

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Amendment of
Rule 25-17.015, F.A.C., Energy
Conservation Cost Recovery.

DOCKET NO. 961378-EG
ORDER NO. PSC-97-0885-NOR-EG
ISSUED: July 24, 1997

The following Commissioners participated in the disposition of this matter:

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

NOTICE OF RULEMAKING

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-17.015, Florida Administrative Code, relating to energy conservation cost recovery.

The attached Notice of Rulemaking will appear in the August 1, 1997, edition of the Florida Administrative Weekly.

If timely requested, a hearing will be held at the following time and place:

Florida Public Service Commission
9:30 a.m., October 1, 1997
Betty Easley Conference Center
Room 152, 4075 Esplanade Way
Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than August 21, 1997.

DOCUMENT NUMBER-D-1111

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FPSC-RECORDS/REPORTING

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By ORDER of the Florida Public Service Commission, this 24th
day of July, 1997.

BLANCA S. BAYÓ, Director
Division of Records & Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records and Reporting

(S E A L)

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FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 961378-EG

RULE TITLE:

RULE NO.:

Energy Conservation Cost Recovery

25-17.015

PURPOSE AND EFFECT: The primary purpose of the proposed amendments to Rule 25-17.015 is to codify the decision in Order No. PSC-93-0709-FOF-EG to move from semi-annual to annual conservation cost recovery proceedings. In re: Conservation Cost Recovery Clause, 93 F.P.S.C. 5:189 (1993). In addition, the proposed amendments change the filing times for Energy Conservation Cost Recovery (ECCR) filings, require a new "short form" to be filed annually, limit conservation cost recovery to programs pre-approved by the Commission, require utilities to substantiate advertising claims with data sources and calculations, disallow recovery for advertisements that mention a competing energy source, and repeal the prohibition against seeking recovery for previously disallowed costs.

SUMMARY: Subsection (1): The proposed amendments codify the decision to conduct energy conservation cost recovery proceedings annually. In addition, the proposed amendments change the time line for filing the following ECCR pleadings.

Paragraph (1)(a): This paragraph requires utilities to file an annual true-up filing for the period specified.

Paragraph (1)(b): This paragraph requires utilities to file an annual estimated/actual true-up filing for the period specified.

Paragraph (1)(c): This paragraph requires utilities to file an annual projection filing for the period specified.

Paragraph (1)(d): This paragraph requires utilities to file an annual petition to specify the cost recovery factors requested for the 12-month period following the hearing.

Paragraph (1)(e): This paragraph requires utilities to file the "Energy Conservation Cost Recovery Annual Short Form" that is incorporated into the rule by reference.

Subsection (2): The proposed amendments clarify the accounting requirements mandated by this subsection.

Subsection (3): The proposed amendments require utilities to include in their annual true-up filings a list of all conservation cost recovery account and sub-account numbers.

Subsection (4): The proposed amendments make it clear that prior approval is required before a utility can seek cost recovery for new or modified conservation programs. Although utilities cannot recover rebates or incentives paid out prior to program approval, utilities may recover prudent program implementation costs incurred prior to program approval.

Subsection (5): The proposed amendments prohibit cost recovery for advertisements that mention a competing energy source and require

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utilities to file data sources and calculations to substantiate any claims of energy savings stated in advertisements.

Subsection (6): The proposed amendments repeal this subsection.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The recommended amendments should not add significant additional costs, other than some additional labor costs associated with the initial restructuring of the filing periods. Transactional costs should be minimal. No impact is foreseen for small businesses, counties, or cities. There are no alternative methods available that would achieve the purpose of the proposed amendments.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

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

LAW IMPLEMENTED: 366.04(2)(f), 366.06(1), 366.82(3) & (5), FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

HEARING: IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., October 1, 1997

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PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-17.015 Energy Conservation Cost Recovery.

(1) The Commission shall conduct annual energy conservation cost recovery (ECCR) proceedings during the first quarter of each calendar year. Each utility over which the Commission has ratemaking authority may seek to recover its costs for energy conservation programs ~~as provided in s. 366.82(5), F.S.~~ Each To do so, a utility seeking cost recovery shall file the following at the times directed by the Commission: a petition setting forth estimates of those reasonable and prudent unreimbursed costs projected to be incurred, by specific program, less any estimated revenues, in the same manner and for the same periods as provided for the fuel cost recovery clause in Order No. 9273 issued by the Commission on March 7, 1980. The time limitations applicable to the fuel cost recovery clause shall also apply and the Commission shall dispose of the petition in the same manner and within the times applicable to the fuel cost recovery clause.

(a) An annual final true-up filing showing the actual common costs, individual program costs and revenues, and actual total ECCR revenues for the most recent 12-month historical period from April 1 through March 31 that ends prior to the annual ECCR proceedings. As part of this filing, the utility shall include a summary comparison of the actual total costs and revenues reported to the estimated total costs and revenues previously reported for the same period covered by the filing in paragraph (1)(b). The filing shall also include the final over- or under-recovery of total conservation costs for the final true-up period.

(b) An annual estimated/actual true-up filing showing eight months actual and four months projected common costs, individual program costs, and any revenues collected. Actual costs and revenues should begin April 1 immediately following the period described in paragraph (1)(a). The filing shall also include the estimated/actual over- or under-recovery of total conservation costs for the estimated/actual true-up period.

(c) An annual projection filing showing 12 months projected common costs and program costs for the period beginning April 1 following the annual hearing.

(d) An annual petition setting forth proposed energy conservation cost recovery factors to be effective for the 12-month period beginning April 1 following the hearing. Such proposed cost

recovery factors shall take into account the data filed pursuant to paragraphs (1)(a), (1)(b), and (1)(c).

(e) Within the 90 days that immediately follow the first six months of the reporting period in paragraph (1)(a), each utility shall report the actual results for that period on Form PSC/EAG/44 (X/97), entitled, Energy Conservation Cost Recovery Annual Short Form, which is incorporated by reference in this rule, and may be obtained from the Director, Division of Electric and Gas, Florida Public Service Commission.

(2) Each utility shall establish separate accounts or subaccounts for each conservation program for purposes of recording the costs incurred for that program, ~~together with subaccounts under the appropriate accounts contained in the Uniform System of Accounts prescribed by the Commission which will ultimately be charged.~~ Each utility shall also establish separate subaccounts ~~appropriate under the account for Other Electric Revenues or Other Gas Revenues,~~ for revenues derived from each specific customer charges in any program and any costs recovered.

(3) A complete list of all account and subaccount numbers used for conservation cost recovery shall accompany each filing in paragraph (1)(a). ~~The petition shall indicate the amounts recorded in the Clearing Account or such other account as appropriate for each conservation program together with the subaccounts ultimately~~

~~charged. Similarly, the petition shall indicate the amount of revenues derived from specific customer charges in any programs and any costs recovered, which revenues and costs have been recorded in the appropriate revenues subaccounts.~~

(4) New programs or program modifications must be approved prior to cost recovery. New incentives or rebates may not be recovered if paid before their approval as part of a new program or program modification. Other program implementation costs associated with new programs or program modifications may be recovered if the program modification or new program is approved before cost recovery and the Commission determines that the expenditure of such costs was prudent. Each utility shall report the actual costs and specific revenues and recovered costs attributed to each program to the Commission in the same manner and within the time limits applicable to the fuel cost recovery clause. The Commission shall dispose of the matter in the same manner as fuel cost recovery clause proceedings to reflect the actual conservation costs and conservation revenues of the preceding period.

(5) Advertising expense recovered through energy conservation cost recovery shall be ~~When a utility seeks to recover advertising expenses through Energy Conservation Cost Recovery, then the expense must be~~ directly related to an approved conservation program, shall not mention a competing energy source, and shall not

be company image enhancing. When the advertisement makes a specific claim of potential energy savings or states appliance efficiency ratings or savings, all data sources and calculations used to substantiate these claims must be included in the filing required by paragraph (1)(a). In determining whether an advertisement is "directly related to an approved conservation program", the Commission shall consider, but is not limited to, whether the advertisement or advertising campaign:

- (a) Identifies a specific problem;~~;~~
- (b) States how to correct the problem; and;
- (c) Provides direction concerning how to obtain help to alleviate the problem.

~~(6) If a cost for any utility has been expressly disallowed for cost recovery by a Commission order, each utility is prohibited from thereafter seeking recovery of a cost of a substantially similar nature unless the utility specifically identifies the cost it is seeking to recover as being similar to previously disallowed costs. Each willful violation of the provisions of this subsection by a utility shall subject the utility to a penalty as described by s. 366.095, Florida Statutes. In order to implement this subsection, the Commission will issue an order describing the types of costs that it has previously disallowed.~~

Specific Authority: 350.127(2), 366.05(1) FS.

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Law Implemented: 366.04(2)(f), 366.06(1) ~~366.095~~, 366.82(3) & (5)
FS.

History: New 1-27-81, Amended 12-30-82, 3-27-86, formerly 25-17.15,
Amended 8-21-90, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: David Ging, Division of
Electric and Gas.

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: July 15, 1997.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:
December 13, 1996.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 413-6770 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).