

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

MEMORANDUM

RECEIVED

July 2, 1997

JUL 02 1997

10:05
FPSC - Records/Reporting

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

FROM: DIVISION OF APPEALS (HELTON) *WAT DES*
DIVISION OF ELECTRIC & GAS (BALLINGER, BULECZA-BANKS) *RJ LRC*
COLSON, DILLMORE, GING) *9/12*
DIVISION OF AUDITING & FINANCIAL ANALYSIS (MERTA, D. SM) *15*
VANDIVER) *SM*
DIVISION OF RESEARCH & REGULATORY REVIEW (HEWITT) *RA RA*

RE: DOCKET NO. 961378-EG - PROPOSED AMENDMENT OF RULE 25-17.015, F.A.C., ENERGY CONSERVATION COST RECOVERY *JDJ*

AGENDA: JULY 15, 1997 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\961378.RCM

CASE BACKGROUND

On December 13, 1996, the Commission published in the Florida Administrative Weekly a notice of proposed rule development for Rule 25-17.015, Florida Administrative Code, captioned "Conservation Cost Recovery." Pursuant to Florida Power and Light Company's (FPL's) and Gulf Power Company's (Gulf's) requests, a workshop was held on January 14, 1997. Representatives from FPL, Tampa Electric Company (TECO), Gulf, Peoples Gas System (Peoples), West Florida Natural Gas (WFNG), the Legal Environmental Assistance Foundation (LEAF), and Commission staff attended the workshop. In addition, FPL, TECO, and Gulf made post-workshop filings.

The purpose of the attached recommended changes to Rule 25-17.015 (Attachment A) is to codify the decision in Order No. PSC-93-0709-FOF-EG, in which the Commission voted to move from semi-annual to annual conservation cost recovery proceedings. In re: Conservation Cost Recovery Clause, 93 F.P.S.C. 5:189 (1993). In addition, the recommended amendments change the filing times for Energy Conservation Cost Recovery (ECCR) filings, require a new "short form" to be filed annually, limit conservation cost recovery

DOCUMENT NUMBER-DATE

06643 JUL-25

FPSC RECORDS/REPORTING

Docket No. 961378-EG
July 2, 1997

to programs pre-approved by the Commission, require utilities to substantiate advertising claims with data sources and calculations, disallow recovery for advertisements that mention a competing energy source, and repeal the prohibition against seeking recovery for previously disallowed costs.

Pursuant to Sections 366.06(1) and 366.82(3) and (5), Florida Statutes, the Commission conducts annual proceedings to allow electric and natural gas utilities to seek recovery for eligible conservation expenses. Section 366.82(5) specifically authorizes the Commission to add to a utility's authorized rates "[r]easonable and prudent unreimbursed [conservation] costs projected to be incurred, or any portion of such costs" Although Section 120.80(13)(a), Florida Statutes, exempts Commission "statements that relate to cost-recovery clauses, factors, or mechanisms implemented pursuant to Chapter 366" from the Administrative Procedures Act's rulemaking requirements, staff recommends the attached amendments discussed below be proposed so the Commission's ECCR procedures will be readily available to all interested persons.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission propose the attached amendments to Rule 25-17.015, Florida Administrative Code?

RECOMMENDATION: Yes, Florida Power and Light Company's request for another workshop should be denied and the Commission should propose the attached amendments to Rule 25-17.015, Florida Administrative Code.

STAFF ANALYSIS: In its post-workshop comments, FPL requested another workshop because it believed it would be helpful. Staff recommends this request be denied. The recommended rule amendments are the result of meaningful discussions between staff and the industry. The rule development process has produced a rule which is mutually agreeable in most respects. It is doubtful that any remaining disagreement over what amendments should be proposed can be resolved through the workshop process. Accordingly, staff recommends Rule 25-17.015 be amended as discussed below.

Subsection (1): Staff recommends this subsection be amended to codify the Commission's decision that energy conservation cost recovery proceedings be conducted annually.

At the workshop, Gulf suggested that the time line for making ECCR filings be changed to give utilities more time to prepare the filings and staff more time to review them. Under Gulf's

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proposal, the Commission would consider three distinct periods at each annual proceeding: the final true-up period, the estimated/actual true-up period, and the projection period. Data from these three periods would be used to establish the cost recovery factors for the 12-month period following each ECCR proceeding. In addition, the change would make it easier to compare data between the three periods under consideration to data for the same periods in prior proceedings. The hearing date would not move from the end of the first quarter of each year and the effective dates of resulting cost recovery factors would not change. What would change is the relationship between the original projection period and both the estimated/actual true-up and final true-up periods. Staff has discussed this time change with all utilities that would be affected, and none object to the change.

The filings that would be made under the new time line are discussed below.

Paragraph (1) (a): This paragraph requires utilities to file an annual true-up filing for the period specified.

Paragraph (1) (b): This paragraph requires utilities to file an annual estimated/actual true-up filing for the period specified.

Paragraph (1) (c): This paragraph requires utilities to file an annual projection filing for the period specified.

Paragraph (1) (d): This paragraph requires utilities to file an annual petition to specify the cost recovery factors requested for the 12-month period following the hearing.

Paragraph (1) (e): To comply with the semi-annual reporting requirement in Section 364.82(5), Florida Statutes, this paragraph requires utilities to file the "Energy Conservation Cost Recovery Annual Short Form" that is incorporated into the rule by reference. (Attachment B)

In order to have a smooth transition from the old to new ECCR time line, staff recommends the Commission follow the attached schedule. (Attachment C) The due dates for filings would be stated on the Case Assignment and Scheduling Record (CASR) and the Order Establishing Procedure issued prior to each proceeding.

Subsection (2): Staff recommends changes to clarify the accounting requirements mandated by this subsection.

Subsection (3): Staff recommends this subsection be changed to require utilities to include in its annual true-up filing a list of all conservation cost recovery account and sub-account numbers.

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This information, which should be only one or two pages, would make it easier for staff auditors to perform their function.

Subsection (4): Staff recommends this subsection be changed to make it clear that prior approval is required before a utility can seek cost recovery for new or modified conservation programs. Although utilities cannot recover rebates or incentives paid out prior to program approval, utilities may recover prudent program implementation costs incurred prior to program approval.

Subsection (5): Pursuant to Section 366.82(5), the Commission may allow utilities to recover reasonable and prudent unreimbursed conservation costs. In addition, the Legislature has specifically stated "the commission shall not allow the recovery of the cost of any company image-enhancing advertising or of any advertising not directly related to an approved conservation program." *Id.* So that the Commission's implementation of this statutory mandate is clear, staff recommends an amendment to prohibit cost recovery for advertisements that mention a competing energy source. In addition, staff recommends utilities file data sources and calculations to substantiate any claims of energy savings stated in advertisements.

Examples of FPL advertisements are attached. (Attachment D) These advertisements were included in Research and Regulatory Review's September 1996 "Review of Commercial/Industrial Demand-Side Management Programs of Six Florida Utilities." The report concluded the advertisements

may have some educational value, [but] they also imply to customers that gas is not a viable alternative to electricity. Rather than specifically comparing costs and performance differences, the debate pits one fuel against another. Staff believes this use of conservation programs as a competitive tool was not intended by FEECA or the Commission.

(Page 40)

The prohibition against mentioning a competing energy source is also necessary because the Commission has found in the past that

[w]hen making fuel-savings comparisons in advertisements, the utilities rely on different input data to determine the amount of savings. Therm usage levels, kWh consumption, efficiency levels, and unit costs all vary from one utility to another.

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In re: Conservation Cost Recovery Clause, Order No. PSC-95-0398-FOF-EG, 95 F.P.S.C. 3:557, 562 (1995). The differences in the published information have led to customer confusion when consumers compare ads. Since it would be almost impossible to develop advertising standards for competing energy sources because of the many variables involved, such as geographic location, Btu content, current rates, varying fuel charges, and appliance efficiencies, staff recommends the best approach is simply to deny cost recovery for advertisements that mention competing energy sources. Id.

The Commission should require utilities to file the data and calculations required by this subsection because this information will allow staff and other interested persons to verify advertising claims. These recommended amendments should ensure accountability and truth in utility advertising.

Subsection (6): Staff recommends this unnecessary subsection be repealed. The decision to disallow costs should be made on a case-by-case basis.

Statement of Estimated Regulatory Costs: The recommended amendments should not add significant additional costs, other than some additional labor costs associated with the initial restructuring of the filing periods. Transactional costs should be minimal. No impact is foreseen for small businesses, counties, or cities. There are no alternative methods available that would achieve the purpose of the proposed amendments. (See Attachment E)

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

RECOMMENDATION: Yes, the docket should be closed if no requests for hearing or comments are filed.

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:

- A - Recommended amendments to Rule 25-17.015
- B - Energy Conservation Cost Recovery Annual Short Form
- C - Proposed Time Line for the ECCR Transition
- D - Example FPL advertisements
- E - Statement of Estimated Regulatory Costs

1 25-17.015 Energy Conservation Cost Recovery.

2 (1) The Commission shall conduct annual energy conservation
3 cost recovery (ECCR) proceedings during the first quarter of each
4 calendar year. Each utility over which the Commission has
5 ratemaking authority may seek to recover its costs for energy
6 conservation programs ~~as provided in s. 366.82(5), F.S.~~ Each To
7 ~~do so,~~ a utility seeking cost recovery shall file the following at
8 the times directed by the Commission: ~~a petition setting forth~~
9 ~~estimates of those reasonable and prudent unreimbursed costs~~
10 ~~projected to be incurred, by specific program, less any estimated~~
11 ~~revenues, in the same manner and for the same periods as provided~~
12 ~~for the fuel cost recovery clause in Order No. 9273 issued by the~~
13 ~~Commission on March 7, 1980. The time limitations applicable to~~
14 ~~the fuel cost recovery clause shall also apply and the Commission~~
15 ~~shall dispose of the petition in the same manner and within the~~
16 ~~times applicable to the fuel cost recovery clause.~~

17 (a) An annual final true-up filing showing the actual common
18 costs, individual program costs and revenues, and actual total ECCR
19 revenues for the most recent 12-month historical period from April
20 1 through March 31 that ends prior to the annual ECCR proceedings.
21 As part of this filing, the utility shall include a summary
22 comparison of the actual total costs and revenues reported to the
23 estimated total costs and revenues previously reported for the same
24 period covered by the filing in paragraph (1)(b). The filing shall
25 also include the final over- or under-recovery of total

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

1 | conservation costs for the final true-up period.

2 | (b) An annual estimated/actual true-up filing showing eight
3 | months actual and four months projected common costs, individual
4 | program costs, and any revenues collected. Actual costs and
5 | revenues should begin April 1 immediately following the period
6 | described in paragraph (1)(a). The filing shall also include the
7 | estimated/actual over- or under-recovery of total conservation
8 | costs for the estimated/actual true-up period.

9 | (c) An annual projection filing showing 12 months projected
10 | common costs and program costs for the period beginning April 1
11 | following the annual hearing.

12 | (d) An annual petition setting forth proposed energy
13 | conservation cost recovery factors to be effective for the 12-month
14 | period beginning April 1 following the hearing. Such proposed cost
15 | recovery factors shall take into account the data filed pursuant to
16 | paragraphs (1)(a), (1)(b), and (1)(c).

17 | (e) Within the 90 days that immediately follow the first six
18 | months of the reporting period in paragraph (1)(a), each utility
19 | shall report the actual results for that period on Form PSC/EAG/44
20 | (X/97), entitled, Energy Conservation Cost Recovery Annual Short
21 | Form, which is incorporated by reference in this rule, and may be
22 | obtained from the Director, Division of Electric and Gas, Florida
23 | Public Service Commission.

24 | (2) Each utility shall establish separate accounts or
25 | subaccounts for each conservation program for purposes of recording

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~~struck-through~~ type are deletions from existing law.

1 | the costs incurred for that program, ~~together with subaccounts~~
2 | ~~under the appropriate accounts contained in the Uniform System of~~
3 | ~~Accounts prescribed by the Commission which will ultimately be~~
4 | charged. Each utility shall also establish separate subaccounts
5 | ~~appropriate under the account for Other Electric Revenues or Other~~
6 | ~~Gas Revenues,~~ for revenues derived from each specific customer
7 | ~~charges in any program and any costs recovered.~~

8 | (3) A complete list of all account and subaccount numbers
9 | used for conservation cost recovery shall accompany each filing in
10 | paragraph (1)(a). ~~The petition shall indicate the amounts recorded~~
11 | ~~in the Clearing Account or such other account as appropriate for~~
12 | ~~each conservation program together with the subaccounts ultimately~~
13 | ~~charged. Similarly, the petition shall indicate the amount of~~
14 | ~~revenues derived from specific customer charges in any programs and~~
15 | ~~any costs recovered, which revenues and costs have been recorded in~~
16 | ~~the appropriate revenues subaccounts.~~

17 | (4) New programs or program modifications must be approved
18 | prior to cost recovery. New incentives or rebates may not be
19 | recovered if paid before their approval as part of a new program or
20 | program modification. Other program implementation costs
21 | associated with new programs or program modifications may be
22 | recovered if the program modification or new program is approved
23 | before cost recovery and the Commission determines that the
24 | expenditure of such costs was prudent. ~~Each utility shall report~~
25 | ~~the actual costs and specific revenues and recovered costs~~

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1 | ~~attributed to each program to the Commission in the same manner and~~
2 | ~~within the time limits applicable to the fuel cost recovery clause.~~
3 | ~~The Commission shall dispose of the matter in the same manner as~~
4 | ~~fuel cost recovery clause proceedings to reflect the actual~~
5 | ~~conservation costs and conservation revenues of the preceding~~
6 | ~~period.~~

7 | (5) Advertising expense recovered through energy conservation
8 | cost recovery shall be ~~When a utility seeks to recover advertising~~
9 | ~~expenses through Energy Conservation Cost Recovery,~~ then the
10 | expense must be directly related to an approved conservation
11 | program, shall not mention a competing energy source, and shall not
12 | be company image enhancing. When the advertisement makes a
13 | specific claim of potential energy savings or states appliance
14 | efficiency ratings or savings, all data sources and calculations
15 | used to substantiate these claims must be included in the filing
16 | required by paragraph (1)(a). In determining whether an
17 | advertisement is "directly related to an approved conservation
18 | program", the Commission shall consider, but is not limited to,
19 | whether the advertisement or advertising campaign:

- 20 | (a) Identifies a specific problem;
21 | (b) States how to correct the problem; and
22 | (c) Provides direction concerning how to obtain help to
23 | alleviate the problem.

24 | ~~(6) If a cost for any utility has been expressly disallowed~~
25 | ~~for cost recovery by a Commission order, each utility is prohibited~~

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1 | ~~from thereafter seeking recovery of a cost of a substantially~~
2 | ~~similar nature unless the utility specifically identifies the cost~~
3 | ~~it is seeking to recover as being similar to previously disallowed~~
4 | ~~costs. Each willful violation of the provisions of this subsection~~
5 | ~~by a utility shall subject the utility to a penalty as described by~~
6 | ~~s. 366.095, Florida Statutes. In order to implement this~~
7 | ~~subsection, the Commission will issue an order describing the types~~
8 | ~~of costs that it has previously disallowed.~~

9 | Specific Authority: 350.127(2), 366.05(1), F.S.

10 | Law Implemented: 366.04(2)(f), 366.06(1) ~~366.095~~, 366.82(3) & (5),
11 | F.S.

12 | History: New 1/27/81, Amended 12/30/82, 3/27/86, formerly
13 | 25-17.15, Amended 8/21/90, _____.

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

ENERGY CONSERVATION COST RECOVERY
ANNUAL SHORT FORM

October 199_ through March 199_

Actual Conservation Revenue Applicable to the period: \$ _____

Actual Conservation Expense: \$ _____

Actual True-up this period: \$ _____

Original Projected True-up:
(from c-3, page 6, line 8 (columns 1-6)) \$ _____

Difference between Actual True-up this period,
and Original Projected True-up (excluding interest): \$ _____

PROPOSED TIME LINE FOR THE ECCR TRANSITION

November 1997	True-up filing due for:	October 1/96 - Sept. 30/97
December 1997	Audit Report due for:	October 1/96 - Sept. 30/97
January 1998	Projection filing due for:	October 1/97 - March 31/99
February 1998	Hearing- Factors set for:	April 1/ 1998 - March 31/1999
July 1998	Final True-up filing due for:	October 1/97 - March 31/1998
November 1998	Audit Report due for:	October 1/97 - March 31/1998
January 1999	Actual/est. filing due for:	April 1/98 - March 31/99 (9 months actual / 3 est.)
January 1999	Projection filing due for:	April 1/99 - March 31/2000
February 1999	Hearing - Factors sets or:	April 1/99 - March 31/2000
July 1999	Final True-up filing due for:	April 1/98 - March 31/99
November 1999	Audit Report due for:	April 1/98 - March 31/99
January 2000	Actual/est. filing due for	April 1/99 - March 31/2000 (9 months actual / 3 est.)
January 2000	Projection filing due for:	April 1/2000 - March 31/2001
July 2000	Final True-up filing due for:	April 1/99 - March 31/2000
November 2000	Audit Report Due for:	April 1/99 - March 31/2000
January 2001	Actual/est. filing due for:	April 1/2000 - March 31/2001 (9 months actual / 3 est.)
January 2001	Projection filing due for:	April 1/2001 - March 31/2002

BEFORE YOU CONSIDER SWITCHING TO GAS,
MAY WE OFFER THE MOST ELEMENTARY ADVICE:
LOOK BEFORE YOU LEAP.

A lot of companies might claim to offer a more cost-efficient alternative to electric power. What you're hearing may sound good, but it may not be the whole story. Before you consider switching, we offer the following advice: Call us.

We'll analyze the real energy and money-saving potential in your current proposal. Or develop an alternate for you, including how your facility can qualify for our conservation incentives. We'll review your energy usage patterns, month by month load, cooling requirements, and load profiles by time of day. We'll calculate comparable capital improvement, financing and operating costs. If their proposal is sound, we'll tell you so. Either way, you'll know you're not jumping to the wrong conclusion.

To schedule an appointment, or to learn whether your facility qualifies for any of our incentives for making energy-saving improvements, call your Florida Power & Light account manager or 1-800-FPL-5566.

THE POWER TO IMPROVE
YOUR BUSINESS™



FPL
an FPL Group company



EXHIBIT 12

Source: FPL Document Request 1, Item 10.

OTHER ENERGY SOURCES MAY CLAIM
THAT THEY ARE SAVING YOU MONEY, BUT
WHAT ARE THEY REALLY COMPARING?

Before you consider switching to gas-fired air conditioning equipment, be sure you are comparing apples to apples. What you're hearing from the gas company may sound good, but it may not be the whole story.

So before you make a decision, call us. We'll analyze the real energy and money-saving potential in your current proposal. Or develop an alternate for you, including how your facility can qualify for our conservation incentives. We'll review your energy usage patterns, month-by-month load, cooling requirements, and load profiles by time of day. We'll calculate comparable capital improvement, financing and operating costs. If their proposal is sound, we'll tell you so. Either way, you'll know you're making a fair comparison.

To schedule an appointment, or to learn whether your facility qualifies for any of our incentives for making energy-saving improvements, call your FPL account manager or 1-800-FPL-5566.

THE POWER TO IMPROVE
YOUR BUSINESS™



Florida Power & Light, an FPL Group company

Hospital receives gas chiller proposal; saves by switching to better electric rate

PALM BEACH GARDENS MEDICAL CENTER

Palm Beach Gardens

PROBLEM

Palm Beach Gardens Medical Center is a 204-bed hospital owned by American Medical International in fast-growing north Palm Beach County. Because the area's health care market is becoming increasingly competitive, the hospital's managers are pushing to improve the quality and cost effectiveness of day-to-day operations.

In July 1992, Clint Clark, director of engineering for the 190,000-square-foot facility, listened to an unsolicited gas company proposal that sounded almost irresistible.

The proposal recommended installation of a 380-ton gas engine-driven chiller for use in conjunction with two existing 300-ton electric chillers. The plan was to load with the gas-driven chiller, using the electric chillers to supplement the load and as backup. The proposal also called for replacement of an existing cooling tower.

This \$125,000 investment was to generate annual savings of \$121,000. Payback was estimated at only 2.6 years.

According to the proposal, a gas-driven chiller would be sufficient to meet the air conditioning needs of a 50,000-square-foot addition then on the drawing board – and additionally would produce hot water for hospital use.

Clark found the gas proposal intriguing. But before making



Officials at Palm Beach Gardens Medical Center asked FPL for a second opinion on an unsolicited gas proposal and decided to keep money by changing to a lower electric rate.

a commitment, he asked his FPL account manager for a second opinion.

ANALYSIS

FPL Account Manager Peter Bloch and Technical Support Specialist Blake Morrison studied the gas proposal and discovered three assumptions which resulted in overly optimistic estimates:

- That the hospital's current chiller efficiency was 1.0 kilowatt (kw)/ton. Actually, it was more efficient: 0.8 kw/ton.

- That the electric chillers operated at full load almost every hour of the day, every day of the year. Actual full load hours were approximately 4,000 – not the 7,500 estimated. The higher assumption led to exaggerated cooling and water heating savings estimates.



Blake Murphy, medical center air conditioning equipment dealer, and Peter Bloch, FPL account manager, examine the emergency generator which has allowed for load control savings.

- That gas chiller maintenance would cost \$28,500 a year. However, standard engineering reference handbooks estimate that annual cost to be more than \$59,000.

Based principally on these observations, FPL's Morrison estimated that adding the gas chiller would pay for itself in savings not in 2.6 years, but in 14.5 years, assuming current electric rates and chiller efficiencies at the medical center.

SOLUTION

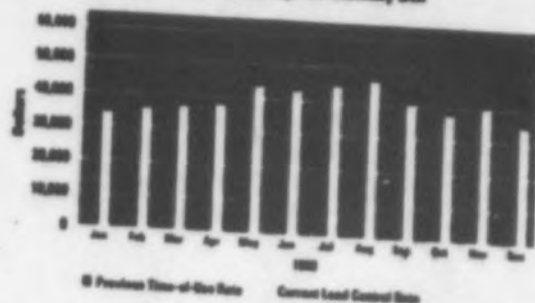
FPL's analysis indicated that not only did Palm Beach Gardens Medical Center not need a gas chiller, but that its current electric chillers had five to seven years of useful life remaining. That was reason enough to abandon the gas proposal. However, had the decision been less clear, Clark had additional reasons:

- Gas-driven chillers are expensive – in this case, more than twice as expensive as comparable electric chillers.
- Gas engines generate noise that might have annoyed the hospital's residential neighbors.
- Gas equipment has what Clark calls a "limited track record."
- Hot water would be produced at the wrong time of day, meaning that most would be wasted.

Knowing Clark's interest in savings, FPL's Bloch looked beyond air conditioning. He showed Clark how the medical center could save money on energy bills – more easily and with less risk – without having to purchase new equipment.

Simply by changing from a time-of-use to a load control rate, the hospital would save an estimated \$19,784 a year.

PALM BEACH GARDENS MEDICAL CENTER
Effect of Rate Change on Monthly Bill



To qualify, the hospital would agree to allow FPL to switch power from one of its two chillers to the hospital's emergency generator for short, infrequent intervals when required due to weather extremes or plant outages.

BENEFITS

Going on the load control rate involved no costly capital expenditures nor adoption of an unfamiliar energy source.

"I had only to install some wiring for meters. It cost me hardly anything," Clark said.

He figures that load control is a better bargain than ever. "FPL has made the program more flexible and consumer-oriented."

And load control not only benefits the medical center, but all FPL customers. It helps defer the need for future power plant construction, helping FPL hold down electric rates.

Based on what he's learned from this experience, Clark is convinced that when it's time to replace his chillers, high-efficiency electric would be the right choice. Clark's plan also includes a generator that can become the primary backup power source. By running the

generator during peak summer demand periods, he will be able to take full advantage of FPL's load control program. Clark intends to pay for the generator through load control savings.

"FPL works closely with us, communicates well and responds quickly when there are problems. They've made a lot of sensible recommendations with reasonable payback periods that my management has had an easy time saying 'yes' to," Clark said.

WHAT FPL CAN DO FOR YOU

An FPL representative can evaluate your facility to help you determine whether a high-efficiency electric chiller will save on installation, energy and maintenance costs. If you're considering other proposals, FPL will help you make an informed decision.

Your representative also will determine whether your building qualifies for FPL financial incentives.

TAKE THE NEXT STEP

Call FPL toll-free at 1-800-FPL-5566 and ask about a free Business Energy Evaluation for your facility.

MEMORANDUM

May 19, 1997

TO: DIVISION OF APPEALS (HELTON)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *CBH* *Q* *DMJ*

SUBJECT: REVISED STATEMENT OF ESTIMATED REGULATORY COSTS FOR
DOCKET NO. 961378-EG, PROPOSED AMENDMENTS TO RULE 25-17.015,
FAC, CONSERVATION COST RECOVERY

SUMMARY OF THE RULE

Currently, Rule 25-17.015, FAC, sets forth the information that must be included in a utility's petition to recover costs for energy conservation programs. Each utility must have an appropriate account for each conservation program and separate subaccounts for revenues derived from specific customer charges and any costs recovered.

The proposed rule changes would codify Order No. PSC-93-0709-FOF-EG that established an annual Energy Conservation Cost Recovery (ECCR) proceeding during the first quarter of each calendar year, rather than semi-annually. Utilities would still be required, by statute, to submit actual and forecasted semi-annual filings in order to recover energy conservation costs. A clarification would be added that only those conservation programs which have been approved by the Commission would be allowed recovery. Also clarified would be requirements for the reporting accounts, plus a prohibition to mention a competing energy source. The utility would be required to substantiate any claims it makes in conservation program advertising with supporting data sources and calculations.

ESTIMATED NUMBER AND DESCRIPTION
OF INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

Investor owned electric and gas utilities (IOUs) are required to submit filings to recover energy conservation program costs. There are five electric and nine gas utilities regulated by the Commission in Florida.

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

There should be no significant additional costs to the Commission since utilities must currently submit filings to justify recovery of conservation costs. The Commission would have one proceeding each year, rather than two, to consider the utilities' petitions. There may be some labor associated with the initial restructuring of the filing periods. No other government entities should have additional costs.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

There should be minimal transactional costs to comply with the proposed rule changes with the shift from semi-annual hearings to an annual hearing for energy conservation cost recovery. There may be some additional labor required, with associated costs, to submit copies and substantiate advertising claims (and to initially prepare and submit the new requirements for the semi-annual Filings). However, by statute, estimated costs, revenues, and actual results are currently required semi-annually, while filings and petitions are currently required by the Commission for recovery of conservation costs.

IMPACT ON SMALL BUSINESSES, SMALL COUNTIES, OR SMALL CITIES

No impact on small businesses is foreseen, as none of the affected utilities qualify as a small business as defined by s. 288.703, F.S. No impact is foreseen on small counties and cities as defined in s. 120.52, F.S. Therefore, there would be no need for tiered rule requirements.

REASONABLE ALTERNATIVE METHODS

There are no alternative methods available to achieve the purpose of reducing the number of proceedings and still meet the statutory requirements of semi-annual filings of data. An alternative time line was submitted by an affected utility, and incorporated into the proposed rule.

CBH:tf/e-eccr2

MEMORANDUM

April 14, 1997

RECEIVED
APR 14 1997

TO : Patti Daniel, Division of Research and Regulatory Review
Craig Hewitt, Division of Research and Regulatory Review

FROM : Mary Anne Helton, Division of Appeals *MAH*

Re : Docket No. 961378-EG - Proposed amendment of Rule 25-17.015, F.A.C., Energy Conservation Cost Recovery

Attached is a revised Rulemaking Request Form, the consensus draft of the amendments to Rule 25-17.015, F.A.C., and the "Annual Short Form" incorporated into the rule by reference. As we discussed, the Statement of Estimated Regulatory Costs will be due May 19, 1997.

Attachments

cc: Tom Ballinger (EAG)
Cheryl Banks (EAG)
Blanca Bayó (RAR)
Lee Colson (EAG)
Joe Dillmore (EAG)
Roland Floyd (EAG)
David Ging (EAG)
Dale Mailhot (AFA)
Sam Merta (AFA)
Hurd Reeves (RRR)
Bob Trapp (AFA)
Denise Vandiver (AFA)

MEMORANDUM

March 19, 1997

TO: CHRISTIANA T. MOORE (RULES COORDINATOR, APPEALS)
FROM: Bob Trapp (RULES COORDINATOR, E&G)
RE: RULEMAKING REQUEST

1. The following rule(s) should be (adopted/amended/repealed):
Rule 25-17.015, F.A.C., Energy Conservation Cost Recovery
2. Name of person originating rules / other staff assigned:
David Ging
3. Other divisions affected:
AFAD
4. Other rules affected:
None
5. a. What is the specific legal authority for the rule, i.e.,
what statute says you can adopt rules?

350.127(2), 366.05(1), F.S.

b. What law is being implemented, interpreted, or made
specific?

366.095, 366.82 (5), F.S.
6. Summary of rules:

The first modification in subsection (1) establishes annual ECCR (Energy Conservation Cost Recovery) proceedings for the first quarter of each calendar year. Subparagraphs (a) and (b) list the two reports or filings that utilities must file to be able to recover energy conservation costs and changes the filing periods to save costs. Subparagraph (c) is being proposed to satisfy statute requirements which mandate the filing of actual and forecasted data semi-annually. The recommended amendments to subsection (3) clarify the reporting requirements for ECCR accounts. In subsection (4) the rule prohibits a utility from recovering costs associated with a new or modified conservation program which has not been approved by the Commission unless the utility officially

petitions the Commission for approval of such costs prior to, or at the time, the utility incurs such costs. In subsection (5) the utility shall not mention a competing energy source in its advertising and is required to substantiate any claims it makes in its advertising with supporting data and calculations.

7. Are any forms or other material such as statutes or rules referenced in the rules?

Yes, form PSC/EAG/#44(1/97), in (1) (e).

8. Purpose and effect of the rule adoption/amendment/repeal:

The purpose of the amendment is to establish annual ECCR proceedings, semi-annual conservation filings, change the filing period, limit conservation cost recovery to programs pre-approved by the Commission, and require the utilities to substantiate advertising claims with data sources and calculations.

9. Facts and circumstances justifying rule:

The Commission decided to go from semi-annual to annual hearings to save time and money. In order to continue to comply with the statute, actual and forecasted data is required semi-annually but hearings are to be held annually. The second change concerns certain utilities who have requested cost recovery for programs which have not been approved by the Commission. This change will clarify that only conservation programs pre-approved by the Commission will be considered for cost recovery. The third change will move the filing periods to allow the utilities more time to file their data and give staff auditors more time to analyze the data. The fourth modification to the rule pertains to unsubstantiated and inconsistent advertising claims made by certain utilities. This modification will bring accountability and truth in advertising to the industry.

10. Will these rules affect small businesses as defined in Section 288.703(1)?

No.

11. Identify the benefits that should result from the rule adoption/amendment/repeal to:

a. utilities: Going to annual hearings cuts annual costs of proceedings by half. Allowing more time between filing periods will benefit the utilities' staff and presumably, save

costs. The utilities will also be in compliance with section 366.82(5), Florida Statutes, have a clearer understanding of what is and is not recoverable through the conservation cost recovery clause, and gain a greater level of certainty that their advertising is accurate.

b. **ratepayers:** They will benefit by reduced utility costs which should keep rates from increasing for a longer period of time. It will also benefit the ratepayers through contributing only to pre-approved conservation programs (through the ECCR clause) and have more confidence that utility advertising is truthful.

c. **Commission staff:** Commission staff will be able to monitor True-Up Filings as required by Florida Statutes, communicate better with utilities as to what is and is not recoverable through the ECCR clause and to see that only substantiated advertising is permitted.

d. **small business:** None

e. **state and local government entities, small counties (unincarcerated population of less than 75,000) and cities (unincarcerated population of less than 10,000):** None

f. **other parties directly affected:** None

12. Identify the number of individuals and entities affected and the types of costs associated with the rule adoption/amendment/repeal:

a. **utilities:** Four electric and one gas utility and an unknown number of associated individuals will be affected. There may be some labor associated with semi-annual True-Up Filings and there may also be some labor associated with the initial restructuring of the filing periods. A reduction in labor costs will result after the filing periods have been adjusted and are in place.

b. **ratepayers:** The costs associated with the rule change are non-recurring and should not be recovered in future rate cases. In Order No. PSC-95-0398-FOF-EG, the PSC disallowed costs associated with the goals docket, the costs associated with this rule change will likely be disallowed, and in fact a savings should occur according to comments made by the utilities.

c. **Commission staff:** Very little staff labor would be associated with processing the semi-annual True-Up Filings.

There may be some labor associated with the initial restructuring of the filing periods.

d. small business: None

e. state and local government entities, small counties (unincarcerated population of less than 75,000) and cities (unincarcerated population of less than 10,000): None

f. other parties directly affected: None

13. a. Describe reasonable lower cost alternative methods for achieving the purpose of the rule, and explain why each alternative was rejected.

We could have issued an order but that wouldn't apply to all utilities so that alternative was rejected. Or we could not make the rule, but then staff would still have the same problems we have now. Staff believes that the rule amendment is the lowest-cost alternative that achieves the rule's purpose.

- b. What are the probable costs and benefits of not having this policy?

If the Commission does not adopt this policy, the utilities will continue to incur unnecessary costs associated with the compact nature of the existing filing periods. By increasing the time between filing due dates the utilities will be better able to manage their work loads and p r e s u m a b l y save money.

- c. In order to reduce the impact on small businesses, small counties, and small cities, did staff consider the methods listed in Section 120.54(3)(b)2.a.(I) through (V)? Yes.

I. Could less stringent compliance or reporting requirements be implemented?

II. Could there be less stringent schedules or deadlines for compliance or reporting requirements?

III. Could the rule's compliance or reporting requirements be consolidated or simplified?

IV. Could performance standards or best-management practices be established to replace design or operational standards in the rule?

V. Could small businesses, small counties, or small cities be exempted from any or all requirements of the rule?

Small businesses, small counties, and small cities are exempt from any and all requirements of the rule.

14. To whom will the rule apply?

- | | | | |
|-------------------------------------|----------------------|--------------------------|----------------------------|
| <input checked="" type="checkbox"/> | Electric IOUs | <input type="checkbox"/> | Local Exch. Telephone Cos. |
| <input type="checkbox"/> | Electric Coops | <input type="checkbox"/> | Interexch. Telephone Cos. |
| <input type="checkbox"/> | Electric Munis | <input type="checkbox"/> | Pay Telephone Cos. |
| <input checked="" type="checkbox"/> | Gas utilities | <input type="checkbox"/> | Shared Ten. Telephone Cos. |
| <input type="checkbox"/> | Wastewater Utilities | <input type="checkbox"/> | Alternative Access Vendors |
| <input type="checkbox"/> | Water Utilities | <input type="checkbox"/> | Other _____ |

15. Are there any federal standards or rules on the subject? If so, are these rules less restrictive, more restrictive, or substantively similar to the federal rules?

No.

16. Does this rule relate exclusively to the Commission's organization, procedure or practice?

Although the rule relates to how the Commission evaluates filings, it also relates to the type of information to be filed by utilities.

17. If emergency rulemaking is recommended, describe the specific facts and reasons why the Commission should find an immediate danger to the public health, safety, or welfare which requires emergency action.

Not recommended.

18. Do you recommend a rule development workshop? If so, do you recommend the workshop be conducted by a neutral third person?

Staff has already conducted a rule development workshop without a neutral third person.

19. Do you recommend negotiated rulemaking? If so, whom do you recommend to sit on the committee that negotiates the rule?

Staff has already conducted negotiated rulemaking which resulted in a mutually acceptable proposed rule.

Attachments:

X_____ Draft of the rules

X_____ Copy of any forms or material referenced in the rules

_____ Copy of applicable federal standards

_____ Copy of any Commission orders that the rule is codifying or that are helpful in understanding the basis of the rule

WP file location and name:

I:\PSC_____ \WP_____

xc: Dan Hoppe
Noreen Davis
Mary Bane

1 25-17.015 Energy Conservation Cost Recovery.

2 (1) The Commission shall conduct annual energy conservation
3 cost recovery (ECCR) proceedings during the first quarter of each
4 calendar year. Each utility over which the Commission has
5 ratemaking authority may seek to recover its costs for energy
6 conservation programs ~~as provided in s. 366.82(5), F.S.~~ Each To
7 ~~do so,~~ a utility seeking cost recovery shall file the following at
8 the times directed by the Commission: ~~a petition setting forth~~
9 ~~estimates of those reasonable and prudent unreimbursed costs~~
10 ~~projected to be incurred, by specific program, less any estimated~~
11 ~~revenues, in the same manner and for the same periods as provided~~
12 ~~for the fuel cost recovery clause in Order No. 9273 issued by the~~
13 ~~Commission on March 7, 1980. The time limitations applicable to~~
14 ~~the fuel cost recovery clause shall also apply and the Commission~~
15 ~~shall dispose of the petition in the same manner and within the~~
16 ~~times applicable to the fuel cost recovery clause.~~

17 (a) An annual final true-up filing showing the actual common
18 costs, individual program costs and revenues, and actual total ECCR
19 revenues for the most recent 12-month historical period from April
20 1 through March 31 that ends prior to the annual ECCR proceedings.
21 As part of this filing, the utility shall include a summary
22 comparison of the actual total costs and revenues reported to the
23 estimated total costs and revenues previously reported for the same
24 period covered by the filing in paragraph (1)(b). The filing shall
25 also include the final over- or under-recovery of total

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1 conservation costs for the final true-up period.

2 (b) An annual estimated/annual true-up filing showing eight
3 months actual and four months projected common costs, individual
4 program costs, and any revenues collected. Actual costs and
5 revenues should begin April 1 immediately following the period
6 described in paragraph (1)(a). The filing shall also include the
7 estimated/actual over- or under-recovery of total conservation
8 costs for the estimated/actual true-up period.

9 (c) An annual projection filing showing 12 months projected
10 common costs and program costs for the period beginning April 1
11 following the annual hearing.

12 (d) An annual petition setting forth proposed energy
13 conservation cost recovery factors to be effective for the 12-month
14 period beginning April 1 following the hearing. Such proposed cost
15 recovery factors shall take into account the final true-up data
16 filed pursuant to paragraphs (1)(a), (1)(b), and (1)(c).

17 (e) Within the 90 days that immediately follow the first six
18 months of the reporting period in paragraph (1)(a), each utility
19 shall report the actual results for that period on Form PSC/EAG/44
20 (X/97), entitled, Energy Conservation Cost Recovery Annual Short
21 Form, which is incorporated by reference in this rule, and may be
22 obtained from the Director, Division of Electric and Gas, Florida
23 Public Service Commission.

24 (2) Each utility shall establish separate accounts or
25 subaccounts for each conservation program for purposes of recording

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1 | the costs incurred for that program, ~~together with subaccounts~~
2 | ~~under the appropriate accounts contained in the Uniform System of~~
3 | ~~Accounts prescribed by the Commission which will ultimately be~~
4 | ~~charged.~~ Each utility shall also establish separate subaccounts
5 | ~~appropriate under the account for Other Electric Revenues or Other~~
6 | ~~Gas Revenues,~~ for revenues derived from each specific customer
7 | ~~charges in any program and any costs recovered.~~

8 | (3) A complete list of all account and subaccount numbers
9 | used for conservation cost recovery shall accompany each filing in
10 | paragraph (1)(a). ~~The petition shall indicate the amounts recorded~~
11 | ~~in the Clearing Account or such other account as appropriate for~~
12 | ~~each conservation program together with the subaccounts ultimately~~
13 | ~~charged. Similarly, the petition shall indicate the amount of~~
14 | ~~revenues derived from specific customer charges in any programs and~~
15 | ~~any costs recovered, which revenues and costs have been recorded in~~
16 | ~~the appropriate revenues subaccounts.~~

17 | (4) New programs or program modifications must be approved
18 | prior to cost recovery. New incentives or rebates may not be
19 | recovered if paid before their approval as part of a new program or
20 | program modification. Other program implementation costs
21 | associated with new programs or program modifications may be
22 | recovered if the program modification or new program is approved
23 | before cost recovery and the Commission determines that the
24 | expenditure of such costs was prudent. ~~Each utility shall report~~
25 | ~~the actual costs and specific revenues and recovered costs~~

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1 attributed to each program to the Commission in the same manner and
2 within the time limits applicable to the fuel cost recovery clause.
3 The Commission shall dispose of the matter in the same manner as
4 fuel cost recovery clause proceedings to reflect the actual
5 conservation costs and conservation revenues of the preceding
6 period.

7 (5) Advertising expense recovered through energy conservation
8 cost recovery shall be when a utility seeks to recover advertising
9 expenses through Energy Conservation Cost Recovery, then the
10 expense must be directly related to an approved conservation
11 program, shall not mention a competing energy source, and shall not
12 be company image enhancing. When the advertisement makes a
13 specific claim of potential energy savings or states appliance
14 efficiency ratings or savings, all data sources and calculations
15 used to substantiate these claims must be included in the filing
16 required by paragraph (1)(a). In determining whether an
17 advertisement is "directly related to an approved conservation
18 program", the Commission shall consider, but is not limited to,
19 whether the advertisement or advertising campaign:

20 (a) Identifies a specific problem; ~~and~~

21 (b) States how to correct the problem; ~~and~~

22 (c) Provides direction concerning how to obtain help to
23 alleviate the problem.

24 ~~(6) If a cost for any utility has been expressly disallowed~~
25 ~~for cost recovery by a Commission order, each utility is prohibited~~

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1 ~~from thereafter seeking recovery of a cost of a substantially~~
2 ~~similar nature unless the utility specifically identifies the cost~~
3 ~~it is seeking to recover as being similar to previously disallowed~~
4 ~~costs. Each willful violation of the provisions of this subsection~~
5 ~~by a utility shall subject the utility to a penalty as described by~~
6 ~~s. 366.095, Florida Statutes. In order to implement this~~
7 ~~subsection, the Commission will issue an order describing the types~~
8 ~~of costs that it has previously disallowed.~~

9 Specific Authority: 350.127(2), 366.05(1), F.S.

10 Law Implemented: 366.06(1) ~~366.095~~, 366.82(3) & (5), F.S.

11 History: New 1/27/81, Amended 12/30/82, 3/27/86, formerly
12 25-17.15, Amended 8/21/90, _____.

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eccr#5.mah

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ENERGY CONSERVATION COST RECOVERY
ANNUAL SHORT FORM

October 199_ through March 199_

Actual Conservation Revenue Applicable to the period: \$ _____

Actual Conservation Expense: \$ _____

Actual True-up this period: \$ _____

Original Projected True-up: \$ _____
(from c-3, page 6, line 8 (columns 1-6))

Difference between Actual True-up this period,
and Original Projected True-up (excluding interest): \$ _____