(2), 366.05(1), FS.

LAW IMPLEMENTED: 350.115, 366.05(1), 366.06(1), FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adria Harper, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, aharper@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-7.0141 Allowance for Funds Used During Construction.

(1) Definition of terms for this rule.

(a) Allowance for funds used during construction (AFUDC) is the carrying cost of funding an eligible utility project investment during its construction.

(b) A project means a temporary endeavor with a defined beginning and end series of tasks that need to be completed in order to reach a specific outcome (e.g., a specific utility investment placed into service or devoted to public use for the provision of natural gas service), designed to produce an in-service plant investment result.

~~A utility shall not accrue allowance for funds used during construction without prior Commission approval.~~

(2) Construction work in progress (CWIP) that is not included in rate base may accrue AFUDC under the following conditions:

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

1. Projects that involve gross additions to plant in excess of \$25,000 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.

2. A utility may bundle related projects that achieve a specific outcome if it demonstrates that the total cost of the bundled projects excluding AFUDC is less than the total cost of the unbundled projects.

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

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

2. Projects where gross additions to plant are less than \$25,000.

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 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 must 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 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 notify the Commission of the suspension and the reason(s) for the suspension, and must 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, must 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 (2)(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 (2)(a) and to allow the utility to accrue AFUDC on that excluded amount.

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

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

(b) The cost rates for the components in the capital structure will 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 be based on end of period cost. The annual percentage rate will be calculated to two

decimal places.

(4) Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to six decimal places, must be employed to ensure 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:

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

Where:

M = discounted monthly AFUDC rate

A = Annual AFUDC rate

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

(5) The following schedules must 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 (3).

(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 (3).

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

(6) No utility may charge or change its AFUDC rate without prior Commission approval. The new AFUDC rate will 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.

(7) Each utility charging AFUDC must include in its December Rate of Return surveillance report to the Commission Schedules A and B identified in subsection (5) of this rule, as well as disclosure of the AFUDC rate it is currently charging.

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

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 350.115, 366.05(1), 366.06(1) FS. History—New 8-11-86, Formerly 25-7.141, Amended 11-13-86, 12-7-87, 11-23-95.

NAME OF PERSON ORIGINATING PROPOSED RULE: Andrew Maurey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 46, Number 113, June 10, 2020.

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE:

25-30.116 Allowance for Funds Used During Construction

PURPOSE AND EFFECT: To update and clarify the Commission's allowance for funds used during construction (AFUDC) policy for water and wastewater utilities.

Docket No. 20200237-PU

SUMMARY: The amendments update and clarify the rule and include the addition of a definition section; clarification that a utility may bundle projects under certain circumstances; and the amendment of the formula for calculating the discounted monthly AFUDC rate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would be no transactional costs likely to be incurred by individuals and entities, including government entities, required to comply with the rule.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

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.

RULEMAKING AUTHORITY: 350.127(2), 367.121(1)(f), FS.

LAW IMPLEMENTED: 350.115, 367.081(2), 367.121(1)(b), FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adria Harper, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, aharper@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS: [TYPE AND STRIKE VERSION]

25-30.116 Allowance for Funds Used During Construction.

(1) Definition of terms for this rule.

(a) Allowance for funds used during construction (AFUDC) is the carrying cost of funding an eligible utility project investment during its construction.

(b) A project means a temporary endeavor with a defined beginning and end series of tasks that need to be completed in order to reach a specific outcome (e.g., a specific utility investment placed into service or devoted to public use for the provision of utility service), designed to produce an in-service plant investment result.

~~(2)(1) Construction work in progress (CWIP) 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 and accrue AFUDC:~~

~~1. No change.~~

~~a.2. Are expected to be completed in excess of sixty days after commencement of construction, or~~

~~b.3. Were originally expected to be completed in sixty days or less but are not ready for service after sixty days.~~

2. A utility may bundle related projects that achieve a specific outcome if it demonstrates that the total cost of the bundled projects excluding AFUDC is less than the total cost of the unbundled projects.

(b) through (d) No change.

1. through 2. No change.

3. When a project is completed and ready for service, it must 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. No change.

(e) Subaccounts. Account 105, Construction Work in Progress, 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 (2)(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 (2)(a) and to allow the utility to accrue AFUDC on that excluded amount.

~~(3)(2)~~ The applicable AFUDC rate will shall be determined as follows:

a) The most recent 12-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 Company'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 12-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.

(c) A company that has not had its equity return set in a rate case must shall calculate its return on common equity by applying the most recent water and wastewater equity leverage formula.

~~(d) The treatment by the Commission of all investment tax credits at a zero cost rate shall be contingent upon a ruling from the Internal Revenue Service that such treatment will not, for companies elected to be treated under Section 46(f)(2) of the Internal Revenue Code, result in the forfeiture of the tax credits. Pending receipt of such a ruling, each utility shall continue to use the weighted overall cost of capital calculated in a manner consistent with the final IRS Regulation Section 1.46-6 published May 22, 1986, as the cost of the utility's 4% and 10% investment tax credits.~~

~~(e) Any such ruling request must be submitted to the Commission by December 15, 1987. The AFUDC cost rate for the investment tax credit for any company which fails to submit its own letter ruling request to the IRS shall be governed by the first letter ruling issued by the IRS in response to a request submitted pursuant to paragraph (2)(d) of this rule.~~

~~(4)(3)~~ Discounted monthly AFUDC rate. A discounted monthly AFUDC rate, calculated to six decimal places, must shall be employed to ensure 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:

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

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 that is not included in rate base.

~~(5)(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 ~~(3)(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 ~~(3)(2)~~.

(c) No change.

~~(6)(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.

~~(7)(6)~~ Each utility charging AFUDC ~~must shall~~ include with its Annual Report to the Commission Schedules A and B identified in subsection ~~(5)(4)~~ of this rule, as well as disclosure of the AFUDC rate it is currently charging.

~~(8)(7)~~ The Commission may, on its own motion, initiate a proceeding to revise a utility's AFUDC rate.

~~(8) Paragraphs (a) and (b) of subsection (1) shall not be effective for any utility until it implements final rates in a general rate case initiated after the effective date of this rule. The foregoing notwithstanding, these provisions will become effective for all utilities no later than January 1, 1989.~~

Rulemaking Authority 350.127(2), 367.121(1)(f) FS. Law Implemented 350.115, 367.081(2), 367.121(1)(b) FS. History--New 8-11-86, Formerly 25-30.121, Amended 11-13-86, 12-7-87, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Andrew Maurey

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2020

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 46, Number 113, June 10, 2020.

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: November 20, 2020

TO: Adria E. Harper, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst III, Division of Economics
William F. Coston, Economic Supervisor, Division of Economics

RE: Docket No. 20200237-PU – Statement of Estimated Regulatory Costs for Proposed Amendment of Rules 25-6.0141, F.A.C., Allowance for Funds Used During Construction, and 25-30.116, F.A.C., Allowance for Funds Used During Construction, and adoption of Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction.

The attached Statement of Estimated Regulatory Costs (SERC) addresses the economic impacts and considerations required pursuant to Section 120.541, Florida Statutes (F.S.), for the proposed rule modifications in Docket No. 20200327-PU. Commission SERC staff issued a data request on November 5, 2020 to all Commission-regulated electric and natural gas utilities, and to representatives of the larger regulated water and wastewater utilities. The Commission received responses from electric and natural gas utilities on November 12 and 13, 2020.

The water and wastewater utilities did not respond to the SERC data request nor did they participate in the rule development workshop held on June 29, 2020. However, representatives for US Water Services Corporation and UIF stated via email that if the proposed revisions to Rule 25-30.116, F.A.C., had any economic impact, the costs would be minimal.

Proposed Bundling of AFUDC in each Rule

Electric and natural gas utilities stated that bundling of projects should create a positive economic outcome for ratepayers. The utilities' assertion is based on the proposed rules requiring the utilities to ensure that the total cost of bundling projects under AFUDC is less than the total cost without combining projects. SERC staff agrees the proposed rule language regarding bundling of projects ensures no rate impact on customers, and should not have an incremental regulatory cost impact to the utilities.

Modifications to Rule 25-6.0141, F.A.C.

As noted by Duke Energy Florida, LLC (DEF) in its data request response, the proposed modification to reduce the qualifying threshold for AFUDC eligibility could allow more capital projects to qualify for AFUDC. If a lower threshold is approved, DEF notes there is a potential for the asset balance to increase, which could result in an increased rate base when a utility seeks recovery in a future rate proceeding. SERC staff recognizes that in addition to DEF, any utility that

increases its use of AFUDC under the new threshold could potentially seek similar recovery in a future rate case. The utilities are not able to project any economic impact to their rates at this time.

Overall, the electric utilities do not anticipate any additional incremental regulatory costs to comply with the rule as a result of the proposed modifications to this rule.

Proposed Rule 25-7.0141, F.A.C.

As noted above, this proposed rule creates an AFUDC threshold for natural gas utilities of \$25,000. Peoples Gas System stated that if the rule was in place during 2020, the utility would have an incremental increase in AFUDC of approximately \$20 million. Several natural gas utilities stated, that generally, most projects would not qualify for AFUDC since most projects are completed in less than one year.

Overall, the natural gas utilities stated that the proposed rule revisions would not create incremental regulatory costs that exceed \$200,000 per year or \$1 million in the aggregate within five years of implementing the rules.

SERC Staff Assessment

SERC staff recognizes that lowering the qualifying threshold, as proposed under the electric rule and establishing a threshold in the proposed natural gas rule, could result in a increase in the utilities' rate base, over time. However, SERC staff notes that the threshold component of these rules, and any potential rate impact, represent the Commission's rate making authority under Chapter 366, F.S., and not an incremental increase in regulatory cost as contemplated in Section 120.541, F.S.

Based on the utilities' responses to data requests and discussions with technical staff that oversee the AFUDC rule, SERC staff believes that the proposed rule modifications will not likely increase regulatory costs, as contemplated by Section 120.541, F.S., including any transactional costs or have an adverse impact on business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. The proposed rule and rule amendments would not potentially have adverse impacts on small businesses, would have no implementation cost to the Commission or other state and local government entities, and would have no negative impact on small cities or counties.

No regulatory alternatives were submitted pursuant to Section 120.541(1)(g), F.S. The SERC concludes that none of the impacts/cost criteria established in Sections 120.541(2)(a), (c), (d), and (e), F.S., will be exceeded as a result of the proposed rule revisions.

cc: SERC File

**FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS**

Docket No. 20200237-PU – Statement of Estimated Regulatory Costs for Proposed Amendment of Rules 25-6.0141, F.A.C., Allowance for Funds Used During Construction, and 25-30.116, F.A.C., Allowance for Funds Used During Construction, and adoption of Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction.

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is “yes”, see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is “yes”, a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth Yes No

Private-sector job creation or employment Yes No

Private-sector investment Yes No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets) Yes No

Productivity Yes No

Innovation Yes No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes No

The utilities stated that no additional incremental regulatory cost will occur to comply with the modifications.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

The modified rule will be applicable to four electric IOUs, eight natural gas IOUs, 78 water utilities and 59 wastewater utilities.

(2) A general description of the types of individuals likely to be affected by the rule.

Types of individuals likely to be affected by these rules would be customers of the above listed utilities.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

- None. To be done with the current workload and existing staff.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None.

- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule. [120.541(2)(d), F.S.]

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities: [120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation. Small counties or cities that become court-appointed receivers and owners of abandoned water and/or wastewater

utilities may benefit from a possible reduction in the number of utilities that are abandoned due to financial issues.

Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

Office of Fiscal Accountability and Regulatory Reform

Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

To: Kaley Flynn, Director

Submitted By: Name, Title:	Adria E. Harper, Senior Attorney
Agency, Board:	Public Service Commission
Phone Number:	850.413.6082

Re: Rulemaking Notification for:

Rule Number:	Rules 25- 6.0141, F.A.C., 25- 7.0141, F.A.C., 25- 30.116, F.A.C.	Rule Title:	Each rule is titled "Allowance for Funds Used During Construction"
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Rule Summary:	Rule 25-6.0141, F.A.C., is Allowance for Funds Used During Construction for investor-owned electric utilities; Rule 25-7.0141, F.A.C., is Allowance for Funds Used During Construction for natural gas utilities; and Rule 25-30.116, F.A.C., is Allowance for Funds Used During Construction for water and wastewater utilities.
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List EACH rule separately. Add tables as needed.

Date: [Date request sent to OFARR] Date of anticipated publication:

Does this rule qualify for Rules Ombudsman review in accordance with section 120.54(3)(b), F.S.? Yes No

Please complete this form when submitting rulemaking notification to the Office of Fiscal Accountability and Regulatory Reform (OFARR) pursuant to Executive Order 11-211 and Directive published on November 11, 2019. If any information or documents are missing, the notification will be returned without review. OFARR will indicate what is missing, and the completed notification must be resubmitted.

1. Proposed Rulemaking Activity:

- Notice of Development of Rulemaking – Attach the proposed Notice. If no text is available, give a detailed explanation of the rulemaking, including why it is necessary.
- Notice of Proposed Rule – Attach the proposed Notice, "Is a SERC Required" Checklist, and SERC (if required), all materials incorporated by reference, and all forms referenced or required by the rule.
- Notice of Emergency Rule – Attach the proposed Notice. Explain fully why emergency rulemaking is appropriate.

Office of Fiscal Accountability and Regulatory Reform

Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

- Notice of Change – Attach the proposed Notice. Be sure the text is coded correctly according to Rule 1B-30.003(5)(f), F.A.C. Explain why a change is required. Attach any correspondence from JAPC or the public. If no documents exist, summarize any public comment the agency has received or public hearings/workshops the agency has held.
- Notice of Withdrawal – Attach the proposed Notice. Explain why it is necessary to withdraw the rulemaking. Include any JAPC correspondence.
- Other – Attach the proposed Notice. Include detailed information about the rulemaking.

2. Is this rulemaking included in the agency's Annual Regulatory Plan (ARP)? Yes No

3a. Does each amendment or new rule:

Rule Number: Rule 25-6.0141, F.A.C., Rule 25-7.0141, F.A.C., Rule 25-30.116, F.A.C.	Rule Title: Rule 25-6.0141, F.A.C., Allowance for Funds Used During Construction, Rule 25-7.0141, F.A.C., Allowance for Funds Used During Construction and 25-30.116, F.A.C., Allowance for Funds Used During Construction
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Increase Fees? Yes No N/A

Increase Regulation? (I.E., Additional Licensure, Continuing Education Requirements, etc.) Yes No N/A

List EACH rule separately. Add tables as needed.

3b. For each new rule, the following information is required:

Rule Number: N/A	Rule Title:
Statute Authorizing Rulemaking:	Statutory language authorizing rulemaking authority:
Statute Mandating Rulemaking:	Statutory language requiring rulemaking:
New rule is due to a Legislative change occurring within the past 24 months: Yes <input type="checkbox"/> No <input type="checkbox"/>	Provide chapter law and effective date

List each rule separately. Add tables as needed.

4. Has the agency received any public comment about this rulemaking since the last rulemaking notification?

Yes No

Office of Fiscal Accountability and Regulatory Reform

Rulemaking Notification

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If yes, please summarize the comment and the agency's position regarding the comment (i.e. has made or intends to make

N/A

changes based on the comment, disagrees with the comment, etc.) and attach any documents.

N/A

5. Has the agency received any comment from JAPC since the last rulemaking notification?

Yes No

If yes, please summarize the comment and attach any documents.

For Notice of Proposed Rules Only

6. Describe the public need for the proposed rule and an explanation of how the proposed rule will address that need.

The amendments to Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., are necessary to update and clarify the Commission's AFUDC policy for its regulated industries. The amendments to Rule 25-7.0141, F.A.C., create a more comprehensive AFUDC rule for natural gas utilities to set forth the Commission's policy on AFUDC. The amendments to Rules 25-6.0141, 25-7.0141, and 25-30.116, F.A.C., update and clarify and create consistency among all of the Commission's AFUDC rules. The amendments to all the rules include the addition of a definition section and clarification that a utility may bundle projects under certain circumstances. In addition, the amendments to Rule 25-7.0141, F.A.C., include the identification of which projects are eligible and ineligible for AFUDC, the establishment of a threshold for projects eligible for AFUDC, and the establishment of the methodology for determining the AFUDC rate.

7. Has the agency received, been made aware of, or contemplated/reviewed any lower cost regulatory alternatives (LCRA)?

Yes No

If yes, describe in detail what action the agency took in response to the LCRA. If no, please explain.

Office of Fiscal Accountability and Regulatory Reform
Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

N/A

8. Summarize qualitative and quantitative *benefits* of the proposed rule. Benefits may include but are not limited to: productivity, efficiency, employment and accessibility, enhancement of health and safety, and protection of the environment.

The rule amendments benefits are that all three rules would be updated and clarified.

9. Summarize qualitative and quantitative *costs* of the proposed rule. Costs may include but are not limited to: cost to government in administering the regulation, costs to businesses and professionals in complying with the regulation, adverse effects on the economy, private markets, health, safety and the environment.

Please see attached SERC.

10. Does the proposed rule include a sunset provision (not to exceed five years)?

Yes No

If no, please detail why and attach any supplemental documentation.

These rules implement Sections 350.115, 366.04, 366.05, 366.06, 366.08, 367.081, and 367.121, Florida Statutes, which do not require a sunset provision.