

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed Repeal of Rule
25-17.011, F.A.C., Continuation
of Energy Conservation Loan
Guarantees.

DOCKET NO. 980408-EG
ORDER NO. PSC-98-0842-FOF-EG
ISSUED: June 25, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

NOTICE OF REPEAL OF RULE

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has repealed Rule 25-17.011, Florida Administrative Code, relating to continuation of energy conservation loan guarantees, without changes.

The rule repeal was filed with the Department of State on June 24, 1998 and will be effective on July 14, 1998. A copy of the rule as filed with the Secretary of State is attached to this Notice.

This docket is closed upon issuance of this notice.

By ORDER of the Florida Public Service Commission, this 25th day of June, 1998.

BLANCA S. BAYÓ, Director
Division of Records & Reporting

By: _____

Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

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25-17.011 Continuation of Energy Conservation Loan Guarantees.

~~(1) Eligibility and Application.~~

~~— (a) Any utility which, as part of its approved conservation plan, submitted pursuant to s.366.82(2), F.S., loaned its funds to eligible customers as defined in Rule 25-17.051(2), F.A.C., for the purpose of purchasing conservation measures listed in Rule 25-17.051(10), F.A.C., and which received a guarantee by the Commission of all or any portion of loans underwritten by the utility through the June 30, 1991 ending date of the Energy Conservation Loan Guarantee program shall continue to receive the guarantee, subject to the terms of this rule. Energy Conservation Loan Guarantees made to lending institutions through June 30, 1991 shall similarly be continued. The Commission does not guarantee energy conservation loans made after June 30, 1991. The provisions of this rule which refer to application for the guarantee remain applicable to loans which received the guarantee.~~

~~— (b) Each utility applying for Commission guarantee of such loans shall submit to the Commission a description of the types of loans to be made and of loan servicing and collection practices, an estimate of the total amount of funds to be loaned within a stated~~

~~period, and any forms to be used by the utility or its subcontracted lending institution in making such loans.~~

~~(c) Upon review of the utility's application and material, submitted according to sub-subsection (1)(b) above, the Commission shall approve the utility's application, in full or in part, or shall deny such approval. The Commission's approval of the proposed loan program shall be for a specific amount of funds to be loaned within a specific period of time. The reasons for the denial shall be stated.~~

~~(2) Loan Application, Limits and Terms.~~

~~(a) Each applicant for a loan shall complete a Commission approved loan application form supplied by the utility or its subcontracted lending institution. The form shall provide for the disclosure of information relating to the loan applicant's acceptability as a credit risk, his interest in the property to be improved, and the type of improvement to be made.~~

~~(b) If loans are made by a utility or its subcontracted lending institution, only loans made to applicants within the utility's service area are eligible for the Commission's loan guarantee.~~

~~(c) If a loan is made to an applicant who does not have an ownership interest in the property to be improved by the~~

~~conservation measure, the owner of such property shall be required to sign as guarantor on the note evidencing the loan.~~

~~(d) Loans eligible for the Commission's loan guarantee may be for any of the following conservation measures and the amount loaned shall not exceed the utility's or its subcontracted lending institution's estimate of the cost of implementing the particular measure.~~

- ~~1. Caulking of windows or doors or both.~~
- ~~2. Weatherstripping of windows or doors or both.~~
- ~~3. Duct or pipe insulation.~~
- ~~4. Water heater insulation.~~
- ~~5. Heat reflective and heat absorbing window or door materials.~~
- ~~6. Clock thermostats.~~
- ~~7. Ceiling insulation.~~
- ~~8. Load management devices.~~
- ~~9. Window panel inserts.~~
- ~~10. Floor insulation.~~
- ~~11. Replacement of furnaces or boilers.~~
- ~~12. Replacement of central air conditioning.~~
- ~~13. Wall insulation.~~
- ~~14. Furnace replacement burner.~~

~~15. Replacement of resistance heat with heat pump or natural gas.~~

~~16. Storm windows.~~

~~17. Solar domestic water heating.~~

~~18. Solar swimming pool heating, if the pool is presently heated with a nonrenewable resource.~~

~~19. Waste heat recovery water heating systems.~~

~~20. Heat pump or natural gas water heaters.~~

~~(e) The following terms shall be included in the loan agreement:~~

~~1. The first payment on the note evidencing the loan shall be due no later than sixty 60 days after the date of execution of the note;~~

~~2. The maturity date for the note shall not be later than seven years after the date the first payment is due. However, at the time a utility requests approval of its loan program, it may request that the Commission approve a maturity date which is in excess of seven years for a specific type of conservation measure. The reasons for the later maturity date shall be specified.~~

~~3. Prepayment of all or part of the loan principal shall be credited on the date received. If full payment of the loan principal is made prior to the maturity date of the note, no unearned interest or prepayment penalty shall be collected.~~

~~—— (3) Loan Providing, Servicing and Collection.~~

~~—— (a) The utility is responsible to the Commission for proper servicing and collection of loans. However, a utility may contract with a lending institution to make loans to eligible customers and for the performance of loan servicing and collection functions. A description of servicing and collection practices shall be included in the utility's application, as specified in sub subsection (1)(c), for the Commission's loan guarantee. The utility is responsible for providing a post installation inspection of each conservation measure which is financed by a guaranteed loan.~~

~~—— (4) Claims.~~

~~—— (a) No claim for reimbursement for loss on guaranteed loans shall be paid unless the utility's or its subcontracted lending institution's claim against the borrower has been reduced to judgment. However, if the principal due on a loan which is in default is less than \$200 and reasonable collection efforts have been made, the utility or its subcontracted lending institution shall receive reimbursement for the unpaid principal without reducing the claim to judgment.~~

~~—— (b) For reimbursement of claims greater than or equal to \$200:~~

~~—— 1. The utility or its subcontracted lending institution must reduce the claim to Judgment and~~

~~obtain a Judgment Lien. The Judgment may include reasonable attorney's fees and court costs.~~

- ~~2. The utility shall file a request for reimbursement with the Florida Public Service Commission's Division of Administration within twenty (20) days of the receipt of Judgment. The request for reimbursement shall contain at least the following:~~
 - ~~a. Six copies of the applicant's loan file;~~
 - ~~b. An original and five copies of a certification by an officer of the utility, which asserts that the utility acted within the scope of its approved conservation loan program.~~
 - ~~c. Six copies of the Judgment;~~
 - ~~d. Six copies of the Judgment Lien;~~
 - ~~e. A statement indicating the utility's or its subcontracted lending institution's agreement to execute an Assignment of Judgment in exchange for reimbursement; and~~
 - ~~f. The utility's name and mailing address, its Federal Employer Identification Number and the name and telephone number of the utility's liaison whom the Commission may contact for additional information regarding the defaulted loan.~~

~~3. The Florida Public Service Commission's Division of Administration shall notify the utility when the State Comptroller issues a warrant and shall request assignment of rights under the Judgment to the State of Florida. The warrant will be mailed to the utility upon receipt of original assigned Judgment.~~

~~(c) For reimbursement of claims under \$200:~~

~~1. The request for reimbursement will be filed in a timely manner with the Florida Public Service Commission's Division of Administration and contain at least the following:~~

~~a. Six copies of the applicant's loan file;~~

~~b. An original and five copies of a certification by an officer of the utility, which asserts that the utility acted within the scope of its approved conservation loan program; and~~

~~c. The utility's name and mailing address, its Federal Employer Identification Number and the name and telephone number of the utility's liaison whom the Commission may contact for additional information regarding the defaulted loan.~~

~~2. The warrant will be mailed to the utility upon issuance by the State Comptroller.~~

~~(d) If deficiencies or disputes are identified by the Commission's staff in a utility's request for reimbursement, the Commission's Executive Director shall notify the utility of the deficiencies or disputes and the basis for each. Unsettled disputes between Commission staff and the utility will be resolved by the Commissioners following written request from the utility, which shall specifically respond to the deficiencies or disputes identified by the Executive Director. The request shall be submitted to the Commission's Executive Director, and a copy shall be submitted to the Commission's Division of Electric and Gas.~~

~~(5) Recordkeeping and Reporting Requirements.~~

~~(a) Each utility or its subcontracted lending institution, which has had or has outstanding loans guaranteed by the Commission, shall make the following records available to the Commission upon request or, if requested, shall submit to the Commission the following reports.~~

~~1. Records: A file shall be maintained for each loan made containing the following:~~

~~a. Credit application.~~

~~b. Credit report or other investigation of the loan applicant's credit.~~

~~_____ c. Loan agreement.~~

~~_____ d. Loan servicing and collection information.~~

~~_____ e. Default information, including a bankruptcy court order discharging the debtor (if applicable) and Judgment information (if applicable).~~

~~_____ 2. Reports:~~

~~_____ a. Quarterly reports on guaranteed loans will be submitted to the Commission on prescribed forms within 30 days after the close of each quarter.~~

~~_____ b. The Commission may require the submission of supplemental reports relating to guaranteed loans which are deemed necessary by the Commission.~~

~~_____ (b) The Commission may inspect the utility's or its subcontracted lending institution's books or accounts which pertain to the loans reported for guarantee.~~

~~_____ (6) Limitation of Guarantee.~~

~~_____ (a) Unless prohibited by law, guarantees made pursuant to this rule shall be for the amount of the Judgment obtained by the utility against the borrower or, if a judgment is not required, the amount of principal due on the loan.~~

~~_____ (b) The Commission's liability to pay claims made against the Florida Public Service Regulatory Trust Fund is limited to \$5,000,000.~~

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~~(7) Reserve Requirement.~~

~~The Commission shall maintain for each loan made under the guarantee program a reserve which is equal to five percent (5%) of the outstanding principal balance due on the loan.~~

Specific Authority: 366.05(1), 366.82, F.S.

Law Implemented: 366.05(1), 366.82, F.S.

History: New 10/13/81, formerly 25-17.11, Amended 1/5/82, 12/30/82, 2/9/86, 8/9/92, Repealed 07/14/98.