

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: February 8, 2018
TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
FROM: Adria Harper, Office of the General Counsel *acth*
RE: Docket No. 20180121-EG

Please file the attached rule certification packet materials for Rule 25-17.015, F.A.C., in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC
2019 FEB -8 PM 1:47
COMMISSION
CLERK

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
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ANDREW GILES FAY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

February 8, 2019

Mr. Ernest Reddick
Florida Department of State
Administrative Code and Register Section
Room 701, the Capitol
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

Re: Rule Certification Packet for Rule 25-17.015, Energy Conservation Cost Recovery, F.A.C.

Dear Mr. Reddick:

Enclosed for filing is a complete rule certification packet for Rule 25-17.015, F.A.C., consisting of:

- (1) One compact disc containing the coded text of the rule;
- (2) There are no materials incorporated by reference into this rule.
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the signed designation of minor violation rule certification form required by Rule 1-1.010, F.A.C.;
- (5) One original and two copies of the coded text of the rule, including the legal citations and history notes;
- (6) One original and two copies of the summary of the rule;
- (7) One original and two copies of the detailed written statement of the facts and circumstances justifying the rule; and
- (8) One original and two copies of the summary of the hearings held on the rule.

TALLAHASSEE, FLORIDA
2019 FEB - 8 11:11:05
FBI/DOJ

Please let me know if you have any questions. The contact name and information for this rule are Adria Harper, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6082, aharper@psc.state.fl.co.

Sincerely,

A handwritten signature in cursive script that reads "Adria Harper". The signature is written in black ink and is positioned above the printed name and title.

Adria Harper
Senior Attorney

Enclosures

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

25-17.015

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



ADAM J. TEITZMAN

Commission Clerk

Title

Number of Pages Certified

**DESIGNATION OF RULE THE VIOLATION OF WHICH IS A MINOR VIOLATION
CERTIFICATION**

Pursuant to Section 120.695(2)(c)3, Florida Statutes, I certify as agency head, as defined by section 20.05(1)(b), Florida Statutes, that:

All rules covered by this certification are not rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.

The following parts of the rules covered by this certification have been designated as rules the violation of which would be a minor violation pursuant to Section 120.695, F.S.:

Rule No(s).

25-17.015

Rules covered by this certification:

Rule No(s).

25-17.015



Signature of Agency Head

Chairman, Florida Public Service Commission
Title

25-17.015 Energy Conservation Cost Recovery.

(1) The Commission shall conduct annual energy conservation cost recovery (ECCR) proceedings ~~during November~~ of each calendar year. Each utility over which the Commission has ratemaking authority may seek to recover its costs for energy conservation programs. Each utility seeking cost recovery shall file the following at the times directed by the Commission, pursuant to the order establishing procedures in the annual cost recovery proceeding:

(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 January 1 through December 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 January 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 January 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 January 1 following the annual hearing. ~~The Such~~ proposed ~~cost recovery~~ factors shall take into account the data filed pursuant to paragraphs (1)(a), (b) and (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/ECO/44 (11/97), 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 Economics, 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. Each utility shall also establish separate subaccounts for any revenues derived from specific customer charges associated with specific programs.

(3) A complete list of all account and subaccount numbers used for conservation cost recovery shall accompany each filing in paragraph (1)(a).

(4) New programs or program modifications must be approved prior to a utility seeking cost recovery. A utility may seek cost recovery for implementation costs associated with new or modified programs incurred prior to Commission approval. ~~Specifically, any incentives or rebates associated with new or modified programs may not be recovered if paid before approval.~~ However, if a utility may not seek cost recovery for any incentives or rebates associated with new or modified programs paid prior to Commission approval ~~incurs prudent implementation costs before a new program or modification has been approved by the Commission, a utility may seek recovery of these expenditures.~~

(5) Advertising expense recovered through energy conservation cost recovery shall 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 filings required by ~~subsection paragraph~~ (1)(a). In determining whether an advertisement is “directly related to an approved conservation program,”; the Commission shall refer to the Order approving the program. In addition, 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.

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2)(f), 366.06(1), 366.82 (2), (7), (10).

(11), ~~(3)~~, ~~(5)~~ FS. History—New 1-27-81, Amended 12-30-82, 3-27-86, Formerly 25-17.15, Amended 8-22-90, 11-16-97, 5-4-99, _____.

SUMMARY OF THE RULE

The rule sets forth requirements for electric and gas utilities' energy conservation cost recovery clause data filings and implements procedures for evaluating advertising costs associated with the utilities' conservation efforts.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

For efficiency and to avoid duplicative data filings, the rule removes duplicative and unnecessary energy conservation cost recovery clause filing requirements and the November proceeding requirement. In addition, the rule clarifies how advertising costs associated with conservation efforts will be evaluated for electric and gas utilities.

SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.