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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2016	.	
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The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 215 - 285

and insert:

(a) In determining the reasonable level of rate case expense, the commission shall consider the following criteria as a basis for disallowing such rate case expense when the criteria are specifically raised in writing by the Public Counsel, an intervenor, or commission staff:

1. The extent to which a utility has utilized or failed to



613326

11 utilize the provisions of paragraph (4) (a) or paragraph (4) (b).
12 2. Whether the customers have received a material benefit
13 as a result of the rate case.
14 3. The amount of time between each rate case.
15 4. The extent to which, at the time of the initial filing,
16 the utility filed complete documentation as required by
17 commission rule, including, but not limited to, minimum filing
18 requirements.
19 5. Whether the utility's rate case filing seeks
20 preferential benefits to shareholders, owners, or nonregulated
21 affiliates.
22 6. The proportion of any rate increase approved by the
23 commission as compared to the amount initially requested by the
24 utility.
25 7. The amount of overall rate case expense incurred and
26 requested as compared to the amount of rate increase approved by
27 the commission.
28 8. The utility management's culpability in causing any
29 deficiencies in the quality of service provided by the utility.
30 9. Such other criteria as the commission ~~it~~ may establish
31 by rule.
32 (b) If any of the criteria specified under paragraph (a)
33 are specifically contested in an evidentiary proceeding, the
34 commission shall make specific findings of fact, supported by
35 competent, substantial evidence, for each criterion and the
36 extent to which each criterion benefits the customer. The
37 commission may allocate the benefits between the customers and
38 the shareholders, owners, or affiliates accordingly and disallow
39 rate case expense in accordance with the specific findings of



613326

40 fact.

41 Section 5. Subsection (3) of section 367.0814, Florida
42 Statutes, is amended to read:

43 367.0814 Staff assistance in changing rates and charges;
44 interim rates.—

45 (3) The provisions of s. 367.081(1), (2)(a), and (3) shall
46 apply in determining the utility's rates and charges. However,
47 the commission may not award rate case expenses to recover
48 attorney fees or fees of other outside consultants who are
49 engaged for the purpose of preparing or filing the case if a
50 utility receives staff assistance in changing rates and charges
51 pursuant to this section, unless the Office of Public Counsel or
52 interested parties have intervened. The commission may award
53 rate case expenses for attorney fees or fees of other outside
54 consultants if such fees are incurred for the purpose of
55 providing consulting or legal services to the utility after the
56 initial staff report is made available to customers and the
57 utility. If there is a protest or an appeal by a party other
58 than the utility, the commission may award rate case expenses to
59 the utility for attorney fees or fees of other outside
60 consultants for costs incurred after the protest or appeal. By
61 December 31, 2016, the commission shall adopt rules to
62 administer this subsection.

63 Section 6. Section 367.0816, Florida Statutes, is amended
64 to read:

65 367.0816 Recovery of rate case expenses.—

66 (1) The amount of rate case expense determined by the
67 commission pursuant to the provisions of this chapter to be
68 recovered through a public utility's ~~utilities~~ rate shall be



69 apporportioned for recovery over a period of 4 years, unless a
70 longer period can be justified and is in the public interest. At
71 the conclusion of the recovery period, the rate of the public
72 utility shall be reduced immediately by the amount of rate case
73 expense previously included in the rates.

74 (2) A utility may not earn a return on the unamortized
75 balance of rate case expense. Any unamortized balance of rate
76 case expense shall be excluded in calculating the utility rate
77 base.

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79 ===== T I T L E A M E N D M E N T =====

80 And the title is amended as follows:

81 Delete lines 25 - 34

82 and insert:

83 consider certain criteria, when specifically raised in
84 writing by certain parties; specifying standards for
85 evidentiary proceeding involving challenges to such
86 criteria; authorizing the commission to allocate
87 benefits between the customers, shareholders, owners,
88 or affiliates and to disallow rate case expense under
89 certain circumstances; amending s. 367.0814, F.S.;
90 prohibiting the commission from awarding rate case
91 expenses to recover attorney fees or fees of other
92 outside consultants in certain circumstances;
93 providing exceptions; requiring the commission to
94 adopt rules by a certain date; amending s. 367.0816,
95 F.S.; providing an exception to the provision
96 requiring rate case expense recovery to be apportioned
97 over 4 years; prohibiting a utility from earning a



613326

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return on the unamortized balance of rate case
expense; excluding such expenses from rate bases;