

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO: 960912-EI

IN RE:

NOTICE OF PROPOSED RULE DEVELOPMENT

TO

ALL INTERESTED PARTIES

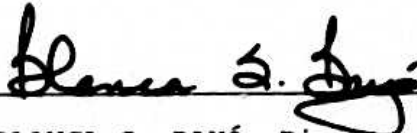
ISSUED: November 25, 1996

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes, that the Florida Public Service Commission staff has initiated the development of amendments to Chapter 25-7, Florida Administrative Code, to repeal provisions relating to general information, governmental solid waste energy and capacity, planning hearings and the utility's obligation to sell.

The attached Notice of Proposed Rule Development will appear in the December 6, 1996, edition of the Florida Administrative Weekly. It is not anticipated that a rule development workshop will be necessary; however, a request will be considered if submitted in writing and received by the Director, Division of Records and Reporting, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, no later than December 27, 1996. If a timely workshop request is granted, a workshop will be held at the following time and place:

Florida Public Service Commission
9:30 a.m., January 23, 1997
Betty Easley Conference Center
Room 152, 4075 Esplanade Way
Tallahassee, Florida 32399-0850

By Direction of the Florida Public Service Commission, this 25th day of November, 1996.



BLANCA S. BAYÓ, Director
Division of Records & Reporting

(S E A L)

RCB

12611-76
11/25/96

FLORIDA PUBLIC SERVICE COMMISSION

RULE TITLE:	RULE NO.:
General Information	25-17.001
Planning Hearings	25-17.0833
The Utility's Obligation to Sell	25-17.084
Governmental Solid Waste Energy and Capacity	25-17.091

PURPOSE AND EFFECT: Repeal of obsolete rules.

SUBJECT AREA TO BE ADDRESSED: Definitions, planning hearings, qualifying facilities and governmental solid waste requirements applicable to investor owned electric utilities.

SPECIFIC AUTHORITY: 350.127(2), 355.051, 366.05(1), 366.05(8), 366.05(9), 366.82(1)-(4) FS.

LAW IMPLEMENTED: 366.05, 366.051, 366.055(3), 366.82(1)-(4), 377.709 FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD ON THE TIME, DATE, AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m., January 23, 1997

PLACE: Betty Easley Conference Center, 4075 Esplanade Way, Room 152, Tallahassee, FL 32399-0850.

THE WORKSHOP REQUEST MUST BE SUBMITTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE TO THE COMMISSION'S DIVISION OF RECORDS AND REPORTING, 4075 ESPLANADE WAY, TALLAHASSEE, FL 32399-0850.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT

IS: DIRECTOR OF APPEALS, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-17.001 General Information.

(1) The terms system and electric utility, as used in this Rule, shall be synonymous and have the same definition as "electric utility" as defined in section 366.82(1), F.S.

(2) The Florida Energy Efficiency and Conservation Act requires increasing the efficiency of the electric systems of Florida, increasing the conservation of expensive resources, such as petroleum fuels, reducing the growth rate of weather sensitive peak demand, and reducing and controlling the growth rate of kilowatt hour consumption to the extent cost effective.

(3) Reducing the growth rate of weather sensitive peak demand on the electric system to the extent cost effective is a priority. Reducing the growth rate of weather sensitive peak demand benefits not only the individual customer who reduces his demand, but also all other customers on the system, both of whom realize the immediate benefits of reducing the fuel costs of the most expensive form of generation and the longer term benefits of deferring the need for or construction of additional generating capacity.

(4) Another priority is increasing the efficiency of the end-use consumption of electricity to the extent cost-effective.

(5) In addition to specific demand-side goals, general goals and methods for increasing the overall efficiency of the bulk

electric power system of Florida are broadly stated since these methods are an ongoing part of the practice of every well-managed electric utility's programs and shall be continued.

These methods are to:

Generating Electric Utilities

(a) Review and revise utility operating practices such as maintenance scheduling, daily and longer term unit commitment practices through the power broker system to facilitate economic dispatch on both a daily and extended basis and to increase conservation of expensive fuel resources, such as petroleum fuels, to the extent cost effective.

(b) Plan development of the bulk power system over time so that the most cost effective combination of generating units, associated facilities and other technologies is developed for meeting generation requirements.

(c) Increase the efficiency of each generating unit and associated operating practices to the extent cost effective.

All Electric Utilities

(d) Aggressively integrate nontraditional sources of power generation including cogenerators with high thermal efficiency and small power producers using renewable fuels into the various utility service areas near utility load centers to the extent cost effective and reliable.

(e) Increase the efficiency of transmission and distribution systems to the extent cost effective.

(f) Aggressively pursue research, development and demonstration projects jointly with others as well as individual projects in individual service areas. In this context, the Commission anticipates that an aggressive research program would include both technological research, research on load behavior and related problems and market-related research.

(6) The Commission shall continuously review the relationship between demand and energy, both present and anticipated. In making its determinations of need pursuant to the Florida Electrical Power Plant Siting Act, the Commission shall take these relationships into account so that sufficient capacity will be authorized to meet anticipated needs. These goals represent a starting point for establishing demand-side management programs for all electric utilities. While there is no absolute assurance that these goals will be fully achieved within the expected time frames, the best efforts by the electric utilities to achieve them shall be required. In any proceeding for determining whether new capacity is needed, the length and nature of experience under the goals will be considered. The goals will not be used exclusively because the Commission recognizes that they may not be achieved and that the estimates on which they are based may prove to be incorrect. To increase the accuracy of these estimates the Commission anticipates that research will be required, including both technological research and studies of the market penetration potentials of various demand-side management measures and their effectiveness in

reducing the growth rate of weather sensitive peak KW demand and reducing and controlling the growth rate of KWH consumption as well as studies of consumer behavior.

(7) Rules 25-17.001 through 25-17.005 shall not be construed to restrict growth in the supply of electric power or natural gas necessary to support economic development by industrial or commercial enterprises. Rather, these rules should be construed so as to enhance job-producing economic growth by lowering energy costs from what they otherwise would be if these goals were not achieved.

Specific Authority: 366.05(1), 366.82(1)-(4), F.S.

Law Implemented: 366.82(1)-(4), F.S.

History: New 12/2/80, formerly 25-17.01, Amended 12/30/82, 5/10/93, Repealed.

25-17.0833 Planning Hearings.

(1) Upon petition or on its own motion, the Commission shall periodically review optimal generation and transmission plans from a statewide and individual utility perspective. In connection with these proceedings, the Commission shall consider the need for capacity from both a statewide and individual utility perspective, the adequacy of the transmission grid, and other strategic planning concerns affecting the Florida electric grid.

(2) Upon petition, or on its own motion, the Commission, as needed, shall review individual utility generation and expansion plans at any time.

Specific Authority: 366.05(8), 366.051, 350.127(2), F.S.

Law Implemented: 366.051, F.S.

History: New 10/25/90, Repealed.

25-17.084 The Utility's Obligation to Sell.

Upon compliance with Rule 25-17.087, each utility shall sell energy to qualifying facilities at rates which are just, reasonable, and non-discriminatory.

Specific Authority: 366.05(9), 350.127(2), F.S.

Law Implemented: 366.05(9), F.S.

History: New 5/13/81, amended 9/4/83, formerly 25-17.84, Repealed

25-17.091 Governmental Solid Waste Energy and Capacity.

(1) Definitions and Applicability:

(a) "Solid Waste Facility" means a facility owned or operated by, or on behalf of, local government, the purpose of which is to dispose of solid waste, as that term is defined in section 403.703(13), Fla. Stat. (1988), and to generate electricity.

(b) A facility is owned by or operated on behalf of a local government if the power purchase agreement is between the local government and the electric utility.

(c) A solid waste facility shall include a facility which is not owned or operated by a local government but is operated on its behalf. When the power purchase agreement is between a non-governmental entity and an electric utility, the facility is operated by a private entity on behalf of a local government if:

1. One or more local governments have entered into a long-term agreement with the private entity for the disposal of solid waste for which the local governments are responsible and that agreement has a term at least as long as the term of the contract for the purchase of energy and capacity from the facility; and
2. The Commission determines there is no undue risk imposed on the electric ratepayers of the purchasing utility, based on:
 - a. The local government's acceptance of responsibility for the private entity's performance of the power purchase contract, or
 - b. Such other factors as the Commission deems appropriate, including, without limitation, the issuance of bonds by the local government to finance all, or a substantial portion, of the costs of the facility; the reliability of the solid waste technology; and the financial capability of the private owner and operator.
3. The requirements of subparagraph 2 shall be satisfied if a local government described in subparagraph 1 enters into an agreement with the purchasing utility providing that in the event of a default by the private entity under the power

purchase contract, the local government shall perform the private entity's obligations, or cause them to be performed, for the remaining term of the contract, and shall not seek to renegotiate the power purchase contract.

(d) This rule shall apply to all contracts for the purchase of energy or capacity from solid waste facilities entered into, or renegotiated as provided in subsection (3), after October 1, 1988.

(2) Except as provided in subsections (3) and (4) of this rule, the provisions of Rules 25-17.080 - 25-17.089, Florida Administrative Code, are applicable to contracts for the purchase of energy and capacity from a solid waste facility.

(3) Any solid waste facility which has an existing firm energy and capacity contract in effect before October 1, 1988, shall have a one-time option to renegotiate that contract to incorporate any or all of the provisions of subsection (2) and (4) into their contract. This renegotiation shall be based on the unit that the contract was designed to avoid but applying the most recent Commission-approved cost estimates of Rule 25-17.0832(5)(a), Florida Administrative Code, for the same unit type and in-service year to determine the utility's value of avoided capacity over the remaining term of the contract.

(4) Because section 377.709(4), Fla. Stat., requires the local government to refund early capacity payments should a solid waste facility be abandoned, closed down or rendered illegal, a

utility may not require risk-related guarantees as required in Rule 25-17.0832, paragraph (2)(c), (2)(d), (3)(e)8, and (3)(f)1. However, at its option, a solid waste facility may provide such risk related guarantee.

(5) Nothing in this rule shall preclude a solid waste facility from electing advance capacity payments authorized pursuant to section 377.709(3)(b), F.S., which advanced capacity payments shall be in lieu of firm capacity payments otherwise authorized pursuant to this rule and Rule 25-17.0832, F.A.C. The provisions of subsection (4) are applicable to solid waste facilities electing advanced capacity payments.

Specific Authority: 350.127(2), 377.709(5), F.S.

Law Implemented: 366.051, 366.055(3), 377.709, F.S.

History: New 8/8/85, formerly 25-17.91, Amended 4/26/89, 10/25/90,

Repealed_____.