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Public Service Commission

July 9, 2019

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2019 JUL -9 PM 1:31
COMMISSION CLERK

Jaimie Jackson
Joint Administrative Procedures Committee
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, FL 32399-1400

VIA HAND DELIVERY

Re: Statement of Regulatory Costs (SERC) Request for Rule 25-6.0426 – Commission Docket No. 20180143-EI

Dear Ms. Jackson:

We are in receipt of your letter dated June 19, 2019 concerning the SERC for the amendment to Rule 25-6.0426. Enclosed please find the updated SERC for the rule that was proposed on June 13, 2019. No conclusions in the SERC have changed as a result of the modifications.

We plan to file the rule for adoption, without changes, on July 17, 2019. Please contact me at 850-413-6856 if you have any questions or concerns. Thank you.

Sincerely,

Lauren Davis
Senior Attorney

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2019 JUL -9 AM 11:42
JOINT ADMINISTRATIVE PROCEDURES COMMITTEE

LED
cc: Commission Clerk

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: July 1, 2019

TO: Lauren Davis, Senior Attorney, Office of the General Counsel

FROM: Sevini K. Guffey, Public Utility Analyst II, Division of Economics *S.K.G.*

RE: Docket No. 20180143-EI: Petition to initiate rulemaking to revise and amend portions of Rule 25-6.0426, F.A.C., Recovery of Economic Development Expenses, by Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company.
Statement of Estimated Regulatory Costs (SERC) for Proposed Amendments to Rule 25-6.0426, F.A.C.

Current Rule 25-6.0426, F.A.C., Recovery of Economic Development Expenses, applicable to investor-owned electric utilities, limits each utility's recoverable economic development expenses between rate cases to the greater of: (a) the amount approved in each utility's last rate case escalated for customer growth, or (b) 95 percent of the expenses incurred for the reporting period not to exceed the lesser of 0.15 percent of gross annual revenues or \$3 million.

On July 30, 2018, Florida Power & Light Company, Gulf Power Company, and Tampa Electric Company (collectively, petitioners) filed a joint petition to initiate rulemaking to amend Rule 25-6.0426, F.A.C. The petitioners requested that Rule 25-6.0426(3)(b), F.A.C., be revised to change the annual cap to the greater of 0.15 percent of gross annual revenues, rather than the lesser of 0.15 percent of gross annual revenues, or \$3 million. The petitioners also requested that the current limitation to 0.15 percent of gross annual revenues should increase to 0.175 percent in 2020, 0.2 percent in 2021, 0.225 percent in 2022, and 0.25 percent in 2023 and beyond.

A noticed workshop to solicit input on the requested rule revisions and alternatives presented by staff was conducted by Commission staff on January 16, 2019. Prior to the workshop, staff provided the utilities questions to be addressed at the workshop. Additionally, the utilities and the Office of Public Counsel submitted post-workshop written comments on February 15 and on February 18, 2019. Information provided in the petition, responses to data requests, comments that either were received during the workshop or were filed subsequently were incorporated into staff's recommended rule revisions.

On March 7, 2019, staff issued a SERC data request to the petitioners and other investor-owned electric utilities for which responses were received on March 14, 2019. At the June 11, 2019 Agenda Conference, the Commission proposed revisions to subsection (3) of Rule 25-6.0426, F.A.C. as follows:

(3) Prior to each utility's next rate change enumerated in subsection (6), the amounts reported for surveillance reports and earnings review calculations shall be limited to the greater of:

(a) The amount and level of sharing approved in each utility's last rate case escalated for customer growth since that time, or

(b) 95 percent of the total economic development expenses incurred for the reporting period so long as the total economic development expenses do not exceed the greater of 0.225 percent of jurisdictional gross annual revenues or \$10 million. The level of sharing for such economic development expenses that exceed \$10 million shall be 93 percent.

This rule language increases the amount of reportable economic development expenses allowable under the rule for surveillance reports and earning review to 95 percent of the total economic development expenses incurred for the reporting period so long as the total economic development expenses do not exceed the greater of 0.225 percent of the utility's jurisdictional gross annual revenues or \$10 million. Paragraph (3) (b) has also been amended to establish a 93 percent level of sharing for such economic development expenses that exceed \$10 million.

The attached SERC addresses the considerations required pursuant to Section 120.541, Florida Statutes (F.S.). None of the impact/cost criteria established in paragraph 120.541(2) (a), F.S., will be exceeded as a result of the recommended revisions. Specifically, the SERC concludes that the rule will not likely directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate within one year after implementation. Further, the SERC concludes that the rule will not likely have an adverse impact on economic growth, private sector job creation or employment, private sector investment, business competitiveness, productivity, or innovation in excess of \$1 million in the aggregate within five years of implementation. Thus, the rule does not require legislative ratification pursuant to Section 120.541(3), F.S. In addition, the SERC states that the rule will not have an adverse impact on small business and will have no impact on small cities or counties. No regulatory alternatives were submitted pursuant to paragraph 120.541(1)(a), F.S.

cc: SERC File

FLORIDA PUBLIC SERVICE COMMISSION
STATEMENT OF ESTIMATED REGULATORY COSTS
Rule 25-6.0426, F.A.C.

1. Will the proposed rule have an adverse impact on small business? [120.541(1)(b), F.S.] (See Section E., below, for definition of small business.)

Yes

No

If the answer to Question 1 is "yes", see comments in Section E.

2. Is the proposed rule likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in this state within 1 year after implementation of the rule? [120.541(1)(b), F.S.]

Yes

No

If the answer to either question above is "yes", a Statement of Estimated Regulatory Costs (SERC) must be prepared. The SERC shall include an economic analysis showing:

A. Whether the rule directly or indirectly:

(1) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)1, F.S.]

Economic growth

Yes No

Private-sector job creation or employment

Yes No

Private-sector investment

Yes No

(2) Is likely to have an adverse impact on any of the following in excess of \$1 million in the aggregate within 5 years after implementation of the rule? [120.541(2)(a)2, F.S.]

Business competitiveness (including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets)

Yes No

Productivity

Yes No

Innovation

Yes No

(3) Is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule? [120.541(2)(a)3, F.S.]

Yes

No

The recommended rule revisions are not likely to increase regulatory cost; they only provide the utilities with an opportunity to increase their allowable economic development expenses reported for surveillance reports pursuant to subsection (3)(b) of Rule 25-6.0426, F.A.C.

Staff submitted a SERC data request to the utilities the rule revisions apply to. Based upon the information provided in the response to the data request, staff believes that none of the impact/cost criteria established in Section 120.541(2)(a), F.S., will be exceeded as a result of the recommended revisions.

B. A good faith estimate of: [120.541(2)(b), F.S.]

(1) The number of individuals and entities likely to be required to comply with the rule.

This rule is applicable to the five investor-owned electric utilities. The recommended rule revisions do not impose any new requirements on the electric utilities; they only provide the utilities with an opportunity to increase their allowable economic development expenses reported for surveillance reports pursuant to subsection (3)(b) of Rule 25-6.0426, F.A.C.

(2) A general description of the types of individuals likely to be affected by the rule.

The potentially affected entities include five investor-owned utilities in Florida and their retail customers, which includes residential, commercial, and industrial customers. The responses to staff's SERC data request indicate that Florida's economy as a whole could benefit from the proposed rule revisions.

Specifically, FPL stated that its Office of Economic Development has worked with 160 companies pledging to create over 28,000 jobs. From 2012-2017, FPL contends that its economic development efforts have resulted in more than \$84 billion in positive economic impact in Florida with capital investment in the 35 counties served by FPL. This has resulted in \$44 billion impact on Florida's Gross Regional Production; (1) employment impact of 220,000 full-time jobs (direct, indirect and induced), and an additional 281,724 construction jobs, (2) over \$25 billion labor income, and (3) approximately \$2.8 billion in additional state and local taxes.

Gulf Power, in its responses to staff's SERC data request, stated that the company anticipates the draft rule amendments will enable the company to develop programs to enhance workforce readiness, increase national and international awareness and branding, and certify new commercial and industrial sites. These programs would

enhance Florida's ability to attract and retain new and existing businesses with the goal of increasing economic growth, private sector job creation, and investment, while placing downward pressure on rates for all customers.

TECO also stated that the draft rule would benefit Florida's economic growth, private sector job creation and investment.

C. A good faith estimate of: [120.541(2)(c), F.S.]

(1) The cost to the Commission to implement and enforce the rule.

- None. To be done with the current workload and existing staff.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(2) The cost to any other state and local government entity to implement and enforce the rule.

- None. The rule will only affect the Commission.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

(3) Any anticipated effect on state or local revenues.

- None.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

In response to staff's SERC data request, FPL stated that its economic activities have resulted in approximately \$2.8 billion in additional state and local taxes. FPL further stated that the utility anticipates an increased level of funding for the promotion of economic development would allow FPL to continue to contribute to the development of a greater tax base in the future.

Gulf Power, in its responses to staff's SERC data request, stated the company believes as the economy grows through economic development activities, state and local tax revenues should also increase. As new and expanding customer

base grows, franchise fee revenues remitted to local governments would also increase. TECO stated that the draft rule would benefit Florida's economic growth, private sector job creation, and investment.

D. A good faith estimate of the transactional costs likely to be incurred by individuals and entities (including local government entities) required to comply with the requirements of the rule. "Transactional costs" include filing fees, the cost of obtaining a license, the cost of equipment required to be installed or used, procedures required to be employed in complying with the rule, additional operating costs incurred, the cost of monitoring or reporting, and any other costs necessary to comply with the rule.
[120.541(2)(d), F.S.]

- None. The rule will only affect the Commission.
- Minimal.
- Other. Provide an explanation for estimate and methodology used.

The recommended rule revisions are not likely to increase transactional costs; they only provide the utilities with an opportunity to increase their allowable economic development expenses reported for surveillance reports pursuant to subsection (3)(b) of Rule 25-6.0426, F.A.C.

E. An analysis of the impact on small businesses, and small counties and small cities:
[120.541(2)(e), F.S.]

(1) "Small business" is defined by Section 288.703, F.S., as an independently owned and operated business concern that employs 200 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$5 million or any firm based in this state which has a Small Business Administration 8(a) certification. As to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments.

- No adverse impact on small business.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

In response to staff's SERC data request, FPL stated that supporting small businesses is a focus of FPL's economic development program. FPL, via its website offers Small Business Tool which is designed specifically for small businesses providing market intelligence for every business in Florida. Additionally, the tool provides assistance in (1) writing a business plan, (2)

identifying new customers, (3) identifying new locations for expansion, and (4) targeted advertising efforts to maximize market penetration. FPL also partners with Florida's Small business Development Network known as SCORE, University of Central Florida's GrowFL, and Prospera, an economic development non-profit organization for minority entrepreneurs.

In response to staff's SERC data request, Gulf Power stated that it is of the opinion that small businesses and other customers will benefit by the rule amendments. Although the proposed rule amendments would result in modest utility bill increases, over time, Gulf believes that benefits associated with such expenditures, both for new and existing businesses will far outweigh the costs.

(2) A "Small City" is defined by Section 120.52, F.S., as any municipality that has an unincarcerated population of 10,000 or less according to the most recent decennial census. A "small county" is defined by Section 120.52, F.S., as any county that has an unincarcerated population of 75,000 or less according to the most recent decennial census.

- No impact on small cities or small counties.
- Minimal. Provide a brief explanation.
- Other. Provide an explanation for estimate and methodology used.

The impact on "small cities" and "small counties" as defined by Section 120.52, F.S., is difficult to estimate. However, any additional economic development activities may benefit small cities and small counties.

F. Any additional information that the Commission determines may be useful.
[120.541(2)(f), F.S.]

- None.

In response to staff's SERC data request, FPL stated that the modifications to Rule 25-6.0426, F.A.C., will encourage utilities to promote new economic development investment, will expand Florida's economic base, allow utilities to conduct additional outreach, and continue to build a sustainable pipeline for potential new projects. FPL also contends that modifications to the rule are anticipated to yield increased economic development benefits to the state.

The utilities stated that adding new load will mitigate future bill increases by spreading fixed costs over a larger customer base and, therefore, will be beneficial to all customers by placing downward pressure on utility rates determined in a rate case. Furthermore, the five investor-owned utilities are

currently under rate case settlements and any increased economic development spending would not impact base rates for the duration of the settlements.

Staff notes that the proposed rule revisions address economic development expenses reported for surveillance reports pursuant to subsection (3)(b) of Rule 25-6.0426, F.A.C. Subsections (4) and (6) of Rule 25-6.0426, F.A.C., provide for the Commission to determine the level of sharing, future treatment of economic development expenses, and potential changes related to the recovery of economic development expenses in the context of a rate case.

G. A description of any regulatory alternatives submitted and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule. [120.541(2)(g), F.S.]

No regulatory alternatives were submitted.

A regulatory alternative was received from FPSC staff and is attached to the SERC memorandum.

Adopted in its entirety.

Rejected. Describe what alternative was rejected and provide a statement of the reason for rejecting that alternative.

Note: No regulatory alternatives were submitted to staff's proposed rule revisions pursuant to paragraph 120.541(1)(a), F.S.