**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**

**March 12, 1998**

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

**FROM: DIVISION OF APPEALS (HELTON)**

**DIVISION OF ELECTRIC AND GAS (BULECZA-BANKS, DRAPER, KUMMER, LOWERY)**

**DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT)**

**DIVISION OF AUDITING AND FINANCIAL ANALYSIS (REVELL)**

**RE: DOCKET NO. 971334-PU - PROPOSED AMENDMENTS TO RULES 25-6.0426, F.A.C., RECOVERY OF ECONOMIC DEVELOPMENT EXPENSES, AND 25-7.042, F.A.C., RECOVERY OF ECONOMIC DEVELOPMENT EXPENSES**

**AGENDA: 3/24/98 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED PERSONS MAY PARTICIPATE**

**RULE STATUS: PROPOSAL MAY BE DEFERRED**

**SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\971334.RCM**

**DISCUSSION OF ISSUES**

**ISSUE :** Should the Commission propose the attached amendments to Rules 25-6.0426, F.A.C., Recovery of Economic Development Expenses, and 25-7.042, F.A.C., Recovery of Economic Development Expenses?

**RECOMMENDATION:** Yes.

**STAFF ANALYSIS:** In 1995, Rules 25-6.0426, Florida Administrative Code, Recovery of Economic Development Expenses, and 25-7.042, Florida Administrative Code, Recovery of Economic Development Expenses, were adopted to implement Section 288.035, Florida Statutes. The rules provide that public electric utilities and gas utilities can recover prudent economic development expenses that meet criteria established by the Department of Commerce and do not exceed the limitations set out in subsection (2) of both rules. The rules also require economic development expenditures to be included in each utilitys earnings surveillance report. Finally, the rules provide the procedures each utility must follow to change the level of recovery of economic development expenses.

A Notice of Rule Development was published on October 24, 1997. No workshop was requested.

The attached recommended amendments strike the references to the Department of Commerce in subsection (1) of both rules since that Department has since been abolished. The Office of Tourism, Trade, and Economic Development is now responsible for the criteria by which economic development expenses are to be judged. Section 288.035(1), Florida Statutes.

In addition, the attached recommended amendments change the level of sharing from 90 to 95 percent as set forth in subsection (2) of both rules. Section 288.035(3) requires the Commission to adopt rules for the recovery of economic development expenses by public utilities, including the sharing of expenses by shareholders. Under the recommended amendments, ratepayers would be responsible for 95, instead of 90, percent of economic development expenses. Shareholders would be responsible for the remaining five percent of economic development expenses. This should create a further incentive for utilities to take part in economic development in their respective service areas.

Finally, the attached recommended amendments strike the reference to modified minimum filing requirements (MMFRs) in subsection (5) of both rules. Utilities are no longer required to file MMFRs.

**Statutory Authority:** Section 288.025(3) requires the Commission to adopt rules for the recovery of economic development expenses by public utilities . . . . Rules 25-6.0426 and 25-7.042 accomplish this legislative directive.

**Statement of Estimated Regulatory Costs:** Both shareholders and ratepayers could be affected by the attached recommended amendments. The amount of impact depends on whether utilities change their economic expenditures because of the rule changes, and whether the recommended amendments result in changes to rates in future rate cases. The Commission should experience no additional costs due to the recommended amendments.

Although no utilities subject to the rules meet the statutory definition of a small business, a small business located in a service territory whose rates were increased to account for additional economic development expenses could be impacted. In addition, small businesses may be harmed if utility economic development expenditures result in attracting competition. On the other hand, small businesses may be started or attracted by additional economic development activities. The net effect is indeterminable.

Finally, an alternative to the recommended amendments is a different sharing allocation between ratepayers and shareholders.

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

**RECOMMENDATION:** Yes.

**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:

Recommended amendments to Rules 25-6.0426 and 25-7.042

Statement of Estimated Regulatory Costs