

STATE OF FLORIDA

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GENERAL COUNSEL
(850) 413-6199

Public Service Commission

January 10, 2019

Kenneth J. Plante, Coordinator
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

HAND DELIVERY

Re: Docket No. 20180121-EG; Rule 25-17.015, Energy Conservation Cost Recovery Clause, F.A.C.

Dear Mr. Plante:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the proposed rule.
2. There are no materials incorporated by reference in the proposed rule.
3. A copy of the F.A.R. notice.
4. A statement of facts and circumstances justifying the proposed rule.
5. A federal standards statement.
6. Statement of Estimated Regulatory Costs for the rule.

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2019 JAN 10 PM 1:23

COMMISSION
CLERK

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Mr. Kenneth J. Plante
January 10, 2019
Page 2

If there are any questions with respect to these rules, please do not hesitate to call me at 413-6082.

Sincerely,

A handwritten signature in black ink, appearing to read "Adria Harper". The signature is fluid and cursive, with the first name "Adria" being more prominent than the last name "Harper".

Adria Harper
Senior Attorney

Enclosures

cc: Office of Commission Clerk

1 **25-17.015 Energy Conservation Cost Recovery.**

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

7 (a) An annual final true-up filing showing the actual common costs, individual program
8 costs and revenues, and actual total ECCR revenues for the most recent 12-month historical
9 period from January 1 through December 31 that ends prior to the annual ECCR proceedings.
10 As part of this filing, the utility shall include a summary comparison of the actual total costs
11 and revenues reported to the estimated total costs and revenues previously reported for the
12 same period covered by the filing in paragraph (1)(b). The filing shall also include the final
13 over- or under-recovery of total conservation costs for the final true-up period.

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

19 (c) An annual projection filing showing 12 months projected common costs and program
20 costs for the period beginning January 1 following the annual hearing.

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

25 ~~(e) Within the 90 days that immediately follow the first six months of the reporting period~~

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

1 in paragraph (1)(a), each utility shall report the actual results for that period on Form
2 PSC/ECO/44 (11/97), entitled, Energy Conservation Cost Recovery Annual Short Form,
3 which is incorporated by reference in this rule, and may be obtained from the Director,
4 Division of Economics, Florida Public Service Commission.

5 (2) Each utility shall establish separate accounts or subaccounts for each conservation
6 program for purposes of recording the costs incurred for that program. Each utility shall also
7 establish separate subaccounts for any revenues derived from specific customer charges
8 associated with specific programs.

9 (3) A complete list of all account and subaccount numbers used for conservation cost
10 recovery shall accompany each filing in paragraph (1)(a).

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

19 (5) Advertising expense recovered through energy conservation cost recovery shall be
20 directly related to an approved conservation program, shall not mention a competing energy
21 source, and shall not be company image enhancing. When the advertisement makes a specific
22 claim of potential energy savings or states appliance efficiency ratings or savings, all data
23 sources and calculations used to substantiate these claims must be included in the filings
24 required by subsection paragraph (1)(a). In determining whether an advertisement is “directly
25 related to an approved conservation program,”; the Commission shall refer to the Order

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from existing law.

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approving the program. In addition, the Commission shall consider, ~~but is not limited to,~~
whether the advertisement or advertising campaign:

- (a) Identifies a specific problem;
- (b) States how to correct the problem; and
- (c) Provides direction concerning how to obtain help to alleviate the problem.

*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, _____.*

Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

SELECT A TYPE: amendment

RULE NO: RULE TITLE:

25-17.015 Energy Conservation Cost Recovery Clause

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: [TYPE AND STRIKE VERSION]

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.

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

Rule 25-17.015, F.A.C., is being amended to remove unnecessary filing requirements and proscriptive filing and hearing deadlines. The rule is also being amended to clarify how advertising costs associated with electric and natural gas conservation programs are approved by the Commission.

STATEMENT ON FEDERAL STANDARDS

There are no federal standards for this rule.



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.