

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF RECORDS &
REPORTING
BLANCA S. BAYO
DIRECTOR
(904) 413-6770

Public Service Commission

NOTICE OF COMPLAINT

to

FLORIDA POWER & LIGHT COMPANY

Docket No. 960102-EI - Complaint of GLAMOUR INDUSTRIES, INC.
against FLORIDA POWER & LIGHT COMPANY regarding breach of
contract.

You are hereby notified that the above complaint, a copy of which is attached, has been
filed with this Commission.

As required by the Commission's Rules of Practice and Procedure, you are directed to
respond to this complaint by the close of business on **February 19, 1996**, and to serve a copy
of your response on the complainant.

By the **DIRECTION** of the Florida Public Service Commission, this 30th day of January,
1996.


Blanca S. Bayo

BSB:lew

cc: Division of Legal Services
Division of Consumer Affairs
Division of Electric and Gas
Office of Public Counsel
Mr. Arthur Wolff, Esquire w/o Attachments

DOCUMENT NUMBER - DATE

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FPSC-RECORDS/REPORTING

Commissioners:
SUSAN F. CLARK, CHAIRMAN
J. TERRY DEASON
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(904) 413-6199

Public Service Commission

January 30, 1996

RECEIVED
JAN 31 1996

FPSC-RECORDS/REPORTING

Mr. Maurice Baum, President
Glamour Industries, Inc.
2848 N. State Road 7
Hollywood, Florida 33021

Re: Docket No. 960102-EI - Complaint of Glamour Industries, Inc. against Florida Power & Light Company for breach of contract.

Dear Mr. Baum:

As per our telephone conversation of January 29, the Commission has opened the above-titled docket on your complaint. We have used the original letter and attached affidavit sent by Arthur Wolff, Esquire, to Chairman Clark as your initial complaint pleading. Enclosed are copies of Rules 25-22.036 through 25-22.0375, Florida Administrative Code. These procedural rules will guide you through the pleading process. If you wish to amend your original complaint, please follow Rule 25-22.0375. It is necessary for you to send Florida Power & Light Company (FPL) a copy of whatever you submit to the Florida Public Service Commission (PSC) at this address:

Florida Power & Light Company
215 South Monroe Street
Tallahassee, Florida 32301

I have highlighted certain sections of the procedural rules which I believe are most relevant to your situation. FPL, the respondent, has 20 days in which to send a response to the Commission regarding your complaint. If they choose to file a Motion to Dismiss, then Rule 25-22.037(2) will come into play. It is our understanding that you will not be represented by counsel. The Commission makes every effort to accommodate per se (without counsel) complainants, however, we cannot act as your attorney.

A Case Assignment and Scheduling Record (CASR) showing staff assignments and dates of all events will be sent to you by the Division of Records and Reporting. The content of the CASR is subject to change and there is an explanation on the CASR regarding how to obtain updates.

Mr. Maurice Baum
January 30, 1996
Page 2

If you have any questions, please contact me at (904) 413-6199.

Sincerely yours,

Sheila L. Erstling
Sheila L. Erstling
Senior Attorney *by [Signature]*

SLE/js

enclosure

cc: Florida Power & Light Company
Robert D. Vandiver, General Counsel
Arthur Wolff, Office of Public Counsel
Division of Consumer Affairs
Division of Electric and Gas
Division of Records and Reporting

**SUBPART B
PREHEARING PROCEDURES**

- 25-22.036 Initiation of Formal Proceedings
- 25-22.037 Answers and Motions
- 25-22.0375 Pleadings
- 25-22.0376 Reconsideration of Prehearing Officer Orders
- 25-22.038 Prehearing Officer; Prehearing Statement; Prehearing Conferences; and Prehearing Order
- 25-22.039 Intervention
- 25-22.040 Notice of Hearing
- 25-22.0405 Notices of Public Utility Hearings
- 25-22.0406 Notice and Public Information on General Rate Increase Requests by Electric, Gas and Telephone Companies
- 25-22.0407 Notice of and Public Information for General Rate Increase Requests by Water and Wastewater Utilities
- 25-22.0408 Notice of Requests for New or Revised Service Availability Charges or Policies and Notice of Requests for Allowance for Funds Prudently Invested (AFPI) Charges
- 25-22.041 Continuances
- 25-22.042 Dismissal
- 25-22.043 Reserved
- 25-22.044 Reserved

25-22.036 Initiation of Formal Proceedings.

(1) Applicability. This section shall apply to all §120.57 (1) and (2) hearings including a hearing requested by a substantially affected person subsequent to proposed agency action. This rule shall not apply to the extent that a proceeding is governed by rules or statutes that prescribe alternative procedures.

(2) Initial Pleading. The initial pleading shall be entitled as either an application, petition, complaint, order, or notice, as set forth in subsections (3), (4), (5), and (6). Where the Commission has issued notice of proposed agency action, the initial pleading shall be entitled "Petition on Proposed Agency Action."

(3) Application. An application is appropriate when a person seeks authority from the Commission to engage in an activity subject to Commission jurisdiction.

(4) Petition. A petition is appropriate when:

(a) A person subject to Commission jurisdiction seeks authority to change its rates or service, or seeks some other Commission action not otherwise specified in these rules; or

(b) A substantially affected person seeks some other Commission action to change the rates or service of a person subject to Commission jurisdiction, or seeks some other Commission action not otherwise specified in these rules.

(5) Complaints. A complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction which affects the complainant's substantial interests and which is in violation of a statute enforced by the Commission, or of any Commission rule or order.

(6) Orders and Notices. Upon its own motion, the Commission may issue an order or notice initiating a proceeding. Such order or notice shall be served upon all persons named therein. The Commission may also transmit notice of its action to other persons requesting such notice, any may publish such notice in appropriate newspapers of general circulation and the Florida Administrative Weekly.

(7) Form and Content.

(a) Generally Except for orders or notices issued by the Commission, each initial pleading should contain:

1. The name of the Commission and the Commission's docket number, if known;

(d) If the Commission elects to request that a Hearing Officer of the Division of Administrative Hearings be assigned to conduct the hearing, the Commission shall forward the initial pleading, and all materials filed with the Commission, to the Division of Administrative Hearings, and shall notify all parties of its action.

(10) Service of Initial Pleadings. Where a petition seeks relief against a person, or a complaint is filed, a copy of the petition or complaint shall be served on all persons named therein. Where a petition on proposed agency action is filed, a copy shall be served on all parties of record.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 12/21/81, formerly 25-22.36.

25-22.037 Answers and Motions.

(1) Answers. A respondent or intervenor may file an answer within twenty (20) days of service of the petition. An answer to an order or notice by the Commission which asserts a violation of a statute, rule or order, or initiating a formal proceeding, may be filed within the time stated in the order or notice, or in the absence of a stated time, within twenty (20) days of issuance of the order or notice.

(2) Motions. Motions may be filed in opposition to the proceeding, or for other purposes during the proceeding.

(a) Motions in opposition to an order, notice, complaint or petition, which may be filed by any party, include motions to dismiss, to strike, and for a more definite statement. Such motions shall be filed within the time provided for filing an answer. In the event such a motion is denied, an answer or other responsive pleading may be filed within 10-days after issuance of an order denying the motion. Any ruling on such a motion by a presiding officer other than the Commission shall be incorporated in a recommended order, and will be finally disposed of only by the Commission.

(b) All motions shall be in writing unless made on the record during a hearing, and shall fully state the action requested and the grounds relied upon. In proceedings before the Commission, the original written motion shall be filed with the Division of Records and Reporting. In proceedings before the Division of Administrative Hearings, the original written motion shall be filed with the presiding officer. The presiding officer shall conduct such proceedings and make such orders as are deemed necessary to dispose of issues raised by motions. Every written motion may be accompanied by, or included in, a written memorandum stating the grounds upon which the motion is based. Other parties to a proceeding may, within seven (7) days after service of a written motion, file written memoranda in opposition.

(3) Waiver. Except in cases where a default would occur, the failure of a party to file a timely answer or motion in response to an order, notice, or other initial pleading shall constitute an admission of all facts set forth in the order, notice or initial pleading.

(4) Default. Where an order or initial pleading has been served on a party, and such order or initial pleading seeks a penalty or other specific relief against a person subject to Commission jurisdiction, failure to file a timely answer or motion in response thereto shall constitute a default. The Division of Records and Reporting, upon determining that a default has occurred, shall so indicate in the docket file, and shall return all papers filed by the defaulting party, except those seeking to set aside the default. A default will be set aside only upon a showing of a failure to serve the order or initial pleading, fraud, or lack of subject matter jurisdiction or other good cause as determined by the Commission.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 12/21/81, formerly 25-22.37.

**SUBPART B
PREHEARING PROCEDURES**

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- 25-22.041 Continuances
- 25-22.042 Dismissal
- 25-22.043 Reserved
- 25-22.044 Reserved

25-22.036 Initiation of Formal Proceedings.

(1) Applicability. This section shall apply to all §120.57 (1) and (2) hearings including a hearing requested by a substantially affected person subsequent to proposed agency action. This rule shall not apply to the extent that a proceeding is governed by rules or statutes that prescribe alternative procedures.

(2) Initial Pleading. The initial pleading shall be entitled as either an application, petition, complaint, order, or notice, as set forth in subsections (3), (4), (5), and (6). Where the Commission has issued notice of proposed agency action, the initial pleading shall be entitled "Petition on Proposed Agency Action."

(3) Application. An application is appropriate when a person seeks authority from the Commission to engage in an activity subject to Commission jurisdiction.

(4) Petition. A petition is appropriate when:

(a) A person subject to Commission jurisdiction seeks authority to change its rates or service, or seeks some other Commission action not otherwise specified in these rules; or

(b) A substantially affected person seeks some other Commission action to change the rates or service of a person subject to Commission jurisdiction, or seeks some other Commission action not otherwise specified in these rules.

(5) Complaints. A complaint is appropriate when a person complains of an act or omission by a person subject to Commission jurisdiction which affects the complainant's substantial interests and which is in violation of a statute enforced by the Commission, or of any Commission rule or order.

(6) Orders and Notices. Upon its own motion, the Commission may issue an order or notice initiating a proceeding. Such order or notice shall be served upon all persons named therein. The Commission may also transmit notice of its action to other persons requesting such notice, any may publish such notice in appropriate newspapers of general circulation and the Florida Administrative Weekly.

(7) Form and Content.

(a) Generally Except for orders or notices issued by the Commission, each initial pleading should contain:

1. The name of the Commission and the Commission's docket number, if known;

2. The name and address of the applicant, complainant or petitioners, and an explanation of how his or her substantial interests will be or are affected by the Commission determination;
3. A statement of all known disputed issues of material fact. If there are none, the petition must so indicate.
4. A concise statement of the ultimate facts alleged, as well as the rules and statutes which entitle the petitioner to relief;
5. A demand for relief; and
6. Other information which the applicant, complainant or petitioner contends is material.

(b) Application. An application shall be governed by the statute or rules applicable to applications for authority. In the absence of a specific form and content, the application shall conform to this rule.

(c) Complaint. Each complaint, in addition to the requirements of paragraph

(a) above shall also contain:

1. The rule, order, or statute that has been violated.
2. The actions that constitute the violation;
3. The name and address of the person against whom the complaint is lodged.
4. The specific relief requested, including any penalty sought.

(d) When a petitioner seeks relief against another person, the petition shall include the name and address of the person against whom relief is sought in addition to the requirements of paragraph (a) of this subsection.

(e) Petitions for rate relief shall conform to all applicable rules and statutes as to form and content, in addition to the requirements of paragraph (a) of this subsection.

(f) Petition on Proposed Agency Action. When a petition is filed in response to proposed agency action the petition shall also contain a statement of when and how notice of the Commission's proposed agency action was received.

(8) Amendments. A petition, application or complaint may be amended prior to the filing of a responsive pleading or the designation of a presiding officer by filing and serving an amended initial pleading in the manner prescribed for filing and serving an original petition, application or complaint. The petitioner, complainant, or applicant may amend its initial pleading after the designation of the presiding officer only upon order of the presiding officer.

(9) Disposition.

(a) Where an application, petition, or complaint has been filed, and Commission action has not yet been proposed, the Commission may:

1. Deny the petition if it does not adequately state a substantial interest in the Commission determination or if it is untimely.
2. Issue notice of proposed agency action where a rule or statute does not mandate a hearing as a matter of course, and after the time for responsive pleadings has passed;
3. Set the matter for hearing before the Commission, or member thereof, or request that a hearing officer from the Division of Administrative Hearings be assigned to conduct the hearing. The assignment of a matter for hearing shall be pursuant to Rule 25-22.0355.
4. Dispose of the matter as provided in §120.57(2).

(b) Where a petition on proposed agency action has been filed the Commission may:

1. Deny the petition if it does not adequately state a substantial interest in the Commission determination or if it is untimely.
2. Grant the petition and determine if a 120.57(1) hearing or a 120.57(2) hearing is required.

(c) The Commission shall promptly give written notice to all parties of the action taken on the petition, and shall state with particularity its reasons therefore.

(d) If the Commission elects to request that a Hearing Officer of the Division of Administrative Hearings be assigned to conduct the hearing, the Commission shall forward the initial pleading, and all materials filed with the Commission, to the Division of Administrative Hearings, and shall notify all parties of its action.

(10) Service of Initial Pleadings. Where a petition seeks relief against a person, or a complaint is filed, a copy of the petition or complaint shall be served on all persons named therein. Where a petition on proposed agency action is filed, a copy shall be served on all parties of record.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 12/21/81, formerly 25-22.36.

25-22.037 Answers and Motions.

(1) Answers. A respondent or intervenor may file an answer within twenty (20) days of service of the petition. An answer to an order or notice by the Commission which asserts a violation of a statute, rule or order, or initiating a formal proceeding, may be filed within the time stated in the order or notice, or in the absence of a stated time, within twenty (20) days of issuance of the order or notice.

(2) Motions. Motions may be filed in opposition to the proceeding, or for other purposes during the proceeding.

(a) Motions in opposition to an order, notice, complaint or petition, which may be filed by any party, include motions to dismiss, to strike, and for a more definite statement. Such motions shall be filed within the time provided for filing an answer. In the event such a motion is denied, an answer or other responsive pleading may be filed within 10-days after issuance of an order denying the motion. Any ruling on such a motion by a presiding officer other than the Commission shall be incorporated in a recommended order, and will be finally disposed of only by the Commission.

(b) All motions shall be in writing unless made on the record during a hearing, and shall fully state the action requested and the grounds relied upon. In proceedings before the Commission, the original written motion shall be filed with the Division of Records and Reporting. In proceedings before the Division of Administrative Hearings, the original written motion shall be filed with the presiding officer. The presiding officer shall conduct such proceedings and make such orders as are deemed necessary to dispose of issues raised by motions. Every written motion may be accompanied by, or included in, a written memorandum stating the grounds upon which the motion is based. Other parties to a proceeding may, within seven (7) days after service of a written motion, file written memoranda in opposition.

(3) Waiver. Except in cases where a default would occur, the failure of a party to file a timely answer or motion in response to an order, notice, or other initial pleading shall constitute an admission of all facts set forth in the order, notice or initial pleading.

(4) Default. Where an order or initial pleading has been served on a party, and such order or initial pleading seeks a penalty or other specific relief against a person subject to Commission jurisdiction, failure to file a timely answer or motion in response thereto shall constitute a default. The Division of Records and Reporting, upon determining that a default has occurred, shall so indicate in the docket file, and shall return all papers filed by the defaulting party, except those seeking to set aside the default. A default will be set aside only upon a showing of a failure to serve the order or initial pleading, fraud, or lack of subject matter jurisdiction or other good cause as determined by the Commission.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 12/21/81, formerly 25-22.37.

25-22.0375 Pleadings.

(1) Pleadings shall substantially conform to the Florida Rules of Civil Procedure as to content, form, size, signatures, and certifications.

(2) Pleadings shall refer to the docket number assigned by the Division of Records and Reporting.

(3) Pleadings shall be served on all parties and the original and seven copies of all pleadings shall be submitted to the Division of Records and Reporting. However, initial pleadings for increases in rates, except rate increases by water and wastewater utilities, shall be filed with twenty (20) copies. The requirement of twenty (20) copies shall apply to all exhibits appended to the original petition, prepared testimony and exhibits, briefs and other supplemental data requested by the Commission.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 12/21/81, formerly 25-22.375.

25-22.0376 Reconsideration of Prehearing Officer Orders.

(1) Any party who is adversely affected by an order of a prehearing officer may seek reconsideration by the Commission panel assigned to the proceeding by filing a motion in support thereof within 10 days after issuance of the order. For the purposes of this rule, orders of the prehearing officer shall not be considered non-final orders subject to Rule 25-22.060(3)(b), Florida Administrative Code. The Commission shall not entertain a motion for reconsideration of an order disposing of a motion for reconsideration.

(2) A party may file a response to a motion for reconsideration within 7 days after service of the motion for reconsideration.

(3) Failure to timely file a motion for reconsideration or a response shall constitute a waiver of the right to do so.

(4) Any motion or response filed pursuant to this rule shall contain a concise statement of the grounds therefor and the signature of counsel or other person filing the motion.

(5) Oral argument on any motion filed pursuant to this rule may be granted at the discretion of the Commission. A party who fails to file a written response to a point on reconsideration shall be precluded from responding to that point during oral argument.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 9/3/95.

25-22.038 Prehearing Officer; Prehearing Statement; Prehearing Conferences; and Prehearing Order.

(1) Prehearing Officer. For the purpose of this chapter, the words "prehearing officer" shall refer to a member of a commission panel assigned to the case who has been designated by the chairman as a prehearing officer. When the commissioner designated as the prehearing officer becomes unavailable, the following persons may act as prehearing officer in the following order of availability: any member of the panel assigned to the proceeding, in order of seniority, or the commission chairman. A commissioner acting as prehearing officer may, in his or her discretion, refer any matter to the panel assigned to the case for a decision.

(2) Prehearing Statement. A prehearing officer may issue an order requiring each party to file a prehearing statement. The order shall provide a date by which time the prehearing statement is due and shall further state that the failure of a party to file a prehearing statement shall be a waiver of any issues not raised by other parties or by the Commission, as well as the ability to present testimony in favor of his or her position. An order requiring a prehearing statement may address or rule upon any matters which may aid in the orderly disposition of the proceeding. In an order requiring a prehearing statement, the prehearing officer