

State of Florida

Commissioners:
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DIVISION OF APPEALS
DAVID E. SMITH
DIRECTOR
(904) 488-7464

Public Service Commission

August 16, 1993

Mr. Carroll Webb
Joint Administrative Procedures
Committee
120 Holland Building
Tallahassee, Florida 32399

Re: DOCKET NO. 930633-PU, RULE 25-22.032(4), F.A.C.

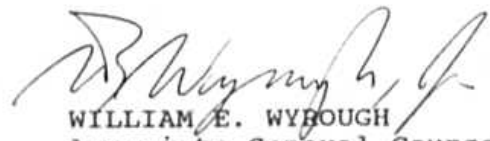
Dear Mr. Webb:

Enclosed are the following materials concerning the above referenced proposed rule:

1. A copy of the rule.
2. A copy of the F.A.W. notice.
3. A statement of facts and circumstances justifying the proposed rule.
4. A federal comparison statement.
5. A statement of the impact of the rule on small business.
6. No economic impact statement was prepared.

If there are any questions with respect to this rule, please do not hesitate to call on me.

Sincerely,


WILLIAM E. WYROUGH
Associate General Counsel

WEW
Enclosures
cc: Steve Tribble, Director, Division of Records & Reporting
amd93633.cjp

DOCUMENT NUMBER-DATE
08918 AUG 18 93
FFSC-RECORDS/REPORTING

1 25-22.032 Customer Complaints.

2 (1) Any customer of a utility regulated by this Commission
3 may file a complaint with the Division of Consumer Affairs whenever
4 he has an unresolved dispute with the utility regarding his
5 electric, gas, telephone, water, or wastewater service. The
6 complaint may be communicated orally or in writing. Upon receipt
7 of the complaint a staff member designated by the Director of the
8 Division shall notify the utility of the complaint and request a
9 response. The response should explain the utility's actions in the
10 disputed matter and the extent to which those actions were
11 consistent with the utility's tariffs and procedures, applicable
12 state laws, and Commission rules, regulations, and orders.

13 (2) The designated staff member shall investigate the
14 complaint and attempt to resolve the dispute informally. To that
15 end, the staff member may request the parties to provide copies of
16 bills, billing statements, field reports, written documents, or
17 other information in their possession which may be necessary to
18 resolve the dispute. The staff member may perform such tests,
19 on-site inspections, and reviews of utility records as he considers
20 appropriate and may request the utility to collect data and to
21 perform tests which are necessary to aid in the resolution of the
22 dispute.

23 (3) As soon as possible the staff member shall propose a
24 resolution of the complaint based on his findings, applicable state
25 laws, the utility's tariffs, and Commission rules, regulations, and

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~~struck-through~~ type are deletions from existing law.

1 orders. The proposed resolution may be communicated to the parties
2 orally or in writing. Upon request, either party shall be entitled
3 to a written copy of the proposed resolution, which shall be
4 delivered by first-class mail.

5 (4) If a party objects to the proposed resolution, he may
6 file a request for an informal conference on the complaint. The
7 request shall be in writing and should be filed with the Division
8 of Consumer Affairs within 30 days after the proposed resolution is
9 mailed or personally communicated to the parties. Upon receipt of
10 the request the Director of the Division ~~may shall~~ appoint a staff
11 member to conduct the informal conference or the Director may make
12 a recommendation to the Commission for dismissal based on a
13 finding that the complaint states no basis for relief under the
14 Florida Statutes, Commission rules or orders, or the applicable
15 tariffs.. If a conference is granted tThe appointed staff member
16 shall have had no prior contact with the complaint. After
17 consulting with the parties, the appointed staff member shall issue
18 a written notice to the parties setting forth the procedures to be
19 employed, the dates by which written materials are to be filed, and
20 the time and place for the informal conference, which shall be held
21 in the service area, or such other convenient location to which the
22 parties agree, no sooner than 10 days following the notice.

23 (5) In conjunction with conducting the informal conference,
24 the appointed staff member may:

25 (a) Require the utility to provide any information in its

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1 parties. The Commission shall dispose of the matter at the next
2 available agenda conference by issuing a notice of proposed agency
3 action or by setting the matter for hearing pursuant to section
4 120.57, Florida Statutes. The Commission may permit the parties to
5 respond to the recommendation at the agenda conference.

6 (9) At any point during the complaint proceedings, a party
7 has the right to be represented by an attorney or other qualified
8 representative. For purposes of this rule a qualified
9 representative may be any person the party chooses, unless the
10 Commission sets the matter for hearing. At such hearing the
11 parties must be represented by an attorney or Class B practitioner
12 as provided for in Rule 25-22.008 or may represent themselves.
13 Each party shall be responsible for his own expenses in the
14 handling of the complaint.

15 (10) During the pendency of the complaint proceedings, a
16 utility shall not discontinue service to a customer because of an
17 unpaid disputed bill. However, the utility may require the
18 customer to pay that part of a bill which is not in dispute. If
19 the parties cannot agree as to the amount in dispute, the staff
20 member will make a reasonable estimate to establish an interim
21 disputed amount until the complaint is resolved. If the customer
22 fails to pay the undisputed portion of the bill the utility may
23 discontinue the customer's service pursuant to Commission rules.

24 (11) At any time the parties may agree to settle their
25 dispute. If a settlement is reached, the parties or their

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1 representatives shall file with the Division of Consumer Affairs a
2 written statement to that effect. The statement shall indicate
3 that the settlement is binding on both parties and that the parties
4 waive any right to further review or action by the Commission. The
5 Division shall, if the complaint has been docketed, submit the
6 statement to the Commission for approval. If the complaint has not
7 been docketed, then the Division shall acknowledge the statement of
8 settlement by letter to the parties.

9 Specific Authority: 120.53(1), 350.127(2), F.S.

10 Law Implemented: 120.53(1), 120.57, 120.59(4), F.S.

11 History: New 1/3/89, Amended _____.

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25 amend 2522032.wew

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TIME AND DATE: 9:30 A.M., October 12, 1993

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THIS RULE AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399.

THE FULL TEXT OF THE RULE IS:

25-22.032 Customer Complaints

(4) If a party objects to the proposed resolution, he may file a request for an informal conference on the complaint. The request shall be in writing and should be filed with the Division of Consumer Affairs within 30 days after the proposed resolution is mailed or personally communicated to the parties. Upon receipt of the request the Director of the Division [[may]] [shall] appoint a staff member to conduct the informal conference [[or the Director may make a recommendation to the Commission for dismissal based on a finding that the complaint states no basis for relief under the Florida Statutes, Commission rules or orders, or the applicable tariffs. If a conference is granted]] t[T]he appointed staff member shall have had no prior contact with the complaint. After consulting with the parties, the appointed staff member shall issue a written notice to the parties setting forth the procedures to be employed, the dates by which written materials are to be filed, and the time and place for the informal conference, which shall be held in the service area, or such other convenient location to which the parties agree, no sooner than 10 days following the notice.

Specific Authority: 120.53(1), 350.127(2), F.S.

Law Implemented: 120.53(1), 120.57, 120.59(4), F.S.

STATEMENT OF FACTS AND CIRCUMSTANCES
JUSTIFYING RULE

The current mandatory requirement that an informal conference be held each time a party requests one, despite the fact that no basis for relief may exist, creates an unnecessary burden on the agency resulting in waste of time and expense.

STATEMENT ON FEDERAL STANDARDS

There is no federal standard on the same subject.

STATEMENT OF IMPACT ON SMALL BUSINESS

None.