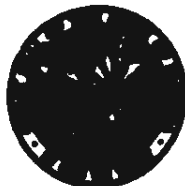


Commissioners:
JULIA L. JOHNSON, CHAIRMAN
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.



ORIGINAL
DAVID E. SMITH
DIRECTOR
(850) 413-6245

Public Service Commission

April 9, 1998

Mr. Carroll Webb
Joint Administrative Procedures
Committee
120 Holland Building
Tallahassee, Florida 32399

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

Dear Mr. Webb:

Enclosed are an original and two copies of the following materials concerning the above referenced proposed rules:

1. A copy of the rules.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rules.
4. A federal standards statement.
5. A statement of estimated regulatory costs.

If there are any questions with respect to these rules, please do not hesitate to call on me.

Sincerely,

Mary Anne Helton
Associate General Counsel

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ADM0426.MRD

Enclosures

cc: Division of Records & Reporting

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1 25-6.0426 Recovery of Economic Development Expenses

2 (1) Pursuant to Section 288.035, Florida Statutes, the
3 Commission shall allow a public utility to recover reasonable
4 economic development expenses subject to the limitations contained
5 in subsections (2) and (3), provided that such expenses are
6 prudently incurred and are consistent with the criteria established
7 by Rules 8E-15.001, 8E-15.002, and 8E-15.003, Florida
8 Administrative Code, ~~adopted by the Department of Commerce.~~

9 (2) Prior to each utility's next rate change enumerated in
10 subsection (5), the amounts reported for surveillance reports and
11 earnings review calculations shall be limited to the greater of (a)
12 the amount approved in each utility's last rate case escalated for
13 customer growth since that time, or (b) 25 ~~90~~ percent of the
14 expenses incurred for the reporting period so long as such does not
15 exceed the lesser of 0.15 percent of gross annual revenues or \$3
16 million.

17 (3) At the time of each utility's next rate case and for
18 subsequent rate proceedings enumerated in subsection (5) the
19 Commission will determine the level of sharing of prudent economic
20 development costs and the future treatment of these expenses for
21 surveillance purposes.

22 (4) Each utility shall report its total economic development
23 expenses as a separate line item on its income statement schedules
24 filed with the earnings surveillance report required by Rule 25-
25 6.1352, Florida Administrative Code. Each utility shall make a

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

1 | line item adjustment on its income statement schedule to remove the
2 | appropriate percentage of economic development expenses incurred
3 | for the reported period consistent with subsections (2) and (3).

4 | (5) Requests for changes relating to recovery of economic
5 | development expenses shall be considered only in the context of a
6 | full revenue requirements rate case or in a limited scope
7 | proceeding for the individual utility, ~~or in a modified minimum~~
8 | ~~filing requirement proceeding for the individual utility.~~

9 | Specific Authority: 288.035(3), 350.127(2), F.S.

10 | Law Implemented: 288.035, F.S.

11 | History: New 07/12/95, _____.

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

1 25-7.042 Recovery of Economic Development Expenses

2 (1) Pursuant to Section 288.035, Florida Statutes, the
3 Commission shall allow a public utility to recover reasonable
4 economic development expenses subject to the limitations contained
5 in subsections (2) and (3), provided that such expenses are
6 prudently incurred and are consistent with the criteria established
7 by Rules 8E-15.001, 8E-15.002, and 8E-15.003, Florida
8 Administrative Code, ~~adopted by the Department of Commerce.~~

9 (2) Prior to each utility's next rate change enumerated in
10 subsection (5), the amounts reported for surveillance reports and
11 earnings review calculations shall be limited to the greater of (a)
12 the amount approved in each utility's last rate case escalated for
13 customer growth since that time, or (b) 95 ~~90~~ percent of the
14 expenses incurred for the reporting period so long as such does not
15 exceed the lesser of 0.15 percent of gross annual revenues or \$3
16 million.

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18 subsequent rate proceedings enumerated in subsection (5) the
19 Commission will determine the level of sharing of prudent economic
20 development costs and the future treatment of these expenses for
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23 expenses as a separate line item on its income statement schedules
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7 | proceeding for the individual utility, ~~or in a modified minimum~~
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10 | Law Implemented: 288.035, F.S.

11 | History: New 07/12/95, .

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

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 971334-PU

RULE TITLE:

RULE NO.:

Recovery of Economic Development Expenses 25-6.0426

PURPOSE AND EFFECT: The purpose of the proposed amendments is to update the rule to reflect that the Department of Commerce has been abolished and that the Commission no longer requires modified minimum filing requirements. In addition, the proposed amendments increase ratepayer responsibility from 90 to 95 percent of economic development expenses for surveillance purposes.

SUMMARY:

Subsection (1): The proposed amendment strikes the reference to the Department of Commerce.

Subsection (2): The proposed amendment allows utilities to report 95, instead of 90, percent of economic development expenses for surveillance purposes.

Subsection (5): The proposed amendment strikes the reference to modified minimum filing requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Both shareholders and ratepayers could be affected by the proposed amendments. The amount of impact depends on whether utilities change their economic expenditures because of the rule changes, and whether the proposed amendments result in changes to rates in future rate cases. The Commission should experience no

additional costs due to the proposed 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.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 288.035(3), 350.127(2), FS.

LAW IMPLEMENTED: 288.035, FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

HEARING: IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., Thursday, May 28, 1998.

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade

Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Director of Appeals, Florida Public Service Commission, 2540
Shumard Oak Blvd., Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.0426 Recovery of Economic Development Expenses

(1) Pursuant to Section 288.035, Florida Statutes, the Commission shall allow a public utility to recover reasonable economic development expenses subject to the limitations contained in subsections (2) and (3), provided that such expenses are prudently incurred and are consistent with the criteria established by Rules 8E-15.001, 8E-15.002, and 8E-15.003, Florida Administrative Code, ~~adopted by the Department of Commerce.~~

(2) Prior to each utility's next rate change enumerated in subsection (5), the amounts reported for surveillance reports and earnings review calculations shall be limited to the greater of (a) the amount approved in each utility's last rate case escalated for customer growth since that time, or (b) 25 ~~90~~ percent of the expenses incurred for the reporting period so long as such does not exceed the lesser of 0.15 percent of gross annual revenues or \$3 million.

(3)-(4) No change.

(5) Requests for changes relating to recovery of economic development expenses shall be considered only in the context of a full revenue requirements rate case ~~or~~ in a limited scope

proceeding for the individual utility, ~~or in a modified minimum filing requirement proceeding for the individual utility.~~

Specific Authority: 288.035(3), 350.127(2), F.S.

Law Implemented: 288.035, F.S.

History: New 07/12/95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elisabeth Draper,
Division of Electric and Gas.

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: March 24, 1998.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:
Volume 23, Number 43, October 24, 1997.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least five calendar days prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).



FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 971334-PU

RULE TITLE:

RULE NO.:

Recovery of Economic Development Expenses

25-7.042

PURPOSE AND EFFECT: The purpose of the proposed amendments is to update the rule to reflect that the Department of Commerce has been abolished and that the Commission no longer requires modified minimum filing requirements. In addition, the proposed amendments increase ratepayer responsibility from 90 to 95 percent of economic development expenses for surveillance purposes.

SUMMARY:

Subsection (1): The proposed amendment strikes the reference to the Department of Commerce.

Subsection (2): The proposed amendment allows utilities to report 95, instead of 90, percent of economic development expenses for surveillance purposes.

Subsection (5): The proposed amendment strikes the reference to modified minimum filing requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Both shareholders and ratepayers could be affected by the proposed amendments. The amount of impact depends on whether utilities change their economic expenditures because of the rule changes, and whether the proposed 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 proposed amendments is a different sharing allocation between ratepayers and shareholders.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 288.035(3), 350.127(2), FS.

LAW IMPLEMENTED: 288.035, FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

HEARING: IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., Thursday, May 28, 1998.

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade

Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:

Director of Appeals, Florida Public Service Commission, 2540
Shumard Oak Blvd., Tallahassee, Florida 32399-0862.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-7.042 Recovery of Economic Development Expenses

(1) Pursuant to Section 288.035, Florida Statutes, the Commission shall allow a public utility to recover reasonable economic development expenses subject to the limitations contained in subsections (2) and (3), provided that such expenses are prudently incurred and are consistent with the criteria established by Rules 8E-15.001, 8E-15.002, and 8E-15.003, Florida Administrative Code, ~~adopted by the Department of Commerce.~~

(2) Prior to each utility's next rate change enumerated in subsection (5), the amounts reported for surveillance reports and earnings review calculations shall be limited to the greater of (a) the amount approved in each utility's last rate case escalated for customer growth since that time, or (b) 95 ~~90~~ percent of the expenses incurred for the reporting period so long as such does not exceed the lesser of 0.15 percent of gross annual revenues or \$3 million.

(3)-(4) No change.

(5) Requests for changes relating to recovery of economic development expenses shall be considered only in the context of a full revenue requirements rate case ~~or~~ in a limited scope

proceeding for the individual utility, ~~or in a modified minimum filing requirement proceeding for the individual utility.~~

Specific Authority: 288.035(3), 350.127(2), F.S.

Law Implemented: 288.035, F.S.

History: New 07/12/95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Paul Draper, Division of Electric and Gas.

NAME OF SUPERVISOR OR PERSONS WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: March 24, 1998.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

Volume 23, Number 43, October 24, 1997.

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850) 413-6770 at least five calendar days prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

**STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE**

In 1996, the Florida Legislature abolished the Department of Commerce and gave the Office of Tourism, Trade, and Economic Development responsibility for the criteria by which utility economic development expenditures must be judged. Subsection (1) of both rules must be amended to strike the reference to the Department of Commerce.

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 proposed amendments to subsection (2) of both rules, 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.

Utilities are no longer required to file modified minimum filing requirements (MMFRs). Therefore, subsection (5) of both rules must be amended to strike the references to modified minimum filing requirements.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

MEMORANDUM

93 1-1-1998

December 30, 1997

TO: DIVISION OF APPEALS (HELTON)

FROM: DIVISION OF RESEARCH AND REGULATORY REVIEW (HEWITT) *LA P. J. M. H. H.*

SUBJECT: STATEMENT OF ESTIMATED REGULATORY COST FOR DOCKET NO. 971334-EG, PROPOSED AMENDMENTS TO RULE 25-6.0426, F.A.C., RECOVERY OF ECONOMIC DEVELOPMENT EXPENSES, AND 25-7.042, F.A.C., RECOVERY OF ECONOMIC DEVELOPMENT EXPENSES

SUMMARY OF THE RULE

Currently, Rules 25-6.0426 and 25-7.042, F.A.C., Recovery of Economic Development Expenses, allow public electric and gas utilities to recover 90 percent of prudently incurred economic development expenses. The authorizing statute, Section 288.035, Florida Statutes, specifies a sharing of those expenses with shareholders.

The proposed rule amendments would increase to 95 percent the share of allowed economic development expenses (up to certain limits) to be paid by ratepayers.

ESTIMATED NUMBER AND DESCRIPTION OF INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY

Any public electric or gas utility is allowed to recover 90 percent of prudently incurred economic development expenses and their share of those expenses would fall from 10 percent to 5 percent. There are five investor-owned electric utilities and nine investor-owned gas utilities. Municipal and cooperative utilities are not covered by the rule.

Shareholders and ratepayers of the covered utilities could be affected. The number would be dependent on which utilities changed their amount of economic development expenditures and whether there is a subsequent rate case where rates change.

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

The Florida Public Service Commission (Commission) should have no additional direct costs with adoption of the proposed rule changes, because utilities expensing economic development costs currently must indicate the expense as a line item on their surveillance report. No other direct costs to state or local government entities are foreseen.

**ESTIMATED TRANSACTIONAL COSTS
TO INDIVIDUALS AND ENTITIES REQUIRED TO COMPLY**

There should be no significant additional transaction costs to make the change from recovering 90 percent percent of allowable economic development expenses to 95 percent since companies are already reporting the amount expended as a line item on their surveillance reports.

Although ratepayers are not required to comply with the rule, they could be subjected to the impact of additional economic development expenditures. If there is a rate case, the economic development expenses could be included in base rates. The statute allows recovery of economic development expense not exceeding the lesser of 0.15 percent of gross annual revenue or \$3 million for any one utility. Thus, the maximum additional money allowed for any one utility would be \$150,000 and could possibly be paid by ratepayers. However, the rule does not preclude a utility from spending additional amounts on economic development expenditures, not recoverable from ratepayers, that it deems beneficial to shareholders.

IMPACT ON SMALL BUSINESS, SMALL CITIES, OR SMALL COUNTIES

None of the companies subject to the rule met the statutory definition of a small business. However, small businesses located in utility territories where economic development activities increase could be affected if, in a subsequent rate case their business utility rates are raised to include additional economic development expenses. Also, existing small businesses may be harmed if economic development activities financed with the additional monies attract competitors. On the

other hand, small businesses may be started or attracted by additional economic development activities. The net effect is undeterminable.

No additional direct impact on small cities or small counties is foreseen unless they benefit from additional economic development monies being spent in their jurisdictions.

REASONABLE ALTERNATIVE METHODS

A different allocation of the sharing of economic development expenses is the alternative, and reasonable persons can disagree on the appropriate amount to be paid by the competing interests of shareholders and ratepayers. Expenditures for economic development activities are up-front and concrete. Benefits from these expenditures are long term and uncertain. However, the impacts per individual are small when allocated among millions of ratepayers or thousands of shareholders.

CBH:tf/e-scndv2