

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Adoption of Rule 25-14.011,	)	DOCKET NO. 891169-PU
F.A.C., pertaining to processing	)	
ruling requests to be filed with	)	ORDER NO. 24621
the Internal Revenue Service.	)	
<hr/>		ISSUED: 6/5/91

NOTICE OF ADOPTION OF RULE

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has adopted Rule 25-14.011, F.A.C., relating to processing ruling request to be filed with the Internal Revenue Service without change.

The rule was filed with the Secretary of State on May 29, 1991, and will be effective on June 18, 1991. A copy of the relevant portions of the certification filed with the Secretary of State is attached to this Notice.

This docket is closed upon issuance of this notice.

By Direction of the Florida Public Service Commission, this  
5th day of JUNE, 1991.

\_\_\_\_\_  
 STEVE TRIBBLE, Director  
 Division of Records & Reporting

( S E A L )

WEW

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by: Kay Flynn  
 Chief, Bureau of Records

DOCUMENT NUMBER-DATE

05641 JUN -5 1991

FPSC-RECORDS/REPORTING

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

91 MAY 30 AM 11:00  
DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

FILED

I do hereby certify:

(1) The time limitations prescribed by paragraph 120.54(11)(a), F.S., have been complied with; and

(2) There is no administrative determination under section 120.54(4), 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 paragraph 120.54(11)(b), F.S. They are filed not less than 28 days after the notice required by subsection 120.54(1), F.S., and;

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

(b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

(c) Are filed within 21 days after the adjournment of the final public hearing on the rule; or

(d) Are filed within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(e) Are filed within 21 days after the date the transcript was received by this agency.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the

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undersigned agency by and upon their filing with the Department of State.

<u>Rule No.</u>	<u>Specific Rulemaking Authority</u>	<u>Law Being Implemented, Interpreted or Made Specific</u>
25-14.011	350.127(2)	364.03, 364.035, 364.055, 364.18, 364.183, 366.04, 366.041, 366.07, 366.071, 366.076, 366.093, 367.081, 367.082, 367.0822, 367.156

Under the provision of paragraph 120.54(13)(a), 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)



(S E A L)

*Ray Tribble for*  
 \_\_\_\_\_  
 Steve Tribble

Director, Division of Records & Reporting  
 Title

\_\_\_\_\_  
 Number of Pages Certified

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Rule 25-14.011  
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SUMMARY OF RULE

The rule will require utilities to provide a draft copy of an IRS ruling request to the Commission and to the Office of Public Counsel (OPC) within 60 days of receiving an Order to do so by the Commission. Within 90 days of receiving the Order, the utility will have to meet with the Commission staff and OPC to finalize the ruling request for presentation to the Commission for approval. Within 30 days of receiving the Order approving the ruling request, the utility will have to file it with the IRS and provide copies to the Commission and OPC. The utility will also have to notify or consult with Commission staff and OPC regarding contacts or conferences with the IRS and provide copies of any additional information submitted to the IRS regarding the ruling request. If there is a conference with the IRS, the Commission and OPC will be authorized to attend and participate. The notification requirement regarding contacts with the IRS will be reciprocal.

The rule designates a 160 day time limit from the day the Commission directs the utility to file the request until the Commission makes a determination of the adequacy and completeness of the request. Good cause is an exception to this time limit. In any event, the utility, Commission staff, and OPC shall use their best efforts to have the request promptly considered by the Commission.

If OPC has not formally intervened in the proceeding, then the utility will not have to copy, notify, or consult with OPC when a utility files any ruling request regarding investment credit,

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 OFFICE OF THE ATTACHE  
 WASHINGTON, D.C.  
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depreciation allowance, accelerated cost recovery, taxability of CIAC, or nuclear decommissioning, it shall first submit its proposed ruling to the Commission for determination as to completeness and adequacy. When the ruling request is filed, the utility shall provide a copy to the Commission. The utility will also notify the Commission of any contacts with the IRS and provide copies of additional information as discussed above. When ordered by the Commission, the utility will consult with Commission staff prior to scheduling any conference with the IRS and allow Commission staff to participate in same. Finally, the rule provides for the electronic filing and storage of ruling requests.

SUMMARY OF HEARINGS ON THE RULE

No comments or requests for hearings were received by the Commission during the 21 day period specified in section 120.54(4), and no hearings were held regarding this rule.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

On occasion, the Commission orders a regulated utility to file a ruling request with the Internal Revenue Service (IRS) regarding some aspect of the utility's tax credits, depreciation, etc. The ruling from the IRS helps the Commission staff determine whether the utility's tax expense is appropriate and whether a proposed treatment of that expense is proper.

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1 25-14.011 Procedures for Processing Ruling Requests to be  
2 Filed with the Internal Revenue Service.

3 (1) When a utility or regulated company is directed by this  
4 Commission to file a ruling request with the Internal Revenue  
5 Service, the utility or regulated company shall, when the Office of  
6 Public Counsel has formally intervened in the proceeding:

7 (a) within 60 days of the date of receipt of the order  
8 directing that a ruling request be filed, provide a draft copy of  
9 the ruling request to both the Commission and the Office of Public  
10 Counsel;

11 (b) within 90 days of the date of receipt of said order, meet  
12 with the Commission Staff and the Office of Public Counsel to  
13 finalize the ruling request for presentation to the Commission for  
14 a determination that the Commission believes the request is  
15 adequate and complete or to draft issues whereby unresolved  
16 differences regarding adequacy and completeness of the ruling  
17 request may be presented to the Commission for resolution;

18 (c) within 30 days of the date of receipt of the order making  
19 a determination of adequacy and completeness of the ruling request  
20 or resolving issues related to the ruling request, file the ruling  
21 request with the Internal Revenue Service copying the Commission  
22 and the Office of Public Counsel;

23 (d) notify and copy the Commission and the Office of Public  
24 Counsel of any contact related to the ruling request between the  
25 utility or regulated company, its representatives,

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1 affiliates and their representatives, and the Internal Revenue  
2 Service;

3 (e) provide to the Commission and the Office of Public  
4 Counsel copies of any additional information in relation to the  
5 ruling request prior to its being provided to the Internal Revenue  
6 Service;

7 (f) consult both the Commission Staff and the Office of  
8 Public Counsel to attend and participate in said conference; and  
9 allow both the Commission and the Office of Public Counsel the  
10 opportunity to make separate subsequent submissions related to the  
11 ruling request.

12 (2) The utility, Commission Staff, and the Office of Public  
13 Counsel shall use their best efforts to have the request for ruling  
14 promptly considered by the Commission on a timely basis and without  
15 unnecessary delay. Except for a good cause, the Commission shall  
16 make a determination as to the adequacy and completeness of a  
17 ruling request within 160 days of directing the utility or  
18 regulated company to file the request under subsection (1).

19 (3) When the Office of Public Counsel has not formally  
20 intervened in the proceeding, the utility or regulated company  
21 shall not be required to notify, consult with, or provide copies of  
22 the documents described in subsections (1) and (3) to the Office of  
23 Public Counsel.

24 (4) When a utility or regulated company shall file any ruling  
25 request with the Internal Revenue Service related to a

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1 normalization issue under section 46(f), 167(l), or 168 or to  
2 sections 118 and 468 of the Internal Revenue Code, the utility or  
3 regulated company shall:

4 (a) provide its proposed ruling request to the Commission for  
5 determination as to completeness and adequacy in accordance with  
6 Internal Revenue Service rules;

7 (b) provide a copy of the ruling request to the Commission  
8 when it is filed with the Internal Revenue Service;

9 (c) notify and copy the Commission of any contact related to  
10 the ruling request between the utility or regulated company, its  
11 representative, its affiliates and their representatives, and the  
12 Internal Revenue Service;

13 (d) provide to the Commission copies of any additional  
14 information in relation to the ruling request prior to its being  
15 provided to the Internal Revenue Service;

16 (e) when so ordered by the Commission, consult the Commission  
17 Staff prior to scheduling any conference between the utility or  
18 regulated company and its representatives and the Internal Revenue  
19 Service when said conference is related to the ruling request;  
20 permit the Commission Staff to attend and participate in said  
21 conference; and allow the Commission to participate in any  
22 subsequent submissions or procedural matters related to the ruling  
23 request.

24 (5) Draft ruling requests shall be submitted in writing and,  
25 when required by staff, on a 3 1/2" or 5 1/4" diskette with the

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1 format in which it was saved, i.e., MultiMate, DisplayWrite,  
2 WordPerfect, OfficeWriter, Wang PC, WordStar, MS Word, PFS; Write,  
3 or ASC II. The transmittal memorandum accompanying the draft  
4 ruling request shall provide, when applicable, an electronic mail  
5 or telecopier number.

6 (6) The requirements in subsections (1)(d) through (f) and  
7 (4)(c) through (e) shall be reciprocal in that they shall apply to  
8 the Commission Staff and the Office of Public Counsel as well as to  
9 the utilities.

10 Specific Authority: 350.127(2), F.S.

11 Law Implemented: 364.03, 364.035, 364.055, 364.18, 364.183,  
12 366.04, 366.041, 366.07, 366.071, 366.076, 366.093, 367.081,  
13 367.082, 367.0822, and 367.156, F.S.

14 History: New

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