

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: 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.

DOCKET NO. 980643-EI
ORDER NO. PSC-00-2235A-FOF-EI
ISSUED: January 18, 2001

The following Commissioners participated in the disposition of
this matter:

J. TERRY DEASON, Chairman
E. LEON JACOBS, JR.
LILA A. JABER
BRAULIO L. BAEZ

AMENDATORY ORDER

By Order No. PSC-00-2235-FOF-EI, issued November 27, 2000, we
gave notice that we had adopted amendments to Rules 25-6.135, 25-
6.1351 and 25-6.0436, Florida Administrative Code, relating to
annual reports, cost allocation and affiliate transactions, and
depreciation. The rules were effective on December 11, 2000.
Subsection (3)(b) of Rule 25-6.1351, F.A.C., on page 17 of the
order contained an error. The third sentence of (3)(b) erroneously
contained the words "and that the transaction would have otherwise
been forgone." Those words shall be stricken so that the sentence
now reads "[i]f a utility charges less than fully allocated costs
or market price, the utility must maintain documentation to support
and justify how doing so benefits regulated operations." A copy of
the corrected rule is attached.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Order
No. PSC-00-2235-FOF-EI is hereby amended as set forth in this
Order. It is further

ORDERED that Order No. PSC-00-2235-FOF-EI is reaffirmed in all
other respects.

DOCUMENT NUMBER-DATE

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REGISTRATION

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By ORDER of the Florida Public Service Commission, this 18th
day of January, 2001.

BLANCA S. BAYÓ, Director
Division of Records & Reporting

By: Kay Flynn
Kay Flynn, Chief
Bureau of Records

(S E A L)

CTM

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 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. This subsection does not apply to the

allocation of costs for services between a utility and its parent company or between a utility and its regulated utility affiliates or to services received by a utility from an affiliate that exists solely to provide services to members of the utility's corporate family. All affiliate transactions, however, are subject to regulatory review and approval.

(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 or market price if the charge is above incremental cost. If a utility charges less than fully allocated costs or market price, 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 Economic Regulation in writing within 30 days of the utility initiating, or changing any of the terms or conditions, for the provision of a product or service. In the case of products or services currently being provided, a utility must notify the Division within 30 days of the rule's effective date.

(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 Economic Regulation in writing within 30 days of the transfer.

(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/ECR/101 (12/00) which is incorporated by reference into this rule. Form PSC/ECR/101, entitled "Annual Report of Major Electric Utilities," may be obtained from the Commission's Division of Economic Regulation.

(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~~

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~~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) F.S.

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) F.S.

History--New 12-27-94, Amended 12/11/00.