



DOCKET NO. 20180143-EI

FILED 7/30/2018

DOCUMENT NO. 04957-2018

FPSC - COMMISSION CLERK

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July 30, 2018

VIA ELECTRONIC FILING

Ms. Carlotta S. Stauffer
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

RE: Petition of Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company to Initiate Rulemaking to Revise and Amend Portions of Florida Administrative Code Rule 25-6.0426

Dear Ms. Stauffer:

On behalf of Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company, please find attached to be filed in a new docket the Petition To Initiate Rulemaking to Revise and Amend Portions of Florida Administrative Code Rule 25-6.0426. Also included with the Petition is Attachment A, which illustrates the proposed Rule amendments.

If there are any questions regarding this transmittal, please contact me at (561) 694-3330.

Sincerely,

s/ James S. King

JAMES S. KING

Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Petition of Florida Power & Light Company,))
Gulf Power Company, and Tampa Electric))
Company to Initiate Rulemaking to Revise and))
Amend Portions of Florida Administrative Code))
Rule 25-6.0426))

Docket No. _____

Filed: July 30, 2018

**PETITION OF FLORIDA POWER & LIGHT COMPANY,
GULF POWER COMPANY, AND TAMPA ELECTRIC COMPANY
TO INITIATE RULEMAKING TO REVISE AND AMEND
PORTIONS OF FLORIDA ADMINISTRATIVE CODE RULE 25-6.0426**

Florida Power & Light Company (“FPL”), Gulf Power Company (“Gulf Power”), and Tampa Electric Company (“Tampa Electric”) (collectively, the “Petitioners”) through undersigned counsel and pursuant to Sections 120.54(7), 288.035, and 350.127(2), Florida Statutes,¹ hereby submit this Petition requesting that the Florida Public Service Commission (“FPSC” or the “Commission”) initiate rulemaking to amend Rule 25-6.0426, Florida Administrative Code (“F.A.C.”) to revise portions of the Rule to increase the effective cap on recoverable economic development expenses on a phased basis through 2023, in order to provide a more appropriate and representative cap for larger utilities and to counter the effects of inflation since the cap was originally set. As set forth below, the requested modification will facilitate the expanded promotion of Florida as a premier business destination to a targeted audience of corporate decision makers and site selectors, thus improving the prospects for economic development within the state. In support of this Petition, the Petitioners state as follows:

¹ All Florida statutory references are to the 2018 Florida Statutes.

I. PETITIONERS AND JURISDICTION

1. FPL is an investor-owned utility with headquarters at 700 Universe Boulevard, Juno Beach, Florida 33408, operating under the jurisdiction of the Commission pursuant to the provisions of Chapter 366, Florida Statutes. FPL provides generation, transmission, and distribution service to more than 4.9 million retail customers. Its service area comprises approximately 27,650 square miles in 35 Florida counties which range from Nassau County in the north to Miami-Dade County in the south and from Manatee County to Collier County and Monroe County in the west and southwest.

2. Gulf Power is an investor-owned utility subject to the jurisdiction of the Commission under Chapter 366, Florida Statutes. Gulf Power's corporate offices are located at One Energy Place, Pensacola, Florida 32520. Gulf Power provides generation, transmission and distribution service to over 460,000 retail customers across 7,550 square miles in eight counties in Northwest Florida.

3. Tampa Electric is an investor owned electric utility subject to the Commission's jurisdiction pursuant to Chapter 366, Florida Statutes. Tampa Electric provides generation, transmission, and distribution service to more than 750,000 retail customers in Hillsborough and portions of Polk, Pinellas and Pasco Counties in Florida. Tampa Electric's principal offices are located at 702 N. Franklin Street, Tampa, FL 33602.

4. The Commission has jurisdiction over this Petition pursuant to Sections 288.035, and 350.127(2), Florida Statutes.

5. Any pleading, motion, notice, order or other document required to be served upon the Petitioners or filed by any party to this proceeding should be served upon the following individuals:

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6. This Petition is being filed consistent with Section 120.54(7), Florida Statutes and Rule 28-106.201, F.A.C. The agency affected is the Florida Public Service Commission, located at 2540 Shumard Oak Blvd, Tallahassee, FL 32399. This case does not involve reversal or modification of an agency decision or an agency's proposed action. Therefore, paragraph (c) and portions of paragraphs (e) and (f) of subsection (2) of such rule are not applicable to this Petition. In compliance with paragraph (d), Petitioners state that it is not known which, if any, of the issues of material fact set forth in the body of this Petition may be disputed. All other requirements for petitions filed under Rule 28-106.201 are satisfied herein.

II. INTRODUCTION AND OVERVIEW

7. Florida consistently ranks among the best states for business, largely due to its pro-business state tax policies, competitive cost of doing business and streamlined regulatory environment. For the sixth straight year, Florida was ranked as the No. 2 state for business in *Chief Executive* magazine's 14th annual Best & Worst States for Business survey. Significantly, Florida's low energy costs relative to competing locations are a critical component to economic growth in the state.²

8. Florida's government and economic development leaders work together to ensure that the state's business climate remains favorable to companies of all sizes, including some of the nation's leading corporations. However, in order to continue to grow economic development in Florida, it is essential to expand the promotion of the state's favorable business climate and competitive advantages.

9. In recognition of the vital role energy plays in economic development and consistent with the State's interest in promoting economic development, Section 288.035, Florida Statutes, grants the Commission jurisdiction to authorize public utilities to recover reasonable economic development expenses, including expenses related to, *inter alia*, operational assistance, development of strategic plans, and marketing and research. Section 350.127(2) grants the Commission the authority to adopt rules in accordance with Section 288.035.

10. Currently, under Rule 25-6.0426, F.A.C., each utility's recoverable economic development expenses are limited to the greater of: (a) the amount approved in each utility's last

² It is generally accepted that there is a strong connection between energy prices and economic activity. See Kilian, "The economic effects of energy price shocks", *Journal of Economic Literature* 46(4), 871-909 (2008); Linn, Muehlenbachsm and Wang, "How do Natural Gas Prices Affect Electricity Consumers and the Environment" *Resources for the Future* 14-19 (2014).

rate case escalated for customer growth; or (b) 95 percent of the expenses incurred for the reporting period not to exceed the *lesser* of 0.15 percent of gross annual revenues or \$3.0 million.³

11. Although intended to promote economic development in Florida, the Rule in its current form has come to be unduly restrictive. The \$3.0 million expense cap set forth in the Rule has not changed since 1995. For a large utility, such as FPL, this expense cap has had the practical consequence of limiting FPL's recoverable economic development expenses to a flat \$3.0 million per year in each and every year since the Rule's inception over 20 years ago. In fact, due to the flat \$3.0 million cap, FPL's economic development expenses have been limited to approximately 0.00267 percent (as opposed to 0.15 percent) of gross annual revenues. As a consequence, the \$3.0 million cap severely limits, and will increasingly limit, FPL's ability to promote economic development in the state.

12. Similarly, recoverability of economic development expenses for Tampa Electric is presently limited to approximately \$2.9 million, which is just below the \$3.0 million absolute cap; however, as the company grows and revenues increase, the rule in its current form will prevent the limit from keeping pace with the company's growth. As a result, Tampa Electric's participation in future economic development activities could potentially become more and more restrictive as it has for FPL.

13. For a smaller utility such as Gulf Power, the limitation of recoverable economic development expenses to the lesser of 0.15 percent of gross annual revenues or \$3.0 million, effectively imposes a cap of approximately \$2.3 million.

³ Rule 25-6.0426, F.A.C. was adopted by the Commission in Order No. PSC-95-0787-FOF-PU and made effective on July 17, 1995, more than 20 years ago.

14. Moreover, recognizing the effect of inflation, the impact of the Petitioners' recoverable economic development expenses has been steadily eroded since the establishment of the Rule in 1995. Since the inception of the \$3.0 million cap in 1995, the buying power of the effective \$3.0 million expense cap has decreased by approximately 65%.

15. Both the disproportionately restrictive impact of the \$3.0 million cap on large utilities such as FPL and the steady erosion of the real value of that cap could be substantially avoided with a small, simple revision to the Rule, by changing the annual cap to the *greater* of 0.15 percent of gross annual revenues or \$3.0 million. For FPL, this would immediately increase the eligible recoverable economic development expense to a more realistic level of approximately \$16 million per year and also would allow that cap to increase over time, to the extent that annual gross revenues increase to reflect the effects of inflation. For Gulf Power and Tampa Electric, this change would increase eligible recoverable economic development expense to \$3.0 million.

16. While the current limitation to 0.15 percent of gross annual revenues is a reasonable starting point, Petitioners believe that this cap should gradually increase to a higher percentage over time, in recognition of the value that economic development expenditures can bring to electric customers in particular and more generally to the state as a whole. Specifically, the Petitioners propose to gradually escalate the percentage of gross annual revenues for the promotion of economic development as follows: 2020 – 0.175 percent; 2021 – 0.2 percent; 2022 – 0.225 percent; 2023 – 0.25 percent. Approval of these changes will gradually increase the level of funding for promotion of economic development from the current levels as follows: (i) FPL from the current \$3.0 million to approximately \$26.7 million by 2023; (ii) Gulf Power from the current \$2.3 million to approximately \$3.8 million by 2023; and (iii) Tampa Electric from the

current \$2.9 million effective cap to approximately \$4.9 million by 2023. These modifications will permit the Petitioners to continue expanding their promotion of economic development in Florida. The change would likewise increase the funding available for economic development activities of all Florida investor-owned utilities.

17. FPL's experience has shown that expenditures for the promotion of economic development have produced substantial benefits for the state that far exceed the level of investment. Through December 2017, FPL's Office of Economic Development has worked with 129 companies pledging to create over 26,000 jobs. Significantly, FPL's economic development efforts have produced an economic impact to the state of more than \$84 billion and supported approximately 220,000 full-time jobs. This includes over \$44.1 billion in direct contributions to the Florida economy; over \$25 billion in labor income; and approximately \$2.8 billion in additional state and local taxes.

18. Since 2013, Gulf Power has worked with over 185 companies concerning location or expansion of operations in Northwest Florida. These efforts have contributed to the development or announcement of 59 additional new and expanding businesses and the pledge to create almost 14,000 direct new jobs in Northwest Florida. These additions and expansions are expected to produce an economic impact to Northwest Florida of more than \$1.2 billion in new direct capital investment.

19. Over the last five years Tampa Electric has worked directly with numerous companies for the promotion of economic development through new businesses or expansion of existing operations in the Tampa Bay area. Tampa Electric, partnering directly with local Economic Development Corporations, has attracted 156 new and expanding businesses, which

has translated to approximately 20,834 full-time jobs and \$1.6 billion in new direct capital investment to the Florida economy.

20. The creation of these new jobs and associated economic development impacts benefits the Petitioners' general body of customers and contributes to the prosperity of all Floridians. Moreover, as discussed below, the addition of new load has resulted in a downward impact on overall rates.

21. Although the Petitioners already have had tremendous success in the attraction and retention of businesses to Florida under the current Rule, modification of the Rule to allow recovery of additional economic development expenses to the levels requested here will encourage utilities to intensify efforts to promote new investment, which in turn will expand Florida's economic base and foster economic growth. These increased economic development activities will appropriately allow utilities to conduct additional outreach and to continue to build a sustainable pipeline of viable new projects. The facilitation of the expanded promotion of economic development through the modification of the Rule is expected to yield a corresponding increase in benefits to the state.

22. Accordingly, to continue to advance the State's economic development goals, FPL, Gulf Power, and Tampa Electric request that the Commission initiate rulemaking to amend Rule 25-6.0426, Florida Administrative Code as proposed in Attachment A hereto, which shows the proposed amendments in redline.

III. PROPOSED RULE CHANGE

23. To address the current inadequacies in the Rule, Petitioners propose that beginning in 2019, Rule 25.6.0426(3)(b), Florida Administrative Code, be modified to establish the effective cap on economic development expenses at 95 percent of the expenses incurred for

the reporting period not to exceed the *greater* of 0.15 percent of annual revenues or \$3 million. Moreover, in order to both ensure that the cap remains viable and encourages increased vibrant investment in economic development, Petitioners propose that the percentage of annual revenues set forth in the Rule be gradually increased as follows: 2020 – 0.175 percent; 2021 – 0.2 percent; 2022 – 0.225 percent; 2023 – 0.25 percent.


24. By establishing a cap that is the *greater* of 0.15 percent of gross annual revenues or \$3.0 million, the Rule will encourage utilities to further promote continued economic development in Florida by allowing recovery of economic development expenses at levels commensurate with the economic size and reach of each utility. Moreover, gradually increasing the percentage of annual revenues available for the promotion of economic development will allow utilities to continue to expand their respective economic development promotion efforts consistent with funding levels. Indeed, upon information and belief, Petitioners believe that the adoption of the proposed rule will create incrementally increased economic development expenditure caps for all investor-owned utilities and thereby position these utilities to similarly expand economic development efforts for the benefit of their customers and the State of Florida.

25. Importantly, the proposed rule amendments are not projected to have any adverse impacts to the Petitioners' general body of customers. Customers will see no rate increase as a result of the Rule amendments between rate cases. And, past experience indicates that the downward impact on rates resulting from electric revenue increases associated with economic development has more than offset the economic development expenses that FPL recovers from customers. For example, since 2013, FPL's Office of Economic Development has worked with 129 companies to create over 26,000 new jobs in the FPL service territory. These new businesses and jobs, together with the commensurate new electric load, have produced over

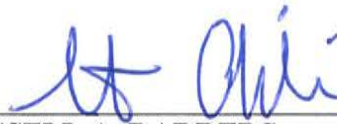
\$47.5 million dollars in incremental rate revenue for FPL – more than three times the level of recoverable economic development expenses over the same time period. Moreover, as noted previously, Gulf Power has worked with state and local economic development representatives to attract 59 companies in locating or expanding their businesses in Northwest Florida. These companies are expected to generate approximately \$14 million in incremental total revenue per year. Similarly, Tampa Electric has attracted 156 new and expanding businesses, which are expected to generate approximately \$20 million in incremental total revenues per year. These revenue increases allow for long-term fixed costs to be spread over a larger customer base, thereby benefiting existing customers. Moreover, even under the highly unlikely, worst-case scenario where increased promotion of economic development fails to result in additional electric revenues, increasing economic development costs to requested levels would result only in very small and gradual rate increases – for FPL only \$0.24 on a typical 1000-kWh monthly residential bill by 2023, for Gulf Power only \$0.14 on a typical 1000-kWh monthly residential bill by 2023, and for Tampa Electric only \$0.10 on a typical 1000- kWh monthly bill.

WHEREFORE, based on the foregoing, Petitioners respectfully request that the Commission, in recognition of the quantifiable benefits to the general body of ratepayers and the State resulting from the Petitioners current economic development efforts, initiate a rulemaking proceeding to modify Rule 25.6.0426(3)(b), Florida Administrative Code, as reflected in Attachment A to this Petition.

Respectfully submitted this 30th day of July, 2018.



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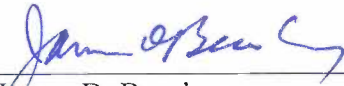
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25-6.0426 Recovery of Economic Development Expenses.

(1) Pursuant to Section 288.035, F.S., the Commission shall allow a public utility to recover reasonable economic development expenses subject to the limitations contained in subsections (3) and (4), provided that such expenses are prudently incurred and are consistent with the criteria established in subsection (7).

(2) Definitions.

(a) "Economic Development" means those activities designed to improve the quality of life for all Floridians by building an economy characterized by higher personal income, better employment opportunities, and improved business access to domestic and international markets.

(b) "Economic development organization" means a state, local, or regional public or private entity within Florida that engages in economic development activities, such as city and county economic development organizations, chambers of commerce, Enterprise Florida, the Florida Economic Development Council, and World Trade Councils.

(c) "Trade show" means an exhibition at which companies, organizations, communities, or states advertise or display their products or services, in which economic development organizations attend or participate to identify potential industrial prospects, to provide information about the locational advantages of Florida and its communities, or to promote the goods and services of Florida companies.

(d) "Prospecting mission" means a series of meetings with potential industrial prospects at their business locations with the objectives of convincing the prospect that Florida is a good place to do business and offers unique opportunities for that particular business, and encouraging the prospect to commit to a visit to Florida if a locational search is pending or in progress.

(e) "Strategic plan" means a long-range guide for the economic development of a community or state that focuses on broad priority issues, is growth-oriented, is concerned with fundamental change, and is designed to develop and capitalize on new opportunities.

(f) "Recruitment" means active efforts to encourage specific companies to expand or begin operations within Florida.

(3) Prior to each utility's next rate change enumerated in subsection (6), 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 percent of the expenses incurred for the reporting period so long as such does not exceed the ~~lesser-greater~~ of 0.15 percent of gross annual revenues or \$3 million. Beginning on January 1, 2020, the amounts reported for surveillance reports and earnings review calculations shall not exceed the greater of \$3 million or 95 percent of the following percentages of gross annual revenues: January 1, 2020 -0.175 percent; January 1, 2021 - 0.2 percent; January 1, 2022 - 0.225 percent; and, January 1, 2023 and beyond - 0.25 percent.

(4) At the time of each utility's next rate case and for subsequent rate proceedings enumerated in subsection (6) the Commission will determine the level of sharing of prudent economic development costs and the future treatment of these expenses for surveillance purposes.

(5) Each utility shall report its total economic development expenses as a separate line item on its income statement schedules filed with the earnings surveillance report required by Rule 25-6.1352, F.A.C. Each utility shall make a line item adjustment on its income statement schedule to remove the appropriate percentage of economic development expenses incurred for the reported period consistent with subsections (3) and (4).

(6) 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.

(7) All financial support for economic development activities given by public utilities to state and local governments and organizations shall be pursuant to a prior written agreement. Recoverable economic development expenses shall be limited to the following:

(a) Expenditures for operational assistance, including:

1. Planning, attending, and participating in trade shows;
2. Planning, conducting, and participating in prospecting missions designed to encourage the location in Florida of domestic and foreign companies;

3. Providing financial support to economic development organizations to assist with their economic development operations;

4. Providing financial support to economic development programs or initiatives identified or developed by Enterprise Florida, Inc.;

5. Participating in joint economic development efforts, including public-private partnerships, consortia, and multi-county regional initiatives;

6. Participating in downtown revitalization and rural community developmental programs.

7. Supporting state and local efforts to promote small and minority-owned business development efforts; and

8. Supporting state and local efforts to promote business retention and expansion activities.

(b) Expenditures for assisting state and local governments in the design of strategic plans for economic development activities, including:

1. Making financial contributions to state and local governments to assist strategic planning efforts; and

2. Providing technical assistance, data, computer programming, and financial support to state and local governments in the design and maintenance of information systems used in strategic planning activities.

(c) Expenditures of marketing and research services, including:

1. Assisting state and local governments and economic development organizations in marketing specific sites for business and industry development or recruitment;

2. Assisting state and local governments and economic development organizations in responding to inquiries from business and industry concerning the development of specific sites within the utility's service area;

3. Providing technical assistance, data, computer programming, and financial support to state and local governments in the design and maintenance of geographic information systems, computer networks, and other systems used in marketing and research activities;

4. Providing financial support to economic development organizations to assist with their research and marketing activities;

5. Sponsoring publications, conducting direct mail campaigns, and providing advertising support for state and local economic development efforts;

6. Participating in cooperative marketing efforts with economic development organizations;

7. Helping state and local businesses identify suppliers, markets, and sources of financial assistance;

8. Helping economic development organizations identify specific industries and companies for targeting and recruitment;

9. Working with economic development organizations to identify businesses in need of help for expansion, going out of business, or at risk of leaving the area;

10. Providing site and facility selection assistance, including lists of commercial or industrial sites, computer databases, toll-free telephone numbers, maps, photographs, videos, and other activities in cooperation with economic development organizations; and

11. Supporting state and local efforts to promote exports of goods and services, and other international business activities.