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June 15, 2021

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# Item 1

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of Industry Development and Market Analysis (Wendel, <sup>CH</sup>  
Fogleman)  
Office of the General Counsel (Murphy) <sup>TLT</sup>

**RE:** Application for Certificate of Authority to Provide Telecommunications Service

**AGENDA:** 6/15/2021 - Consent Agenda - Proposed Agency Action - Interested Persons May Participate

**SPECIAL INSTRUCTIONS:** None

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Please place the following Application for Certificate of Authority to Provide Telecommunications Service on the consent agenda for approval.

<u>DOCKET NO.</u>	<u>COMPANY NAME</u>	<u>CERT. NO.</u>
20210091-TX	Electric Lightwave, LLC d/b/a Allstream	8961

The Commission is vested with jurisdiction in this matter pursuant to Section 364.335, Florida Statutes. Pursuant to Section 364.336, Florida Statutes, certificate holders must pay a minimum annual Regulatory Assessment Fee if the certificate is active during any portion of the calendar year. A Regulatory Assessment Fee Return Notice will be mailed each December to the entity listed above for payment by January 30.



# Item 2

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of Industry Development and Market Analysis (Williams, Fogleman)<sup>CH</sup>  
Office of the General Counsel (Murphy) *TL*

**RE:** Docket No. 20210050-TP – Commission approval of Florida Telecommunications Relay, Inc.'s fiscal year 2021/2022 proposed budget.

**AGENDA:** 06/15/21 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** La Rosa

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** Anticipate the need for sign language interpreters and assisted listening devices. Please place near the beginning of the agenda to reduce interpreter costs.

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### Case Background

The Telecommunications Access System Act of 1991 (TASA) established a statewide telecommunications relay system. Section 427.704(1), Florida Statutes (F.S.), provides that the Florida Public Service Commission (Commission or FPSC) shall establish, implement, promote, and oversee the administration of the statewide telecommunications access system to provide access to telecommunications relay services by persons who are deaf, hard of hearing or speech impaired. TASA provides for the purchase and distribution of specialized telecommunications devices as defined in Section 427.703(11), F.S. As defined by Section 427.703(16), F.S., this system provides telecommunications service for deaf or hard of hearing persons functionally equivalent to the service provided to hearing persons.

The telecommunications access system provides deaf or hard of hearing persons access to basic telecommunications services by using a specialized Communications Assistant that relays information between the deaf or hard of hearing person and the other party to the call. The primary function of the telecommunications access system is accomplished by the deaf or hard of hearing person using a Telecommunications Device for the Deaf (TDD). The person using the TDD types a message to the Communications Assistant who in turn voices the message to the other party or types the message to a Captioned Telephone which displays real-time captions of the conversation.

Florida Telecommunications Relay, Inc. (FTRI), a non-profit corporation formed by the local exchange telephone companies, was selected by the Commission to serve as the telecommunications access system administrator. FTRI is primarily responsible for the purchase and distribution of specialized telecommunications equipment. As part of this process, FTRI contracts with other organizations to distribute equipment and provide customer training on the proper use of the equipment and the relay service. FTRI also conducts marketing to raise awareness of available specialized equipment and related relay service. Relay services are paid for by FTRI as part of its responsibilities.

FTRI, as the TASA Administrator, is funded through the Telecommunications Relay Service (TRS) surcharge. This surcharge was capped by the Florida Legislature at a maximum of \$0.25 per landline access line per month. The Florida Legislature also limited collection of the surcharge to only the first 25 lines of each account. Only local exchange telecommunications companies are required to collect and remit this surcharge to FTRI. The initial TRS surcharge was set at \$0.05 per access line per month.<sup>1</sup> Since then, the FPSC has changed the surcharge to meet FTRI's budgetary needs. The monthly surcharge is currently \$0.10 per access line.

As part of its oversight responsibilities for the telecommunications access system, the Commission reviews and approves a budget submitted by FTRI on an annual basis. Attachment A is FTRI's proposed budget for Fiscal Year 2021/2022, which was approved by its Board of Directors. FTRI also compared its proposed budget to the Commission-approved budget, as well as the estimated revenue and expenses, for Fiscal Year 2020/2021. FTRI's estimated revenue and expenses were based on actual data from the first two quarters and estimated data for the third and fourth quarter.

Staff sent data requests to FTRI on a number of issues included in its Fiscal Year 2020/2021 estimate of expenses and its proposed Fiscal Year 2021/2022 budget. FTRI's responses to staff's data requests are included in the docket file. On April 16, 2021, FTRI filed third quarter financial information. With this updated information, staff formulated its own estimated expenses for Fiscal Year 2020/2021. Staff's estimate is reflected in Attachment B.

This recommendation addresses FTRI's proposed budget and staff's recommended TRS surcharge for Fiscal Year 2021/2022. The TRS surcharge is the only rate the Commission establishes for telecommunications companies. The Commission is vested with jurisdiction pursuant to Chapter 427, F.S.

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<sup>1</sup> Order No. 24581, issued May 24, 1991, Docket No. 910496-TP.

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## Discussion of Issues

**Issue 1:** Should the Commission approve Florida Telecommunications Relay, Inc.'s proposed budget as presented in Attachment A for Fiscal Year 2021/2022, effective August 1, 2021, and should the Commission maintain the current Telecommunications Relay Service (TRS) surcharge at \$0.10 per month?

**Recommendation:** Staff recommends the Commission approve FTRI's proposed budget expenses of \$4,450,727 for Fiscal Year 2021/2022. Staff recommends the Commission order all local exchange companies to continue billing the \$0.10 TRS surcharge for Fiscal Year 2021/2022. Staff further recommends the Commission require FTRI to conduct a financial break-even analysis of the Regional Distribution Center fee structure and present the results to the Commission with its Fiscal Year 2022/2023 budget filing. (Williams, Fogleman, Murphy)

### **Staff Analysis:**

#### **Traditional Telecommunications Relay Service**

The traditional TRS cost to FTRI as approved in Sprint Communications Company, L.P.'s (Sprint) contract is currently \$1.35 per session minute. Sprint's projections indicate that traditional minutes will decrease by 19 percent during Fiscal Year 2021/2022 from the current fiscal year. Traditional relay users are transitioning to the following services:

- Internet Protocol (IP) Relay<sup>2</sup>
- Video Relay Service (VRS)<sup>3</sup>
- IP Captioned Telephone Service<sup>4</sup>
- Internet Protocol Speech-to-Speech (STS) Service<sup>5</sup>
- Wireless Service<sup>6</sup>

#### **CapTel Service**

The CapTel cost to FTRI as approved in the Sprint contract is currently \$1.69 per session minute. CapTel service uses a specialized telephone that provides captioning of the incoming call for a deaf or hard of hearing person. Sprint's projections show that CapTel minutes of use will decline by 41 percent from the current fiscal year during Fiscal Year 2021/2022. CapTel users are transitioning to Internet Protocol Captioned Telephone Service and wireless services.

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<sup>2</sup> IP Relay allows people who have difficulty hearing or speaking to communicate using a computer and the Internet, rather than a Text Telephone (TTY) and a telephone line.

<sup>3</sup> VRS enables persons with hearing disabilities who use American Sign Language to communicate with voice telephone users through video equipment, rather than through typed text. Video equipment links the VRS user with a TRS operator so that the VRS user and the operator can see and communicate by signed conversation.

<sup>4</sup> IP captioned telephone service allows users to simultaneously listen and read the text of what the other party in a telephone conversation has said, where the connection carrying the captions between the service and the user is via an IP addressed and routed link.

<sup>5</sup> STS service utilizes a specially trained Communications Assistant who understands the speech patterns of persons with speech disabilities and can repeat the words spoken by such an individual to the other party to the call. IP STS uses the Internet, rather than the public switched telephone network, to connect the consumer to the relay provider.

<sup>6</sup> Wireless services offer applications such as text, instant messaging, and FaceTime.

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### **Florida Telecommunications Relay, Inc. Budget**

Attachment A reflects FTRI's Fiscal Year 2021/2022 proposed budget, which was reviewed and adopted by FTRI's Board of Directors prior to filing with the Commission. The FTRI proposed budget projects total operating revenue of \$4,396,927 and total expenses of \$4,450,727, representing a \$53,800 shortfall. FTRI does not request transferring funds from the surplus account to offset the shortfall. FTRI requests that the TRS surcharge be maintained at \$0.10 per access line for Fiscal Year 2021/2022.

FTRI's proposed budget represents a projected decrease in revenue of \$509,911 (10 percent) from that included in the Fiscal Year 2020/2021 Commission-approved budget. This projected revenue decrease is attributed to an expected six percent decrease from the current fiscal year in access lines that are assessed the TRS surcharge.

FTRI's proposed budget also includes a decrease in expenses of \$621,322 (12.25 percent) from the Fiscal Year 2020/2021 Commission-approved budget. The most significant decline in FTRI's proposed budget expense (\$607,207) relates to an expected decline in minutes of use.

Sprint's estimated Fiscal Year 2021/2022 traditional TRS minutes of use are 890,468, at a rate of \$1.35 per minute, for the TRS related expense of \$1,202,132. Sprint's estimated CapTel minutes of use are 263,681, at a rate of \$1.69 per minute, for the CapTel related expense of \$445,621. The total estimated expense for TRS and CapTel for Fiscal Year 2021/2022 is \$1,647,753. For comparison, the Fiscal Year 2020/2021 Commission-approved budget reflected traditional TRS minutes of 1,105,917 and CapTel minutes of 450,871. The total expense for TRS and CapTel for Fiscal Year 2020/2021 was \$2,254,960.

### **Analysis**

Based upon current industry trends, FTRI estimates that access lines will decrease at the rate of approximately six percent from the current fiscal year as more consumers transition from landline phones. Holding the TRS surcharge constant, a decrease in access lines results in a decrease in revenues to support FTRI's activities.

Staff developed an estimate of FTRI's expenses for Fiscal Year 2020/2021. This data is presented in Attachment B. Staff used actual data from the first three quarters of the fiscal year, and took an average of those three quarters to estimate the fourth. Staff's estimates were then used as one element in evaluating FTRI's proposed budget. Attachment B also includes FTRI's budgeted information for comparison purposes. Staff also analyzed past Commission-approved FTRI budgets to identify and evaluate ongoing cost reduction measures.

Staff notes that Fiscal Year 2020/2021 was out of the norm due to the COVID-19 pandemic. FTRI experienced significant reductions in equipment distributed, consumer inquiries, and related expense, which it contributes to the pandemic. As a result, FTRI's support for its proposed Fiscal Year 2021/2022 budget request is based largely on pre-pandemic levels instead of Fiscal Year 2020/2021 estimates.

Taking into consideration the challenges related to the pandemic, staff supports FTRI's approach to focus on pre-pandemic budget levels. As stated earlier, staff developed expense estimates for

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Fiscal Year 2020/2021. However, we acknowledge that the estimates are based on historical data impacted by COVID-19.

Staff supports FTRI's approach to place greater focus on pre-pandemic data and the Fiscal Year 2020/2021 Commission-approved budget. Below is staff's review of selected items from FTRI's proposed budget expense by category.

### **Category I – Relay Services**

Category I captures expenses for traditional TRS and CapTel service currently provided by Sprint. The proposed budget recognizes a \$607,207 expense reduction from the Fiscal Year 2020/2021 Commission-approved budget, primarily due to declining minutes and service cost associated with TRS and CapTel service.

The relay service expenses are based on the minutes of use as projected by Sprint and relay service contract rates. Sprint's historical projections have proven to be reasonable and it has multi-state experience with such projections. Staff believes that the estimates for Fiscal Year 2021/2022 are reasonable and should be used for budgetary purposes. However, staff notes that the current relay service contract, along with the current contract rates, expires on February 28, 2022. The Commission has issued a request for proposals to provide relay services beginning March 1, 2022, and will be considering a new relay service contract that may have rates that are different from the current contract.<sup>7</sup>

### **Category II – Equipment & Repairs**

Category II expenses reflect the purchase of equipment to be distributed to clients and the repairs that FTRI must make to keep the equipment in working order. FTRI used contract pricing for equipment multiplied by the number of units it plans to order over the course of the year. These contracts for equipment between FTRI and equipment vendors are separate from the contract for relay service approved by the Commission. FTRI's proposed budget represents no change in expense from the Fiscal Year 2020/2021 Commission-approved budget.

FTRI's Fiscal Year 2020/2021 Commission-approved budget for equipment and repairs was \$773,235. FTRI's estimated 2020/2021 expenses are \$452,158. Staff's estimated expense is \$437,740, representing a difference of \$14,418.

In its budget filing, FTRI explained that due to the impact of recommended COVID-19 guidelines by the Centers for Disease Control and Prevention (CDC), it experienced a significant change in the number of clients served and equipment distributed during Fiscal Year 2020/2021. As a result, FTRI explained that it budgeted for equipment and repairs for Fiscal Year 2021/2022 at the Fiscal Year 2020/2021 budget level, rather than the actual pandemic-affected level. FTRI further explained that it believes the distribution of vaccine and new CDC guidelines may be sufficient for services to return to previous levels.

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<sup>7</sup> Docket No. 20210049-TP.

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Staff recommends approval of FTRI's budgeted amount for equipment and repairs. Further, staff encourages FTRI to increase efforts and develop more creative ways to inform consumers about the program to increase equipment distributed.

### **Category III – Equipment Distribution & Training**

Category III reflects the cost of distributing equipment throughout the state and the training of consumers in the use of that equipment. FTRI's proposed budget reflects a slight decrease in expense from the Fiscal Year 2020/2021 Commission-approved budget.

#### **Regional Distribution Centers**

Expenses related to Regional Distribution Centers (RDCs) are the largest component of Category III expenses. FTRI's proposed budget for RDCs is \$531,618, which is \$4,029 lower than the Fiscal Year 2020/2021 Commission-approved budget. Staff notes that FTRI's proposed budget exceeds FTRI's Fiscal Year 2020/2021 estimated expenditures by \$369,806.

Consistent with its explanation for Category II Equipment & Repairs, FTRI explains that the impact of COVID-19 and related CDC guidelines resulted in expenses significantly lower than the Fiscal Year 2020/2021 Commission-approved budget. FTRI also states that it anticipates equipment distribution to resume to pre-COVID-19 levels.

In support of its Fiscal Year 2020/2021 proposed budget, FTRI previously indicated that it intended to "expand the quantity of Regional Distribution Centers (RDCs) while working with the existing RDCs to evaluate and implement a business model that enables them to provide FTRI services at break-even." Staff did not recommend approval of FTRI's proposed Fiscal Year 2020/2021 RDC expense of \$664,128. However, in consideration of FTRI's intent to increase the number of RDCs, and recognizing the importance of adequately funding equipment distribution channels, staff recommended, and the Commission approved continued funding at FTRI's estimated 2019/2020 expense level of \$535,647.

FTRI previously indicated, as part of last year's budget request, that the fee per service structure was not financially performing at a break-even point for the RDCs. FTRI contracts with the non-profit RDCs to perform equipment distribution and training throughout Florida. The amount of funds for FTRI's contracts with RDCs varies based on the number of clients they assist. More funds are provided for connecting a new client, while fewer funds are provided to assist existing clients in the system.

The Commission determined that FTRI did not present sufficient cost detail regarding the compensation to RDCs and their associated costs. The Commission concluded that additional information was needed to confirm the appropriate reimbursement rate FTRI pays RDCs. The Commission requested FTRI to provide a financial break-even analysis related to the RDC's fee structure and present the results to the Commission with its Fiscal Year 2021/2022 proposed budget filing. The analysis was not included with the proposed budget filing.

In response to a staff data request regarding the break-even analysis, FTRI stated that only three of the twenty-three RDCs responded. FTRI explained that it does not believe the information received is sufficient to provide a meaningful analysis. FTRI further responded that the impact of

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the pandemic has made it difficult to determine RDCs break-even. FTRI requested a postponement of the analysis until a more normal business environment returns.

Staff understands that the Fiscal Year 2020/2021 break-even analysis was adversely impacted by the pandemic. Considering the continued decline in equipment distributed and client inquiries, staff believes it is critical that FTRI renew its effort to evaluate the RDC model. Therefore, FTRI should be ordered to submit the RDC break-even analysis with its Fiscal Year 2022/2023 budget filing. Further, it would be beneficial for FTRI to provide a status update to staff and the TASA Advisory Committee at the October 2021 TASA Advisory Committee meeting. Staff believes FTRI's proposed budget for Category III expense is reasonable.

#### **Category IV – Outreach**

Outreach efforts are designed to promote FTRI's equipment distribution services and to raise awareness about Florida relay service. FTRI's proposed Fiscal Year 2021/2022 outreach budget remains unchanged from the Commission-approved outreach budget for Fiscal Year 2020/2021.

FTRI employs various forms of communication in its outreach strategy. FTRI plans to continue advertising in newspapers using free-standing insert ads (flyers) in markets where such ads continue to be effective. However, FTRI acknowledges that it has witnessed rapid changes in the newspaper industry. In response, FTRI will utilize other print tools such as direct mail post cards and coupon book advertisements. FTRI also plans to continue expanding its digital marketing campaign, including increased use of banner ads on websites, as well as targeted email and social media campaigns.

The Commission has previously encouraged FTRI to research and consider more technologically advanced and cost-effective forms of outreach in addition to traditional newspapers. Most recently, during the Commission's February 16, 2021 Internal Affairs meeting, the Commission discussed FTRI exploring improvements to its website. Specifically, the Commission encouraged FTRI to consider the addition of an online chat function to help with customer inquiries, as well as the creation of an online consumer portal similar to what is utilized by the Florida Department of Children and Families. Through such a portal consumers could enter personal qualifying information and be automatically advised of available equipment and directed to the appropriate RDC for service.

Staff recommends that FTRI, in consultation with the TASA Advisory Committee, explore the development of such online mechanisms to facilitate a potentially effective means of obtaining needed services by qualifying customers. Consistent with the RDC break-even analysis, it would be beneficial for FTRI to provide a status update to staff and the TASA Advisory Committee at the October 2021 TASA Advisory Committee meeting. Staff believes FTRI's proposed budget for Category IV expense is reasonable.

#### **Category V – General & Administrative**

Category V reflects the expenses associated with FTRI's operations, such as office and furnishings, employee compensation, contracted services (auditors, attorney and computer consultants), computers, and other operating expenses. FTRI is proposing \$931,141, which



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represents a \$10,086 decrease in Category V expense for Fiscal Year 2021/2022. Staff believes FTRI's Category V expenses are reasonable.

### **Conclusion**

Staff recommends the Commission approve FTRI's proposed budget expenses of \$4,450,727 for Fiscal Year 2021/2022. Staff recommends the Commission order all local exchange companies to continue billing the \$0.10 TRS surcharge for Fiscal Year 2021/2022. Staff further recommends the Commission require FTRI to conduct a financial break-even analysis of the Regional Distribution Center fee structure and present the results to the Commission with its Fiscal Year 2022/2023 budget filing.

**Issue 2:** Should this docket be closed?

**Recommendation:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Murphy)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed this docket should be closed upon the issuance of a consummating order.

**Florida Telecommunications Relay, Inc.  
Fiscal Year 2021/2022 Budget @ .10 cents surcharge**

	2020/2021 APPROVED BUDGET	2020/2021 ESTIMATED REV & EXPEND	2021/2022 BUDGET	Estimated to Budget VARIANCE 2020/2021 2021/2022	Budget to Budget VARIANCE 2020/2021 2021/2022
<b>OPERATING REVENUE</b>					
1 Surcharges	4,792,249	4,653,281	4,374,084	(279,197)	(418,165)
2 Interest Income	114,589	20,604	22,843	2,239	(91,746)
<b>TOTAL OPERATING REV</b>	<b>4,906,838</b>	<b>4,673,885</b>	<b>4,396,927</b>	<b>(276,958)</b>	<b>(509,911)</b>
<b>OTHER REVENUE/FUNDS</b>					
3 Surplus Account	17,222,460	17,800,593	18,286,093	485,500	1,063,633
<b>TOTAL REVENUE</b>	<b>22,129,298</b>	<b>22,474,478</b>	<b>22,683,020</b>	<b>208,542</b>	<b>553,722</b>
<b>OPERATING EXPENSES</b>					
<b>CATEGORY I - RELAY SERVICES</b>					
4 DPR Provider	2,254,960	2,254,960	1,647,753	(607,207)	(607,207)
<b>SUBTOTAL-CATEGORY I</b>	<b>2,254,960</b>	<b>2,254,960</b>	<b>1,647,753</b>	<b>(607,207)</b>	<b>(607,207)</b>
<b>CATEGORY II - EQUIPMENT &amp; REPAIRS</b>					
5 TTY/TDD	0	0	0	0	0
6 CapTel Phone Equipment	0	0	0	0	0
7 VCP Hearing Impaired	577,203	278,296	577,203	298,907	0
8 VCP Speech Impaired	0	0	0	0	0
9 TeliTalk Speech Aid	32,760	32,250	32,760	510	0
10 In-Line Amplifier	34,950	103,170	34,950	(68,220)	0
11 ARS Signaling Equip	2,592	0	2,592	2,592	0
12 VRS Signaling Equip	16,400	8,200	16,400	8,200	0
13 Accessories & Supplies	518	50	518	468	0
14 Telecomm Equip Repair	108,812	30,192	108,812	78,620	0
<b>SUBTOTAL-CATEGORY II</b>	<b>773,235</b>	<b>452,158</b>	<b>773,235</b>	<b>321,077</b>	<b>0</b>
<b>CATEGORY III - EQUIPMENT DISTRIBUTION &amp; TRAINING</b>					
15 Freight-Telecomm Equip	30,862	20,595	30,862	10,267	0
16 Regional Distr Centers	535,647	161,812	531,618	369,806	(4,029)
17 Training Expense	468	468	468	0	0
<b>SUBTOTAL-CATEGORY III</b>	<b>566,977</b>	<b>182,875</b>	<b>562,948</b>	<b>380,073</b>	<b>(4,029)</b>

**Florida Telecommunications Relay, Inc.**  
**Fiscal Year 2021/2022 Budget @ .10 cents surcharge**

	2020/2021 APPROVED BUDGET	2020/2021 ESTIMATED REV & EXPEND	2021/2022 BUDGET	Estimated to Budget VARIANCE 2020/2021 2021/2022	Budget to Budget VARIANCE 2020/2021 2021/2022
<b>CATEGORY IV - OUTREACH</b>					
18 Outreach Expense	535,650	433,143	535,650	102,507	0
SUBTOTAL-CATEGORY IV	535,650	433,143	535,650	102,507	0
<b>CATEGORY V - GENERAL &amp; ADMINISTRATIVE</b>					
19 Advertising	0	0	0	0	0
20 Accounting/Auditing	20,823	21,146	21,624	478	801
21 Legal	28,776	11,022	12,281	1,259	(16,495)
22 Computer Consultation	5,020	6,431	5,460	(971)	440
23 Dues & Subscriptions	2,482	1,230	1,380	150	(1,102)
24 Office Equipment Purchase	7,131	7,730	7,711	(19)	580
25 Office Equipment Lease	1,751	1,778	1,778	0	27
26 Insurance-Hlth/Life/Dsblty	181,893	149,461	172,997	23,536	(8,896)
27 Insurance-Other	9,741	10,253	9,741	(512)	0
28 Office Expense	12,248	10,466	10,477	11	(1,771)
29 Postage	4,139	3,025	3,025	0	(1,114)
30 Printing	1,323	704	1,177	473	(146)
31 Rent	91,715	91,304	91,304	0	(411)
32 Utilities	5,408	4,971	4,945	(26)	(463)
33 Retirement	77,030	67,828	78,849	11,021	1,819
34 Employee Compensation	431,510	422,417	443,590	21,173	12,080
35 Taxes - Payroll	31,979	30,840	30,977	137	(1,002)
36 Taxes - Unemplmt Comp	56	2,957	2,957	0	2,901
37 Taxes - Licenses	61	61	61	0	0
38 Telephone	17,030	16,997	19,940	2,943	2,910
39 Travel & Business	8,111	1,000	8,111	7,111	0
40 Equipment Maint.	855	598	611	13	(244)
41 Employee Training/Dev	2,145	3,030	2,145	(885)	0
SUBTOTAL-CATEGORY V	941,227	865,249	931,141	65,892	(10,086)
TOTAL EXPENSES	5,072,049	4,188,385	4,450,727	262,342	(621,322)
REVENUE LESS EXPENSES	17,057,249	18,286,093	18,232,293	(53,800)	1,175,044

## STAFF'S BUDGET COMPARISON

	2020/2021 APPROVED BUDGET	2020/2021 FTRI ESTIMATED	2020/2021 FPSC STAFF ESTIMATED	2021/2022 FTRI PROPOSED BUDGET
<b>REVENUE</b>				
Surcharge	4,792,249	4,653,281	4,653,281	4,374,084
Interest	114,589	20,604	20,604	22,843
<b>TOTAL OPERATING REVENUE</b>	4,906,838	4,673,885	4,673,885	4,396,927
Surplus Account	17,222,460	17,800,593	17,800,593	18,286,093
<b>TOTAL REVENUE</b>	22,129,298	22,474,478	22,474,478	22,683,020

### OPERATING EXPENSES

<b>CATEGORY I - RELAY SERVICES</b>				
DPR Provider	2,254,960	2,254,960	2,254,960	1,647,753
<b>SUBTOTAL CATEGORY I</b>	2,254,960	2,254,960	2,254,960	1,647,753

<b>CATEGORY II - EQUIPMENT &amp; REPAIRS</b>				
TDD Equipment	-	-	-	-
Large Print TDD	-	-	-	-
VCO/HCO-TDD	-	-	-	-
VCO-Telephone	-	-	-	-
Dual Sensory Equipment	-	-	-	-
CapTel Phone Equipment	-	-	-	-
VCP Hearing Impaired	577,203	278,296	273,557	577,203
VCP Speech Impaired	-	-	-	-
TeliTalk Speech Aid	32,760	32,250	30,100	32,760
Jupiter Speaker Phone (InferaRed/Ha	-	-	-	-
In Line Amplifier	34,950	103,170	95,509	34,950
ARS-Signaling Equipment	2,592	-	-	2,592
VRS-Signaling Equipment	16,400	8,200	3,584	16,400
Equipment Accessories/Supplies	518	50	67	518
Telecom Equipment Repair	108,812	30,192	34,923	108,812
<b>SUBTOTAL CAT II</b>	773,235	452,158	437,740	773,235

<b>CATEGORY III - EQUIPMENT DISTRIBUTION &amp; TRAINING</b>				
Freight - Telecomm Equipment	30,862	20,595	20,443	30,862
Regional Distribution Centers	535,647	161,812	153,495	531,618
Workshop Expense	-	-	-	-
Training Expense for RDCs	468	468	624	468
<b>SUBTOTAL CAT III</b>	566,977	182,875	174,561	562,948

## STAFF'S BUDGET COMPARISON

	2020/2021 APPROVED BUDGET	2020/2021 FTRI ESTIMATED	2020/2021 FPSC STAFF ESTIMATED	2021/2022 FTRI PROPOSED BUDGET
Outreach Expense	535,650	433,143	422,917	535,650
<b>SUBTOTAL CAT IV</b>	<b>535,650</b>	<b>433,143</b>	<b>422,917</b>	<b>535,650</b>

<b>CATEGORY V - GENERAL AND ADMINISTRATIVE</b>				
Advertising	-	-	-	-
Accounting/Audit	20,823	21,146	26,471	21,624
Legal	28,776	11,022	14,183	12,281
Consultation-Computer	5,020	6,431	5,789	5,460
Dues/Subscriptions	2,482	1,230	1,513	1,380
Office Furniture	-	-	-	-
Office Equipment Purchase	7,131	7,730	4,644	7,711
Office Equipment Lease	1,751	1,778	1,820	1,778
Leasehold Improvements	-	-	-	-
Insurance -Health/Life/Disability	181,893	149,461	138,799	172,997
Insurance-Other	9,741	10,253	10,179	9,741
Office Expense	12,248	10,466	8,783	10,477
Postage	4,139	3,025	647	3,025
Printing	1,323	704	-	1,177
Rent	91,715	91,304	91,724	91,304
Utilities	5,408	4,971	4,261	4,945
Retirement	77,030	67,828	57,112	78,849
Employee Compensation	431,510	422,417	390,992	443,590
Temporary Employment	-	-	-	-
Taxes – Payroll	31,979	30,840	30,947	30,977
Taxes - Unemployment Comp	56	2,957	1,520	2,957
Taxes – Licenses	61	61	81	61
Telephone	17,030	16,997	18,364	19,940
Travel & Business Expense	8,111	1,000	-	8,111
Equipment Maintenance	855	598	601	611
Employee Training	2,145	3,030	2,493	2,145
Meeting Expense	-	-	-	-
Miscellaneous	-	-	-	-
<b>SUBTOTAL CAT V</b>	<b>941,227</b>	<b>865,249</b>	<b>810,923</b>	<b>931,141</b>

<b>TOTAL EXPENSES</b>	<b>5,072,049</b>	<b>4,188,385</b>	<b>4,101,101</b>	<b>4,450,727</b>
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<b>REVENUES LESS EXPENSES</b>	<b>(165,211)</b>	<b>485,500</b>	<b>572,784</b>	<b>(53,800)</b>
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# Item 3

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of the General Counsel (Osborn, Crawford) *JSC*  
Division of Engineering (Kistner, Ellis, Thompson) *TB*  
Division of Accounting and Finance (Norris, Thurmond) *ALM*  
Division of Economics (Bruce, Hudson) *JCH*

**RE:** Docket No. 20200226-SU – Application for certificate to provide wastewater service in Charlotte County, by Environmental Utilities, LLC.

**AGENDA:** 06/15/21 – Regular Agenda – Decision on Motion for Reconsideration – Oral argument not requested; participation is at the Commission’s discretion

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On October 13, 2020, Environmental Utilities, LLC. (EU or Utility) filed its application for an original wastewater certificate in Charlotte County. With its application, EU filed a petition for temporary waiver of portions of Rule 25-30.033, Florida Administrative Code (F.A.C.), so that the Utility's initial rates and charges might be set at a date subsequent to the granting of the certificate of authorization. This petition for temporary rule waiver was denied by Order No. PSC-2021-0066-PAA-SU, issued February 2, 2021.

Pursuant to Rule 25-30.030, F.A.C., EU both published notice in the proposed service area, and provided notice by mail to property owners in the service area EU proposes to serve. Timely objections to EU’s application have been filed with the Commission; therefore, this matter will



be set for an administrative hearing. One of the objectors who has requested a hearing is Ms. Linda Cotherman, a resident in the area EU proposes to provide wastewater service.

As part of the information required to support its certificate application, EU filed certain financial information, together with a request for confidential classification of that information, on October 14, 2020. Pursuant to Section 367.156(1), Florida Statutes (F.S.), confidential treatment of the information was granted by Order No. PSC-2021-0087-CFO-SU (Order), issued February 19, 2021, for a period of 18 months from the date of the Order. On March 1, 2021, Ms. Cotherman timely filed a Motion for Reconsideration (Motion) of the Order. EU responded to Ms. Cotherman's Motion on March 8, 2021, and Ms. Cotherman filed an Amended Motion for Reconsideration on March 12, 2021.

Ms. Cotherman did not request oral argument regarding her Motion for Reconsideration, as amended. Pursuant to Rule 25-22.0022, F.A.C., the Commission may hear argument from the parties at its discretion.<sup>1</sup>

The Commission has jurisdiction pursuant to Sections 367.031, 367.045, 367.081, and 367.156, F.S.

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<sup>1</sup> Rule 25-22.0022(1) and (7)(a), F.A.C., provides that the failure to timely request oral argument on dispositive motions (including motions for reconsideration) constitutes waiver thereof. However, Rule 25-22.0022(1) and (7)(b), F.A.C., provides that the Commission has the discretion to request oral argument on a dispositive motion, if it decides that oral argument would aid the Commission in its understanding and disposition of the underlying matter. If the Commission wishes to hear oral argument on this item, staff recommends that the Commission allow three minutes per side.

Date: June 3, 2021

## Discussion of Issues

**Issue 1:** Should the Commission grant Ms. Cotherman's Motion for Reconsideration, as amended, of Order No. PSC-2021-0087-CFO-SU?

**Recommendation:** No. The Motion for Reconsideration, as amended, should be denied because Ms. Cotherman has failed to identify a point of fact or law that was overlooked or that the Prehearing Officer failed to consider in rendering the Order. (Osborn, Crawford)

### Staff Analysis:

#### Standard of Review

The appropriate standard of review in a motion for reconsideration is whether the motion identifies a point of fact or law that was overlooked or that the Commission failed to consider in rendering its Final Order. Stewart Bonded Warehouse, Inc. v. Bevis, 294 So. 2d 315 (Fla. 1974); Diamond Cab Co. v. King, 146 So. 2d 889 (Fla. 1962); and Pingree v. Quaintance, 394 So. 2d 161 (Fla. 1st DCA 1981). In a motion for reconsideration, it is not appropriate to reargue matters that have already been considered. Sherwood v. State, 111 So. 2d 96 (Fla. 3d DCA 1959), citing State ex rel. Jaytex Realty Co. v. Green, 105 So. 2d 817 (Fla. 1st DCA 1958). Furthermore, a motion for reconsideration should not be granted "based upon an arbitrary feeling that a mistake may have been made, but should be based upon specific factual matters set forth in the record and susceptible to review." Stewart Bonded Warehouse, 294 So. 2d at 317.

#### Motion for Reconsideration

In her March 1, 2021 Motion for Reconsideration, Ms. Cotherman argues that there are disputed factual issues about EU's financial ability to provide service to the proposed service area. She claims that EU has not demonstrated sufficient financial resources to handle the business of a public utility and states the Utility has not provided any information as to the cost to residents of installation or service. Ms. Cotherman also claims that, "Depriving the public of the knowledge about the financial health/wherewithal of Environmental Utilities, LLC, places the parties of record at a disadvantage of being able to gauge one of the central requirements for the proposed utility's ability to satisfy the elements necessary to obtain a certificate." Ms. Cotherman argues that these claims show good cause for the Commission to reconsider its Order and publish the financial information the Order protects.

Ms. Cotherman subsequently filed an Amended Motion for Reconsideration on March 12, 2021, in which she again asserts that there are disputed factual issues about EU's financial ability to provide service to the proposed service area and the lack of any information of the cost to residents of installation or service. Ms. Cotherman adds that she was a party in a similar case with some of the same parties (Docket No. 20020745-SU) and prevailed in her arguments to the Commission. She also maintains that just because EU has reached a Confidentiality Agreement with another party does not mean she would have access to the confidential documents because of her relationship with that party.

Date: June 3, 2021

### **Utility's Response to Motion for Reconsideration**

In its March 8, 2021 response, EU argues that Ms. Cotherman has no legitimate need for the confidential financial information. The response also claims that Ms. Cotherman is a member of the Board of Directors of the Palm Island Estates Association, Inc. (Palm Island). Palm Island is the homeowners association for the Palm Island Estates community, whose individual residents reside in the area where EU proposes to provide wastewater service. Palm Island timely objected to EU's application and requested an administrative hearing. EU entered into a Confidentiality Agreement with Palm Island's attorney, Brad Kelsky, and provided him with the confidential financial information. EU also provided the confidential information to the Office of Public Counsel, an interested party, after their request, based on their assurance that it would be treated as confidential. EU is not willing to enter into a Confidentiality Agreement with Ms. Cotherman "since she suffers no adverse consequences from breaching that confidentiality."

EU also argues that financial statements of persons and entities that are not the regulated utility have been recognized by the Commission many times as confidential and that there is no factual or legal basis to support Ms. Cotherman's Motion.

### **Analysis**

Ms. Cotherman's Motion for Reconsideration, as amended, does not cite to any point of fact or law that was overlooked, or that the Prehearing Officer failed to consider in rendering his decision to grant EU's Request for Confidential Classification. Her motion argues that she and the public need to see the financial information to determine EU's financial ability to provide service to the proposed service area. Her motion also argues that there has been a lack of any information regarding installation or service costs. As already considered by the Prehearing Officer, EU provided the confidential information for the specific and limited purposes of satisfying the requirements of Rule 25-30.033(1)(h), F.A.C., and to enable the Commission to determine the ability of the owners to provide the necessary financial support to the Applicant. The confidential financial information of the owner is not related to any ratemaking function with regard to the Utility, but will be used to determine the owner's financial viability to run the utility. The Commission, its staff, and parties with executed nondisclosure agreements have access to the financial information, and will be able to use that information to help determine EU's financial ability to provide service as part of its application, per Rule 25-30.033, F.A.C.

### **Conclusion**

Staff recommends that Ms. Cotherman's Motion for Reconsideration, as amended, should be denied because it does not meet the required standard for a motion for reconsideration. Ms. Cotherman has failed to identify a point of fact or law that was overlooked or that the Prehearing Officer failed to consider in rendering Order No. PSC-2021-0087-CFO-SU, Order Granting Request for Confidential Classification.

Date: June 3, 2021

**Issue 2:** Should this docket be closed?

**Recommendation:** No. The docket should remain open pending the Commission's action on the Utility's application for an original wastewater certificate. (Osborn, Crawford)

**Staff Analysis:** The docket should remain open pending the Commission's action on the Utility's application for an original wastewater certificate.

# Item 4

Revised 6/03/21

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-**

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**DATE:** February 18, 2021 June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of Industry Development and Market Analysis (Deas, Fogleman, Wendel) <sup>CH</sup>  
Office of the General Counsel (Murphy) <sup>TLT</sup>

**RE:** Docket No. 20210013-TX – Application for designation as an eligible telecommunications carrier to receive rural digital opportunity fund auction (Auction 904) support for voice and broadband services and request for expedited consideration, by Bright House Networks Information Services (Florida), LLC.

**AGENDA:** ~~03/02/21~~ 06/15/21 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** ~~June 7, 2021 for qualification for RDOF auction~~  
~~disbursement.~~ None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On January 6, 2021, Bright House Networks Information Services (Florida), LLC (Bright House or Company) filed a petition with the Florida Public Service Commission (Commission) seeking designation as an eligible telecommunications carrier (ETC) to receive rural digital opportunity fund (RDOF) support. Bright House was granted competitive local exchange carrier certificate No. 8015 in 2002 under the name “Time Warner Cable Information Services (Florida) LLC.”<sup>1</sup>

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<sup>1</sup> Order No. PSC-02-0070-CO-TX issued on January 10, 2002, in Docket No. 20011617-TX, Application for certificate to provide alternative local exchange telecommunications service by Time Warner Cable Information Services (Florida), LLC d/b/a Time Warner Cable Information Services d/b/a Time Warner Cable d/b/a Time Warner Communications (Consummating Order No PSC-2001-2467-PAA-TX). *See also* Order No. PSC-03-0989-FOF-TX., issued on September 3, 2003, in Docket No. 20030713-TX, In re: Request for name change on CLEC

Date: ~~February 18, 2021~~

Bright House is a majority-owned and wholly-controlled subsidiary of Charter Communications, Inc. (Charter). Charter provides customers with voice over internet protocol (VoIP) and broadband services under the brand name “Spectrum.” Bright House and its affiliates “offer a variety of services, some of which are regulated telecommunications services and some of which are not.” On December 7, 2020, Charter’s subsidiary CCO Holdings was selected as one of the winning bidders for the Federal Communications Commission’s (FCC) RDOF auction. Consistent with FCC rules, CCO Holdings assigned its winning bid to Bright House, its affiliate operating in Florida.

The RDOF is a form of high-cost support and is funded through the federal universal service fund (USF). The FCC’s RDOF initiative allocates up to \$20.4 billion through a two-phase competitive auction to help connect millions of unserved rural homes and small businesses to high-speed broadband. Phase I of the auction will provide up to \$16 billion to be used over a period of 10 years to service providers that commit to offer voice and broadband services to fixed locations in eligible unserved high-cost census blocks.<sup>2</sup> In Florida, a total of ~~eleven~~ 11 bidders were selected to receive approximately \$192 million of high-cost support in phase I.<sup>3</sup> Bright House will receive \$22.5 million in phase I to be used in specified census blocks in Florida.<sup>4</sup>

An ETC designation is a requirement for telecommunications carriers to receive USF dollars for the Lifeline and High-Cost programs. The Lifeline program enables low-income households to obtain and maintain basic telephone and broadband services, and offers qualifying households a discount on monthly bills. The High-Cost program helps carriers provide voice and broadband service in remote and underserved communities. Although the FCC did not require RDOF auction participants to be designated as an ETC to apply, the FCC did require winning bidders to obtain ETC designation within 180 days of being selected.

47 U.S.C. 214(e)(2) authorizes state commissions to designate common carriers as follows:

(2) Designation of eligible telecommunications carriers

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier

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Certificate No. 8015 from Time Warner Cable Information Services (Florida), LLC d/b/a Time Warner Cable Information Services d/b/a Time Warner Cable d/b/a Time Warner Communications to Bright House Networks Information Services (Florida), LLC.

<sup>2</sup> FCC, DA 20-1422, Public Notice, 904 Winning Bidders, <https://docs.fcc.gov/public/attachments/DA-20-1422A1.pdf>, accessed February 1, 2021.

<sup>3</sup> *Id.*, Attachment B, <https://docs.fcc.gov/public/attachments/DA-20-1422A3.pdf>, accessed February 1, 2021.

<sup>4</sup> *Id.*, Attachment A (See CCO Holdings which has assigned its winning bid to its affiliate Bright House.) <https://docs.fcc.gov/public/attachments/DA-20-1422A2.pdf>, accessed February 1, 2021.

Date: ~~February 18, 2021~~

meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

47 U.S.C. 214(e)(6) provides that the FCC will make such ETC designations in cases where a state commission lacks jurisdiction over the common carrier as follows:

(6) Common carriers not subject to State commission jurisdiction

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

Bright House asserts that it meets all applicable federal requirements for designation as an ETC in Florida pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201. On February 9, 2021, Bright House filed Supplemental Authority in Support (Supplemental Filing) of its ETC application in which the Company clarified that, although its corporate affiliates offer a retail VoIP service that is not a telecommunications service, the Company offers switched access service and local interconnection service that are telecommunications services. The Company further clarified that these services are offered to the public for hire in Florida by the use of mixed-use facilities that also include telecommunications related equipment and facilities.

Bright House acknowledges and asserts that, if approved, it will comply with Sections 364.10 and 364.105, Florida Statutes (F.S.), and Rule 25-4.0665, Florida Administrative Code (F.A.C.), which govern Lifeline service and provide for a transitional discount for those customers no longer eligible for Lifeline.

In addition to the federal rules and statutes discussion above, the Commission has jurisdiction in this matter pursuant to Section 364.10 F.S.



Date: February 18, 2021

## Discussion of Issues

**Issue 1:** Should the Commission grant Bright House Networks Information Services (Florida), LLC ETC status in Florida to Receive Rural Digital Opportunity Fund Auction (Auction 904) Support for Voice and Broadband Services?

**Recommendation:** Yes. Bright House Networks Information Services (Florida), LLC is a telecommunications company certificated to provide service in Florida and meets all of the requirements for designation as an ETC under Section 364.10, F.S., and applicable federal law. The Company has acknowledged the requirement to comply with Sections 364.10 and 364.105, F.S., and Rule 25-4.0665, F.A.C., which govern Lifeline service and provide for a transitional discount for those customers no longer eligible for Lifeline. (Murphy, Deas, Fogleman, Wendel)

**Staff Analysis:** Pursuant to 47 U.S.C. 214(e)(2), and 47 C.F.R. 54.201(b), state commissions have the primary responsibility to designate carriers as ETCs. In instances where a state lacks jurisdiction, the FCC is to make such a designation.<sup>5</sup> Section 364.10(1)(a), F.S., defines an ETC as “a telecommunications company, as defined by s. 364.02, which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201.” A “telecommunications company” is an entity offering “two-way telecommunications service to the public for hire within [Florida] by the use of a telecommunications facility.” Section 364.02(13), F.S. Thus, whether a carrier is offering a telecommunications service is the threshold question for whether the Commission is authorized to grant an ETC designation.<sup>6</sup> Staff recommends that, as clarified in its Supplemental Filing, Bright House is a telecommunications company for purposes of receiving an ETC designation in accordance with Section 364.10, F.S., and is certificated as a competitive local exchange carrier. Although the Commission does not have jurisdiction over VoIP providers<sup>7</sup> and “Spectrum Voice” service is an “information service” and not a “telecommunications service,”<sup>8</sup> because Bright House provides telecommunications services in Florida in addition to nonregulated services, the regulatory status of VoIP service is not relevant to the Commission’s decision in this docket.

To qualify as an ETC, telecommunications carriers must provide the services identified in 47 C.F.R. 54.101 as follows:

- (a) Services designated for support. Voice telephony services shall be supported by federal universal service support mechanisms. Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to emergency

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<sup>5</sup> 47 U.S.C. 214(e)(6)

<sup>6</sup> In this context, a “telecommunications facility” includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within [Florida]. 364.02(14). “Service” is to be construed in its broadest and most inclusive sense;” however, the term “does not include broadband service or voice-over-Internet protocol service for purposes of regulation. *Id.* at (12).

<sup>7</sup> Section 364.011(3), F.S.

<sup>8</sup> *Charter Advanced Services (MN), LLC v. Lange*, 903 F.3d 715, (Eighth Circuit 2018) *cert denied*, *Lipschultz v. Charter Advanced Services (MN) LLC*, 140 S.Ct. 6 (Supreme Court of the United States 2019). (The case involved a Bright House affiliate in Minnesota that had been created to offer only nonjurisdictional services).

Date: ~~February 18, 2021~~

services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers as provided in subpart E of this part.<sup>9</sup>

(b) An eligible telecommunications carrier must offer voice telephony service as set forth in paragraph (a) of this section in order to receive federal universal service support.

(c) An eligible telecommunications carrier (ETC) subject to a high-cost public interest obligation to offer broadband internet access services and not receiving Phase I frozen high-cost support must offer broadband services within the areas where it receives high-cost support consistent with the obligations set forth in this subpart and subparts D, K, L, and M of this part.<sup>10</sup>

(d) Any ETC must comply with subpart E of this part.

In addition, ETCs must advertise the availability of such services and the associated charges using media of general distribution.<sup>11</sup>

Staff has reviewed Bright House's petition for ETC designation in Florida, as well as additional documents filed with the Commission. Staff has confirmed that Bright House meets the above requirements to qualify as an ETC in Florida. In addition, the Company has demonstrated sufficient financial, managerial, and technical capabilities.

Furthermore, staff notes that the FCC awarded CCO Holdings, an affiliate of Bright House, as the winning RDOF bidder in the census blocks for which Bright House is seeking ETC designation. Each Carrier was required, as part of its bid, to acknowledge that it would meet the FCC's requirements for building out its network and meet the FCC's minimum broadband service obligations.

47 U.S.C. 214(e)(2) requires state commissions to determine if an ETC designation is consistent with the public interest, convenience, and necessity for rural areas. Bright House asserts granting its ETC designation will create significant public and private investment in Florida. Additionally, it will provide more access to high-speed broadband internet service in unserved communities. Based on staff's review, along with Bright House commitment to abide by both state and federal requirements, staff recommends that designating Bright House as an ETC meets this requirement.

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<sup>9</sup> Subpart E addresses Universal Service Support for Low-Income Consumers. *See* 47 C.F.R. §54,400 through §54,422.

<sup>10</sup> Subparts D, K, L, and M refer to rules regarding Universal Service Support for High Cost Areas, Interstate Common Line Support Mechanisms for Rate-of-Return Carriers, Mobility Fund and 5G Fund, and High-Cost Loop Support for Rate-of-Return Carriers, respectively.

<sup>11</sup> 47 U.S.C. §214(e)(1)(B)

Date: ~~February 18, 2021~~

In conclusion, Bright House meets all requirements for designation as an ETC under Section 364.10, F.S., and applicable federal law. Therefore, staff recommends Bright House Networks Information Services (Florida), LLC should be granted ETC designation in the census blocks listed in Attachment A of this recommendation. Staff further recommends that if there is a future change of Company ownership, the new owners should be required to file a petition with the Commission and make a showing of public interest to maintain the Company's ETC designation.

Date: ~~February 18, 2021~~

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon the issuance of a consummating order. (Murphy)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS<sup>1</sup>

120010009011000	120174501023038	120174503042044	120174503043377
120010015171007	120174503023003	120174503042048	120174503043381
120010015171009	120174503023005	120174503042049	120174503043403
120010015171014	120174503023008	120174503042050	120174503043410
120010017023028	120174503023010	120174503042051	120174503043411
120010022201011	120174503023015	120174503042058	120174503043416
120010022201024	120174503023016	120174503042063	120174504001012
120010022201027	120174503023031	120174503042064	120174504001013
120010022201048	120174503023032	120174503042065	120174504001015
120010022201052	120174503023033	120174503042067	120174504001016
120010022201054	120174503023034	120174503042071	120174504001017
120174501021019	120174503023035	120174503042072	120174504001018
120174501021024	120174503023037	120174503042080	120174504001019
120174501021027	120174503023038	120174503042097	120174504001021
120174501021028	120174503023040	120174503042098	120174504001022
120174501021029	120174503023041	120174503042099	120174504001023
120174501021048	120174503023073	120174503043004	120174504001024
120174501021052	120174503023079	120174503043016	120174504001029
120174501021068	120174503023085	120174503043031	120174504001030
120174501021070	120174503023086	120174503043032	120174504001034
120174501021073	120174503023316	120174503043034	120174504001036
120174501021074	120174503042011	120174503043035	120174504001037
120174501021097	120174503042017	120174503043064	120174504001038
120174501023007	120174503042020	120174503043068	120174504001040
120174501023008	120174503042023	120174503043073	120174504001041
120174501023010	120174503042024	120174503043078	120174504001044
120174501023013	120174503042026	120174503043098	120174504001045
120174501023015	120174503042027	120174503043099	120174504001046
120174501023016	120174503042033	120174503043100	120174504001047
120174501023017	120174503042035	120174503043142	120174504001048
120174501023020	120174503042036	120174503043143	120174504001049
120174501023022	120174503042037	120174503043144	120174504001050
120174501023023	120174503042038	120174503043160	120174504001053
120174501023026	120174503042039	120174503043366	120174504001054
120174501023028	120174503042040	120174503043367	120174504001055
120174501023032	120174503042041	120174503043369	120174504001056
120174501023033	120174503042042	120174503043375	120174504001057

<sup>1</sup> This Exhibit A is intended to be a full and complete list of the RDOF Census Blocks assigned to CCO Holdings, LLC in Florida. To the extent there is any inconsistency between the list of RDOF Census Blocks on this Exhibit A and the list at the FCC's RDOF Dashboard (<https://auctiondata.fcc.gov/public/projects/auction904>), the list at the FCC's RDOF Dashboard shall control.

BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120174504001058	120174504001129	120174504003079	120174512001063
120174504001059	120174504001130	120174504005011	120174512001066
120174504001061	120174504001131	120174504005013	120174512001071
120174504001063	120174504001134	120174504005027	120174512001072
120174504001064	120174504002006	120174504005032	120174512001076
120174504001065	120174504002011	120174504005037	120174513001002
120174504001066	120174504002016	120174504005039	120174513001004
120174504001067	120174504002017	120174504005040	120174513001006
120174504001068	120174504002019	120174504005055	120174513001007
120174504001069	120174504002023	120174504005064	120174513001010
120174504001070	120174504002026	120174504005066	120174513001012
120174504001071	120174504002032	120174504005067	120174513001013
120174504001072	120174504002034	120174504005069	120174513001014
120174504001075	120174504002036	120174504005071	120174513001015
120174504001076	120174504002038	120174504005080	120174513001016
120174504001077	120174504002041	120174504005085	120174513001017
120174504001078	120174504002050	120174504005087	120174513001020
120174504001079	120174504002052	120174504005089	120174513001022
120174504001080	120174504002054	120174504005095	120174513001032
120174504001081	120174504002055	120174507024021	120174513001037
120174504001082	120174504002060	120174507024032	120174513001038
120174504001084	120174504002062	120174507024048	120174513001039
120174504001085	120174504002063	120174507024049	120174513001040
120174504001086	120174504002064	120174507024050	120174513001041
120174504001088	120174504002067	120174507024053	120174513001044
120174504001089	120174504002069	120174507024056	120174513001047
120174504001090	120174504002070	120174508001002	120174513001048
120174504001091	120174504002077	120174508001006	120174513001049
120174504001094	120174504003027	120174508001010	120174513001050
120174504001095	120174504003040	120174508001013	120174513001051
120174504001098	120174504003044	120174508001021	120174513001055
120174504001099	120174504003046	120174508001022	120174513002000
120174504001100	120174504003047	120174508001024	120174513002001
120174504001104	120174504003049	120174508001026	120174513002004
120174504001106	120174504003051	120174508001029	120174513002005
120174504001107	120174504003054	120174508001036	120174513002008
120174504001109	120174504003055	120174508001037	120174514001107
120174504001110	120174504003057	120174508001038	120174514001120
120174504001112	120174504003058	120174512001051	120330036032014
120174504001116	120174504003061	120174512001052	120330036032015
120174504001117	120174504003062	120174512001053	120330036032028
120174504001118	120174504003063	120174512001056	120330036032080
120174504001119	120174504003066	120174512001058	120330036033016
120174504001120	120174504003069	120174512001059	120330036131007
120174504001125	120174504003078	120174512001061	120330036131012



BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120330036131048	120330039003220	120350602061085	120350602071218
120330039003000	120330039003223	120350602061086	120350602071219
120330039003007	120330039003225	120350602061087	120350602071221
120330039003011	120330039003229	120350602061088	120350602071223
120330039003013	120330039003234	120350602061089	120350602071224
120330039003023	120330039003251	120350602061090	120350602071227
120330039003027	120330039003262	120350602061095	120350602071228
120330039003032	120330039003272	120350602061096	120350602071232
120330039003034	120330039003280	120350602061102	120350602071237
120330039003038	120330039003284	120350602061103	120350602071240
120330039003051	120330039003287	120350602061107	120350602071241
120330039003072	120330039003297	120350602061117	120350602071244
120330039003076	120330039003298	120350602061118	120350602071247
120330039003081	120330039003299	120350602061120	120350602071252
120330039003082	120330039003302	120350602061121	120350602071256
120330039003084	120330039003304	120350602061122	120350602071260
120330039003088	120330039003306	120350602061123	120350602071263
120330039003091	120330039003315	120350602061126	120350602071266
120330039003093	120330039003318	120350602061131	120350602071268
120330039003094	120330039003320	120350602071031	120350602071280
120330039003097	120330039003330	120350602071033	120530401011001
120330039003101	120330039003333	120350602071045	120530401011004
120330039003102	120330039003336	120350602071048	120530401011006
120330039003103	120330039003341	120350602071049	120530401011007
120330039003108	120330039003347	120350602071051	120530401011008
120330039003109	120330039003348	120350602071053	120530401011009
120330039003110	120330039003349	120350602071054	120530401011011
120330039003119	120330039003350	120350602071059	120530401011012
120330039003123	120330039003351	120350602071064	120530401011015
120330039003124	120330039003356	120350602071066	120530401011016
120330039003127	120330039003358	120350602071068	120530401011017
120330039003133	120330039003361	120350602071069	120530401011018
120330039003140	120330039003366	120350602071070	120530401011023
120330039003150	120330039003374	120350602071071	120530401011024
120330039003151	120330039003387	120350602071074	120530401011026
120330039003163	120330039004011	120350602071098	120530401011030
120330039003169	120330039004015	120350602071106	120530401011038
120330039003183	120330039004061	120350602071156	120530401011039
120330039003184	120330039004062	120350602071160	120530401011040
120330039003192	120330039004063	120350602071164	120530401011042
120330039003196	120330039004085	120350602071185	120530401011043
120330039003197	120330039004092	120350602071205	120530401011045
120330039003202	120350602061016	120350602071213	120530401011046
120330039003204	120350602061079	120350602071215	120530401011047
120330039003211	120350602061083	120350602071217	120530401011048

BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120530401011049	120530401011124	120530401013028	120530403011032
120530401011050	120530401011126	120530401013052	120530403011034
120530401011053	120530401011127	120530401013055	120530403011036
120530401011055	120530401011128	120530401013060	120530403011037
120530401011056	120530401011132	120530401013061	120530403011038
120530401011062	120530401011134	120530401013107	120530403022018
120530401011063	120530401011151	120530402011002	120530403022038
120530401011065	120530401011155	120530402011003	120530403022039
120530401011067	120530401011156	120530402011005	120530403022040
120530401011068	120530401011158	120530402011011	120530403022042
120530401011070	120530401011159	120530402011019	120530403022043
120530401011072	120530401011160	120530402011020	120530403022044
120530401011075	120530401011163	120530402011022	120530403022045
120530401011078	120530401011164	120530402011023	120530403023000
120530401011080	120530401011175	120530402011026	120530403023001
120530401011081	120530401011177	120530402011035	120530403023005
120530401011082	120530401011178	120530402011036	120530403023011
120530401011083	120530401011179	120530402011038	120530407011002
120530401011084	120530401011180	120530402011040	120530407011006
120530401011088	120530401011181	120530402011056	120530407011017
120530401011090	120530401011182	120530402011069	120530407011020
120530401011091	120530401011183	120530402011072	120530407011021
120530401011092	120530401011184	120530402012001	120530407011022
120530401011093	120530401011185	120530402012005	120530407011026
120530401011095	120530401011187	120530402012006	120530407011028
120530401011096	120530401011188	120530402012008	120530407011032
120530401011099	120530401011191	120530402012013	120530407011040
120530401011102	120530401011193	120530402012015	120530407011042
120530401011103	120530401011194	120530402012018	120530407011043
120530401011104	120530401011195	120530402012019	120530407011044
120530401011105	120530401011196	120530402012020	120530407011045
120530401011107	120530401011197	120530402012021	120530407011046
120530401011108	120530401011198	120530402012022	120530407011049
120530401011109	120530401011199	120530402012023	120530407011050
120530401011110	120530401011200	120530402012024	120530407011051
120530401011112	120530401011220	120530402012025	120530407011053
120530401011113	120530401011224	120530402012029	120530407011056
120530401011114	120530401011228	120530402012031	120530407011057
120530401011115	120530401013000	120530402012036	120530407011058
120530401011116	120530401013012	120530402012037	120530407011059
120530401011117	120530401013023	120530402012039	120530407011060
120530401011118	120530401013024	120530403011020	120530407011061
120530401011121	120530401013025	120530403011021	120530407011062
120530401011122	120530401013026	120530403011030	120530407011064
120530401011123	120530401013027	120530403011031	120530407011065



BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120530407011066	120530416003031	120632109003085	120690301021111
120530407011067	120530416003066	120632109003090	120690301021116
120530407011068	120570131001012	120632109003093	120690301021121
120530407011069	120570131002004	120632109003095	120690301023001
120530407011070	120570139031004	120632109003096	120690301023003
120530407011071	120570139031011	120632109003097	120690301023004
120530407011072	120570139031013	120632109003098	120690301023007
120530407011077	120570139031019	120632109003101	120690301023021
120530407011078	120570139032014	120632109003110	120690301023030
120530407011079	120570139032019	120632109003116	120690301023031
120530407011080	120570139072015	120632109003117	120690301023036
120530407011081	120570139072019	120632109003119	120690301023037
120530407011082	120570139072020	120632109003120	120690301023038
120530407011083	120570139072021	120632109003121	120690301023039
120530407011084	120570139072022	120632109003123	120690301023044
120530407011085	120570139072025	120632109003125	120690301023045
120530407011087	120570139072030	120632109003126	120690301023047
120530407011089	120570139072035	120632109003129	120690301023048
120530407011090	120570139072040	120632109003136	120690301023052
120530407011095	120570139072041	120632109003137	120690301023054
120530407011096	120632109003029	120632109003138	120690301023058
120530407011098	120632109003030	120632109003139	120690301023062
120530407011101	120632109003031	120632109003140	120690301023063
120530407011102	120632109003032	120632109003141	120690301023067
120530407011103	120632109003035	120632109003143	120690301023068
120530407011104	120632109003036	120632109003145	120690301023072
120530407011105	120632109003038	120632109003147	120690301023078
120530407011106	120632109003040	120632109003149	120690301023079
120530407011107	120632109003044	120632109003151	120690301023081
120530407011114	120632109003051	120632109003153	120690301023082
120530407011118	120632109003053	120632109003156	120690301023083
120530407011120	120632109003056	120632109003159	120690301023084
120530407011121	120632109003057	120690301021001	120690301023086
120530407011123	120632109003058	120690301021021	120690301023087
120530407011124	120632109003060	120690301021030	120690301023088
120530407011128	120632109003061	120690301021031	120690301023090
120530407011129	120632109003062	120690301021032	120690301023095
120530407011148	120632109003073	120690301021035	120690301023110
120530407011240	120632109003074	120690301021042	120690301023112
120530407011244	120632109003076	120690301021043	120690301023121
120530407011245	120632109003078	120690301021072	120690301023122
120530407011246	120632109003079	120690301021076	120690301023128
120530407011251	120632109003081	120690301021080	120690301023130
120530416003020	120632109003083	120690301021081	120690301023131
120530416003027	120632109003084	120690301021091	120690301023137

BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120690301023144	120690301073094	120690310001039	120690311024081
120690301023147	120690301073095	120690310001042	120690311024083
120690301023152	120690301073097	120690310001047	120690311024096
120690301023155	120690301073103	120690310001048	120690311024123
120690301023157	120690301073104	120690310001056	120690311024136
120690301023158	120690301073120	120690310001057	120690311024156
120690301061022	120690301073121	120690310001064	120690311024189
120690301061023	120690301073122	120690310001065	120690311024219
120690301061024	120690301073124	120690310001069	120690311031006
120690301061034	120690301073126	120690310001070	120690311031008
120690301061038	120690301073129	120690311012071	120690311031009
120690301061042	120690301073130	120690311012076	120690311031010
120690301061045	120690301073143	120690311012091	120690311031040
120690301061062	120690301073151	120690311012093	120690311031059
120690301071007	120690301073154	120690311012099	120690311031062
120690301071008	120690303081030	120690311012112	120690311031072
120690301071009	120690303081032	120690311012117	120690311031076
120690301071010	120690304052005	120690311012118	120690311031078
120690301073004	120690304052006	120690311012134	120690311031086
120690301073006	120690304052009	120690311013032	120690311031093
120690301073007	120690304052019	120690311013038	120690311031095
120690301073008	120690304052020	120690311013039	120690311031100
120690301073014	120690304052023	120690311013053	120690311031102
120690301073024	120690304052028	120690311013054	120690311031106
120690301073032	120690304052039	120690311013057	120690311031109
120690301073036	120690304052053	120690311013068	120690311031112
120690301073037	120690304052085	120690311013076	120690311031113
120690301073038	120690309023018	120690311013084	120690311031122
120690301073041	120690309023036	120690311013086	120690311031123
120690301073043	120690309023041	120690311013093	120690311031128
120690301073044	120690309023043	120690311013111	120690311031136
120690301073045	120690309023049	120690311013112	120690311031147
120690301073049	120690309023051	120690311013119	120690311031148
120690301073052	120690309023054	120690311013177	120690311031149
120690301073075	120690309023056	120690311013192	120690311031161
120690301073077	120690309023059	120690311013195	120690311031162
120690301073078	120690309023061	120690311013205	120690311031167
120690301073080	120690310001002	120690311021029	120690311031179
120690301073083	120690310001007	120690311024020	120690312023031
120690301073086	120690310001008	120690311024022	120690312023032
120690301073088	120690310001029	120690311024027	120690312023047
120690301073089	120690310001031	120690311024028	120690312023048
120690301073090	120690310001032	120690311024062	120690312031000
120690301073092	120690310001035	120690311024067	120690312031001
120690301073093	120690310001037	120690311024079	120690312031002



BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120690312031009	120690313113019	120759704001304	120830001001026
120690312031018	120690313113022	120759704001305	120830001001027
120690312031041	120690313113023	120759704001306	120830001001028
120690312031044	120690313113032	120759704001308	120830001001029
120690312031063	120759704001002	120759704001309	120830001001030
120690312031069	120759704001084	120759704001310	120830001001032
120690312031079	120759704001095	120759704001311	120830001001040
120690312031081	120759704001142	120759704001313	120830001001043
120690312031082	120759704001144	120759704001314	120830001001044
120690312031083	120759704001151	120759704001315	120830001001045
120690312031085	120759704001155	120759704001316	120830001001051
120690312031091	120759704001158	120759704001317	120830001001052
120690312031155	120759704001207	120759704001318	120830001001054
120690312031157	120759704001236	120759704001319	120830001001055
120690312031199	120759704001237	120759704001320	120830001001057
120690312032065	120759704001241	120759704001322	120830001001058
120690312032068	120759704001245	120759704001324	120830003013013
120690312032074	120759704001253	120759704001325	120830003013016
120690312032075	120759704001255	120759704001326	120830003013020
120690312032101	120759704001259	120759704001330	120830003013034
120690312032114	120759704001260	120759704001331	120830003022010
120690312032116	120759704001261	120759704001332	120830003022012
120690312032129	120759704001262	120759704001342	120830003022021
120690312032148	120759704001263	120759704001344	120830003022028
120690312041003	120759704001264	120759704001345	120830003022040
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120690312041011	120759704001266	120759704001362	120830004012003
120690312041026	120759704001268	120759704001363	120830004012010
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120690312041029	120759704001272	120759704001366	120830004012049
120690312041041	120759704001273	120759704001389	120830004012055
120690312041044	120759704001275	120759704001395	120830004012056
120690312041063	120759704001276	120759704001399	120830004023001
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120690313112007	120759704001286	120810020142020	120830004023017
120690313112010	120759704001288	120830001001001	120830004023022
120690313112019	120759704001289	120830001001004	120830004023028
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BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120830004023048	120830006041020	120830007012097	120830007012275
120830004023051	120830006041021	120830007012098	120830007012284
120830004023054	120830006041022	120830007012099	120830007012287
120830004023055	120830006041024	120830007012101	120830007012290
120830004023056	120830006041029	120830007012102	120830007012293
120830004023057	120830006041030	120830007012105	120830007012299
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120830005021023	120830006041037	120830007012122	120830007012302
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120830005021163	120830006041110	120830007012136	120830007012325
120830005021167	120830006041111	120830007012138	120830007012326
120830005021172	120830006041112	120830007012144	120830007012328
120830005021175	120830007012001	120830007012147	120830007012346
120830005021176	120830007012005	120830007012152	120830007012347
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120830005021187	120830007012009	120830007012162	120830007012363
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120830006041001	120830007012029	120830007012181	120830007012370
120830006041002	120830007012031	120830007012182	120830007012371
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120830006041004	120830007012038	120830007012189	120830007012380
120830006041005	120830007012040	120830007012192	120830007012383
120830006041006	120830007012045	120830007012193	120830007012384
120830006041007	120830007012046	120830007012203	120830007012387
120830006041008	120830007012048	120830007012204	120830009022052
120830006041009	120830007012050	120830007012206	120830009022053
120830006041010	120830007012052	120830007012210	120830009022086
120830006041011	120830007012053	120830007012217	120830009022088
120830006041012	120830007012058	120830007012223	120830009022089
120830006041013	120830007012060	120830007012233	120830009022090
120830006041014	120830007012068	120830007012252	120830009022091
120830006041016	120830007012078	120830007012262	120830009022092
120830006041017	120830007012084	120830007012264	120830009022093
120830006041018	120830007012086	120830007012265	120830009022097
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BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120830009022099	120830010044074	120830010045052	120830012061048
120830009022101	120830010044077	120830010045054	120830012061049
120830009022102	120830010044080	120830010045056	120830012061050
120830009022107	120830010044082	120830010045057	120830012061052
120830009022108	120830010044085	120830010045058	120830012061053
120830009022111	120830010044086	120830010051014	120830012061054
120830009022113	120830010044088	120830010051018	120830012061063
120830009022117	120830010044089	120830010051056	120830012061064
120830009022121	120830010044090	120830010051086	120830012061066
120830009022126	120830010044091	120830010051087	120830012061067
120830009022134	120830010044093	120830010051088	120830012061069
120830009022138	120830010044186	120830010051089	120830012061072
120830009022139	120830010044192	120830010051108	120830012061073
120830009022141	120830010044193	120830010051145	120830012061074
120830009022143	120830010044195	120830010051324	120830012061075
120830009022145	120830010044196	120830010051354	120830012061076
120830009022146	120830010044197	120830010051355	120830012061077
120830009022147	120830010044198	120830010051359	120830012061078
120830009022156	120830010044199	120830010051360	120830012061079
120830009022157	120830010044200	120830010062001	120830012061081
120830009022163	120830010044201	120830010062021	120830012061082
120830009024007	120830010044202	120830010062056	120830012061083
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120830010044007	120830010044222	120830010062120	120830012061092
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120830010044016	120830010044285	120830010062155	120830012061100
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120830010044055	120830010045026	120830012061025	120830026012005
120830010044057	120830010045034	120830012061034	120830026012007
120830010044059	120830010045036	120830012061036	120830026012009
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120830010044062	120830010045045	120830012061042	120830026012011
120830010044065	120830010045046	120830012061043	120830026012013
120830010044066	120830010045047	120830012061045	120830026012021
120830010044068	120830010045048	120830012061046	120830026012024
120830010044072	120830010045050	120830012061047	120830026012034

BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

120830026012035	120830026013256	120830026041045	120830026041104
120830026012041	120830026013257	120830026041046	120830026041105
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120830026012046	120830026013263	120830026041052	120830026041107
120830026013002	120830026013264	120830026041053	120830026041108
120830026013003	120830026013265	120830026041054	120830026041109
120830026013005	120830026013268	120830026041055	120830026041110
120830026013009	120830026013270	120830026041056	120830026041111
120830026013011	120830026013274	120830026041057	120830026041112
120830026013012	120830026013275	120830026041058	120830026041113
120830026013015	120830026013280	120830026041059	120830026041114
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120830026013026	120830026013282	120830026041061	120830026041117
120830026013032	120830026013284	120830026041062	120830026041119
120830026013037	120830026013285	120830026041063	120830026041121
120830026013047	120830026013286	120830026041064	120830026041123
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120830026013050	120830026013288	120830026041066	120830026041125
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120830026013086	120830026013291	120830026041070	120830026041128
120830026013088	120830026013294	120830026041071	120830026041129
120830026013090	120830026013296	120830026041072	120830026041130
120830026013093	120830026013297	120830026041073	120830026041131
120830026013095	120830026013299	120830026041074	120830026041132
120830026013097	120830026013300	120830026041077	120830026041133
120830026013098	120830026013301	120830026041080	120830026041134
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120830026013163	120830026041020	120830026041091	120830026041141
120830026013182	120830026041021	120830026041092	120830026041142
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120830026013236	120830026041033	120830026041095	120830026041146
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BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

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120830026041162	120830026041223	120830027011007	120830027011082
120830026041165	120830026041226	120830027011009	120830027011083
120830026041166	120830026041229	120830027011011	120830027011084
120830026041168	120830026041230	120830027011012	120830027011085
120830026041169	120830026041231	120830027011013	120830027011086
120830026041170	120830026041232	120830027011016	120830027011088
120830026041171	120830026041234	120830027011017	120830027011089
120830026041172	120830026041236	120830027011018	120830027011090
120830026041173	120830026041237	120830027011021	120830027011091
120830026041177	120830026041239	120830027011022	120830027011092
120830026041178	120830026041240	120830027011023	120830027011093
120830026041179	120830026041241	120830027011025	120830027011094
120830026041180	120830026041242	120830027011030	120830027011095
120830026041181	120830026041243	120830027011031	120830027011096
120830026041182	120830026041246	120830027011033	120830027011097
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120830026041186	120830026041252	120830027011038	120830027011101
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120830026041195	120830026041273	120830027011051	120830027011109
120830026041197	120830026041274	120830027011052	120830027011111
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120830026041213	120830026062064	120830027011069	120830027024005
120830026041214	120830026062095	120830027011070	120830027024006
120830026041215	120830027011000	120830027011071	120830027024007
120830026041216	120830027011001	120830027011072	120830027024008
120830026041217	120830027011002	120830027011075	120830027024010

BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

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120830027024013	121050121111007	121050142034000	121050153022064
120830027024014	121050121111009	121050142034004	121050153022065
120830027024040	121050121113000	121050143023051	121050154011041
121010324011017	121050121114000	121050145012012	121050154011062
121010324011018	121050121114002	121050145012013	121050154011063
121010324011021	121050123042000	121050145012014	121050154011066
121010324011037	121050123061000	121050145012025	121050154021019
121010324011040	121050123061001	121050152004027	121050154021021
121010324011042	121050123061002	121050152004029	121050154021028
121010324011043	121050123061003	121050152004033	121050154021056
121010324011044	121050123061004	121050152004044	121050154022000
121010324011045	121050123061005	121050153022000	121050154022003
121010324011046	121050123061006	121050153022002	121050154022092
121010324011053	121050123061007	121050153022005	121050154022110
121010324022004	121050123061014	121050153022006	121050154051002
121010324022005	121050123061015	121050153022008	121050154051021
121010324022013	121050123061016	121050153022009	121050154051028
121010324022014	121050123061017	121050153022010	121050154051044
121010324022016	121050123061018	121050153022011	121050154051046
121010324022025	121050123061019	121050153022012	121050154051053
121010324022030	121050123061026	121050153022015	121050154051054
121010324023000	121050123061027	121050153022017	121050154051056
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121010324023015	121050123071002	121050153022022	121050154051083
121010324023023	121050123071005	121050153022024	121050154051085
121010324023027	121050124031132	121050153022025	121050155002105
121010324023034	121050124041001	121050153022028	121050155002106
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121010327001015	121050142031003	121050153022034	121050156002063
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121010331022001	121050142032068	121050153022055	121050156002104
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121010331022003	121050142032083	121050153022057	121050156002106
121010331022004	121050142032087	121050153022058	121050156002109
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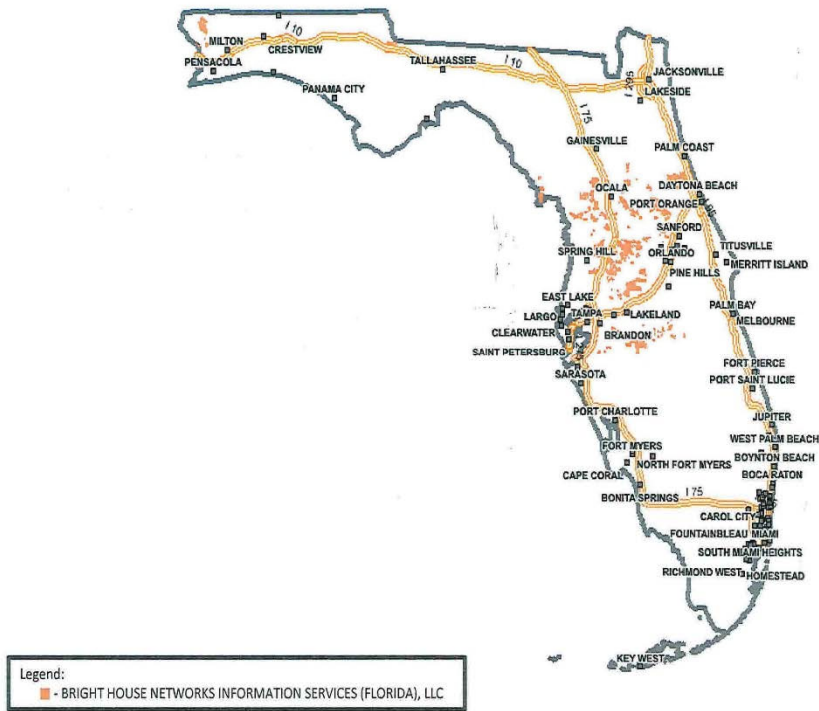


BRIGHT HOUSE NETWORKS INFORMATION SERVICES (FLORIDA), LLC

CENSUS BLOCKS

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121050156002135	121050159001116	121050161001081	121199107001026
121050156002147	121050159001117	121050161001083	121199107001027
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121050156002170	121050159001159	121050161001101	121199107001102
121050156002172	121050159001160	121050161001102	121199107001103
121050156002173	121050159001164	121050161001106	121199107001104
121050156002176	121050159001168	121050161001113	121199107001105
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121050156002182	121050160031044	121050161001117	121199107001107
121050156002183	121050160031048	121050161001125	121199107001109
121050156002186	121050160031078	121050161001189	121199107001111
121050156002188	121050160031079	121199103002027	121199107001117
121050156002189	121050160032000	121199103002034	121199107001121
121050156002196	121050160032002	121199103002038	121199107003003
121050156002198	121050160032004	121199105001000	121199107003034
121050156002199	121050160032010	121199105001026	121199107003035
121050156002203	121050160032013	121199105001027	121199107003045
121050156002212	121050160032020	121199105001036	121199107003051
121050156002227	121050160032028	121199105001043	121199107003054
121050156002238	121050160032030	121199105001051	121199107003055
121050156002240	121050160032031	121199105001052	121199107003059
121050156002242	121050160032033	121199105001063	121199107003060
121050156002244	121050160032035	121199105001064	121199107003068
121050156002251	121050160032037	121199105003046	121199107003069
121050156002254	121050160032038	121199105003048	121199107003070
121050156002262	121050160032039	121199105003054	121199107003072
121050156002265	121050160032056	121199105003062	121199107003073
121050156002271	121050160032058	121199105003063	121199107003087
121050156002276	121050160032061	121199105003065	121199107003088
121050156002304	121050160032063	121199105003075	121199107003106
121050156002306	121050160032070	121199106022000	121199110001000
121050156002308	121050160032084	121199106022004	121199115002045
121050156002314	121050160032088	121199106022008	121199115002051
121050156002331	121050160032091	121199106022011	121199115002053
121050156003004	121050160032094	121199106022022	121199115002075
121050156003005	121050161001023	121199106022039	121199115002079
121050159001080	121050161001065	121199107001000	121199115002085
121050159001101	121050161001067	121199107001003	121199115002086
121050159001103	121050161001069	121199107001008	121199115002087
121050159001105	121050161001070	121199107001010	121199800001010

## FLORIDA: ASSIGNED RDOF CENSUS BLOCKS



# Item 5

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Office of Industry Development and Market Analysis (Yglesias de Ayala, Deas, <sup>CH</sup> Fogleman)  
Office of the General Counsel (Weisenfeld) <sup>TL</sup>

**RE:** Docket No. 20210070-TX – Petition for designation as eligible telecommunications carrier (ETC) in the State of Florida, by Windstream Communications, LLC.

**AGENDA:** 06/15/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Fay

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On April 13, 2021, Windstream Communications, LLC (Windstream or Company) filed a petition with the Florida Public Service Commission (Commission) seeking designation as an eligible telecommunications carrier (ETC) to receive Rural Digital Opportunity Fund (RDOF) support. Windstream is an interexchange telecommunications carrier that was granted an IXC Certificate by the Commission in 2005 under the name Alltel Holding Corporate Services, Inc.<sup>1</sup>

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<sup>1</sup> Memorandum filed February 9, 2006, in Docket No. 20050937-TI, *In re: Florida registration of Intrastate Interexchange Telecommunications Company (IXC), by Alltel Holding Corporate Services, Inc.* See also Memorandum filed August 8, 2006, in Docket No. 20060505-TP, *In Re: Acknowledgment of name change on IXC Registration No. TK045 from Alltel Holding Corporate Services, Inc. to Windstream Communications Inc., effective*

However in 2011, the Regulatory Reform Act was passed deregulating interexchange telecommunications carriers, thus removing the Commission's jurisdiction and invalidating Windstream's IXC certificate.

Windstream is a wholly owned subsidiary of Windstream Holdings II, LLC and Windstream Services, LLC. In addition, Windstream is an affiliate of incumbent local exchange carrier (ILEC), Windstream Florida, LLC, and several competitive local exchange carriers (CLEC) holding certificates in Florida. Windstream and its affiliates provide fiber-based VoIP and broadband service to residential and small business customers.

On December 7, 2020, Windstream Services, LLC was selected as one of the winning bidders of the Federal Communications Commission's (FCC) RDOF auction. Consistent with FCC rules, Windstream Services, LLC assigned part of its winning bid to Windstream. Windstream clarified in a supplemental filing that, although Windstream Services, LLC has affiliates that currently hold certificates in Florida, it was determined that Windstream would better meet the requirements of the federal RDOF program as it relates to the deployment of the network and customer support.<sup>2</sup> The Company further clarified that it will exclusively utilize a VoIP solution to provision voice-grade services.<sup>3</sup>

The RDOF is a form of high-cost support and is funded through the federal Universal Service Fund (USF). The FCC's RDOF initiative allocates up to \$20.4 billion through a two-phase competitive auction to help connect millions of unserved rural homes and small businesses to high-speed broadband. Phase I of the auction will provide up to \$16 billion to be used over a period of 10 years to service providers that commit to offer voice and broadband services to fixed locations in eligible unserved high-cost census blocks.<sup>4</sup> In Florida, a total of 11 bidders were selected to receive approximately \$192 million of high-cost support in phase I.<sup>5</sup> Windstream Services, LLC will receive \$40.7 million in phase I to be used in specified census blocks in Florida.<sup>6</sup> Windstream Services, LLC assigned \$1.3 million to Windstream to provide services to 76 census block groups in Florida.

An ETC designation is a requirement for telecommunications carriers to receive USF support for the Lifeline and High-Cost programs. The Lifeline program enables low-income households to obtain and maintain basic telephone and broadband services and offers qualifying households a discount on their monthly bills. The High-Cost program helps carriers provide voice and broadband service in remote and underserved communities. Although the FCC did not require RDOF auction participants to be designated as an ETC to apply, the FCC did require winning bidders to obtain ETC designation within 180 days of being selected.

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*July 17, 2006.* On May 14, 2015, Windstream Communications Inc. was converted to Windstream Communications LLC and the change was filed with the Florida Department of State, Division of Corporations.

<sup>2</sup> Response to staff's April 16, 2021, data request, DN 03694-2021, filed April 26, 2021, in Docket No. 20210070.

<sup>3</sup> *Id.*

<sup>4</sup> FCC, DA 20-1422, Public Notice, 904 Winning Bidders, <https://docs.fcc.gov/public/attachments/DA-20-1422A1.pdf>, accessed April 16, 2021

<sup>5</sup> *Id.*, Attachment B, <https://docs.fcc.gov/public/attachments/DA-20-1422A3.pdf>, accessed April 16, 2021.

<sup>6</sup> *Id.*, Attachment A, <https://docs.fcc.gov/public/attachments/DA-20-1422A2.pdf>, accessed April 16, 2021.

Windstream asserts that it meets all applicable federal requirements for designation as an ETC in Florida pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201. In addition, Windstream acknowledges and asserts that if approved, it will comply with Sections 364.10 and 364.105, Florida Statutes (F.S.), and Rule 25-4.0665, Florida Administrative Code (F.A.C.), which govern Lifeline service and provide for a transitional discount for those customers no longer eligible for Lifeline.

47 U.S.C. 214(e)(2) authorizes state commissions to designate common carriers as an ETC as follows:

(2) Designation of eligible telecommunications carriers

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

47 U.S.C. 214(e)(6) provides that the FCC will make such ETC designations in cases where a state commission lacks jurisdiction over the common carrier as follows:

(6) Common carriers not subject to State commission jurisdiction

In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

The Commission's authority to designate a telecommunications company as an ETC is found at 364.10, F.S. However, pursuant to Section 364.011, F.S., the Commission does not have jurisdiction over intrastate interexchange telecommunications services, wireless/satellite, VoIP or broadband.

Date: June 3, 2021

## Discussion of Issues

**Issue 1:** Should the Commission grant Windstream Communications, LLC ETC status in Florida to Receive Rural Digital Opportunity Fund Auction (Auction 904) Support for Voice and Broadband Services?

**Recommendation:** No. Staff recommends that the Commission lacks jurisdiction to grant Windstream Communications, LLC ETC status in Florida. Staff further recommends that, as a provider of non-jurisdictional VoIP and broadband services, Windstream Communications, LLC should apply directly to the FCC for a Florida ETC designation. (Weisenfeld, Yglesias De Ayala, Deas, Fogleman)

**Staff Analysis:** Pursuant to 47 U.S.C. 214(e)(2), and 47 C.F.R. 54.201(b), state commissions designate carriers as ETCs consistent with criteria set forth therein. Per 47 U.S.C. 214(e)(6), if a state lacks jurisdiction over a carrier, the FCC is to make such a designation. Section 364.011, F.S., identifies services that are exempt from Commission oversight. Included in these non-jurisdictional services are VoIP and broadband services. Until 2011, there was an exception in Section 364.011, F.S., which permitted Commission oversight of a service if “specifically authorized by federal law.” The legislature struck this exception by Section 3, Ch. 2011-36, Laws of Florida. Thus, the Commission no longer grants ETC designations to VoIP and broadband carriers.<sup>7</sup> Therefore, because the VoIP and broadband services provided by Windstream are exempt from Commission oversight, staff recommends that the Commission lacks jurisdiction to grant Windstream ETC designation in Florida.

Moreover, by Section 364.10(1)(a), F.S., the legislature defined an ETC as “a telecommunications company, as defined by s. 364.02, which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201.” Section 364.02(13), F.S., provides that a “telecommunications company” is an entity offering “two-way telecommunications service to the public for hire within [Florida] by the use of a telecommunications facility.” Thus, whether a carrier is a certificated telecommunications company offering a telecommunications service is also a threshold question for whether the Commission has jurisdiction to grant an ETC designation.<sup>8</sup> As explained above, Windstream’s IXC certificate was invalidated after the Commission’s authority over interexchange telecommunications carriers was eliminated. Accordingly, staff recommends that Windstream’s lack of a certificate of authority to provide telecommunications service in Florida is another reason the Commission lacks jurisdiction to grant the Company ETC status.

In sum, staff recommends that the Commission lacks jurisdiction to grant Windstream Communications, LLC ETC status in Florida. Staff further recommends that, as a provider of

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<sup>7</sup> The Commission only has the powers, duties, and authority that have been conferred expressly or impliedly to it by the Florida Legislature through statute. *City of Cape Coral v. GAC Utilities, Inc., of Florida*, 281 So. 2d 493, 495-96 (Fla. 1973). Further, the Commission is barred from exercising a power when there is any reasonable doubt as to the lawful existence of that power. *See id.*

<sup>8</sup> In this context, 364.02(14), F.S., provides that a “telecommunications facility” includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within [Florida].” “‘Service’ is to be construed in its broadest and most inclusive sense;” however, the term “does not include broadband service or voice-over-Internet protocol service for purposes of regulation.” *Id.* at (12).

Date: June 3, 2021

non-jurisdictional VoIP and broadband services, Windstream Communications, LLC should apply directly to the FCC for a Florida ETC designation.



**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon the issuance of a consummating order. (Weisenfeld)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

# Item 6

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:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Accounting and Finance (Osorio, D. Buys, Cicchetti) *ALM*  
Office of the General Counsel (Lherisson) *JSC*

**RE:** Docket No. 20210006-WS – Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.

**AGENDA:** 06/15/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Graham

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

Section 367.081(4)(f), Florida Statutes (F.S.), authorizes the Commission to establish, not less than once each year, a leverage formula to calculate a reasonable range of returns on equity (ROE) for water and wastewater (WAW) utilities. The current leverage formula methodology was established in Order No. PSC-2001-2514-FOF-WS.<sup>1</sup> On October 23, 2008, the Commission held a formal hearing in Docket No. 20080006-WS to allow interested parties to provide testimony regarding the validity of the leverage formula.<sup>2</sup> Based on the record in that proceeding,

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<sup>1</sup>Order No. PSC-2001-2514-FOF-WS, issued December 24, 2001, in Docket No. 20010006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity of water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

<sup>2</sup>At the May 20, 2008, Commission Conference, upon request of the Office of Public Counsel, the Commission voted to set the establishment of the appropriate leverage formula directly for hearing.

the Commission approved the 2008 leverage formula in Order No. PSC-2008-0846-FOF-WS.<sup>3</sup> In that order, the Commission reaffirmed the methodology that was previously approved in Order No. PSC-2001-2514-FOF-WS.<sup>4</sup>

From 2012 through 2017, the Commission found that the range of returns on equity derived from the annual leverage formulas were not optimal for determining the appropriate authorized ROE for WAW utilities due to Federal Reserve monetary policies that resulted in historically low interest rates. Consequently, the Commission decided it was reasonable to continue using the range of returns on equity of 8.74 percent to 11.16 percent from the 2011 leverage formula approved in Order No. PSC-2011-0287-PAA-WS until 2018.<sup>5</sup>

On November 8, 2017, Commission staff held a workshop to solicit input from interested parties regarding potential changes to the leverage formula methodology. The only parties that filed pre-workshop comments in the docket were the Office of Public Counsel (OPC) and Utilities, Inc. of Florida (UIF). OPC also filed post-workshop comments on January 31, 2018. On June 26, 2018, the Commission approved the modified version of the leverage formula in Order No. PSC-2018-0327-PAA-WS.<sup>6</sup> The modified methodology approved in the 2018 Order was used to establish the 2019 leverage formula.<sup>7</sup>

In 2020, the Commission determined it was not reasonable to set a range of returns on equity for setting rates prospectively using financial data that was influenced by the Covid-19 pandemic and the associated volatility in the financial markets. Therefore, the Commission determined that the leverage formula approved in Order No. PSC-2019-0267-PAA-WS (2019 leverage formula) shall remain in place and continue to be used until the leverage formula is readdressed in 2021.<sup>8</sup>

Section 367.081(4)(f), F.S., authorizes the Commission to establish a range of returns for setting the authorized ROE for WAW utilities. However, use of the leverage formula by the utilities is discretionary and a utility can file cost of equity testimony in lieu of using the leverage formula. The Commission may set an ROE for WAW utilities based on record evidence in any

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<sup>3</sup>Order No. PSC-2008-0846-FOF-WS, issued December 31, 2008, in Docket No. 20080006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

<sup>4</sup>Order No. PSC-2001-2514-FOF-WS, issued December 24, 2001, in Docket No. 20010006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

<sup>5</sup>Order No. PSC-2011-0287-PAA-WS, issued July 5, 2011, in Docket No. 20110006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

<sup>6</sup>Order No. PSC-2018-0327-PAA-WS, issued June 26, 2018, in Docket No. 20180006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

<sup>7</sup>Order No. PSC-2019-0267-PAA-WS, issued July 1, 2019, in Docket No. 20190006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

<sup>8</sup>Order No. PSC-2020-0222-PAA-WS, issued June 29, 2020, in Docket No. 20200006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

Docket No. 20210006-WS

Date: June 3, 2021

proceeding. If a utility files cost of equity testimony, the Commission will determine the appropriate ROE based on the evidentiary record in that proceeding.

The Commission has jurisdiction pursuant to Section 367.081, F.S.

## Discussion of Issues

**Issue 1:** What is the appropriate range of returns on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.?

**Recommendation:** Staff recommends that the current leverage formula approved by the Commission in Order No. PSC-2020-0222-PAA-WS continue to be used until readdressed in 2022. Accordingly, staff recommends the following leverage formula:

$$\text{ROE} = 6.05\% + (1.80 \div \text{Equity Ratio})$$

Where the Equity Ratio = Common Equity  $\div$  (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 7.85 percent at 100 percent equity to 10.55 percent at 40 percent equity

The Commission should cap returns on common equity at 10.55 percent for all WAW utilities with equity ratios less than 40 percent. Imposing a cap serves to discourage imprudent financial risk. This cap is consistent with the methodology approved by Order No. PSC-2020-0222-PAA-WS. (Osorio, D. Buys)

**Staff Analysis:** Section 367.081(4)(f), F.S., authorizes the Commission to establish a leverage formula to calculate a reasonable range of returns on common equity for WAW utilities. The Commission must establish this leverage formula not less than once a year. For administrative efficiency, the leverage formula is used to determine the appropriate return for an average Florida WAW utility. Staff continues to believe the leverage formula is a sound, workable methodology that reduces the costs and administrative burdens in WAW rate cases by eliminating the need for cost of equity testimony. However, use of the leverage formula by utilities is discretionary and a utility can file cost of equity testimony in lieu of using the leverage formula. As is the case with other regulated companies under the Commission's jurisdiction, the Commission has discretion in the determination of the appropriate ROE based on the evidentiary record in a proceeding. If one or more parties in a rate case or limited proceeding file testimony in lieu of using the leverage formula, the Commission will determine the appropriate ROE based on the evidentiary record in that proceeding.

## COVID-19 Economic Impact

In light of the uncertainty and recessionary impact on the economy caused by the COVID-19 pandemic, monetary policy remains accommodative, that is, Federal Reserve officials will continue to hold the federal funds rate at a level near zero for the near future. The Federal Open Market Committee (FOMC)<sup>9</sup> voted twice in March 2020 to reduce the target range for the federal funds rate. On March 3, 2020, the FOMC decided to lower the federal funds target range from 1.50 to 1.75 percent to 1.00 to 1.25 percent.<sup>10</sup> On March 15, 2020, the FOMC decided to

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<sup>9</sup>The FOMC, a committee within the Federal Reserve System, is charged under United States law with overseeing the nation's open market operations. This Federal Reserve committee makes key decisions about interest rates and the growth of the United States money supply.

<sup>10</sup>See "Federal Reserve Issues FOMC Statement" on March 03, 2020, available at <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200303a.htm>.

Date: June 3, 2021

lower the federal funds target range from 1.00 to 1.25 percent to 0.00 to 0.25 percent, and reasoned, “The effects of the coronavirus will weigh on economic activity in the near term and pose risks to the economic outlook.”<sup>11</sup> On April 28, 2021, the FMOC voted to maintain the target range for the federal funds rate at 0.00 to 0.25 percent. In its press release, the FMOC wrote:

The Committee seeks to achieve maximum employment and inflation at the rate of 2 percent over the longer run. With inflation running persistently below this longer-run goal, the Committee will aim to achieve inflation moderately above 2 percent for some time so that inflation averages 2 percent over time and longer-term inflation expectations remain well anchored at 2 percent. The Committee expects to maintain an accommodative stance of monetary policy until these outcomes are achieved. The Committee decided to keep the target range for the federal funds rate at 0 to 1/4 percent and expects it will be appropriate to maintain this target range until labor market conditions have reached levels consistent with the Committee’s assessments of maximum employment and inflation has risen to 2 percent and is on track to moderately exceed 2 percent for some time.<sup>12</sup>

While longer-term interest rates are higher than they were a year ago, and are forecast to increase over the next five quarters, the FMOC has stated it will continue to keep the federal funds rate low. This puts downward pressure on the spread between the Utility 25/30-year BBB Bond Yield and the U.S. 30-year Treasury Bond Yield as demonstrated in Figure 1-1. The lower interest rates set by the FMOC effectively decrease the overall result of the leverage formula and increase the spread between the upper and lower limits of the resulting range of the cost of equity. The range of the cost of equity for the 2021 leverage formula is 7.09 percent to 9.95 percent, or 286 basis points. This greater spread means a given change in the equity ratio will result in a greater change to the cost of equity. Staff believes it is not reasonable to set a range of returns on equity for the purpose of setting rates prospectively for the average Florida WAW utility using data that is heavily influenced by the Federal Reserve’s monetary policy to keep interest rates low. Due to this unusual and unique economic situation, staff recommends the current 2020 leverage formula remain in place. This recommendation is consistent with the Commission’s decision in the 2017 leverage formula docket to continue to use the 2016 leverage formula.<sup>13</sup> In that decision, the Commission found that the range of returns on equity was too large due to the low interest rates set by the FMOC. At that time, the assumed Baa3 rated utility bond rate was 5.66 percent. In this case the assumed Baa3 rated utility bond rate is 5.18 percent; 48 basis points lower than it was in the 2017 docket.

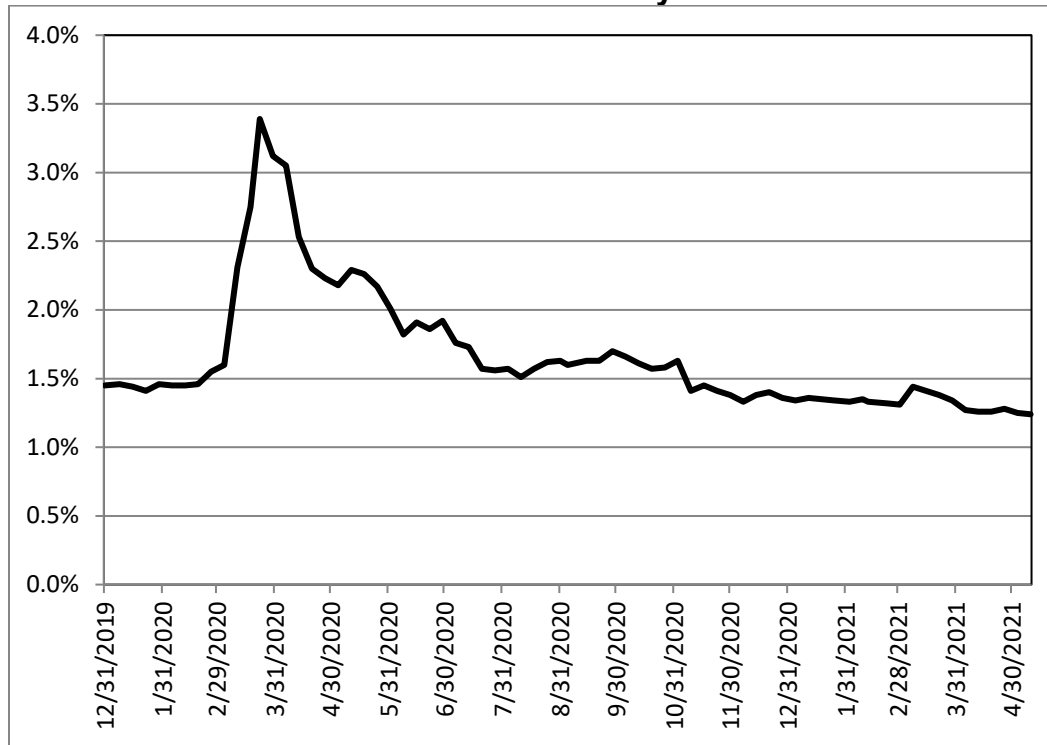
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<sup>11</sup>See “Federal Reserve Issues FMOC Statement” on March 15, 2020, available at <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200315a.htm>.

<sup>12</sup>See “Federal Reserve Issues FMOC Statement on April 28, 2021, available at <https://www.federalreserve.gov/newsevents/pressreleases/monetary20210428a.htm>.

<sup>13</sup>Order No. PSC-2017-0249-PAA-WS, issued June 26, 2017, in Docket No. 20170006-WS, *In re: Water and wastewater industry annual reestablishment of authorized range of return on common equity for water and wastewater utilities pursuant to Section 367.081(4)(f), F.S.*

**Figure 1-1**  
**Spread between the 25/30-Year Utility BBB Bond Yield**  
**and the 30-Year U.S. Treasury Bond Yield**



Source: Value Line Selection and Opinion

### Updated Leverage Formula

Although staff recommends the 2020 leverage formula remain in place, staff has provided the updated leverage formula using the most recent financial information should the Commission decide not to continue to use the 2020 leverage formula and approve the updated leverage formula using current financial data. The updated model produced the following leverage formula:

$$\text{Return on Common Equity} = 5.18\% + (1.91 \div \text{Equity Ratio})$$

Where the Equity Ratio = Common Equity ÷ (Common Equity + Preferred Equity + Long-Term and Short-Term Debt)

Range: 7.09 percent at 100 percent equity to 9.95 percent at 40 percent equity

In conjunction with the updated leverage formula, the returns on common equity should be capped at 9.95 percent for all WAW utilities with equity ratios less than 40 percent to discourage imprudent financial risk. This cap is consistent with the modified methodology approved in Order No. PSC-2018-0327-PAA-WS.



Date: June 3, 2021

### ***Methodology***

Staff updated the current leverage formula using the most recent financial data applied to the methodology approved in Order No. PSC-2001-2514-FOF-WS, reaffirmed in Order No. PSC-2008-0846-FOF-WS, and modified in Order No. PSC-2018-0327-PAA-WS. The methodology uses ROEs derived from widely accepted financial models applied to an index of natural gas and WAW companies that have actively traded stock and forecasted financial data. To establish the proxy group, staff selected five natural gas companies and seven WAW companies that derive at least 50 percent of their total revenue from regulated operations and have a Standard & Poor's credit rating. These selected companies have market power and are influenced significantly by economic regulation and have a median Standard & Poor's bond rating of "A."

Consistent with the approved methodology, staff used a market capitalization weighted average for: (1) the Discounted Cash Flow (DCF) model results, (2) the Beta values in the Capital Asset Pricing Model (CAPM), and (3) the equity ratio of the proxy group.

### ***Assumed Cost of Debt***

Staff used a projected yield on Baa2 rated corporate bonds to estimate the bond yield of an average Florida WAW utility in the calculation of the weighted average cost of capital of the proxy group. A projected yield is used because required returns are forward looking and based on projections.

Consistent with the methodology approved in Order No. PSC-2018-0327-PAA-WS, staff used the projected Baa2 rated corporate bond yield for the upcoming four quarters as published in the April 2021 Blue Chip Financial Forecast (Blue Chip). Staff then added the 120-month historical average spread between the Baa and A Corporate Utility Bond to the projected Baa2 rated corporate bond yield to estimate a projected Baa3 rated utility bond yield.

The projected assumed Baa3 rated utility bond yield of 5.18 percent used in the updated leverage formula calculation includes a 50 basis point adjustment for small-company risk and a 50 basis point adjustment for a private placement premium and remains low relative to historic levels. In comparison, the assumed Baa3 bond rate used in the current leverage formula is 6.05 percent. The lower Baa3 bond rate of 5.18 percent is the primary driver of the overall decrease in the results of the 2021 leverage formula compared to the 2020 leverage formula.

### ***Estimated Cost of Equity***

The current leverage formula relies on two ROE models described below. Staff adjusted the results of these models to reflect differences in risk and debt cost between the proxy group and the average Florida WAW utility. The ROE models include a four percent adjustment for flotation costs. The ROE models are as follows:

- 1) A multistage DCF model applied to an index of natural gas and WAW utilities that have publicly traded stock and are followed by Value Line. This DCF model is an annually compounded model and uses prospective dividend growth rates as published by Value Line.
- 2) A Capital Asset Pricing Model (CAPM) that relies on a market return for companies followed by Value Line, the average projected yield on 30-Year U.S. Treasury Bonds

published by Blue Chip as of April 1, 2021, and the weighted average beta for the index of natural gas and WAW utilities. The market return for the CAPM was calculated using a quarterly DCF model with stock prices as of April 16, 2021.

Consistent with Order No. PSC-2018-0327-PAA-WS, staff averaged the results of the DCF and CAPM models and adjusted the result of 7.89 percent as follows:

- 1) A bond yield differential of 53 basis points was added to reflect the difference in yields between an A/A2 rated bond, which is the median bond rating for the combined utility index, and a BBB-/Baa3 rated bond. Florida WAW utilities are assumed to be comparable to companies with the lowest investment grade bond rating which is Baa3. This adjustment compensates for the difference between the credit quality of 'A' rated debt and the assumed credit quality of a typical Florida WAW utility.
- 2) A private placement premium of 50 basis points is added to reflect the difference in yields on publicly traded debt and privately placed debt, which is illiquid. Investors require a premium for the lack of liquidity of privately placed debt.
- 3) A small-utility risk premium of 50 basis points is added because the average Florida WAW utility is too small to qualify for privately placed debt and smaller companies are considered by investors to be more risky than larger companies.

After the above adjustments, the resulting cost of equity estimate of 9.42 percent is included in the weighted average capital structure of the proxy group to derive the leverage formula. The derivation resulted in an adjustment of 52 basis points to reflect an estimated required return of 9.95 percent at an equity ratio of 40 percent. Table 1-1 shows the components that comprise the upper range of the leverage formula as compared between the 2020 leverage formula and the 2021 leverage formula.

**Table 1-1**  
**Adjusted ROE Comparison**

<b>Component</b>	<b>2020</b>	<b>2021</b>
DCF Model	7.39%	6.61%
CAPM	8.97%	9.18%
Average	8.18%	7.89%
Bond Yield Differential	0.60%	0.53%
Private Placement Premium	0.50%	0.50%
Small Utility Risk Premium	0.50%	0.50%
Adjusted ROE Average	9.78%	9.42%
Adj. To Reflect Required Equity Return at a 40% Equity Ratio	0.77%	0.52%
Upper Range of ROE	10.55%	9.95%

Source: Staff worksheets.

Date: June 3, 2021

Using the most recent financial data in the leverage formula decreases the lower end of the current allowed ROE range by 76 basis points and decreases the upper end of the range by 60 basis points. Overall, the spread between the range of returns on equity based on the updated leverage formula is 286 basis points (7.09 percent to 9.95 percent). In comparison, the range of returns on equity for the current leverage formula is 270 basis points (7.85 percent to 10.55 percent).

In developing the updated leverage formula, staff acknowledges that the leverage formula depends on four basic assumptions:

- 1) Business risk is similar for all WAW utilities;
- 2) The cost of equity is an exponential function of the equity ratio but a linear function of the debt to equity ratio over the relevant range;
- 3) The marginal weighted average cost of investor capital is constant over the equity ratio range of 40 percent to 100 percent; and
- 4) The debt cost rate at an assumed Moody's Baa3 bond rating, plus a 50 point private placement premium and a 50 basis point small-utility risk premium, represents the average marginal cost of debt to an average Florida WAW utility over an equity ratio range of 40 percent to 100 percent.

For these reasons, the leverage formula is assumed to be appropriate for the average Florida WAW utility.

### **Conclusion**

In staff's opinion, the current leverage formula range of returns on equity of 7.85 percent to 10.55 percent initially approved in 2019, and continued in 2020, is still reasonable for WAW utilities. Due to the economic uncertainty caused by the unique situation of the COVID-19 pandemic and the low interest rates set by the FMOC, staff believes retaining the use of the current 2020 leverage formula until the leverage formula is addressed again in 2022 is a reasonable alternative to updating the formula using current 2021 financial information. Staff continues to believe the leverage formula is a sound, workable methodology that reduces the costs and administrative burdens in WAW rate cases by eliminating the need for cost of equity testimony. Based on the aforementioned, staff recommends that the current leverage formula approved by the Commission in Order No. PSC-2020-0222-PAA-WS continue to be used until the leverage formula is readdressed in 2022.

Date: June 3, 2021

**Issue 2:** Should this docket be closed?

**Recommendation:** No. Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant. (Lherrison)

**Staff Analysis:** Upon expiration of the protest period, if a timely protest is not received from a substantially affected person, the decision should become final and effective upon the issuance of a Consummating Order. However, this docket should remain open to allow staff to monitor changes in capital market conditions and to readdress the reasonableness of the leverage formula as conditions warrant.

**SUMMARY OF RESULTS**  
**2021 Water and Wastewater Leverage Formula**

	Updated <u>Results</u>	Currently <u>In Effect</u>
(1) DCF ROE for Proxy Group	6.61%	7.39%
(2) CAPM ROE for Proxy Group	<u>9.18%</u>	<u>8.97%</u>
AVERAGE	7.89%	8.18%
Bond Yield Differential	0.53%	0.60%
Private Placement Premium	0.50%	0.50%
Small-Utility Risk Premium	0.50%	0.50%
Adjustment to Reflect Required Equity	<u>0.52%</u>	<u>0.77%</u>
Return at a 40% Equity Ratio		
Cost of Equity for Average Florida	<u>9.95%</u>	<u>10.55%</u>
WAW Utility at 40% Equity Ratio		

2020 Leverage Formula (Currently in Effect)

Return on Common Equity =  $6.05\% + (1.80 \div \text{Equity Ratio})$

Range of Returns on Equity = 7.85% to 10.55%

2021 Leverage Formula

Return on Common Equity =  $5.18\% + (1.91 \div \text{Equity Ratio})$

Range of Returns on Equity = 7.09% to 9.95%

**Marginal Cost of Investor Capital**  
**Average Water and Wastewater Utility**

<u>Capital Component</u>	<u>Ratio</u>	<u>Marginal Cost Rate</u>	<u>Weighted Marginal Cost Rate</u>
Common Equity	44.95%	9.42%	4.23%
Total Debt	<u>55.05%</u>	5.18%*	<u>2.85%</u>
	<u>100.00%</u>		<u>7.09%</u>

A 40% equity ratio is the floor for calculating the required return on common equity.  
The return on equity at a 40% equity ratio:  $5.18\% + (1.91 \div 0.40) = 9.95\%$

**Marginal Cost of Investor Capital**  
**Average Water and Wastewater Utility at 40% Equity Ratio**

<u>Capital Component</u>	<u>Ratio</u>	<u>Marginal Cost Rate</u>	<u>Weighted Marginal Cost Rate</u>
Common Equity	40.00	9.95%	3.98%
Total Debt	<u>60.00</u>	5.18%*	<u>3.11%</u>
	<u>100.00%</u>		<u>7.09%</u>

Where: ER = Equity Ratio =  $CE \div (CE + \text{Pref. Equity} + LTD + STD)$

\*Assumed Baa3 rate for April 2021 plus a 50 basis point private placement premium and a 50 basis point small utility risk premium.

Sources:

Value Line Selection and Opinion

Company 10-K Filings

**Discounted Cash Flow Model Results**  
**April 1, 2021 – April 30, 2021**

<u>Company</u>	<u>PRICE</u>			<u>Results</u>	<u>DCF</u>	
	<u>High</u>	<u>Low</u>	<u>Avg.</u>		<u>Weight</u>	<u>Weighted Results</u>
Atmos Energy Corporation	104.99	97.08	96.99	6.66%	16.73%	1.11%
Northwest Natural Holding	56.75	52.61	52.49	6.00%	2.00%	0.12%
ONE Gas, Inc.	81.90	75.69	75.64	7.27%	5.58%	0.41%
South Jersey Industries	25.47	22.45	23.00	10.15%	3.43%	0.35%
Spire, Inc.	77.95	72.70	72.31	6.65%	4.72%	0.31%
American States Water	83.31	75.34	76.15	6.69%	4.00%	0.27%
American Water Works	162.50	149.59	149.80	6.54%	38.33%	2.51%
Essential Utilities, Inc.	48.49	44.51	44.64	5.33%	15.73%	0.84%
California Water Services	61.98	55.85	56.56	7.28%	4.00%	0.29%
Middlesex Water	85.37	78.01	78.42	7.87%	2.00%	0.16%
SJW Group	69.22	61.79	62.88	7.06%	2.57%	0.18%
York Water	52.50	48.00	48.24	6.84%	0.89%	0.06%
<b>Average Weighted DCF Result:</b>						<b><u>6.61%</u></b>

The ROE of 6.61% represents the expected cost of equity required to match the average stock price, less 4% flotation costs, with the present value of expected cash flows.

Sources:

Stock prices obtained from Yahoo Finance for the 30-day period April 1, 2021 through April 30, 2021.

Natural Gas company dividends, earnings, and ROE obtained from Value Line Ratings & Reports issued March 01, 2021.

Water and Wastewater company dividends, earnings, and ROE obtained from Value Line Ratings & Reports issued April 12, 2021.

**Capital Asset Pricing Model Cost of Equity for  
Water and Wastewater Industry**

CAPM analysis formula

K = RF + Beta (MR-RF)

K = Investor's required rate of return

RF = Risk-free rate (Blue Chip forecast for 30-year U.S. Treasury Bond Yield)

Beta = Measure of industry-specific risk (market cap weighted average for natural gas and water utilities followed by Value Line)

MR = Market Return (Value Line Investment Analyzer Web Browser)

$$9.18\% = 2.60\% + 0.8410 (10.18\% - 2.60\%) + 0.20\%$$

Note:

Staff calculated the market return using a quarterly DCF model for a large number of dividend paying stocks followed by Value Line. For April 16, 2021, the result was 10.18%. Staff added 20 basis points to the CAPM result to account for a flotation cost of four percent.



**Bond Yield for Water and Wastewater Industry**

<u>Credit Rating</u>	<u>(A)</u>	<u>Equity Bond Yield Differential Adjustment</u>				<u>(BBB)</u>	<u>Spread</u>	<u>(BBB-)</u>
		<u>Spread</u>	<u>(A-)</u>	<u>Spread</u>	<u>(BBB+)</u>	<u>Spread</u>		
		0.1325		0.1325		0.1325		0.1325

120-Month Avg. Spread: 0.1325%

Total Equity Bond

Yield Differential 0.1325% x 4 = 0.53%

**Blue Chip Financial Forecasts – Corporate Baa Bond Rate**

	<u>2Q 2021</u>	<u>3Q 2021</u>	<u>4Q 2021</u>	<u>1Q 2022</u>
Forecast Corporate Baa Bond	3.90	4.00	4.10	4.20

Average Forecasted Corporate

Baa Bond Rate 4.05%

**Assumed Bond Yield for Baa3 Utilities: 0.1325% + 4.050% = 4.1825%**

	<u>Updated Results</u>	<u>Currently In Effect</u>
Private Placement Premium	0.50%	0.50%
Small-Utility Risk Premium	0.50%	0.50%
Assumed Bond Yield for Baa3 Utilities	4.18%	5.05%
Assumed Bond Yield for Florida WAW Utilities	5.18%	6.05%

Sources:

Value Line Selection and Opinion

Blue Chip Financial Forecast April 2021

**2021 Leverage Formula Proxy Group**

<u>Company</u>	S&P Bond <u>Rating</u>	Regulated <u>Revenue</u>	V/L Market Capital <u>(Millions)</u>	Equity <u>Ratio</u>	Weighted Equity <u>Ratio</u>	Weighted Value <u>Line Beta</u>
Atmos Energy Corporation	A-	93.12%	\$11,700	59.98%	10.04%	0.1339
Northwest Natural Holding	A+	98.07%	\$1,400	41.36%	0.83%	0.0160
One Gas, Inc.	BBB+	90.25%	\$3,900	52.58%	2.93%	0.0446
South Jersey Industries	A-	59.58%	\$2,400	32.16%	1.10%	0.0360
Spire Inc.	A-	94.42%	\$3,300	44.61%	2.11%	0.0401
American States Water	A+	67.72%	\$2,800	59.28%	2.37%	0.0260
American Water Works	A	86.18%	\$26,800	37.10%	14.22%	0.3258
Essential Utilities, Inc.	A	97.92%	\$11,000	45.24%	7.12%	0.1494
Cal. Water Serv. Group	A+	87.82%	\$2,800	44.35%	1.78%	0.0260
Middlesex Water	A	91.71%	\$1,400	54.88%	1.10%	0.0140
SJW Group	A-	97.30%	\$1,800	34.39%	0.89%	0.0219
York Water	A-	98.97%	\$625	52.69%	0.48%	0.0072
<b>Average</b>	<b>A</b>	<b>88.59%</b>	<b>\$5,827</b>	<b>46.64%</b>	<b>44.95%</b>	<b>0.8410</b>

Sources:

Value Line Ratings and Reports

SEC Form 10K for Companies

Standard &amp; Poor's

# Item 7

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Accounting and Finance (Norris) *ALM*  
Office of the General Counsel (Trierweiler, Crawford, Stiller) *JSC*

**RE:** Docket No. 20200189-WS – Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Utilities, Inc. of Florida.

**AGENDA:** 06/15/21 – Regular Agenda – Notice of Voluntary Dismissal - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Fay

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On August 3, 2020, Utilities, Inc. of Florida (UIF) filed a petition for approval to establish a regulatory asset to record costs incurred due to COVID-19, and therein requested deferral of incremental bad debt expense, assorted operating expenses, and safety-related costs attributable to COVID-19. On October 26, 2020, the Commission issued PAA Order PSC-2020-0403-PAA-WS, approving UIF's request. On November 16, 2020, The Office of Public Counsel (OPC) timely filed a Petition Protesting a Proposed Agency Action and requested an administrative hearing on the proposed action.

By Order No. PSC-2021-0104-PCO-PU, issued on March 12, 2021, UIF's petition in Docket No. 20200189-WS was consolidated with Docket Nos. 20200151-EI and 20200194-PU. In both of the dockets, OPC had also protested PAA Orders approving regulatory assets to record

costs incurred due to COVID-19.<sup>1</sup> By Order No. PSC-2021-0104-PCO-PU, all three dockets are scheduled for an administrative hearing on June 16, 2021. On March 30, 2021, UIF filed a Notice of Voluntary Dismissal Without Prejudice of its petition filed in Docket No. 20200189-WS.

The Commission has jurisdiction over this matter pursuant to Sections 367.011, 367.081, and 367.121, Florida Statutes (F.S.).

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<sup>1</sup> Docket Nos. 20200151-EI, *In re: Petition for approval of a regulatory asset to record costs incurred due to COVID-19, by Gulf Power Company*, and 20200194-PU, *In re: Petition for approval of regulatory assets to record costs incurred due to COVID-19, by Florida Public Utilities Company, Florida Public Utilities Company - Indiantown Division, Florida Public Utilities Company - Fort Meade, Florida Division of Chesapeake Utilities Corporation*.

## Discussion of Issues

**Issue 1:** Should the Commission acknowledge UIF's Notice of Voluntary Dismissal Without Prejudice?

**Recommendation:** Yes, the Commission should acknowledge UIF's voluntary dismissal of its Petition without prejudice. With the voluntary dismissal of UIF's petition, the Commission is divested of jurisdiction and Proposed Agency Action Order No. PSC-2020-0403-PAA-WS is a nullity. The Commission should further find that UIF is dismissed from the June 16, 2021 hearing, and there are no further actions required with respect to this docket. (Trierweiler)

**Staff Analysis:** It is a well established legal principle that the plaintiff's right to take a voluntary dismissal is absolute.<sup>2</sup> Once a voluntary dismissal is taken, the trial court loses all jurisdiction over the matter, and cannot reinstate the action for any reason.<sup>3</sup> Both of these legal principles have been recognized in administrative proceedings.<sup>4</sup> In *Saddlebrook Resorts, Inc. v. Wiregrass Ranch, Inc.*, 630 So. 2d 1123, 1128 (Fla. 2d DCA 1993), the court concluded that "the jurisdiction of any agency is activated when the permit application is filed . . . [and] is only lost by the agency when the permit is issued or denied or when the permit applicant withdraws its application prior to completion of the fact-finding process." In this case, the hearing has not yet occurred, so the fact-finding process is not complete.

Staff therefore recommends that the Commission acknowledge UIF's Notice of Voluntary Dismissal Without Prejudice of its petition as a matter of right, which is in accord with past Commission decisions.<sup>5</sup> With the voluntary dismissal of UIF's petition, the Commission is divested of jurisdiction and Proposed Agency Action Order No. PSC-2020-0403-PAA-WS is a nullity. The Commission should further find that UIF is dismissed from the June 16, 2021 hearing, and there are no further actions required with respect to this docket.

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<sup>2</sup> *Fears v. Lunsford*, 314 So. 2d 578, 579 (Fla. 1975); see also *Kelly v. Colston*, 977 So. 2d 692, 693 (Fla. 1st DCA 2008) (holding that a plaintiff's right to take a voluntary dismissal is nearly absolute).

<sup>3</sup> *Randle-Eastern Ambulance Service, Inc. v. Vasta, Elena, etc.*, 360 So. 2d 68, 69 (Fla. 1978)

<sup>4</sup> *Orange County v. Debra, Inc.*, 451 So. 2d 868 (Fla. 1st DCA 1983); *City of Bradenton v. Amerifirst Development Corporation*, 582 So. 2d 166 (Fla. 2d DCA 1991); *Saddlebrook Resorts, Inc. v. Wiregrass Ranch, Inc.*, 630 So. 2d 1123 (Fla. 2d DCA 1993), *aff'd*, 645 So. 2d 374 (Fla. 1994).

<sup>5</sup> See Order PSC-15-0116-FOF-EI, issued March, 4, 2015, in Docket No. 20140024-EI, *In re: Complaint of Brenda Rodriguez against Duke Energy Florida, Inc.*, Order No. PSC-13-0687-FOF-EI, issued December 31, 2013, in Docket No. 130007-EI, *In re: Environmental cost recovery clause*; Order No. PSC-11-0103-FOF-EI, issued February 7, 2011, in Docket No. 100410, *In re: Review of Florida Power & Light Company's earnings*; Order No. PSC-11-0417-PCO-EI, issued September 27, 2011, in Docket No. 110056, *In re: Petition by Tampa Electric Company for approval of extension of small power production agreement with City of Tampa*; Order No. PSC-08-0822-FOF-WS, issued December 22, 2008, in Docket No. 080500-WS, *In re: Application for transfer of majority organizational control of Indiantown Company Inc., holder of Certificate Nos. 387-Wand 331-S in Martin County, from Postco, Inc. to First Point Realty Holdings, LLC*; but see Order No. PSC-07-0297-FOF-SU, issued April 9, 2007, in Docket No. 020640-SU, *In re: Application for certificate to provide wastewater service in Lee County by Gistro, Inc.*, and Order No. PSC-96-0992-FOF-WS, issued August 5, 1996, in Docket No. 950758-WS, *In re: Petition for approval of transfer of facilities of Harbor Utilities Company, Inc., to Bonita Springs Utilities and cancellation of Certificates Nos. 272-W and 215-S in Lee County* (voluntary dismissal cannot be utilized to divest the Commission as an adjudicatory agency of its jurisdiction granted to it by the legislature).

Date: June 3, 2021

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. No further action by the Commission is required in this docket and the docket should be closed. (Trierweiler)

**Staff Analysis:** No further action by the Commission is required in this docket and the docket should be closed.

# Item 8



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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Engineering (Wooten, Doehling, Ellis, King, Ramos) *TB*  
Division of Accounting and Finance (Mouring) *ALM*  
Division of Economics (Kunkler, Wu) *JGH*  
Office of the General Counsel (Brownless) *JSC*

**RE:** Docket No. 20200234-EI – Petition for approval of direct current microgrid pilot program and for variance from or waiver of Rule 25-6.065, F.A.C., by Tampa Electric Company.

**AGENDA:** 06/15/21 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On October 27, 2020, Tampa Electric Company (TECO or Company) filed a petition for approval of a direct current (DC) microgrid pilot program (DC Pilot) and associated variance or waiver from the terms of Rule 25-6.065, Florida Administrative Code (F.A.C.). On December 8, 2020, staff conducted an informal meeting with the Company and interested persons. During this informal meeting, staff and interested persons made the Company aware of concerns regarding its request for a variance from Rule 25-6.065, F.A.C. In response to these concerns, the Company filed an amended petition on March 4, 2021, withdrawing its request for the variance from Rule 25-6.065, F.A.C. This recommendation addresses the amended petition.

The proposed DC Pilot program involves the installation of new DC electric microgrid technology and associated generating equipment collectively known as the Block Energy System (BES). The BES will be a TECO-owned system that interconnects battery storage and solar photovoltaic (PV) equipment at customer residences with community sited battery storage and traditional generation using an underground DC distribution system and controlled by a power management algorithm. This BES will provide up to 37 homes with power in the Hillsborough County housing development, Medley at Southshore Bay, within TECO's service area. The Company proposes the DC Pilot be implemented for a period of four years, if the Commission grants approval of the DC Pilot. As of March 1, 2021, one home is complete and occupied, with construction underway on 19 other homes.

Emera Technologies LLC (ETL) is the parent company of Emera Technologies Florida, Inc. (ETFI). ETL constructed and deployed a prototype of the BES at Kirtland Air Force Base, in Albuquerque, New Mexico in December 2019. ETL advertises its BES as a business opportunity for investor-owned utilities to own and earn a return on equipment at the customer dwelling that would otherwise be customer-owned and behind-the-meter. ETFI is an affiliate of TECO that entered into an engineering, procurement, and construction agreement (EPC Agreement) in which ETFI will design, engineer, supply, install, test and commission the BES. TECO and Metro Development Group (Metro) entered into an agreement (Developers Agreement) that allows both ETFI and TECO access to the housing development to install, operate and maintain the system. This Developers Agreement grants TECO an easement for the Community Energy Park (CEP) and AC distribution system. TECO and Lennar Homes Inc. (Lennar) entered into an agreement (Builders Agreement) in which Lennar will build the homes that will be participating in the DC Pilot. As outlined in the Builders Agreement, TECO will have access to the BES and traditional AC distribution system in the housing development for installation, operation, and maintenance.

As of April 22, 2021, there were no comments from either customers or interested parties filed in the docket. The Commission has jurisdiction over this matter pursuant to Sections 366.05, 366.06 and 366.91, Florida Statutes (F.S.).

Date: June 3, 2021

## Discussion of Issues

**Issue 1:** Should the Commission approve TECO's proposed DC Pilot program?

**Recommendation:** Yes, the Commission should approve the proposed DC Pilot program with the following modifications: 1) costs associated with the DC Pilot program should be capped at \$1.99 million, and 2) the Company should provide annual reports to the Commission as detailed in the petition as well as a survey, in year three, of the DC Pilot on the participants' willingness to pay a monthly surcharge for increased reliability. While participating customers will not realize direct energy savings similar to traditional customer-owned or leased solar installations, the participants may experience a slightly higher level of reliability when compared to other customers in the same sub-division. In addition, the potential system benefits of the DC Pilot program as proposed are dependent on participating customers' willingness to pay a premium for incremental reliability benefits. Staff recommends that the Pilot commence on the date the consummating order is issued and terminate four years from that date, if no request for hearing is timely filed. If a request for hearing is timely filed, the Pilot shall be held in abeyance pending final hearing. (Wooten, Doehling, Mouring, Wu)

### **Staff Analysis:**

#### **Description of Proposed DC Pilot Program**

Under the proposed DC Pilot, TECO will contract with ETFI to install and operate battery storage and solar PV equipment at approximately 37 single family detached houses within a particular sub-division. The housing development will be connected by the underground DC microgrid, in addition to the traditional alternating current (AC) distribution system (AC grid). Pursuant to the Addendum included in the purchase and sale agreement, customers who purchase a home in the development will be required to participate in the DC Pilot at no additional cost. The terms of the Addendum are further discussed below.

Each house participating in the DC Pilot would have an inverter installed to convert the DC microgrid power to AC for the house, along with an average of 7.8 kilowatts (kW) of solar photovoltaic (PV) panels and 17.7 kilowatt-hours (kWh) of standard battery storage. Each house would have a device called a Block Box, which contains the inverter, battery storage, and related control equipment. The Block Box will connect the house with the solar PV array and the DC microgrid.

In addition, TECO would install 240 kWh of battery storage and a pair of reciprocating natural gas generators totaling 350 kW at a location called the CEP.<sup>1</sup> The housing development is also connected to TECO's AC distribution system to provide power in the event of any failure of the BES.

The Block Box control equipment and CEP are connected by fiber optic cables to the housing development's network and will automatically manage power using a control algorithm. The control algorithm seeks to optimize power generation and delivery. For example, TECO stated that if one home's Block Box battery is depleted, the BES can deliver excess power from other

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<sup>1</sup>Response to Staff's 1<sup>st</sup> Data Request, No. 12, and supplemental response to Staff's 7<sup>th</sup> Data Request, No. 3.

Date: June 3, 2021

homes or the CEP. Similarly, the control algorithm can also dispatch the CEP natural gas generators or import power from the AC grid if the solar panels or batteries are not able to meet demand. In addition, TECO stated the algorithm could be set to prioritize exporting power from the BES to support reliable operation of the AC grid, or could isolate the BES in the event of widespread AC grid outages.

Under the DC Pilot, a participant's energy consumption will be measured by a single meter and participants will be billed under the standard residential tariff rate. As such, their bills will be no different than if they were not participating in the DC Pilot. As the solar PV arrays are owned and operated by TECO, participants would not be able to claim any higher renewable energy usage. This is because all the assets installed under the DC Pilot are front-of-the-meter (Company owned), whereas customer-owned or leased roof top solar resources are behind-the-meter. In a traditional customer-owned or leased solar PV system and behind-the-meter battery storage, the customer can offset all or part of their energy usage and receive bill credits for excess generation. Such customers are also able to claim they produced renewable energy, such as through renewable energy credits. Under the proposed pilot, any excess generation beyond what is required to charge the Block Box and CEP batteries will be exported to the AC grid for the benefit of non-participants.<sup>2</sup> However, as the DC Pilot is sized to meet the needs of the participants, staff believes this benefit to be minimal.

The proposed length of the DC Pilot is four years, if the Commission grants approval of the DC Pilot. TECO has communicated to staff that as of March 1, 2021, one home is occupied and that the BES is prepared to be energized at this time. Although the term of the DC Pilot is four years, TECO intends for the BES to be the permanent electric supply for the homes in the community and it is designed to last for decades. In the event of equipment failure or if a customer leaves the DC Pilot, TECO is building out redundant AC infrastructure in the housing development, including manual switches that would allow each house to transfer from the BES to TECO's traditional infrastructure. If TECO determines at the end of the Pilot that the DC Microgrid is not effective, the DC infrastructure will be removed and the Company will continue to utilize the CEP. Therefore, staff recommends that the DC Pilot be approved for a four year period beginning on the date the Commission's consummating order is issued.

### ***Program Goals***

TECO stated that the purpose of the DC Pilot is to test the capability of the BES to provide power to residential homes with a high level of renewable energy as well as superior reliability and resiliency. More specifically, the goals of the DC Pilot will test the ability of the BES to: (1) ride through all upstream AC distribution system disturbances with no interruption to the customer; (2) integrate high levels of renewable energy targeted to be at least 60 percent of the total energy used by the homes participating in the DC Pilot; and (3) reduce impacts on the transmission and distribution system during times of peak demand. TECO asserts that if the DC Pilot meets these objectives, then the quantifiable benefits would include: (1) increased renewable penetration, (2) reduced system losses, (3) reduced generation capacity costs, (4) reduced system transmission and distribution capacity costs, (5) reduced energy costs, and (6) increased reliability. Staff believes these goals are reasonable for the DC Pilot; however, staff

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<sup>2</sup>Response to Staff's 1<sup>st</sup> Data Request, No. 14.

Date: June 3, 2021

also believes that any approval should be clear that participating customers will not realize any direct energy (kWh) savings, unlike traditional customer-owned or leased solar installations, and that the benefit of increased reliability would be marginal compared to the increased reliability resulting solely from the community being served by the underground AC distribution system.

### ***Reporting Requirements***

As described in the Company's petition, TECO will produce annual reports during the DC Pilot, to be provided to the Commission. These annual reports will describe the results as well the successes and failures to produce the expected benefits of the DC Pilot. In addition to annual reports, the Company will produce a final report to provide to the Commission. This final report will be an assessment of the overall DC Pilot and determine the merits of a possible permanent program to be presented to the Commission. Within these reports the Company intends to make both quantitative and qualitative analyses that would: (1) compare the cost of providing local distribution service from a DC microgrid to the cost of a standard AC system; (2) describe whether the system performs as expected; (3) describe whether any incremental operation and maintenance (O&M) expenses may arise; and (4) describe what benefits the microgrid provided with respect to reliability and resiliency. These reports will also include input from DC Pilot participants. In year three of the pilot, staff recommends that TECO survey the DC Pilot participants on their willingness to pay a monthly surcharge for this premium service. The results of this survey should be included in the final report.

### **Terms of the DC Pilot**

#### ***Terms of the Agreements***

The EPC Agreement with ETFI designates that the BES will initially operate under a one year test year period which TECO can suspend if certain performance criteria are not met. If the system is suspended within this one year test period, ETFI would be obligated at their expense to dismantle the system and TECO would serve the participants with the AC distribution system.<sup>3</sup> The CEP would be kept by TECO as a generation resource to be utilized in the future.

TECO and Metro Development Group (Metro) entered into an agreement (Developers Agreement) that allows both ETFI and TECO access to the housing development to install, operate and maintain the system. This Developers Agreement grants TECO an easement for the CEP and AC distribution system. TECO and Lennar Homes Inc. (Lennar) entered into an agreement (Builders Agreement) in which Lennar will build the homes that will be participating in the DC Pilot. As outlined in the Builders Agreement, TECO will have access to the BES and traditional AC distribution system in the housing development for installation, operation and maintenance. Furthermore the Builders Agreement details that TECO will own, operate, and maintain the solar panels installed on the roofs of homes in the DC Pilot.

When a homebuyer purchases a home from Lennar, they will sign a purchase and sale agreement which includes an Addendum. The Addendum provides the terms of DC Pilot participation and states, in part, that BES equipment is located on the homebuyer's lot pursuant to a utility easement. Staff provided the Company feedback on language referring to a restriction on customer-owned or leased rooftop solar during the term of the Pilot Program in the original version of the Addendum. In response, the Company and Lennar revised the Addendum and

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<sup>3</sup>Response to Staff's 7<sup>th</sup> Data Request, No. 2.

Date: June 3, 2021

removed this restriction. A copy of this revised Addendum is included as Attachment A. As stated in the Addendum, TECO is informing participants that the program will “deliver greener and highly reliable electricity directly to your home.” As discussed above, participating customers will not realize any direct energy or bill savings. The revised Addendum also informs homebuyers that, pursuant to Rule 25-6.065, F.A.C., they have the right to install their own solar PV and net meter their excess generation. Customers who elect to install their own solar PV will be removed from the DC Pilot and instead be served by the AC grid. Regardless, TECO will still retain its easement allowing it to own, operate, and maintain the BES equipment on the homeowner’s property, including the TECO-owned rooftop solar panels.

### ***Terms of the Pilot Suspension***

If TECO suspends the system, either after the one year test period or at the end of the DC Pilot, TECO will either remove the solar panels from the roofs or sign over ownership of the solar panels to the homeowners. If the homeowners choose to take ownership of the solar panels, they would purchase the solar panels from TECO for a nominal value of \$1.00 so they could be repurposed to provide homeowners with solar power that would be subject to an interconnection agreement with TECO. Because the balance of the BES system would remain with TECO, the solar panel arrays would need an inverter installed to convert the solar PV’s DC generation to AC power to allow a proper connection to TECO’s AC distribution system. This conversion process would have an estimated cost of \$3,000 to \$5,000 per home.<sup>4</sup> This conversion cost would be covered by either ETFI or TECO according to the terms set forth within the EPC Agreement.<sup>5</sup>

### **DC Pilot Costs**

The estimated installed capital cost for the DC Pilot is \$1.99 million inclusive of the solar panel arrays, Block Boxes, CEP, and DC Infrastructure required for the system. The redundant AC distribution system has an estimated capital cost of \$60,000, which is similar in costs to a typically installed AC distribution system, and is separate from the \$1.99 million total.<sup>6</sup> The software provided by ETFI, at no cost to TECO, to operate the system will have no capital or O&M expenses for the Company. The information learned from the DC Pilot will be applied in the development of a software maintenance agreement with ETFI that would be implemented at the DC Pilot’s conclusion. In response to a staff data request, TECO stated it will not incur O&M costs for the duration of the DC Pilot.<sup>7</sup> The DC Pilot will inform TECO on how to develop an O&M plan to be implemented at the conclusion of the DC Pilot.

### ***Revenue Requirements***

The Company is seeking recovery associated with the DC microgrid system and AC distribution system to be recovered through base rates, including O&M expenses incurred by TECO. This recovery request is included in TECO’s rate increase petition filed in Docket No. 20210034-EI on April 9, 2021.

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<sup>4</sup>Response to Staff’s 1<sup>st</sup> Data Request, No. 23.

<sup>5</sup>Response to Staff’s 7<sup>th</sup> Data Request, No. 2.

<sup>6</sup>Response to Staff’s 2<sup>nd</sup> Data Request, No. 2b.

<sup>7</sup>Response to Staff’s 1<sup>st</sup> Data Request, No. 2.

Date: June 3, 2021

The two gas-fired generators at the CEP would be dispatched based on local need instead of traditional least-cost economic dispatch and will have an annual estimated fuel cost of \$11,000 in the pilot's first two years and \$10,000 for the remainder of the DC Pilot.<sup>8</sup> The Company is also seeking recovery of the fuel costs associated with the CEP to be recovered through the fuel adjustment clause. The Company has estimated total program costs for both capital and fuel, absent consideration of the recovery of any potential losses from the sale of the equipment at the end of the program, would equate to approximately a \$0.01 per 1,000 kWh on a residential monthly bill.<sup>9</sup>

### ***Depreciation***

TECO states that the DC Pilot involves "new and innovative technologies," thus, new categories of plant assets will be installed.<sup>10</sup> The Company indicated that if the DC Pilot is approved, it will submit a request to the Commission for establishing several new depreciation accounts/subaccounts, with corresponding depreciation rates, to record these plant assets.<sup>11</sup>

### ***Proposed Accounting Treatment***

TECO has requested that the capital investment, along with O&M expenses, associated with its proposed DC Pilot be recorded above-the-line, and be approved for recovery through base rates. The Company's proposed DC Pilot offers participants the option to purchase the rooftop solar panels installed at their home for a nominal fee of \$1.00, in the event that the Company elects to discontinue the DC Pilot. As outlined in Section 4 of its proposal, the Company may discontinue the program after review of the final report. Under this scenario, the losses generated by selling the rooftop solar panels below the unrecovered net book value would also be recorded above-the-line in Account 421.2 Loss on Disposition of Property. Further, any resulting net losses would be recovered through base rates from the general body of customers. The Company stated that the proposed buyout option would help to avoid potential removal costs and allow the existing rooftop solar panels to be repurposed to allow the homeowners to produce solar power for their own needs. The Company has also stated that removing solar panels that have already been installed would subvert its goal of increasing cost-effective solar generation in its service territory.

### **Conclusion**

While the DC Pilot is not currently projected to be cost-effective, the main benefit of the program is in the form of the data collected regarding the reliability and costs of the BES. The DC Pilot program would allow the Company to verify the incremental reliability benefits to participants and costs to TECO for the BES. This information may then enable the Company to accurately determine the level of improved reliability and the potential cost differential in order to develop a future program or tariff offering.

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<sup>8</sup>Revised Response to Staff's 1<sup>st</sup> Data Request, No. 2.

<sup>9</sup>Response to Staff's 5<sup>th</sup> Data request, No. 2.

<sup>10</sup>Response to Staff's 2<sup>nd</sup> Data Request, No. 1.

<sup>11</sup>Revised Response to Staff's 4<sup>th</sup> Data request, No. 1a.

Date: June 3, 2021

As previously stated, staff believes the system benefits gained from any excess generation being exported to the benefit of non-participants to be minimal. Furthermore, as TECO has not claimed that reliability concerns are a problem in this service area, the benefit of increased reliability would be marginal compared to the increased reliability resulting from the community being served solely by the underground AC distribution system. In addition, participants would not be able to claim any higher renewable energy usage as all assets are front-of-meter installations.

ETL advertises its BES as a business opportunity for investor-owned utilities to own and earn a return on equipment at the customer dwelling that would otherwise be customer-owned or leased and behind-the-meter. In the current petition, the general body of ratepayers will be paying for the market research to gather data that could be used to potentially increase reliability for participating customers. As indicated by the Company, while current DC Pilot program participants will face no additional charges, future implementations of the BES concept may require a premium rate structure to recover an incremental cost of service from participants.<sup>12</sup>

As discussed above, participating customers will not realize direct energy savings similar to customer-owned or leased solar installations. However, participants may experience a slightly higher level of reliability when compared to other ratepayers in the same sub-division. As such, the potential system benefits of the DC Pilot program as proposed are dependent on participating customers' willingness to pay a premium for incremental reliability benefits. Therefore, the Commission should approve the proposed DC Pilot program with the following modifications: 1) costs associated with the DC Pilot program should be capped at \$1.99 million, and 2) the Company should provide annual reports to the Commission as detailed in the petition as well as a survey, in year three, of the DC Pilot on the participants' willingness to pay a monthly surcharge for increased reliability. Staff recommends that the Pilot commence on the date the consummating order is issued and terminate four years from that date, if no request for hearing is timely filed. If a request for hearing is timely filed, the Pilot shall be held in abeyance pending final hearing.

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<sup>12</sup>Revised Response to Staff's 1<sup>st</sup> Data Request, No. 7a.



Date: June 3, 2021

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by this proposed agency action files a request for a hearing within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. If a request for hearing is timely filed, this docket shall remain open pending final hearing. (Brownless)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order. If a request for hearing is timely filed, this docket shall remain open pending final hearing.

Date: June 3, 2021



TAMPA ELECTRIC COMPANY  
DOCKET NO. 20200234-EI  
STAFF'S FIRST DATA REQUEST  
BATES PAGES: 10 - 11i  
FILED: JANUARY 11, 2021  
REVISED: MARCH 4, 2021

## Information on Your Home and the Block Energy System

Hello Prospective Homebuyer,

Tampa Electric is the proud energy provider to all homes in the Medley development at Southshore Bay. It is exciting that you are considering one of the select homes using the BlockEnergy™ Microgrid Pilot Program.

This innovative new energy solution will deliver greener and highly reliable electricity directly to your home. It combines renewable solar energy with battery storage and local generation, located right in the Medley subdivision, to create a local energy system, called a microgrid. The microgrid includes Tampa Electric-owned rooftop solar panels on each home that supply electricity to the subdivision.

As a homeowner, you will benefit from this reliable and resilient supply of electricity in your home – while paying the same rate for electricity as other Tampa Electric residential customers.

Homes served by the BlockEnergy Microgrid Pilot Project will have a permanent easement allowing Tampa Electric to place the solar panels on the roof and the Block Box next to the home. These will remain on the property during the pilot program and afterwards, unless Tampa Electric and the Public Service Commission decide to discontinue the program. Tampa Electric will maintain this equipment during the term of the pilot project and afterwards, if the project is continued.

Homeowners in this microgrid may install additional rooftop solar panels on their home. However, Tampa Electric would disconnect the home from the microgrid and would instead serve it through a traditional electric connection. The homeowner would also need to:

- Ensure the solar panels meet Tampa Electric's technical requirements.
- Sign an "interconnection agreement" with Tampa Electric before connecting the solar panels.

If additional solar panels are installed, Tampa Electric will continue to have access to, and receive power from, the company-owned rooftop solar panels on the home.

Because of the added reliability of this new Tampa Electric energy solution, we do not expect homes in the microgrid to need alternate forms of power, such as a backup generator. However, homeowners who choose to install or use a generator should hire a licensed and qualified electrician to ensure that the generator is installed in accordance with applicable laws, codes and requirements.

The brochure provided by the builder highlights some of the additional benefits of owning a home in this community. You can also learn more about it at [www.blockenergy.com/medley](http://www.blockenergy.com/medley). If you would like to contact Tampa Electric to learn more about the BlockEnergy Microgrid Project, please call us at (813) 223-0800 or 1-888-223-0800 Monday through Friday 7:30 a.m. to 6:00 p.m. or email us at [MicroGrid@tampaelectric.com](mailto:MicroGrid@tampaelectric.com).

We look forward to having you become a part of this exciting microgrid project.

# Item 9

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Engineering (Phillips, Ellis) *TB*  
Office of the General Counsel (Weisenfeld) *TLT*

**RE:** Docket No. 20210068-EQ – Petition for approval of standard offer contract and request for temporary waiver of rule on annual filing, by Florida Public Utilities Company.

**AGENDA:** 06/15/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 06/30/2021 (The Commission must vote to grant or deny the rule waiver by this date)

**SPECIAL INSTRUCTIONS:** None

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### Case Background

Section 366.91(3), Florida Statutes (F.S.), requires each investor-owned utility (IOU) to continuously offer to purchase capacity and energy from renewable generating facilities and small qualifying facilities. Florida Public Service Commission (Commission) Rules 25-17.200 through 25-17.310, Florida Administrative Code (F.A.C.), implement the statute and require each IOU to file with the Commission, by April 1 of each year, a revised standard offer contract based on the next avoidable fossil fueled generating unit of each technology type identified in the utility's current Ten-Year Site Plan (TYSP). On April 1, 2021, Florida Public Utilities Company (FPUC) filed a petition for approval of its standard offer contract and request for temporary waiver of Rule 25-17.250(1), F.A.C. If granted, the rule waiver would allow FPUC to forgo

filing a standard offer contract until such a time as the Company enters into a new contract or contracts for power supply to its electric divisions.

FPUC's standard offer contract filing does not reflect any changes or revisions from the filing approved by Order No. PSC-2020-0166-PAA-EQ.<sup>1</sup> The Commission has jurisdiction over this standard offer contract pursuant to Sections 120.542, 366.04 through 366.055, and 366.91, F.S.

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<sup>1</sup>Order No. PSC-2020-0166-PAA-EQ, issued May 22, 2020, in Docket No. 20200109-EQ, *In re: Florida Public Utilities Company's Petition for Approval of 2020 Standard Offer Contract*.

## Discussion of Issues

**Issue 1:** Should the Commission grant FPUC's petition for a temporary waiver of Rule 25-17.250(1), F.A.C.?

**Recommendation:** Yes. Staff recommends that FPUC's petition for a temporary waiver of Rule 25-17.250(1) should be granted. (Weisenfeld, Phillips).

**Staff Analysis:** Rule 25-17.250(1), F.A.C., requires each electric investor-owned utility (IOU) to file with the Commission by April 1 of each year a standard offer contract for the purchase of firm capacity and energy from renewable generating facilities and small qualifying facilities with a design capacity of 100 kW or less. The standard offer contracts reflect each IOU's next avoided unit shown in its most recent TYSP. The rule further requires that "[e]ach investor-owned utility with no planned generating unit identified in its TYSP shall submit a standard offer based on avoiding or deferring a planned purchase." As FPUC is a non-generating electric IOU, it does not file a TYSP and has no avoidable generating units.

Rule 25-17.250(2)(a), F.A.C., provides that in order to ensure that each IOU continuously offers a contract to producers of renewable energy, each standard offer contract shall remain open until: 1) a request for proposal is issued for the utility's planned generating unit, or 2) the IOU files a petition for a need determination or commences construction for generating units, or 3) the generating unit upon which the standard offer contract was based is no longer part of the IOU's generation plan, as evidenced by a petition to that effect filed with the Commission or by the utility's most recent TYSP.

In its petition, FPUC asks that it be granted a temporary waiver from the requirement to file its standard offer contract annually on April 1 of each year until such time as the Company has entered into a new contract or contracts for power supply to its electric divisions. FPUC is a party to a long-term purchase power contract with Florida Power & Light and Gulf Power Company that extends to 2026. FPUC states that granting a waiver from the filing requirement would enable the Company to avoid for up to five years the cost and use of resources necessary to accomplish the yearly filing, since the Company's standard offer contract will not change until its purchased power agreements change. FPUC provides that in the event that the Company's purchased power agreements change sooner and in a manner that it becomes necessary to amend the Company's standard offer contract, that the Company would make a revised standard offer filing as soon as necessary to reflect such changes to its purchased power agreement.

Pursuant to 120.542(6), F.S., FPUC's request for a rule waiver was submitted to Florida Administrative Weekly for publication. Interested parties had until May 13, 2021, to submit written comments. No public comment was received.

Section 120.542, F.S., authorizes the Commission to grant variances or waivers to the requirements of its rules where the person subject to the rules demonstrates that the purpose of the underlying statute has been or will be achieved by other means, and when application of a rule would create substantial hardship or would violate principles of fairness. "Substantial hardship" as defined in this Section means "a demonstrated economic, technological, legal, or other type of hardship to the person requesting the variance or waiver."

Date: June 3, 2021

The underlying statutory provision pertaining to Rule 25-17.250(1), F.A.C., is Section 366.91, F.S. Section 366.91(1), F.S., states:

The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this State. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the State, improve environmental conditions, and make Florida a leader in new and innovative technologies.

Section 366.91(3), F.S., enumerates requirements to promote the development of renewable energy resources. In summary:

- a) By January 1, 2006, each investor-owned electric utility (IOU) and municipal utility subject to the Florida Energy Efficiency and Conservation Act (FEECA) of 1980 must continuously offer to purchase capacity and energy from specific types of renewable resources;
- b) The contract shall be based on the utility's full avoided costs, as defined in Section 366.051, Florida Statutes; and,
- c) Each contract must provide a term of at least ten years.

Staff recommends that FPUC has demonstrated it will suffer a substantial hardship if the provisions of Rule 25-17.250(1), F.A.C., are strictly applied, and therefore, FPUC has provided a basis for a waiver of the rule. Granting FPUC a waiver of Rule 25-17.250(1), F.A.C., would help the Company avoid unnecessary costs and allocation of resources to produce a filing that is otherwise redundant of the prior year's filing and is already in compliance with the pertinent rules and statutes. A waiver of Rule 25-17.250(1), F.A.C., allows the Commission to continue promoting the development of renewable energy resources in Florida because it allows FPUC to offer an economically feasible standard offer contract for renewable energy.

Date: June 3, 2021

**Issue 2:** Should the Commission approve the proposed standard offer contract filed by FPUC?

**Recommendation:** Yes. The provisions of FPUC's standard offer contract conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C. The proposed standard offer contract provides flexibility in the arrangements for payments so that a developer of renewable generation may select the payment stream best suited to its financial needs. (Phillips)

**Staff Analysis:** Section 366.91(3), F.S., and Rule 25-17.250, F.A.C., require that FPUC, as an IOU, continuously make available a standard offer contract for the purchase of firm capacity and energy from renewable generating facilities (RF) and small qualifying facilities (QF) with design capacities of 100 kilowatts (kW) or less. Pursuant to Rules 25-17.250(1) and (3), F.A.C., the standard offer contract must provide a term of at least 10 years, and the payment terms must be based on the utility's next avoidable fossil-fueled generating unit identified in its most recent TYSP, or if no avoided unit is identified, its next avoidable planned purchase.

FPUC has determined that no changes are necessary from last year's filing that was approved by Order No. PSC-2020-0166-PAA-EQ, issued in Docket No 20200109-EQ. Attachment A of this recommendation reflect identical provisions approved last year.

### **Conclusion**

Staff recommends that FPUC's proposed standard offer contract be approved as filed. The provisions of FPUC's standard offer contract conform to all requirements of Rules 25-17.200 through 25-17.310, F.A.C., and should therefore be approved and made effective as of the date of the Commission's vote.



**Issue 3:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the Proposed Agency Action Order, this docket should be closed upon the issuance of a consummating order. (Weisenfeld)

**Staff Analysis:** At the conclusion of the protest period, if no protest is filed, this docket should be closed upon the issuance of a consummating order.

EXHIBIT A

FLORIDA PUBLIC UTILITIES COMPANY

**STANDARD OFFER RATE SCHEDULES**

**FOR PURCHASES FROM COGENERATORS & RENEWABLE GENERATING  
FACILITIES**

*(First Revised Sheet No. 1, and Original Sheet No. 2; Second Revised Sheet No. 3; First Revised Sheet No. 4; First Revised Sheet No. 5; Original Sheet Nos. 6 – 17; Second Revised Sheet No. 18; Original Sheet Nos. 19-23; Second Revised Sheet No. 24; Original Sheet Nos. 24.1 – 32; First Revised Sheet No. 33; Original Sheet No. 34)(clean only for all, except First Revised Sheet Nos. 1, 4, and 33, which are included in clean and legislative versions).*

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

First Revised Sheet No. 1  
Cancels Original Sheet No. 1

**STANDARD OFFER RATE SCHEDULES**  
**FOR PURCHASES FROM COGENERATORS & RENEWABLE GENERATING FACILITIES**  
**ORIGINAL VOLUME NO. I**  
**OF**  
**FLORIDA PUBLIC UTILITIES COMPANY**  
**FILED WITH**  
**FLORIDA PUBLIC SERVICE COMMISSION**

Communications concerning this Tariff should be addressed to:

Florida Public Utilities Company  
208 Wildlight Avenue  
Yulee, FL 32097

Attn: Director, Regulatory Affairs

Issued by: Jeffry Householder, President

Effective:

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 2

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Issued by: Jeffrey Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Second Revised Sheet No. 3  
Cancels First Revised Sheet No. 3

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*TERRITORY SERVED*

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FPUC serves the following divisions:

The Northwest Florida (Marianna) Division serves various cities and towns and rural communities in Jackson, Calhoun and Liberty Counties. Currently, Gulf Power is Florida Public Utilities Company's Full Requirements Wholesale Power Supplier for the Northwest Florida Division.

The Northeast Florida (Fernandina Beach) Division serves Amelia Island, located in Nassau County. Florida Power and Light is Florida Public Utilities Company's Full Requirements Wholesale Power Supplier for the Northeast Florida Division.

Issued by: Jeffry Householder, President

Effective: JUN 05 2018

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

First Revised Sheet No. 4  
Cancels Original Sheet No. 4

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*MISCELLANEOUS GENERAL INFORMATION*

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Florida Public Utilities Company was incorporated under the Laws of Florida in 1924 and adopted its present corporate name in 1927.

It is principally engaged in the distribution and sale of natural gas and electricity. Its operations are entirely within the State of Florida.

The general office of the Company is located at:

208 Wildlight Avenue  
Yulee, Florida 32097

Division offices are located at:

2825 Pennsylvania Avenue  
Marianna, Florida 32448-4004

and

780 Amelia Island Parkway  
Fernandina Beach, Florida 32034

Issued by: Jeffry Householder, President

Effective:

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

First Revised Sheet No. 5

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*TECHNICAL TERMS AND ABBREVIATIONS*

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When used in the Rules and Regulations or the rate schedules in this volume, the following terms shall have the meanings defined below:

- A. Applicant – any person, firm, or corporation applying for electric service from the Company at one location.
- B. Avoided Cost – shall be equal to the costs avoided by the Company's respective Full Requirements Wholesale Power Suppliers for its Northwest and Northeast Florida Divisions, at the time the purchase is made, as calculated by the Full Requirements Wholesale Power Suppliers in accordance with FPSC Rules 25-17.0825 and 17.0832, F.A.C., when making equivalent purchases of energy and/or capacity from a QF or from a QS, as that term is defined at Sheet No. 22.
- C. Capacity Factor – the total kilowatt hours of energy delivered to the Company during a specified period, divided by the product of: (1) the maximum kilowatt capacity contractually committed for delivery to the Company by the QF during that same specified period and (2) the sum of the total hours during that same period less those hours during which the Company was unable to accept energy and capacity deliveries from the QF.
- D. Capacity Rating – the QF's maximum generating capability, expressed in kilowatts, connected to the Company's electric system.
- E. Company – Florida Public Utilities Company acting through its duly authorized officers or employees within the scope of their respective duties.
- F. Customer – any person, firm, or corporation purchasing electric service at one location from the Company under Rules and Regulations of the Company.
- G. Energy – current delivered, expressed in kilowatt-hours.
- H. Full Requirements Wholesale Power Supplier - the wholesale power supplier providing energy and capacity to FPUC under a service contract that includes a load following obligation, whereby the supplier is required to meet the demand on FPUC's distribution system as that demand fluctuates on an hour by hour basis.
- I. KW or Kilowatt – one thousand (1,000) watts.
- J. KWh or Kilowatt-hour – one thousand (1,000) watt-hours.
- K. Month – the period between any two (2) regular readings of the QF's meters at approximately thirty (30) day intervals.

Issued by: Jeffry Householder, President

Effective: JUL 13 2017

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 6

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*TECHNICAL TERMS AND ABBREVIATIONS*

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- L. Qualifying Facility or QF - means a cogenerator, small power producer, or non-utility generator that either through self-certification to, or certification by, the Federal Energy Regulatory Commission ("FERC") meets the criteria established by the FERC pursuant to the Public Utility Regulatory Policies Act of 1978, as amended, ("PURPA") or as otherwise designated by Florida Public Service Commission ("FPSC") under Rule 25-17.080, Florida Administrative Code. For purposes of this tariff, the term shall also include a Renewable Generating Facility.
- M. Power Factor – ratio of kilowatts to kilovolt-amperes.
- N. Renewable Generating Facility – means an electrical generating unit or group of units at a single site, interconnected for synchronous operation and delivery of electricity to an electric utility, where the primary energy in British Thermal Units (BTUs) used for the production of electricity is from one or more of the following sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, hydroelectric power, or waste heat from a commercial or industrial manufacturing process, consistent with Rules 25-17.210 and 25-17.220, Florida Administrative Code
- O. Service Line – all wiring between the Company's main line or transformer terminals and the point of connection to the QF's service entrance.
- P. Single Service – one set of facilities over which the QF may deliver electric power to the Company.
- Q. Year – a period of three hundred sixty-five (365) consecutive days except that in a year having a date of February twenty-nine (29) such year shall consist of three hundred sixty-six (366) consecutive days.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016



Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
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*RULES AND REGULATIONS*

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Applicable to As-Available and Firm Standard Offer Rate Schedules

1. General

Company shall furnish service under its rate schedules and these Rules and Regulations as approved from time to time by the Florida Public Service Commission and in effect at the time. These Rules and Regulations shall govern all service except as specifically modified by the terms and conditions of the rate schedules or written contracts. Copies of currently effective Rules and Regulations are available at the office of the Company.

Unless otherwise specifically provided in any applicable rate schedule or in a written contract by or with Company, the term of any agreement shall become operative on the day the Qualifying Facility commences delivery of electric energy and/or capacity to the Company and shall continue for a period of one (1) year and continuously thereafter until cancelled by three (3) or more days' notice by either party.

2. Application for Service

An application for service will be required by Company from each Applicant. The application or contract for service shall be in writing. Such application shall contain the information necessary to determine the type of service desired and the conditions under which service will be rendered.

The application or depositing of any sum of money by the Applicant shall not require Company to render service until the expiration of such time as may be reasonable required by Company to determine if Applicant has complied with the provisions of these Rules and Regulations and as may reasonably be required by Company to install the required facilities.

3. Election of Rate Schedule

Optional rates are available for the purchase of electric energy by the Company from a Qualifying Facility, namely, As-Available Energy and Firm Power. These optional rates and the conditions under which they are applicable are set forth in Company's Rate Schedule SOA and Rate Schedule SOF. Upon application for service or upon request, Applicant or Qualifying Facility shall elect the applicable rate schedule best suited to his requirements. Once the Qualifying Facility has elected a rate schedule, no change shall be allowed during the remaining term of the then existing contract.

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4. Deposits

An initial deposit in the first year of operation may be required of a Qualifying Facility who is also a purchasing customer of the Company and whose monthly dollar value of purchases from the Company are estimated to exceed the monthly dollar value of sales to the Company. Such deposit shall be based upon the singular month in which the Qualifying Facility's projected purchases from the company exceed by the greatest amount the Company estimated purchased from the Qualifying Facility. The initial deposit shall be equal to twice the amount of the difference estimated for that month and shall be paid upon interconnection. For each year thereafter, a review of actual sales and purchases between the Qualifying Facility and the Company shall be made to determine the actual month of maximum difference. The deposit shall be adjusted to equal twice the greatest amount by which the actual monthly purchases by the Qualifying Facility exceed the actual sales to the Company in that month.

In lieu of a cash deposit, a Qualifying Facility may,

- (a) Furnish a satisfactory guarantor to secure payment of bills for the service requested, with such guarantor required to be a customer of the Company with a satisfactory payment record.
- (b) Furnish an irrevocable letter of credit from a bank.
- (c) Furnish a surety bond.

Retention by Company, prior to a final settlement, of said deposit shall not be considered as payment or part payment of any bill for service. Company shall, however, apply said deposit against unpaid bills for service. In such case, Qualifying Facility shall be required to restore deposit to original amount within 30 days.

Company shall pay interest on deposits annually at the rate of two per cent (2%) per annum. No Qualifying Facility shall be entitled to receive interest on his deposit until and unless the deposit has been in existence for a continuous period of six months; then he shall be entitled to receive interest from the day of placement of deposit. Deposits shall cease to bear interest upon discontinuance of service.

Upon discontinuance of service, the deposit and accrued interest shall be credited against the final account and the balance, if any, shall be returned promptly to the qualifying Facility, but in no event later than fifteen (15) days after service is discontinued.

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5. Metering

Company shall specify the type of meter or meters that shall be installed to properly measure purchases of capacity and energy from Qualifying Facility. The cost of such meters and their installation shall be borne by the Qualifying Facility. Time-differentiated recording meters may be required by the Company when:

- (a) A time record of measured capacity and/or energy purchased is required by the Company to determine the proper billing units.

When a Qualifying Facility is also a purchasing Customer of the Company, the measurement of such purchases by the Qualifying Facility shall be through a separate meter or meters apart from the meter or meters measuring sales to the Company. The cost of meters for measuring purchases by Customer shall be borne by the Company.

Before installation and periodically thereafter, each meter shall be tested and adjusted using methods and accuracy limits prescribed or approved by the Florida Public Service Commission. Periodic test and inspection intervals shall not exceed the maximum period allowed by the Florida Public Service commission.

If, on test, the meter is found to be in error in excess of the prescribed accuracy limits, fast or slow, the amount of refund or charge to the Qualifying Facility shall be determined by methods prescribed or approved by the Florida Public Service Commission.

In the event of stoppage or failure of any meter to register, Qualifying Facility may be paid for such period on an estimated basis; using data on electric energy delivered to Company in a similar period or such other data as may be reasonably obtainable to aid in determining estimated deliveries.

6. Billing and Payments

A. Meter Reading and Payment Schedules

Each Qualifying Facility's meter will be read by the Company at monthly intervals as near as possible to the last day of each calendar month. The Company will prepare the bill and render payment to the Qualifying Facility for purchases during the preceding calendar month within twenty (20) business days following the day the meter is read. Details of the billing units and the applicable rates will accompany payment.

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B. Selection of Billing Methodology

Qualifying Facility may elect to make either simultaneous purchases and sales or net sales to the Company. Once made, the selection of a billing methodology may be changed at the option of the Qualifying Facility, subject to the following provisions:

- (1) not more frequently than once every twelve (12) month;
- (2) to coincide with the next Fuel and Purchased Power Cost Recovery Factor billing period;
- (3) upon at least thirty (30) days' advance written notice;
- (4) upon the installation by the Company of any additional metering equipment reasonably required to effect the change in billing and upon payment by the Qualifying Facility for such metering equipment and its installation;
- (5) upon completion and approval by the Company of any alterations to the interconnection reasonably required to effect the change in billing and upon payment by the Qualifying Facility for such alterations; and
- (6) where the election to change billing methods will not contravene the provisions of the tariff under which the Qualifying Facility receives service from the Company or any other previously agreed upon contractual provisions between the Qualifying Facility and the Company.

Should Qualifying Facility elect to make simultaneous purchases and sales, purchases of electric service by the Qualifying Facility from the Company shall be billed at the retail rate schedule under which the Qualifying Facility would receive service as a non-generating customer of the Company; sales of electricity by the Qualifying Facility to the Company shall be purchased at the Company's applicable rate for such purchases.

Should Qualifying Facility elect to make net sales, the monthly energy and capacity sales to the Company shall be purchased at the Company's applicable rate for such purchases. For those months during which Qualifying Facility is a net purchaser, purchases shall be billed at the Company's retail rate schedule under which the Qualifying Facility would receive service as a non-generating customer of the Company.

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Where simultaneous purchases and sales are made by Qualifying Facility, payments to Qualifying Facility may, at the option of Qualifying Facility, be shown as a credit to Qualifying Facility's bill. Details of the billing units and the applicable rates will accompany the bill to Qualifying Facility. A credit will not exceed the amount of the Qualifying Facility's bill from Company and the excess, if any, will be paid to the Qualifying Facility.

7. Interconnection and Standards

Rule 25-17.87 of the Florida Public Service Commission will apply. Copies of this rule are available upon request at the office of the Company.

8. Responsibilities of Qualifying Facilities Providing Power for Purchase by Company

Company shall have the right to enter the premises of Qualifying Facility at all reasonable hours for the purpose of making such inspection of Qualifying Facility's installation as may be necessary for the proper application of Company's rate schedules and Rules and Regulations for installing, removing, testing, or replacing its apparatus or property; for reading meters; and for the entire removal of Company's property in event of termination of service for any reason.

All property of Company installed in or upon a Qualifying Facility's premises used and useful in supplying service is placed there under the Qualifying Facility's protection. All reasonable care shall be exercised by the Qualifying Facility to prevent loss or damage to such property and, ordinary wear and tear excepted, Qualifying Facility will be held liable for any such loss of property or damage thereto and shall pay to Company the cost of necessary repairs or replacements.

Qualifying Facility will be held responsible for breaking the seals, tampering or interfering with Company's meter or meters or other equipment of Company installed on Qualifying Facility's premises, and no one except employees of Company will be allowed to make any repairs or adjustments to any meter or other piece of apparatus belonging to Company except in case of emergency.

Qualifying Facility shall not increase the capacity rating of its electric generating equipment connected to the Company's system without first notifying Company in writing and obtaining written consent.

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Company shall have the right, if necessary; to construct its poles, lines and circuits on Qualifying Facility's property and to place its transformers and other apparatus on the property or within the buildings of Qualifying Facility, at a point or points convenient for such purposes, and Qualifying Facility shall provide suitable space for such installation.

Company shall have the right to require, if necessary, the installation of such remote metering equipment as may be necessary for Qualifying Facility to properly monitor Company's load at the delivery point of the Company's Full Requirements Wholesale Power Supplier on the system to which Qualifying Facility is connected. The cost of such installation shall be borne by Qualifying Facility.

9. Responsibilities and Obligations of Company

Company will use reasonable diligence to purchase electric energy and/or capacity from Qualifying Facility as may be practically and safely allowable within the limits of load and line capacity on the Company's system to which Qualifying Facility is connected. Company may interrupt its purchases hereunder, however, for the purpose of making necessary alterations and repairs, but only for such time as may be reasonable or unavoidable, and Company shall give Qualifying Facility, except in case of emergency, reasonable notice of its intention so to do, and shall endeavor to arrange such interruption so as to inconvenience Qualifying Facility as little as possible.

Whenever Company deems an emergency warrants interruption or limitation in the service being rendered, such interruption or limitation shall not constitute a breach of contract and shall not render Company liable for damages suffered thereby or excuse Qualifying Facility from further fulfillment of the contract.

Company shall not be liable to Qualifying Facility for any loss, injury, or damage from use of Qualifying Facility's equipment or from the use of electric service furnished by Company or from the connection of Company's facilities with Qualifying Facility's wiring and equipment.

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10. Force Majeure

Except for payment of bills due, neither the Company nor the Qualifying Facility shall be liable in damage to the other for any act, omission or circumstances occasioned by or in consequence of any acts of God, strikes, lockouts, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, unforeseeable or unusual weather conditions, washouts, arrests and restraint of rules and peoples, civil disturbances, explosions, breakage or accident to machinery or electric lines, temporary failure of electric supply, the binding order of any court or governmental authority which has been resisted in good faith by all reasonable legal means, and any other cause, whether of the kind herein enumerated, or otherwise, and whether caused or occasioned by or happening on account of the act or omission of Company or Qualifying Facility or any other person or concern not reasonably within the control of the party claiming suspension and which by the exercise of due diligence such party is unable to prevent or overcome. A failure to settle or prevent any strike or other controversy with employees or with anyone purporting or seeking to represent employees shall not be considered to be a matter within the control of the party claiming suspension.

11. Discontinuance of Service

The Company reserves the right, but assumes no liability for failure so to do, to discontinue service to or from any Qualifying Facility for cause as follows:

A. Without notice,

- (1) If a dangerous condition exists on Qualifying Facility's wiring or energy-generation devices.
- (2) Because of a fraudulent use of the service or tampering with Company's equipment.
- (3) Upon request by Qualifying Facility, subject to any existing agreement between Qualifying Facility and Company as to unexpired term of service.

B. After five (5) working days' notice in writing,

- (1) For nonpayment of bill for electric service.
- (2) For refusal or failure to make a deposit or increase a deposit, when requested, to assure payment of bills.
- (3) For a violation of these Rules and Regulations which Qualifying Facility refuses or neglects to correct.

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12. Reconnection of Service

When service shall have been disconnected for any of the reasons set forth in these Rules and Regulations, Company shall not be required to restore service until the following conditions have been met by Qualifying Facility.

A. Where service was discontinued without notice,

- (1) The dangerous condition shall be removed and, if the Qualifying Facility had been warned of the condition a reasonable time before the discontinuance and had failed to remove the dangerous condition, a reconnection fee of fifty two dollars (\$52.00) shall be paid.
- (2) All bills for service due Company by reason of fraudulent use or tampering shall be paid, a deposit to guarantee the payment of future bills shall be made, and a reconnection fee of fifty two dollars (\$52.00) shall be paid.
- (3) If reconnection is requested on the same premises after discontinuance, a reconnection fee of fifty two dollars (\$52.00) shall be paid.

B. Where service was discontinued with notice,

- (1) Satisfactory arrangements for payment of all bills for service then due shall be made and a reconnection fee of fifty two dollars (\$52.00) shall be paid.
- (2) A satisfactory guarantee of payment for all future bills shall be furnished and a reconnection fee of fifty two dollars (\$52.00) shall be paid.
- (3) The violation of these Rules and Regulations shall be corrected and a reconnection fee of fifty two dollars (\$52.00) shall be paid.

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13. Limits of Purchases/Changes

Company reserves the right, subject to regulatory authority having jurisdiction, to limit, restrict or refuse service that will jeopardize the reliable, safe and proper operation of its distribution system and/or jeopardize service to existing Customers at fair and reasonable rates. Qualifying Facilities providing energy and/or capacity hereunder further recognize that the applicable avoided cost may change, from time to time, and payments hereunder will change to reflect the appropriate avoided cost. In the event that any change in applicable federal or state law renders service under this tariff uneconomic or otherwise unduly burdensome to the Company and its customers or the FPSC denies cost recovery for any purchases made pursuant to this tariff, the Company may seek relief from its obligations hereunder from the appropriate jurisdictional authority.

14. Special Contracts

The Company and a Qualifying Facility may enter into a separately negotiated contract for the purchase of capacity and/or energy which varies from the terms and conditions specified in these Rules and Regulations and rate schedules. All such contracts will be filed with the Florida Public Service Commission in accordance with its applicable rules and regulations.

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*SOA Rate Schedule*

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STANDARD OFFER AS AVAILABLE (SOA) RATE SCHEDULE

Availability

The Company will purchase energy offered by any Qualifying Facility with delivery to either of the two individually operated areas served by the Company, both of which are located in the northern part of Florida.

The Northwest Florida (Marianna) Division serves various cities and towns and rural communities in Jackson, Calhoun and Liberty Counties.

The Northeast Florida (Fernandina Beach) Division serves Amelia Island, located in Nassau County.

Applicability

To any Qualifying Facility located in the State of Florida and producing energy for sale to the Company on an As-Available basis. As-Available Energy is described by Florida Public Service Commission (FPSC) Rule 25-17.0825, F.A.C. and is energy produced and sold by a Qualifying Facility on an hour-by-hour basis for which contractual commitments as to the time, quantity, or reliability of delivery are not required.

Character of Service

Alternating current, 60 cycle, single phase or three phase at the options of the Company, at a specified interconnection point and voltage.

Limitations of Service

All service pursuant to this schedule is subject to FPSC Rules 25-17.080 through 25-17.091, Florida Administrative Code.

Rate for Purchases by the Company

1. Capacity Rates
  - A. Capacity payments to Qualifying Facilities will not be paid under this Rate Schedule. Capacity payments to Qualifying Facilities may be obtained under Rate Schedule SOF, Firm Power, or pursuant to a negotiated contract.

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*SOA Rate Schedule (Continued)*

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Continued from Sheet No. 17

2. Energy Rates

- A. As-Available energy is purchased at a unit cost based on the Avoided Cost, as defined in this Tariff, as applicable to the relevant Company Division. Payments for As-Available Energy to the QF shall only be made for energy that the Company can utilize to meet total system load for the division to which the deliveries are made.
- B. Details on Gulf Power's avoided costs, the current Full Requirements Wholesale Power Supplier for Northwest Division, can be reviewed in their Rate Schedule COG-1. Details on Florida Power and Light's avoided costs, as the current Full Requirements Wholesale Power Supplier for the Northeast Division, can be reviewed in their Renewable Energy Standard Offer Contract within their Tariff.
- C. A fixed percentage factor for avoided line losses (if any) will be determined by the Company for each QF based upon the locations of the QF on the Company's distribution system and the applicable voltage level.
- D. Energy payments to a QF will be reduced by: (1) the amount of any charges assessed by the Company's Full Requirements Wholesale Power Supplier to the Company pursuant to contract as a result of the delivery of energy to the Company by the QF; and (2) any additional administrative, technical, or legal costs incurred by the Company as a direct result of the delivery of energy to the Company by the QF.

3. Negotiated Rates

Upon agreement by both the Company and the Qualifying Facility, an alternate contract rate for the purchase of As-Available Energy may be separately negotiated.

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*SOA Rate Schedule (Continued)*

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4. Charges to Qualifying Facility

- A. Customer charge for meter reading, billing and other administrative costs shall be equal to the currently monthly customer facilities charge as set forth in the rate schedule which is applicable to the QF for the purchase of energy from the Company.
- B. Interconnection Charge for Non-Variable Utility Expenses  
The QF shall bear the cost required for the interconnecting the QF, including metering. The QF shall have the option of payment in full for interconnection or making equal monthly installment payments with interest over a period not exceeding 36 months toward the full cost of such interconnection. In the event that the QF elects the monthly installment option, the initial contract term of service shall not be less than the total months over which such installment payments are to be made.
- C. Interconnection Charge for Variable Utility Expenses  
The Qualifying Facility shall be billed monthly for the cost of variable utility expenses associated with the operation and maintenance of the interconnection facilities. These include (a) the Company's inspections of the interconnection facilities and (b) maintenance of any equipment beyond that which would be required to provide normal electric service to the Qualifying Facility if no sales to the Company were involved.
- D. Taxes and Assessments  
The Qualifying Facility shall be billed monthly an amount equal to any taxes, assessments or other impositions, for which the Company is liable as a result of its purchases of As-Available Energy produced by the Qualifying Facility. In the event the Company receives a tax benefit as a result of its purchases of As-Available Energy produced by the Qualifying Facility, the Qualifying Facility shall be entitled to a refund in an amount equal to such benefit.

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*SOA Rate Schedule (Continued)*

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Terms of Service

1. It shall be the QF's responsibility to inform the Company in writing of any change in the QF's electric generating capacity.
2. Any electric service delivered by the Company to the QF shall be metered separately and billed under the rate schedule applicable to the Company's other customers with similar load characteristics. The terms and conditions of the Company's standard rate schedule applicable to the class of service shall pertain.
3. A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.97, F.A.C., and the following:
  - A. In the first year of operation, the security deposit shall be based upon the singular month in which the Qualifying Facility's projected purchases from the Company exceed, by the greatest amount, the Company's estimated purchases from the Qualifying Facility. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit shall be required upon interconnection.
  - B. For each year thereafter, a review of the actual sales and purchases between the Qualifying Facility and the Company shall be conducted to determine the actual month of maximum difference. The security deposit shall be adjusted to equal twice the greatest amount by which the actual monthly purchases by the Qualifying Facility exceed the actual sales to the Company in that month.
4. The Company shall specify the point of interconnection and voltage level.
5. The Company will, under the provisions of this schedule, require an agreement with the Qualifying Facility upon the Company's filed Standard Interconnection Agreement for parallel operation between the Qualifying Facility and the Company. The Qualifying Facility shall recognize that its generation facility may exhibit unique interconnection requirements which will be separately evaluated, modifying the Company's General Standards for Safety and Interconnection where applicable.
6. Service under this Schedule is subject to the Rules and Regulations of the Company and the Rules and Regulations of the Florida Public Service Commission.

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*SOA Rate Schedule (Continued)*

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7. The minimum term for any standard offer contract entered into pursuant to this rate schedule shall be five (5) years from the in-service date of the avoided unit up to a maximum of the life of the avoided unit for any qualifying facility that is a co-generator or small power producer with a design capacity of 100 kW or less, or ten (10) years from the in-service date of the avoided unit up to a maximum of the life of the avoided unit for a qualifying renewable generating facility.

Special Provisions

1. Special contracts deviating from the above Schedule are allowable provided they are agreed to by the Company and approved by the Florida Public Service Commission.
2. For a Qualifying Facility in the Company's service territory that wishes to contract with another electric utility which is directly or indirectly interconnected with the Company, the Company will, upon request, provide information on the availability and the terms and conditions of the specified desired transmission service.

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*SOF Rate Schedule*

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STANDARD OFFER FIRM (SOF) RATE SCHEDULE

Availability

The Company will, under the provisions of this Schedule and the Company's "Standard Offer Contract for the Purchase of Firm Capacity and Energy from a Renewable Energy Facility or a Small Qualifying Facility" ("Standard Offer Contract"), purchase firm capacity and energy offered by any Qualifying Facility with a design capacity of 100 KW or less or from a Renewable Generating Facility qualifying for this Schedule in accordance with Rule 25-17.250, Florida Administrative Code. For purposes of this SOF Rate Schedule only, both of these types of facilities shall also be referred to jointly herein as Qualified Seller or "QS".

The Company will purchase firm capacity and energy under this schedule offered by any Qualified Seller located within the State of Florida with delivery to either of the two individually operated areas served by the Company, both of which are located in the northern part of Florida.

The Northwest Florida (Marianna) Division serves various cities and towns and rural communities in Jackson, Calhoun and Liberty Counties.

The Northeast Florida (Fernandina Beach) Division serves Amelia Island, located in Nassau County.

Applicability

To Qualifying Facilities, with a design capacity of 100 KW or less, as specified in FPSC Rule 25-17.0832(4)(a) producing capacity and energy for sale to the Company on a firm basis pursuant to the terms and conditions of this schedule and the Company's "Standard Offer Contract" or to a Renewable Generating Facility producing capacity and energy for sale to the Company on a firm basis pursuant to the conditions of this Schedule and the Company's "Standard Offer Contract." Firm capacity and energy are described by FPSC Rule 25-17.0832, F.A.C., and are capacity and energy produced and sold by a QF or Renewable Generating Facility pursuant to the Standard Offer Contract provisions addressing (among other things) quantity, time and reliability of delivery.

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*SOF Rate Schedule (Continued)*

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Continued from Sheet No. 22

Character of Service

Alternating current, 60 cycle, single phase or three phase at the options of the Company, at a specified interconnection point and voltage.

Limitations of Service

All service pursuant to this schedule is subject to FPSC Rules 25-17.080 through 25-17.091, Florida Administrative Code.

Purchases under this schedule are subject to the Company's current standards for safety and interconnection and to FPSC Rules 25-17.080 through 25-17.091, F.A.C., and are limited to those Qualifying Sellers that:

- A. Beginning upon the date, as prescribed by the FPSC, that a Standard Offer is deemed available, execute the Company's Standard Offer Contract for the purchase of firm capacity and energy; and
- B. Commit to commence deliveries of firm capacity and energy no later than the date specified by the QS's owner or representative. Such deliveries will continue for a minimum of ten (10) years from the anticipated in-service date of the Company's Avoided unit or resource up to a maximum of the life of the Company's Avoided unit or resource.

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Cancels First Revised Sheet No. 24

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*SOF Rate Schedule (Continued)*

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Continued from Sheet No. 23

Rate for Purchases by the Company

1. Capacity and Energy Rates

- A. Firm Capacity and Energy are purchased at a unit cost, based on the Avoided Cost, as defined in this Tariff, for the relevant Company Division. Payments to the QS shall only be made for capacity and energy that the Company can utilize to meet its total system load for the division to which the deliveries are made.
- B. Details on Gulf Power's avoided capacity and energy costs, the current Full Requirements Wholesale Power Supplier for the Northwest Division, can be reviewed in their Rate Schedule COG-2. Details on Florida Power and Light's avoided capacity and energy costs, as the current Full Requirements Wholesale Power Supplier for the Northeast Division, can be reviewed in their Renewable Energy Standard Offer Contract within their Tariff.
- C. Payments will be made to the Qualifying Seller at the Avoided Cost for the applicable delivery division for each KW of billing capacity and kwh of energy provided - less: (1) the amount of any charges assessed by the Company's Full Requirements Wholesale Power Supplier to the Company pursuant to contract as a result of the delivery of energy to the Company by the QS; and (2) any additional administrative, technical, or legal costs incurred by the Company as a direct result of the delivery of energy to the Company by the QS.
- D. In the event that a delivery of energy and capacity by a QS does not allow the Company to avoid a capacity payment to its Full Requirements Wholesale Power Supplier, the QS will only be eligible for an Energy payment and will not receive payments for delivery of Billing Capacity.
- E. A fixed percentage factor for avoided line losses (if any) will be determined by the Company for each QF based upon the locations of the QF on the Company's distribution system and applicable voltage level.

2. Determination of Billing Capacity:

- A. The billing capacity in any month shall be based upon the KW capacity supplied by the QS during that month or a previous month valued at a rate equal to the Company's respective Full Requirements Wholesale Power Supplier's avoided cost of the same amount of capacity during the relevant period as calculated in accordance with FPSC Rule 25-17.0832, F.A.C. and reflected in the Full Requirements Wholesale Power Supplier's tariff on file with the FPSC.

Issued by: Jeffrey Householder, President

Effective: JUN 05 2018

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 24.1

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*SOF Rate Schedule (Continued)*

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Continued from Sheet No. 24.0

2. Determination of Billing Capacity:

- A. The billing capacity in any month shall be based upon the KW capacity supplied by the QS during that month or a previous month valued at a rate equal to the Company's respective Full Requirements Wholesale Power Supplier's avoided cost of the same amount of capacity during the relevant period as calculated in accordance with FPSC Rule 25-17.0832, F.A.C. and reflected in the Full Requirements Wholesale Power Supplier's tariff on file with the FPSC.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 25

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*SOF Rate Schedule (Continued)*

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Continued from Sheet No. 24

3. Measurement

- A. The QS's capacity input shall be measured on a time-differentiated demand meter. A QS within the territory served by the Company shall be required to purchase from the Company hourly recording meters to measure their energy deliveries to the Company. Energy purchases from a QS outside the territory of the Company shall be measured as the quantities scheduled for interchange to the Company by the Company's Full Requirements Wholesale Power Supplier.

4. Charges to the QS:

- A. Customer charge for meter reading, billing and other administrative costs shall be equal to the currently monthly customer facilities charge as set forth in the rate schedule which is applicable to the QS for the purchase of energy from the Company.
- B. Interconnection Charge for Non-Variable Utility Expenses  
The QS shall bear the cost required for the interconnecting the QS, including metering. The QS shall have the option of payment in full for interconnection or making equal monthly installment payments with interest over a period not exceeding 36 months toward the full cost of such interconnection. In the event that the QS elects the monthly installment option, the initial contract term of service shall not be less than the total months over which such installment payments are to be made.
- C. Interconnection Charge for Variable Utility Expenses  
The Qualifying Seller shall be billed monthly for the cost of variable utility expenses associated with the operation and maintenance of the interconnection facilities. These include (a) the Company's inspections of the interconnection facilities and (b) maintenance of any equipment beyond that which would be required to provide normal electric service to the Qualifying Seller if no sales to the Company were involved.
- D. Taxes and Assessments  
The Qualifying Seller shall be billed monthly an amount equal to any taxes, assessments or other impositions, for which the Company is liable as a result of its purchases of Firm Capacity and Energy produced by the Qualifying Seller. In the event the Company receives a tax benefit as a result of its purchases of Firm Capacity and Energy produced by the Qualifying Seller, the Qualifying Seller shall be entitled to a refund in an amount equal to such benefit.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016



Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 26

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*SOF Rate Schedule (Continued)*

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Continued from Sheet No. 25

Term of Service

1. It shall be the QS's responsibility to inform the Company in writing of any change in the QS's electric generating capacity.
2. Any electric service delivered by the Company to the QS shall be metered separately and billed under the rate schedule applicable to the Company's other customers with similar load characteristics. The terms and conditions of the Company's standard rate schedule applicable to the class of service shall pertain.
3. A security deposit will be required in accordance with FPSC Rules 25-17.082(5) and 25-6.97, F.A.C., and the following:
  - A. In the first year of operation, the security deposit shall be based upon the singular month in which the Qualifying Seller's projected purchases from the Company exceed, by the greatest amount, the Company's estimated purchases from the Qualifying Seller. The security deposit should be equal to twice the amount of the difference estimated for that month. The deposit shall be required upon interconnection.
  - B. For each year thereafter, a review of the actual sales and purchases between the Qualifying Seller and the Company shall be conducted to determine the actual month of maximum difference. The security deposit shall be adjusted to equal twice the greatest amount by which the actual monthly purchases by the Qualifying Seller exceed the actual sales to the Company in that month.
4. The Company shall specify the point of interconnection and voltage level.
5. The Company will, under the provisions of this schedule, require an agreement with the Qualifying Seller upon the Company's filed Standard Interconnection Agreement for parallel operation between the Qualifying Seller and the Company. The Qualifying Seller shall recognize that its generation facility may exhibit unique interconnection requirements which will be separately evaluated, modifying the Company's General Standards for Safety and Interconnection where applicable.
6. Service under this Schedule is subject to the rules and regulations of the Company and the rules and regulations of the Florida Public Service Commission.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 27

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*SOF Rate Schedule (Continued)*

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Continued from Sheet No. 26

Special Provisions

1. Special contracts deviating from the above Schedule are allowable provided they are agreed to by the Company and approved by the Florida Public Service Commission.
2. For a Qualifying Seller in the Company's service territory that wishes to contract with another electric utility which is directly or indirectly interconnected with the Company, the Company will, upon request, provide information on the availability and the terms and conditions of the specified desired transmission service.
3. As a means of protecting the Company's customers from the possibility of a Qualifying Seller not coming on line as provided for under an executed Standard Offer Contract and in order to provide the Company with additional and immediately available funds for its use to secure replacement and reserve power in the event that the QS fails to successfully complete construction and come on line in accord with the executed Standard Offer Contract, the Company requires that a cash completion security deposit equal to \$20 per KW of the nameplate capacity of the QS's generator unit(s) at the time the Company's Standard Offer Contract is executed by the QS. At the election of the QS, the completion security deposit may be phased in such that one half of the total deposit due is paid at contract execution and the remainder within 12 months after contract execution.

Depending on the nature of the QS's operation, financial health and solvency, and its ability to meet the terms and conditions of the Company's Standard Offer Contract, one of the following, at the Company's discretion, may be used as an alternative to a cash deposit as a means of securing the completion of the QS's project in accord with the executed Standard Offer Contract:

1. an unconditional, irrevocable direct pay letter; or
2. surety bond; or
3. other means acceptable to the Company.

The Company will cooperate with each QS seeking an alternative to a cash security deposit as an acceptable means of securing the completion of the QS's installation in accord with an executed Standard Offer Contract. The Company will endeavor in good faith to accommodate an equivalent to a cash security deposit which is in the best interests of both the QS and the Company's customers.

In the case of a governmental solid waste QS, pursuant to Subsection 366.91 (3), Florida Statutes and FPSC Rule 25-17.091, F.A.C., the following will be acceptable to the Company.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 28

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*SOF Rate Schedule (Continued)*

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Continued from Sheet No. 27

The unsecured promise of a municipal, county, or state government that it will pay the actual damages incurred by the Company because the governmental Facility fails to come on line prior to the planned in-service date for the Avoided Unit or Resource.

4. Given the terms and conditions ultimately set in the Standard Offer Contract, additional security requirements may be specified by the Company.
5. Company may decline to execute a Standard Offer Contract and seek relief from the FPSC, in accordance with FPSC Rule 5-17.0832(c), Florida Administrative Code, if the Company perceives that the offer will exceed the load requirements on its system or it obtains material evidence showing that because the qualifying facility is not financially or technically viable, it is unlikely that the committed capacity and energy would be made available to the utility by the date specified in the standard offer.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 29

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*FLORIDA PUBLIC UTILITIES COMPANY*

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STANDARD OFFER CONTRACT FOR FIRM PURCHASES FROM  
SMALL QUALIFYING FACILITIES AND  
QUALIFYING RENEWABLE GENERATING FACILITIES  
WITNESSETH:

That, in consideration of the terms and covenants hereinafter contained and incorporated herein by reference, the parties hereto agree as follows:

1. The customer has a means of generating electric energy at the following location:

\_\_\_\_\_  
\_\_\_\_\_

and agrees to meet Florida Public Service Commission Rule 25-17.87, Interconnection and Standards. This rule outlines the general standards for safety and interconnection to Company lines and is attached hereto as Exhibit.

2. The generating plant is described as follows:

A. Qualifying small power producer \_\_ or cogenerator \_\_\_\_.

B. Power Source (solar, wind, steam, hydro, etc.)\_\_\_\_\_.

C. Manufacturer's Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

D. Manufacturer's Reference Number, Type, Style, Model Number, etc.:

\_\_\_\_\_.

E. Manufacturers Serial Number:

\_\_\_\_\_.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016



Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
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Original Sheet No. 30

Continued from Sheet 29

- F. Name Plate Rating:  
\_\_\_\_\_.
- G. Maximum Rate of Energy Delivery to Company \_\_\_\_ KVA.
- H. Normal Rate of Energy Delivery to Company \_\_\_\_ KVA.
- I. Firm Capacity Delivered to Company \_\_\_\_ KW.
- J. Normal Monthly Energy Delivery to Company \_\_\_\_\_ KWH.
- K. Other Pertinent Data:  
\_\_\_\_\_  
\_\_\_\_\_.
3. The Qualifying Facility agrees to abide by the terms and provisions of Rate Schedule SOF, which is attached hereto as an Exhibit, and included in Company's Standard Offer Rate Schedule on file with the Florida Public Service Commission.
4. Energy and capacity (if applicable) purchased by Company from Qualifying Facility under the terms of this contract will be paid for in accordance with Rate Schedule SOF as approved by the Florida Public Service Commission, which may be modified from time to time in accordance with applicable law.
5. Standby, maintenance and supplementary power for the operation of the electric generating system and associated cogeneration plant load, if applicable, will be supplied separately under the Company's applicable filed standard rate schedules.
6. The Qualifying Facility shall pay the Company on or before the effective date of this Agreement a charge of \_\_\_\_ (Dollars) for equipment modifications and services furnished solely due to the interconnection of the Qualifying facility's generator to the Company's system. The Qualifying Facility may, at its option, pay the above amount in \_\_\_\_ equal monthly installments beginning with the effective date of this Agreement. In such event Qualifying Facility agrees to pay Company by the 15<sup>th</sup> of each month \_\_\_\_\_ (Dollars) per month, plus interest at the 30-day Commercial Paper Rate as published in the Wall Street Journal, on the first business day of the month.

When Qualifying Facility has elected to make the above payment in installments, Qualifying Facility agrees to pay Company any amount which may be due Company by Qualifying facility on any account according to the terms of this Agreement, Qualifying Facility hereby waives all exemptions under the constitution and laws of the State of Florida, or any other state as to personal property and agrees to pay all costs of collecting any such amounts, including a reasonable attorney's fee if said amounts are not paid when due.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 31

Continued from Sheet No. 30

7. The metering system for the electric generating equipment will be installed by Company at Qualifying Facility's expense. The meter(s) for purchase of energy and capacity (if applicable) will be located to measure the net output of the generator or the net surplus of energy from the Qualifying Facility's installation.
8. If at any time Qualifying Facility desires to decrease or increase the capacity to be maintained by Qualifying facility as set forth in this Agreement, Qualifying Facility shall give written notice thereof, to Company and Company shall as soon thereafter as reasonably practical, submit to Qualifying Facility a proposal outlining the rates, terms and conditions under which such changes in capacity may be rendered subject to the rules, regulations and conditions under which Company may then be operating.
9. In the event the Qualifying Facility's maximum output of capacity to the Company at any time exceeds the capacity required to be maintained by ten percent (10%) or more Qualifying Facility shall be liable for all resulting damage to Company's facilities and equipment and Company may interrupt the service without notice to Qualifying Facility but shall be under no duty to do so.
10. Company reserves the right, subject to regulatory authority having jurisdiction, to limit, restrict or refuse service that may jeopardize the safe and proper operation of its distribution system and/or alterations in its contractual requirements of supply from its Full Requirements Wholesale Power Supplier that may jeopardize service to existing Customers and/or existing Qualifying Facilities. Therefore, from time to time, Company, upon prior notice to Qualifying Facility may decline to accept Energy and/or Capacity delivered hereunder during any given hour, due to an emergency condition, or due to the reasons set forth below. Company shall not be obligated to purchase and may require curtailed or reduced deliveries of Energy and/or Capacity, to the extent necessary to maintain the reliability and integrity of any part of Company's system, or if Company determines that a failure to do so is likely to endanger life or property, or is likely to result in significant disruption of electric service to Company's customers. Company shall use commercially reasonable efforts to give Qualifying Facility as much prior notice as reasonably practicable of its intent to refuse, curtail or reduce its acceptance of Energy and/or Capacity pursuant to this Section 10 and will use commercially reasonable efforts to minimize the frequency and duration of such occurrences. Such interruptions shall not constitute a breach of this Agreement.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 32.1

Continued from Sheet No. 31

11. The Company reserves the right, but assumes no liability for failure so to do, to discontinue service from the Qualifying Facility for cause as follows:

- A. Without notice if a dangerous condition exists as a result of energy delivered by the Qualifying Facility to Company.
- B. After five (5) working days' notice in writing, for a violation of the Company's Tariff Rules and Regulations which Qualifying Facility refuses or neglects to correct.

When service has been disconnected for any of the reasons set forth in this Section 11, Company shall not be required to restore service until the following conditions have been met by the Qualifying Facility:

- A. Where service was discontinued without notice, the dangerous condition shall be removed and, if the Qualifying Facility had been warned of the condition a reasonable time before the discontinuance and had failed to remove the dangerous condition, a reconnection fee of fifty-two dollars (\$52.00) shall be paid.
- B. Where service was discontinued with notice, the violation of Section 12 of this Agreement shall be corrected and a reconnection fee of fifty-two dollars (\$52.00) shall be paid.

12. Notwithstanding any other provisions of this Agreement, Company shall have the right to terminate this Agreement, by written notice to Seller giving the reasons therefore, without cause, liability or obligation, if any approval from any Governmental Body having jurisdiction thereof necessary for Company to enter into this Agreement or to allow full recovery by Company from its customers of all payments required to be made by this Agreement shall no longer be in full force and effect, and some portion or all of such payments shall have become disqualified for such recovery in contravention of FPSC Order No. 25668, issued February 23, 1992.

13. Liability insurance in the amount of two million seven hundred fifty thousand dollars (\$2,750,000.00) per occurrence for bodily injury, death, or property damage indemnifying Company against loss or liability due to the presence or operation of Qualifying Facility's generator and interconnections shall be furnished by Qualifying Facility and certified by his agent annually and upon any change of policy.

14. With the exception of Workers' Compensation, Company shall be named as an additional insured under the Qualifying Facility's Insurance. The Qualifying Facility's Insurance shall be deemed primary to any coverage maintained by Company and shall provide, to extent allowed by law, for the waiver of any rights of subrogation against the Company. Any

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
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Original Sheet No. 32.2

Continued from Sheet No. 32.1

deductibles or retentions shall be the sole responsibility of the Qualifying Facility. Compliance by the Qualifying Facility with the provisions herein shall not serve as a limitation of Qualifying Facility's liability. Failure to comply with all of these provisions will not serve as a waiver by the Company of any rights with regard to coverage required by this Agreement.

15. A surety bond in an amount not to exceed two hundred fifty thousand dollars (\$250,000) shall be required to guarantee repayment to Company any monies that may be due Company for Interconnection costs borne by Company in Qualifying Facility's behalf. If applicable, a second surety bond in an amount not to exceed one hundred thousand dollars (\$100,000) shall be required to guarantee capacity payment refunds and penalties in the event of Qualifying Facility's failure to deliver capacity in accordance with this agreement.

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

First Revised Sheet No. 33  
Cancels Original Sheet No. 33

16. Qualifying Facility agrees to accept and be bound by all rules and regulations of Company in connection with the service hereby covered, which are now or may hereafter be filed with, issued or promulgated by the Florida Public Service.
17. Qualifying Facility is/ is not directly interconnected to Company. If Qualifying Facility is not directly interconnected to Company amounts of energy delivered to the wheeling utility in excess the amount scheduled for delivery to Company shall be classified as inadvertent energy. Such inadvertent energy flows shall be resolved between the Qualifying Facility and the wheeling utility and will not affect the energy scheduled and delivered from the wheeling utility to the Company. Company shall only be responsible for payments for energy scheduled for delivery, delivered to, and metered at, the delivery point between the wheeling utility and the Company.
18. Whenever written notice is required to be given by either party it shall be by registered mail, return receipt required. Any period designated for notice shall commence on the date of mailing.
19. This Agreement shall become effective on the \_\_\_\_\_ day of \_\_\_\_\_, and shall be in full force and effect for a period of \_\_\_\_\_ (years) and shall continue thereafter until terminated by either party by written notice sixty (60) days prior to termination. This Agreement shall be binding upon and extend to the heirs, or successors and assigns of the respective parties hereto shall not be assigned without prior written consent of Company.
20. This Agreement is to be consummated only by the written approval of Company as required below; no other contract and no other agreement, consideration or stipulation modifying or changing the tenure thereof shall be recognized or binding unless they are so approved.
21. Any notice required or permitted to be given hereunder shall be in writing and shall be: (i) personally delivered; (ii) transmitted by posted prepaid certified mail; (iii) transmitted by a recognized overnight courier service; or (iv) transmitted by electronic mail with a request for electronic receipt confirmation, to the receiving Party as follows, as elected by the Party giving such notice:

<u>For Qualifying Facility</u>	<u>For Company</u>
With a copy to:	P. Mark Cutshaw Florida Public Utilities Company 208 Wildlight Avenue, Yulee, Florida 32097 <a href="mailto:mcutshaw@fpuc.com">mcutshaw@fpuc.com</a>

Issued by: Jeffry Householder, President

Effective:

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 34

Continued from Sheet No. 33

22. All notices and other communications shall be deemed to have been duly given on: (i) the date of receipt if delivered personally; (ii) the date of receipt if transmitted by mail; (iii) the date of receipt if transmitted by courier; or (iv) the date of transmission with confirmation if transmitted by electronic mail, whichever shall first occur. Any Party may change its address or other contact information for purposes hereof by notice to the other Party.
23. Within ten (10) days of execution, Company shall submit this Agreement to the FPSC in accordance with Rule 25-17.0825(1) (b), F.A.C. Qualifying Facility and Company each agree to abide by any and all applicable regulatory rulings or orders issued by the FPSC or any other Governmental Body having jurisdiction with regard to the matters governed by this Agreement.
24. This Agreement may be executed in two (2) or more counterparts, all of which will be considered one and the same Agreement and each of which will be deemed an original.

IN WITNESS THEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

Attest:

**FLORIDA PUBLIC UTILITIES COMPANY**

\_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_

Date \_\_\_\_\_

Attest:

**("QUALIFYING FACILITY")**

\_\_\_\_\_

By \_\_\_\_\_  
Title \_\_\_\_\_

Date \_\_\_\_\_

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Docket No. 20210068-EQ  
Date: June 3, 2021

Attachment A  
Page 38 of 41

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

Original Sheet No. 34

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company First Revised Sheet No. 1  
F.P.S.C. Standard Offer Rate Schedule Cancels Original Sheet No. 1  
Original Volume No. I

STANDARD OFFER RATE SCHEDULES  
FOR PURCHASES FROM COGENERATORS & RENEWABLE GENERATING FACILITIES  
ORIGINAL VOLUME NO. I  
OF  
FLORIDA PUBLIC UTILITIES COMPANY  
FILED WITH  
FLORIDA PUBLIC SERVICE COMMISSION

Communications concerning this Tariff should be addressed to:

Florida Public Utilities Company  
4750 S. 14th Street, Ste. 200 208 Wildlight Avenue  
Fernandina Beach, FL 32034 Yulee, FL 32097

Attn: Director, Regulatory Affairs

Issued by: Jeffry Householder, President

Effective: NOV 11 2016



Florida Public Utilities Company First Revised Sheet No. 4  
F.P.S.C. Standard Offer Rate Schedule Cancels Original Sheet No. 4  
Original Volume No. 1

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MISCELLANEOUS GENERAL INFORMATION

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Florida Public Utilities Company was incorporated under the Laws of Florida in 1924 and adopted its present corporate name in 1927.

It is principally engaged in the distribution and sale of natural gas and electricity. Its operations are entirely within the State of Florida.

The general office of the Company is located at:

1641 Worthington Road, Suite 220-208 Wildlight Avenue  
West Palm Beach, Florida 33409 Yulee, Florida 32097

Division offices are located at:

2825 Pennsylvania Avenue  
Marianna, Florida 32448-4004

and

780 Amelia Island Parkway  
Fernandina Beach, Florida 32034

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

Florida Public Utilities Company  
F.P.S.C. Standard Offer Rate Schedule  
Original Volume No. I

First Revised Sheet No. 33  
Cancels Original Sheet No. 33

16. Qualifying Facility agrees to accept and be bound by all rules and regulations of Company in connection with the service hereby covered, which are now or may hereafter be filed with, issued or promulgated by the Florida Public Service.
17. Qualifying Facility is/ is not directly interconnected to Company. If Qualifying Facility is not directly interconnected to Company amounts of energy delivered to the wheeling utility in excess the amount scheduled for delivery to Company shall be classified as inadvertent energy. Such inadvertent energy flows shall be resolved between the Qualifying Facility and the wheeling utility and will not affect the energy scheduled and delivered from the wheeling utility to the Company. Company shall only be responsible for payments for energy scheduled for delivery, delivered to, and metered at, the delivery point between the wheeling utility and the Company.
18. Whenever written notice is required to be given by either party it shall be by registered mail, return receipt required. Any period designated for notice shall commence on the date of mailing.
19. This Agreement shall become effective on the        day of       , and shall be in full force and effect for a period of        (years) and shall continue thereafter until terminated by either party by written notice sixty (60) days prior to termination. This Agreement shall be binding upon and extend to the heirs, or successors and assigns of the respective parties hereto shall not be assigned without prior written consent of Company.
20. This Agreement is to be consummated only by the written approval of Company as required below; no other contract and no other agreement, consideration or stipulation modifying or changing the tenure thereof shall be recognized or binding unless they are so approved.
21. Any notice required or permitted to be given hereunder shall be in writing and shall be: (i) personally delivered; (ii) transmitted by posted prepaid certified mail; (iii) transmitted by a recognized overnight courier service; or (iv) transmitted by electronic mail with a request for electronic receipt confirmation, to the receiving Party as follows, as elected by the Party giving such notice:

<u>For Qualifying Facility</u>	<u>For Company</u>
With a copy to:	P. Mark Cutshaw Florida Public Utilities Company <u>4750 S. 14th Street, Suite 200</u> <u>208 Wildlight Avenue</u> <u>Beach Yulee, Florida 32034-32097</u> <u>mcutshaw@fpuc.com</u>

Continued on Sheet No. 33

Issued by: Jeffry Householder, President

Effective: NOV 11 2016

# Item 10

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Engineering (Thompson) *TB*  
Office of the General Counsel (Weisenfeld) *TLT*

**RE:** Docket No. 20190210-EG – Petition for approval of demand-side management plan, by Peoples Gas System.

**AGENDA:** 06/15/21 – Regular Agenda – Proposed Agency Action – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

Enacted in 1980, Sections 366.80 through 366.83, and 403.519, Florida Statutes (F.S.), known collectively as the Florida Energy Efficiency and Conservation Act (FEECA), requires the Florida Public Service Commission (Commission) to adopt conservation goals to increase the efficiency of energy consumption. Additionally, FEECA emphasizes reducing the growth rates of weather-sensitive peak demand, reducing and controlling the growth rates of electricity consumption, reducing the consumption of expensive resources such as petroleum fuels, and encouraging demand-side renewable energy resources. The Commission most recently

established conservation goals for Peoples Gas System (PGS or Utility) by Order No. PSC-2019-0361-PAA-GU, issued August 26, 2019 (2019 Goalsetting Order).<sup>1</sup>

Pursuant to Section 366.82(7), F.S., after goals are established, the Commission shall require each utility subject to FEECA to develop a demand-side management (DSM) plan to meet the conservation goals. On November 20, 2019, PGS filed a petition requesting approval of its original DSM Plan. As part of this filing, PGS provided a cost-effectiveness analysis of the proposed programs pursuant to Rule 25-17.009, Florida Administrative Code (F.A.C.). The cost-effectiveness analysis includes the Gas Rate Impact Measure (G-RIM) Test and the Participants Test.

Staff issued multiple data requests to PGS regarding the original DSM Plan, which featured individual programs per measure. In June 2020, the Utility informed staff of its intention to refile its original petition in order to revise its proposed programs. On February 26, 2021, PGS filed its revised petition, regrouping the programs included in the original petition to more closely reflect the programs used to establish the Utility's conservation goals in the 2019 Goalsetting Order. As part of its February 2021 filing, PGS provided an updated cost-effectiveness analysis for the revised programs, and provided the program administrative standards.

The Commission has jurisdiction over this matter pursuant to Sections 366.80 through 366.83 and 403.519, F.S.

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<sup>1</sup>Order No. PSC-2019-0361-PAA-GU, issued August 26, 2019, in Docket No. 20180186-GU, *In re: Petition for approval of demand side management goals and residential customer assisted and commercial walk-through energy audit programs, by Peoples Gas System.*

Date: June 3, 2021

## Discussion of Issues

**Issue 1:** Should the Commission approve Peoples Gas Systems' proposed DSM Plan and program standards?

**Recommendation:** Yes. The DSM Plan proposed by PGS is projected to exceed the annual numeric conservation goals approved by the Commission in the 2019 Goalsetting Order. PGS's proposed DSM Plan is primarily a continuation, with some minor modifications, of its preliminary DSM portfolio used to establish the goals approved by the Commission in 2019 Goalsetting Order. The programs within PGS's proposed DSM Plan are projected to be cost-effective based upon both the G-RIM and Participants Tests.

Therefore, staff recommends that the Commission should allow PGS to file for cost recovery of the programs included in its proposed DSM Plan in the Natural Gas Conservation Cost Recovery (NGCCR) proceeding. However, PGS must demonstrate that the expenditures to implement its DSM programs are reasonable and prudent in order to recover those expenditures.

PGS also submitted its administrative program standards with its proposed DSM Plan. Staff has reviewed PGS's administrative program standards and recommends that they are consistent with the Utility's proposed DSM Plan submitted for approval by the Commission. Staff requests that PGS notify the Commission prior to any changes being made to the program standards as filed. (Thompson)

**Staff Analysis:** The criteria used to review the appropriateness of the conservation programs are as follows: (1) whether the program advances the policy objectives of FEECA and its implementing rules; (2) whether the program is directly monitorable and yields measurable results; and (3) whether the program is cost-effective.<sup>2</sup> Staff has reviewed PGS's proposed DSM Plan, including its energy savings, cost-effectiveness, and rate impact. PGS's proposed DSM Plan exceeds the goals set in the 2019 Goalsetting Order, and should be approved.

### Description of DSM Plan

PGS's proposed DSM Plan consists of 11 programs in total, 4 residential and 7 commercial/industrial. Some of these programs have been renamed, but otherwise, they are essentially continuations of PGS's existing programs. As required by Rule 25-17.003, F.A.C., and as approved in the 2019 Goalsetting Order, PGS's proposed DSM Plan now offers energy audits to residential customers, and PGS also now voluntarily offers audits to commercial/industrial customers. Table 1-1 provides a complete list of the programs and the program status (modified or new). A description of each program can be found in Attachment A.

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<sup>2</sup>PSC Order No. 22176, issued November 14, 1989, in Docket No. 19890737-PU, In re: *Implementation of Section 366.80-.85, F.S., Conservation Activities of Electric and Natural Gas Utilities*.

**Table 1-1**  
**PGS DSM Plan Program Listing**

Program Name	Program Status	
	Modified	New
<b>Residential Programs</b>		
Residential Customer Assisted Energy Audit		X
Residential New Construction	X	
Residential Retrofit	X	
Residential Retention	X	
<b>Commercial/Industrial Programs</b>		
Commercial Walk-Through Energy Audit		X
Commercial New Construction	X	
Commercial Retrofit	X	
Commercial Retrofit Combined Heat and Power (CHP)	X	
Commercial Retrofit Electric Replacement	X	
Commercial Retention	X	
Conservation Research and Development (R&D)	X	

Source: Document No. 02477-2021

PGS's proposed DSM Plan features two audit programs: the Residential Customer Assisted Energy Audit and the Commercial Walk-Through Energy Audit. PGS received approval in the 2019 Goalsetting Order to add these programs to ensure that the full requirements of FEECA are being met.<sup>3</sup>

The primary changes made to the modified programs were renaming, and updates to the rebate levels available within the programs. Programs that will be replacing electric systems/equipment with energy-efficient natural gas systems/equipment will now be referred to as "Retrofit" for clarity as opposed to "Replacement" as previously named. PGS will continue to use the term "Retention," which is the replacement of existing natural gas systems/equipment with energy efficient natural gas systems/equipment. As an example of a rebate update, PGS increased the rebate amount for the dryer in the Residential Retention Program from \$100 to \$150.

The other changes made to the modified programs are as follows: (1) Gas Space Conditioning was added as a measure to the respective residential and commercial retrofit and retention programs instead of continuing as a singular program; (2) the Oil Heat Replacement program was eliminated due to low historical participation totals; (3) the Commercial Retention CHP program was eliminated due to its failure to achieve cost-effectiveness; and (4) for the Conservation R&D program, PGS combined its existing Monitoring and Research program with its Conservation Demonstration and Development program to become a single Conservation R&D program.

PGS also submitted its administrative program standards along with its proposed DSM Plan, which can be found in Attachment B. Staff has reviewed the administrative program standards and they appear consistent with the Utility's proposed DSM Plan.

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<sup>3</sup>Order No. PSC-2019-0361-PAA-GU, issued August 26, 2019, in Docket No. 20180186-GU, *In re: Petition for approval of demand side management goals and residential customer assisted and commercial walk-through energy audit programs, by Peoples Gas System.*

### ***Program Participation***

PGS projects program participation based on historical program participation trends. The projected annual program participation for each program in PGS's proposed DSM Plan is provided in Table 1-2.

**Table 1-2**  
**PGS's DSM Plan Annual Program Participation by Program**

<b>Program Name</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>
<b>Residential Programs</b>								
Residential Customer Assisted Energy Audit	4,500	4,500	4,500	4,500	4,500	4,500	4,500	4,500
Residential New Construction	8,700	8,900	9,000	9,100	9,200	9,300	9,400	9,500
Residential Retrofit	2,420	2,514	2,558	2,641	2,699	2,767	2,825	2,910
Residential Retention	16,400	16,916	17,332	17,709	18,061	18,448	18,800	19,326
<b>Commercial Programs</b>								
Commercial Walk-Through Energy Audit	500	500	500	500	500	500	500	500
Commercial New Construction	96	100	103	105	109	112	114	116
Commercial Retrofit	88	90	92	95	96	99	101	104
Commercial Retrofit CHP	0	0	0	0	0	0	0	0
Commercial Retrofit Electric Replacement	1	1	1	1	1	1	1	1
Commercial Retention	293	300	307	314	321	328	336	345

Source: Document No. 02477-2021

As seen in Table 1-2, the Commercial Retrofit Combined Heat and Power (CHP) program is projected to have zero participation. PGS forecasted zero participation for this DSM program based upon the program's historical participation rate. PGS believes that participation will increase in this program as commercial customers seek technologies to reduce energy costs and greenhouse gas emissions. CHP technologies improve energy efficiency since the energy is produced at the point of use, and involves the recovery of thermal energy that would otherwise be wasted. The Utility modified the Commercial Retrofit CHP program to clarify what qualifies for the incentive. The Utility also proposed an increase to the incentive, and added the requirement to offset some amount of gas usages. PGS believes these modifications will attract participation to this DSM program.

### ***Comparison of DSM Plan to Goals***

As in the 2019 Goalsetting Order, PGS estimated program savings through a combination of state and national industry sources, current building code and appliance standards, and a review of historical DSM program activity. Based on staff's review and as shown in Table 1-3, PGS's proposed DSM Plan will exceed the Commission's established annual goals. The annual energy savings associated with PGS's proposed DSM Plan and the Commission's established goals are summarized in Table 1-3 for the residential and commercial/industrial sectors.



**Table 1-3**  
**Commission's Goals vs. PGS's DSM Plan**

Year	Residential (Therms)		Commercial (Therms)	
	Goal	DSM Plan	Goal	DSM Plan
2021	355,569	373,753	227,968	245,612
2022	363,728	383,682	233,833	251,869
2023	371,562	389,725	239,661	258,120
2024	379,045	395,866	245,457	264,386
2025	386,682	401,594	251,338	270,678
2026	394,475	407,663	257,304	277,076
2027	402,429	413,392	263,357	283,612
2028	410,546	420,592	269,500	290,246
<b>Total</b>	<b>3,749,583</b>	<b>3,904,732</b>	<b>2,426,634</b>	<b>2,613,791</b>

Source: Document No. 02477-2021

The values presented above are projections based upon participation rates which may or may not occur. PGS will be responsible for monitoring actual participation rates and seeking Commission action, if necessary, to modify, add, or remove programs. If PGS is unable to meet the Commission's goals, the Utility may be subject to appropriate action by the Commission, up to and including financial penalties.

Section 366.82(10), F.S., requires the Commission to provide an annual report to the Governor and Legislature on the progress of each utility toward meeting the established goals. PGS will continue to submit to the Commission an annual report no later than March 1 of each year, summarizing the achievements of its DSM Plan. Staff will continue to monitor and report the actual amount of DSM savings each year, on an annual and cumulative basis, as part of the FEECA Report.

### **Cost-Effectiveness Review**

As required by Rule 25-17.009, F.A.C., PGS provided a cost-effectiveness analysis of the proposed programs using the G-RIM and the Participants Tests. Below, staff addresses PGS's results of its cost-effectiveness analysis.

#### ***Cost-Effectiveness Test Results***

All of PGS's proposed programs pass both the G-RIM and Participants Tests. These tests consist of the program benefits divided by the program costs so that programs are determined to be cost-effective if the result of the test is a ratio greater than 1.00. The data PGS used to develop the costs associated with the cost-effectiveness tests was obtained from PGS's current costs in facilitating existing programs, and from costs currently incurred by the Utility and customers for energy efficient natural gas equipment and infrastructure. The cost-effectiveness test results for each program are provided in Table 1-4.

**Table 1-4**  
**PGS's DSM Plan Cost-Effectiveness Test Results by Program**

<b>Program Name</b>	<b>G-RIM Test</b>	<b>Participants Test</b>
<b>Residential Programs</b>		
Residential New Construction	1.502	1.041
Residential Retrofit	1.321	1.103
Residential Retention	1.412	1.579
<b>Commercial Programs</b>		
Commercial New Construction	2.871	1.098
Commercial Retrofit	3.326	1.316
Commercial Retrofit CHP	2.225	1.846
Commercial Retrofit Electric Replacement	4.404	1.218
Commercial Retention	1.009	4.094

Source: Document No. 02477-2021

### **Rate Impact**

Staff reviewed the projected program costs for PGS's proposed DSM Plan. Table 1-5 shows the total projected program costs for each program in PGS's proposed DSM Plan. PGS projects that the total cost for its proposed DSM Plan will be approximately \$190 million.

**Table 1-5**  
**Total Program Costs of PGS's DSM Plan**

<b>Program Name</b>	<b>Program Costs</b>
<b>Residential Programs</b>	
Residential Customer Assisted Energy Audit	\$1,725,000
Residential New Construction	\$100,928,500
Residential Retrofit	\$10,153,221
Residential Retention	\$62,804,741
<b>Commercial/Industrial Programs</b>	
Commercial Walk-Through Energy Audit	\$720,000
Commercial New Construction	\$1,990,514
Commercial Retrofit	\$4,450,111
Commercial Retrofit CHP	\$0
Commercial Retrofit Electric Replacement	\$80,000
Commercial Retention	\$6,060,429
Conservation R&D	\$1,000,000

Source: Document No. 03066-2021

As shown in Table 1-5, PGS projects zero program costs for the Commercial Retrofit CHP program due the zero projected program participation previously discussed. However, staff recommends that PGS should update the Commission on program costs and all other relevant program information should program participation be achieved.

If approved, the cost to implement PGS's proposed DSM Plan would flow through to the ratepayers through the NGCCR proceeding. In the NGCCR proceeding, PGS would file annually for recovery of incentives, and equipment and administrative costs. The NGCCR amounts represent a monthly bill impact to customers as part of the non-fuel cost of energy charges on

their bills. Much like investments in generation, transmission, and distribution, investments in energy efficiency have an immediate rate impact, but may produce savings over time.

Table 1-6 is an estimate of the monthly bill impact on a typical residential and commercial customer for PGS's proposed DSM Plan. The estimated NGCCR factors are based upon the participation rates and administrative costs used in the cost-effectiveness analysis discussed above and are not final.

**Table 1-6**  
**PGS's Estimated Monthly Bill Impact of Proposed DSM Plan**

Year	Residential Customer 20 Therms/mo	Commercial Customer 1,500 Therms/mo
	Monthly Bill Impact (\$)	
2021	1.81	28.73
2022	2.03	32.24
2023	2.01	31.85
2024	1.98	31.42
2025	1.95	30.99
2026	1.93	30.57
2027	1.90	30.13
2028	1.88	29.78

Source: Document No. 03066-2021

## **Conclusion**

The DSM Plan proposed by PGS is projected to exceed the annual numeric conservation goals approved by the Commission in the 2019 Goalsetting Order. PGS's proposed DSM Plan is primarily a continuation, with some minor modifications, of its preliminary DSM portfolio used to establish the goals approved by the Commission in 2019 Goalsetting Order. The programs within PGS's proposed DSM Plan are projected to be cost-effective based upon both the G-RIM and Participants Tests.

Therefore, staff recommends that the Commission should allow PGS to file for cost recovery of the programs included in its proposed DSM Plan in the NGCCR proceeding. However, PGS must demonstrate that the expenditures to implement its DSM programs are reasonable and prudent in order to recover those expenditures.

PGS also submitted its administrative program standards with its proposed DSM Plan. Staff has reviewed PGS's administrative program standards and recommends that they are consistent with the Utility's proposed DSM Plan submitted for approval by the Commission. Staff requests that PGS notify the Commission prior to any changes being made to the program standards as filed.

Date: June 3, 2021

**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order. (Weisenfeld)

**Staff Analysis:** If no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket should be closed upon the issuance of a consummating order.

## **Peoples Gas System**

### **Residential Programs**

#### **Residential Customer-Assisted Energy Audit**

The Residential Customer-Assisted Energy Audit Program allows for residential customers to engage in an online energy audit.

#### **Residential New Construction**

The Residential New Construction Program offers rebates to builders and developers who construct new single family and multi-family homes with the installation of energy efficient natural gas appliances.

<b>Natural Gas Appliance/System</b>	<b>Incentive/Appliance Installation</b>
Dryer	\$200
Range/Cooktop	\$300
Tank Water Heater	\$550
ENERGY STAR Tank Water Heater	\$650
Tankless Water Heater	\$700
Central Heating	\$725

#### **Residential Retrofit**

The Residential Retrofit Program offers rebates to current and new natural gas customers who replace electric equipment with new, energy efficient natural gas equipment.

<b>Natural Gas Appliance/System</b>	<b>Incentive/Appliance Installation</b>
Dryer	\$200
Range/Cooktop	\$300
Tank Water Heater	\$550
ENERGY STAR Tank Water Heater	\$650
Tankless Water Heater	\$700
Central Heating	\$725
Space Heater	\$65
Space Conditioner	\$500/ton

#### **Residential Retention**

The Residential Retention Program offers rebates to current natural gas customers who replace less efficient natural gas equipment with new, energy efficient natural gas equipment.

<b>Natural Gas Appliance/System</b>	<b>Incentive/Appliance Installation</b>
Range/Cooktop	\$100
Dryer	\$150
Tank Water Heater	\$350
ENERGY STAR Tank Water Heater	\$400
Central Heating	\$500
Tankless Water Heater	\$550
Space Conditioner	\$150/ton

## **Commercial Programs**

### **Commercial Walk-Through Energy Audit**

In the Commercial Walk-Through Energy Audit Program, an audit is conducted by a trained commercial energy analyst who will provide tailored recommendations to encourage the customer to implement cost-effective measures.

### **Commercial New Construction**

The Commercial New Construction Program offers rebates to builders and developers who construct commercial and industrial facilities with the installation of energy efficient natural gas appliances.

<b>Natural Gas Appliance/System</b>	<b>Incentive/Appliance Installation</b>
Range/Cooktop	\$2,000
Dryer	\$2,500
ENERGY STAR Tank Water Heater	\$2,500
Fryer	\$3,500
Tankless Water Heater	\$3,500

### **Commercial Retrofit**

The Commercial Retrofit Program offers rebates to current and new natural gas customers who replace electric equipment with new, energy efficient natural gas equipment.

<b>Natural Gas Appliance/System</b>	<b>Incentive/Appliance Installation</b>
Range/Cooktop	\$2,000
Dryer	\$2,500
Tank Water Heater	\$2,500
Fryer	\$3,500
Tankless Water Heater	\$3,500
Space Conditioner	\$500/ton

### **Commercial Retrofit Combined Heat and Power**

The Commercial Retrofit Combined Heat and Power Program offers customer rebates for installing new, energy-efficient natural gas combined heat and power equipment to utilize waste heat to displace portions of natural gas usage for on-site heating, cooling, and water heating.

- Maximum Incentive: \$300/kW of actual electric demand reduced of installed combined heat and power equipment

### **Commercial Retrofit Electric Replacement**

The Commercial Retrofit Electric Replacement Program offers rebates to current and new natural gas customers who install new, energy efficient natural gas equipment.

- Maximum Incentive: \$100/kW reduction for qualifying natural gas equipment

### **Commercial Retention**

The Commercial Retention Program offers rebates to current natural gas customers who replace less efficient natural gas equipment with new, energy efficient natural gas equipment.

<b>Natural Gas Appliance/System</b>	<b>Incentive/Appliance Installation</b>
Range/Cooktop	\$1,500
Tank Water Heater	\$1,500
Dryer	\$2,000
Tankless Water Heater	\$2,000
Fryer	\$3,000
Space Conditioner	\$150/ton

## **Research and Development**

### **Conservation Research and Development (R&D)**

The Conservation R&D Program allows PGS to explore DSM measures that have insufficient data on cost-effectiveness, and the impact on PGS and its ratepayers. Program costs are estimated at \$125,000 per year for a five-year period; however, the total program cost shall not exceed \$500,000 for the five-year period.



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REVISED: FEBRUARY 26, 2021



# Peoples Gas System

DSM Plan Program Standards

2019-2028

February 26, 2021

**PEOPLES GAS SYSTEM  
TEN-YEAR DSM GOALS  
2019-2028  
FILED: NOVEMBER 20, 2019  
REVISED: FEBRUARY 26, 2021**

**Program: Residential Customer Assisted Energy Audit**

**Program Participation Standards**

1. Participation is available to any existing PGS residential customer located within PGS service area.
2. This audit will be advertised to residential customers demonstrating the benefits of participating.
3. There is no payment processing with this program.
4. There are no technical specifications on equipment eligibility with this program.
5. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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FILED: NOVEMBER 20, 2019  
REVISED: FEBRUARY 26, 2021**

**Program: Residential New Construction Program**

**Program Participation Standards**

1. Participation is available to any new PGS customer with a new residence located in PGS service area.
2. Rebates:
  - \$200 per qualifying natural gas dryer/dryer stub.
  - \$300 per qualifying natural gas range or cooktop.
  - \$725 per qualifying natural gas central heating system. (Up to two rebates for the same type of natural gas heating system if two systems are installed.)
  - Water Heating: Up to two rebates for any combination of the following water heating systems.
    - \$550 per qualifying natural gas tank water heating system.
    - \$650 per qualifying natural gas ENERGY STAR tank water heating system.
    - \$700 per qualifying natural gas tankless water heating system.

The rebate paid cannot exceed the total cost of equipment, installation, and any associated piping and/or venting costs.

3. Non-qualifying equipment:
  - Used or refurbished equipment.
  - Outdoor kitchens.
  - Outdoor grills.
  - Firepits, fireplaces, and fire logs.
  - Point of service tankless water heaters.
4. Eligibility requirements:
  - Rebate allowances are for new single or multi-family residences.
  - Natural gas central heating system must be a thermostatically controlled vented system with blower.
  - Tankless water heating system must provide a minimum of five gallons per minute ("GPM").
  - Qualifying water heaters must have the ENERGY STAR certification or a thermal efficiency greater than 10 percent over current Florida Building Code and Federal Appliance Energy Efficiency Standards, whichever is greater.
5. The builder or developer will receive the rebate by PGS based upon the actual energy efficiency measure(s) installed. In the event of a customer installation with no builder or developer involvement, PGS will issue the rebate to the customer.
6. No payment shall be made by PGS until:
  - Appliances must be installed and in operational condition, apart from the dryer, which may be left as stubbed.
  - Certificate of occupancy must be issued for the premise.

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- A complete and correct participant application has been submitted to the company.
7. PGS reserves the right to ask for additional information in the performance of the office verification before rebate payment is made, including performing a field verification of the installation.
  8. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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**Program: Residential Retrofit**

**Program Participation Standards**

1. Participation is available to any existing PGS residential customer located within PGS service area.
2. Rebates:
  - \$200 per qualifying natural gas dryer.
    - One rebate allowance is authorized per customer every 5 years.
  - \$300 per qualifying natural gas range/cooktop.
    - One rebate allowance is authorized per customer every 5 years. Up to two rebates are authorized for the same type of natural gas space conditioning, if two systems are installed.
  - \$550 per qualifying natural gas tank water heater.
    - One rebate allowance is authorized per customer every 6 years. Up to two rebates are authorized for the same type of natural gas water heater, if two systems are installed.
  - \$650 per qualifying natural gas ENERGY STAR tank water heater.
    - One rebate allowance is authorized per customer every 6 years. Up to two rebates are authorized for the same type of natural gas water heater, if two systems are installed.
  - \$700 per qualifying natural gas tankless water heater.
    - One rebate allowance is authorized per customer every 10 years. Up to two rebates are authorized for the same type of natural gas water heater, if two systems are installed.
  - \$725 per qualifying natural gas central heating system.
    - One rebate allowance is authorized per customer every 10 years. Up to two rebates are authorized for the same type of natural gas heating system if two systems are installed.
  - \$65 per qualifying natural gas space heater.
    - One rebate allowance is authorized per customer every 5 years. Up to two rebates are authorized for the same type of natural gas space heating, if two systems are installed.
  - \$500 per ton of installed qualifying natural gas space conditioning equipment.
    - One rebate allowance is authorized per customer every 5 years. Up to two rebates are authorized for the same type of natural gas space conditioning, if two systems are installed.

The rebate paid cannot exceed the total cost of equipment, installation, and any associated piping and/or venting costs.

3. Non-qualifying equipment:
  - Used or refurbished equipment.
  - Firepits, fireplaces, and fire logs.
  - Outdoor kitchen cooktops/ranges.
  - Outdoor grills.
  - Point of service tankless water heaters.
  - Portable space heating equipment.

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4. Equipment eligibility requirements:
  - Natural gas central heating system must be a thermostatically controlled vented system with blower.
  - Qualifying ENERGY STAR water heaters must have the ENERGY STAR certification or an efficiency greater than 10 percent over current Florida Building Code and Federal Appliance Energy Efficiency Standards, whichever is greater.
  - Tankless water heating units must provide a minimum of five gallons per minute (GPM).
5. The contractor will subtract the rebate paid by PGS from the customer's total cost of equipment and installation. In the event of a customer installation with no contractor involvement, PGS will issue the rebate to the customer.
6. No payment shall be made by PGS until:
  - A complete and correct participant application has been submitted to the company within one year of the receipt purchase date.
  - Application must include:
    - Equipment purchase date
    - Equipment model number
    - Equipment serial number
    - ENERGY STAR product label (required for ENERGY STAR water heater only)
    - Equipment receipts that show paid in full
    - Contractor Invoices (if used) that show paid in full
7. PGS reserves the right to ask for additional information in the performance of the office verification before rebate payment is made, including performing a field verification of the installation.
8. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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**Program: Residential Retention**

**Program Participation Standards**

1. Participation is available to any existing PGS residential customer located within PGS service area.
2. Rebates:
  - \$100 per qualifying natural gas range/cooktop.
    - One rebate allowance is authorized per customer every 7 years. Up to two rebates are authorized for the same type of natural gas range/cooktop, if two systems are installed.
  - \$150 per qualifying natural gas dryer.
    - One rebate allowance is authorized per customer every 5 years.
  - \$350 per qualifying natural gas tank water heater.
    - One rebate allowance is authorized per customer every 6 years. Up to two rebates are authorized for the same type of natural gas water heater, if two systems are installed.
  - \$400 per qualifying natural gas ENERGY STAR tank water heater.
    - One rebate allowance is authorized per customer every 6 years. Up to two rebates are authorized for the same type of natural gas water heater, if two systems are installed.
  - \$500 per qualifying natural gas central heating system.
    - One rebate allowance is authorized per customer every 10 years. Up to two rebates are authorized for the same type of natural gas heating system if two systems are installed.
  - \$550 per qualifying natural gas tankless water heater.
    - One rebate allowance is authorized per customer every 10 years. Up to two rebates are authorized for the same type of natural gas water heater, if two systems are installed.
  - \$150 per ton of installed qualifying natural gas space conditioning equipment.
    - One rebate allowance is authorized per customer every 5 years. Up to two rebates are authorized for the same type of natural gas space conditioning, if two systems are installed.

The rebate paid cannot exceed the total cost of equipment, installation, and any associated piping and/or venting costs.

3. Non-qualifying equipment:
  - Used or refurbished equipment.
  - Firepits, fireplaces, and fire logs.
  - Outdoor kitchen cooktops/ranges.
  - Outdoor grills.
  - Point of service tankless water heaters.
  - Portable space conditioning equipment.
4. Equipment eligibility requirements:
  - Natural gas central heating system must be a thermostatically controlled vented system with blower.



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- Qualifying ENERGY STAR water heaters must have the ENERGY STAR certification or an efficiency greater than 10 percent over current Florida Building Code and Federal Appliance Energy Efficiency Standards, whichever is greater.
  - Tankless water heating units must provide a minimum of five GPM.
5. The contractor will subtract the rebate paid by PGS from the customer's total cost of equipment and installation. In the event of a customer installation with no contractor involvement, PGS will issue the rebate to the customer.
  6. No payment shall be made by PGS until:
    - A complete and correct participant application has been submitted to the company within one year of the receipt purchase date.
    - Application must include:
      - Equipment purchase date
      - Equipment model number
      - Equipment serial number
      - ENERGY STAR product label (required for ENERGY STAR water heater only)
      - Equipment receipts that show paid in full
      - Contractor Invoices (if used) that show paid in full
  7. PGS reserves the right to ask for additional information in the performance of the office verification before rebate payment is made, including performing a field verification of the installation.
  8. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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**Program: Commercial Walk-Through Energy Audit**

**Program Participation Standards**

1. Participation is available to any existing PGS commercial/industrial customer located within participating PGS service areas, apart from natural gas fired cogeneration and interruptible customers, which are excluded from Natural Gas Conservation Cost Recovery (NGCCR) clause recovery.
2. This audit will be offered to PGS customers in response to a request for the service.
3. When applicable, customers are qualified for participation in other PGS conservation programs.
4. There is no payment processing with this program.
5. There are no technical specifications on equipment eligibility with this program.
6. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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**Program: Commercial New Construction Program**

**Program Participation Standards**

1. Participation is available to any existing PGS commercial/industrial customer located within PGS service area apart, from natural gas fired cogeneration and interruptible customers which are excluded from NGCCR clause recovery.
2. Rebates:
  - \$2,000 per qualifying natural gas range/cooktop system.
  - \$2,500 per qualifying natural gas dryer system.
  - \$3,500 per qualifying natural gas frver system.
  - Water Heating:
    - \$2,500 per qualifying natural gas ENERGY STAR tank water heating system.
    - \$3,500 per qualifying natural gas tankless water heating system.

The rebate paid cannot exceed the total cost of equipment, installation, and any associated piping and/or venting costs.
3. Non-qualifying equipment:
  - Used or refurbished equipment.
  - Outdoor kitchens.
  - Outdoor grills.
  - Firepits, fireplaces, and fire logs.
4. Equipment eligibility requirements:
  - Natural gas central heating system must be a thermostatically controlled vented system with blower.
  - Tankless water heating system must provide a minimum of five GPM.
  - Appliance(s) must be ENERGY STAR certified, apart from:
    - Water heaters with a thermal efficiency greater than 10 percent over current Florida Building Code and Federal Appliance Energy Efficiency Standards whichever is greater also qualify for rebate.
    - Tankless water heaters with an efficiency of at least 82 percent also qualify for rebate.
5. The builder or developer will receive the rebate by PGS based upon the actual energy efficiency measure(s) installed. In the event of a customer installation with no builder or developer involvement, PGS will issue the rebate to the customer.
6. No payment shall be made by PGS until:
  - Appliances must be installed and in operational condition.
  - A complete and correct participant application has been submitted to the company.
  - Application must include:
    - All equipment model numbers
    - All equipment serial numbers
    - Equipment receipts that show paid in full
    - Contractor Invoices (if used) that show paid in full

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7. PGS reserves the right to ask for additional information in the performance of the office verification before rebate payment is made, including performing a field verification of the installation.
8. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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**Program: Commercial Retrofit**

**Program Participation Standards**

1. Participation is available to any existing PGS commercial/industrial customer located within PGS service area, apart from natural gas fired cogeneration and interruptible customers which are excluded from NGCCR clause recovery.
2. Rebates:
  - \$2,000 per qualifying natural gas range/cooktop.
    - One rebate allowance is authorized per qualifying appliance every 6 years per customer. Multiple appliances are authorized for the same type of natural gas range/cooktop installed up to a capped total rebate amount of \$15,000 per year.
  - \$2,500 per qualifying natural gas dryer.
    - One rebate is authorized per qualifying appliance every 5 years per customer. Multiple appliances are authorized for the same type of natural gas dryer installed up to a capped total rebate amount of \$15,000 per year.
  - \$3,500 per qualifying natural gas fryer.
    - One rebate allowance is authorized per qualifying appliance every 6 years per customer. Multiple appliances are authorized for the same type of natural gas fryer installed up to a capped total rebate amount of \$15,000 per year.
  - \$2,500 for a new natural gas tank water heater that is replacing an existing electric tank water heater.
    - One rebate allowance is authorized per qualifying appliance every 7 years per customer. Multiple appliances are authorized for the same type of natural gas water heater installed up to a capped total rebate amount of \$15,000 per year.
  - \$3,500 per qualifying natural gas tankless water heater.
    - One rebate allowance is authorized per qualifying appliance every 10 years per customer. Multiple appliances are authorized for the same type of natural gas water heater installed up to a capped total rebate amount of \$15,000 per year.
  - \$500 per ton of installed qualifying natural gas space conditioning equipment.
    - One rebate allowance is authorized per qualifying appliance every 6 years per customer. Multiple appliances are authorized for the same type of natural gas space conditioning installed.
3. Non-qualifying equipment:
  - Used or refurbished equipment.
  - Portable space conditioning equipment.
4. Equipment eligibility requirements:
  - Dryer(s), Fryer(s), and Range(s) must be ENERGY STAR certified.

The rebate paid cannot exceed the total cost of equipment, installation, and any associated piping and/or venting costs.

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- Water heater(s) must be ENERGY STAR certified or have a thermal efficiency greater than 10 percent over current Florida Building Code and Federal Appliance Energy Efficiency Standards whichever is greater.
  - Tankless water heater must provide a minimum of five GPM.
  - Tankless water heater must be ENERGY STAR certified or have an efficiency of 82 percent or greater.
5. The contractor will subtract the rebate paid by PGS from the customer's total cost of equipment and installation. In the event of a customer installation with no contractor involvement, PGS will issue the rebate to the customer.
6. No payment shall be made by PGS until:
- A complete and correct participant application has been submitted to the company within one year of the receipt purchase date.
  - Application must include:
    - Equipment purchase date
    - Equipment model number
    - Equipment serial number
    - Picture of equipment serial number
    - Picture of equipment after installation
    - Equipment receipts that show paid in full
    - Contractor Invoices (if used) that show paid in full
7. PGS reserves the right to ask for additional information in the performance of the office verification before rebate payment is made, including performing a field verification of the installation.
8. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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**Program: Commercial Retrofit Combined Heat and Power Program**

**Program Participation Standards**

1. Participation is available to any existing PGS commercial/industrial customer located within PGS service area apart from natural gas fired cogeneration and interruptible customers which are excluded from NGCCR clause recovery.
2. Rebates:
  - \$300 per kW of actual demand reduced of installed combined heat and power equipment. 50 percent of eligible rebate will be paid upon completion of project. The remaining 50 percent of rebate will be paid upon demonstrated satisfactory operation of waste heat recovery.
  - One rebate allowance is authorized per customer every 12 years per premise. Multiple appliances are authorized for the same type of natural gas heating system installed.

The rebate paid cannot exceed the total cost of equipment, installation, and any associated piping and/or venting costs.
3. Non-qualifying equipment:
  - Used or refurbished equipment.
4. Equipment eligibility requirements:
  - Combined heat and power equipment must be fueled from natural gas and utilize waste heat to displace portions of natural gas usage for on-site heating, cooling, or water heating.
  - Equipment must be rated at 1 MW or less.
5. The contractor will subtract the rebate paid by PGS from the customer's total cost of equipment and installation. In the event of a customer installation with no contractor involvement, PGS will issue the rebate to the customer.
6. No payment shall be made by PGS until:
  - A complete and correct participant application has been submitted to the company within one year of the receipt purchase date.
  - Application must include:
    - Equipment purchase date
    - Equipment ratings
    - Equipment model number
    - Equipment serial number
    - 12-months of historic electric and natural gas bills
    - Equipment receipts that show paid in full
    - Contractor Invoices (if used) that show paid in full
7. PGS reserves the right to ask for additional information in the performance of the office verification before rebate payment is made, including performing a field verification of the installation.
8. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.



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**Program: Commercial Retrofit Electric Replacement Program**

**Program Participation Standards**

- Participation is available to any existing PGS commercial/industrial customer located within PGS service area, apart from natural gas fired cogeneration and interruptible customers which are excluded from NGCCR clause recovery.
- Rebates:
  - \$100 per kW reduction for qualifying natural gas equipment.
  - Rebate amount paid up to the installation cost, including piping and venting where applicable.
- Non-qualifying equipment:
  - Used or refurbished equipment.
- There are no technical specifications on equipment eligibility with this program.
- PGS reserves the right to ask for additional information in the performance of the office verification before rebate payment is made, including performing a field verification of the installation.
- PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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**Program: Commercial Retention**

**Program Participation Standards**

1. Participation is available to any existing PGS commercial/industrial customer located within PGS service area, apart from natural gas fired cogeneration and interruptible customers which are excluded from NGCCR clause recovery.
2. Rebates:
  - Up to the following rebate amounts per qualifying natural gas range/cooktop:

Equipment Cost	Eligible Rebate
\$0 to \$1,500	\$750
\$1,501 to \$3,000	\$1,000
\$3,001 and up	\$1,500
  - One rebate allowance is authorized per qualifying appliance every 6 years per customer. Multiple appliances are authorized for the same type of natural gas range/cooktop installed up to a capped total rebate amount of \$15,000 per year.
  - Up to the following rebate amounts per qualifying natural gas dryer:

Equipment Cost	Eligible Rebate
\$0 to \$1,500	\$750 rebate
\$1,501 to \$3,000	\$1,000 rebate
\$3,001 and up	\$2,000 rebate
  - One rebate is authorized per qualifying appliance every 5 years per customer. Multiple appliances are authorized for the same type of natural gas dryer installed up to a capped total rebate amount of \$15,000 per year.
  - Up to the following rebate amounts per qualifying natural gas fryer:

Equipment Cost	Eligible Rebate
\$0 to \$1,000	\$500
\$1,001 to \$2,000	\$750
\$2,001 to \$3,000	\$1,500
\$3,001 to \$4,000	\$2,000
\$4,001 and up	\$3,000
  - One rebate allowance is authorized per qualifying appliance every 6 years per customer. Multiple appliances are authorized for the same type of natural gas fryer installed up to a capped total rebate amount of \$15,000 per year.
  - Up to the following rebate amounts per qualifying natural gas tank water heater:

Equipment Cost	Eligible Rebate
\$0 to \$1,500	\$750 rebate
\$1,501 to \$3,000	\$1,000 rebate
\$3,001 and up	\$1,500 rebate
  - One rebate allowance is authorized per qualifying appliance every 7 years per customer. Multiple appliances are authorized for the same type of natural gas water heater installed up to a capped total rebate amount of \$15,000 per year.

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- Up to the following rebate amounts per qualifying natural gas tankless water heater:

Equipment Cost	Eligible Rebate
\$0 to \$1,500	\$750
\$1,501 to \$3,000	\$1,000
\$3,001 and up	\$2,000
- One rebate allowance is authorized per qualifying appliance every 10 years per customer. Multiple appliances are authorized for the same type of natural gas water heater installed up to a capped total rebate amount of \$15,000 per year
- \$150 per ton of installed qualifying natural gas space conditioning equipment.
  - One rebate allowance is authorized per qualifying appliance every 6 years per customer. Multiple appliances are authorized for the same type of natural gas space conditioning installed.

The rebate paid cannot exceed the total cost of equipment, installation, and any associated piping and/or venting costs.

3. Non-qualifying equipment:
  - Used or refurbished equipment.
  - Portable space conditioning equipment.
4. Equipment eligibility requirements:
  - Dryer(s), Fryer(s), and Range(s) must be ENERGY STAR certified.
  - Water heater(s) must be ENERGY STAR certified or have a thermal efficiency greater than 10 percent over current Florida Building Code and Federal Appliance Energy Efficiency Standards whichever is greater.
  - Tankless water heater must provide a minimum of five GPM.
  - Tankless water heater must be ENERGY STAR certified or have an efficiency of 82 percent or greater.
5. The contractor will subtract the rebate paid by PGS from the customer's total cost of equipment and installation. In the event of a customer installation with no contractor involvement, PGS will issue the rebate to the customer.
6. No payment shall be made by PGS until:
  - A complete and correct participant application has been submitted to the company within one year of the receipt purchase date.
  - Application must include:
    - Equipment purchase date
    - Equipment model number
    - Equipment serial number
    - Picture of equipment serial number
    - Picture of equipment after installation
    - Equipment receipts that show paid in full
    - Contractor Invoices (if used) that show paid in full
7. PGS reserves the right to ask for additional information in the performance of the office verification before rebate payment is made, including performing a field verification of the installation.

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8. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

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**Program: Conservation Research and Development (R&D)**

**Program Participation Standards**

1. Measures for R&D can be residential or commercial in nature and may be either new in the marketplace or existing measures which meet the criteria below:
  - The proposed measure has the potential to affect PGS or its ratepayers.
  - Sufficient data is not currently available to evaluate the impact of the proposed measure.
  - Data on the proposed measure is available but is not relevant to the Florida climate zones.
2. Equipment eligibility requirements:
  - Most technology measures are eligible for consideration including energy efficient construction, heat recovery, space conditioning equipment, cooking, water heating, etc.
3. PGS will report the expenses and participation of this program through the company's annual Demand Side Management filings to the Commission.

# Item 11

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Economics (Smith II, Barrett, Galloway, Kunkler, McNulty, Shrum) *JGH*  
Division of Accounting and Finance (Brown, Buys, Cicchetti, Higgins, Mathis, *ALM*  
Osorio)  
Office of the General Counsel (Brownless, Crawford) *JSC*

**RE:** Docket No. 20200257-EI – Petition for approval of 2020 nuclear decommissioning study, by Florida Power & Light Company.

**AGENDA:** 06/15/21 – Regular Agenda – Proposed Agency Action - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Fay

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On December 14, 2020, Florida Power & Light Company (FPL or company) filed its 2020 Nuclear Decommissioning Cost Study (2020 study or current study) for Plant Turkey Point Units 3 and 4 (TP3 and TP4) and Plant St. Lucie Units 1 and 2 (SL1 and SL2). Rule 25-6.04365, Florida Administrative Code (F.A.C.), requires any utility under Florida Public Service Commission (Commission) jurisdiction that owns a nuclear generating unit to file a site-specific decommissioning cost study at least once every five years. The purpose of periodic decommissioning reviews is to recognize developments affecting decommissioning cost estimates, and to also consider such factors as additional information, improvements in technology, and regulatory changes that have transpired since the last decommissioning study. Staff has reviewed the company's current study. An explanation of the basic concepts follows.

### ***Nuclear Decommissioning***

Decommissioning involves the physical dismantling and removing of plant buildings, materials, and equipment that are no longer used and useful but remain following the retirement of a nuclear generating unit. With respect to the funding of decommissioning activities, the Nuclear Regulatory Commission's (NRC) final rule, 10 C.F.R. Section 50.75, requires that licensees provide reasonable financial assurance that funds will be available for decommissioning through prepayment prior to the start of operation, an external sinking fund or a surety method, insurance, or other guarantee method. An external sinking fund is defined as:

A fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the administrative control of the licensee and its subsidiaries or affiliates in which the total amount of funds would be sufficient to pay decommissioning costs at the time permanent termination of operations is expected. An external sinking fund may be in the form of a trust, escrow account, or Government fund, with payment by certificate of deposit, deposit of Government or other securities.

FPL's funding program has historically provided for financial assurance through contributions to its nuclear decommissioning trust (NDT) funds. As discussed later, the company's currently authorized annual base rate decommissioning contribution (Accrual) is set at zero dollars per year.<sup>1</sup> Thus, financial assurance standards have been satisfied solely by fund growth since 2005.

In 1989, the Commission approved the external sinking funding method by Order No. 21928.<sup>2</sup> In determining the annual provision for decommissioning, the current cost estimate is escalated to the expected dates of actual decommissioning. The escalation rate used is determined by using a combination of general economic inflation rates and inflation rates for decommissioning labor, transportation, and burial of nuclear waste. Once the escalated decommissioning cost is known, a sinking fund annuity is calculated to determine the annual annuity. This annual annuity plus the earnings on the NDT fund, net of taxes, will grow to the escalated cost of decommissioning.

The primary objective of a NDT fund is to have enough money on hand at the time of decommissioning to meet all required expenses at the lowest possible cost to utility ratepayers. No set of investment policies will meet this goal with certainty. The management of the fund, therefore, must be concerned with both the preservation of contributions and the purchasing power of the contributions. To this end, the Commission, by Order No. 21928, required that the fund's assets earn a consistent positive real return over a market cycle.<sup>3</sup> The imposed minimum

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<sup>1</sup> Order No. PSC-05-0902-S-EI, issued September 14, 2005, in Docket No. 050045-EI, *In re: Petition for rate increase by Florida Power & Light Company*; and Docket No. 050188-EI, *In re: 2005 comprehensive depreciation study by Florida Power & Light Company*. (2005 FPL Settlement)

<sup>2</sup> Order No. 21928, issued September 21, 1989, in Docket No. 870098-EI, *In re: Petitions for approval of an increase in the accrual of nuclear decommissioning costs by Florida Power Corporation and Florida Power & Light Company*. On June 20, 2001, Florida Power Corporation was acquired by Carolina Power & Light Company and became Progress Energy Florida, Inc., effective January 1, 2003. On April 29, 2013, Progress Energy Florida, Inc. officially changed its name to Duke Energy Florida, Inc. (d/b/a Duke Energy Florida) following its merger with Duke Energy. On September 15, 2015, the Commission acknowledged Duke Energy Florida, Inc.'s name change to Duke Energy Florida, LLC.

<sup>3</sup> *Id.*



fund earnings rate is at least the rate of inflation measured by the Consumer Price Index (CPI) over each five-year review period.

First appearing in FPL's 1994 Nuclear Decommissioning Cost Study (1994 study) were considerations for the treatment of spent fuel generated during the operation of its nuclear units.<sup>4</sup> While the storage and disposal of spent nuclear fuel (SNF) assemblies (high-level waste) generated during plant operations were not considered a decommissioning expense, the presence of SNF on-site does impact the cost of decommissioning. Faced with the uncertainties of the Department of Energy (DOE) meeting its 1998 deadline for the acceptance of SNF, the Commission recognized that SNF may have to remain on-site long after decommissioning begins. For this reason, an allowance for on-site dry storage costs was made in determining decommissioning accruals for each nuclear unit. The primary goal in requiring an on-site dry storage allowance was to ensure that the funds needed to fully decommission FPL's nuclear units are available when the plants retire, while being recovered from customers who received nuclear generated energy. The Commission found that these costs should continue to be reviewed to determine the prudence of their inclusion in decommissioning accruals. Staff notes that FPL's 2020 study does include provisions for on-site SNF management, which are further discussed in Issue 1.

### ***End of Life Materials and Supplies and Last Core of Nuclear Fuel***

In the review of FPL's 1998 Nuclear Decommissioning Cost Study (1998 study), the Commission addressed, for the first time, recovery of nuclear materials and supplies (M&S) costs,<sup>5</sup> as well as the costs of unburned nuclear fuel (Last Core)<sup>6</sup> expected to remain at the end of each generating unit's life (EOL). The Commission found that these costs are unique to the nuclear unit and are the direct result of unit shut down.<sup>7</sup> However, the Commission recognized that these costs do not meet the intent of nuclear decommissioning because they do not involve the removal of plant facilities. The Commission concluded that the costs associated with EOL M&S inventories and Last Core should be amortized over the remaining life span<sup>8</sup> of each unit. The Commission found that amortizing EOL M&S and Last Core costs over the remaining life span of each plant ratably allocates the costs to customers receiving nuclear generated power.

The Commission further ordered that the amortization of costs associated with EOL M&S inventories be accounted for as a debit to nuclear maintenance expense with a credit to an unfunded Account 228 reserve. For costs associated with the Last Core, the Commission ordered

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<sup>4</sup> Order No. PSC-95-1531-FOF-EI, issued December 12, 1995, in Docket No. 941350-EI, *In re: Petition for increase in annual accrual for Turkey Point and St. Lucie nuclear unit decommissioning costs by Florida Power & Light Company*; and Docket No. 941352-EI, *In re: Petition for Approval of Increase In Accrual for Nuclear Decommissioning Costs by Florida Power Corporation*.

<sup>5</sup> EOL M&S inventories are the level of unique inventories that will remain at the end of each nuclear site's life (license expiration of the last nuclear unit at the site).

<sup>6</sup> The Last Core is the unburned fuel that will remain in the fuel assemblies at the end of the last operating cycle of each nuclear unit when it ceases operation.

<sup>7</sup> Order No. PSC-02-0055-PAA-EI, issued January 7, 2002, in Docket No. 991931-EG, *In re: Determination of appropriate method of recovery for the last core of nuclear fuel for Florida Power & Light Company and Florida Power Corporation*.

<sup>8</sup> Remaining life span for each nuclear unit is the period of years from the decommissioning study date to the nuclear license expiration date.

that the amortization should be recorded as a base rate fuel expense with a credit to an unfunded Account 228 reserve.<sup>9</sup> The Commission also found that the costs associated with EOL M&S and the Last Core should be addressed in subsequent decommissioning studies so that the related annual amortization expenses could be revised, if warranted. Staff notes FPL has provided updates for its respective EOL M&S and Last Core costs in the current study. These updated costs and amortizations are further discussed in Issues 3 and 4.

### ***Recent Decommissioning Orders Pertaining to FPL***

By Order No. PSC-05-0902-S-EI, issued September 14, 2005, the Commission approved a Settlement Agreement that suspended FPL's then annual nuclear decommissioning accrual.<sup>10</sup> Per the terms of the Stipulation and Settlement, FPL was to file a decommissioning study (2005 study) on or before December 31, 2005, and the results of the study would have no impact on customer rates for the term of the Settlement. FPL's annual base rate nuclear decommissioning accrual (which is exclusive of EOL M&S and Last Core amortization expenses) has remained at zero dollars per year from 2005 forward.

FPL's last decommissioning proceeding, in accordance with Rule 25-6.04365, F.A.C., occurred in 2015. The company's cost analysis and continuation of a zero annual accrual was approved by Order No. PSC-16-0250-PAA-EI.<sup>11</sup> FPL's current study is similar to its 2015 Decommissioning Study (2015 study or prior study) in terms of the general scope of decommissioning and plant inventory levels. Staff notes that additional plant inventories resulting from FPL's Extended Power Uprate Project were initially accounted for as part of the 2010 study.<sup>12</sup>

The Commission is vested with jurisdiction over these matters through several provisions of Chapter 366, Florida Statutes (F.S.), including Sections 366.04, 366.05, and 366.06.

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<sup>9</sup> Order No. PSC-02-0055-PAA-EI.

<sup>10</sup> Order No. PSC-05-0902-S-EI.

<sup>11</sup> Order No. PSC-16-0250-PAA-EI, issued June 29, 2016, in Docket No. 20150265-EI, *In re: Petition for approval of 2015 nuclear decommissioning study*, by Florida Power & Light Company.

<sup>12</sup> Order No. PSC-08-0021-FOF-EI, issued January 7, 2008, in Docket No. 070602-EI, *In re: Petition for determination of need for expansion of Turkey Point and St. Lucie nuclear power plants, for exemption from Bid Rule 25-22.082, Florida Administrative Code (F.A.C.), and for cost recovery through the Commission's Nuclear Power Plant Cost Recovery Rule, Rule 25-6.0423, F.A.C.*

Date: June 3, 2021

## Discussion of Issues

**Issue 1:** What are the current total estimated costs to decommission Florida Power & Light Company's Turkey Point Nuclear Units 3 and 4, and St. Lucie Nuclear Units 1 and 2, valued in 2020 dollar terms?

**Recommendation:** Staff recommends the Commission find that FPL's total current estimated cost valued in 2020 dollars for decommissioning Turkey Point Nuclear Units 3 and 4 of \$1,361,192,000, and for St. Lucie Nuclear Units 1 and 2 of \$1,745,462,000 is reasonable. (Smith II, Kunkler, Barrett, Shrum)

**Staff Analysis:** FPL filed an updated site-specific decommissioning cost study on December 14, 2020, in accordance with Rule 25-6.04365, F.A.C. The purpose of this study is to recognize developments and changes impacting decommissioning cost estimates of the company's nuclear units, and to also consider such factors as improvements in technology, regulatory changes that have transpired since FPL's last nuclear decommissioning study and review in 2015, and any relevant additional updates and information.

### Operating License

FPL's Turkey Point Nuclear Generating Station (Turkey Point) began service in 1972 with the commissioning of Unit No. 3, while Unit No. 4 achieved operational status one year later in 1973. The St. Lucie Nuclear Power Plant (St. Lucie) began service in 1976 with Unit 1, while Unit 2 began service approximately seven years later in 1983. All four units were originally licensed by the NRC to operate for a maximum of forty years. From 2000-2001, FPL filed applications with the NRC for twenty-year operating license extensions for all four units. In 2002, the NRC approved FPL's license extension request for TP3 and TP4, while approving extensions for SL1 and SL2 in 2003. In 2018, FPL filed a second application to extend the operating license for TP3 and TP4 an additional twenty years.<sup>13</sup> That extension was granted by the NRC in 2019. Accordingly, all four units' investment amounts will continue to be included in rate base until expiration of their respective extended operating licenses, or until such time as FPL decides to retire the units. The operating license expiration dates for TP3 and TP4 are July 2052 and April 2053, respectively. The operating license expiration dates for SL1 and SL2 are March 2036 and April 2043, respectively. The current cost study assumes that each unit will operate throughout its extended license period.

### Decommissioning Methods

The NRC accepts the following three decommissioning methods: prompt removal/dismantling (DECON), mothballing with delayed dismantling (SAFSTOR), and entombment (ENTOMB). Consistent with the 2015 study, the current study continues to utilize a combination of DECON and SAFSTOR decommissioning methods. FPL selected DECON for the Turkey Point units because this method provides the lowest cost and employs those individuals familiar with the nuclear facility to support the dismantling effort. Further, DECON eliminates a potential long-term safety hazard and relieves the company of the long-term obligation and liability for

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<sup>13</sup> David Drucker, U.S Nuclear Regulatory Commission, letter to Mr. Mano Nazar, Florida Power & Light Company, December 4, 2019, Adams Ascension No. ML19305C879  
<https://www.nrc.gov/docs/ML1930/ML19305C879.pdf>

Date: June 3, 2021

continuing maintenance of the property. For the St. Lucie units, due to the timing difference in operating license expiration dates, SAFSTOR is utilized for SL1 with an approximate seven-year dormancy period, followed by prompt dismantlement (DECON) of both SL1 and SL2 concurrently. This allows for a one-time mobilization of contractor personnel and equipment by mothballing SL1 until the expiration of SL2's license.

The company currently projects that the SNF will remain at each plant site after the majority of nuclear facilities have been removed. Staff notes that in order for a nuclear plant to be considered fully-decommissioned, no on-site SNF may be present. The company is projecting that the final fuel assemblies will be removed from Turkey Point by 2073, and by 2071 for St. Lucie.

Towards the end of the decommissioning process, or at least two years prior to the expected license termination dates of approximately 2074 for Turkey Point, and 2073 for St. Lucie, FPL is required to submit to the NRC a License Termination Plan (LTP). Once the physical decommissioning process (including removal of SNF and storage facilities) is complete, the NRC will determine if site remediation has been performed in accordance with the LTP; and if envisioned by the LTP, the site will be released (by the NRC) for unrestricted use.<sup>14</sup> Staff notes that FPL's current decommissioning study assumes site remediation to the level of unrestricted use. At this point, the nuclear license will be terminated, thus concluding NRC oversight.

### **Decommissioning Cost Estimates**

FPL commissioned EnergySolutions, LLC (EnergySolutions) to develop the decommissioning cost estimates for its 2020 study. To produce its decommissioning cost estimates, EnergySolutions utilizes the decommissioning cost model based on the fundamentals laid out in the Atomic Industrial Forum/National Environmental Studies Project Report AIF/NESP-036, "Guidelines for Producing Commercial Nuclear Power Plant Decommissioning Cost Estimates." The report was prepared in accordance with the NRC Regulatory Guide 1.202, "Standard Format and Content of Decommissioning Cost Estimates for Nuclear Power Reactors." EnergySolutions states that they based their estimates on proven decommissioning technologies. EnergySolutions further states that their cost estimates are in compliance with current regulatory requirements.

The major decommissioning cost drivers/centers in FPL's 2020 study are: program management (staffing/labor), insurance and regulatory fees, site security, spent fuel management, waste packaging, transportation, and disposal, site characterization and license termination surveys, energy costs, decontamination and removal-related activities (engineering, demolition, and support equipment), and low-level radioactive waste inspection fees. Consequently, these cost drivers, with the exception of decontamination and removal-related activities, also reflect the greatest dollar value changes from the 2015 study. These specific cost drivers and the changes from the 2015 study are discussed individually further in staff's recommendation.

The cost estimates are based on a number of assumptions, including regulatory requirements, low-level waste disposal practices, high-level radioactive waste management options, project contingencies, and site restoration requirements. The estimates include a cooling period (in fuel pool) for the SNF once plant operations have ceased and the reactors are permanently de-fueled.

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<sup>14</sup> U.S. Code of Federal Regulations, Title 10, Part 20, Subpart E, "Radiological Criteria for License Termination," Federal Register, Volume 62, Number 139, July 21, 1997.

After the cooling period has concluded, the SNF will be transferred directly to DOE or to an on-site independent spent fuel storage installation (ISFSI) for interim storage. The decommissioning cost estimates include the dismantling of facilities, site structures, ISFSI, and site restoration.

Site-specific plant systems and building inventories were used to develop the decommissioning cost estimates. These plant systems and building inventories are the same as those used in the 2015 Study, because *EnergySolutions* determined that no major installations or removals had taken place since 2015. *EnergySolutions* utilizes proprietary unit cost factors, historical data, and project execution strategies to produce several outputs. These outputs include waste volumes and classification, required man-hours, and estimated costs.<sup>15</sup> Unit factors for concrete removal, steel removal, and cutting costs were developed and valued using local labor rates.

The total estimated cost to decommission Turkey Point has decreased by approximately 23.4 percent from the 2015 study. The total estimated costs to decommission St. Lucie decreased by 3.4 percent during the same timeframe. Tables 1-1 and 1-2 below present the cost comparisons from 2015 to 2020 by major category using the selected methods of decommissioning. The large decrease in License Termination costs are explained in more detail in the Site Characterization and License Termination Surveys section and the Florida Low Level Radioactive Waste Inspection Fee section below. Staff notes that the two vintages of cost figures shown below are unadjusted (nominal) and presented as they were in the year of study, or 2015 dollars and 2020 dollars, respectively.

**Table 1-1**  
**Turkey Point Decommissioning Cost Comparison 2015-2020**

<b>Plant Turkey Point Units 3 and 4</b>	<b>2015 Study (\$1000s)**</b>	<b>2020 Study (\$1000s)</b>	<b>Percent Difference</b>	<b>Annual Percent Difference***</b>
License Termination	1,204,251	1,018,355	-15.4	-3.3
Spent Fuel Management	478,765	282,949	-40.9	-10
Site Restoration	94,289	59,888	-36.5	-8.7
<b>Total*</b>	<b>1,777,305</b>	<b>1,361,192</b>	<b>-23.4</b>	<b>-5.2</b>

Source: Order No.PSC-2016-0250-PAA-EI and FPL's 2020 Decommissioning Study

\*May not add due to rounding

\*\*Amounts are different than those reflected in the 2020 study. Staff has used the costs that were approved in Order No. PSC-16-0250-PAA-EI.

\*\*\* Represents the annual percentage increase over 5 years

<sup>15</sup> The unit factor method of estimating costs is based on activity-dependent costs (i.e., costs to decontaminate and remove components for disposal), period-dependent costs (e.g., management staff for the duration of the program), and collateral costs (e.g., insurance and taxes). These costs include labor, equipment, materials, energy, and services. In addition, the effect of salvage and scrap values and contingencies are incorporated into the estimate. Unit factors for concrete removal (\$/cubic yard), steel removal (\$/ton), and cutting costs (\$/inch) are developed using local labor rates. The activity-dependent costs are estimated with the item quantities (cubic yards and tons), developed from plant drawings and inventory documents. Each activity, such as cutting pipe, segmenting vessels, demolishing concrete, transporting and disposing of wastes, is individually cost estimated. The unit factors are expressed in terms of the cost per cut, cost per cubic foot demolished, cost per trip, or cost per cubic yard of burial. The unit cost factors are applied to the inventory of plant equipment and structures to be removed from each nuclear unit to develop a cost estimate.

**Table 1-2**  
**St. Lucie Decommissioning Cost Comparison 2015-2020**

<b>Plant St Lucie Units 1 and 2</b>	<b>2015 Study (\$1000s)</b>	<b>2020 Study (\$1000s)</b>	<b>Percent Difference</b>	<b>Annual Percent Difference**</b>
License Termination	1,208,237	1,254,740	3.8	0.8
Spent Fuel Management	486,705	427,313	-12.2	-2.6
Site Restoration	111,537	63,409	-43.1	-10.7
<b>Total*</b>	<b>1,806,479</b>	<b>1,745,462</b>	<b>-3.4</b>	<b>-0.7</b>

Source: FPL's 2015 and 2020 Decommissioning Studies

\*May not add due to rounding

\*\*Represents the annual percentage increase over 5 years

On an individual unit basis, the current estimated costs in 2020 dollars for the decommissioning of FPL's nuclear plants are as follows: TP3 equals \$652,645,000, TP4 equals \$708,547,000, SL1 equals \$923,401,000, and SL2 equals \$822,060,000. Staff notes that due to SL2 being jointly-owned with the Orlando Utilities Commission and Florida Municipal Power Agency (Joint Owners), FPL is responsible for approximately 86.45 percent of the unit's total decommissioning cost. The joint owners fund the remaining amount. Staff further notes that the Joint Owners maintain separate (from FPL) external sinking funds for satisfying both their decommissioning cost obligations and the NRC's financial assurance rule. The funding level status of the Joint Owners' NDTs as of March 25, 2019 are sufficiently above the NRC's required minimum.<sup>16</sup>

As discussed above, all costs are ultimately classified as those relating to the activities of License Termination, Spent Fuel Management, or Site Restoration. However, these major cost classifications are comprised of individual cost elements. Below, staff analyzes estimated cost variances between FPL's current and 2015 study by these individual elements.

### ***Program Management***

Program management is the largest single element of the overall decommissioning cost estimate. The program management cost element primarily captures costs relating to the staffing (both plant personnel and contractors) and organization during the decommissioning process. This includes overall project oversight as well as management of day-to-day activities. Program management costs decreased by approximately 27.3 percent, or \$156.2 million for Turkey Point, and 9.5 percent, or \$53.3 million for St. Lucie from the company's prior study in 2015. A change in the staffing plan models is the primary factor for the lower costs.

### ***Insurance and Regulatory Fees***

In the 2015 study, TLG assumed a large one-time reduction to the Nuclear Property Insurance premiums at the time the plant shutdown.<sup>17</sup> EnergySolutions however, assumes several smaller reductions to the premiums at specific milestones that take place throughout the

<sup>16</sup> Responses to Staff's First Data Request, No. 81.

<sup>17</sup> TLG was the consultant hired by FPL to conduct the 2015 Study.

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decommissioning process. Due to the timing differences in these milestone-specific reductions of premiums, the comparative insurance and regulatory fees category costs increased by \$29.0 million, or 62.5 percent for Turkey Point and \$54.4 million, or 115.2 percent for St. Lucie from the company's 2015 study.

### **Security**

The 2020 study assumes lower security staffing levels than those in the 2015 Study. These reduced levels are due, in part, to a reduction in staffing once the SNF is removed from the spent fuel pool. Further, due to the 20-year subsequent license extension at the Turkey Point site, it is assumed that the DOE will begin to pick up the fuel before the decommissioning process begins. As a result, *EnergySolutions* projects that the ISFSI will be in operation for a shorter period of time which reduces the need for security personnel. Security costs have decreased by approximately \$125.5 million, or 54.3 percent for Turkey Point, and by \$32.3 million, or by 17.8 percent for St. Lucie from the company's 2015 study.

### **Spent Fuel Management (Direct Expenditures)<sup>18</sup>**

The Nuclear Waste Policy Act of 1982 (NWSA) committed the DOE to accept and dispose of SNF and high-level radioactive waste (HLRW). The acceptance and disposal of SNF and HLRW by the DOE was to begin by January 31, 1998, as stipulated under its Standard Disposal Contract with waste generators. With respect to a final SNF repository, the DOE submitted its license application to the NRC on June 3, 2008, seeking authorization to construct a storage facility located at Yucca Mountain, Nevada. The NRC formally docketed the DOE's license application on September 8, 2008, triggering a three-year deadline, with a possible one-year extension, set by Congress for the NRC to decide whether to authorize construction. The application review was suspended in 2011, which generated legal action in the United States Federal Court of Appeals. In August 2013, the US Court of Appeals for the District of Columbia Circuit issued a Writ of Mandamus ordering the NRC to comply with federal law and resume its review of DOE's Yucca Mountain repository license application.<sup>19</sup> As part of its resumed review, the NRC published the final volumes of its formal Safety Evaluation Report (SER) of the project in January 2015, as well as an Environmental Impact Statement supplement in May 2016.<sup>20</sup> However, facing funding issues and strong state and regional opposition, the adjudicatory process remains unclear. Staff notes that further actions and formal proceedings must occur before a licensing decision can be made and that substantial uncertainty remains as to the operational prospects of the Yucca Mountain repository.

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<sup>18</sup> Direct spent fuel management expenditures exclude program management costs but include costs for dry shielded storage canisters and horizontal storage modules, spent fuel loading/transfer/spent fuel pool O&M fees.

<sup>19</sup> 725 F.3d 255 (D.C. Cir. 2013) IN RE: AIKEN COUNTY, ET AL., PETITIONERS, STATE OF NEVADA, INTERVENOR

<sup>20</sup> The NRC's Yucca Mountain Repository SER details the evaluation of the DOE's license application for a construction authorization. The NRC staff issued its SER in five volumes. The five SER Volumes document the NRC staff's review of the general information (SER Volume 1), repository safety before permanent closure (Volume 2), repository safety after permanent closure (Volume 3), administrative and programmatic requirements (Volume 4), and proposed conditions on the construction authorization and probable subjects of license specifications (Volume 5). The NRC's Environmental Impact Statement supplement examines the potential environmental impacts with respect to potential contaminant releases from the geologic repository for spent nuclear fuel and high-level radioactive waste at Yucca Mountain, Nye County, Nevada.

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Separate and apart from the Yucca Mountain project and NRC reviews, in January 2013, the DOE released its “Strategy for Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste,” which serves as a statement of Administration policy regarding the disposition of used nuclear fuel and high-level radioactive waste.<sup>21</sup> Under this strategy, the DOE plans to make “demonstrable progress on the siting and characterization of repository sites to facilitate the availability of a geologic repository by 2048.”<sup>22</sup> Staff understands that the ultimate purpose of this policy direction and approach is to establish a number of high-level nuclear waste sites specializing in specific classes of waste. However, to date, no national final repository has been identified and fully licensed to receive commercial SNF.

The NRC requires that licensees establish a program to manage and provide funding for the caretaking of all spent fuel at the reactor site until title of the fuel is transferred to the DOE.<sup>23</sup> Accordingly, FPL has incorporated costs relating to the storage and management of SNF generated at the Turkey Point and St. Lucie sites into its current study. However, due to the non-performance by the DOE of terms contained in the Standard Disposal Contract with FPL, litigation was brought by the company. Ultimately, in 2009, FPL entered into a settlement agreement with the federal government for damages incurred relating to SNF storage and management.<sup>24</sup> As part of the settlement agreement, the company receives annual payments to cover the costs incurred for managing and storing SNF that it would otherwise not have incurred if the original terms of its Standard Disposal Contract with the DOE had been met. FPL is currently projecting that SNF management costs incurred before years 2059 at Turkey Point and 2063 at St. Lucie, are eligible for reimbursement. Staff notes that the company’s expenditures for storing and managing SNF that have already been reimbursed by the federal government through 2017 equal \$282,255,686.<sup>25</sup> Reimbursement amounts for calendar years 2018 and 2019 are currently pending as the DOE has rejected an estimated \$4.8 million in costs incurred by FPL in those years. FPL is disputing DOE’s determination.<sup>26</sup>

Assumptions relating to FPL’s spent fuel management plan in its current decommissioning study include: (1) a DOE repository for disposing of commercial SNF will be operational and available in 2030, (2) SNF transfers to a federal facility will begin in 2031 for Turkey Point and 2033 for St. Lucie, and (3) the spent fuel acceptance rate is consistent with the 2004 “Acceptance Priority Ranking & Annual Capacity Report.”<sup>27</sup> Accounting for the aforementioned assumptions, transfer of all SNF from Turkey Point to the DOE would be completed by the end of 2073. Transfer of all SNF from St. Lucie to the DOE would be completed by 2071.

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<sup>21</sup> U.S. Department of Energy, “Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste,” January 2013.

<sup>22</sup> *Id.*

<sup>23</sup> U.S. Code of Federal Regulations, Title 10, Part 50 – Domestic Licensing of Production and Utilization Facilities, Subpart 54 (bb), “Conditions of Licenses”.

<sup>24</sup> Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 160021-EI, *In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 160061-EI, *In re: Petition for approval of 2016-2018 storm hardening plan*, by *Florida Power & Light Company*, Docket No. 160062-EI, *In re: 2016 depreciation and dismantlement study by Florida Power & Light Company*, and Docket No. 160088-EI *In re: Petition for limited proceeding to modify and continue incentive mechanism*, by *Florida Power & Light Company*.

<sup>25</sup> Responses to Staff’s First Data Request, No. 71.d.

<sup>26</sup> *Id.*

<sup>27</sup> U.S. Department of Energy, “Acceptance Priority Ranking & Annual Capacity Report,” DOE/RW-0567, July 2004.



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Total estimated direct costs for spent fuel management decreased by 67.0 percent, or \$193.8 million, for Turkey Point and 49.2 percent, or \$138.3 million, for St. Lucie from the company's 2015 study. This decrease is primarily due to the 20-year reduction of the ISFSI Operating Period post shutdown of Turkey Point Unit 4, a reduction in the quantity of spent fuel canisters required to be purchased, as well as a 25 percent savings for container material and equipment due to bulk purchasing. Staff notes that the 2015 study included costs for an ISFSI expansion, whereas the 2020 study does not.<sup>28</sup>

### ***Waste Packaging, Transportation, and Disposal***

The contaminated and activated material generated during a nuclear reactor decontamination and dismantling process is classified as low-level radioactive waste (LLRW). LLRW is further classified based on levels of radioactivity (lowest-to-highest) as either Class A, B, C, or Greater than Class C (GTCC). The majority of LLRW assumed for disposal in FPL's analysis, in terms of both volume and mass, is Class A waste.<sup>29</sup>

For LLRW disposal cost estimation and planning purposes, FPL has a Life of Plant Agreement with EnergySolutions to dispose of Class A nuclear waste at EnergySolutions' facility in Clive, Utah. EnergySolutions' facility in Clive does not have a license to dispose of Class B or C radioactive waste, which is more highly radioactive than Class A. On November 10, 2011, Waste Control Specialists (WCS) opened the Texas Low-Level Radioactive Waste Disposal Compact Facility in Andrews County, Texas. This facility is licensed to dispose of Class A, B, and C low-level radioactive wastes. For purposes of FPL's 2020 study, Classes B and C waste are assumed to be shipped and disposed of at the WCS facility.

The total estimated cost of Waste Packaging, Transportation & Disposal (Class A, B, & C) increased by \$35.7 million, or 14.4 percent for Turkey Point, and \$155.1 million, or 54.4 percent for St. Lucie, from the company's 2015 study. These increases are primarily due to the additional debris/storm drain added as a result of the methodology change discussed below in the Site Characterization section.

The total estimated cost of Waste Packaging, Transportation & Disposal (GTCC) increased by \$5.4 million, or 16.7 percent for Turkey Point, and \$22.2 million, or 69.4 percent for St. Lucie from the company's 2015 study. These increases are primarily due to the assumed escalation of the 2015 disposal costs, as well as differing methodologies in how the transportation and associated packaging costs of the GTCC material are accounted for between TLG and EnergySolutions.<sup>30</sup>

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<sup>28</sup> Responses to Staff's First Data Request, No. 79.

<sup>29</sup> Waste disposal volumes and costs, itemized by packaging, transportation, surcharges and disposal costs by waste class and facility, are provided in Appendix E of FPL's 2020 Decommissioning Study, for both Turkey Point and St. Lucie.

<sup>30</sup> Transportation cost of the GTCC material is included in the disposal cost in the Company's 2015 study, whereas the Company's 2020 study includes approximately \$4.3M (including contingency) in transportation costs for GTCC in addition to the disposal cost. The Company's 2015 study included approximately \$2.8M (excluding contingency) in packaging costs, whereas the Company's 2020 study includes approximately \$14.1M (excluding contingency) in packaging costs. FPL attributes this difference to some portion of the packaging costs being included in other cost categories in the 2015 study.

### ***Decontamination & Removal***

Removal costs primarily capture costs related to the disassembly of plant components and the placement of those components into a central area or zone for processing/disposal, controlled removal of contaminated and activated concrete, remediation of any hazardous waste, excavation of soil, and demolition of site structures. Removal costs increased by approximately 19.3 percent, or \$39.7 million for Turkey Point, and 3.8 percent, or \$9.3 million for St. Lucie from the company's prior 2015 study. Escalation is the main reason for this increase.<sup>31</sup> However, the increase is mitigated by a change in methodology from the 2015 Study.

### ***Contingency Allowance***

The practice of budgeting a cost contingency allowance is common in large-scale construction and demolition projects. Such project cost estimates generally include a baseline cost estimate, which is formulated based on ideal conditions, and a contingency allowance. A contingency allowance is a specific provision for unforeseeable elements and associated costs within the defined project scope. For large, complex, and long-running projects such as nuclear plant decommissioning, unforeseeable events are likely to occur; therefore, a contingency allowance is necessary.

For each of FPL's four nuclear units, EnergySolutions applied specific contingency allowances to each individual unit's decommissioning cost estimates on a line item basis to produce a weighted average contingency value. These specific line item contingency allowances are based on guidelines developed by the Atomic Industrial Forum (now Nuclear Energy Institute) in its report "Guidelines for Producing Commercial Nuclear Power Plant Decommissioning Cost Estimates," AIF/NESP-036. Dividing the sum (dollar value) of the line item contingency allowances by the total decommissioning costs for each unit respectively results in the proposed weighted average contingency percentages for the 2020 study. The contingency values for all four nuclear units have been reduced from FPL's prior study as displayed in the table below:

**Table 1-3**  
**Weighted Average Contingency**  
**Factors**

<b>Nuclear Unit</b>	<b>2015 Study<sup>32</sup></b>	<b>2020 Study</b>
TP3	17.46%	14.26%
TP4	17.41%	14.54%
SL1	17.37%	14.16%
SL2	18.04%	14.45%

Source: FPL's 2015 and 2020 Decommissioning Studies

Due to the number of large-scale decommissioning projects conducted by EnergySolutions and the industry as a whole, the costs involved are more well-known. Therefore, the 2020 study reflects lower contingency values than were reflected in the 2015 study. Staff believes the

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<sup>31</sup> EnergySolutions assumes that future decommissioning costs will grow at a rate of 3.15 percent per year.

<sup>32</sup> Order No. PSC-16-0250-PAA-EI.

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contingency provisions presented in FPL's 2020 Decommissioning Study, which are based on industry standards and guidelines, as discussed above, are reasonable.

### ***Site Characterization and License Termination Surveys***

Site characterization and survey cost estimates have decreased substantially from the prior study.<sup>33</sup> Site characterization and survey costs decreased 46.0 percent, or \$17.2 million, at Turkey Point, and 52.4 percent, or \$22.6 million at St. Lucie. The primary driver of the cost decrease is a change in methodology that EnergySolutions employs regarding the removal of certain buildings as radiological instead of clean. EnergySolutions' methodology minimizes inefficient decontamination activities, as well as reducing personal exposure, increases schedule certainty and general site safety. While this change in methodology does cause an increase in assumed debris removal, those additional costs are more than offset by this methodology change.

### ***Energy Costs***

Energy costs have been reduced significantly from the 2015 study. These costs represent electricity usage at the decommissioning site to support decommissioning activities. The 2020 study bases the energy costs on the natural gas cost rather than the heavy oil energy usage cost used in the 2015 study. This results in a decrease of 75.9 percent, or \$30.8 million at Turkey Point, and 77.2 percent, or \$36.1 million at St. Lucie.

### ***Florida Low Level Radioactive Waste Inspection Fee***

Florida Low Level Radioactive Waste Inspection Fee estimates have increased since the 2015 cost study. This increase is driven by the methodology change discussed above in the Site Characterization section. The change in methodology generates a larger volume of low level radioactive debris, consequently causing an increase in the amount of the inspection fee. This results in an increase of 407.7 percent, or \$4.4 million for Turkey Point, and 103.3 percent, or \$5.3 million for St. Lucie.

### **Conclusion**

Staff believes FPL, in estimating current decommissioning costs for Turkey Point and St. Lucie as discussed above, appropriately recognized and reflected factors including new/updated information, improvements in technology, and regulatory changes that have transpired during the last five years. Thus, based on information contained in FPL's 2020 Decommissioning Study and the associated data request responses, staff recommends the Commission find that FPL's total current estimated cost valued in 2020 dollars for decommissioning TP3 and TP4 of \$1,361,192,000, and for SL1 and SL2 of \$1,745,462,000 is reasonable.

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<sup>33</sup> Decommissioning Characterization refers to the process of obtaining and analyzing information relating the types, quantities, and chemical/physical states of radionuclides that will affect the decommissioning process.

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**Issue 2:** What are the appropriate annual accruals, in equal dollar amounts, necessary to recover the future decommissioning costs of Florida Power & Light Company's St. Lucie Nuclear Units 1 and 2, and Turkey Point Nuclear Units 3 and 4?

**Recommendation:** Staff recommends the appropriate jurisdictional accrual amounts necessary to recover future decommissioning costs over the remaining life of each nuclear power plant remain at the currently-authorized zero dollars per year as last approved by Order No. PSC-16-0250-PAA-EI. (Higgins)

**Staff Analysis:** The purpose of this issue is to determine the appropriate annual accrual amounts to be charged to customers for satisfying the future cost of decommissioning FPL's nuclear power plants. As mentioned in staff's recommendation statement, the currently-authorized overall annual decommissioning accrual is set to zero dollars per year (suspended) as last approved by Order No. PSC-16-0250-PAA-EI.<sup>34</sup> Staff notes the annual decommissioning accrual has been continuously suspended since September of 2005.<sup>35</sup>

In general, to determine the annual accrual, the cost of decommissioning is first estimated in current dollars and then escalated to its future value using specific cost escalation assumptions. The question becomes how much revenue needs to be collected from current ratepayers in equal monthly payments, earning at a given rate, to equal the future value of decommissioning costs. The determination of the annual accrual then resembles an annuity calculation. The specific cost escalation rates and the assumed funds earning rate are discussed in greater detail later in this issue. However, in considering current or "on hand" funding levels, the very need for an annual decommissioning accrual is determined by a similar process. To determine the need for an annual decommissioning accrual, the assumed funds earnings rate is used to develop the present value of the future funding requirement. A comparison is then made between the present value of the future funding requirement and the current funds on hand including certain assumed future tax implications. The results of this analysis will be the present value of the net funding requirement (which includes the scenario/result of no current additional ratepayer funding being required).

The results of the annual accrual analysis presented with FPL's 2020 study indicates that no new funding from customers (positive annual accrual for nuclear plant decommissioning) is required at this time. Staff notes that unless ordered otherwise, the continued adequacy of FPL's decommissioning accrual will be reviewed by the Commission at least once every five years as required by Rule 25-6.04365(3), F.A.C.

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<sup>34</sup> Order No. PSC-16-0250-PAA-EI, Issued June 29, 2016, in Docket No. 150265-EI, *In re: Petition for approval of 2015 nuclear decommissioning study, by Florida Power & Light Company.*

<sup>35</sup> Order No. PSC-05-0902-S-EI, Issued September 14, 2005, in Docket No. 050045-EI, *In re: Petition for rate increase by Florida Power & Light Company*, and Docket No. 050188-EI, *In re: 2005 comprehensive depreciation study by Florida Power & Light Company.*

### Current Cost of Decommissioning

As discussed in detail in Issue 1, the current overall system decommissioning cost estimates included in FPL's 2020 study are shown in Table 2-1. The estimated costs are as of December 31, 2020.

**Table 2-1**  
**Current Decommissioning Cost Estimates by Plant**

<b>Nuclear Unit</b>	<b>Estimated Decommissioning Costs (2020 Dollars)</b>
St. Lucie Unit No. 1	\$923,401,492
St. Lucie Unit No. 2	\$822,060,215
Turkey Point Unit No. 3	\$652,645,521
Turkey Point Unit No. 4	\$708,546,759
<b>Total</b>	<b>\$3,106,653,987</b>

Source: FPL's 2020 Decommissioning Study, Support Schedule G.

### Cost Escalation Rates

Specific cost escalation rates are used to convert the current estimated decommissioning cost to the future decommissioning cost for each nuclear unit. The current decommissioning cost estimates are delineated into five summary cost categories. These categories are: labor, equipment/materials, transportation, LLRW disposal, and other. The current decommissioning cost estimates are escalated to future values at the respective license termination dates for each nuclear unit using separate inflation forecasts applicable to the aforelisted cost categories. With the exception of burial rates, FPL relied upon "The U.S. Economy, The 30-Year Outlook, August 2020," published by Global Insight (a Division of IHS Markit, Ltd.) as the source for its specific escalation forecasts. FPL's escalation rate for burial is based on company-specific data. Staff notes the estimated burial costs contained in the 2020 study are assumed to escalate at an annual rate of 2.0 percent. The specific year-by-year escalation rates for all cost categories are shown on page one of Schedule G (for both St. Lucie and Turkey Point) of the 2020 study.<sup>36</sup>

The methodology used by FPL in the 2020 study to determine the assumed average escalation rates is consistent with the methodology used in its prior or 2015 study. The plant-specific average annual escalation rates used in the 2015 study and the 2020 study to convert the current decommissioning costs to the future decommissioning costs for each nuclear unit are shown in Table 2-2 below:

**Table 2-2**  
**Average Annual Escalation Rate Comparison**

<b>Nuclear Unit</b>	<b>2015 Study</b>	<b>2020 Study</b>
St. Lucie Unit No. 1	3.11%	3.15%
St. Lucie Unit No. 2	3.21%	3.19%
Turkey Point Unit No. 3	3.23%	3.15%
Turkey Point Unit No. 4	3.20%	3.13%

Sources: FPL's 2015 and 2020 Decommissioning Studies, Support Schedule G.

<sup>36</sup> Document No. 13466-2020, filed December 14, 2020.

### Future Cost of Decommissioning

The estimates of the total future cost to decommission each nuclear unit are based on the current costs to decommission, operating license termination and release dates, and the specific cost escalation rates. The estimated future costs to decommission each nuclear unit at their respective assumed license release dates are listed in Table 2-3. Staff notes the cost figures listed below are on a system basis and net of the estimated U.S. Department of Energy reimbursements for costs incurred related to the on-site storage of spent nuclear fuel as previously discussed in Issue 1.

**Table 2-3**  
**Future Cost of Decommissioning**

<b>Nuclear Unit</b>	<b>Future Net Decommissioning Costs (Nominal)</b>
St. Lucie Unit No. 1	\$1,699,371,718
St. Lucie Unit No. 2	\$1,661,014,402
Turkey Point Unit No. 3	\$1,860,206,656
Turkey Point Unit No. 4	\$2,039,087,009
<b>Total</b>	<b>\$7,259,679,785</b>

Source: FPL's 2020 Decommissioning Study, Support Schedule G.

### Current Funding

The NRC requires that licensees provide reasonable financial assurance that funds will be available for decommissioning through one of three methods: (a) prepayment prior to the start of operation, (b) an external sinking fund, or (c) surety, insurance or other guarantee method.<sup>37</sup> The company provides for financial assurance for plant decommissioning through its nuclear decommissioning trust funds which are held in trust with The Bank of New York Mellon Corporation (BNY Mellon) as trustee. This financial provisioning and trust arrangement constitutes an external sinking fund. An external sinking fund is defined as a: "fund established and maintained by setting funds aside periodically in an account segregated from licensee assets and outside the licensee's administrative control in which the total amount of funds would be sufficient to pay decommissioning cost at the time termination of operation is expected."<sup>38</sup>

The current projected nuclear decommissioning trust (NDT) balances and the estimated present values of funding requirements on a jurisdictional basis are shown in Table 2-4 below. Due to the 2020 study's preparation and filing timeframe, the last two months of fund earnings data presented in the analysis were estimated. The NDT balances represent actual data through October 2020, and projected data for the last two months of the year, or November and December of 2020. Staff notes that generally for the purposes of an annual decommissioning accrual, a fund balance greater than or equal to the estimated present value of the future funding requirement at the date of study indicates the current funding level is sufficient, and that no new ratepayer money is presently required.

<sup>37</sup> Nuclear Regulatory Commission Rule 10 C.F.R. § 50.75, *Reporting and recordkeeping for decommissioning planning*.

<sup>38</sup> *Id.*

**Table 2-4**  
**Current Total Fund Balances and Estimated Present Values of Future Funding Requirements**

<b>Nuclear Unit</b>	<b>Projected Fund Balance at 12/31/2020 (Jurisdictional)</b>	<b>Estimated Present Value of Future Funding Requirements at 12/31/2020 (Jurisdictional)</b>
St. Lucie Unit No. 1	\$833,351,306	\$477,805,889
St. Lucie Unit No. 2	\$685,049,470	\$397,792,046
Turkey Point Unit No. 3	\$704,175,236	\$343,479,870
Turkey Point Unit No. 4	\$791,939,364	\$370,793,989
<b>Total</b>	<b>\$3,014,515,376</b>	<b>\$1,589,871,794</b>

Source: FPL's 2020 Decommissioning Study, Support Schedule G.

### Funding Period

The funding period is the period over which revenues are collected from customers for purposes of decommissioning the nuclear units. Plant-specific funding periods are assumed to expire on the last day of the month preceding the month in which the plant's operating license is due to expire. The operating license expiration dates for the nuclear units are listed in Table 2-5 below:

**Table 2-5**  
**Current NRC Operating License Expiration Dates**

<b>Nuclear Unit</b>	<b>Expiration Date</b>
St. Lucie Unit No. 1	March 1, 2036
St. Lucie Unit No. 2	April 6, 2043
Turkey Point Unit No. 3	July 19, 2052
Turkey Point Unit No. 4	April 10, 2053

Source: FPL's 2020 Decommissioning Study, Section 2.

### Years of Fund Expenditures

The years in which the accumulated NDT funds will be expended for purposes of plant decommissioning are listed in Table 2-6 below:

**Table 2-6**  
**Years of Fund Expenditures**

<b>Nuclear Unit</b>	<b>Period</b>
St. Lucie Unit No. 1	2036-2073
St. Lucie Unit No. 2	2043-2073
Turkey Point Unit No. 3	2052-2074
Turkey Point Unit No. 4	2053-2074

Source: FPL's 2020 Decommissioning Study, Support Schedule G.

### Fund Earnings Rate

The fundamental purpose of the Commission's review of a decommissioning study is to ensure there will be adequate funding on hand at the time the nuclear unit is decommissioned. An

assumed fund earnings rate is integral to this process. The assumed fund earnings rate should be conservative enough to avoid a situation whereby future customers are burdened by inadequate funding for decommissioning. However, an assumed fund earnings rate that is too conservative inappropriately burdens current customers with expenses to be incurred in the future. As such, a certain amount of judgment is necessary to determine a fair balance between generations of customers.

The annual accrual amount moves inversely to the fund earnings rate. In other words, the higher the assumed fund earnings rate, the lower the annual accrual and vice versa. In its 2020 study, FPL used an assumed fund earnings rate of 4.0 percent, which is applicable to all four of its nuclear decommissioning trust funds. This assumed fund earnings rate is based on a Consumer Price Index (CPI) rate of 2.0 percent, plus a projected real long-term, after-tax, and net-of-fees earnings rate (or spread) of 2.0 percent.

This is the same approach FPL used in its approved 2015 study where the assumed earnings rate is compared to the CPI to assure that the overall return remains above CPI.<sup>39</sup> The assumed fund earnings rate of 4.0 percent, as compared to a CPI of 2.0 percent reflects the projection of continued adequacy of the funds. This projection assumes an investment strategy where the funds are moved from a current mix of 50 percent equity/growth assets and 50 percent income-oriented assets, to 100 percent fixed-income assets prior to the first year of decommissioning.<sup>40</sup> For the final years of decommissioning, all funds are assumed to be conservatively invested/held in a mix of bonds and cash.

As demonstrated by the range of earnings displayed in Table 2-7, the total fund returns have experienced some volatility from period to period. However, since inception, the NDT has returned an overall level of 7.1 percent. Given the projected long-term CPI of 2.0 percent, and the actual returns since inception, staff believes FPL's estimated fund earnings rate of 4.0 percent is reasonable for the purposes of determining the appropriate annual accrual amounts.

**Table 2-7**  
**Period NDT Time-Weighted Returns**

<b>Period</b>	<b>Fund Return</b>	<b>CPI</b>	<b>Spread</b>
1-Year	11.90%	1.20%	10.70%
2-Year	15.10%	1.70%	13.40%
3-Year	8.80%	1.80%	7.00%
5-Year	9.20%	1.90%	7.30%
10-Year	7.70%	1.70%	6.00%
Since Fund Inception	7.10%	2.60%	4.50%

Source: FPL's Responses to Staff's First Data Request, No. 1.

Given the parameters discussed above, the funding analysis indicates the current funding position as of December 31, 2020, is more than sufficient to satisfy the present value of future

<sup>39</sup> Order No. PSC-16-0250-PAA-EI.

<sup>40</sup> FPL's Responses to Staff's First Data Request, No. 3, filed March 4, 2021, and FPL's 2020 Study, Section 2.



Date: June 3, 2021

nuclear plant decommissioning cost requirements and that no new customer monies are required at this time.

### **Minimum Fund Earnings Rate**

Separate from the issue of the assumed fund earnings rate is the matter of whether the Commission should impose a prospective minimum fund earnings rate. In Order No. 21928, the Commission declined to identify a specific prospective growth value, but as a safeguard, determined that a minimum fund earnings rate equivalent to the level of inflation over each previous five-year review period would be appropriate.<sup>41</sup> The Commission reaffirmed this approach in FPL's 1994 and 1998 Decommissioning Studies. In those orders the Commission stated:

Rather than attempting to set a prospective minimum fund earnings rate which may or may not be reasonable under future economic conditions, we will require that the companies set aside funds sufficient to meet the Commission's best estimate of the decommissioning liability and require the companies to maintain the purchasing power as well as the principal amount of these contributions. The companies' investment performance will be evaluated along with all other decommissioning activities every five years. If it is found that the companies' investment earnings, net of taxes and all other administrative costs charged to the trust fund, did not meet or exceed the CPI average for the period, then we will consider ordering the utility to cover this shortfall with additional monies to keep the trust fund whole with respect to inflation. We therefore find a minimum fund earnings rate equivalent to the level of inflation over each five-year review period would be appropriate.<sup>42</sup>

FPL believes a distinct prospective minimum funds earnings rate should not be imposed and the current approach, as approved by the Commission, should remain in effect.<sup>43</sup> The Company explained that economic and financial market conditions can vary widely over time and are difficult, if not impossible, to predict. FPL also indicated that it is reasonable that the Company be accountable for taking appropriate steps intended to preserve the principal value and the purchasing power of contributions collected from its customers. Staff concurs, as it believes the Commission's current approach of periodically evaluating the adequacy of fund return levels

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<sup>41</sup> Order No. 21928, Issued September 21, 1989, in Docket No. 870098-EI, *In re: Petitions for approval of an increase in the accrual of nuclear decommissioning costs by Florida Power Corporation and Florida Power & Light Company*.

<sup>42</sup> Order No. PSC-95-1531A-FOF-EI, issued December 19, 1995, in Docket No. 941350-EI, *In re: Petition for increase in annual accrual for Turkey Point and St. Lucie nuclear unit decommissioning costs by Florida Power & Light Company*; and Docket No. 941352-EI, *In re: Petition for Approval of Increase in Accrual for Nuclear Decommissioning Costs by Florida Power Corporation*, and Order No. PSC-02-0055-PAA-EI, issued January 7, 2002, in Docket No. 981246-EI, *In re: Petition by Florida Power & Light Company for approval of annual accrual for Turkey Point and St. Lucie nuclear decommissioning unit costs*; Docket No. 001835-EI, *In re: Petition for approval of revised annual accrual for nuclear decommissioning costs by Florida Power Corporation*; Docket No. 990324-EI, *In re: Disposition of Florida Power & Light Company's accumulated amortization pursuant to Order PSC-96-0461-FOF-EI*; and Docket No. 991931-EG, *In re: Determination of appropriate method of recovery for the last core of nuclear fuel for Florida Power & Light Company and Florida Power Corporation*.

<sup>43</sup> FPL's Responses to Staff's First Data Request, No. 2, filed March 4, 2021.

Date: June 3, 2021

(i.e., minimum fund returns equivalent to the level of inflation over the previous five-year review period) is appropriate.

**Conclusion**

The current annual expense requirements to satisfy the estimated future nuclear decommissioning costs presented in the 2020 study support a zero accrual as of December 31, 2020. Based on the current estimated cost to decommission each nuclear unit, the assumed escalation rates to derive future cost values, current funding levels, and the assumed fund earnings rate of 4.0 percent, staff believes the continued suspension of any decommissioning accruals is reasonable. Thus, staff recommends the appropriate jurisdictional accrual amounts necessary to recover future decommissioning costs over the remaining life of each nuclear power plant remain at the currently-authorized zero dollars per year as last approved by Order No. PSC-16-0250-PAA-EI.

Date: June 3, 2021

**Issue 3:** Should the amortization expense associated with the unrecovered value of End-of-Life Materials and Supplies inventories that will exist at the nuclear site following shut down be revised?

**Recommendation:** Yes. Staff recommends that the Commission recognize the revised annual amortization expense associated with End-of-Life Materials and Supplies inventories for FPL of \$1.647 million (system), based on the proposed January 1, 2022 effective date of new customer rates in FPL's current rate case proceeding, Docket No. 20210015-EI. FPL should address the amortization of End-of-Life Materials and Supplies inventories in its subsequent decommissioning studies so the related annual accruals can be revised, if warranted. (Shrum, Barrett)

**Staff Analysis:** The end-of-life materials and supplies (EOL M&S) inventories of a nuclear-powered electrical plant consist of spare replacement parts and supplies that are required to ensure safe and reliable operations of the nuclear plant.<sup>44</sup> These inventories are unique and will have little value other than scrap when the associated nuclear units are decommissioned. Recognizing that a level of EOL M&S inventories will remain at the final shut down of each nuclear plant and therefore equates to an unrecovered cost, the Commission authorized FPL to amortize the cost of EOL M&S inventories over the remaining life span of each nuclear plant in order to ratably allocate the costs to those receiving the benefit of the nuclear generated power.<sup>45</sup> For administrative ease, the Commission further required FPL to address the amortization status of EOL M&S inventories in the company's subsequent updated nuclear decommissioning cost studies so the related annual amortization expense could be revised, if necessary.

In accordance with Order No. PSC-02-0055-PAA-EI, effective May 2002, FPL began recording the annual amortization expense associated with the EOL M&S inventories as a debit to nuclear maintenance expense with a credit to an unfunded Account 228 reserve. FPL's current level of annual amortization expense was required in its 2015 Decommissioning Study and approved by the Commission with Order No. PSC-16-0250-PAA-EI. Because the Commission previously found that the recovery of the costs associated with the EOL M&S inventories should be considered as a base rate component,<sup>46</sup> it ordered that changes in amortization of the EOL M&S inventory-related expenses shall be considered in conjunction with changes in other base rate costs and revenue requirement determinations at the time of FPL's base rate proceeding. Consequently, FPL's authorized annual amortization determined in its 2015 Decommissioning

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<sup>44</sup> EOL M&S inventories include assets such as spare pumps and subassemblies, motors, control modules, circuit boards, switch gear, circuit breakers, valves and valve parts, ventilation parts and filters, radiation monitoring parts, and similar types of equipment. In FPL's Response to Staff's First Data request, Nos. 25 and 34, FPL stated that valves and electrical switching equipment are the items with the highest value in the respective EOL M&S inventories.

<sup>45</sup> Order No. PSC-02-0055-PAA-EI; Order No. PSC-13-0023-S-EI, issued January 14, 2013, in Docket No. 120015-EI, *In re: Petition for increase in rates by Florida Power & Light Company*, and Order No. PSC-16-0250-PAA-EI, issued June 29, 2016, in Docket No. 150265-EI, *In re: Petition for approval of 2015 nuclear decommissioning study, by Florida Power & Light Company*.

<sup>46</sup> Order No. PSC-02-0055-PAA-EI.

Date: June 3, 2021

Study became effective in January 2017, consistent with the Stipulation and Settlement Agreement approved by the Commission.<sup>47</sup>

In a decommissioning study, a company's required EOL M&S-related annual amortization is determined by dividing the remaining net unrecovered cost associated with the EOL M&S inventories by the remaining amortization period. The remaining net unrecovered cost is the difference between the estimated cost of EOL M&S inventories and the actual reserve balance accrued at a point in time. The remaining amortization period is usually assumed to be from the considered point in time to the end of operating license of the last nuclear unit at a nuclear site. In its 2020 study, FPL estimated the remaining net unrecovered cost associated with the EOL M&S inventories, as of December 31, 2020, was \$43.643 million, with approximately \$21.678 million at St. Lucie (SL)<sup>48</sup> and \$21.965 million at Turkey Point (TP).

In its 2020 Decommissioning Study, FPL proposed that any change in amortization accruals relating to EOL M&S inventories should be addressed in FPL's next base rate proceeding. On March 12, 2021, FPL filed a Petition for Base Rate Increase and Rate Unification.<sup>49</sup> After filing its Rate Case petition, the company updated its analysis associated with the EOL M&S inventories in the instant docket in order to align with the proposed effective date identified in FPL's Rate Case, January 1, 2022.<sup>50</sup> The updated analysis reflects that the total estimated unrecovered cost for EOL M&S inventories, as of January 1, 2022, is \$41.672 million. Approximately \$20.969 million of this total is associated with SL, and the remaining \$20.703 million is associated with TP inventories. The revised annual amortization expense totals \$1.647 million, which is a decrease of \$0.326 million from \$1.973 million. The principle reason for the \$0.326 million reduction is the license extension granted at TP Unit 4 from 2033 to 2053, since it increased the number of months over which the remaining balance is projected to be recovered.<sup>51</sup> Increasing the number of months for this calculation results in a net reduction to the current amortization amount. Details of the estimated EOL M&S-related costs, reserve balances, remaining amounts to be recovered, and annual amortization amounts, as of January 1, 2022, are presented in Table 3-1 below:

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<sup>47</sup> Order No. PSC-16-0560-AS-EI, issued December 15, 2016, in Docket No. 160021-EI, *In re: Petition for rate increase by Florida Power & Light Company*.

<sup>48</sup> The calculations in the 2020 Decommissioning Study reflect that other parties have small ownership interests in the St. Lucie units. FPL's ownership share for these units is reflected as 92.552245 percent, net of participants. FPL owns all interests in the Turkey Point units.

<sup>49</sup> See Docket No. 20210015-EI. Pursuant to Order No. PSC-2021-0116-PCO-EI, Order Establishing Procedure, the hearing for the FPL Rate Case is scheduled to begin on August 16, 2021.

<sup>50</sup> FPL's Response to Staff's First Data request, Nos. 18-19, 28-29.

<sup>51</sup> FPL's Response to Staff's First Data request, No. 56.

**Table 3-1**  
**EOL M&S - Associated Amortization Expenses (\$1000s)**

Plant Site/ Unit	(a) EOL M&S Inventories as of 1/1/2022	(b) Reserve Balance as of 1/1/2022	(c) = (a) – (b)  Remaining Amounts to be Recovered	(d)  Current Annual Amortization	(e)  Revised Annual Amortization	(f) = (e) – (d)  Change in Annual Amortization <sup>52</sup>
SL2*	30,746	9,777	20,969	710	985	275
TP4**	<u>42,881</u>	<u>22,178</u>	<u>20,703</u>	<u>1,263</u>	<u>662</u>	<u>(601)</u>
<b>Total</b>	<b><u>73,627</u></b>	<b><u>31,955</u></b>	<b><u>41,672</u></b>	<b><u>1,973</u></b>	<b><u>1,647</u></b>	<b><u>(326)</u></b>

Notes: \*SL2 is the last unit to be decommissioned at the St. Lucie nuclear site.

\*\*TP4 is the last unit to be decommissioned at the Turkey Point nuclear site.

Data Source: FPL's response to Staff's First Data Request, Nos. 18-19, 28-29; FPL 2020 Decommissioning Study, Assumptions and Schedule E; and Order No. PSC-16-0250-PAA-EI, Pages 19-21.

Based on reviewing the information contained in FPL's 2020 Decommissioning Study and associated data request responses as well as prior Commission orders, staff believes that the revised amortization amounts presented in Table 3-1 are appropriate. Staff recommends that the updated EOL M&S amortization amount is \$1.647 million. The effective date of this updated amount is addressed in Issue 5.

## Conclusion

The amortization expense associated with the unrecovered value of EOL M&S inventories that will exist at these nuclear sites following shut down should be revised. Staff recommends that the Commission approve the revised annual amortization expense associated with EOL M&S inventories for FPL of \$1.647 million (system). The revised amortization represents a decrease of approximately \$0.326 million from the authorized amortization amount from the 2015 Decommissioning Study. The amortization of EOL M&S inventories should be included in subsequent decommissioning studies so the related annual accruals can be revised, if warranted.

<sup>52</sup> FPL's responses to Staff's First Data Request, Nos. 18-19, 28-29; FPL 2020 Decommissioning Study, Assumptions and Schedule E; and Order No. PSC-16-0250-PAA-EI.

Date: June 3, 2021

**Issue 4:** Should the amortization expense associated with the cost of the Last Core of nuclear fuel be revised?

**Recommendation:** Yes. Staff recommends that the Commission recognize the revised annual amortization expense associated with the cost of the Last Core of nuclear fuel at FPL nuclear units of \$3.564 million (system), based on the proposed January 1, 2022 effective date of new customer rates in FPL's current rate case proceeding, Docket No. 20210015-EI. FPL should address the costs associated with the Last Core in subsequent decommissioning studies so the related annual accruals can be revised, if warranted. (Shrum, Barrett)

**Staff Analysis:** Last Core is defined as the unburned nuclear fuel that will remain in the fuel assemblies at the end of the last operating cycle of each nuclear unit when it ceases operation. According to FPL, there are currently no economically feasible solutions to decrease the amount of unburned fuel in the reactor at the end of the last cycle.<sup>53</sup> Recognizing that the Last Core is associated with the final shut down of a nuclear unit and therefore equates to an unrecovered cost at the end of each unit's life, the Commission authorized FPL to amortize the cost of the Last Core over the remaining life span of each nuclear unit in order to ratably allocate the costs to those receiving the benefit of the nuclear generated power.<sup>54</sup> For administrative ease, the Commission also required FPL to address the amortization status of the Last Core expense in the company's subsequent updated nuclear decommissioning cost studies so the related annual amortization expense could be revised, if necessary.

In accordance with Order No. PSC-02-0055-PAA-EI, effective May 2002, FPL began recording the annual amortization expense associated with the Last Core as a debit to nuclear maintenance expense with a credit to an unfunded Account 228 reserve. Similar to EOL M&S addressed in Issue 3, FPL's current level of annual amortization expense was required in its 2015 study and approved by the Commission with Order No. PSC-16-0250-PAA-EI. Because the Commission previously found that the recovery of the cost associated with the Last Core should be considered as a base rate component, it ordered that changes in amortization of the Last Core-related expense shall be considered in conjunction with changes in other base rate costs and revenue requirement determinations at the time of FPL's base rate proceeding.<sup>55</sup> Consequently, FPL's authorized annual amortization determined in its 2015 Decommissioning Study became effective in January 2017, consistent with the Stipulation and Settlement Agreement approved by the Commission.<sup>56</sup>

In a decommissioning study, a company's required Last Core-related annual amortization is determined by dividing the difference between the estimated EOL value of the Last Core of nuclear fuel and the cumulative amortization balance at a point in time, by the remaining amortization period which is usually assumed to be at the end of operating license of the nuclear unit. In the 2020 Decommissioning Study, FPL estimated the remaining net unrecovered cost

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<sup>53</sup> FPL's Responses to Staff's First Data Request No. 54.

<sup>54</sup> Order No. PSC-02-0055-PAA-EI, issued January 7, 2002 and Order No. PSC-13-0023-S-EI, issued January 14, 2013, in Docket No. 120015-EI, *In re: Petition for increase in rates by Florida Power & Light Company*; and Order No. PSC-16-0250-PAA-EI, issued June 29, 2016, in Docket No. 150265-EI, *In re: Petition for approval of 2015 nuclear decommissioning study, by Florida Power & Light Company*.

<sup>55</sup> Order No. PSC-02-0055-PAA-EI.

<sup>56</sup> See Footnote 50.

associated with Last Core at the SL and TP nuclear plants, as of December 31, 2020, was approximately \$96.759 million.

Consistent with the approach used with the EOL M&S balances in its 2020 Decommissioning Study, FPL proposed that any change in amortization accruals relating to the Last Core expense should be addressed in FPL's next base rate proceeding. After filing its Rate Case petition, the company updated its analysis associated with Last Core to align with the proposed effective date of FPL's 2021 base rate case, January 1, 2022.<sup>57</sup> The updated analysis reflects that FPL's estimate of remaining net unrecovered cost associated with the Last Core, as of January 1, 2022, is approximately \$85.686 million. The resulting annual amortization expense is estimated to be \$3.564 million, a decrease of \$7.509 million annually from the current level. In data request responses, FPL stated that total nuclear fuel costs have gone down by approximately 35 percent in the five-year period between the 2015 and 2020 Decommissioning Studies.<sup>58</sup> Details of the estimated Last Core-related costs, reserve balances, remaining amounts to be recovered, and annual amortization amounts, as of January 1, 2022, are presented in Table 4-1 below:

**Table 4-1**  
**Last Core - Associated Amortization Expenses (\$1000s)**

	(a)	(b)	(c) = (a) – (b)	(d)	(e)	(f) = (e) – (d)
Plant Site/ Unit	Last Core Costs as of 1/1/2022	Reserve Balance as of 1/1/2022	Remaining Amounts to be Recovered	Current Annual Amortization	Revised Annual Amortization	Change Annual in Amortization <sup>59</sup>
SL1	56,900	43,839	13,061	3,200	919	(2,281)
SL2	55,700	35,412	20,288	2,972	953	(2,019)
TP3	65,300	40,771	24,529	2,536	803	(1,733)
TP4	63,800	35,992	27,808	2,365	889	(1,476)
<b>Total</b>	<b>241,700</b>	<b>156,014</b>	<b>85,686</b>	<b>11,073</b>	<b>3,564</b>	<b>(7,509)</b>

Data Source: FPL's response to Staff's First Data Request, Nos. 38-39, 42-44, 47-48, 51-53; FPL 2020 Decommissioning Study, Assumptions and Schedule F; and Order No. PSC-16-0250-PAA-EI, Pages 21-22.

Based on review of information contained in FPL's 2015 Decommissioning Study and associated data request responses as well as prior Commission orders, staff believes that the revised amortization amounts presented in Table 4-1 are appropriate. Staff also believes that the updated Last Core amortization amount is \$3.564 million. The effective date of this updated amount is addressed in Issue 5.

<sup>57</sup> FPL's Response to Staff's First Data Request, Nos. 38, 48.

<sup>58</sup> FPL's response to Staff's First Data Request, Nos. 36-37, 45-46.

<sup>59</sup> FPL's response to Staff's First Data Request, Nos. 38-39, 42-44, 47-48, 51-53; FPL 2020 Decommissioning Study, Assumptions and Schedule F; and Order No. PSC-16-0250-PAA-EI.

### **Conclusion**

The amortization expense associated with the cost of the Last Core of nuclear fuel should be revised. Staff recommends that the Commission approve the revised annual amortization expense associated with the cost of the Last Core for FPL of \$3.564 million (system). This represents a decrease of approximately \$7.509 million from the authorized amortization amount from the 2015 Decommissioning Study. The amortization of the Last Core-related costs should be included in subsequent decommissioning studies so the related annual accruals can be revised, if warranted.



Date: June 3, 2021

**Issue 5:** What should be the effective date for adjusting the annual decommissioning accrual amounts for TP3, TP4, SL1, SL2, amortization of nuclear EOL M&S inventories, and amortization of the costs associated with the Last Core?

**Recommendation:** If the staff recommendations in Issues 1 and 2 are approved, there is no change to the current approved zero decommissioning accrual. Therefore, an effective date for adjusting the annual decommissioning accrual is moot. If the staff recommendations in Issues 3 and 4 are approved, the revised annual amortization amounts relating to EOL M&S inventories (Issue 3) and the Last Core (Issue 4) should be effective at the time new base rates are approved. (Smith II)

**Staff Analysis:** By Order No. PSC-16-0250-PAA-EI, issued June 29, 2016, Petition for approval of 2015 nuclear decommissioning study, by Florida Power & Light Company, the Commission found that FPL's currently-approved zero annual decommissioning accrual did not warrant revision at that time. A review of FPL's 2020 study indicates that decommissioning base cost estimates have decreased since 2015, along with assumptions relating to escalation rates and trust fund earnings, as discussed in Issue 2, suggest that FPL's currently approved zero annual decommissioning accrual does not require revision at this time.

As previously discussed in Issues 3 and 4, FPL's current decommissioning study indicates revisions to the amortization of nuclear EOL M&S inventories and amortization of the costs associated with the Last Core are warranted. FPL's position and request is that any change in accrual amounts should be addressed in its next base rate proceeding. Staff notes the Commission is currently reviewing FPL's base rates in Docket No. 20210015-EI. Given that the Commission found in the 1998 FPL Nuclear Decommissioning Study review that the amortization expenses associated with the Last Core and EOL M&S should be considered base rate obligations, staff agrees with the company's assessment.<sup>60</sup>

### Conclusion

If the staff recommendations in Issues 1 and 2 are approved, there should be no change to the currently-approved zero annual decommissioning accrual. Therefore, the Commission need not establish an effective date at this time. If the staff recommendations in Issues 3 and 4 are approved, the revised annual amortization amounts relating to EOL M&S inventories and the Last Core should be effective at the time new base rates are approved.

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<sup>60</sup> Order No. PSC-02-0055-PAA-EI.

**Issue 6:** When should FPL file its next nuclear decommissioning study?

**Recommendation:** FPL's next decommissioning cost study for the Turkey Point Nuclear Generating Station and the St. Lucie Nuclear Power Plant should be filed no later than December 14, 2025. (Smith II)

**Staff Analysis:** Rule 25-6.04365, F.A.C., requires a utility that owns a nuclear generating plant under Commission jurisdiction to file a site-specific nuclear decommissioning cost study update at least once every five years from the submission date of the previous study unless otherwise required by the Commission. Given that FPL's current study was filed on December 14, 2020, its next study should be filed no later than December 14, 2025.

### **Conclusion**

FPL's next decommissioning cost study for the Turkey Point Nuclear Generating Station and the St. Lucie Nuclear Power Plant should be filed no later than December 14, 2025.

**Issue 7:** Should this docket be closed?

**Recommendation:** If no protest to this proposed agency action is filed by a substantially affected person within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed. (Brownless)

**Staff Analysis:** If no protest to this proposed agency action is filed by a substantially affected person within 21 days of the issuance of the order, a consummating order should be issued and the docket should be closed.

# Item 12

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Economics (Coston, Ward) *JGH*  
Office of the General Counsel (Trierweiler) *JSC*

**RE:** Docket No. 20200093-GU – Petition for approval of tariff modifications for liquified natural gas service by Peoples Gas System.

**AGENDA:** 06/15/21 – Regular Agenda – Tariff Filing - Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Fay

**CRITICAL DATES:** Company waived the 12-month Effective Date

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On March 16, 2020, Peoples Gas System (Peoples or utility) filed a petition (original petition) for approval of a Liquified Natural Gas (LNG) Service tariff. LNG is natural gas that has been cooled to negative 260 degrees Fahrenheit, which causes the gas to condense into a liquid. Once in liquid form, the natural gas is 1/600th of its original volume, allowing for increased storage potential. LNG is currently used in Florida as a transportation fuel for maritime, rail, and other applications. The original petition would have allowed the utility to build facilities to convert natural gas into liquid form (liquefaction), provide necessary LNG storage, and allow for the regasification of the LNG on the customer's behalf.

Peoples waived the 60-day file and suspend provision pursuant to Section 366.06(3), Florida Statutes (F.S.), in an email dated April 9, 2020.<sup>1</sup> Staff issued two data requests on the original petition. Staff issued its first data request to Peoples on April 2, 2020, to which the utility

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<sup>1</sup> Document No. 01864-2020.

responded on April 17, 2020. Staff issued its second data request on July 31, 2020, to which the utility responded on August 7, 2020. The Commission acknowledged the intervention of the Office of the Public Counsel (OPC) in this docket by Order No. PSC-2020-0181-PCO-GU, issued June 10, 2020. OPC served interrogatories and requests for production on Peoples on June 5, 2010, which Peoples responded to on July 6, 2020.

On May 22, 2020, a noticed informal telephonic meeting was held with Commission staff, Peoples, OPC, and other interested persons.<sup>2</sup> At the meeting, Peoples provided a presentation that has been placed in the docket file.<sup>3</sup> On July 31, 2020, Eagle LNG Partners (Eagle LNG), an interested person in the docket, submitted a letter to the Commission stating its opposition to the proposal as presented in the original petition.<sup>4</sup> On August 13, 2020, Peoples submitted to the Commission a letter in response to Eagle LNG's letter of opposition.<sup>5</sup> Copies of both letters have been filed as correspondence in this docket. On August 17, 2020, a second noticed informal telephonic meeting was held with Commission staff, Peoples, OPC, Eagle LNG, and other interested persons.

The staff recommendation on Peoples' original petition was presented at the September 1, 2020 Agenda Conference.<sup>6</sup> During the Agenda Conference, several Commissioners, OPC, and Eagle LNG expressed concerns about the proposed tariff's potential risk to the general body of ratepayers. In addition, Eagle LNG stated that it believed there are potential competitive market concerns with the proposal. The Chairman deferred the item to allow Peoples additional time to evaluate revisions to its petition and proposed tariff in response to the discussion and comments made at the September 1, 2020 Agenda Conference.

On February 2, 2021, Peoples filed a letter in the docket notifying the Commission that the utility waived the 12-month deadline for final Commission action, per Section 366.06(3), F.S.

On February 22, 2021, Peoples filed a modification (modified filing) to its original petition and an amended tariff sheet that the utility believes addresses the questions and concerns raised at the September 2020 Agenda Conference. In its modified filing, the utility states it will no longer offer liquefaction service under the amended tariff, rather the tariff would only allow for the storage and regasification of LNG. Peoples stated in its modified filing that the amended tariff should reduce the average cost to provide LNG service by approximately 40 to 60 percent from the original petition. On March 24, 2021, staff issued its third data request regarding the modified filing, for which responses were received from the utility on April 8, 2021. On May 14, 2021, Peoples filed an additional amendment to its LNG tariff to include a provision regarding ratepayer protections.<sup>7</sup>

This recommendation addresses the modified filing and amended tariff. The amended tariff, as filed by Peoples on May 14, 2021, is included as Attachment A of the recommendation. For

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<sup>2</sup>Interested persons in the docket are: Eagle LNG Partners LLC, Thigpen Solutions LLC, Applied LNG Technologies LLC, Zion Jacksonville LLC, and Nopetro – CH4 Holdings LLC.

<sup>3</sup>Document No. 02719-2020.

<sup>4</sup>Document No. 04200-2020.

<sup>5</sup>Document No. 04409-2020.

<sup>6</sup>Document No. 04754-2020.

<sup>7</sup>Document No. 04081-2021.

clarity, Attachment B shows in legislative format the revisions from the tariff as filed with the original petition and the tariff filed on May 14, 2021.

### **Commission Jurisdiction**

Section 366.02(1), F.S., in part, defines a "public utility" as an entity that supplies gas (natural, manufactured, or similar gaseous substance) to the public within Florida. Section 366.02(1), F.S., also excludes from the definition of "public utility" municipal utilities, rural cooperatives, and:

persons supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, *unless such person also supplies electricity or manufactured or natural gas.* [Emphasis added]

Therefore, staff believes that Peoples' proposed LNG service would fall under the activities of a public utility, as contemplated under Section 366.02(1), F.S., and the Commission may exercise jurisdiction over Peoples' rates and service in this area, pursuant to Section 366.04, F.S. Based on this interpretation, the Commission would also have jurisdiction over this matter pursuant to Sections 366.03, 366.05, and 366.06, F.S.

## Discussion of Issues

**Issue 1:** Should the Commission approve Peoples' amended proposed LNG tariff?

**Recommendation:** Yes. Staff recommends that the Commission should approve Peoples' amended proposed LNG tariff, as shown in Attachment A, effective on June 15, 2021. The LNG tariff would provide Peoples with an opportunity to provide storage and regasification LNG services to interested customers. A participating customer would enter into a contract with Peoples and all capital and operating costs associated with the LNG facility would be borne by the customer. If Peoples petitions the Commission to evaluate cost recovery for any tariff default or under-recovery in a future rate petition, the utility should be put on notice that, as part of its review, the Commission will complete a thorough analysis of the utility's due diligence in entering into the contract, including the sufficiency of contract provisions designed to protect the general body of ratepayers. (Coston, Ward)

**Staff Analysis:** In its original petition, Peoples stated that major maritime and cruise companies, along with several of Florida's largest ports, have expressed interest in the utility providing an LNG fuel option through the development of LNG infrastructure. The utility highlighted that the International Maritime Organization, the specialized United Nations agency that sets global standards for the safety, security and environmental performance of international shipping, has required the marine sector to reduce sulphur oxide (SOx) emissions from ships by 80 percent beginning January 1, 2020. As a result, many maritime companies are considering natural gas as a fuel for cruise ships, container vessels, and bulk carriers.

In addition to the maritime industry, the utility also stated that other industries have expressed an interest in using LNG for transportation fuel. Examples provided in the petition include refuse companies using natural gas for transportation fleets and railroads using natural gas to power locomotives. Peoples stated that a significant challenge to using LNG as a transportation fuel is the lack of storage facilities in Florida. The proposed tariff would allow Peoples the opportunity to work with these industries to create the supply infrastructure needed to meet the growing demand for LNG.

### Potential Benefits of LNG

Peoples stated that the benefit of natural gas in its liquid state is that it is approximately 600 times less voluminous than gas in its traditional gaseous state. Converting natural gas into a liquid state makes it possible to transport natural gas to places that pipelines may not currently serve, thus potentially expanding the use of natural gas as a transportation fuel. Additionally, on-site LNG could serve as an immediate solution for customers who are unable to wait for pipeline infrastructure installation. The utility stated that LNG facilities could also provide greater resiliency for participating customers by avoiding disruptions caused by weather or supply interruptions. Currently, Florida does not have any large-scale storage facilities and relies on natural gas to be transported through interstate and intrastate pipeline systems.

Peoples' original petition is the first request by a Florida investor-owned natural gas company for an LNG tariff. The operators currently providing LNG services in Florida are not subject to the Commission's jurisdiction. Peoples seeks to include certain LNG service under its regulated tariff, rather than through an unregulated subsidiary, because the utility believes that doing so



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creates operating efficiencies in terms of customer points of contact, operations and management expense, and economies of scale.<sup>8</sup> Peoples explains that a prospective LNG customer would typically issue a Request for Proposals for the construction and maintenance of LNG facilities and Peoples could potentially compete with other unregulated LNG providers for the provision of certain LNG service.

### **Proposed Amended Liquefied Natural Gas Tariff**

Under Peoples' proposed amended tariff, a participating customer would pay a monthly LNG services charge specific to that customer, which would be calculated based on Peoples' gross investment in the storage and regasification facilities that serve the customer, as established in the LNG tariff. These facilities would be installed and maintained by Peoples and could be installed on either utility-owned property or the customer's premises. Peoples stated that "each LNG facility built by Peoples pursuant to the tariff will be unique to the particular customer(s) and industries served by such facility." Peoples stated in its modified filing that the services offered under this tariff would be limited to LNG storage and regasification. This is a significant change from the original petition, which also included the option to provide liquefaction facilities.

As outlined in the amended tariff, Peoples would enter into an agreement with the customer to construct an LNG facility to store and re-gasify LNG. The agreement would include the required monthly services charge, which is designed for all costs to be fully paid by the customer over the life of the agreement. The utility asserted that the monthly services charge would be designed to recover the cost of service to provide LNG service to a customer. The cost of service would include, but not be limited to, depreciation expense, return on capital, property taxes, insurance, operational expenses, and the fuel and electricity used to operate the LNG facilities. The costs of an LNG facility would include all of the necessary components and equipment needed to build the specific LNG facility for a customer's end use. Peoples stated that each facility would be designed for the specific needs and anticipated demand of each customer and the final costs would reflect that specific unit. Proposed tariff sheet No. 7.406, as shown in Attachment A to the recommendation, provides a listing of specific equipment that could be necessary for the construction of an LNG facility.

### **Comments filed by Eagle LNG and Peoples' Response**

On July 31, 2020, Eagle LNG submitted a letter to the Commission requesting that the Commission deny Peoples' originally-proposed LNG tariff. Eagle LNG asserted four reasons as to why the Commission should deny the original petition. Eagle LNG stated that the LNG market is competitive and Commission regulation is only required when there is a natural monopoly. Second, approval of the tariff would put the general body of ratepayers at risk if the LNG customer can not fulfill its obligation under the contract and ratepayer risk is not justified in a competitive market. Third, Eagle LNG believed that Peoples should offer LNG services through a separate, non-regulated, company (i.e., a subsidiary of the corporate parent Emera). Finally, Eagle LNG believed that approval of the originally-proposed LNG tariff sends the wrong signal to the competitive LNG market in Florida and puts Eagle LNG at a competitive disadvantage.

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<sup>8</sup>Peoples' response to staff's second data request No. 2 (Document No. 04280-2020).

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On August 13, 2020, Peoples submitted a letter to the Commission in response. First, Peoples asserted that the originally-proposed tariff does not require Commission oversight of the LNG market; rather the LNG tariff is a natural extension of Peoples' natural gas business. Second, Peoples stated that the LNG tariff would not put ratepayers at risk as Peoples will not be building speculative facilities, rather the utility will be building specific facilities to meet a requesting customer's needs. Peoples further stated it will be contracting with well-capitalized customers and it is thus extremely unlikely that a LNG customer would default or declare bankruptcy. Third, Peoples stated the originally-proposed LNG tariff will not cause cross subsidization or regulatory inefficiency. Creating a separate company for LNG services would create greater inefficiencies and adding additional customers benefits the general body of ratepayers. Finally, Peoples asserted that the proposed LNG tariff would provide another LNG option to potential customers, increasing competition.

At the September 1, 2020 Agenda Conference addressing the original petition, Eagle addressed the Commission stating their objection to Peoples' proposal. In Peoples' modified filing, the utility stated that it had discussions with Eagle addressing its concerns. Peoples stated that these discussions resulted in the utility removing the liquefaction services from its proposed amended tariff to address Eagles' concerns. Specifically, this change would require a customer to obtain liquefaction services from a separate provider prior to Peoples storing, and potentially, regasifying the LNG for the customer. The utility stated that while the amended tariff does not offer liquefaction, its ability to provide storage and regasification would still offer additional options to customers and the LNG market in Florida.

### **Similar Tariff Concepts**

The utility believes that the Commission has previously approved tariffs for Peoples that are similar in concept. The Commission first approved Peoples' Natural Gas Vehicle Service (NGVS) tariffs in 1992<sup>9</sup> and more recently modified the NGVS tariff in 2017.<sup>10</sup> The NGVS tariffs provide options for Peoples to install and maintain private or public fueling stations for compressed natural gas customers while allowing Peoples to recover its cost of providing these services. The monthly services charge calculation methodology under this tariff is 1.6 times the utility's gross investment in the facilities. Similar to the LNG market, the provision of fueling stations for compressed natural gas customers is a competitive market.

In 2017, the Commission approved a tariff to accommodate the receipt of renewable natural gas (RNG) on Peoples' distribution system.<sup>11</sup> The RNG tariff allows Peoples to recover from biogas producers the cost of upgrading the biogas and does not contain standard charges, as the services provided vary based on the steps needed to upgrade the biogas to RNG. The monthly services charge is equal to a mutually agreed upon percentage (between Peoples and the biogas producer)

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<sup>9</sup>Order No. 25626, issued January 22, 1992, Docket No. 910942-EG, *In re: Petition for approval of Natural Gas Vehicle Conservation Program by Peoples Gas System, Inc.*

<sup>10</sup>Order No. PSC-2017-0195-TRF-GU, issued May 19, 2017, Docket No. 170038-GU, *In re: Request for approval of tariff modifications related to natural gas vehicles and fueling facilities by Peoples Gas System.*

<sup>11</sup>Order No. PSC-2017-0497-TRF-GU, issued December 29, 2017, Docket No. 20170206-GU, *In re: Petition for approval of tariff modifications to accommodate receipt and transportation of renewable natural gas from customers, by Peoples Gas System.*

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multiplied by Peoples' gross investment in the facilities necessary to provide biogas upgrading services.

In January 2021, the Commission approved a comparable RNG tariff for Florida City Gas. This tariff is designed similar to Peoples' RNG tariff in that it includes a monthly services charge to recover all investment costs from the biogas customer.<sup>12</sup>

### **Impact on General Body of Ratepayers**

Peoples asserted in its modified filing that the LNG tariff is designed such that the capital investment, operational expenses, and its return on investment are borne by the LNG customer, via a negotiated contract. In response to staff's third data request, the utility modified its amended tariff on May 14, 2021, to incorporate language emphasizing that the tariff would not cause any additional costs to non-participants.<sup>13</sup> In addition, the utility stated that the assets, revenue, and expenses associated with this tariff would be included as part of its rate base surveillance reports; however, the utility stated that the LNG monthly services charge received from the LNG customer would fully offset the revenue requirements for these facilities.<sup>14</sup>

### **Project Costs**

Under the original petition, which allowed for the liquefaction of natural gas, Peoples stated that the potential costs to construct an LNG facility could range from \$25 million to over \$100 million.<sup>15</sup> Under the amended tariff, which only allows for storage and regasification of LNG, the utility states that a typical facility would cost between \$5 million and \$35 million. This represents a reduction of approximately 40 to 60 percent from the original petition request. Peoples stated in its response to staff's third data request that the removal of liquefaction facilities from the tariff "reduces the magnitude of risk to the Company and its ratepayers."<sup>16</sup>

### **Corporate Review**

The utility stated that it would evaluate each potential customer's credit worthiness prior to initiating an agreement under the tariff. Specifically, proposed tariff sheet No. 7.406-1 states that:

The agreement between Company and Customer may require a commitment by the Customer to purchase LNG Service for a minimum period of time, to take or pay for a minimum amount of LNG Service, to make a contribution in aid of construction, to furnish a guarantee, such as a surety bond, letter of credit, other means of establishing credit, and/or to comply with other provisions as determined appropriate by the Company.

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<sup>12</sup> Order No. PSC 2020-0459-PCO-GU, issued January 25, 2021, Docket No. 20200214-GU, *in Re: Request for approval of tariff modifications to accommodate receipt and transportation of renewable natural gas from customers, by Florida City Gas*.

<sup>13</sup> Peoples' response to staff's third data request No. 3 (Document No. 03296-2021).

<sup>14</sup> Peoples' response to staff's second data request No. 2 (Document No. 04280-2020).

<sup>15</sup> Peoples' response to staff's first data request No. 3 (Document No. 02065-2020).

<sup>16</sup> Peoples' response to staff's third data request No. 2 (Document No. 03296-2021).

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In addition, Peoples stated that the contract agreements under the proposed LNG tariff would be required to comply with the utility's Corporate Governance policy. This policy requires that contracts of a certain amount be reviewed and authorized by differing levels of senior management prior to execution. For the contract to be authorized by Peoples' governance body, the customer must have demonstrated that it meets or exceeds a level of credit worthiness. Peoples stated that this step would help ensure that a customer taking service under this tariff should have the long-term financial stability to meet its obligations under the LNG service agreement. Peoples does not intend to bring individual LNG contracts before the Commission for approval.

### ***Ratepayer Risk***

Peoples stated in its modified filing that while it believes a customer default under the LNG tariff is unlikely, it would pursue the appropriate legal options to resolve and recover any outstanding costs as a result of a contract default. In addition, the utility stated that the physical assets would be owned by the utility and would have value and the potential for repurposing if a default occurs. Further, Peoples stated in its modified filing that prior to any unrecovered costs being included in rate base, the utility would need to request, and receive, approval from the Commission.

An additional impact on the general body of ratepayers under this tariff could be potential technical and administrative personnel costs associated with implementing the tariff. Peoples stated in response to staff's second data request that the utility does not anticipate incurring significant upfront costs to implement this tariff. The utility does anticipate hiring technical and administrative support in order to respond to customer requests for LNG services and will incorporate this program into its existing pipeline, compressed natural gas, and renewable natural gas development team. The utility stated that the additional staffing cost would be subject to review by the Commission as part of a future base rate proceeding.

Under this tariff, the utility would actively participate in Requests for Proposals by companies interested in obtaining LNG services. This process will require Peoples to place resources towards bidding for, and potentially negotiating, an LNG services contract. In response to staff's data request, the utility stated that it does not anticipate requesting recovery from its general body of ratepayers of any costs incurred as a result of an LNG bid or contract negotiations that does not result in a constructed facility.<sup>17</sup>

With respect to the Commission's Purchased Gas Adjustment (PGA) clause,<sup>18</sup> Peoples asserted in response to OPC's interrogatory No. 2 that the proposed LNG tariff is not contemplated to have any impact on the PGA costs for the general body of ratepayers. Peoples explained that an LNG customer will procure its own natural gas supply and, therefore, will not be included as a PGA customer.

Staff is recommending approval of the amended tariff, based in part based on Peoples' assertion that it will implement a reasonable process to evaluate the credit worthiness of a potential

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<sup>17</sup>Peoples' response to staff's second data request No. 1 (Document No. 04280-2020).

<sup>18</sup>Docket No. 20200003-GU, *In re: Purchased gas adjustment (PGA) true-up*.

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customer and the utility's internal risk assessment policies. Based on this process, the utility does not anticipate any cost impact on the general body of ratepayers. Staff notes that PGS has added language to the amended proposed tariff clarifying that non-participants would not incur any additional costs as a result of the tariff. In addition, the amended proposed tariff removes approximately half of the capital investment required to construct and operate these facilities, as compared to the original petition and tariff.

Nonetheless, staff does recognize that, if approved, the Commission may be asked to evaluate cost recovery for any contract default that results from the proposed tariff or any under-recovery in a future rate petition. If this occurs, the utility should be put on notice that, as part of its review, the Commission will complete a thorough analysis of the utility's due diligence in entering into the contract, including the sufficiency of contract provisions designed to protect the general body of ratepayers.

### ***Potential Benefit to the General Body of Ratepayers***

Peoples stated that the proposed amended tariff would provide a benefit to the general body of ratepayers. The utility stated that potential customers under this tariff would increase the volume of gas on the existing distribution system. The utility stated this should result in lower overall costs to Peoples' general body of ratepayers through economies of scale, by spreading fixed costs across a larger customer base. Peoples noted that customers receive the same benefit through its existing NGVS tariff.<sup>19</sup>

In addition, Peoples stated that LNG has been used as a viable option by natural gas utilities to meet peak customer demand. While not currently planned, the utility highlighted that there could be a potential scenario in which Peoples could expand its supply portfolio for diversity and reliability using LNG by partnering with a customer under this tariff, potentially taking advantage of economies of scale. If this scenario were to arise, the utility stated that the capacity or reliability needs that benefit the general body of ratepayers would require recovery through a general base rate proceeding.

### **Conclusion**

Staff has reviewed Peoples' proposed amended LNG tariff language, the utility's responses to staff's and OPC's data and discovery requests, and the letter submitted by Eagle LNG and Peoples' response. Staff believes that Peoples' proposed LNG service would fall under the activities of a public utility, as contemplated under Section 366.02(1), F.S., and the Commission may exercise jurisdiction over Peoples' rates and service in this area, pursuant to Section 366.04, F.S. Based on this interpretation, the Commission would also have jurisdiction over this matter pursuant to Sections 366.03, 366.05, and 366.06, F.S.

Staff recognizes that while Peoples' modified filing reduces the costs of any projects, if approved, the Commission may be asked to evaluate cost recovery for any tariff default or under-recovery in a future rate petition. If this occurs, the utility should be put on notice that, as part of its review, the Commission will complete a thorough analysis of the utility's due diligence in

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<sup>19</sup>Order No. PSC-2017-0195-TRF-GU, issued May 19, 2017, Docket No. 2010038-GU, *In re: Request for approval of tariff modifications related to natural gas vehicles and fueling facilities by Peoples Gas System*.

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entering into the contract, including the sufficiency of contract provisions designed to protect the general body of ratepayers.

Staff recommends approval of Peoples' proposed amended LNG tariff, as shown in Attachment A, effective on June 15, 2021. The LNG tariff would provide Peoples with an opportunity to provide LNG storage and regasification services to interested customers and the utility has demonstrated a reasonable approach to implementing the tariff. A participating customer would enter into a contract with Peoples and all capital and operating costs associated with the LNG facility would be borne by the customer over the life of the contract.

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**Issue 2:** Should this docket be closed?

**Recommendation:** Yes. If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order. (Trierweiler)

**Staff Analysis:** If Issue 1 is approved and a protest is filed within 21 days of the issuance of the order, the tariffs should remain in effect, with any revenues held subject to refund, pending resolution of the protest. If no timely protest is filed, this docket should be closed upon the issuance of a consummating order.

**Peoples Gas System**  
**a Division of Tampa Electric Company**  
**Original Volume No. 3**

**Original Sheet No. 7.406**

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**LIQUIFIED NATURAL GAS SERVICE**  
**Rate Schedule LNG**

**Availability:**

This rate schedule is available to any Customer for the purchase of Liquefied Natural Gas ("LNG") service from Peoples Gas System throughout the service areas of the Company.

**Applicability:**

Applicable to Customers requesting liquefied natural gas services through storage of LNG, regasification of LNG to natural gas, and/or non-pipeline distribution of LNG ("LNG Service") for customer market segments including, but not limited to: (1) use as a transportation fuel, including marine markets, rail, auto, jet propulsion and other transportation customers, (2) use to increase system reliability, peak shaving and to increase resiliency of their facilities, (3) Customers that cannot be served by pipeline by PGS for any reason, including without limitation, time to construct the pipeline, cost of constructing pipeline, remote location, reliability/resilience and intermittent demand and (4) LNG loaded by ISO containers and exported to foreign markets pursuant to a valid export license. LNG Service under this Schedule is contingent upon arrangements mutually satisfactory to the Customer and Company for the design, location, construction, ownership, and operation of facilities required for the Company's provision of LNG Service. Service under this Rate Schedule is contingent upon the Company and the Customer entering a mutually satisfactory LNG Service Agreement.

Peoples' entry into an LNG Service Agreement with a Customer and the provision of LNG services pursuant to the LNG rate schedule with that Customer will not cause any additional costs to the Company's other rate classes.

**Rate:**

LNG Service facilities installed under the provisions of this schedule shall be owned, operated and maintained by the Company unless otherwise agreed to in an agreement for services between the parties. The rate for LNG Service supplied hereunder shall consist of a Monthly Services Charge and the transportation and delivery of natural gas under the Company's applicable Rate Schedules for General Service, Interruptible Service or Wholesale Service.

**Monthly Services Charge:**

The Monthly Services Charge shall be set forth in the agreement between the parties and unless otherwise specified in the agreement shall be billed in monthly instalments over the term of this Agreement. The rate structure of the Monthly Services Charge shall be designed to recover the cost of service required to provide LNG Service to Customer. The rate structure includes, but is not limited to depreciation, return on capital, taxes and operational expenses, fuel used to operate facilities and electric costs to operate the facility. As used in this schedule, LNG Service facility costs to be recovered means the total installed cost of such LNG facilities, as determined by Company, which may include but are not limited to compressors, heat exchangers, pumps, aftercoolers, filters, drivers, control valves (JT), vacuum insulated piping, instrumentation, vaporizers, fire protection equipment, safety equipment, monitoring equipment, truck scales, vent and flare systems, waste water disposal systems, instrument air, power, communications, N2 systems, quality monitoring equipment, storage, controls, piping, metering,

**Issued By:** T. J. Szelistowski, President  
**Issued On:**

**Effective:**



Date: June 3, 2021

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propane injection, and any other related appurtenances, including any redundancy necessary to provide reliable LNG Service, before any adjustment for accumulated depreciation, a contribution in aid of construction, etc. The agreement between Company and Customer may require a commitment by the Customer to purchase LNG Service for a minimum period of time, to take or pay for a minimum amount of LNG Service, to make a contribution in aid of construction, to furnish a guarantee, such as a surety bond, letter of credit, other means of establishing credit, and/or to comply with other provisions as determined appropriate by the Company.

The Customer's monthly minimum charge under this Rate Schedule shall be the Monthly Services Charge.

**Special Conditions:**

1. All charges listed above are subject to applicable federal, state, or local taxes.
2. LNG Services provided hereunder shall be available only in connection with LNG that
  - a. will be consumed in the State of Florida, or
  - b. if not consumed in Florida,
    - i. will not be vaporized for further transportation in interstate commerce by pipeline after its delivery to Customer by the Company pursuant to this Rate Schedule, and
    - ii. will not be involved in a gas exchange or gas transportation by displacement transaction that would be deemed to circumvent the Federal Energy Regulatory Commission's jurisdiction, under the Natural Gas Act, over the interstate transportation of gas by pipeline.
3. The rates set forth under this schedule shall be subject to the operation of the Company's Tax and Fee Adjustment Clause set forth on Sheet No. 7.101-5.
4. Service under this schedule shall be subject to the Rules and Regulations set forth in this tariff.

**Issued By:** T. J. Szelistowski, President  
**Issued On:**

**Effective:**

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**LIQUIFIED NATURAL GAS SERVICE  
Rate Schedule LNG**

**Availability:**

This rate schedule is available to any Customer for the purchase of Liquefied Natural Gas ("LNG") service from Peoples Gas System throughout the service areas of the Company.

**Applicability:**

Applicable to Customers requesting liquefied natural gas services through liquefaction of natural gas, storage of LNG, regasification of LNG to natural gas, and/or non-pipeline distribution of LNG ("LNG Service") for customer market segments including, but not limited to: (1) use as a transportation fuel, including marine markets, rail, auto, jet propulsion and other transportation customers, (2) use to increase system reliability, peak shaving and to increase resiliency of their facilities, (3) Customers that cannot be served by pipeline by PGS for any reason, including without limitation, time to construct the pipeline, cost of constructing pipeline, remote location, reliability/resilience and intermittent demand and (4) LNG loaded by ISO containers and exported to foreign markets pursuant to a valid export license. LNG Service under this Schedule is contingent upon arrangements mutually satisfactory to the Customer and Company for the design, location, construction, ownership, and operation of facilities required for the Company's provision of LNG Service. Service under this Rate Schedule is contingent upon the Company and the Customer entering a mutually satisfactory LNG Service Agreement.

Service under this Rate Schedule is contingent upon the Company and the Customer entering a mutually satisfactory LNG Service Agreement. Peoples' entry into an LNG Service Agreement with a Customer and the provision of LNG services pursuant to the LNG rate schedule with that Customer will not cause any additional costs to the Company's other rate classes.

**Rate:**

LNG Service facilities installed under the provisions of this schedule shall be owned, operated and maintained by the Company unless otherwise agreed to in an agreement for services between the parties. The rate for LNG Service supplied hereunder shall consist of a Monthly Services Charge and the transportation and delivery of natural gas under the Company's applicable Rate Schedules for General Service, Interruptible Service or Wholesale Service.

**Monthly Services Charge:**

The Monthly Services Charge Fee shall be set forth in the agreement between the parties and unless otherwise specified in the agreement shall be billed in monthly installments over the term of this Agreement. The rate structure of the Monthly Services Charge Fee shall be designed to recover the cost of service required to provide LNG Service to Customer. The rate structure includes, but is not limited to depreciation, return on capital, taxes and operational expenses, fuel used to operate facilities and electric costs to operate the facility. As used in this schedule, LNG Service facility costs to be recovered means the total installed cost of such LNG facilities, as determined by Company, which may include but are not limited to blowers, chillers, condensate removal equipment, compressors, heat exchangers, driers, pumps, interstage and aftercoolers, heavy equipment, compressors, heat exchangers, driers, pumps, interstage and aftercoolers, heavy

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propane injection, and any other related appurtenances, including any redundancy necessary to provide reliable LNG Service, before any adjustment for accumulated depreciation, a contribution in aid of construction, etc. The agreement between Company and Customer may require a commitment by the Customer to purchase LNG Service for a minimum period of time, to take or pay for a minimum amount of LNG Service, to make a contribution in aid of construction, to furnish a guarantee, such as a surety bond, letter of credit, other means of establishing credit, and/or to comply with other provisions as determined appropriate by the Company.

The Customer's monthly minimum charge under this Rate Schedule shall be the Monthly Services Reservation Charge.

**Special Conditions:**

1. All charges listed above are subject to applicable federal, state, or local taxes.
2. LNG Services provided hereunder shall be available only in connection with LNG that
  - a. will be consumed in the State of Florida, or
  - b. if not consumed in Florida,
    - i. will not be vaporized for further transportation in interstate commerce by pipeline after its delivery to Customer by the Company pursuant to this Rate Schedule, and
    - ii. will not be involved in a gas exchange or gas transportation by displacement transaction that would be deemed to circumvent the Federal Energy Regulatory Commission's jurisdiction, under the Natural Gas Act, over the interstate transportation of gas by pipeline.
3. The rates set forth under this schedule shall be subject to the operation of the Company's Tax and Fee Adjustment Clause set forth on Sheet No. 7.101-5.
4. Service under this schedule shall be subject to the Rules and Regulations set forth in this tariff.

Issued By: T. J. Szellowski, President  
Issued On:

Effective:

~~constituent-knockout-equipment, filters, turbo-expanders, liquid/vapor-separators, distillation-columns, fractionators, drivers, control valves (JT), vacuum insulated piping, condensers, accumulators, instrumentation, vaporizers, fire protection equipment, safety equipment, monitoring equipment, truck scales, vent and flare systems, waste water disposal systems, instrument air, power, communications, fuel-gas, N2 systems, gas-constituent-removal-equipment, quality monitoring equipment, storage, controls, piping, metering,~~

Issued By: T. J. Szellistowski, President  
Issued On:

Effective:

# Item 13

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-**

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**DATE:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Economics (Forrest) *JGH*  
Office of the General Counsel (Osborn, Crawford) *JSC*

**RE:** Docket No. 20210088-GU – Joint petition to modify tariffs to accommodate receipt and transport of renewable natural gas, by Florida Public Utilities Company, Florida Public Utilities - Indiantown Division, Florida Public Utilities - Fort Meade, and Florida Division of Chesapeake Utilities Corporation.

**AGENDA:** 06/15/21 – Regular Agenda – Tariff Suspension – Participation is at the Commission's discretion

**COMMISSIONERS ASSIGNED:** All Commissioners

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** 06/21/21 (60-Day Suspension Date)

**SPECIAL INSTRUCTIONS:** None

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### Case Background

On April 21, 2021, Florida Public Utilities Company, Florida Public Utilities-Indiantown Division, Florida Public Utilities-Fort Meade, and Florida Division of Chesapeake Utilities Corporation (the Companies) filed a joint petition with the Commission to create a new Renewable Natural Gas (RNG) rate schedule for biogas producers.<sup>1</sup> This tariff would provide the terms and conditions under which the Companies may provide biogas producers the service of conditioning or upgrading biogas into pipeline quality RNG. In addition, the Companies request approval of modifications to certain existing tariffs to allow for the receipt and transportation of RNG.

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<sup>1</sup> Biogas is described as raw, freshly emitted, and untreated gas, especially methane, produced by the breakdown of organic matter.

Docket No. 20210088-GU

Date: June 3, 2021

The Commission has jurisdiction over this matter pursuant to Sections 366.03, 366.04, 366.06, 366.071, 366.072, 366.076, Florida Statutes (F.S.).

### **Discussion of Issues**

**Issue 1:** Should the Companies' proposed Renewable Natural Gas Service tariff and associated tariff revisions be suspended?

**Recommendation:** Yes, staff recommends that the proposed tariffs be suspended to allow staff sufficient time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the proposed tariffs. (Forrest)

**Staff Analysis:** Staff recommends that the proposed tariffs be suspended to allow staff the necessary time to review the petition and gather all pertinent information in order to present the Commission with an informed recommendation on the proposed tariff.

Pursuant to Section 366.06(3), F.S., the Commission may withhold consent to the operation of all or any portion of the new rate schedules, delivering to the utility requesting such an increase, a reason or written statement of good cause for doing so within 60 days. Staff believes that the reason stated above is a good cause consistent with the requirement of Section 366.06(3), F.S.



Date: June 3, 2021

**Issue 2:** Should this docket be closed?

**Recommendation:** No, this docket should remain open pending the Commission's decision on the proposed tariffs. (Osborn, Crawford)

**Staff Analysis:** This docket should remain open pending the Commission's decision on the proposed tariffs.

# Item 14

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:** June 3, 2021

**TO:** Office of Commission Clerk (Teitzman)

**FROM:** Division of Economics (Kunkler, Galloway)  
Office of the General Counsel (Murphy, Tan)

*AK JGH  
TLT*

**RE:** Docket No. 20210078-TX – Compliance investigation of local exchange Certificate No. 8511, issued to SH Services LLC, for apparent fourth-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.

**AGENDA:** 06/15/21 – Regular Agenda – Interested Persons May Participate

**COMMISSIONERS ASSIGNED:** Staff

**PREHEARING OFFICER:** Administrative

**CRITICAL DATES:** None

**SPECIAL INSTRUCTIONS:** None

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### Case Background

SH Services LLC (SH Services or the Company) is a regulated telecommunications company located in Miami, Florida. The Company's application for a competitive local exchange telecommunications services certificate was approved by the Commission on August 11, 2004, by Order No. PSC-04-0787-PAA-TX. Pursuant to Section 364.336, Florida Statutes (F.S.), certificate holders must pay a minimum annual Regulatory Assessment Fee (RAF) if the certificate was active during any portion of the calendar year.

Pursuant to Section 350.113(4), F.S., RAF forms are mailed to regulated companies for the period January 1 through December 31, at least 45 days prior to the date that payment of the fee is due. Pursuant to Rule 25-4.0161(2), Florida Administrative Code (F.A.C.), the RAF form and applicable fees are due to the Commission by January 30 of the subsequent year.

Docket No. 20210078-TX

Date: June 3, 2021

In keeping with Commission rules and statutes, 2020 RAF forms were mailed on December 9, 2020, for the period January 1, 2020 through December 31, 2020. The RAF form and applicable fees were due on or before January 30, 2020.

On February 22, 2021, the Commission mailed a letter to the Company informing it that, according to Commission records, its RAF payment had not yet been received, and was past due. The letter also informed the Company that payment would need to be postmarked within 15 calendar days of receipt of the notice, as evidenced by the certified mail receipt, and, if not received by that date, a RAF rule violation penalty of \$500, \$1,000, or \$2,000, is automatically imposed, depending on the number of previous dockets opened against the entity for violation of the RAF rule.

SH Services had three prior dockets opened for violation of Rule 25-4.0161, F.A.C. – Docket No. 20080469-TX, Docket No. 20090201-TX, and Docket No. 20100207-TX. Because this docket was opened for an apparent fourth violation by the Company of Rule 25-4.0161, F.A.C., staff is required to file a recommendation addressing the fourth violation for the Commission's consideration and further action.

On April 21, 2021, the Commission received a partial payment which included the RAF and associated delinquent RAF penalty and interest, along with a portion of the additional rule violation penalty, from SH Services. On May 20, 2021, the Commission received the remaining balance owed.

The Commission has jurisdiction over this matter pursuant to Sections 350.113, 364.336, and 364.285, F.S.

Date: June 3, 2021

## Discussion of Issues

**Issue 1:** Should the Commission impose a penalty and a cost of collection, together totaling \$4,000 or cancel the SH Services tariff and remove SH Services, TX797, from the register for an apparent fourth violation of Section 364.336, F.S., and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunication Companies?

**Recommendation:** The Commission should impose a penalty and the cost of collection, together totaling \$4,000, but should not cancel the SH Services tariff nor remove the Company's name from the register. (Kunkler)

**Staff Analysis:** The Commission has opened three prior dockets, in 2008, 2009, and 2010, to address the same rule violation by SH Services. In all three dockets, the Company's failure to pay past due RAFs by the delinquency notice deadlines resulted in the Company paying not only the delinquent RAFs, but also the statutory late payment penalties and interest amounts, and additional rule violation penalties per Rule 25-4.0161(12), F.A.C.

Due to the failure to timely pay the past due RAFs, SH Services consequently paid an additional rule violation penalty of \$500 to resolve Docket No. 20080469-TX, \$1,000 to resolve Docket No. 20090201-TX, and \$2,000 to resolve Docket No. 20100207-TX, along with all RAF amounts, statutory penalties, and interest charges. These actions resulted in the Company's certificate remaining active, which would have otherwise been cancelled administratively.

For a company's fourth-time failure to pay the RAF, Rule 25-4.0161(13), F.A.C., provides that staff shall file a recommendation for the Commission's consideration and further action. Pursuant to this rule, the Commission has authority, and also discretion, to either cancel the company's certificate, or waive the cancellation if a penalty, plus the outstanding RAF, including accrued statutory late payment charges, are paid in full. While the Company has had three prior violations of this Rule, the most recent violation for RAF non-compliance occurred over 11 years ago, in Docket No. 20100207-TX.

Rule 25-4.0161, F.A.C., does not specify a penalty amount for a fourth rule violation. As stated earlier, the rule prescribes a penalty of \$500, \$1,000, or \$2,000, depending on the number of previous violations (i.e. dockets opened due to a utility's failure to pay). Staff notes that the penalty amount per the rule doubles each time a subsequent RAF rule violation occurs up to three violations. Since this is the Company's fourth RAF rule violation, staff believes an appropriate penalty is \$4,000, which equates to a doubling of the \$2,000 penalty amount for a third RAF rule violation.<sup>1</sup> Most recently, this penalty amount was approved by the Commission,

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<sup>1</sup>Order No. PSC-08-0796-PAA-TI, issued December 3, 2008, in Docket No. 20080349-TI, *In re: Compliance investigation of IXC Registration No. TJ008, issued to Executive Business Centers, Inc., for apparent fourth-time violation of Section 364.336, F.S. and Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies.*

Date: June 3, 2021

in Docket No. 20200141-TA.<sup>2</sup> Pursuant to Section 364.285, F.S., the Commission has authority to penalize up to \$25,000.

On April 21, 2021, the Commission received a partial RAF payment from SH Services in the amount of \$1,744. Staff reached out by phone to the Company on April 26, 2021, and by email on April 29, 2021 and May 11, 2021. On each occasion the Company was responsive and expressed its intent to pay the appropriate amount owed in an effort to keep the Certificate active. On May 3, 2021, the Commission received an additional partial payment in the amount of \$617.34, and on May 20, 2021, the Commission received the Company's remaining balance in the amount of \$2,000.<sup>3</sup>

Pursuant to Section 350.113(4), F.S., five percent of the 2020 RAF amount due is imposed as a penalty for each 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of 25 percent.<sup>4</sup> Additionally, an interest rate of 12 percent per annum is also applied to any delinquent amounts. Thus, at the time of the Company's April 21, 2021 payment, an estimated 2020 RAF amount of \$600, plus a late penalty in the amount of \$90 (5 percent x 3 months x \$600), plus accrued interest in the amount of \$18, resulted in a total amount due of \$708.<sup>5</sup> This amount, added to the staff-proposed fourth violation penalty amount of \$4,000, including cost of collections, resulted in a total amount due to the Commission of \$4,708. Staff notes that the amounts paid by SH Services in April and May 2021, as described above, in addition to the carryover credits from 2019 and 2020, equal \$4,708, leaving the Company with a zero balance under the assumption that a \$4,000 penalty in this case is appropriate.

Considering that the Company has paid the outstanding RAFs and penalties prior to staff filing this recommendation, and three times previously, as well as taking into account the extended amount of time elapsed since its last RAF rule violation, staff believes that SH Services' certificate should not be cancelled.

Therefore, staff recommends the Commission acknowledge the appropriate 2020 RAF, including accrued statutory late payment charges, along with the \$4,000 penalty, for a total amount due of \$4,708. Staff also recommends the Commission acknowledge that SH Services has paid this amount in full. Furthermore, staff recommends that the Company's tariff and registration should not be cancelled nor removed from the register.

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<sup>2</sup>Order No. PSC-2020-0203-PAA-TA, issued June 24, 2020, in Docket No. 20200141-TA, *In re: Compliance investigation of AAV Certificate No. 7790, issued to A.SUR Net, Inc., for apparent fourth-time violation of Rule 25-4.0161, F.A.C., Regulatory Assessment Fees; Telecommunications Companies*.

<sup>3</sup>SH Services had two credits that were applied to the 2020 RAF past due amount. The credits were \$215.41 for 2019 RAF overpayment, and \$131.25 for 2018 RAF overpayment, totaling \$346.66.

<sup>4</sup>Section 350.113(4), F.S., provides a prorated penalty amount for the first month of delinquency; however, this provision has no effect on this case since the delinquency period has been longer than one month.

<sup>5</sup>Staff notes that the 2019 RAF amount is based on the Company's 2018 annual revenues.

Date: June 3, 2021

**Issue 2:** Should this docket be closed?

**Recommendation:** Staff recommends that the Order issued from this recommendation should become final and effective upon issuance of a Consummating Order. Thereupon, this docket should be closed administratively either upon acknowledgment that SH Services has paid in full the appropriate 2020 RAF, including accrued statutory late payment charges, along with the \$4,000 penalty, for a total amount due of \$4,708, or upon cancellation of the Company's local exchange certificate and removal of its name from the register. (Murphy)

**Staff Analysis:** Staff recommends that the Order issued from this recommendation should become final and effective upon issuance of a Consummating Order, unless a person whose substantial interests are affected by the Commission's decision files a protest that identifies with specificity the issues in dispute, in the form provided by Rule 28-106.201, F.A.C., within 21 days of the issuance of the Proposed Agency Action Order. As provided by Section 120.80(13)(b), F.S., any issues not in dispute should be deemed stipulated. If the Company fails to timely file a protest and to request a Section 120.57, F.S., hearing, the facts should be deemed admitted and the right to a hearing waived.

Staff recommends that the Commission take action as set forth in the foregoing staff recommendation statement.