

FLORIDA PUBLIC SERVICE COMMISSION
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MEMORANDUM

March 12, 1998

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TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF APPEALS (HELTON) *Watt DS CRBB*
DIVISION OF ELECTRIC AND GAS (BULECZA *CRBB* HANKS, DRAPER, *EID*
KUMMER, LOWERY *CRBB*)
DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *CRBB*
DIVISION OF AUDITING AND FINANCIAL ANALYSIS (REVELL) *CRBB*

RE: DOCKET NO. 971334-PU - PROPOSED AMENDMENTS TO RULES 25-6.0426, F.A.C., RECOVERY OF ECONOMIC DEVELOPMENT EXPENSES, AND 25-7.042, F.A.C., RECOVERY OF ECONOMIC DEVELOPMENT EXPENSES

AGENDA: 3/24/98 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\971334.RCM

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission propose the attached amendments to Rules 25-6.0426, F.A.C., Recovery of Economic Development Expenses, and 25-7.042, F.A.C., Recovery of Economic Development Expenses?

RECOMMENDATION: Yes.

STAFF ANALYSIS: In 1995, Rules 25-6.0426, Florida Administrative Code, Recovery of Economic Development Expenses, and 25-7.042, Florida Administrative Code, Recovery of Economic Development Expenses, were adopted to implement Section 288.035, Florida Statutes. The rules provide that public electric utilities and gas utilities can recover prudent economic development expenses that meet criteria established by the Department of Commerce and do not exceed the limitations set out in subsection (2) of both rules. The rules also require economic development expenditures to be included in each utility's earnings surveillance report. Finally, the rules provide the procedures each utility must follow to change the level of recovery of economic development expenses.

DOCUMENT NUMBER-DATE

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FPSC RECORDS/REPORTING

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A Notice of Rule Development was published on October 24, 1997. No workshop was requested.

The attached recommended amendments strike the references to the Department of Commerce in subsection (1) of both rules since that Department has since been abolished. The Office of Tourism, Trade, and Economic Development is now responsible for the criteria by which economic development expenses are to be judged. Section 288.035(1), Florida Statutes.

In addition, the attached recommended amendments change the level of sharing from 90 to 95 percent as set forth in subsection (2) of both rules. Section 288.035(3) requires the Commission to "adopt rules for the recovery of economic development expenses by public utilities, including the sharing of expenses by shareholders." Under the recommended amendments, ratepayers would be responsible for 95, instead of 90, percent of economic development expenses. Shareholders would be responsible for the remaining five percent of economic development expenses. This should create a further incentive for utilities to take part in economic development in their respective service areas.

Finally, the attached recommended amendments strike the reference to modified minimum filing requirements (MMFRs) in subsection (5) of both rules. Utilities are no longer required to file MMFRs.

Statutory Authority: Section 288.025(3) requires the Commission to "adopt rules for the recovery of economic development expenses by public utilities" Rules 25-6.0426 and 25-7.042 accomplish this legislative directive.

Statement of Estimated Regulatory Costs: Both shareholders and ratepayers could be affected by the attached recommended amendments. The amount of impact depends on whether utilities change their economic expenditures because of the rule changes, and whether the recommended amendments result in changes to rates in future rate cases. The Commission should experience no additional costs due to the recommended amendments.

Although no utilities subject to the rules meet the statutory definition of a small business, a small business located in a service territory whose rates were increased to account for additional economic development expenses could be impacted. In addition, small businesses may be harmed if utility economic development expenditures result in attracting competition. On the other hand, small businesses may be started or attracted by

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additional economic development activities. The net effect is indeterminable.

Finally, an alternative to the recommended amendments is a different sharing allocation between ratepayers and shareholders.

ISSUE 2: If no requests for hearing or comments are filed, should the proposed rule amendments be filed for adoption with the Secretary of State and the docket be closed?

RECOMMENDATION: Yes.

STAFF ANALYSIS: Unless comments or requests for hearing are filed, the rules as proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

Attachments:

Recommended amendments to Rules 25-6.0426 and 25-7.042
Statement of Estimated Regulatory Costs

1 | 25-6.0426 Recovery of Economic Development Expenses

2 | (1) Pursuant to Section 288.035, Florida Statutes, the
3 | Commission shall allow a public utility to recover reasonable
4 | economic development expenses subject to the limitations contained
5 | in subsections (2) and (3), provided that such expenses are
6 | prudently incurred and are consistent with the criteria established
7 | by Rules 8E-15.001, 8E-15.002, and 8E-15.003, Florida
8 | Administrative Code, ~~adopted by the Department of Commerce.~~

9 | (2) Prior to each utility's next rate change enumerated in
10 | subsection (5), the amounts reported for surveillance reports and
11 | earnings review calculations shall be limited to the greater of (a)
12 | the amount approved in each utility's last rate case escalated for
13 | customer growth since that time, or (b) ~~25~~ ⁹⁰ percent of the
14 | expenses incurred for the reporting period so long as such does not
15 | exceed the lesser of 0.15 percent of gross annual revenues or \$3
16 | million.

17 | (3) At the time of each utility's next rate case and for
18 | subsequent rate proceedings enumerated in subsection (5) the
19 | Commission will determine the level of sharing of prudent economic
20 | development costs and the future treatment of these expenses for
21 | surveillance purposes.

22 | (4) Each utility shall report its total economic development
23 | expenses as a separate line item on its income statement schedules
24 | filed with the earnings surveillance report required by Rule 25-
25 | 6.1352, Florida Administrative Code. Each utility shall make a

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

1 | line item adjustment on its income statement schedule to remove the
2 | appropriate percentage of economic development expenses incurred
3 | for the reported period consistent with subsections (2) and (3).

4 | (5) Requests for changes relating to recovery of economic
5 | development expenses shall be considered only in the context of a
6 | full revenue requirements rate case or in a limited scope
7 | proceeding for the individual utility, ~~or in a modified minimum~~
8 | ~~filing requirement proceeding for the individual utility.~~

9 | Specific Authority: 288.035(3), 350.127(2), F.S.

10 | Law Implemented: 288.035, F.S.

11 | History: New 07/12/95, _____.

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

1 | 25-7.042 Recovery of Economic Development Expenses

2 | (1) Pursuant to Section 288.035, Florida Statutes, the
3 | Commission shall allow a public utility to recover reasonable
4 | economic development expenses subject to the limitations contained
5 | in subsections (2) and (3), provided that such expenses are
6 | prudently incurred and are consistent with the criteria established
7 | by Rules 8E-15.001, 8E-15.002, and 8E-15.003, Florida
8 | Administrative Code, ~~adopted by the Department of Commerce.~~

9 | (2) Prior to each utility's next rate change enumerated in
10 | subsection (5), the amounts reported for surveillance reports and
11 | earnings review calculations shall be limited to the greater of (a)
12 | the amount approved in each utility's last rate case escalated for
13 | customer growth since that time, or (b) 25 ~~90~~ percent of the
14 | expenses incurred for the reporting period so long as such does not
15 | exceed the lesser of 0.15 percent of gross annual revenues or \$3
16 | million.

17 | (3) At the time of each utility's next rate case and for
18 | subsequent rate proceedings enumerated in subsection (5) the
19 | Commission will determine the level of sharing of prudent economic
20 | development costs and the future treatment of these expenses for
21 | surveillance purposes.

22 | (4) Each utility shall report its total economic development
23 | expenses as a separate line item on its income statement schedules
24 | filed with the earnings surveillance report required by Rule 25-
25 | 7.1352, Florida Administrative Code. Each utility shall make a

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10 | Law Implemented: 288.035, F.S.

11 | History: New 07/12/95, .

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MEMORANDUM

December 30, 1997

98 JAN -2 PM 3:30

TO: DIVISION OF APPEALS (HELTON)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *CB A PA*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COST FOR DOCKET NO. 971334-EG, PROPOSED AMENDMENTS TO RULE 25-6.0426, F.A.C., RECOVERY OF ECONOMIC DEVELOPMENT EXPENSES, AND 25-7.042, F.A.C., RECOVERY OF ECONOMIC DEVELOPMENT EXPENSES

SUMMARY OF THE RULE

Currently, Rules 25-6.0426 and 25-7.042, F.A.C., Recovery of Economic Development Expenses, allow public electric and gas utilities to recover 90 percent of prudently incurred economic development expenses. The authorizing statute, Section 288.035, Florida Statutes, specifies a sharing of those expenses with shareholders.

The proposed rule amendments would increase to 95 percent the share of allowed economic development expenses (up to certain limits) to be paid by ratepayers.

ESTIMATED NUMBER AND DESCRIPTION OF INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

Any public electric or gas utility is allowed to recover 90 percent of prudently incurred economic development expenses and their share of those expenses would fall from 10 percent to 5 percent. There are five investor-owned electric utilities and nine investor-owned gas utilities. Municipal and cooperative utilities are not covered by the rule.

Shareholders and ratepayers of the covered utilities could be affected. The number would be dependent on which utilities changed their amount of economic development expenditures and whether there is a subsequent rate case where rates change.

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

The Florida Public Service Commission (Commission) should have no additional direct costs with adoption of the proposed rule changes, because utilities expensing economic development costs currently must indicate the expense as a line item on their surveillance report. No other direct costs to state or local government entities are foreseen.

**ESTIMATED TRANSACTIONAL COSTS
TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY**

There should be no significant additional transaction costs to make the change from recovering 90 percent percent of allowable economic development expenses to 95 percent since companies are already reporting the amount expended as a line item on their surveillance reports.

Although ratepayers are not required to comply with the rule, they could be subjected to the impact of additional economic development expenditures. If there is a rate case, the economic development expenses could be included in base rates. The statute allows recovery of economic development expense not exceeding the lesser of 0.15 percent of gross annual revenue or \$3 million for any one utility. Thus, the maximum additional money allowed for any one utility would be \$150,000 and could possibly be paid by ratepayers. However, the rule does not preclude a utility from spending additional amounts on economic development expenditures, not recoverable from ratepayers, that it deems beneficial to shareholders.

IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES

None of the companies subject to the rule met the statutory definition of a small business. However, small businesses located in utility territories where economic development activities increase could be affected if, in a subsequent rate case their business utility rates are raised to include additional economic development expenses. Also, existing small businesses may be harmed if economic development activities financed with the additional monies attract competitors. On the

other hand, small businesses may be started or attracted by additional economic development activities. The net effect is undeterminable.

No additional direct impact on small cities or small counties is foreseen unless they benefit from additional economic development monies being spent in their jurisdictions.

REASONABLE ALTERNATIVE METHODS

A different allocation of the sharing of economic development expenses is the alternative, and reasonable persons can disagree on the appropriate amount to be paid by the competing interests of shareholders and ratepayers. Expenditures for economic development activities are up-front and concrete. Benefits from these expenditures are long term and uncertain. However, the impacts per individual are small when allocated among millions of ratepayers or thousands of shareholders.

CBH:tf/e-ecndv2

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

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