



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: August 7, 2019

TO: Braulio L. Baez, Executive Director

FROM: Katherine Pennington, Legislative Director
Adam Potts, Government Liaison

RE: FINAL 2019 Legislative Wrap-Up – Summary of Bills

During the 2019 Florida Legislative Session, the Florida Public Service Commission (FPSC) Governmental Affairs team tracked 120 bills of the more than 3,000 initially filed. Of those 120 bills, only 13 passed the Legislature. The Governor has signed all of those bills. A total of 197 bills passed both houses of the Legislature during the 2019 legislative session. This summary notes bills that have an effect on the FPSC and also notes bills of interest that did not pass. This document is for informational purposes only and no action by the Commission is required.

KEY BILLS THAT PASSED

SB 796 by Senator Gruters (HB 797 by Representative Fine Laid on Table) – Public Utility Storm Protection Plans

The bill requires each investor owned electric utility (IOU) to file, pursuant to Florida Public Service Commission (Commission) rule, a transmission and distribution storm protection plan that covers the immediate 10-year planning period. Each plan must explain the systematic approach the IOU will follow to achieve the objectives of reducing restoration costs and outage times associated with extreme weather events and enhancing reliability. The Commission is required to adopt rules to specify the elements that must be included in a IOU's filing.

In reviewing a proposed transmission and distribution storm protection plan, the Commission must consider the following:

- The extent to which the plan is expected to reduce restoration costs and outage times associated with extreme weather events and enhance reliability, including whether the plan prioritizes areas of lower reliability performance;

- The extent to which storm protection of transmission and distribution infrastructure is feasible, reasonable, or practical in certain areas of the IOU's service territory, including, but not limited to, flood zones and rural areas;
- The estimated costs and benefits to the IOU and its customers of making the improvements proposed in the plan; and
- The estimated annual rate impact resulting from implementation of the plan during the first 3 years addressed in the plan.

If an IOU-filed proposed plan contains all the elements required by Commission rule, the Commission must determine whether it is in the public interest to approve, approve with modification, or deny the proposed plan no later than 180 days after the IOU filing of the plan.

At least every 3 years after approval of an IOU's plan, the IOU must file for Commission review an updated storm protection plan that addresses each element specified by Commission rule. The Commission must approve, modify and approve, or deny each updated plan pursuant to the criteria used for the initial plan.

The Commission is required to conduct an annual proceeding to determine the IOU's prudently incurred plan costs and allow the IOU to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause. After Commission approval of a IOU's plan, proceeding with actions to implement the plan is not evidence of imprudence. If the Commission determines that costs were prudently incurred, those costs will not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the IOU.

The annual transmission and distribution storm protection plan costs may not include costs recovered through the IOU's base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the Commission.

If a capital expenditure is recoverable as a plan cost, the IOU may recover the annual depreciation on the cost and a return on the undepreciated balance of the costs using the last approved return on equity.

The bill requires that, beginning December 1 of the year after the first full year of implementation of a transmission and distribution storm protection plan and annually thereafter, the Commission must submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a report on the status of utilities' storm protection activities. The report must include, but is not limited to, identification of all storm protection activities completed or planned for completion, the actual costs and rate impacts associated with completed activities as compared to the estimated costs and rate impacts for those activities, and the estimated costs and rate impacts associated with activities planned for completion.

The bill requires the Commission to adopt rules to implement and administer these requirements, and to propose a rule for adoption as soon as practicable after the effective date of the act, but not later than October 31, 2019.

The bill provides that, for the 2019-2020 fiscal year, the sums of \$261,270 in recurring funds and \$15,020 in nonrecurring funds from the Regulatory Trust Fund are appropriated to the Public Service Commission, and 4 full-time equivalent positions with associated salary rate of 180,583 are authorized for the purpose of implementing this act.

Vote: Senate 39-1; House 110-3

Status: SB 796 was approved by the Governor on June 27, 2019, Chapter [2019-158](#). The bill takes effect upon becoming a law.

ADDITIONAL BILLS OF INTEREST THAT PASSED

HB 107 by Representative Toledo (SB 76 by Senator Simpson Laid on Table) – Use of Wireless Communications Devices While Driving

The bill changes current enforcement of the ban on texting while driving from a secondary offense to a primary offense, which will allow a law enforcement officer to stop a vehicle solely for texting while driving.

The bill creates a new section of statute titled “school and work zones; prohibition on the use of a wireless communications device in a handheld manner.” It authorizes enforcement of a ban on the use of a wireless communications device in a handheld manner while operating a motor vehicle in a designated school crossing, school zone, or active work zone area as a primary offense punishable as a moving violation. The bill provides for enforcement only by a warning from October 1, 2019, through December 31, 2019, after which a person may be issued a citation.

For both texting while driving and use of a wireless communications device in a handheld manner while operating a motor vehicle in a designated school crossing, school zone, or work zone the bill:

- Allows for a statewide public education and awareness campaign;
- Requires a law enforcement officer to inform the motor vehicle operator that he or she has a right to decline a search of his or her wireless communications device;
- Prohibits a law enforcement officer from accessing the wireless communications device without a warrant, confiscating the device while waiting for the issuance of a warrant, or using coercion or other improper method to convince the operator to provide access to such device without a warrant; and
- Requires a law enforcement officer to record the race and ethnicity of a person issued a citation for texting while driving or for the use of a wireless communications device in a handheld manner while operating a motor vehicle in a designated school crossing, school zone, or active work zone area.

Vote: Senate 33-5; House 108-7

Status: HB 107 was approved by the Governor on May 17, 2019, Chapter [2019-44](#). The bill takes effect July 1, 2019.

HB 1159 by Representative La Rosa (SB 1400 by Senator Albritton) – Private Property Rights

Local government tree maintenance regulations vary but can require property owners to obtain a permit or pay a fee prior to trimming or removing trees on residential property. CS/HB 1159 prohibits a local government from requiring a notice, application, approval, permit, fee, or mitigation for the pruning, trimming, or removal of a tree on residential property if the tree presents a danger to persons or property, as documented by a certified arborist or licensed landscape architect. A local government may not require a property owner to replant a tree that has been pruned, trimmed, or removed in accordance with the bill provisions. The bill does not apply to mangrove trees, which the trimming and alteration of is regulated statewide by the Department of Environmental Protection.

As it pertains to maintaining vegetation within a utility right-of-way, current law requires a utility to give five business days' advance notice to a local government prior to conducting vegetation maintenance activities within a right-of-way. No advance notice is required for service restoration, to avoid an imminent vegetation caused outage, or when performed at the request of a property owner adjacent to the right-of-way, provided the owner has obtained any required approval from the local government. The bill removes the requirement that a property owner receive approval by the local government before requesting an electric utility to prune trees and maintain vegetation in an adjacent right-of-way.

Finally, the bill requires each county property appraiser to post a Property Owner Bill of Rights on its website and specifies the text to be included in the bill of rights. The website must list the seven property rights declared in the bill and must state that the bill of rights does not represent all property rights under Florida law and does not create a civil cause of action.

Vote: Senate 22-16; House 77-36

Status: HB 1159 was approved by the Governor on June 26, 2019, Chapter [2019-155](#). The bill takes effect July 1, 2019.

BILLS OF INTEREST THAT DID NOT PASS

SB 742 by Senator Braynon and HB 1381 by Representative Tomkow – Designation of Telecommunication Carriers

SB 742 would have restored the language stricken in the 2011 legislation with the added clarification that the exception only applies “for the purpose of making ETC designations for Lifeline service programs.” Thus, the bill would have authorize the Public Service Commission (Commission) to designate wireless carriers as ETCs, but only for purposes of the Lifeline

program. It would not, for example, allow the Commission to designate non-wireline carriers for high-cost support under the federal universal service program. Because there is a backlog of requests for ETC designations at the FCC, wireless companies that want to become an ETC in Florida may be able to receive an ETC designation more expeditiously and, as a result, offer service to customers eligible for the Lifeline program.

There are currently 13 wireline ETCs and 4 wireless ETCs designated in Florida. By comparison, there are currently 35 wireless ETC designation petitions pending at the FCC; one such petition was filed with the FCC in 2011. Additional ETCs competing for Lifeline customers in the Florida market may increase subscribership within the program.

SB 742 also included changes to section 364.10, F.S., to improve consistency between Florida Statute and Federal requirements. The amendatory language also fixed included language to allow customers' eligibility information to be shared with the national verifier for eligibility.

SB 742 passed the Senate on a 39-0 vote but died in messages when. The companion bill, HB 1381, was never heard in committee in the House.

SB 1156 by Senator Berman – Community Solar Program

This bill would have required utilities to begin crediting the subscriber accounts of each community solar facility in their respective service territories within a specified timeframe. Provided that all environmental attributes associated with a community solar facility are the property of the subscriber organization. Would authorize utilities to own or operate a community solar facility.

SB 1156 was never heard in committee and no House companion was filed.

SB 196 by Senator Powell – Office of Public Counsel

SB 196 established a four-year term for the Public Counsel beginning January 15, 2021. The bill clarifies that the Public Counsel continues to serve at the pleasure of the joint committee in that the committee can remove the Public Counsel with a majority vote of the committee appointees of each house.

The bill required the joint committee to receive applications, conduct interviews, and appoint a Public Counsel to a four-year term beginning on January 15, 2021, and every four years thereafter. A Public Counsel may continue in office beyond the four-year limit until his or her successor is appointed and takes office, unless he or she was removed by the committee. In no event may a person serve as the Public Counsel for more than 12 consecutive years.

SB 196 was passed its first two committees unanimously but was not heard in its final committee and no House companion was filed.

HB 1297 by Representative Bell and SB 1484 by Senator Torres - Acquisition Of Water and Wastewater Systems

These bills would have changed how the Commission establishes value for an acquired utility being purchased by a large utility.

Currently, a transfer of certificate application must be submitted by the purchasing entity to the Commission within 90 days of when an acquisition occurs. The application contains many items including the estimated net book value, purchase price, and a statement of why the acquisition is in the public interest. HB 1297 outlined additional requirements the purchasing utility must provide the Commission. The application would have included all of the following:

- A copy of the appraisals performed by the valuation experts.
- Any deficiencies identified by the engineering assessment and a 3-year plan for prudent and necessary infrastructure improvements.
- The projected rate impact for the selling utility's customers for the next 5 years.
- The fair market value according to the average of the utility valuation experts' valuations.
- The assessment of tangible assets performed by the professional engineer.
- The contract of sale.
- Estimated valuation fees and transaction and closing costs incurred.
- A tariff, including rates equal to the rates of the selling utility.

Under the proposal, after an acquisition is made, the bill stated, "the lesser of the purchase price negotiated between the parties to the sale or the fair market value plus reasonable fees and costs" should be included in the acquiring company's next rate case. The bill further provided that the Commission must issue a final order approving or denying a qualifying application within six months after the application is filed.

These bills were never heard in Committee.

OTHER BILLS THAT DID NOT PASS

- Third Party Sellers - Exemption – None were not heard in committee.
- Public electric utility rates – Senator Rodriguez introduced SB 1006 to require that public utilities charge, for the first 500 kilowatt hours used by a residential customer, a rate that is 25 percent below the rate by the IOU or 25 percent below the second tier of the progressive rate schedule for the customer (if applicable). SB 1006 did not have a House companion bill and was not heard in committee.
- Well stimulation and advanced well stimulation treatment/Fracking – Several bills relating to well stimulation and hydraulic fracturing were introduced, none of which made it through more than one Committee stop.

2019 PSC Legislative Summary

August 7, 2019

- State Renewable Energy Goals – Bills were filed that Directed the Office of Energy within the Department of Agriculture and Consumer Services, in consultation with other state agencies, state colleges and universities, public utilities, and other private and public entities, to develop a unified statewide plan to generate the state's energy from renewable sources by specified dates. These bills were never heard in Committee

cc: Braulio Baez

Mark Futrell

Apryl Lynn

Keith Hetrick

Mary Anne Helton