

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Office of Public)
 Counsel for Emergency Rulemaking on)
 Rule 25-14.003, F.A.C., Corporate)
 Income Tax Expense Adjustments.)

DOCKET NO. 891296-PU
 ORDER NO. 23210
 ISSUED: 7-18-90

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman
 BETTY EASLEY
 GERALD L. GUNTER
 FRANK S. MESSERSMITH

ORDER RESCINDING EMERGENCY RULE

BY THE COMMISSION:

On November 6, 1989, the Office of Public Counsel filed a petition for emergency rulemaking asking this Commission to adopt an emergency amendment to Rule 25-14.003, F.A.C., commonly referred to as the "tax savings rule". On December 5, 1989, we voted to grant Public Counsel's petition and adopted Emergency Rule 25-ER89-1. The rule was filed with the Secretary of State on December 21, 1989, and became effective January 1, 1990. Notice of the rule's adoption was published in the Florida Administrative Weekly on December 29, 1989. Florida Power and Light Company filed an appeal challenging the rule's validity on January 12, 1990.

Emergency Rule 25-ER89-1 was adopted in conjunction with our contemporaneous revision of Rule 25-14.003 in Docket No. 891278-PU. On December 1, 1989, the Commission had proposed amendments to that rule which would have made substantial changes in its operation. Under the regular rulemaking schedule, a hearing was to be held on January 29, 1990, if requested. Since the normal course of rulemaking would have extended well into 1990, Public Counsel's petition sought to have an emergency rule in place to apply to utilities' tax savings from January 1, 1990, forward. The adoption of Emergency Rule 25-ER89-1 accomplished that purpose for a period of ninety days ending March 31, 1990.

Shortly after the expiration of Emergency Rule 25-ER89-1, we concluded that it was no longer advisable to pursue the

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proposed permanent rulemaking initiated in Docket No. 891278-PU. Therefore, on May 15, 1990, we voted to withdraw the proposed amendments to Rule 25-14.003. The Commission, thus, retreated from the course of rulemaking initiated by its original proposal to amend Rule 25-14.003. In place of our original proposal, we have now proposed a simplified rule which recognizes the Commission's ability to address the impact of corporate income tax rate changes through limited proceedings or in full rate cases.

It is, therefore,

ORDERED by the Florida Public Service Commission that Emergency Rule Amendment 25-ER89-1 amending Rule 25-14.003, Florida Administrative Code, Corporate Income Tax Expense Adjustment, is hereby rescinded and of no further force and effect. It is further

ORDERED that Docket No. 891296-PU be closed.

By ORDER of the Florida Public Service Commission,
this 18th day of July, 1990.

STEVE TRIBBLE, Director
Division of Records and Reporting

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by: Kay Slego
Chief, Bureau of Records