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DIVISION OF APPEALS
DAVID SMITH
DIRECTOR
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Public Service Commission

May 1, 2000

Ms. Monique H. Cheek
Office of Tourism, Trade, and
Economic Development
Executive Office of the Governor
The Capitol
Tallahassee, FL 32399-0001

SUBJECT: Docket No. 980643-EI - Proposed Amendments to Rules 25-6.135, F.A.C., Annual Reports; 25-6.1351, F.A.C., Cost Allocation and Affiliate Transactions; and 25-6.0436, F.A.C., Depreciation

The Commission has determined that the above rules will affect small business. Accordingly, pursuant to Section 120.54(3)(b), Florida Statutes, enclosed is a copy of the Florida Administrative Weekly (FAW) notice for the proposed rules, which will be published in the May 5, 2000 edition of the FAW. Also enclosed is a copy of the statement of estimated regulatory costs.

If there are any questions with respect to these rules or the Commissions's rulemaking procedures, please do not hesitate to call on me.

Sincerely,

Mary Anne Helton
Mary Anne Helton
Associate General Counsel

Enclosures
cc: Division of Records & Reporting

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DOCUMENT NUMBER DATE

05427 MAY-18

FPSC-RECORDS/REPORTING

NOTICE OF PROPOSED RULEMAKING

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 980643-EI

RULE TITLE:	RULE NO.:
ANNUAL REPORTS	25-6.135
COST ALLOCATION AND AFFILIATE TRANSACTIONS	25-6.1351
DEPRECIATION	25-6.0436

PURPOSE AND EFFECT: The purpose of the amendments is to prescribe procedures utilities must follow when allocating costs between utilities and affiliates. The intent is to ensure that ratepayers do not subsidize nonregulated operations.

SUMMARY: The amendments to Rule 25-6.1351 prescribe the procedures utilities must follow when accounting for affiliate transactions and utility nonregulated activities. The amendments to Rule 25-6.1351 require utilities to file an updated annual report form on an annual basis. The amendments to Rule 25-6.0436 concern the treatment of depreciation reserve accounts associated with transfers of property between affiliates.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: All five of Florida's investor-owned electric utilities would be affected by the proposed amendments. There should be no impact on the Commission or local government entities other than the Commission's rulemaking costs. Ratepayers, including small businesses, small cities, and small counties, should benefit if

they do not subsidize utility affiliates. Several utilities expressed concerns that the rule amendments are unnecessary and the costs prohibitive. Florida Power & Light Company stated that it could not estimate the costs of complying with the rule because the rule applies to future transactions. Florida Power Corporation stated that the cost of compliance would be negligible. Tampa Electric Company estimated a start-up cost of \$35 million and ongoing O&M costs of \$2 million per year. Gulf Power Company stated that it would cost \$50,000 to \$100,000 to administer the rule on an annual basis, and that the start-up costs would be greater than the annual cost. Florida Public Utilities Company stated that it would cost \$2,600 initially, and \$500 annually to comply with the rule.

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: 366.05(1), 350.127(2), FS.

LAW IMPLEMENTED: 350.115, 366.04(2)(a), (f), 366.05(1), (2), and (9), 366.093(1), 366.04(2)(f), 366.05(1), (2)(a), FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULES 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.

A HEARING WILL BE HELD AT THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., June 22, 2000.

PLACE: Room 148, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES ARE:

Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850) 413-6245.

THE FULL TEXT OF THE PROPOSED RULES ARE:

25-6.1351 Cost Allocation and Affiliate Transactions
Diversification Reports.

(1) Purpose. The purpose of this rule is to establish cost allocation requirements to ensure proper accounting for affiliate transactions and utility nonregulated activities so that these transactions and activities are not subsidized by utility ratepayers. This rule is not applicable to affiliate transactions for purchase of fuel and related transportation services that are subject to Commission review and approval in cost recovery proceedings.

~~(1) Each investor owned electric utility shall file information on its affiliates and affiliated transactions on Commission Form PSC/AFA 16 (12/94) which is incorporated into this rule by reference. Form PSC/AFA 16, entitled "Analysis of Diversification Activities", may be obtained from the~~

~~Commission's Division of Auditing and Financial Analysis.~~

(2) Definitions

(a) Affiliate -- Any entity that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a ~~the~~ utility. As used herein, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a company, whether such power is exercised through one or more intermediary companies, or alone, or in conjunction with, or pursuant to an agreement, and whether such power is established through a majority or minority ownership or voting of securities, common directors, officers or stockholders, voting trusts, holding trusts, associated companies, contracts or any other direct or indirect means. Ownership of ~~five~~ 5 percent or more of the voting securities of an entity shall be conclusively deemed to constitute the control thereof.

(b) ~~Affiliated~~ Transaction -- Any transaction in which both a utility and an affiliate ~~thereof~~ are each participants, except other than transactions related solely to the filing of consolidated tax returns.

(c) Cost Allocation Manual (CAM) - The manual that sets out a utility's cost allocation policies and related procedures.

(d) Direct Costs - Costs that can be specifically identified with a particular service or product.

(e) Fully Allocated Costs - The sum of direct costs plus a fair and reasonable share of indirect costs.

(f) Indirect Costs - Costs, including all overheads, that cannot be identified with a particular service or product.

(g) Nonregulated - Refers to services or products that are not subject to price regulation by the Commission or not included for ratemaking purposes and not reported in surveillance.

(h) Prevailing Price Valuation - Refers to the price an affiliate charges a regulated utility for products and services, which equates to that charged by the affiliate to third parties. To qualify for this treatment, sales of a particular asset or service to third parties must encompass more than 50 percent of the total quantity of the product or service sold by the entity. The 50 percent threshold is applied on an asset-by-asset and service-by-service basis, rather than on a product line or service line basis.

(i) Regulated - Refers to services or products that are subject to price regulation by the Commission or included for ratemaking purposes and reported in surveillance.

(3) Non-Tariffed Affiliate Transactions

(a) The purpose of subsection (3) is to establish requirements for non-tariffed affiliate transactions impacting regulated activities.

(b) A utility must charge an affiliate the higher of fully

allocated costs or market price for all non-tariffed services and products purchased by the affiliate from the utility. Except, a utility may charge an affiliate less than fully allocated costs if the charge is above incremental cost. If a utility charges less than fully allocated costs, the utility must maintain documentation to support and justify how doing so benefits regulated operations. If a utility charges less than market price, the utility must notify the Division of Auditing and Financial Analysis within 30 days of the transaction.

(c) When a utility purchases services and products from an affiliate and applies the cost to regulated operations, the utility shall apportion to regulated operations the lesser of fully allocated costs or market price. Except, a utility may apportion to regulated operations more than fully allocated costs if the charge is less than or equal to the market price. If a utility apportions to regulated operations more than fully allocated costs, the utility must maintain documentation to support and justify how doing so benefits regulated operations and would be based on prevailing price valuation.

(d) When an asset used in regulated operations is transferred from a utility to a nonregulated affiliate, the utility must charge the affiliate the greater of market price or net book value. Except, a utility may charge the affiliate either the market price or net book value if the utility maintains

documentation to support and justify that such a transaction benefits regulated operations. When an asset to be used in regulated operations is transferred from a nonregulated affiliate to a utility, the utility must record the asset at the lower of market price or net book value. Except, a utility may record the asset at either market price or net book value if the utility maintains documentation to support and justify that such a transaction benefits regulated operations. An independent appraiser must verify the market value of a transferred asset with a net book value greater than \$1,000,000. If a utility charges less than market price, the utility must notify the Division of Auditing and Financial Analysis within 30 days of the transaction.

(e) Each affiliate involved in affiliate transactions must maintain all underlying data concerning the affiliate transaction for at least three years after the affiliate transaction is complete. This paragraph does not relieve a regulated affiliate from maintaining records under otherwise applicable record retention requirements.

(4) Cost Allocation Principles

(a) Utility accounting records must show whether each transaction involves a product or service that is regulated or nonregulated. A utility that identifies these transactions by the use of subaccounts meets the requirements of this paragraph.

(b) Direct costs shall be assigned to each non-tariffed service and product provided by the utility.

(c) Indirect costs shall be distributed to each non-tariffed service and product provided by the utility on a fully allocated cost basis. Except, a utility may distribute indirect costs on an incremental or market basis if the utility can demonstrate that its ratepayers will benefit. If a utility distributes indirect costs on less than a fully allocated basis, the utility must maintain documentation to support doing so.

(d) Each utility must maintain a listing of revenues and expenses for all non-tariffed products and services.

(5) Reporting Requirements. Each utility shall file information concerning its affiliates, affiliate transactions, and nonregulated activities on Form PSC/AFA 19 (xx/xx) which is incorporated by reference into this rule. Form PSC/AFA 19, entitled "Annual Report of Major Electric Utilities," may be obtained from the Commission's Division of Auditing and Financial Analysis.

(6) Cost Allocation Manual. Each utility involved in affiliate transactions or in nonregulated activities must maintain a Cost Allocation Manual (CAM). The CAM must be organized and indexed so that the information contained therein can be easily accessed.

~~(3) Within 45 days of coming under the jurisdiction of the~~

~~Commission, each investor owned electric utility shall file Schedules 1, 7, and 8 of Form PSC/AFA 16 with the Division of Auditing and Financial Analysis.~~

~~(4) Each investor owned electric utility shall file Schedules 1-6 of Form PSC/AFA 16 as an attachment to its annual report.~~

~~(5) Each investor owned electric utility shall keep a detailed backup report of the summary report to facilitate auditing and analysis. Each investor owned electric utility shall maintain a clear audit trail from the summary report through the general ledger to the source documents supporting the transaction.~~

Specific Authority 366.05(1), 350.127(2) FS.

Law Implemented 350.115, 366.04(2)(a) ~~and~~ (f), 366.041(1), 366.05(1), (2), and (9), 366.06(1), 366.093(1) FS.

History--New 12-27-94, Amended.

25-6.135 Annual Reports.

(1) Each investor-owned electric utility shall file annual reports with the Commission on Commission Form PSC/AFA 19 (~~xx/xx~~ 12/94) which is incorporated by reference into this rule. Form PSC/AFA 19, entitled "Annual Report of Major Electric Utilities", may be obtained from the Commission's Division of Auditing and Financial Analysis. These reports shall be verified by a responsible accounting officer of the utility making the report

and shall be due on or before April 30 for the preceding calendar year. A utility may file a written request for an extension of time with the Division of Auditing and Financial Analysis no later than April 30. One extension of 31 days will be granted upon request. A request for a longer extension must be accompanied by a statement of good cause and shall specify the date by which the report will be filed.

(2) No Change.

Specific Authority 366.05(1), 350.127(2) FS.

Law Implemented 350.115, 366.04(2)(f), 366.05(1), (2)(a) FS.

History--New 12-27-94, amended.

25-6.0436 Depreciation.

(1) For the purposes of this part, the following definitions shall apply:

(a) - (c)4. No Change.

(d) Net Book Value - The book cost of an asset or group of assets minus the accumulated depreciation or amortization reserve associated with those assets.

(e) (d) Remaining Life Method -- The method of calculating a depreciation rate based on the unrecovered plant balance, less average future net salvage and the average remaining life. The formula for calculating a Remaining Life Rate (RLR) is:

$$\text{RLR} = \frac{100\% - \text{Reserve \%} - \text{Average Future Net Salvage \%}}{\text{Average Remaining Life in Years}}$$

(f) Reserve (Accumulated Depreciation) - The amount of depreciation/amortization expense, salvage, cost of removal, adjustments, transfers, and reclassifications accumulated to date.

(g)(e) (e) through (k) renumbered to (g) through (m).

(2) (a) No utility shall ~~may~~ change any existing depreciation rate or initiate any new depreciation rate without prior Commission approval.

(b) No utility shall ~~may~~ reallocate accumulated depreciation reserves among any primary accounts and sub-accounts without prior Commission approval.

(c) When plant investment is booked as a transfer from a regulated utility depreciable account to another or from a regulated company to an affiliate, an appropriate reserve amount shall also be booked as a transfer. When plant investment is sold from one regulated utility to an affiliate, an appropriate associated reserve amount shall also be determined to calculate the net book value of the utility investment being sold. Appropriate methods for determining the appropriate reserve amount associated with plant transferred or sold are as follows:

1. Where vintage reserves are not maintained, synthesization using the currently prescribed curve shape may be required. The same reserve percent associated with the original placement vintage of the

related investment shall then be used in determining the appropriate amount of reserve to transfer.

2. Where the original placement vintage of the investment being transferred is unknown, the reserve percent applicable to the account in which the investment being transferred resides may be assumed as appropriate for determining the reserve amount to transfer.
3. Where the age of the investment being transferred is known and a history of the prescribed depreciation rates is known, a reserve can be determined by multiplying the age times the investment times the applicable depreciation rate(s).
4. The Commission shall consider any additional methods submitted by the utilities for determining the appropriate reserve amounts to transfer.

(3) (a) - (4) No Change.

(5) Upon Commission approval by order establishing an effective date, the utility shall ~~may~~ reflect on its books and records the implementation of the proposed rates, subject to adjustment when final depreciation rates are approved.

(6) - (9) No Change.

(10) For any category where current conditions indicate a need for revision of depreciation rates, amortization or capital recovery schedules and no revision is sought, the report shall

explain why no revision is requested.

~~(10)~~(a) Prior to the date of retirement of major installations, the Commission shall ~~may~~ approve capital recovery schedules to correct associated calculated deficiencies where a utility demonstrates that (1) replacement of an installation or group of installations is prudent and (2) the associated investment will not be recovered by the time of retirement through the normal depreciation process.

(b) The Commission shall ~~may~~ approve a special capital recovery schedule when an installation is designed for a specific purpose or for a limited duration.

(c) No Change.

Specific Authority 350.127(2), 366.05(1) FS.

Law Implemented 350.115, 366.04(2)(f), 366.06(1) FS.

History--New 11-11-82, 1-6-85, Formerly 25-6.436, Amended 4-27-88, 12-12-91, .

NAME OF PERSON ORIGINATING PROPOSED RULES: Jay Revell, Division of Auditing and Financial Analysis.

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

DATE PROPOSED RULES APPROVED: April 18, 2000.

DATE NOTICE OF PROPOSED RULES DEVELOPMENT PUBLISHED IN FAW: Volume 25, Number 28, July 16, 1999.

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 48 hours 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).

M E M O R A N D U M

March 23, 2000

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TO: DIVISION OF APPEALS (HELTON) FLORIDA PUBLIC SERVICE COMM.
DIVISION OF APPEALS

FROM: DIVISION OF AUDITING AND FINANCIAL ANALYSIS (HEWITT) DM
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SUBJECT: STATEMENT OF ESTIMATED REGULATORY COSTS FOR DOCKET NO. 980643-EI, PROPOSED AMENDMENTS TO RULES: 25-6.135, F.A.C., ANNUAL REPORTS; RULE 25-6.1351, F.A.C., DIVERSIFICATION REPORTS [COST ALLOCATION AND AFFILIATE TRANSACTIONS]; AND RULE 25-6.0436, F.A.C., DEPRECIATION

SUMMARY OF THE RULES

Currently, the above-referenced rules address the requirements for investor-owned electric utility companies (IOUs) to file annual reports and information on its affiliates and affiliated transactions, and requirements for depreciation accounts.

The proposed rule changes would further define and expand the requirements for IOUs' depreciation and affiliate transaction accounting and reporting.

The annual report Form PSC/AFA 19 would be updated and would include the schedules that are a part of PSC/AFA 16. An additional schedule would be added to the annual report to insure that transactions with affiliates are reported in a uniform manner.

ESTIMATED NUMBER OF ENTITIES REQUIRED TO COMPLY AND GENERAL DESCRIPTION OF INDIVIDUALS AFFECTED

There are five investor-owned electric utility companies operating in Florida, all of which have affiliated companies. The ratepayers of the IOUs should benefit if they do not have to subsidize affiliates of the utilities through electricity payments.

RULE IMPLEMENTATION AND ENFORCEMENT COST AND IMPACT ON REVENUES FOR THE AGENCY AND OTHER STATE AND LOCAL GOVERNMENT ENTITIES

The Public Service Commission and other local government entities are not expected to experience implementation costs other than the costs associated with promulgating a proposed rule.

Existing Commission staff would handle the monitoring and review of additional information provided by the new rule requirements.

ESTIMATED TRANSACTIONAL COSTS TO INDIVIDUALS AND ENTITIES

Several IOUs expressed concern that the proposed rule changes were unnecessary and that the costs could be prohibitive.

Tampa Electric Company stated that its current accounting system only allows for a 13-digit account identifier. Mandating a regulated or non-regulated classification in Rule 25-6.1351(4)(a) would require a new system to allow for such flexibility. The initial start-up cost to implement a new system to comply with the proposed rule would be an estimated \$35 million. The ongoing O&M costs and the time and effort to individually code and input each affiliate transaction would be an estimated \$2 million per year.

Florida Power & Light (FPL) said that it could not estimate the total costs that could result from the proposed rule changes because the rule applies to future transactions. Also, FPL pointed out the disparity in the pricing policy for the transfer of assets between the utility and an affiliate. The proposed rule would require that the utility transfer assets to an affiliate at the higher of cost or market but when assets are transferred from an affiliate they would be at the lower of cost or market. FPL stated this disparity could result in a detriment to the ratepayers.

Gulf Power Company (Gulf) estimated the on-going cost to administer the proposed rule changes would be \$50,000 to \$100,000 annually. Gulf stated that the initial implementation costs would be greater than on-going costs because of the amount of resources required to implement changes in policies and procedures, train company employees, and develop and maintain the Cost Allocation Manual. The Public Utility Holding Company Act of 1935 requires a holding company affiliate (Gulf) to price affiliated transactions at cost. Requiring Gulf to use two different pricing rules would

be burdensome. There would be additional costs to include market studies and appraisals and increased legal fees associated with confidentiality filings.

Florida Public Utilities Company estimated that additional accounting labor to comply with the affiliated transactions rule would cost \$500 annually. To comply with the requirements for the cost allocation manual would cost \$2,600 initially, and \$500 recurring for accounting labor and overhead.

Florida Power Company determined that the cost to comply with the new requirements would be negligible and that all the newly required information is currently available.

IMPACT ON SMALL BUSINESSES, SMALL CITIES, OR SMALL COUNTIES

Small businesses, small cities, and small counties that are IOU customers would benefit from the proposed rule changes if subsidization of IOU affiliates is prevented.

REASONABLE ALTERNATIVE METHODS

Some of the IOUs have submitted suggested alternative rule language during the draft rule development period. Staff has considered the suggestions and the proposed rule amendments reflect consideration of those suggestions.

FPL stated that the proposed rule changes are unnecessary and there that there is no compelling need for change.

Gulf stated that the proposed rule changes are unnecessary, would increase administrative costs, and in many cases would require utilities to follow two separate pricing policies. Also, Gulf believes that existing regulations and review power are adequate to ensure no cross-subsidization.

camserc.cbh