

MEMORANDUM

June 24, 1996

TO : DIVISION OF RECORDS & REPORTING

FROM : MARY ANNE HELTON, ASSOCIATE GENERAL COUNSEL *MAH*

RE : DOCKET NO. 960023-EG - PROPOSED AMENDMENTS TO RULE 25-17.003, F.A.C., ENERGY AUDITS; AND PROPOSED REPEAL OF RULES 25-17.051, F.A.C., DEFINITIONS AS USED IN THIS PART; 25-17.052, F.A.C., AUDITORS, MINIMUM QUALIFICATIONS; 25-17.053, F.A.C., PROGRAM ANNOUNCEMENT; 25-17.054, F.A.C., ENERGY AUDIT; OFFER AND INITIAL CONTACT; 25-17.0545, F.A.C., CONTRACTS FOR PERFORMING AUDITS; 25-17.055, F.A.C., PERFORMANCE OF THE ENERGY CONSERVATION AUDIT; 25-17.0555, F.A.C., THE FIVE-STAR RATING SYSTEM; 25-17.056, F.A.C., PROGRAM INSPECTIONS; 25-17.057, F.A.C., ENERGY CONSERVATION AUDIT RESULTS; 25-17.059, F.A.C., ENERGY CONSERVATION AUDIT CHARGES, DISCLOSURES, AND DISCLAIMERS; 25-17.061, F.A.C., FINANCING AND INSTALLATION ARRANGEMENTS; 25-17.064, F.A.C., PROGRAM WORK PLANS AND REPORTS; AND 25-17.065, F.A.C., PROGRAM RECORDKEEPING

Attached is an original and three copies of the certification of Rules 25-17.003, 25-17.051, 25-17.052, 25-17.053, 25-17.054, 25-17.0545, 25-17.055, 25-17.0555, 25-17.056, 25-17.057, 25-17.059, 25-17.061, 25-17.064, and 25-17.065, F.A.C. The Department of State must receive the original and two copies of the certification no later than 5:00 p.m., June 24, 1996. The Certification includes:

- (1) An original and two certified copies of the rules;
- (2) A summary of the rules;
- (3) A summary of the hearing on the rules; and
- (4) A written statement of the facts and circumstances justifying the rules.

CRTS2517.MRD
Attachments

DOCUMENT NUMBER-DATE

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DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

CERTIFICATION OF
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES
FILED WITH THE
DEPARTMENT OF STATE

I do hereby certify:

(1) The time limitations prescribed by paragraph 120.54(11)(a), F.S., have been complied with; and

(2) There is no administrative determination under section 120.54(4), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(11)(b), F.S. They are filed not less than 28 days after the notice required by subsection 120.54(1), F.S., and;

(a) And are filed not more than 90 days after the notice; or

(b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

(c) Are filed within 21 days after the adjournment of the final public hearing on the rule; or

(d) Are filed within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(e) Are filed within 21 days after the date the transcript was received by this agency.

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TALLAHASSEE, FLORIDA
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Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

<u>Rule No.</u>	<u>Rulemaking Authority</u>	<u>Specific Law Being Implemented, Interpreted or Made Specific</u>
25-17.003	366.05(1), 350.127(2), F.S.	366.82(5) & (7), F.S.
25-17.051	366.05(1), 366.82(1)(5), F.S.	366.82, F.S.
25-17.052	366.05(1), 366.82(7), F.S.	366.82(7), F.S.
25-17.053	366.05(1), 366.82(1)(5), F.S.	366.82, F.S.
25-17.054	366.05(1), 366.82(1)(5), F.S.	366.82, F.S.
25-17.0545	366.05(1), 368.82(1)(5), F.S.	366.82, F.S.
25-17.055	366.05(1), 366.82(1)(5), F.S.	366.82, F.S.
25-17.0555	366.05(1), 366.82(1)(5), F.S.	366.82, F.S.
25-17.056	366.05(1), 366.82(1)(5), F.S.	366.82, F.S.
25-17.057	366.05(1), 366.82, F.S.	366.82, F.S.
25-17.059	366.05(1), 366.82(1), F.S.	366.82, F.S.
25-17.061	366.05(1), 366.82(5), F.S.	366.82, F.S.
25-17.064	366.05(1), 366.82(5), F.S.	366.82, F.S.
25-17.065	366.05(1), 366.82(5), F.S.	366.82, F.S.

Under the provision of paragraph 120.54(13)(a), F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)

Blanca S. Bayó
BLANCA S. BAYÓ, Director
Division of Records & Reporting

Number of Pages Certified

(S E A L)

1 25-17.003 Energy Audits, ~~Related Provisions.~~

2 (1) Purpose₊ This rule specifies the minimum requirements
3 for performing energy audits by every each utility that falls under
4 the definition of "utility" in Section 366.82(1), Florida Statutes
5 ~~subject to the requirements of this rule.~~

6 ~~(2) Applicability: This rule applies to each utility as~~
7 ~~defined in s. 366.82(1), F.S.~~

8 ~~(2)(3)~~ Definitions₊

9 ~~(a) "Alternative (Walk Through) Audit" means an energy audit~~
10 ~~as defined in Chapter 25-17.51(8), F.A.C.~~

11 (a) "Building Energy-Efficiency Rating System (BERS) Audit"
12 means an energy analysis of a residence performed in compliance
13 with Section 553.995, Florida Statutes, and Rules 9B-60.004(3) and
14 (4) and 9B-60.005, Florida Administrative Code.

15 (b) Computer-Assisted Audit" means an energy analysis of a
16 residence in which a qualified auditor performs a comprehensive on-
17 site evaluation of the residence in accordance with subsection (6)
18 and paragraphs (7)(c) and (7)(d), and, if applicable, provides
19 installation arrangements and inspections pursuant to this rule.

20 ~~(c)(b)~~ "Commercial Audit" means an energy analysis of a
21 commercial building and its associated energy systems to determine
22 its energy efficiency and to identify for the customer those ~~cost~~
23 effective measures that which may improve its energy efficiency.

24 ~~(e) "Energy Conservation Audit" means an energy audit as~~
25 ~~defined in Chapter 25-17.51(6), F.A.C.~~

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~~struck-through~~ type are deletions from existing law.

1 (d) "Conservation Measures" refers to replacing, upgrading,
2 or installing equipment which reduces energy usage or peak demand
3 contribution, such as the:

- 4 1. Installation of clock thermostat;
- 5 2. Replacement of furnace or boiler;
- 6 3. Replacement of resistance heat with heat pump or natural
7 gas furnace;
- 8 4. Replacement of central air conditioning system;
- 9 5. Installation of duct or pipe insulation;
- 10 6. Sealing leaks in pipes and ducts;
- 11 7. Caulking of windows or doors;
- 12 8. Weatherstripping of windows or doors;
- 13 9. Installation of heat-reflective, heat-gain retardant, and
14 heat-absorbing window or door materials;
- 15 10. Insertion of plastic window panels;
- 16 11. Installation of storm or thermal windows;
- 17 12. Installation of wall insulation;
- 18 13. Installation of ceiling insulation;
- 19 14. Installation of floor insulation;
- 20 15. Plugging leaks in attic, basement, and fireplace;
- 21 16. Installation of waste heat recovery water heating system;
- 22 17. Installation of heat pump or natural gas water heater;
- 23 18. Installation of solar water heating system;
- 24 19. Installation of water heater insulation;
- 25 20. Installation of water flow restrictors in showers and

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1 faucets;

2 21. Installation of solar swimming pool heating system; and

3 22. Installation of load management devices, where load
4 management rates are offered.

5 (e) "Conservation Practices" refers to actions performed by
6 a customer which reduce energy usage or peak demand contribution,

7 such as:

8 1. Furnace efficiency maintenance and adjustments;

9 2. Cooling system efficiency maintenance and adjustments;

10 3. Nighttime temperature setback;

11 4. Reduction of thermostat setting in winter;

12 5. Increase of thermostat setting in summer;

13 6. Reduction of hot water temperature;

14 7. Reduction of energy use when residence is unoccupied; and

15 8. Efficient use of shading.

16 (f) "Eligible Customer" means the owner or occupant of a
17 residence that receives a bill for service from a utility.

18 (g)(d) "Industrial Audit" means an energy analysis of an
19 industrial facility and its associated energy systems to determine
20 its energy efficiency and to identify for the customer those ~~most~~
21 effective measures ~~that~~ ~~which~~ may improve its energy efficiency.

22 (h) "Mail-in Audit" means an energy analysis of a residence
23 or building in which the utility supplies to the eligible customer
24 a data collection form which is completed by the customer, and,
25 upon receipt of the completed form, the utility analyzes the data

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1 and submits to the customer the results of its evaluation.

2 (i) "Walk-Through Audit" means an energy analysis of a
3 residence in which a qualified auditor walks through the residence
4 making extensive observations as to the physical structure and
5 components, performs simplified heat gain and heat loss
6 computations, and advises the customer of feasible energy
7 conservation practices and measures.

8 (3) Scope.

9 (a) All utilities are required to offer eligible residential
10 customers BERS Audits which comply with subsections (12), (13), and
11 (14) below.

12 (b) All utilities are required to offer eligible residential
13 customers Computer-Assisted and Walk-Through Audits which comply
14 with subsections (4) through (14) below. Prior to conducting
15 Computer-Assisted and Walk-Through Audits, procedures for
16 conducting these audits must be approved by the Commission.

17 (c) Any utility may offer Mail-In Audits to eligible
18 customers. Every utility that performs Mail-In Audits shall comply
19 with subsections (13) and (14) below.

20 (d) Any utility may offer a Commercial or Industrial Audit to
21 commercial and industrial customers. Every utility that performs
22 Commercial or Industrial Audits shall comply with subsections (13)
23 and (14) below.

24 (4) Energy Audit Charges.

25 (a) Every public utility shall charge an eligible customer

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1 for a BERS Audit. The amount of this charge, which shall reflect
2 actual cost, shall first be filed with the Commission as part of
3 the utility's tariff.

4 (b) Every utility may charge an eligible customer for a
5 Computer-Assisted Audit. The amount of this charge, which shall
6 not exceed \$15, shall first be filed with the Commission as part of
7 the utility's tariff.

8 (c) Every utility may charge an eligible customer for a Walk-
9 Through Audit. The amount of this charge, which shall not exceed
10 \$5, shall first be filed with the Commission as part of the
11 utility's tariff.

12 (d) Every utility may charge an eligible customer for a
13 Commercial or Industrial Audit. The amount of this charge shall
14 not exceed the actual cost of providing the audit.

15 (5) Minimum Auditor Qualifications.

16 (a) Every utility shall certify that each of its residential
17 energy auditors meets the minimum qualifications in paragraph
18 (5)(b). The certification, along with a list of auditors
19 performing energy audits, shall be filed annually with the
20 Director, Division of Electric and Gas, by September 30 of each
21 year.

22 (b) To be qualified to perform energy audits, a person must:

- 23 1. Have been trained in a program meeting the
- 24 curriculum requirements of paragraph (5)(c); and
- 25 2. Have demonstrated a proficiency in the areas listed

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1 in paragraph (5)(c) through a written test or
2 practical demonstration.

3 (c) At a minimum, the curriculum to be followed in training
4 auditors shall include instruction in the following areas:

5 1. The three types of heat transfer and the effects of
6 temperature and humidity on heat transfer;

7 2. General mathematics, including powers of ten,
8 decimals and fractions, simple equations, heat loss
9 and heat gain computations utilizing British
10 Thermal Units (BTUs), and pay back calculations;

11 3. Utility billing procedures, meter reading, and
12 identification of weather sensitive consumption
13 relationships based on a customer's billing
14 history;

15 4. Residential construction terminology and components;

16 5. The operation of heating and cooling systems used
17 in residential buildings; and

18 6. The application of energy conservation practices
19 and measures including the advantages and
20 disadvantages of each.

21 (6) Pre-audit performance criteria for Computer-Assisted
22 Audits.

23 (a) Every utility shall adopt procedures to assure that
24 estimates of energy cost savings and costs for conservation
25 measures are based on:

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- 1 1. Typical and recent local prices for materials and
2 installation;
- 3 2. Typical local climate data for the audited
4 residence; and
- 5 3. Typical local price of electricity.

6 (b) At least twice annually, each utility shall update the
7 data collected pursuant to paragraph (6) (a).

8 (7) Performance of the audit.

9 (a) Upon arrival at a residence, the auditor shall provide
10 proper identification and confirm the customer's understanding of
11 the scope and cost of the audit.

12 1. The auditor shall discontinue or decline to perform
13 the audit if the customer, at any time, objects to
14 its performance.

15 2. The auditor may discontinue or decline to perform
16 the audit if the auditor determines that
17 continuation of the audit may be dangerous.

18 (b) The auditor shall determine and explain to the customer
19 which conservation practices are applicable and recommend that the
20 customer apply them prior to or in conjunction with adopting any
21 conservation measure.

22 (c) For Computer-Assisted Audits, to determine the
23 appropriate conservation measures, the auditor shall gather and
24 record the following information where applicable:

25 1. Exterior opaque wall area, including present level

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1 of wall insulation;

2 2. Type and condition of exterior window and door
3 areas;

4 3. Ceiling area, including present level of attic
5 insulation;

6 4. Floor area, including present level of floor
7 insulation, if any;

8 5. Water heater size, age, and type;

9 6. Air conditioning system type, size, age, fuel type,
10 and duct condition;

11 7. Heating system type, size, age, and fuel type; and

12 8. Other items as appropriate.

13 (d) For Computer-Assisted Audits, using the data gathered
14 pursuant to paragraph (7)(c), the auditor shall provide the
15 customer with a result sheet showing:

16 1. An estimate of the potential energy and cost
17 savings of each applicable conservation measure;

18 2. An estimate of the total installation cost for each
19 applicable conservation measure, both by the
20 customer and by a contractor;

21 3. An estimate of the expected payback time for the
22 customer's cost of purchasing and installing each
23 applicable conservation measure, calculated using
24 the anticipated percentage change in energy costs;

25 4. An example calculation which clearly indicates that

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1 total energy cost savings from the installation of
2 more than one conservation measure could be
3 different from the sum of energy cost savings of
4 each individually installed conservation measure;
5 and

6 5. An explanation of the availability of energy
7 conservation and load management programs.

8 (8) Energy Audit Disclosures and Disclaimers.

9 (a) Each Computer-Assisted Audit result sheet shall include
10 the following or similar statement: "The procedures used to make
11 these installation cost and energy savings estimates are consistent
12 with Commission rules and good engineering practices. However, the
13 actual installation costs you incur and energy savings you realize
14 from installing these measures may be different from the estimates
15 contained in this audit report. Although the estimates are based
16 on measurements of your house, they are also based on assumptions
17 which may not be entirely correct for your household due to
18 differing energy use patterns."

19 (b) The auditor shall provide the eligible customer with a
20 written statement of any interest, direct or indirect, which the
21 auditor or the utility has in the sale or installation of any
22 energy conservation measure.

23 (c) Upon customer request, the auditor shall disclose the
24 results of any prior audit of the customer's residence if such
25 records are still available.

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1 (d) The results of the energy audit shall contain the
2 following or a similar disclaimer: "The utility does not warrant
3 or guarantee the audit findings or recommendations, nor is the
4 utility liable as a result of the audit for the acts or omissions
5 of any person who implements or attempts to implement those
6 conservation measures recommended by the auditor."

7 (9) Installation Arrangements.

8 (a) A utility may offer installation arrangement services
9 such as providing a list of suppliers and installers of
10 conservation measures.

11 (b) If a utility provides these services, the availability of
12 the services shall be noted on the written results of the energy
13 audit.

14 (c) When arranging installation services pursuant to this
15 rule, a utility shall not:

- 16 1. Discriminate among eligible customers, suppliers, or
17 contractors; or
18 2. Arrange for installation of any measure which is not
19 included in the utility's most recent Demand Side
20 Management Plan approved by the Commission.

21 (10) Post-Audit Inspection.

22 (a) To ensure quality control, the utility performing the
23 audit shall ensure that its recommended installations conform to
24 quality standards.

25 (b) The utility performing the audit shall be responsible for

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1 performing post-audit inspections of 10 percent of each type of
2 energy conservation measure installed as a result of the utility's
3 recommendation.

4 (c) The utility shall reinspect a residence if a violation of
5 materials or installation standards is found.

6 (11) Program announcement.

7 (a) Each utility shall send a program announcement to all
8 eligible customers at least every six months.

9 (b) The program announcement shall describe the BERS,
10 Computer-Assisted, and Walk-Through Audits, offer them to all
11 eligible customers, and advise eligible customers of any fee
12 charged for the audits.

13 (c) A gas utility and an electric utility servicing the same
14 geographical area are encouraged to jointly issue a single Program
15 Announcement.

16 ~~(4) Each utility shall notify its residential, commercial,~~
17 ~~and industrial customers of the availability of energy audits at~~
18 ~~least once every six months. Notification of audit availability,~~
19 ~~at a minimum, must be made by use of notices in billing statements~~
20 ~~or other means that involves direct notification to the customer.~~
21 ~~The announcement of the Residential Conservation Audits as required~~
22 ~~in Chapter 25-17.53(3)(c) can count as one of the biannual~~
23 ~~notifications for the residential customers.~~

24 (12)(5) For every each customer requesting either a BERS,
25 Computer-Assisted, or Walk-Through Audit an Energy Conservation

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1 ~~Audit or an Alternative Audit, every~~ each utility shall; provide
2 the requested audit to the customer in accordance with the
3 provisions of Chapter 25-17.51 through 25-17.65, F.A.C.

4 (a) Advise the customer as to the scope and cost of the
5 audit;

6 (b) Schedule the audit within 15 days of an eligible
7 customer's request, as well as provide the name, title, and phone
8 number of the auditor; and

9 (c) Perform the audit within 21 days of scheduling it, unless
10 the eligible customer requests a later date.

11 ~~(6) For each customer requesting either a Commercial Audit or~~
12 ~~an Industrial Audit, each utility shall provide or arrange to~~
13 ~~provide the requested audit to the customer within 120 days of the~~
14 ~~date the customer makes the request. The utility may recover the~~
15 ~~actual expenses incurred by providing audits from those commercial~~
16 ~~or industrial customers requesting such audits.~~

17 (13) Program Record Keeping.

18 (a) For every audit performed, every utility shall keep for
19 3 years from the audit performance a record that consists of the
20 customer's energy use for 12 months prior and 12 months after the
21 date of the audit. The record shall list the amount of electricity
22 or natural gas purchased for every month of both 12 month periods.

23 (b) Every electric utility shall record the amount collected
24 pursuant to Rule 25-17.003(4) in subaccounts within Account 456.
25 Every gas utility shall record the amount collected pursuant to

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1 Rule 25-17.003(4) in subaccounts within Account 495.

2 (14) Contracts for Performing Audits. Any utility may
3 contract with another entity to perform the audits required by this
4 rule.

5 Specific Authority: 366.05(1), 350.127(2), F.S.

6 Law Implemented: 366.82(5) & (7), F.S.

7 History: New 12/2/80, formerly 25-17.03, Amended 12/30/82,
8 11/24/86, 5/10/93, 7/14/96.

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25-17.051 Definitions As Used in This Part:

Specific Authority: 366.05(1), 366.82(1)(5), F.S.

Law Implemented: 366.82, F.S.

History: New 5/4/80, Amended 12/6/80, 9/28/81; transferred from
25-6.111, except that subsections (9) and (10) were transferred
from 25-6.115, Amended 10/28/82, 2/22/84, formerly 25-17.51,
repealed 7/14/96.

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1 25-17.652 Auditors; Minimum Qualifications.
2 Specific Authority: 366.05(1), 366.82(7), F.S.
3 Law Implemented: 366.82(7), F.S.
4 History: New 10/28/82, formerly 25-17.52, repealed 7/14/96.
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1 25-17.053 Program Announcement.
2 Specific Authority: 366.05(1), 366.82(1), (5), F.S.
3 La./ Implemented: 366.82, F.S.
4 History: New 5/4/80, Amended 12/16/80, Transferred from 25-6.113,
5 Amended 10/28/82, 2/22/84, formerly 25-17.53, repealed 7/14/96.
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1 25-17.054 Energy Audit; Offer and Initial Contact.
2 Specific Authority: 366.05(1), 366.82(1), (5), F.S.
3 Law Implemented: 366.82, F.S.
4 History: New 5/4/80, Amended 12/16/80, Transferred from 25-6.114,
5 Amended 10/28/82, 2/22/84, formerly 25-17.54, repealed 7/14/96.
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1 25-17.0545 Contracts for Performing Audits.
2 Specific Authority: 366.05(1), 368.82(1)(5), F.S.
3 Law Implemented: 366.82, F.S.
4 History: New 10/28/82, formerly 25-17.545, repealed 7/14/96.
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1 25-17.05: Performance of the Energy Conservation Audit.

2 Specific Authority: 366.05(1), 366.82(1), (5), F.S.

3 Law Implemented: 366.82, F.S.

4 History: New 5/4/80, Amended 12/16/80, Transferred from 25-6.115,
5 25-6.115(3)(a), transferred to 25-17.51(9), 25-6.115(3)(c),
6 transferred to 25-17.51(10), Amended 10/28/82, 2/22/84, 5/20/92,
7 formerly 25-17.55, repealed 7/14/96.

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1 25-17.05b. The Five-Star Rating System.

2 Specific Authority: §366.05(1), 366.82(1), (5), F.S.

3 Law Implemented: §366.82, F.S.

4 History: New 2/22/84, formerly 25-17.555, repealed 7/14/96.

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1 25-17.056 Program Inspections.
2 Specific Authority: §366.05(1), 366.82(1), (5), F.S.
3 Law Implemented: 366.82, F.S.
4 History: New 5/4/80, Amended 12/16/80, Transferred from 25-6.116,
5 Amended 10/28/82, formerly 25-17.56, repealed 7/14/96.

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1 25-17.057 Energy Conservation Audit Results.

2 Specific Authority: 366.05(1), 366.82, F.S.

3 Law Implemented: 366.82, F.S.

4 History: New 5/4/80, Amended 12/16/80, Transferred from 25-6.117,

5 Amended 10/28/82, 5/20/92, formerly 25-17.57, repealed 7/14/96.

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1 25-17 059 Energy Conservation Audit Charges, Disclosures, and
2 Disclaimers.

3 Specific Authority: 366.05(1), 366.82(1), F.S.

4 Law Implemented: 366.82, F.S.

5 History: New 5/4/80, Amended 12/16/80, Transferred from 25-6.119,
6 Amended 10/28/82, formerly 25-17.59, repealed 7/14/96.

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

1 25-17.061 Financing and Installation Arrangements.
2 Specific Authority: 366.05(1), 366.82(5), F.S.
3 Law Implemented: 366.82, F.S.
4 History: New 12/17/80, Amended 10/28/82, formerly 25-17.61,
5 repealed 7/14/96.

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1 25-17 064 Program Work Plans and Reports.
2 Specific Authority: 366.05(1), 366.82(5), F.S.
3 Law Implemented: 366.82, F.S.
4 History: New 5/4/80, Amended 12/16/80, Transferred from 25-6.124,
5 Amended 10/28/82, 2/22/84, formerly 25-17.64, repealed 7/14/96.

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1 25-17.065 Program Recordkeeping.
2 Specific Authority: 366.05(1), 366.82(5), F.S.
3 Law Implemented: 366.82, F.S.
4 History: New 5/4/80, Amended 12/16/80, Transferred from 25-6.124,
5 Amended 10/28/82, 2/22/84, formerly 25-17.65, repealed 7/14/96.

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CODING: Words underlined are additions; words in
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Specific Authority 366.05(1) FS. Law Implemented 366.82(3) FS. History—New 2-25-82, Amended 8-31-82, Form—25-17.16.

ANNOTATIONS

Discontinuance

Petitioner sought discontinuance of Oil Backout Cost Recovery Factor (OBCRF) and to have capacity charges related thereto made part of base rate. Public Service Commission found that Rule 25-17.016(4)(d), F.A.C., requires utility to recover all costs of oil backout project through OBCRF until such costs are included in base rate, which would normally occur at time of next rate case. Thus, fact that transmission line costs had been fully recovered did not mandate discontinuance of OBCRF, since it was just one, and not all costs associated with oil backout project. Recovering such costs through energy-based charge is not unfair or unduly discriminatory, as such means of recovery is only method consistent with terminology of rule, which speaks of OBCRF to be estimated in conjunction with "Fuel and Purchase Power Cost Recovery Clause." In re: Petition of Florida Industrial Power Users Group to Discontinue Florida Power & Light Company's Oil Backout Cost Recovery Factor, 89 FPSC 12-40 (1989).

Guidelines

Oil-Backout Rule itself provides specific qualifications requirements pursuant to which Public Service Commission determines whether a project qualifies under rule. Waiver provision of subsection 3)(c) merely allows for approval of projects under rule where such projects were begun before rule was adopted or before Commission is able to act on a petition for approval, and the utility must begin the project to obtain its full benefits. Subsection 3)(c) has adequate guidelines and standards to safeguard against arbitrary action by Commission. Commission's application of amended cost recovery factor rule was not retroactive ratemaking. Citizens of State v. Public Service Commission, 448 So. 2d 1024 (1984).

Returns on equity

Rule 25-17.016(4)(c), F.A.C., requires utilities to use in ratemaking actual cost of capital for cost recovery period of oil backout project. Where utility used cost of equity factor awarded in last rate case for oil backout cost recovery, instead of actual cost of equity, refund to customers of excess revenues gained as result was ordered by Public Service Commission. In re: Petition of Florida Industrial Power Users Group to Discontinue Florida Power & Light Company's Oil Backout Cost Recovery Factor, 89 FPSC 12-40 (1989).

PART II RESIDENTIAL CONSERVATION SERVICE PROGRAM

25-17.051 Definitions. As used in this part:

- (1) The following acronyms apply:
 - (a) "PSC" or "Commission" refers to the Florida Public Service Commission.
 - (b) "DOE" refers to the U. S. Department of Energy.
 - (c) "DACS" refers to the Florida Department of Agriculture and Consumer Services.
 - (d) "RCS" refers to Residential Conservation Service.
- (2) "Eligible customer" means the owner or occupant of a residence who receives a bill for service from a utility.
- (3) "New customer" means the owner or occupant of a residence who becomes an eligible

customer after the utility servicing that residence has distributed its initial Program Announcement.

(4) "Residence" means any mobile home, single family detached structure, or unit of a multi-unit structure, which is occupied as a dwelling.

(5) "Utility" shall have the same definition as appears in section 366.82(1), F.S.

(6) "Energy conservation audit" means an energy analysis of a residence in which the utility performs a comprehensive onsite evaluation of the residence in accordance with Rule 25-17.055 and if applicable, provides installation and financing arrangements and inspections, pursuant to Rules 25-17.053 through 17.061 of this chapter.

(7) "Customer assisted (mail in) audit" means an energy analysis of a residence in which the utility supplies to the eligible customer a data collection form which is completed by the customer and, upon receipt of the completed form the utility analyzes the data and submits to the customer the results of its evaluation.

(8) "Alternative (walk-through) audit" means an energy analysis of a residence in which a qualified auditor walks through the residence making extensive observations as to the physical structure and components, performs simplified heat gain and heat loss computations, and advises the customer of what energy conservation practices and measures would be feasible to implement.

(9) "Conservation practices" refer to the following energy conservation techniques:

- (a) Furnace efficiency maintenance and adjustments;
- (b) Nighttime temperature setback;
- (c) Reduction of thermostat setting in winter;
- (d) Increase of thermostat setting in summer;
- (e) Installation of water flow restrictors in showers and faucets;
- (f) Reduction of hot water temperatures;
- (g) Reduction of energy use when residence is unoccupied;
- (h) Plugging leaks in attics, basements, and fireplaces;
- (i) Sealing leaks in pipes and ducts;
- (j) Efficient use of shading;
- (k) Use of clotheslines instead of dryers;
- (l) Cooling system efficiency maintenance and adjustments.

(10) "Conservation measures" refer to the following energy conservation techniques:

- (a) Replacement of furnaces or boilers;
- (b) Replacement of central air conditioning;
- (c) Caulking of windows and/or doors;
- (d) Weatherstripping of windows and/or doors;
- (e) Installation of duct or pipe insulation;
- (f) Use of water heater insulation;
- (g) Use of heat-reflective, heat gain retardant, and heat-absorbing window or door material;
- (h) Installation of clock thermostats;
- (i) Installation of wall insulation;
- (j) Installation of ceiling insulation;
- (k) Replacement of furnace burner (oil);
- (l) Replacement of resistance heat with heat pump or natural gas furnace;

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(m) Installation of load management devices, where load management rates are offered;

(n) Installation of waste heat recovery water heating systems;

(o) Insertion of plastic window panels;

(p) Installation of storm or thermal windows;

(q) Installation of floor insulation;

(r) Installation of heat pump or natural gas water heaters;

(s) Use of any of the following renewable resource measures:

1. Solar domestic water heating;

2. Solar swimming pool heating (where pools are presently heated with a non-renewable resource).

(11) "Cost-effective" means that the present value of the savings realized over the next 10 years by implementation of the conservation measure is greater than or equal to the present value of the cost of implementing the measure.

(12) "State Plan" means the Florida Residential Conservation Service State Plan, dated June 3, 1981, prepared by the Governor's Energy Office and the Commission and submitted to the United States Department of Energy.

(13) "Five-Star Rating System" means a simplified summary which expresses audit results with zero to five stars denoting the energy efficiency of the residence relative to the potential to improve its energy efficiency.

Specific Authority 366.05(1), 366.82(1), (3) FS. Law Implemented 366.82 FS. History—New 5-4-80, Amended 12-16-80, 9-28-81, Transferred from 25-6.111, except that subsections (9) and (10) were transferred from 25-6.115, Amended 10-28-82, 2-22-84, Formerly 25-17.51.

25-17.052 Auditors; Minimum Qualifications.

(1) Each utility utilizing auditors to perform any type of energy conservation audit shall certify to the Commission that each auditor meets the minimum qualifications prescribed in subsection (2). The certification shall be filed with the Commission by September 30 and March 31st of each year, and a list of the auditors performing energy audits shall be attached to the certification.

(2) (a) In order to be qualified to perform energy audits a person must:

1. Have been trained in a program meeting the curriculum requirements of paragraph (b); and

2. Have demonstrated a proficiency in the areas enumerated in paragraph (b) through a written test or practical demonstration or both.

(b) The curriculum to be followed in training auditors shall include instruction in the following areas:

1. The three types of heat transfer and the effects of temperature and humidity on heat transfer;

2. General mathematics, which includes powers of ten, decimals and decimal fractions, simple equations, heat loss and heat gain computations utilizing British Thermal Units (BTU's), and cost effectiveness computations;

3. Utility billing procedures, KWH meter reading, and how to determine weather sensitive

consumption relations in the billing history of customers;

Residential construction terminology and components;

5. The operation of heating and cooling systems used in residential buildings;

6. The different energy conservation practices and conservation measures and the advantages, disadvantages and applications of each and installation standards published in the Federal Register under Subpart I of the RCS Final Rule (10 CFR, Part 456, 44FR64602, November 7, 1979), which apply to those measures or practices;

7. The nature of solar energy and of residential applications including: Insolation; shading; heat capture and transport; and heat transfer for hot water and space heating where appropriate; and

8. The pertinent auditing procedures, as prescribed by Rule 25-17.055, for each applicable practice and measure, including a working ability to calculate the steady state efficiency of a furnace or boiler as required by Rule 25-17.057(3)(b).

(3) Any auditor who was utilized by a utility prior to the effective date of these rules shall be deemed to be qualified if:

(a) The auditor has successfully completed a training course that substantially covered the areas enumerated in paragraph (2)(b); and

(b) The auditor has demonstrated acceptable proficiency and conduct when performing an energy audit.

Specific Authority 366.05(1), 366.82(7) FS. Law Implemented 366.82(7) FS. History—New 10-28-82, Formerly 25-17.52.

25-17.053 Program Announcement.

(1) The program announcement shall:

(a) List the energy conservation measures, detail their applicability, and express in dollars or percentages an estimation of energy cost savings which reasonably can be expected over a period of time for a specified type of residence;

(b) List the energy conservation practices, state that they are of low or no cost and express in dollars or percentages an estimation of energy cost savings which reasonably can be expected over a specified period of time from the adoption of individual practices or combination of practices;

(c) Describe the energy conservation audit, and offer it to all eligible customers, advising them that they may contact the utility and receive the audit. If any fee is charged for the audit, the announcement shall state the amount charged;

(d) Describe and offer to eligible customers an alternative audit and/or the customer assisted audit;

(e) Contain the following or a comparable statement regarding the five-star rating system: "Audit results will include an evaluation of the energy efficiency of your residence, according to a five-star rating system. The five-star rating lets you compare the energy efficiency of your home with that of other residences. Owners of the most energy efficient homes, those qualifying for a five-star rating, and owners of homes above average in energy efficiency, those earning a four-star rating,

will receive a certificate attesting to their home's efficiency. The auditor will also provide a list of the steps you can take to increase your home's efficiency to qualify for either a four or five star rating." The statement may appear on a separate sheet of paper included with the program announcement.

(f) Explain the procedure for an eligible customer to follow when requesting any audit:

(g) Include the following disclosure or its equivalent: "Energy savings depend on many factors. The estimates contained in the Program Announcement are based on estimates for typical houses. Your costs and savings will be different if your house is a different size or type, if your family is a different size, or if your energy using habits are different from those we assumed. The energy conservation audit which we offer will provide more specific estimates for your home".

(h) Include a brief explanation of federal and state energy tax credits as well as a brief explanation of the benefits of the Weatherization Assistance Program for Low Income Persons, 10 CFR Part 440, and a brief description of who is eligible for such assistance:

(i) If applicable, describe the arrangement services offered by the utility pursuant to Rule 25-17.061:

(j) If applicable, state and briefly describe the fact that conciliation and redress procedures will be afforded the customer who is dissatisfied with materials, contractors, or loans secured through DACS lists of suppliers, contractors or lenders.

(2) By January 15, 1981, each utility shall submit to the Commission staff the full contents of its proposed program announcement. If by February 1, 1981, the Commission staff has failed to call to the utility's attention any defects in its contents, the program announcement of that utility will be deemed satisfactory for distribution.

(3) Mailing:

(a) Unless otherwise authorized by Commission order upon good cause shown, by April 1, 1981 each utility shall send its program announcement to all its eligible customers:

(b) After sending the program announcement pursuant to paragraphs (a) and (c) of this subsection, each utility shall send its current program announcement to each new customer within sixty days of the customer's initiation of service:

(c) Every two years after the initial mailing, the utility shall send a current program announcement to all its eligible customers:

(d) For the purpose of this rule only, a gas utility and an electric utility servicing the same geographical area may issue jointly a single Program Announcement.

Specific Authority 366.05(1), 366.82(1), (5) FS. Law Implemented 366.82 FS. History—New 5-4-80, Amended 12-18-80, Formerly 25-6.113, Amended 10-28-82, 2-22-84, Formerly 25-17.51.

25-17.054 Energy Audit; Offer and Initial Contact.

(1) Each utility shall offer an Energy Conservation Audit to its eligible customers.

(2) Each utility shall also offer its eligible customers either the customer assisted (mail-in) audit or the alternative (walk-through) audit, provided however, that neither of these audits shall be in lieu of or a prerequisite to the Energy Conservation Audit offer requirement described in subsection (1) of this rule.

(3) Upon the request of an eligible customer for any energy audit described in this chapter or for an evaluation under the five-star rating system, the utility shall:

(a) Advise the customer as to the scope and cost of the Energy Conservation Audit; and

(b) Advise the customer as to the existence and scope of the alternative audit and/or the customer assisted audit; or

(c) Provide the rating developed under the five-star rating system. If the customer was previously audited, the five-star rating may be developed from existing audit records.

(4) If an eligible customer requests an energy conservation audit, the utility shall, within 15 days of the request, schedule the audit and advise the customer of the date of the audit, as well as the title and/or name and phone number of the auditor.

(5) Unless the eligible customer requests a later date, the utility shall perform the energy conservation audit within 21 days of scheduling it pursuant to subsection (4) of this rule.

Specific Authority 366.05(1), 366.82(1), (5) FS. Law Implemented 366.82 FS. History—New 5-4-80, Amended 12-18-80, Formerly 25-6.114, Amended 10-28-82, 2-22-84, Formerly 25-17.54.

25-17.0545 Contracts for Performing Audits. Any utility may contract with another entity to perform the audits required by these rules.

Specific Authority 366.05(1), 366.82(1), (5) FS. Law Implemented 366.82 FS. History—New 10-28-82, Formerly 25-17.545.

25-17.055 Performance of the Energy Conservation Audit.

(1) Pre-performance Criteria.

(a) Each utility shall adopt procedures to assure that estimates of energy cost savings and costs for conservation measures are based on:

1. Typical and recent local prices for materials and installation; and
2. Typical local climate data for the audited residence.

(b) At least semi-annually, each utility shall update the data collected pursuant to paragraph (1)(a).

(c) When computing payback time, the utility shall calculate and use the anticipated percentage change in energy costs.

(d) The utility shall use only DOE approved methodologies and assumptions when performing the Energy Conservation Audit. The utility shall submit certification of compliance with this paragraph to the Commission.

(2) The Energy Conservation Audit:

(a) Upon arrival at the residence of the eligible customer, the auditor shall furnish proper identification and confirm that the customer understands the scope and cost of the Energy Conservation Audit. The auditor shall collect the fee of arrangement for billing pursuant to Rule 25-17.059(1)(a).

1. The auditor shall discontinue or decline to perform the audit if the customer, at any time, objects to its performance.

2. The auditor may discontinue or decline to perform the audit if the auditor determines that continuation of the audit presents some danger to him or her.

3. In either event described in sub-paragraph 1. or 2., the auditor shall record the reason for the incomplete audit.

(b) The auditor shall determine which of the conservation practices are applicable, explain those practices to the customer, emphasize their importance, and recommend that the customer apply them before or in addition to any conservation measure.

(c) With regard to determining appropriate conservation measure, the auditor shall gather and record the following information where applicable:

1. Exterior opaque wall area and present level of insulation.

2. Exterior window and door areas, type and condition.

3. Ceiling area and present level of insulation.

4. Floor area and present level of insulation.

5. Water heater size, age and type.

6. Air conditioning system type, fuel, approximate age, size and duct condition.

7. Heating system type, fuel, approximate age and size.

8. Other items as appropriate.

(d) Using the data gathered pursuant to paragraph (c), and determining applicability of each conservation measure, the auditor shall make calculations designed to arrive at an estimation of the potential energy and overall cost savings to the customer who installs the appropriate conservation measures.

1. The auditor shall make calculations with reference to the appropriate building materials, heat transfer data, appliance efficiency data, energy and/or demand costs, and retrofit costs.

2. The auditor shall evaluate for the conservation measure listed in Rule 25-17.051(10)(p) and (q) only in regions with 1,000 or more heating degree days per year. The auditor shall evaluate for the conservation measure listed in Rule 25-17.051(10)(o) in areas with fewer than 1,000 heating degree days per year only upon customer request.

3. The auditor may not evaluate for conservation measures listed in Rule 25-17.051(10)(a) or (k) unless the evaluation is done in compliance with Rule 25-17.057(3)(a) and (b).

(e) Based upon the information from paragraphs (c) and (d) above, the auditor shall calculate the residence's rating under the five-star

rating system and provide the rating to the customer, in writing, along with the more detailed audit results.

Specific Authority 366.03(1), 366.82(1), (3) FS. Law Implemented 366.82 FS. History—New 5-4-80. Amended 12-16-80. Formerly 25-6.115, 25-6.115(3)(a). Transferred to 25-17.51(9), (10), 25-6.115(3)(c). Amended 10-28-82, 2-22-84. Formerly 25-17.55. Amended 5-20-92.

25-17.0555 The Five-Star Rating System.

(1) Each utility shall use the procedures outlined in this rule to develop a five-star rating system to provide the results of an Energy Conservation Audit or an Alternative (walk-through) Audit according to a simplified rating scale. A rating under the five-star rating system may be based only on audit forms that reference conversion of electric strip house heating or water heating to natural gas heating in addition to other measures. Where an audit has already been conducted, a rating under the five-star rating system may be based on a non-complying audit form if the audit is revised to include references to natural gas conversions and the customer is so informed.

(a) A point system shall be developed to relate each conservation measure evaluated in the Energy Conservation Audit or Alternative (walk-through) Audit to a percentage saving in annual energy consumption. The "base" residence shall be considered to have the potential for an improvement of 100% in its energy efficiency, and shall be assigned a value of 100 points. A home which would result in audit findings that all conservation measures had been taken will be considered to have a potential for an improvement of 0% in its energy efficiency, and will be assigned a value of zero points.

(b) The points determined in accordance with paragraph (a) above, shall be converted to a five-star rating according to the following relationship:

0-20 points, 5 Stars; 21-40 points, 4 Stars; 41-60 points, 3 Stars; 61-80 points, 2 Stars; 81-100 points, 1 Star; 101 or more points, 0 Stars.

A higher number of stars denotes a more efficient home, with the five-star rated home being the most efficient.

(2) The auditor shall provide the customer with the residence's star rating under the five-star rating system, but shall not provide the number of points used in developing the five-star rating unless otherwise required under the provisions of Chapter 119, Florida Statutes (Public Records Law).

(a) Within one week of the completion of the audit, a four-star or five-star certificate shall be provided to the customer whose residence qualifies for such a rating. No certificate shall be provided for a residence qualifying for less than four stars.

(b) The auditor shall inform the customer, in writing, of those conservation measures or combination of measures needed to be taken to qualify the audited residence for an award of a four-star or five-star certificate. This may be accomplished by written notation on the detailed

audit results given to the customer upon completion of the audit.

(c) The auditor shall inform the customer, in writing, of the procedure by which the customer may certify to the utility that installations of conservation measures have been completed to upgrade the residence to qualify for a four-star or five-star certificate.

(d) Each utility shall initiate its five-star program no later than June 1, 1984, and shall file the initial data required by Rules 25-17.064(2)(k) and 25-17.065(1)(e), F. A. C., concurrent with the June 1, 1985 annual report required under Rule 25-17.064(2), F. A. C.

Specific Authority 366.05(1), 366.82(1), (5) FS. Law Implemented 366.82 FS. History—New 2-22-84, Formerly 25-17.355.

25-17.056 Program Inspections. This rule only applies to installations of conservation measures which were arranged by a utility pursuant to Rule 25-17.061, F. A. C.

(1) To ensure quality control, and upon notification by the eligible customer that an audit recommended installation has occurred, the utility shall perform random inspections of conservation measures installed as a result of the utility's recommendation.

(2)(a) Assurance that all persons performing post-installation inspections have received training and are qualified to determine whether the installation is in compliance with the standards prescribed in subsection (6); and

(b) The procedure it intends to use to ensure randomness. Procedures not rejected by the Commission staff within two weeks of submission shall be deemed approved.

(3) The utility shall inspect four of each contractor's first ten installations of ceiling insulation, wall insulation, floor insulation, and domestic solar water heating systems. The utility shall inspect at least one installation of each contractor of conservation measures.

(4) The utility shall inspect ten percent of all energy conservation measures that are installed as a result of the utility's recommendation. Inspections performed pursuant to subsection (3) shall be included to meet the requirement imposed by this subsection.

(5) All post-installation inspections will be conducted by a qualified inspector with no financial interest in the contractor who installed the measure unless the contractor is the utility.

(6) The inspector will investigate to determine if the installation was accomplished in conformance with the applicable installation standards published in the Federal Register under Subpart I of the RCS Final Rule (10 CFR Part 456, 44 FR 64602, November 7, 1979), or, in the case of domestic solar hot water and domestic solar pool heating systems, in accordance with the Florida Standard Practices for Design and Installation of Solar Domestic Hot Water and Pool Heating Systems, promulgated by the Florida Solar Energy Center effective March 1, 1981.

(7) The utility shall provide a reinspection if a violation of materials or installation standards is found.

(8) The utility shall report the results of the inspection to the eligible customer, the installer and DACS within two weeks of the inspection. The report shall contain any customer complaint concerning the installation.

Specific Authority 366.05(1), 366.82(1), (5) FS. Law Implemented 366.82 FS. History—New 3-4-80, Amended 12-16-80, Formerly 25-6.116, Amended 10-28-82, Formerly 25-17.56.

25-17.057 Energy Conservation Audit Results.

(1) Unless an alternative method is authorized by Commission order upon good cause shown, the auditor shall make recommendations and provide the audit results and any recommendations to the customer, on site, in writing, and in person, upon completion of the audit, unless the customer is not present at the time of the audit or otherwise declines in-person presentations.

(2) The auditor shall provide the customer with:

(a) The estimated energy and overall cost savings that would likely result from each applicable energy conservation measure, in accordance with or except as provided in subsection (3) of this rule;

(b) An estimation of the total installation cost for each conservation measure, as provided in subsection (4) of this rule;

(c) The annual ordinary maintenance cost, if any, for each conservation measure;

(d) The first year's energy savings in dollars or a range of dollars for each conservation measure;

(e) The expected time of payback as provided in subsection (5) of this rule;

(f) A clear indication via sample calculations or disclosure, that the total energy cost savings from the installation of more than one energy conservation measure could be less than the sum of energy cost savings of each conservation measure installed individually;

(g) An explanation of the availability, if any, of innovative energy conservation rate structures or load management techniques offered by the utility;

(h) A sample calculation of the effect of federal and/or state tax benefits on the cost to the customer of installing at least one applicable energy conservation measure and, where possible, one or more renewable resource measure.

(3)(a) Except as provided in this paragraph, the auditor may not provide cost and savings estimations for furnace efficiency modifications described in Rule 25-17.051(10)(a) and (k), unless the furnace uses primarily a source of energy supplied by the utility performing the audit. Absent such use, the auditor shall provide cost and savings estimations for furnace efficiency modifications if the customer requests them and if the customer agrees to sign the following statement: "If your home is heated by a source of fuel other than (state the type of fuel supplied by the utility), only the supplier of your fuel may audit your furnace unless you specifically request us to do so. Federal law requires that such a request be in writing. If you

want us to audit your furnace, although we do not supply the fuel it uses, please sign below."

(b) With regard to the conservation measure listed in Rule 25-17.051(10)(a) and (k), the auditor shall base any cost and savings estimations on an evaluation of the seasonal efficiency of the boiler or furnace. Seasonal efficiency shall be based on estimated peak (tuned up) steady state efficiency corrected for cycling losses. Steady state efficiency shall be derived from manufacturer's design data and observation of the furnace components or, alternatively, by a flue gas analysis of measured flue gas temperature and carbon dioxide content, or by procedures set forth by DOE in "Final Energy Conservation Test Procedures," 43 Federal Register, 20128, 20147.

(4)(a) Except as provided in paragraph (b), the auditor shall provide an estimation of the total installation cost for each conservation measure which reflects the customer's installing it himself or herself and which reflects the cost to the customer of having the measure installed by a contractor.

(b) With regard to the replacement of central air conditioners and wall insulation, the auditor may not provide an estimation of its installation cost which reflects the customer's self installation of the measure.

(5) The auditor shall provide to the customer an estimation of the expected time for payback of the customer's cost of purchasing and installing any conservation measure.

(a) Except as provided by Commission order, all payback computations shall be based on the anticipated percentage change in energy bills as calculated by the utility in compliance with Rule 25-17.055(1)(c). The utility shall compute the applicable rate for each succeeding year by January 31st of that year.

(b) For ceiling insulation, the auditor shall calculate the payback period for at least one increased level of insulation either to or above R-19 or, for residences with resistance heat systems in regions having 1,000 or more heating degree days per year, to or above R-22. Such calculations shall be in increments of R-11. The auditor may calculate payback periods for other levels of insulation if the customer so requests or if the utility believes higher levels would be cost effective. Auditors shall express recommendations in terms of R values and not in inches.

Specific Authority 366.05(1), 366.82 FS. Law Implemented 366.82 FS. History—New 5-4-80, Amended 12-16-80, Formerly 25-6.117, Amended 10-28-82, Formerly 25-17.37, Amended 5-20-92.

25-17.059 Energy Conservation Audit Charges, Disclosures, and Disclaimers.

(H) Charges

(a) The utility may charge the eligible customer for the Energy Conservation Audit. If any charge is made, it shall not exceed \$15.00 and the amount to be charged shall first be filed with the Commission as part of the utility's tariff. The utility shall allow

the customer the option of: paying by personal check, money order, or cash at the time of the audit; or being charged the audit cost on his or her utility bill.

(b) The utility may not charge for performance of the customer assisted audit.

(c) The utility may charge for an alternative (walk-through) audit. However, any charge imposed by a utility for performance of a walk-through audit shall first be filed with the Commission as a part of the utility's tariff. The charge shall not exceed \$5 per audit. The utility shall submit their procedure for conducting a walk-through audit to the Commission for approval prior to conducting these audits.

(2) Disclosures

(a) Each Energy Conservation Audit result sheet shall include a statement to the following effect: "The procedures used to make these estimates are consistent with U. S. Department of Energy criteria for residential energy audits and have been or will be evaluated by the department for accuracy. However, the actual installation costs you incur and energy savings you realize from installing these measures may be different from the estimates contained in this audit report. Although the estimates are based on measurements of your house, they are also based on assumptions which may not be totally correct for your household due to energy use patterns."

(b) The auditor shall provide the eligible customer with a written statement of any interest which the auditor or the utility has directly or indirectly in the sale or installation of any energy conservation measure. However, if the utility supplies, installs or finances the sale of any energy conservation measure, this subsection shall not operate to prohibit the auditor from advising the eligible customer of that fact.

(c) Upon request of the customer, the auditor shall disclose the results of any prior energy conservation audit of the customer's residence for which records are still available.

(3) The results of the Energy Conservation Audit shall contain the following or a similar disclaimer: "The utility does not warrant or guarantee the audit findings or recommendations nor is the utility liable as a result of the audit for the acts or omissions of any person who implements or attempts to implement those conservation measures found and recommended as cost effective by the auditor."

Specific Authority 366.05(1), 366.82(1), (3) FS. Law Implemented 366.82 FS. History—New 5-4-80, Amended 12-16-80, Formerly 25-6.119, Amended 10-28-82, Formerly 25-17.39.

25-17.061 Financing and Installation Arrangements.

(4) General Provisions

(a) All utilities, except those not subject to the State Plan adopted pursuant to section 366.82(6),

F.S. shall offer installation and financing arrangement services to their eligible customers.

(b) Utilities subject to this rule shall note the availability of these services in the Program Announcement and on the written results of the Energy Conservation Audit.

(c) Upon completion of the Energy Conservation Audit, or within 10 days of any request for the list by an eligible customer, the auditor or the utility shall provide the eligible customer with a list of lending institutions and a list of suppliers and installers operating within the vicinity of the customer and appearing on the lists of lenders, suppliers, and contractors promulgated by DACS for that service area.

(d) When arranging financing and/or installation pursuant to this rule, the utility may not:

1. Discriminate among eligible customers, suppliers, contractors, conservation measures, or lending institutions;
2. Arrange financing for and/or installation of any measure which is not a conservation measure;
3. Arrange financing for and/or installation with a contractor who does not appear on the lists promulgated by DACS.

(e) For the purpose of this subsection, the term "in the vicinity" refers to the county in which the customer resides or, upon customer request, an adjacent county.

(2) Financing Arrangement

(a) Upon request, the utility shall offer financing arrangement services to any eligible customer who indicates a desire to install an energy conservation measure or several conservation measures.

(b) The utility shall attempt to answer any questions the customer may have regarding the nature of the financing arrangement service.

(c) If requested to do so by the eligible customer, the auditor or utility shall assist in the completion and/or submission of the customer's application to no fewer than three lending institutions described in paragraph (c) of subsection (1) of this rule.

(3) Installation Arrangements

(a) The auditor shall offer this service to the customer upon request or at the time of an audit.

(b) If requested to do so by the eligible customer, the utility shall contact three installers within fifteen working days of the request, describe the job, and request that the installers contact the customer with a bid.

(c) If none of the installers offer the customer a bid and if the customer requests additional assistance, the utility shall contact two different installers in the same manner and for the same purpose as detailed in paragraph (b) of this subsection. This paragraph shall not be construed to require the utility to provide additional assistance more than a single time.

(d) Nothing in this subsection shall operate to preclude the Commission from approving, by order, alternative methods for the utility's compliance with this installation arrangement requirement.

Specific Authority 366.05(1), 366.82(5) FS; Law Implemented 366.82 FS; History—New 12-16-80, Amended 10-28-82, Formerly 25-17.61.

25-17.064 Program Work Plans and Reports.

(1) By January 15, 1981, each utility shall submit its work plan to the Commission staff. The work plan shall explain in detail how the utility intends to implement the RCS Program. The work plan shall describe:

- (a) Auditor training;
- (b) Management procedures developed for conducting the audits, including but not limited to scheduling and backup procedures for peak periods;
- (c) Arrangement services for installation and financing, if applicable;
- (d) Audit algorithms (sample calculations) or evidence that the utility's audit routine has been approved by DOE;
- (e) Audit data gathering format;
- (f) Audit results presentation format;
- (g) Labor and material cost derivation tables to be used in audit calculations;
- (h) Inspections reporting procedures and forms;
- (i) Any alternative audit, its cost to the utility and the utility's proposed charge to the customer for that audit.

(2) Beginning June 1, 1981 and annually thereafter through June 1, 1986, each utility shall submit to the Commission staff a report of its activities pursuant to the RCS Program. The report shall be submitted on a form to be supplied by the Commission. The report shall include: a brief summary of program results up to April 1st of the year in which it is submitted and should, if applicable, identify such items as customer receptivity to the program and customer willingness to adopt energy conservation practices and measures. The report shall also detail the:

- (a) Number of Program Announcements sent during the reporting period;
- (b) Number of energy conservation audits offered during the reporting period;
- (c) Number of eligible customers requesting an energy conservation audit;
- (d) Number of energy conservation audits scheduled during the reporting period;
- (e) Number of energy conservation audits performed during the reporting period;
- (f) Number of alternative audits requested by and/or performed for eligible customers;
- (g) Number of customer assisted audits requested by and/or performed for eligible customers;
- (h) Approximate number of eligible customers for whom the utility is the primary supplier of heating fuel;
- (i) Number of installations arranged by the utility;
- (j) Number of eligible customers who are using the billing system for repayment of loans, where applicable;
- (k) Number of four-star and five-star award certificates issued during the reporting period.

(l) Number and function of persons assigned by the utility to participate in the program;

(m) Cost incurred by the utility in providing each service (i.e., auditing, publicity, financing) including separately the costs paid by the individual customers for services received and costs paid by all ratepayers;

(n) Number and nature of complaints made to the utility by eligible customers against suppliers, installers, and/or lenders;

(o) Number and results of post-installation inspections.

Specific Authority: 366.05(1), 366.82(5) FS. Law Implemented 366.82 FS. History—New 3-4-80. Amended 12-16-80. Formerly 25-6.124. Amended 10-28-82, 2-22-84. Formerly 25-17.84.

25-17.065 Program Recordkeeping.

(1) For at least five years from the date of a request each utility shall maintain:

(a) The name and address of each customer who receives any audit;

(b) A record of the data collected during the audit and a record of the estimates of cost and savings presented to the customer;

(c) A record of all requests by eligible customers for furnace audits;

(d) The name and address of each eligible customer for whom the utility arranges installation and/or financing of a single or several conservation measures.

(e) A record of the rating awarded under the five-star rating system.

(2) Where an eligible customer primarily purchases his or her energy needs from the utility performing the energy conservation audit, the utility shall keep a record of the amount of electricity and/or natural gas purchased each month by that customer. The utility shall keep that record for the lesser of two years or the duration of that customer's continued ownership or occupancy of the residence which received an audit. The record shall consist of those energy amounts used by the customer for twelve months prior and for twelve months after the date of the audit where the customer maintains residence for that duration.

(3) Each electric utility shall retain moneys collected pursuant to Rule 25-17.059(1)(a) in subaccounts within Account 456. Each gas utility shall retain moneys collected pursuant to Rule 25-17.059(1)(a) in subaccounts within Account 495.

Specific Authority: 366.05(1), 366.82(5) FS. Law Implemented 366.82 FS. History—New 3-4-80. Amended 12-16-80. Formerly 25-6.123. Amended 2-22-84. Formerly 25-17.85.

PART III UTILITIES' OBLIGATIONS WITH REGARD TO COGENERATORS AND SMALL POWER PRODUCERS

25-17.080 Definitions and Qualifying Criteria.

(1) For the purpose of these rules the Commission adopts the Federal Energy Regulatory Commission Rules 292.101 through 292.207, effective March 20, 1980, regarding definitions and

criteria that a small power producer or cogenerator must meet to achieve the status of a qualifying facility. Small power producers and cogenerators which fail to meet the FERC criteria for achieving qualifying facility status but otherwise meet the objectives of economically reducing Florida's dependence on oil and the economic deferral of utility power plant expenditures may petition the Commission to be granted qualifying facility status for the purpose of receiving energy and capacity payments pursuant to these rules.

(2) In general, under the FERC regulations, a small power producer is a qualifying facility if:

(a) the small power producer does not exceed 80 MW; and

(b) the primary (at least 50%) energy source of the small power producer is biomass, waste, or another renewable resource; and

(c) the small power production facility is not owned by a person primarily engaged in the generation or sale of electricity. This criterion is met if less than 50% of the equity interest in the facility is owned by a utility, utility holding company, or a subsidiary of them.

(3) In general, under the FERC regulations, a cogenerator is a qualifying facility if:

(a) the useful thermal energy output of a topping cycle cogeneration facility is not less than 5% of the facility's total energy output per year; and

(b) the useful power output plus half of the useful thermal energy output of a topping cycle cogeneration facility built after March 13, 1980, with any energy input of natural gas or oil is greater than 42.5% or 45% if the useful thermal energy output is less than 15% of the total energy output of the facility; and

(c) the useful power output of a bottoming cycle cogeneration facility built after March 13, 1980, with any energy input as supplementary firing of natural gas or oil is not less than 45% of the natural gas or oil input on an annual basis; and

(d) the cogeneration facility is not owned by a person primarily engaged in the generation or sale of electricity. This criterion is met if less than 50% of the equity interest in the facility is owned by a utility, utility holding company, or a subsidiary of them.

Specific Authority: 366.05(9), 350.127(2) FS. Law Implemented 366.05(9) FS. History—New 3-13-81. Amended 9-4-83. Formerly 25-17.80.

ANNOTATIONS

Changes within generation expansion plan

PSC concluded that utilities should be required to notify, in a timely manner, interested qualifying facilities (QFs) and the Commission of changes in utilities' generation expansion plans within a reasonable time after management approval of the changes. However, PSC did not direct that utilities file new generation expansion plans with it for purposes of PSC formal review and participation by all interested parties. Rules 25-17.0832 and 25-17.0833, F.A.C., provide sufficient opportunities for QFs to participate in the review of the utilities' plans. A requirement of PSC review of a utility's plans upon every change in same would result in ambiguities concerning which plan utilities should use as a basis for

Rules 25-17.003, 25-
17.051, 25-17.052, 25-
17.053, 25-17.054, 25-
17.0545, 25-17.055, 25-
17.0555, 25-17.056, 25-
17.057, 25-17.059, 25-
17.061, 25-17.064, and
25-17.065, F.A.C.
Docket No. 960023-EG

SUMMARY OF RULE

Rule 25-17.003, Energy Audits. The amendments to this rule set forth the minimum requirements for performing energy audits.

Rule 25-17.051, Definitions as Used in this Part. The rule was repealed.

Rule 25-17.052, Auditors, Minimum Qualifications. The rule was repealed.

Rule 25-17.053, Program Announcement. The rule was repealed.

Rule 25-17.054, Energy Audit; Offer and Initial Contact. The rule was repealed.

Rule 25-17.0545, Contracts for Performing Audits. The rule was repealed.

Rule 25-17.055, Performance of the Energy Conservation Audit. The rule was repealed.

Rule 25-17.0555, The Five-Star Rating System. The rule was repealed.

Rule 25-17.056, Program Inspections. The rule was repealed.

Rule 25-17.057, Energy Conservation Audit Results. The rule was repealed.

Rule 25-17.059, Energy Conservation Audit Charges, Disclosures, and Disclaimers. The rule was repealed.

Rule 25-17.061, Financing and Installation Arrangements. The

rule was repealed.

Rule 25-17.064, Program Work Plans and Reports. The rule was repealed.

Rule 25-17.065, Program Recordkeeping. The rule was repealed.

SUMMARY OF HEARINGS ON THE RULE

At its June 11, 1996, agenda conference, the Commission voted to adopt the proposed amendments with changes.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Section 366.82(5), Florida Statutes, requires the Commission to require those utilities that fall under the "Florida Energy Efficiency and Conservation Act" (FEECA) to offer energy audits to residential customers. Rule 25-17.003, Florida Administrative Code, and Part II of Chapter 25-17, Florida Administrative Code, currently set forth the Commission's minimum requirements for energy audits. Many of these rules refer to the now obsolete Federal Residential Conservation Service (RCS) that was mandated by the National Energy Conservation Policy Act of 1978. Since RCS was sunset in 1986, the Commission has repealed those portions of the audit rules that refer to the federal program and the remaining relevant portions of the rules were streamlined and consolidated into the amendments to Rule 25-17.003. The amended rules will result in less burdensome regulations over energy audits.

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