

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Re: Petition to initiate rulemaking to revise and
amend portions of Rule 25-6.0426, F.A.C., by
_____ /

DOCKET NO. 20180143-EI

FILED: February 18, 2019

CITIZENS' POST WORKSHOP COMMENTS

The Citizens of the State of Florida, through the Office of Public Counsel, hereby files their comments to the proposed language changes to Rule 25-6.0426, F.A.C., relating to Economic Development Expenses by Florida Power & Light, Gulf Power Company, and Tampa Electric Company (Utility Petitioners). On July 30, 2018, these Utility Petitioners filed a Petition to Initiate Rulemaking to Revise and Amend Portions of Rule 25-6.0426, F.A.C. (Petition). The Petition requested that the Commission amend the language in Rule 25-6.0426, F.A.C., to increase the limits on the amount of money that is recoverable in rates for economic development from customers. Currently, the Rule caps customer-recoverable economic development costs to 95 percent of the expenses incurred for the reporting period, not to exceed the *lesser* of 0.15 percent of annual revenues or \$3 million. The Utility Petitioners have proposed that the percentage of annual revenues set forth in the Rule be increased over a four-year period as follows: 2020 - 0.175 percent; 2021 – 0.2 percent; 2022 – 0.225 percent; and 2023 – 0.25 percent. Petition at p. 9. The Utility Petitioners also propose that the cap be established as the *greater* of 0.15 percent of gross annual revenue or \$3.0 million. Petition at p. 9.

On January 16, 2019, the Commission Staff held a workshop on the Utility Petitioners' proposed language change. At the workshop, the Utility Petitioners provided their comments regarding the impacts of economic development within their territories and their rationale for increasing the recoverable economic development costs in the Rule. Citizens do not categorically

object to some level of increase in the amount allowed in the Rule as long as shareholders bear some of the increased costs that assumedly will contribute to their return. When asked how much shareholders contributed to economic development annually, the Utilities uniformly stated that they contributed no more than the 5 percent required under the Rule. However, given the reality that a significant portion of the proposed increase in costs will be borne by the customers, the issue Citizens are concerned with is maintaining the appropriate balance between customer and shareholder responsibility regarding the amount that is spent on economic development and the amount paid for by customers.

Commission staff offered for discussion several alternatives to the requested changes to the Rule. Specifically, these alternatives included the following: Alternative #1- lesser of 0.15 percent or \$3M cap (for 2019); Alternative #2- greater of 0.15 percent or \$5M cap; or Alternative #3- greater of 0.10 percent or \$5M cap. The staff's analysis for these utilities (based on 2018 jurisdictional operating revenues in the 2018 Forecasted Earnings Surveillance Reports) of 0.15 percent of the gross annual income shows: FPL - \$16.3 million; Duke - \$7.0 million; TECO - \$3.0 million; and Gulf - \$1.9 million. Yet for economic development in 2018, these utilities spent only the following: FPL - \$2.9 million; Duke - \$1.1 million; TECO - \$0.3 million; and Gulf - \$1.6 million. The gap between what has been spent and what could be spent and charged to customers is significant and raises the specter of customer funds being used for an indeterminate purpose in a manner more akin to a "tax."

OPC is concerned with the use of "greater of" language rather than the limiting language of "lesser of". The use of that language would allow for increases in the amount that can be spent on economic development with no dollar amount "cap" in the future. The staff's analysis shows that three out of the four utilities have not spent to their allowable limit of economic development monies under the existing Rule. Only one of the utilities is currently spending to the limit, yet

even they acknowledged that their shareholders have only contributed the minimum required 5 percent and no more.

OPC is further concerned that the Petitioner Utilities are requesting a dramatic increase in allowable economic development cost in their proposal without any evidence that that level of increase is warranted. Citizens acknowledge that a modest, evidence-supported increase in the 20 year old cap in the existing Rule could be justified with commensurate shareholder contribution. The facts are that the Utilities did not show that they were either foregoing economic development opportunities due to lack of funding or that they were spending more than 5 percent of shareholder monies on the costs for economic development opportunities that would otherwise be forgone. There is no compelling case for the significant increases in customer assessments for economic development costs that the Utility Petitioners are now seeking.

OPC would not object to a more moderate approach in the limit set forth in the Rule that could be justified based on actual expenditures if shareholder contribution is maintained at the existing level.

OPC's modified proposed language is as follows:


(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 and subsequently actually spent in the forecasted test year period, if less than 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~~ lesser of 0.15 percent of gross annual revenues or \$ 10 million.

OPC's proposed language maintains the limitations in the current Rule. These limitations are necessary for several reasons. First, despite the idea that customers and shareholders should share equitably in economic development costs, 95 percent of the costs are flowed through to the

customers under the way the Rule has developed. Prior to 1994, the Commission did allow recovery of these types of costs from customer. Since economic development activities can also have branding or customer development aspects to them, there is a need to limit the amount of monies attributable to customers. Second, the majority of the utilities have not been spending currently allowable amounts for economic development. Therefore, only a moderate increase in the “cap” set forth under the Rule can be justified. Allowing the cap to increase from \$3 million to \$10 million is a 333 percent increase which would allow all of the utilities to significantly increase spending for economic development above what they are currently spending. If the Commission believes that the Rule should be amended, that change should be limited to increasing the “cap” in the Rule from \$3 million to \$10 million.



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CERTIFICATE OF SERVICE
DOCKET NO. 20180143-EI

I **HEREBY CERTIFY** that a true and correct copy of the foregoing Citizens' Post Workshop Comments has been furnished by electronic mail to the following parties on this 18th day of February, 2019.

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