

COMMISSIONERS:
ART GRAHAM, CHAIRMAN
JULIE I. BROWN
DONALD J. POLMANN
GARY F. CLARK
ANDREW GILES FAY

STATE OF FLORIDA



OFFICE OF THE GENERAL COUNSEL
KEITH C. HETRICK
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

January 10, 2019

Mr. Chris Bailey
Rules Ombudsman in
The Executive Office of the Governor
Reg.Reform@eog.myflorida.com

SENT VIA E-MAIL

Re: Docket No. 20180121-EG, Rule 25-17.015, Florida Administrative Code, Energy Conservation Cost Recovery .

Dear Mr. Bailey:

The Florida Public Service Commission proposed the above-listed rule at their regular agenda conference on January 8, 2019. The Commission has determined that this rule will affect small businesses. Accordingly, pursuant to Section 120.54(3)(b)2.b.(I), Florida Statutes, enclosed is a copy of the Florida Administrative Register (FAR) notice of the proposed rules, which was published in the January 9, 2019, edition of the FAR. Also enclosed is a copy of the statement of estimated regulatory costs (SERC). The SERC concluded that the proposed rule amendments will not have an adverse effect on small business. Pursuant to your instructions, we have filled out and included a copy of the OFARR rulemaking notification form.

If there are any questions with respect to these rules, please contact me at (850) 413-6082 or aharper@psc.state.fl.us.

Sincerely,

A handwritten signature in black ink, appearing to read "Adria Harper".

Adria Harper
Senior Attorney

Enclosures

cc: Office of the Commission Clerk

RECEIVED-FPSC
2019 JAN 10 AM 10:03
COMMISSION
CLERK

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NO: RULE TITLE:

25-17.015 Energy Conservation Cost Recovery

PURPOSE AND EFFECT: To streamline the utilities' filing requirements in energy conservation cost recovery rule Docket No. 20180121-EG

SUMMARY: The energy conservation cost recovery clause filing dates and filing requirements is modified for efficiency and to avoid duplicative data filings. The rule is amended to remove the November proceeding requirement and the eight months actual and four months estimated filing provisions. The rule is also amended to remove the requirement for the utilities to complete a Short Form. In addition, the rule is amended to clarify how advertising costs associated with conservation efforts will be evaluated for electric and gas utilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the agency. The SERC examined the factors required by Section 120.541(2), FS, and concluded that the rule amendment will not have an adverse impact on economic growth, business competitiveness, or small business and that there would likely be transactional cost savings to the individual and entities, including government entities, required to comply with the rule.

The agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

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

RULEMAKING AUTHORITY: 350.127, 366.05, FS.

LAW IMPLEMENTED: 366.06 366.82, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adria Harper, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082, aharper@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-17.015 Energy Conservation Cost Recovery.

(1) The Commission shall conduct annual energy conservation cost recovery (ECCR) proceedings ~~during November~~ of each calendar year. Each utility over which the Commission has ratemaking authority may seek to recover its costs for energy conservation programs. Each utility seeking cost recovery shall file the following at the times directed by the Commission, pursuant to the order establishing procedures in the annual cost recovery proceeding:

(a) No change.

(b) An annual estimated/actual true-up filing showing ~~eight months~~ actual and ~~four months~~ projected common costs, individual program costs, and any revenues collected. Actual costs and revenues should begin January 1 immediately following the period described in paragraph (1)(a). The filing shall also include the estimated/actual over- or under-recovery of total conservation costs for the estimated/actual true-up period.

(c) No change.

(d) An annual petition setting forth proposed energy conservation cost recovery factors to be effective for the 12-month period beginning January 1 following the annual hearing. ~~The~~ Such proposed ~~cost-recovery~~ factors shall take into account the data filed pursuant to paragraphs (1)(a), (b) and (c).

~~(e) Within the 90 days that immediately follow the first six months of the reporting period in paragraph (1)(a), each utility shall report the actual results for that period on Form PSC/ECO/44 (11/97), entitled, Energy Conservation Cost Recovery Annual Short Form, which is incorporated by reference in this rule, and may be obtained from the Director, Division of Economics, Florida Public Service Commission.~~

(2) through (3) No change.

(4) New programs or program modifications must be approved prior to a utility seeking cost recovery. A utility may seek cost recovery for implementation costs associated with new or modified programs incurred prior to Commission approval. Specifically, any incentives or rebates associated with new or modified programs may not be recovered if paid before approval. However, if a utility may not seek cost recovery for any incentives or rebates associated with new or modified programs paid prior to Commission approval ~~incurs prudent implementation costs before a new program or modification has been approved by the Commission, a utility may seek recovery of these expenditures.~~

(5) Advertising expense recovered through energy conservation cost recovery shall be directly related to an approved conservation program, shall not mention a competing energy source, and shall not be company image enhancing. When the advertisement makes a specific claim of potential energy savings or states appliance efficiency ratings or savings, all data sources and calculations used to substantiate these claims must be included in the filings required by subsection paragraph (1)(a). In determining whether an advertisement is "directly related to an approved conservation program," the Commission shall refer to the Order approving the program. In addition, the Commission shall consider, but is not limited to, whether the advertisement or advertising campaign:

(a) through (c) No change.

Rulemaking Authority 350.127(2), 366.05(1) FS. Law Implemented 366.04(2)(f), 366.06(1), 366.82 (2), (7)-(11), (3), (5) FS. History—New 1-27-81, Amended 12-30-82, 3-27-86, Formerly 25-17.15, Amended 8-22-90, 11-16-97, 5-4-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Tripp Coston

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 8, 2019

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 44, Number 55, March 20, 2018.

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: May 7, 2018

TO: Adria E. Harper, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst I, Division of Economics *S.K.G.*

RE: Statement of Estimated Regulatory Costs (SERC) for Proposed Amendments of Rule 25-17.015, Florida Administrative Code (F.A.C.), Energy Conservation Cost Recovery

The recommended rule revisions implement changes to Rule 25-17.015, F.A.C., which addresses the Energy Conservation Cost Recovery (ECCR) clause. The proposed changes are to: (1) delete the requirement that the Commission conduct the ECCR hearing in November and, instead, the proceedings will follow the schedule outlined in the Order Establishing Procedure (OEP) of the ECCR clause docket; (2) modify the requirement that utilities file eight months actual and four months projected costs for the annual true-up filings and, instead, allow utilities to file their actual and projected data within the timeline established in the OEP; (3) delete the requirement that utilities file form PSC/ECO/44, titled Energy Conservation Cost Recovery Annual Short Form, as the form contains redundant information; and (4) clarify the evaluation of advertising costs associated with conservation efforts.

The proposed rule revisions are not imposing any new regulatory requirements and seek to improve the scheduling of the ECCR filings and subsequent hearing. The utilities affected by the recommended rule revisions potentially may achieve cost savings as a result of not having to file form PSC/ECO/44. No workshop was requested in conjunction with the recommended rule revisions. No regulatory alternatives were submitted pursuant to Section 120.541(1)(a), F.S. None of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

cc: SERC file

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-17.015, F.A.C.

1. Will the proposed rule have an adverse impact on small business?
[120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)1, F.S.]

Economic growth

Yes No

Private-sector job creation or employment

Yes No

Private-sector investment

Yes No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule?
[120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)

Yes No

Productivity

Yes No

Innovation

Yes No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

Economic Analysis: As a result of the proposed rule amendments, the Commission and the 13 affected utilities (5 electric IOUs and 8 gas IOUs) should achieve cost savings by not having to collect, file, and evaluate duplicative information and forms. If the proposed revisions are approved, the Short Form will become redundant to the actual/estimated filings. The revisions will also improve the scheduling of the ECCR filings and subsequent hearing. Finally, the modification will add clarifying language related to the evaluation of advertising costs associated with conservation efforts.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

Five electric IOUs and eight natural gas IOUs.

(2) A general description of the types of individuals likely to be affected by the rule.

The proposed rule amendments should reduce the cost to the affected utilities by removing redundant filing requirements. The rule currently affects five electric IOUs (Duke Energy Florida, Florida Power & Light Company, Florida Public Utilities Company, Gulf Power Company, and Tampa Electric Company) and eight natural gas IOUs (Florida City Gas, Florida Public Utilities Company, Florida Division of Chesapeake Utilities Corporation, Florida Public Utilities Company – Indiantown and Ft. Meade Divisions, Peoples Gas System, Sebring Gas System, and St. Joe Natural Gas Company).

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

None. To be done with the current workload and existing staff.

Minimal. Provide a brief explanation.

Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule.
[120.541(2)(d), F.S.]

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

E. An analysis of the impact on small businesses, and small counties and small cities:
[120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned

and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

F. Any additional information that the Commission determines may be useful. [120.541(2)(f), F.S.]

- None.

Additional Information:

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

- No regulatory alternatives were submitted.

A regulatory alternative was received from

Adopted in its entirety.

Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

Office of Fiscal Accountability and Regulatory Reform

Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

To: Chris Bailey, Director

Submitted By: [Adria Harper, Senior Attorney]
 [Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850]
 [850) 413-6082]

Re: Rulemaking Notification for:

Rule Number	Rule Title
25-17.015, F.A.C.	Energy Conservation Cost Recovery Clause

List EACH rule singly. Add lines as needed.

Date: [Date request sent to OFARR] **Date of anticipated publication:** _____

Does this rule qualify for Rules Ombudsman review in accordance with section 120.54(3)(b), F.S.?
 Yes No

Please complete this form when submitting rulemaking notification to the Office of Fiscal Accountability and Regulatory Reform (OFARR) pursuant to Executive Order 11-211. **If any information or documents are missing, the notification will be returned without review. OFARR will indicate what is missing, and the completed notification must be resubmitted.**

1. Proposed Rulemaking Activity:

- Notice of Development of Rulemaking – Attach the proposed Notice. If no text is available, give a detailed explanation of the rulemaking, including why it is necessary.
- Notice of Proposed Rule – Attach the proposed Notice, “Is a SERC Required” Checklist, and SERC (if required), all materials incorporated by reference, and all forms referenced or required by the rule.
- Notice of Emergency Rule – Attach the proposed Notice. Explain fully why emergency rulemaking is appropriate.
- Notice of Change – Attach the proposed Notice. Be sure the text is coded correctly according to Rule 1B-30.003(5)(f), F.A.C. Explain why a change is required. Attach any correspondence from JAPC or the public. If no documents exist, summarize any public comment the agency has received or public hearings/workshops the agency has held.
- Notice of Withdrawal – Attach the proposed Notice. Explain why it is necessary to withdraw the rulemaking. Include any JAPC correspondence.
- Other – Attach the proposed Notice. Include detailed information about the rulemaking.

Notices should be coded according to Rule 1B-30.003(5)(f), F.A.C.

Office of Fiscal Accountability and Regulatory Reform

Rulemaking Notification

(Executive Order 11-211 requires agencies must submit all rulemaking notices to OFARR at least 1 week prior to publication)

2. Is this rulemaking included in the agency's Annual Regulatory Plan (ARP)? yes

3. For each rule:

If the rule decreases regulation, explain in detail how it alleviates unnecessary, disproportionate, or adverse effects to business. You should address all relevant considerations, including: restriction on entry into a profession; effect on availability of services to public; effect on job retention; restriction on employment seekers; imposition of burdensome costs; cost-effectiveness vs. economic impact of rule.

If the rule increases regulation, explain in detail what statute or statutes are being implemented and why the rule is necessary to implement the statutory language.

Rule Number	Detailed Explanation
N/A	

List EACH rule singly. Add lines as needed.

4. Has the agency received any public comment about this rulemaking, since the last rulemaking notification? No

If yes, please summarize the comment and the agency's position regarding the comment (i.e. has made or intends to make changes based on the comment, disagrees with the comment, etc.) and attach any documents.

5. Has the agency received any lower cost regulatory alternatives (LCRA)? No

If yes, describe in detail what action the agency took in response to the LCRA.

6. Has the agency received any comment from JAPC, since the last rulemaking notification? No

If yes, please summarize the comment and attach any documents.

Julie Phillips

From: Adria Harper
Sent: Thursday, January 10, 2019 9:49 AM
To: Reg.Reform@eog.myflorida.com
Cc: Julie Phillips
Subject: Public Service Commission Rule Proposal, Rule 25-17.015, F.A.C.
Attachments: Rule Obudsman Letter re Rule 25-7.015.pdf

Good morning,

Please accept the attached letter and corresponding rule documents for the Public Service Commission's Rule Proposal for Rule 25-17.015, F.A.C. If you could please confirm receipt of this correspondence, I would appreciate it.

Thank you in advance for your attention to this matter,
Adria

Adria E. Harper
Senior Attorney
Florida Public Service Commission
AHarper@psc.state.fl.us
(850) 413-6082

Please note: Florida has very broad public records laws. Many written communications to or from the Florida Public Service Commission may be considered public records, which must be made available to anyone upon request. Your e-mail communications may therefore be subject to public disclosure.