

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 224

SPONSOR: Regulated Industries Committee, and Senators Dawson & Sanderson

SUBJECT: Electric Utility Service

DATE: March 29, 2001      REVISED: 04/05/01 \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wiehle</u>	<u>Caldwell</u>	<u>RI</u>	<u>Favorable/CS</u>
2.	<u>White</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/1 amendment</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This committee substitute (CS) expands existing provisions regarding medically essential electric service, modifies service termination policies, and requires utility companies to establish various programs to assist customers requiring medically essential electric service.

This CS creates an as yet unnumbered section of the Florida Statutes.

**II. Present Situation:**

Some families depend upon electric service for medical needs, and for these persons, interruption of service can cause serious medical trauma and even death. Individuals with disabilities and parents of children with disabilities have expressed a need for support and services so that they may be able to live in their own homes, rather than in hospitals or assisted living facilities.

Under Florida law, a utility company must give notice and then allow five business days after the bill is past due before disconnecting service for any customer. The law does require utility companies to develop a separate policy regarding customers whose service is “medically necessary.”

Rule 25-6.105, F.A.C., sets forth the conditions for refusal or discontinuance of service by a utility company. Subsection (11) of the rule requires utility companies to submit, as a tariff<sup>1</sup> item, a procedure for discontinuance of service when that service is medically essential.

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<sup>1</sup>A tariff is a utility company’s statement that sets forth rates, classifications, and charges for service, and all rules and regulations relating thereto. Rule 25-9.004, F.A.C.

Pursuant to Florida Public Service Commission Order PSC-00-0930-TRF-EI, dated May 10, 1999, the Commission has approved tariff language that defines “medically essential” service as that which powers continuously operating electric-powered medical equipment necessary to sustain the life of or avoid serious medical complications requiring immediate hospitalization of the customer or another permanent resident at the service address. Examples of such medical equipment would include oxygen concentrators, respirators/ventilators, and iron lungs.

Under the tariff language, utility companies are required to provide medically essential service customers with a limited extension of time to make payment, not to exceed thirty days, beyond the date service would normally be subject to disconnection for non-payment of bills. It also makes provision for written notice of disconnection based on the limited extension and special arrangements for bill payment. Notwithstanding these provisions, the tariff language does provide that a utility company may terminate service after certain notice conditions are met.

The tariff language also expressly provides that the customer remains solely responsible for any back-up equipment and/or power supply and a planned course of action in the event of a power outage. The company is not required to monitor the health of any customer requiring medically essential service.

In addition to these provisions, the Florida Public Service Commission publishes “Where to Find Help in Florida.” According to this publication, many of Florida's electrical utilities take voluntary measures to avoid disconnecting a customer's power if the customer qualifies for the medically essential services program. These measures include: (1) delaying shut-offs; (2) working out individual payment arrangements that are more affordable to the customer; (3) using funds donated by utility customers, typically known as “Care” or “Share” funds, to help pay power bills in emergency situations; and (4) referring customers to government programs that help pay power bills.

Currently, there is no statute mandating the “medically essential” tariff. Moreover, s. 366.03, F.S., which provides in relevant part:

No public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.

Although it would appear to be unlikely that the “medically essential” tariff could ever be construed as an “undue or unreasonable preference,” the potential for someone to argue that it is such exists given the lack of specific statutory authorization for the tariff.

### **III. Effect of Proposed Changes:**

The CS defines “medically essential” electric service as, “the medical dependence on electric-powered equipment that must be operated continuously or as circumstances require as specified by a physician to avoid the loss of life or immediate hospitalization of the customer or another permanent resident at the service address.”

It refers to provision of medically essential electric service only by a “public utility,” a term which is defined in s. 366.02, F.S., to mean “every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state . . . .” The definition of the term specifically excludes, cooperatives existing under the Rural Electric Cooperative Law of the state; a municipality or any agency thereof; any dependent or independent special natural gas district; any natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers; any entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state; or a person supplying liquefied petroleum gas, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies electricity or manufactured or natural gas.

The CS requires each public utility to provide an annual written explanation to each customer of the certification process for medically essential electric services. The certification process requires the customer and a physician to complete forms supplied by the utility. False certification of medically essential service constitutes a violation s. 458.331(1)(h), F.S., which subjects the physician to disciplinary action by the Board of Medicine.

Under the CS, medically essential service must be re-certified annually. At least 30 days before a customer’s certification expires, the public utility must send the customer by regular mail a package of re-certification materials, including re-certification forms and a warning that the forms must be completed and submitted within 30 days after expiration of the existing certification. If the forms are not timely submitted, the utility may terminate the certification.

The CS states that each customer who requires medically essential electric service must make satisfactory arrangements with the utility to ensure payment, and the arrangement must be consistent with the requirements of the utility’s tariff. The utility may terminate medically essential service for nonpayment upon satisfaction of notice requirements. No later than 24 hours before any scheduled disconnection for nonpayment, the utility must attempt to contact the customer by phone to notify the customer of the scheduled disconnection. If the customer does not have a phone number listed in the account information or cannot be reached by phone by the specified time, the utility must send a representative to the customer’s residence no later than 4:00 P.M. the day before the scheduled disconnection. If contact is not made, the utility may leave written notification at the residence.

The CS states that medically essential service may be interrupted when an emergency may threaten the health or safety of a person, the surrounding area, or the public utility’s distribution system; however, a public utility must notify each customer requiring medically essential services of any scheduled service interruption. Each customer who requires medically essential electric service is solely responsible for arranging for a backup power supply and a planned course of action in the event of a power outage or power interruption.

The CS states that each public utility must provide information on sources of state or local funding that may provide financial assistance to customers requiring medically essential electric service. Each public utility that operates a program to receive donations from its customers to

provide assistance to persons who are unable to pay their utility bills must make and distribute a list of all agencies to which such funds are distributed.

The CS provides that it does not form the basis for any cause of action against a public utility and that failure to comply with any obligation it creates is not evidence of negligence.

The CS takes effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The CS should have the effect of providing families with medically essential electricity needs with greater notice of when their electricity will be disconnected and of state and local funding that may provide financial assistance to these customers.

The CS applies to public utilities as defined in ch. 366, F.S., which include natural gas utilities. Thus, natural gas utilities would be subject to the terms of the CS; that is, natural gas utilities would be required to provide an annual written explanation of the certification process for

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medically essential electric service and required to provide information on sources of state or local funding that may provide financial assistance to customers requiring medically essential electric service. The practical effect is uncertain.

**VIII. Amendments:**

#1 by Governmental Oversight and Productivity:  
Clarifies that the bill applies only to residential customers.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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