

State of Florida

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF APPEALS
DAVID E. SMITH
DIRECTOR
(904) 413-6245

Public Service Commission
December 31, 1996

Mr. Carroll Webb
Joint Administrative Procedures
Committee
120 Holland Building
Tallahassee, Florida 32399

Re: Docket No. 961382-PU - Proposed Repeal of Subsections (4), (5), and (6) of Rule 25-8.002, F.A.C., Contents of Application; Paragraphs (1)(a) and (1)(d) of Rule 25-8.003, F.A.C., Required Exhibits; and Rule 25-8.007, F.A.C., Commission Actions

Dear Mr. Webb:

Enclosed are an original and two copies of the following materials concerning the above referenced proposed rule:

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

If there are any questions with respect to these rules, please do not hesitate to call on me.

Sincerely,

Christiana T. Moore
Christiana T. Moore
Associate General Counsel

RECEIVED
13787 DEC 30 1996

WEBB25-8.MRD
Enclosures
cc: **Division of Records & Reporting**

1 25-8.002 Contents of Application. Each application for the
2 authority to issue and sell securities shall contain in the manner
3 and form and in the order indicated by this rule:

4 (1) The exact name of the applicant and address of its
5 principal business office.

6 (2) The State under which incorporated, the date of
7 incorporation, and the states in which domesticated.

8 (3) The name and address of the person authorized to receive
9 notices and communications in respect to the application.

10 ~~(4) The names, titles and addresses of the principal officers~~
11 ~~of the applicant.~~

12 ~~— (5) A description of the general character of the applicant's~~
13 ~~business, together with a designation of the territory served,~~
14 ~~including a map showing that territory.~~

15 ~~— (6) A general statement briefly describing the facilities~~
16 ~~owned or operated by the applicant.~~

17 (4) ~~(7)~~ A statement detailing items contained in paragraphs (a)
18 through (g) of this subsection for each class and series of capital
19 stock and funded debt. The statement shall reflect the latest
20 twelve months period shown on the balance sheet submitted with the
21 application as Exhibit A B under Rule 25-8.003(1) (a) ~~(b)~~.

22 (a) A brief description;

23 (b) The amount authorized (face value and number of shares);

24 (c) The amount outstanding (exclusive of any amount held in
25 the treasury);

CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

1 (d) The amount held as reacquired securities;

2 (e) The amount pledged by applicant;

3 (f) The amount owned by affiliated corporations;

4 (g) The amount held in any fund.

5 (5)~~(8)~~ A brief statement of each proposed transaction. Such
6 statement shall show:

7 (a) The kind and nature of the securities;

8 (b) The maximum principal amount of debt securities, and the
9 maximum amount of equity securities;

10 (c) Present estimate of the interest rate(s) for the debt
11 securities and the dividend rate(s) for the preference or preferred
12 stocks, which estimate may be stated in terms of current rates for
13 comparable securities.

14 (6)~~(9)~~ A statement showing in reasonable detail the purposes
15 for which the securities are to be issued.

16 (a) If one of the purposes is the construction, completion,
17 extension, or improvement of the facilities, identify the major
18 generating plants and transmission lines requiring certification of
19 need by the Commission. Also include the capital requirements
20 needed for those projects and the actual capital expended to date.

21 (b) If one of the purposes is the reimbursement of the
22 treasury of the applicant for expenditures against which securities
23 have not been issued, submit a statement giving in reasonable
24 detail such expenditures, the amounts and accounts to which
25 charged, the associated credits, if any, and the periods during

CODING: Words underlined are additions; words in
~~struck-through~~ type are deletions from existing law.

1 | which the expenditures were made.

2 | (c) If one of the purposes is the refunding of obligations,
3 | describe in reasonable detail the obligations to be refunded,
4 | including the character, principal amounts, discount or premium
5 | applicable thereto, date of issue and date of maturity, and all
6 | other material facts concerning such obligations.

7 | (7)~~(10)~~ The facts relied upon by the applicant to show that
8 | each issue will be for some lawful object within the corporate
9 | purposes of the applicant and compatible with the public interest
10 | and is reasonably necessary or appropriate for such purposes.

11 | (8)~~(11)~~ The name and address of counsel who will pass upon the
12 | legality of the proposed issues, and names of any firms of which
13 | they, or any of them, are members.

14 | (9)~~(12)~~ A statement as to whether or not any application,
15 | registration statement, etc., with respect to the transaction or
16 | any part thereof is required to be filed with any other State or
17 | Federal regulatory body and, if so, the name and address of each
18 | such body.

19 | (10)~~(13)~~ A statement of the measure of control or ownership
20 | exercised by or over the applicant as to any public utility: where
21 | there are any intercorporate relationships through holding
22 | companies, ownership or securities or otherwise, a statement
23 | regarding the nature and extent of such relationship; if not a
24 | member of any holding company system, a statement to that effect.

25 | Specific Authority 366.05 FS.

CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

1 | Law Implemented 366.04(1) FS.
2 | History--Repromulgated 1-8-75, Amended 10-12-81, Formerly 25-8.02,
3 | Amended 7-27-86,_____.
4 |
5 |
6 |
7 |
8 |
9 |
10 |
11 |
12 |
13 |
14 |
15 |
16 |
17 |
18 |
19 |
20 |
21 |
22 |
23 |
24 |
25 |

CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

1 25-8.003 Required Exhibits.

2 (1) The applicant shall file either one certified and five
3 uncertified copies or one certified copy, one uncertified copy, and
4 a copy on diskette of the following exhibits as part of its initial
5 application or as an amendment to its initial application where
6 appropriate or where indicated by this rule.

7 (a) Exhibit A. ~~A copy of the applicant's charter or articles~~
8 ~~of incorporation with amendments to date.~~

9 ~~(b) Exhibit B.~~ The following schedules:

10 1. Balance Sheet. A balance sheet prepared as provided by the
11 Federal Energy Regulatory Commission's Uniform System of Accounts
12 showing the balance in each account at the close of the calendar
13 year preceding the filing of the application, and also showing the
14 balance in account at the end of the latest 12-month period
15 available prior to the filing of the application.

16 2. Summary of Utility Plant and Accumulated Provision for
17 Depreciation, Amortization, and Depletion. A summary of utility
18 plant, amortization, and depletion prepared as provided by the
19 Uniform System of Accounts showing the balance in each account at
20 the close of the calendar year preceding the filing of the
21 application, and also showing the balance in each account at the
22 end of the latest 12-month period available prior to the filing of
23 the application.

24 3. Income Statement. An income statement prepared as provided
25 by the Uniform System of Accounts showing the balance in each

CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

1 | account at the close of the calendar year preceding the filing of
2 | the application, and also showing the balance in each account at
3 | the end of the latest 12-month period available prior to the filing
4 | of the application.

5 | 4. Retained Earnings. A statement of retained earnings as
6 | provided by the Uniform System of Accounts, and prepared in the
7 | same manner and for the same period as the income statement in
8 | paragraph (b)~~(e)~~ of this subsection.

9 | 5. A statement of all known contingent liabilities except
10 | minor items involving relatively small amounts, as of the date of
11 | the application.

12 | 6. A utility may, however, satisfy the requirements of Exhibit
13 | A B by providing the following in lieu of the schedules listed in
14 | items ~~(1)~~ through ~~(5)~~ above:

15 | (i) The financial statements and accompanying footnotes as
16 | they appear in the utility's Annual Report on Form 10-K, as filed
17 | with the United States Securities and Exchange Commission, for the
18 | most recent fiscal year ended prior to the filing of the
19 | application;

20 | (ii) The financial statements and accompanying footnotes as
21 | they appear in the utility's most recent Quarterly Report on Form
22 | 10-Q, as filed with the United States Securities and Exchange
23 | Commission prior to the filing of the application; and

24 | (iii) Any amendments or changes to the financial information
25 | presented in the utility's most recent Form 10-K and Form 10-Q as

CODING: Words underlined are additions; words in
~~struck-through~~ type are deletions from existing law.

1 filed with the Securities and Exchange Commission which the utility
2 has filed prior to the filing of the application.

3 (b)(e) Exhibit B E. The following projected financial
4 information, reflecting the applicant's most recent official
5 forecast.

6 1. Sources and Uses of Funds Statement. Information
7 identifying sources and uses of funds should be prepared for the
8 period covered by the proposed issuance of securities. This
9 information need not project the applicant's net income. If a
10 utility opts to file Forms 10-K and 10-Q pursuant to subparagraph
11 25-8.003(1) (a)(b)6., a separate sources and uses of funds statement
12 is not required if the Forms 10-K and 10-Q cover the period of
13 issuance.

14 2. Construction Budget. A Construction Budget for Gross
15 Property Additions should be prepared for the same period as the
16 Sources and Uses of Funds Statement.

17 ~~(d) Exhibit D. The map required under Rule 25-8.002(5).~~

18 (2) Where the utility has previously filed with the Commission
19 the information to be contained in its application or in Exhibit A
20 or B, E, ~~or D~~ and where the previous filing is current or
21 up-to-date, the Commission will accept specific reference to that
22 filing in lieu of a separate filing to meet the requirements of
23 this rule.

24 (3) A utility filing information required by this rule, Rule
25 25-8.002, or Rule 25-8.009 need not file information which

CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

1 | duplicates that already provided pursuant to another requirement of
2 | this chapter, but shall make specific reference to where such
3 | information may be found in the filing.

4 | Specific Authority 366.05 FS.

5 | Law Implemented ~~366~~4.04(1) FS.

6 | History--Repromulgated 1-8-75, Amended 10-1-75, 12-20-75, 10-12-81,
7 | Formerly 25-8.03, Amended 7-27-86, 7-27-95, _____.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

1 25-8.008 Commission Action. After preliminary study or
2 investigation of an application by staff, the Commission will give
3 full consideration to the application and dispose of it either upon
4 an examination of the filing or after public notice and an
5 opportunity for hearing on the application, whichever is
6 appropriate in the premises. Such disposition will ordinarily be
7 accomplished within 45 ~~thirty~~ (30) days after the date on which
8 filing is completed.

9 Specific Authority 366.05 FS.

10 Law Implemented 366.04(1) FS.

11 History--Repromulgated 1-8-75, Amended 10-12-81, Formerly 25-8.081
12 Amended _____.

13

14

15

16

17

18

19

20

21

22

23

24

25

CODING: Words underlined are additions; words in
~~struck-through~~ type are deletions from existing law.

**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

Rule 25-8.002(4): This subsection requires the application to list the name, title, and addresses of the principal officers of the applicant. Because this information is not essential for staff to process a securities application, this subsection can be repealed. If it is needed, the information can be obtained from annual reports or by requesting it from the applicant.

Rule 25-8.002(5): This subsection states the application must contain a description of the general character of the applicant's business, together with a map of the territory served. Because this information is not essential for staff to process a securities application, this subsection can be repealed. Moreover, electric and gas utilities are already required to file maps of territories served under Rules 25-9.023(1), 25-6.016(1), and 25-7.016(1).

Rule 25-8.002(6): This subsection states the application must contain a general statement describing the facilities owned or operated by the applicant. Because this information is not necessary for staff to process a securities application, this subsection can be repealed. If the information is needed for some reason, it can be requested from the applicant.

Rule 25-8.003(1)(a): This paragraph requires the applicant to file its articles of incorporation as Exhibit A to its application. Because this information is not necessary for staff to process a securities application, this paragraph can be repealed. If it is determined the information is necessary, it can be obtained from either the applicant or the Secretary of State's Division of Corporations.

Rule 25-8.003(1)(d): This paragraph requires the applicant to file a map as Exhibit D. Because this information is not essential for staff to process a securities application, this paragraph can be repealed. Moreover, electric and gas utilities are already required to file maps of territories served under Rules 25-9.023(1), 25-6.016(1), and 25-7.016(1).

Rule 25-8.008: This rule states that the Commission will consider the application and dispose of it within 30 days of the filing date. This time is changed to 45 days to more accurately reflect the actual time necessary to dispose of an application.

STATEMENT ON FEDERAL STANDARDS

The proposed rules are less restrictive than federal standards.

M E M O R A N D U M

October 18, 1996

TO: DIVISION OF APPEALS (MOORE)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *F3H* *AMM*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR PROPOSED REPEAL OF RULES 25-8.002(4)-(6), CONTENTS OF APPLICATIONS; 25-8.003(1)(A), REQUIRED EXHIBITS; AND 25-8.008; APPLICATIONS FOR AUTHORITY TO ISSUE AND SELL SECURITIES, FAC

SUMMARY OF THE RULE

Currently, these rules outline the requirements for filing applications with the Commission for authority to issue and sell securities. Information about the applying company is included, as well as a general description of the company's business and a map of the territory served. The proposed changes would eliminate nonessential or duplicative rules.

ESTIMATED NUMBER AND DESCRIPTION OF INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

Electric Investor Owned Utilities (IOUs) and gas utilities are required to apply for authority to issue and sell securities with the Commission. There are five IOUs and nine gas utilities regulated by the Commission in Florida.

DIRECT COSTS TO THE AGENCY AND OTHER STATE OR LOCAL GOVERNMENT ENTITIES

There should be no additional costs to the Commission but a slight decrease in paperwork and staff time. No other state or local government entities should have additional costs.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

There should be no transactional cost to comply with the proposed rule repeals other than the minimal effort to no longer submit unnecessary paperwork.

IMPACT ON SMALL BUSINESSES, SMALL COUNTIES, OR SMALL CITIES

No impact on small businesses is foreseen, as none of the affected utilities qualify as a small business as defined by s. 288.703 F.S. No impact is foreseen on small counties and cities as defined in s. 120.52, F.S. Therefore, there would be no need for tiered rule requirements.

REASONABLE ALTERNATIVE METHODS

There are no alternative methods available to achieve the purpose of reducing unnecessary rules and paperwork.

e-sersec.cbh