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**HOUSE OF REPRESENTATIVES
COMMITTEE ON
UTILITIES AND TELECOMMUNICATIONS
ANALYSIS**

BILL #: CS/HB 687
RELATING TO: Medically Essential Electric Public Utility Service
SPONSOR(S): Utilities and Telecommunications and Representative(s) Romeo

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) UTILITIES AND TELECOMMUNICATIONS (RIC) YEAS 16 NAYS 0
 - (2) HEALTH PROMOTION (HCC)
 - (3) COUNCIL FOR READY INFRASTRUCTURE
 - (4)
 - (5)
-

I. SUMMARY:

In 1998, the issue of Medically Essential electric service arose during Public Service Commission, (PSC), discussions on Docket No. 980682-EI. Investor owned utilities, (IOU), procedures for handling medically essential electric service accounts, at the time, varied across utilities.

Currently, the PSC has adopted tariffs for the IOUs establishing provisions for medically essential electric service.

The bill clarifies the intent of electric utility service being "medically essential."

The bill expands the provisions of medically essential services and modifies the termination process.

The bill establishes a system for providing information to customers on certifications and information on available sources of financial assistance.

The act takes effect upon becoming law.

On March 29, 2001, the Utilities and Telecommunications Committee adopted an amendment to strike everything after the enacting clause. The amendment conforms to Senate language, and the bill was made a committee substitute. The amendment deletes the provision that includes in "medically essential" service the use of feeding tubes or operation of medical equipment used in kidney dialysis. It also deletes the phrase "that supplies electricity" from "public utility that supplies electricity" and "electric" from the phrase "medically essential electric service" and "medically essential electric service."

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

In 1998, the issue of medically essential electric service arose during PSC discussions on Docket No. 980682-EI, regarding a complaint that an investor owned utility had failed to give the required 30-day notice that service would be disconnected. The procedures used by IOU companies for handling medically essential electric service accounts, at the time, varied across utilities.

On November 2, 1998, PSC staff gave commissioners an overview of the issue. The IOU companies explained their policies and procedures regarding medically essential electric service as well as their various other programs. The Compassion National Children's Foundation, (Foundation), raised concerns regarding the IOU companies requirement of an additional deposit from customers taking service under the medically essential electric service tariff. The PSC directed its staff and the IOU companies to explore solutions within the context of a proposed unified tariff. A tariff, pursuant to Rule 25-4.035, Florida Administrative Code, is a document that sets forth all the rates and charges for customer services, the classes and grades of service available to subscribers, the conditions and circumstances under which service will be furnished, and all the general rules and regulations governing the relationship of customer and utility. Tariff filings are required to be in compliance with the requirements of Chapter 25-9 of the PSC rules entitled "Construction and Filing of Tariffs by Public Utilities."

At the March 22, 1999, in a letter from the Foundation, concerns were expressed that the proposed tariff did not go far enough. It was suggested that the definition of medically essential electric service include customers who do not require continuously operating electric-powered medical equipment, that the additional deposits be eliminated, and that policies be consistent with other states including: New Hampshire, Massachusetts, Oregon, and New York. New Hampshire and Massachusetts allow customers to receive an indefinite extension of service. Oregon allows an extension of up to 12 months for chronic cases, and New York's Consolidated Edison keeps records of customers who use electrically operated support systems, so it can help in case of an emergency.

The PSC believed that the proposed tariff makes significant progress in all of these areas. Also, that the tariffs will bring Florida IOU companies, and handling by the PSC of medically essential electric service, into line with the vast majority of states that the PSC staff surveyed. Although the definition of medically essential was not expanded to include customers with asthma, for example, the definition of medically essential among the IOU companies is the same. Also, medically

essential customers will be granted special consideration when they are faced with additional deposits.

Each IOU submitted an identical tariff for review. On April 30, 1999, the PSC approved the tariffs clarifying the terms and conditions under which IOU companies supply service to customers who qualify for protection under the utilities Medically Essential Service.

Order No. PSC-99-0930-TRI-EI was issued May 10, 1999, by the PSC, which approved the tariffs, filed in Docket No.s. 99-0334, 99317-EI, effective June 1, 1999. A subsequent Consummating Order was issued making the decision final.

The basic purpose of the "medically essential" designation on an account is to allow a customer whose life depends on an electrically operated device additional time to pay past due bills prior to disconnection. The additional time allows the customer to either secure funds to pay the bill from outside sources or to make arrangements for alternative care in the event that no funds are available.

Utilities have special accounts in which their customers contribute to assist people who are temporarily experiencing financial difficulties. The utilities "Share" programs are administered by social service agencies such as the Salvation Army, the American Red Cross, and various other social service providers. When a customer is having financial difficulty, the utilities programs are to help the customer reach the social service organization that can offer the kind of assistance needed. Also available to customers, through the PSC and the utilities Internet links, is the publication entitled Where to Find Help With Making Utility Bill Payments in Florida.

The current utility tariffs provide the terms and conditions related to "Discontinuance and Withholding of Service." For purposes of this public contract, a medically essential service customer is a residential customer whose electric service is medically essential, as affirmed through the certificate of a doctor of medicine licensed to practice in the State of Florida. Service is "medically essential" if the customer has continuously operating electric-powered medical equipment necessary to sustain the life of, or avoid serious medical complications requiring immediate hospitalization of, the customer or another permanent resident at the service address. The physician certificate shall explain briefly and clearly, in non-medical terms, why continuance of electric service is medically essential, and it shall be consistent with the requirements of the tariff of the company. A customer who is certified as a medically essential service customer must renew such certification periodically. The company may require certification no more frequently than once every twelve months.

The tariff also provides these customers with a limited extension of time, not to exceed thirty days; beyond the date service would normally be subject to disconnection for non-payment of bill, following the requisite notice pursuant to Rule 25-6.105(5), Florida Administrative Code. Utilities are to provide these customers with written notice specifying the date of disconnection based on the limited extension, and the customer is responsible for making mutually satisfactory arrangements to ensure payment, within this additional extension of time for service, or for making other arrangements for meeting their medically essential needs.

Additionally, the tariff requires that, no later than 12 noon prior to the scheduled disconnection of services, the utility shall attempt a telephone contact with the customer about the scheduled disconnect date. In cases of unsuccessful telephone attempts, a field representative will be sent to the residence to attempt contact. If contact is not made, the representative may leave written notification at the residence of the scheduled disconnection date. Thereafter, the utility may disconnect service on the specified date.

The tariff further states that a utility has the right to discontinue service to a customer and such right may be exercised without any liability for loss, damage, or injury resulting directly or indirectly from lack of electric service. The utility will be under no obligation or duty to ascertain whether such discontinuance would likely result in any such loss, damage, or injury.

Pursuant to Rule 25-609(3), Florida Administrative Code, the company may grant the customer special considerations.

For reconnection cases, service charges and deposits may be applicable.

The rule governing Life Sustaining Medical Equipment (LSME)/Medically Essential Service is Rule 25-6.105(11), Florida Administrative Code. The rule provides that:

Each utility shall submit, as a tariff item, a procedure for discontinuance of service when that service is medically essential.

Municipal Electric and Rural Electric Cooperatives are not subject to the same level of PSC jurisdiction as the IOUs in relation to prices, terms, and conditions of service.

According to the PSC, there is no clear statutory mandate directing the creation of a special, protected class of LSME/Medically Essential customers separate from other residential rate customers, and the creation of such a class of customers would appear to violate section 366.03, Florida Statutes, which provides in part:

. . . All rates. . . shall be fair and reasonable. No public utility shall make or give any undue or unreasonable preference or advantage to any person or locality, or subject the same to any undue or unreasonable prejudice or disadvantage in any respect.

The PSC believes that under current law it cannot create a special "leave service active" class of LSME/Medically Essential ratepayers absent legislative delegation of specific power. However, it does believe that it currently has the legislative authority to require the uniformity in LSME/Medically Essential tariffs among the IOU companies.

C. EFFECT OF PROPOSED CHANGES:

The bill provides for medically essential service, which is defined to include any situation:

when the utility customer or another permanent resident at the service address is medically dependent on electric-powered equipment that must be operated continuously or as circumstances require as specified by a physician to avoid the loss of life or immediate hospitalization of the customer or other resident.

The bill refers to provision of medically essential electric service only by a "public utility," a term which is defined in s. 366.02(1), Florida Statutes, as:

every person, corporation, partnership, association, or other legal entity and their lessees, trustees, or receivers supplying electricity or gas (natural, manufactured, or similar gaseous substance) to or for the public within this state; but the term "public utility" does not include either a cooperative now or hereafter organized and existing under the Rural Electric Cooperative Law of the state; a municipality

or any agency thereof; any dependent or independent special natural gas district; any natural gas transmission pipeline company making only sales or transportation delivery of natural gas at wholesale and to direct industrial consumers; any entity selling or arranging for sales of natural gas which neither owns nor operates natural gas transmission or distribution facilities within the state; or a person supplying liquefied petroleum gas, in either liquid or gaseous form, irrespective of the method of distribution or delivery, or owning or operating facilities beyond the outlet of a meter through which natural gas is supplied for compression and delivery into motor vehicle fuel tanks or other transportation containers, unless such person also supplies electricity or manufactured or natural gas.

Further pursuant to s. 366.02(2), Florida Statutes:

"Electric utility" means any municipal electric utility, investor-owned electric utility, or rural electric cooperative which owns, maintains, or operates an electric generation, transmission, or distribution system within the state.

Each public utility providing medically essential service must provide an annual written explanation to each customer of the certification process for medically essential electric services. The certification process requires the customer and a physician to complete certification forms supplied by the utility and return the forms to the utility. False certification of medically essential service constitutes a violation of s. 458.331(1)(h), Florida Statutes, which subjects the physician to disciplinary action by the Board of Medicine.

Medically essential service must be re-certified annually. At least 30 days before a customer's certification expires, the public utility must send the customer, by regular mail, a package of re-certification materials, including re-certification forms and a warning that the forms must be completed and submitted within 30 days after expiration of the existing certification. If the forms are not timely submitted, the utility may terminate the certification.

If the customer completes the requirements, each public utility shall certify the customer's electric service as medically essential.

Each customer who requires medically essential service must make satisfactory arrangements with the utility to ensure payment, and the arrangement must be consistent with the requirements of the utility's tariff. The utility may terminate medically essential service for nonpayment upon satisfaction of notice requirements. No later than 24 hours before any scheduled disconnection or nonpayment, the utility must attempt to contact the customer by phone to notify the customer of the scheduled disconnection. If the customer does not have a phone number listed in the account information or cannot be reached by phone by the specified time, the utility must send a representative to the customer's residence no later than 4:00 p.m. the day before the scheduled disconnection. If contact is not made, the utility may leave written notification at the residence advising of the scheduled disconnection. After this is completed, the service may be disconnected on the specified date.

Medically essential service may be interrupted when an emergency may threaten the health or safety of a person, the surrounding area, or the public utility's distribution system.

Each customer who requires medically essential electric service is solely responsible for arranging for a backup power supply and a planned course of action in the event of a power outage or power interruption.

Each public utility must notify each customer requiring medically essential services of any scheduled service interruption.

Each public utility must provide information on sources of state or local funding that may provide financial assistance to customers requiring medically essential electric service.

Each public utility that operates a program to receive voluntary donations from its customers to provide assistance to persons who are unable to pay their utility bills must make and distribute, upon request, a list of all agencies to which such funds are distributed.

Each public utility that operates such a program is to maintain a system of accounting for the specific amounts distributed to each agency, and such agency shall maintain a system of accounting for the specific amounts distributed to persons under the respective programs.

The bill provides that it does not form the basis for any cause of action against a public utility and that failure to comply with any obligation it creates is not evidence of negligence.

The bill takes effect upon becoming a law.

D. SECTION-BY-SECTION ANALYSIS:

Please see "Effect of Proposed Changes" section.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The bill applies to public utilities as defined in chapter 366, F.S., which includes natural gas utilities. Thus, natural gas utilities would be subject to the terms of the bill requiring all public utilities to provide an annual written explanation of the certification process for medically essential electric service and requiring all public utilities to provide information on sources of state or local funding that may provide financial assistance to customers requiring medically essential electric service. The practical effect is uncertain.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 29, 2001, the Utilities and Telecommunications Committee adopted an amendment to strike everything after the enacting clause. The amendment conforms to Senate language, and the bill was made a committee substitute. The amendment deletes the provision that includes in "medically essential" service the use of feeding tubes or operation of medical equipment used in kidney dialysis. It also deletes the phrase "that supplies electricity" from "public utility that supplies electricity" and "electric" from the phrase "medically essential electric service" and "medically essential electric service."

VII. SIGNATURES:

COMMITTEE ON UTILITIES AND TELECOMMUNICATIONS:

Prepared by:

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