

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Amendment of Rule 25-22.028,)	DOCKET NO. 910587-PU
F.A.C., Filing of Documents)	ORDER NO. 25635
_____)	ISSUED: 1/24/92

NOTICE OF ADOPTION OF RULE AMENDMENT

NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has adopted the amendments to Rule 25-22.028, F.A.C., relating to filing of documents with changes.

The rule amendment was filed with the Department of State on January 22, 1992 and will be effective on February 11, 1992. A copy of the relevant portions of the certification filed with the Secretary of State is attached to this Notice.

This docket is closed upon issuance of this notice.

By Direction of the Florida Public Service Commission, this
24th day of JANUARY, 1992.

 STEVE TRIBBLE, Director
 Division of Records & Reporting

(S E A L)

by: Kay DeLeon
 Chief, Bureau of Records

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DOCUMENT NUMBER-DATE
 00900 JAN 24 1992
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CERTIFICATION OF
PUBLIC SERVICE COMMISSION ADMINISTRATIVE RULES
FILED WITH THE
DEPARTMENT OF STATE

I do hereby certify:

/X/ (1) The time limitations prescribed by paragraph 120.54(11)(a), F.S., have been complied with; and

/X/ (2) There is no administrative determination under section 120.54(4), F.S., pending on any rule covered by this certification; and

/X/ (3) All rules covered by this certification are filed within the prescribed time limitations of paragraph 120.54(11)(b), F.S. They are filed not less than 28 days after the notice required by subsection 120.54(1), F.S., and;

/ / (a) And are filed not more than 90 days after the notice; or

/ / (b) Are filed not more than 90 days after the notice not including days an administrative determination was pending; or

/X/ (c) Are filed within 21 days after the adjournment of the final public hearing on the rule; or

/ / (d) Are filed within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

/ / (e) Are filed within 21 days after the date the transcript was received by this agency.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the

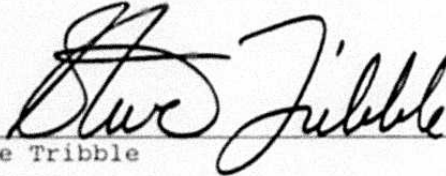
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undersigned agency by and upon their filing with the Department of State.

<u>Rule No.</u>	<u>Rulemaking Authority</u>	<u>Specific Law Being Implemented, Interpreted or Made Specific</u>
25-22.028	120.53	120.53

Under the provision of paragraph 120.54(13)(a), F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



Steve Tribble

Director, Division of Records & Reporting
Title

Number of Pages Certified

(S E A L)

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25-22-028
120.53

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Rule 25-22.028
Docket No. 910587-PU

SUMMARY OF RULE

Provisions regarding the filing of documents are clarified. Certain utilities and parties to proceedings affecting them must file a computer diskette copy of the documents defined in the rule. Material claimed as confidential under the Commission's rules should not be included in a diskette copy.

Time periods for filing diskette copies of documents and software specifications are stated. The prehearing officer may grant exceptions for filing documents on diskette on a case-by-case basis. The original printed document shall prevail over the diskette copy in the event of a discrepancy.

SUMMARY OF HEARINGS ON RULE

At a public hearing held before a hearing officer on September 18, 1991, Florida Power & Light Company, Southern Bell Telephone and Telegraph, Tampa Electric Company, Central Telephone Company of Florida, Gulf Power Company, Florida Waterworks Association and the staff of the Public Service Commission presented comments and testimony. Various parties, including staff, testified in favor of all or certain portions of the proposed rule amendments.

Commission staff recommended changes to the proposed rule amendment in response to prehearing comments filed by various parties, and provided testimony regarding elimination of the proposed provision regarding filing by facsimile transmission, expansion of types of acceptable software, change in definition of "pleadings", elimination of the requirement that certain types of

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documents be filed by diskette, limitation of the diskette filing requirement to Class A water and sewer utilities rather than those water and sewer utilities with gross annual revenues in excess of \$750,000 and additional time to file diskette copies.

Southern Bell questioned the definition of pleadings which must be filed on diskette and discussed the provision requiring certain spreadsheets to be filed on diskette with regard to confidentiality of proprietary software programs and the type of software which would be acceptable.

Tampa Electric Company and Central Telephone Company objected to the requirement of filing diskette copies of pleadings, and suggested diskette copies of pleadings be required only where such copies would enhance productivity.

Florida Power & Light Company requested that the rule specify that discovery responses need not be filed with the Commission, requested clarification of the spreadsheet filing requirement, and discussed confidentiality and work product privilege. The utility also requested a future rule implementation workshop and review of need for filing multiple paper copies of documents being filed on diskette.

Florida Waterworks Association discussed circumstances under which filing diskette copies might be excused for good cause.

At a public hearing held on January 7, 1992, the Commission considered comments by Florida Power & Light Company, Tampa Electric Company and Central Telephone Company of Florida on the changes to the proposed rule amendments recommended by the hearing officer.

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The Commission made changes to the proposed rule by deleting the provision regarding filing of documents via facsimile transmission, requiring Class A water and wastewater utilities to file computer diskette copies of documents, exemption diskette filing of confidential material, limiting types of documents which must be filed on diskette, allowing extra time for filing diskette copies, broadening the types of acceptable software, requiring identification of the software used, redefining the types of documents which must be filed on diskette, and specifying that in the event of inconsistency between paper and diskette filings, the original paper filing prevails.

The Commission rejected the following changes proposed by the parties: elimination of the requirement that spreadsheets be filed, defining "good cause" as lack of mechanical capability to comply or breakdown of equipment, limitation of diskette filing to documents "reasonably" capable of being generated by specified software, phasing in the diskette filing requirement and exemption of certain filings. The Commission also rejected Florida Power & Light Company's requests for an implementation workshop and for revisiting the need for filing multiple paper copies of documents.

FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

Rule 25-22.028(1) prescribes the requirements for filing documents in Commission proceedings that are conducted in accordance with Section 120.57, Florida Statutes. Much of the material in documents filed by parties must be re-typed by Commission staff to prepare documents such as prehearing orders and orders disposing of

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requests for confidential classification. The material is often voluminous and results in a duplication of effort that could be reduced or eliminated by obtaining the parties' documents on computer diskette. The diskette filing requirement necessitates amendments to the rule to specify documents which must be filed on diskette and how filing is to be accomplished. It is also necessary to revise Rule 25.22.028(4) to reflect Florida Statute section numbers which have changed since the rule was last revised in 1981.

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1 25-22.028 Filing, Service of Documents, and Computation of
2 Time.

3 (1) Filing. Filing shall be accomplished by submitting the
4 original document and the appropriate number of copies, as
5 provided by rule, to the Division of Records and Reporting
6 (Division). Filing with the Commission Clerk and may be made by
7 U.S. Mail, hand delivery, or courier service. Filing shall not
8 be accomplished by facsimile transmission except in emergency
9 situations and with the prior approval of the Director of the
10 Division. If a document transmitted by facsimile is accepted for
11 filing, the original document and the appropriate copies shall be
12 filed no later than the close of business on the second working
13 day following facsimile transmission. Filings on behalf of
14 companies with gross annual operating revenues derived from
15 intrastate business in excess of \$750,000, Class A water and
16 sewer utilities, and parties to proceedings affecting these
17 entities companies, shall also include a copy of the document on
18 diskette in word processing or spreadsheet format, whichever is
19 appropriate, when filing documents capable of being generated by
20 word processing or spreadsheet software. Material for which a
21 request for confidential classification is pending under Rule 25-
22 22.006, Florida Administrative Code, should not be included in a
23 diskette copy. The diskette filing need not recreate document
24 attachments not originally generated for the purpose of filing
25 with the Commission, such as exhibits attached to a petition.

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1 The copy of the document on diskette shall be filed within 1
2 working day of the date the original printed document is filed.
3 Information about the word processing and spreadsheet software
4 preferred ~~currently being used~~ by the Commission may be obtained
5 from the Director of the Division. Each diskette shall be
6 accompanied by a statement specifying the density of the
7 diskette, the operating system and the software used to prepare
8 the document on diskette. For purposes of the requirement that
9 copies of documents be filed on diskette, "document" means all
10 prehearing statements regardless of length, and pleadings,
11 ~~prehearing statements,~~ post hearing statements of positions on
12 issues or briefs, proposed findings of fact and conclusions of
13 law, in excess of 5 pages exclusive of the service list. ~~minimum~~
14 ~~filing requirements, and modified minimum filing requirements.~~
15 The prehearing officer assigned to the proceeding may grant
16 exceptions to the requirement for filing documents on diskette on
17 a case-by-case basis, for good cause shown. In case of a
18 discrepancy between an original printed document that is filed
19 and the document on diskette, the filed original document shall
20 prevail. Filing shall be completed upon receipt by the Division
21 Clerk; provided, however, that during the course of a hearing
22 before the Commission or a panel thereof, the presiding chairman
23 may accept a document for filing and shall note the filing date
24 and transmit it to the ~~Division Office of the Clerk.~~ In this
25 situation the responsible party shall ensure that a copy of the

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1 document is submitted on diskette to the Division within 5
2 working days. The date a document is submitted for filing shall
3 be noted by the person making the filing on the first page of the
4 document filed. Where a document is served upon a party pursuant
5 to these rules, its original and the appropriate copies, or, in
6 the case of interrogatories or production of documents, a notice
7 of service, shall be filed with the Division ~~Commission-Clerk~~ no
8 later than 5 days after service.

9 (2) Service. A copy of all documents filed pursuant to
10 these rules shall be served on each of the parties no later than
11 the date of filing. In the event that the parties are so
12 numerous that this requirement is onerous, the Commission on
13 motion may limit the number of copies to be served. Service by
14 mail shall be completed upon mailing.

15 (3) Method and Proof of Service.

16 (a) When service is required or permitted to be made upon a
17 party represented by an attorney, service shall be made upon the
18 attorney unless service upon the party is ordered by the
19 Commission. Service on the attorney or party shall be made by
20 hand delivery or by mail to the last known address. Delivery of
21 a copy within this rule shall mean handing it to the attorney or
22 to the party, or leaving it at the party's or attorney's usual
23 office with the clerk or other person in charge, or if there is
24 no one in charge, leaving it in a conspicuous place within the
25 office, or if the office is closed, leaving it at the party's or

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1 attorney's usual place of abode with some person of the family
 2 above fifteen years of age and informing that person of the
 3 contents.

4 (b) When an attorney or a party certifies in substance:
 5 "I certify that a copy hereof has been furnished to (here insert
 6 name or names) by (delivery) (mail) this _____ day of _____
 7 __, 19____.

8 _____"
 9 Signature

10 the certificate shall be taken as prima facie evidence of service
 11 in compliance with this rule.

12 (4) Additional Time after Service by Mail. Whenever a
 13 party is required or permitted to do an act within a prescribed
 14 time after service of a document, and the document is served by
 15 mail, five days shall be added to the prescribed time, except
 16 that responses to notices pursuant to Section 350.113, 364.335,
 17 ~~367.041(4)~~ and 367.045 ~~367-151~~ F.S. shall be filed within the
 18 time specified by statute. Any action required by a Commission
 19 order shall be completed on the specified date, if any, in the
 20 order.

21 (5) Computation of Time. In computing any period of time
 22 prescribed or allowed by these rules, by order of a presiding
 23 officer, or by any applicable statute, the day of the act from
 24 which the designated period of time begins to run shall not be
 25 included. The last day of the period shall be included unless it

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1 is a Saturday, Sunday or legal holiday in which event the period
2 shall run until the end of the next day which is neither a
3 Saturday, Sunday, or legal holiday. As used in these rules,
4 legal holiday means those days designated in §110.117, F.S., and
5 any other day the Agency's offices are closed.
6 Specific Authority: 120.53, F.S.
7 Law Implemented: 120.53, F.S.
8 History: Transferred from 25-2.58 and amended 12/21/81, _____,
9 formerly 25-22.28.

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