

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

MEMORANDUM

April 16, 1998

RECEIVED

APR 09 1998

10
FPSC - Records/Reporting

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

FROM: DIVISION OF APPEALS (MOORE) *CTM*
DIVISION OF ELECTRIC & GAS (HAFF) *MAH D, R3, RLT*
DIVISION OF ADMINISTRATION (SEWELL) *SM*
DIVISION OF RESEARCH & REGULATORY REVIEW (HEWITT) *BW PD*

RE: DOCKET NO. 980408-EG - PROPOSED REPEAL OF RULE 25-17.011,
CONTINUATION OF ENERGY CONSERVATION LOAN GUARANTEES

AGENDA: 4/28/98 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED
PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: S:\PSC\APP\WP\980408EG.RCM

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission repeal Rule 25-17.011, F.A.C., governing energy conservation loan guarantees?

RECOMMENDATION: Yes. The Commission should repeal Rule 25-17.011, F.A.C.

STAFF ANALYSIS: Rule 25-17.011, F.A.C., provides the procedure for utilities and lending institutions who participated in the energy conservation loan guarantee program to seek reimbursement from the Commission when borrowers default on the loans. In 1991, funding for new loan guarantees was discontinued. The Commission continued to reimburse lenders for defaulted loans made before that date. In 1996, section 366.084, Florida Statutes, which authorized the Florida Energy Trust Fund out of which guaranty repayments were made, was repealed. Lenders were required to submit all remaining requests for reimbursement no later than December 31, 1996.

Because there is no longer an energy conservation loan guarantee program and no further reimbursements to be made, Rule 25-17.011 is no longer necessary and should be repealed.

DOCUMENT NUMBER-DATE

04073 APR-98

FPSC-RECORDS/REPORTING

DOCKET NO. 980408-EG
DATE: April 16, 1998

Statement of Estimated Regulatory Costs

Because no additional regulatory burdens are placed on electric utilities, and there is no longer an enabling statute, there should be no increase in regulatory costs from repealing the rule. A memorandum regarding a Statement of Estimated Regulatory Costs is attached.

ISSUE 2: If no requests for hearing or comments are filed, should the rule repeal as proposed 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 rule proposed may be filed with the Secretary of State without further Commission action. The docket may then be closed.

Attachments:

Rule 25-17.011

Memorandum regarding Statement of Estimated
Regulatory Costs

1
2 25-17.011 Continuation of Energy Conservation Loan Guarantees.

3 ~~(1) Eligibility and Application.~~

4 ~~(a) Any utility which, as part of its approved~~
5 ~~conservation plan, submitted pursuant to s.366.82(2), F.S., loaned~~
6 ~~its funds to eligible customers as defined in Rule 25-17.051(2),~~
7 ~~F.A.C., for the purpose of purchasing conservation measures listed~~
8 ~~in Rule 25-17.051(10), F.A.C., and which received a guarantee by~~
9 ~~the Commission of all or any portion of loans underwritten by the~~
10 ~~utility through the June 30, 1991 ending date of the Energy~~
11 ~~Conservation Loan Guarantee program shall continue to receive the~~
12 ~~guarantee, subject to the terms of this rule. Energy Conservation~~
13 ~~Loan Guarantees made to lending institutions through June 30, 1991~~
14 ~~shall similarly be continued. The Commission does not guarantee~~
15 ~~energy conservation loans made after June 30, 1991. The provisions~~
16 ~~of this rule which refer to application for the guarantee remain~~
17 ~~applicable to loans which received the guarantee.~~

18 ~~(b) Each utility applying for Commission guarantee of~~
19 ~~such loans shall submit to the Commission a description of the~~
20 ~~types of loans to be made and of loan servicing and collection~~
21 ~~practices, an estimate of the total amount of funds to be loaned~~
22 ~~within a stated period, and any forms to be used by the utility or~~
23 ~~its subcontracted lending institution in making such loans.~~

24 ~~(c) Upon review of the utility's application and~~
25 ~~material, submitted according to sub subsection (1)(b) above, the~~

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

1
2 ~~Commission shall approve the utility's application, in full or in~~
3 ~~part, or shall deny such approval. The Commission's approval of~~
4 ~~the proposed loan program shall be for a specific amount of funds~~
5 ~~to be loaned within a specific period of time. The reasons for the~~
6 ~~denial shall be stated.~~

7 ~~(2) Loan Application, Limits and Terms.~~

8 ~~(a) Each applicant for a loan shall complete a~~
9 ~~Commission approved loan application form supplied by the utility~~
10 ~~or its subcontracted lending institution. The form shall provide~~
11 ~~for the disclosure of information relating to the loan applicant's~~
12 ~~acceptability as a credit risk, his interest in the property to be~~
13 ~~improved, and the type of improvement to be made.~~

14 ~~(b) If loans are made by a utility or its~~
15 ~~subcontracted lending institution, only loans made to applicants~~
16 ~~within the utility's service area are eligible for the Commission's~~
17 ~~loan guarantee.~~

18 ~~(c) If a loan is made to an applicant who does not~~
19 ~~have an ownership interest in the property to be improved by the~~
20 ~~conservation measure, the owner of such property shall be required~~
21 ~~to sign as guarantor on the note evidencing the loan.~~

22 ~~(d) Loans eligible for the Commission's loan guarantee~~
23 ~~may be for any of the following conservation measures and the~~
24 ~~amount loaned shall not exceed the utility's or its subcontracted~~

25

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

~~lending institution's estimate of the cost of implementing the particular measure.~~

- ~~1. Caulking of windows or doors or both.~~
- ~~2. Weatherstripping of windows or doors or both.~~
- ~~3. Duct or pipe insulation.~~
- ~~4. Water heater insulation.~~
- ~~5. Heat reflective and heat absorbing window or door materials.~~
- ~~6. Clock thermostats.~~
- ~~7. Ceiling insulation.~~
- ~~8. Load management devices.~~
- ~~9. Window panel inserts.~~
- ~~10. Floor insulation.~~
- ~~11. Replacement of furnaces or boilers.~~
- ~~12. Replacement of central air conditioning.~~
- ~~13. Wall insulation.~~
- ~~14. Furnace replacement burner.~~
- ~~15. Replacement of resistance heat with heat pump or natural gas.~~
- ~~16. Storm windows.~~
- ~~17. Solar domestic water heating.~~
- ~~18. Solar swimming pool heating, if the pool is presently heated with a nonrenewable resource.~~
- ~~19. Waste heat recovery water heating systems.~~

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

~~20. Heat pump or natural gas water heaters.~~

~~(c) The following terms shall be included in the loan agreement:~~

~~1. The first payment on the note evidencing the loan shall be due no later than sixty 60 days after the date of execution of the note;~~

~~2. The maturity date for the note shall not be later than seven years after the date the first payment is due. However, at the time a utility requests approval of its loan program, it may request that the Commission approve a maturity date which is in excess of seven years for a specific type of conservation measure. The reasons for the later maturity date shall be specified.~~

~~3. Prepayment of all or part of the loan principal shall be credited on the date received. If full payment of the loan principal is made prior to the maturity date of the note, no unearned interest or prepayment penalty shall be collected.~~

~~(3) Loan Providing, Servicing and Collection.~~

~~(a) The utility is responsible to the Commission for proper servicing and collection of loans. However, a utility may contract with a lending institution to make loans to eligible customers and for the performance of loan servicing and collection functions. A description of servicing and collection practices shall be included in the utility's application, as specified in sub-subsection (1)(c), for the Commission's loan guarantee. The~~

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

1
2 ~~utility is responsible for providing a post installation inspection~~
3 ~~of each conservation measure which is financed by a guaranteed~~
4 ~~loan.~~

5 ~~(4) Claims.~~

6 ~~(a) No claim for reimbursement for loss on guaranteed~~
7 ~~loans shall be paid unless the utility's or its subcontracted~~
8 ~~lending institution's claim against the borrower has been reduced~~
9 ~~to judgment. However, if the principal due on a loan which is in~~
10 ~~default is less than \$200 and reasonable collection efforts have~~
11 ~~been made, the utility or its subcontracted lending institution~~
12 ~~shall receive reimbursement for the unpaid principal without~~
13 ~~reducing the claim to judgment.~~

14 ~~(b) For reimbursement of claims greater than or equal~~
15 ~~to \$200:~~

16 ~~1. The utility or its subcontracted lending~~
17 ~~institution must reduce the claim to Judgment and~~
18 ~~obtain a Judgment Lien. The Judgment may include~~
19 ~~reasonable attorney's fees and court costs.~~

20 ~~2. The utility shall file a request for~~
21 ~~reimbursement with the Florida Public Service~~
22 ~~Commission's Division of Administration within~~
23 ~~twenty (20) days of the receipt of Judgment. The~~
24 ~~request for reimbursement shall contain at least~~
25 ~~the following:~~

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

- ~~a. Six copies of the applicant's loan file;~~
- ~~b. An original and five copies of a certification by an officer of the utility, which asserts that the utility acted within the scope of its approved conservation loan program.~~
- ~~c. Six copies of the Judgment;~~
- ~~d. Six copies of the Judgment Lien;~~
- ~~e. A statement indicating the utility's or its subcontracted lending institution's agreement to execute an Assignment of Judgment in exchange for reimbursement; and~~
- ~~f. The utility's name and mailing address, its Federal Employer Identification Number and the name and telephone number of the utility's liaison whom the Commission may contact for additional information regarding the defaulted loan.~~
- ~~3. The Florida Public Service Commission's Division of Administration shall notify the utility when the State Comptroller issues a warrant and shall request assignment of rights under the Judgment to the State of Florida. The warrant will be mailed to the utility upon receipt of original assigned Judgment.~~

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

~~(c) For reimbursement of claims under \$200:~~

~~1. The request for reimbursement will be filed in a timely manner with the Florida Public Service Commission's Division of Administration and contain at least the following:~~

- ~~a. Six copies of the applicant's loan file;~~
- ~~b. An original and five copies of a certification by an officer of the utility, which asserts that the utility acted within the scope of its approved conservation loan program; and~~
- ~~c. The utility's name and mailing address, its Federal Employer Identification Number and the name and telephone number of the utility's liaison whom the Commission may contact for additional information regarding the defaulted loan.~~

~~2. The warrant will be mailed to the utility upon issuance by the State Comptroller.~~

~~(d) If deficiencies or disputes are identified by the Commission's staff in a utility's request for reimbursement, the Commission's Executive Director shall notify the utility of the deficiencies or disputes and the basis for each. Unsettled disputes between Commission staff and the utility will be resolved by the Commissioners following written request from the utility;~~

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

1
2 ~~which shall specifically respond to the deficiencies or disputes~~
3 ~~identified by the Executive Director. The request shall be~~
4 ~~submitted to the Commission's Executive Director, and a copy shall~~
5 ~~be submitted to the Commission's Division of Electric and Gas.~~

6 ~~(5) Recordkeeping and Reporting Requirements.~~

7 ~~(a) Each utility or its subcontracted lending~~
8 ~~institution, which has had or has outstanding loans guaranteed by~~
9 ~~the Commission, shall make the following records available to the~~
10 ~~Commission upon request or, if requested, shall submit to the~~
11 ~~Commission the following reports.~~

12 ~~1. Records: A file shall be maintained for each~~
13 ~~loan made containing the following:~~

14 ~~a. Credit application.~~

15 ~~b. Credit report or other investigation of the loan~~
16 ~~applicant's credit.~~

17 ~~c. Loan agreement.~~

18 ~~d. Loan servicing and collection information.~~

19 ~~e. Default information, including a bankruptcy court~~
20 ~~order discharging the debtor (if applicable) and~~
21 ~~Judgment information (if applicable).~~

22 ~~2. Reports:~~

23 ~~a. Quarterly reports on guaranteed loans will be~~
24 ~~submitted to the Commission on prescribed forms~~
25 ~~within 30 days after the close of each quarter.~~

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

~~b. The Commission may require the submission of supplemental reports relating to guaranteed loans which are deemed necessary by the Commission.~~

~~(b) The Commission may inspect the utility's or its subcontracted lending institution's books or accounts which pertain to the loans reported for guarantee.~~

~~(c) Limitation of Guarantee.~~

~~(a) Unless prohibited by law, guarantees made pursuant to this rule shall be for the amount of the Judgment obtained by the utility against the borrower or, if a judgment is not required, the amount of principal due on the loan.~~

~~(b) The Commission's liability to pay claims made against the Florida Public Service Regulatory Trust Fund is limited to \$5,000,000.~~

~~(7) Reserve Requirement.~~

~~The Commission shall maintain for each loan made under the guarantee program a reserve which is equal to five percent (5%) of the outstanding principal balance due on the loan.~~

Specific Authority: 366.05(1), 366.82, F.S.

Law Implemented: 366.05(1), 366.82, F.S.

History: New 10/13/81, formerly 25-17.11, Amended 1/5/82, 12/30/82, 2/9/86, 8/9/92, Repealed _____.

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

MEMORANDUM

98 MAR 12 PM 2:41

March 12, 1998

TO: DIVISION OF APPEALS (MOORE)

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

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR PROPOSED
REPEAL OF RULE 25-17.011, F.A.C., ENERGY CONSERVATION LOAN
GUARANTEES

Currently, Rule 25-17.011, F.A.C., Energy Conservation Loan Guarantees, outlines the eligibility requirements and efficiency measures for energy efficiency loans under Chapter 366.84, Florida Statutes, which was repealed July 1, 1996, by Chapter 95-372, Laws of Florida. The act also terminated the Florida Energy Trust Fund, which funded the Commission's Energy Conservation Loan Test Program. Electric utilities continue to follow their individual energy conservation goals under the Florida Energy Efficiency Conservation Act. Because no additional regulatory burdens would be placed on electric utilities, and there is no longer an enabling statute, there should be no increase in regulatory costs from the proposed rule repeal..

Florida Statutes encourage an agency to prepare a Statement of Estimated Regulatory Costs (SERC) but does not require one for rule repeals. Since no additional costs or adverse impacts have been identified, there is no need for preparation of a SERC for the proposed rule changes.

Please keep my name on the CASR.

CBH:tfe-egylon

cc: Mary Andrews Bane
Hurd Reeves