

P R O C E E D I N G S

CHAIRMAN BROWN: Moving on to Item 2.

Good morning, ladies.

MS. COWDERY: Good morning, Commissioners.

I'm Kathryn Cowdery with the Office of General Counsel.

Item 2 is a rulemaking docket concerning four procedural rules of the Commission. Staff is recommending that the Commission propose repeal of the Commission's procedural rule entitled "Rulemaking Procedure Adoption," and we're recommending that the Commission propose the repeal of the Commission's intervention rule and replace it with the Uniform Rule of Procedure on intervention in Chapter 28-106.

In response to stakeholder comments, staff recommends that if the Commission does propose repeal of its intervention rule and replace it with the uniform rule on intervention, it should state in the notice of rulemaking order that in becoming subject to the uniform rule on intervention, it is the Commission's intent to continue to require intervenors to take the case as they find it. Staff recommends that the Commission propose the amendment of its rule on motion for reconsideration of final orders and its rule that lists exceptions to the Uniform Rule of Procedure.

Finally, staff recommends that the Commission

1 certify that the proposed amended motion for
2 reconsideration of final orders rule and the proposed
3 amended rule listing exceptions to the uniform rules be
4 certified as minor violation rules. Staff is available
5 to answer any questions.

6 **CHAIRMAN BROWN:** Thank you, Ms. Cowdery. I do
7 have a question on the first -- the repeal of the first
8 rule. On page 7 of the recommendation, you do -- and I
9 think it's a great suggestion to repeal the current
10 rule. I've been privy and part of a case, several cases
11 that have had an intervenor come in five days before a
12 hearing, and it has been very disruptive to the overall
13 process, and then the intervenor has limited
14 participation and can't really participate fully as the
15 other parties.

16 But the question I do have is in this
17 provision -- in this recommendation, it does say, "If an
18 interested party seeks to intervene fewer than 20 days
19 before the uniform rule, the presiding officer can grant
20 the motion for good cause."

21 **MS. COWDERY:** Correct.

22 **CHAIRMAN BROWN:** Can you elaborate on an
23 example of what good cause would be?

24 **MS. COWDERY:** One example would be a customer
25 said, "I didn't have adequate notice of the final

1 hearing," or "I have certain, certain issues that came
2 up that I wasn't aware of." It really is up to the
3 Commission -- the prehearing officer's discretion, and
4 it could be any number of things, you know, that the
5 Commissioner, that the Prehearing Officer determines.
6 But, you know, lack of notice, change in circumstances,
7 things like that.

8 **CHAIRMAN BROWN:** So is there case law out
9 there dealing with the uniform rule for good cause?

10 **MS. COWDERY:** I'm really not aware of it.

11 **CHAIRMAN BROWN:** Okay. Commissioners, any
12 other comments or questions?

13 If not, I'm ready to entertain a motion.

14 **COMMISSIONER GRAHAM:** Move staff.

15 **COMMISSIONER BRISÉ:** Second.

16 **CHAIRMAN BROWN:** Any further discussion?

17 Seeing none, all those in favor, signify by
18 saying aye.

19 (Vote taken.)

20 Thank you.

21 (Agenda item concluded.)
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1 STATE OF FLORIDA)
2 COUNTY OF LEON) : CERTIFICATE OF REPORTER

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4 I, LINDA BOLES, CRR, RPR, Official Commission
5 Reporter, do hereby certify that the foregoing
6 proceeding was heard at the time and place herein
7 stated.

8 IT IS FURTHER CERTIFIED that I
9 stenographically reported the said proceedings; that the
10 same has been transcribed under my direct supervision;
11 and that this transcript constitutes a true
12 transcription of my notes of said proceedings.

13 I FURTHER CERTIFY that I am not a relative,
14 employee, attorney or counsel of any of the parties, nor
15 am I a relative or employee of any of the parties'
16 attorney or counsel connected with the action, nor am I
17 financially interested in the action.

18 DATED THIS 9th day of October, 2017.

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