

State of Florida



Public Service Commission

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

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

DATE: February 17, 2014
TO: Carlotta Stauffer, Commission Clerk - PSC, Office of Commission Clerk
FROM: Chairman Art Graham *JAV for ALG*
RE: Filing for docket files: 130203-EM, 130199-EI, 130200-EI, 130201-EI, 130202-EI, 130204-EM, 130205-EI.

Please place this memorandum in the main docket file for Docket Nos. 130203-EM, 130199-EI, 130200-EI, 130201-EI, 130202-EI, 130204-EM, and 130205-EI and distribute it to all parties of record. This memorandum contains the substance of a communication that passed between myself and David Reed, a Conservation and Efficiency Specialist at JEA, on February 7, 2014. Attached to this memorandum are copies of three documents given to me by Mr. Reed: a description of 2013 House Bill 269 (subsequently passed into law) a 2013 proposed amendment to PSC Rule 25-17.003, Florida Administrative Code (F.A.C.) (subsequently adopted), and an image of energy audits being offered in a retail store.

Based on these documents, we discussed three topics:

Section 553.993, Florida Statutes (F.S.) related to energy efficiency rating systems for buildings, and Section 553.997, F.S. related to application of rating systems to public buildings. Mr. Reed stated two of the authorized "rating systems" listed in the statute are not in fact rating systems. He further stated that statutorily required rating of public buildings proposed for construction, renovation, or acquisition have in fact never been done. I expressed no opinion, but said I would look into it.

PSC Rule 25-17.003, F.A.C. related to energy audits. Mr. Reed stated the reference in the rule to "Building Energy-Efficiency Rating System (BERS) Audit" mischaracterized it because BERS does not define audits, only ratings, and that the rule's requirement that utilities offer BERS Audits is erroneous. I expressed no opinion, but said I would look into it.

Qualifications for energy auditors. He further stated an "energy auditor" is not defined by state law and there are no standards or qualifications. I expressed no opinion, but said I would look into it.

I further expressed my support for conservation as a means of containing utility costs and reducing environmental impacts.

COMMISSION CLERK
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Although I do not believe that this communication is an impermissible ex parte communication, because it dealt with rules and statutes rather than the merits of any matter before the Commission, out of an abundance of caution and to ensure compliance with 350.042, F.S., I am providing this documentation for the docket file.

Attachments

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

NOTICE OF DEVELOPMENT OF RULEMAKING

TO

ALL INTERESTED PERSONS

UNDOCKETED

IN RE: Amendment to Rule 25-17.003, F.A.C., Energy Audits

ISSUED: August 23, 2013

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes, that the Florida Public Service Commission staff has initiated rulemaking to amend Rule 25-17.003, Florida Administrative Code, to update references to Florida's Building Energy Rating System and to eliminate an annual listing of certified residential energy auditors.

The attached Notice of Development of Rulemaking appeared in the August 22, 2013 edition of the Florida Administrative Register. If requested in writing and not deemed unnecessary by the agency head, a rule development workshop will be scheduled and noticed in the next available Florida Administrative Register. Written requests for a rule development workshop must be submitted to Cindy Miller at cmiller@psc.state.fl.us by September 12, 2013. A copy of the preliminary draft rule is attached.

1 **25-17.003 Energy Audits.**

2 (1) Purpose. This rule specifies the minimum requirements for performing energy audits by
3 every utility that falls under the definition of "utility" in Section 366.82(1), F.S.

4 (2) Definitions.

*BERS Does NOT define audits
only "Ratings"*

5 (a) "Building Energy-Efficiency Rating System (BERS) Audit" means an energy analysis of a
6 residence performed in compliance with Section 553.995, F.S., and Rules 61-39.004 and 61-
7 39.005 ~~subsections 9B-60.004(3) and (4) and Rule 9B-60.005~~, F.A.C.

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

12 (c) "Commercial Audit" means an energy analysis of a commercial building and its associated
13 energy systems to determine its energy efficiency and to identify for the customer those
14 measures that may improve its energy efficiency.

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

- 17 1. Installation of clock thermostat;
- 18 2. Replacement of furnace or boiler;
- 19 3. Replacement of resistance heat with heat pump or natural gas furnace;
- 20 4. Replacement of central air conditioning system;
- 21 5. Installation of duct or pipe insulation;
- 22 6. Sealing leaks in pipes and ducts;
- 23 7. Caulking of windows or doors;
- 24 8. Weatherstripping of windows or doors;
- 25 9. Installation of heat-reflective, heat-gain retardant, and heat-absorbing window or door

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

*Energy Auditor is NOT defined by state law
Any one can claim to be an "energy auditor".*

1 service from a utility.

2 (g) "Industrial Audit" means an energy analysis of an industrial facility and its associated
3 energy systems to determine its energy efficiency and to identify for the customer those
4 measures that may improve its energy efficiency.

5 (h) "Mail-in Audit" means an energy analysis of a residence or building in which the utility
6 supplies to the eligible customer a data collection form which is completed by the customer,
7 and, upon receipt of the completed form, the utility analyzes the data and submits to the
8 customer the results of its evaluation.

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

13 (3) Scope.

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

Do not exist

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

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

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

25 (4) Energy Audit Charges.

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- 1 heat loss and heat gain computations utilizing British Thermal Units (BTUs), and pay back
2 calculations;
- 3 3. Utility billing procedures, meter reading, and identification of weather sensitive
4 consumption relationships based on a customer's billing history;
- 5 4. Residential construction terminology and components;
- 6 5. The operation of heating and cooling systems used in residential buildings; and
7 6. The application of energy conservation practices and measures including the advantages
8 and disadvantages of each.
- 9 (6) Pre-audit performance criteria for Computer-Assisted Audits.
- 10 (a) Every utility shall adopt procedures to assure that estimates of energy cost savings and
11 costs for conservation measures are based on:
- 12 1. Typical and recent local prices for materials and installation;
13 2. Typical local climate data for the audited residence; and
14 3. Typical local price of electricity.
- 15 (b) At least twice annually, each utility shall update the data collected pursuant to paragraph
16 (6)(a).
- 17 (7) Performance of the audit.
- 18 (a) Upon arrival at a residence, the auditor shall provide proper identification and confirm the
19 customer's understanding of the scope and cost of the audit.
- 20 1. The auditor shall discontinue or decline to perform the audit if the customer, at any time,
21 objects to its performance.
- 22 2. The auditor may discontinue or decline to perform the audit if the auditor determines that
23 continuation of the audit may be dangerous.
- 24 (b) The auditor shall determine and explain to the customer which conservation practices are
25 applicable and recommend that the customer apply them prior to or in conjunction with
CODING: Words underlined are additions; words in ~~struck-through~~ type are deletions from
existing law.

- 1 (a) Each Computer-Assisted Audit result sheet shall include the following or similar
2 statement: "The procedures used to make these installation cost and energy savings estimates
3 are consistent with Commission rules and good engineering practices. However, the actual
4 installation costs you incur and energy savings you realize from installing these measures may
5 be different from the estimates contained in this audit report. Although the estimates are based
6 on measurements of your house, they are also based on assumptions which may not be entirely
7 correct for your household due to differing energy use patterns."
- 8 (b) The auditor shall provide the eligible customer with a written statement of any interest,
9 direct or indirect, which the auditor or the utility has in the sale or installation of any energy
10 conservation measure.
- 11 (c) Upon customer request, the auditor shall disclose the results of any prior audit of the
12 customer's residence if such records are still available.
- 13 (d) The results of the energy audit shall contain the following or a similar disclaimer: "The
14 utility does not warrant or guarantee the audit findings or recommendations, nor is the utility
15 liable as a result of the audit for the acts or omissions of any person who implements or
16 attempts to implement those conservation measures recommended by the auditor."
- 17 (9) Installation Arrangements.
- 18 (a) A utility may offer installation arrangement services such as providing a list of suppliers
19 and installers of conservation measures.
- 20 (b) If a utility provides these services, the availability of the services shall be noted on the
21 written results of the energy audit.
- 22 (c) When arranging installation services pursuant to this rule, a utility shall not:
- 23 1. Discriminate among eligible customers, suppliers, or contractors; or
24 2. Arrange for installation of any measure which is not included in the utility's most recent
25 Demand Side Management Plan approved by the Commission.

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1 | record that consists of the customer's energy use for 12 months prior and 12 months after the
2 | date of the audit. The record shall list the amount of electricity or natural gas purchased for
3 | every month of both 12 month periods.

4 | (b) Every electric utility shall record the amount collected pursuant to subsection 25-
5 | 17.003(4), F.A.C., in subaccounts within Account 456. Every gas utility shall record the
6 | amount collected pursuant to subsection 25-17.003(4), F.A.C., in subaccounts within Account
7 | 495.

8 | (14) Contracts for Performing Audits. Any utility may contract with another entity to perform
9 | the audits required by this rule.

10 | *Specific Authority 366.05(1), 350.127(2) FS. Law Implemented 350.115, 366.04(2)(a), (f),*
11 | *366.82(5), (7) FS. History—New 12-2-80, Amended 12-30-82, Formerly 25-17.03, Amended*
12 | *11-24-86, 5-10-93, 7-14-96, _____.*

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Overview of HB269 Amendments to the Florida Building Energy Efficiency Rating Act 553.990

FOR INFORMATION PURPOSES ONLY

Overview

HB269 amended statute 553.990, the Florida Building Energy Efficiency Rating Act (BERS). These included sections 553.991 to 553.998. The BERS is still in effect, it has just been amended.

Key Items Summary

- **Section 25:** Amended 553.991 - Establishes a "purpose" for identifying building energy efficiency rating systems.
 - The change was from "provide" for a statewide uniform system for rating the energy efficiency of buildings to identify systems for ratings buildings.
- **Section 26:** Repealed 553.992 - Removes the state of Florida from adopting and maintaining a statewide energy rating system.
 - This eliminates rule 9B60
 - Florida BERS raters eliminated
 - Eliminates FSEC as the only provider allowed in the state. FSEC was contracted by the state to manage the state's adopted rating system.
 - Allows for other providers of approved rating systems (see section 27) to operate in the state of Florida.
 - Allows for standard Resnet rating practices to apply in Florida.
 - Sampling will now be an approved rating practice in Florida.
- **Section 27:** Amended 553.993 - Defines approved rating systems and provides definitions.
 - Defines ratings, raters and energy auditors.
 - The definition of an approved energy auditor is new.
 - Approved rating systems are:
 - RESNET
 - BPI
 - FSEC
 - COMNET
- **Section 28:** Amended 553.994 - Defines applicability of rating systems to all public, commercial and residential buildings in the state.
- **Section 29:** Amended 553.995 – defines the minimum requirements of energy rating systems and provides guidelines for rating state owned or leased buildings
 - The Department of Management Services shall rate state owned or leased buildings.
- **Section 30:** Amended 553.996 - Requires information on building energy efficiency ratings be provided to a prospective buyer at the time of, or before the sale of a building.
 - Rating system providers shall prepare such information and make it available for distribution.
- **Section 31:** Amended subsection (2) of 553.997 - Requires state agencies having building construction and maintenance responsibilities to make available energy-efficient building practices information to individuals doing work on buildings for state and local governments.
 - **Subsection (1) is still in effect and it states: Each public building proposed for construction, renovation, or acquisition shall be rated pursuant to the rating system provided in s. 553.995 prior to contracting for construction, renovation or acquisition."**

Are not & do not have "Rating systems"

No public buildings have EVER had energy ratings done on them

(7) "Energy rater" means an individual certified by a building energy-efficiency rating system to perform building energy-efficiency ratings for the building type and in the rating class for which the rater is certified.

(8) "New building" means commercial occupancy buildings permitted for construction after January 1, 1995, and residential occupancy buildings permitted for construction after January 1, 1994.

(9) "Public building" means a building comfort-conditioned for occupancy that is owned or leased by the state, a state agency, or a governmental subdivision, including, but not limited to, a city, county, or school district.

553.994 Applicability.—Building energy-efficiency rating systems system shall apply to all public, commercial, and residential buildings in the state.

553.995 Energy-efficiency ratings for buildings.—

(1) Building energy-efficiency rating systems must, at a minimum:

(a) Take into account local climate conditions, construction practices, and building use.

(b) Be compatible with standard federal rating systems and state building codes and standards, where applicable, and shall satisfy the requirements of s. 553.9085 with respect to residential buildings and s. 255.256 with respect to state buildings.

(c) Provide a means of analyzing the relative energy efficiency of buildings upon the sale of new or existing residential, public, or commercial buildings.

(2) (a) Ratings may be conducted by a local government or private entity; if the appropriate persons have completed the necessary training established by the applicable building energy-efficiency rating system and have been certified.

(b) The Department of Management Services shall rate state-owned or state-leased buildings if the appropriate persons have completed the necessary training established by the applicable building energy-efficiency rating system.

(c) A state agency that has building construction regulation authority may rate its own buildings and those it is responsible for, if the appropriate persons have completed the necessary training established by the applicable building energy-efficiency rating system

553.996 Energy-efficiency information provided by building energy-efficiency rating systems providers. —A prospective purchaser of real property with a building for occupancy located thereon shall be provided information, at the time of or before the purchaser's execution of the contract for sale and purchase which notifies the purchaser of the option for an energy-efficiency



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