

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD  
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: AUGUST 7, 2003

TO: DIRECTOR, DIVISION OF THE COMMISSION CLERK &  
ADMINISTRATIVE SERVICES (BAYÓ)

FROM: OFFICE OF THE GENERAL COUNSEL (CIBULA, GERVASI) *sm.c. DES*  
DIVISION OF CONSUMER AFFAIRS (TUDOR, DEMELLO) *WJ*  
DIVISION OF ECONOMIC REGULATION (HEWITT) *CSH*

RE: DOCKET NO. 030575-PU - PROPOSED AMENDMENT TO RULE 25-  
22.032, F.A.C., CUSTOMER COMPLAINTS. *JOS 198*

AGENDA: 08/19/03 - REGULAR AGENDA - RULE PROPOSAL - INTERESTED  
PERSONS MAY PARTICIPATE

RULE STATUS: PROPOSAL MAY BE DEFERRED

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\GCL\WP\030575.RCM

CASE BACKGROUND

Pursuant to sections 364.19 and 364.0252, Florida Statutes, the Commission has the authority to assist customers in resolving billing and service disputes with telecommunications companies. Likewise, pursuant to sections 366.05 and 367.121, the Commission has the authority to establish service rules that must be observed by electric, gas, water and wastewater utilities. In accordance with these statutes, Rule 25-22.032, Florida Administrative Code, entitled Customer Complaints, sets forth the procedure for handling complaints made by customers against Commission regulated companies.

As part of an ongoing effort by the Division of Consumer Affairs to improve service to consumers and increase the efficiency of its operations, staff is proposing changes to Rule 25-22.032. The Commission continues to receive a large number of consumer

07220 AUG-73

contacts. In fiscal year 2001-2002, the Commission logged over 60,000 complaints and information requests.

Florida joins many states that have been experiencing significant consumer interaction in the past few years. A National Regulatory Research Institute report, entitled "The Enforcement Function Within the Consumer Affairs Department," states that over the five years of the study there has been an escalation in consumer complaints, contacts, and interactions.

With its considerable number of consumer contacts, the Commission's Division of Consumer Affairs has reviewed its procedures and concluded that streamlining is necessary to allow Commission staff to better assist consumers in a timely, efficient manner. Staff identified several aspects of Rule 25-22.032 that may need revisions. Staff has worked closely with the industry in identifying areas in the current rule where revisions might be made.

On April 17, 2003, staff held a workshop attended by representatives of the industry and the Office of Public Counsel and presented several conceptual changes to the current complaint handling process. Based on comments received at that meeting, staff drafted amendments to the rule. The proposed amendments were the subject of a staff rule development workshop held on May 29, 2003. Staff considered comments received at the rule development workshop, as well as additional comments filed after the workshop, and made further amendments to its draft rule. Post-workshop comments were received from Progress Energy, Florida Power & Light, the Southeastern Competitive Carriers Association, MCI, Verizon, and Gulf Power.

This recommendation addresses whether the Commission should amend Rule 25-22.032. The Commission has rulemaking authority pursuant to sections 120.54, 350.127(2), 364.19, 364.0252, 366.05, and 367.121, Florida Statutes.

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the Commission propose the amendment of Rule 25-22.032, Florida Administrative Code, entitled Customer Complaints?

**RECOMMENDATION:** Yes. The Commission should propose the amendment of Rule 25-22.032, Florida Administrative Code. (CIBULA, GERVASI, TUDOR, DEMELLO, HEWITT)

**STAFF ANALYSIS:** Staff is recommending a number of changes to Rule 25-22.032. The proposed amended rule is attached hereto as Attachment A. The following is a discussion of some of the more notable amendments that staff is recommending to the rule. While the rule amendment incorporates most of the suggestions offered at the workshop and in the post-workshop comments, staff also indicates in the discussion below the changes it declined to accept and the reasons why the suggestions were not included in the draft rule amendments.

1. Scope and Intent of Rule

Beginning on page 11, line 9 of the rule, staff is recommending that the intent/scope of the rule be clarified to indicate that the Commission's complaint procedure is designed to address only those complaints that fall within the Commission's jurisdiction. While staff believes that this is already inherent in the rule, as the Commission can only act when it has jurisdiction, staff believes this amendment is necessary to eliminate any confusion in this regard.

2. Customer Complaint Handling Process

Staff communication with the consumer would change under the amended rule. Currently, staff receives the consumer's complaint, acknowledges the complaint in writing if it is a written complaint and, after receiving one or more utility company responses to the complaint, communicates in writing or by telephone with the consumer to explain staff's proposed resolution of the complaint.

Under the rule amendment, however, staff will follow up on all complaints received (both written and verbal) with written correspondence to the consumer acknowledging receipt of the complaint and explaining the process by which the complaint will be handled. This letter will explain that the consumer should expect

to hear back directly from the utility company with its suggested resolution of the complaint and that if the consumer disagrees with the utility company's proposed resolution, the consumer may ask Commission staff to review the utility company's proposed resolution. It is staff's position that in the majority of cases no further intervention will be needed by Commission staff. It is also staff's position that the customer will receive a faster response from the company compared to the current procedure, which requires the company's response to first be reviewed by staff, followed by staff preparing a response which is then transmitted to the customer. In those cases in which the customer requests a review, staff would review the case, determine whether the complaint should be pursued further, and would advise the consumer of the staff's proposed resolution of the complaint, as outlined on page 19, beginning on line 3, of the amended rule.

The purpose of this change is two-fold. First, the change puts the utility company in more direct contact with its customers for resolution of the complaints. This may serve to expedite handling of complaints, as well as to improve a utility company's relations with its customers. Second, the change will allow staff to be more productive, as staff will be able to direct more of its time and resources to resolving those complaints that the customer and company are unable to resolve on their own. It should be emphasized, however, that staff will continue to review all complaint resolutions to determine if they appear to have been handled correctly and to identify trends in complaints to determine if further investigation is appropriate.

In its comments, Progress Energy suggested an addition to subsection (6)(c), page 18, line 3, of the amended rule, pertaining to a timetable for implementing the company's proposed resolution of a complaint. More specifically, Progress Energy commented that the rule should indicate whether a company has the option to send an interim response to the customer outlining an action plan for submitting a final response in those instances under the rule when the company is unable to take action under its proposed action schedule. Staff believes, however, that in such a scenario, the company should take prompt, immediate action to provide a new resolution schedule, as the customer will have already agreed to a resolution of the matter and an interim response would further delay the implementation of the resolution.

Progress Energy also indicated in its comments that the rule should state that staff will only provide a resolution if the complaint meets the criteria reviewed by the Process Review Team discussed in subsection (7)(b) of the amended rule. Staff, however, believes that, at this point in the process, it should attempt to find a resolution to the complaint when the customer and company are unable to resolve the matter on their own.

### 3. Due Dates for Responding to Commission Inquiries

On page 19, line 15, the amended rule addresses the time frame for companies to provide supplemental information to staff. The current rule is silent in this regard. Staff is recommending that the rule be amended to allow companies 7 working days to provide supplemental information requested by staff. Many companies commented that on occasion, supplemental information is difficult to gather. Therefore, the amended rule allows companies to provide a partial response within the seven days with an explanation as to why a complete response cannot be provided and a time schedule for providing the complete response. The amended rule further requires companies to file the status of the response every 15 days until the response is complete.

The current rule is also silent as to the time period for responding to Commission staff inquiries in instances when the company, utilizing the three-day resolution option, attempts to close a complaint but the consumer indicates that he is not satisfied with the company's proposed resolution of the matter. The amended rule, page 17, beginning on line 20, requires that the company's response will be due within 12 working days of the date the matter is resent to the company. The company, thus, will have a total of 15 working days to respond.

### 4. Customer Protection From Disconnection During the Complaint Resolution Process

On page 13, line 6, staff is recommending that the Commission's current procedure for protecting customers from disconnection during the complaint process be clarified to specifically state that protection from disconnection must remain in effect until the complaint is closed by Commission staff. The current rule is silent in this regard. Therefore, companies do not know at what point they may proceed with disconnection where appropriate. Staff notes that it currently provides reports to

companies on a weekly basis indicating closed complaints. Also, the company may call staff if it wishes to obtain the status of the complaint prior to the reports being submitted to the company.

#### 5. Telephone and E-mail Transfer Connection Programs

On page 13, line 15, the section on the Commission's transfer connect program has been amended to reflect that not only is there the telephone transfer connection option, but that companies may also opt to participate in the E-mail transfer connection program. The E-mail transfer connection program, once a pilot project, is now being fully implemented. The addition of the E-mail transfer connection program will especially benefit smaller utility companies that are unable, for financial reasons, to participate in the telephone transfer connect program.

The amended rule also extends the three-day complaint resolution option to the E-mail transfer connection program as set forth on page 14, beginning on line 15. As with telephone transfer-connect complaints, if a company participating in the E-transfer program resolves the complaint within three working days, that complaint is not attributable to the company in the Commission's monthly Consumer Activity Report.

On page 14, line 6, staff is recommending that the rule be changed in order to require that a company representative must be ready to receive the customer's complaint when the complaint is forwarded to the company via the telephone transfer-connect program. This rule change would thus prohibit the use of voice recorders answering calls. Staff believes that in order for the telephone transfer-connect program to be successful, a Division of Consumer Affairs analyst should be able to immediately reach a company representative when the analyst attempts to transfer a customer rather than the analyst having to be put on hold until a representative is available.

In subsection (5)(a) of the amended rule, page 14, line 24, staff is recommending changes that will clarify when the three-day response time begins to run for telephone calls and E-mails forwarded to the companies from the Commission. In its comments, Progress Energy indicated that the rule should be changed so that staff is required to forward the complaint to the company for response and resolution no later than 5 p.m. Eastern time. Staff does not believe that this addition is needed, as the amended rule

states that the three day period will not begin to run until the first working day after the date the information is sent to the company. Thus, whether the complaint is forwarded electronically to the company at 12 noon or at 9 p.m., the company will still have three full working days to address the complaint, which is the time period provided under the rule.

#### 6. Company Contact for Complaint Handling

The proposal also codifies, on page 16, beginning on line 18, the Commission's current practice of allowing a company to designate up to three customer complaint contacts who exclusively handle customer complaints for the company. Currently, each utility company is required to register a primary liaison contact person with the Commission. Many utility companies, however, have a separate Commission liaison person to address consumer complaints. If a complaint liaison is not named, complaints will go to the primary Commission liaison listed in the Master Commission Directory.

Allowing a separate dedicated complaint contact can expedite the complaint handling process. The amended rule also specifies, however, that if a utility company elects to have multiple contact people, any complaint that is misdirected by the Commission must be redirected to the proper contact by the company. This should prevent delays in responding to customers.

#### 7. Process Review Team

Another major change that staff is recommending is the Process Review Team, discussed in subsection (7) of the amended rule, page 20, line 4. Currently, if staff is unable to resolve a consumer's complaint to the consumer's satisfaction, an informal conference can be held to attempt to negotiate a resolution. If the informal conference does not result in a resolution, the complaint is brought before the Commission at an agenda conference.

The Commission is sometimes unable to provide the relief the consumer requested because the matter is outside of its jurisdiction (for example, a complaint involving easements), the relief sought cannot be granted by the Commission (for example, the complaint seeks payment of damages), or the consumer simply does not agree with an existing Commission rule (for example, a complaint involving a company's request for a deposit).

Oftentimes, even though the Commission clearly could not grant the relief sought, the complaint still ultimately is addressed by the Commission at an agenda conference, if only to state that the Commission does not have authority over the matter.

The amended rule will insert a new step in the review process before a consumer's unresolved complaint is set for an informal conference. As set forth on page 20, line 5 of the amended rule, the Process Review Team will review complaints in instances when the company or the customer is not in agreement with staff's proposed resolution of the complaint. The Process Review Team will be comprised of staff members from the Office of the General Counsel, the Division of Consumer Affairs, and the pertinent technical division. The team will review a complaint to determine whether: 1) the complaint is within the Commission's jurisdiction; 2) the relief sought can be provided by the Commission; 3) the basis of the complaint is an objection to current statutes, rules, company tariffs, or orders of the Commission; and 4) there appears to be a violation of applicable statutes, rules, company tariffs, or orders of the Commission. Based on this review, the Process Review Team will either determine that the Division of Consumer Affairs should schedule an informal conference to address the complaint, or recommend that the Office of the General Counsel send a closure letter to the participants. If the General Counsel's office sends the closure letter, the complaint will be closed and no informal conference will be held.

In its comments, Progress Energy suggested that the rule specify a time frame from the date of the closure during which the Commission may reopen the complaint using the original tracking number and clarify that once the time frame has expired, the Commission will not reopen the complaint under the original number or assign a new tracking number. Under this suggestion, the Commission would no longer address the complaint after a certain period of time. Staff believes, however, that it would be very difficult to anticipate the wide range of causes for reopening a complaint. Also, staff believes that requests to reopen a complaint or to file a new complaint need to be handled on a case-by-case basis.

#### 8. Informal Conferences

Subsection (8) addressing informal conferences, page 21, line 19, has been revised under the amended rule to reflect the role of



the Process Review Team. Subsections (8)(b) and (c) of the amended rule, beginning on page 22, line 10, consist of measures to ensure that the issues addressed at the informal conference are clearly delineated. Subsection (8)(d), page 24, line 14, has been modified to indicate that staff from the Division of Consumer Affairs, the Office of the General Counsel, and the pertinent technical division would participate at the informal conference under the amended rule.

9. Extensions of Time for Filings Due to Utility Company Emergencies

Subsection (11), page 28, line 22, was added to the rule to address a matter upon which the current rule is silent -- extensions of time for filing reports and responses to the Commission in the event of utility company emergencies. The utility company's complaint staff is often diverted to other duties in times of emergency, and this causes delays in the filing of responses to individual consumer complaints and/or the submittal of end-of-month reports.

Staff is recommending that companies be allowed an automatic three day extension when a notice is filed with the Division of Consumer Affairs indicating any of the emergencies set forth on page 28, lines 23 through 24 and page 29, lines 3 through 7. Any further requests for extensions of time under the circumstances outlined would be made to the Director of the Division of Consumer Affairs. On page 30, beginning on line 7, staff is also recommending that the rule be revised to allow a company participating in the transfer connect program to provide an alternative, temporary means of transmitting customer concerns from the Commission in the event of the circumstances listed in subsection (11) of the amended rule.

Statement of Estimated Regulatory Costs

The Florida Administrative Procedures Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). No SERC was prepared for this proposed rule amendment; however, staff believes that the costs associated with the rule amendment should be minimal. Although new procedures for handling customer complaints will be developed under the amended rule, these new procedures will be implemented using existing Commission staff. Furthermore, staff does not anticipate any significant negative

DOCKET NO. 030575-PU  
DATE: AUGUST 7, 2003

impacts on regulated companies, small businesses, small cities, or small counties.

**ISSUE 2:** If no request for hearing or comments are filed, should the proposed rule be filed for adoption with the Secretary of State and the docket closed?

**RECOMMENDATION:** Yes. The docket should be closed if no request for hearing or comments are filed. (CIBULA, GERVASI)

**STAFF ANALYSIS:** If no request for hearing or comments are filed, the proposed rule should be filed for adoption with the Secretary of State and the docket should be closed.

Attachments:

Rule  
Revised Dispute Resolution Form (PSC/CAF10)  
SERC Memorandum

3 ATTACHMENT A

4 25-22.032 Customer Complaints.

5 (1)~~1~~ Intent; Application and Scope.

6 It is the Commission's intent that disputes between regulated  
7 companies and their customers be resolved as quickly, effectively,  
8 and inexpensively as possible. This rule establishes informal  
9 customer complaint procedures that are designed to address  
10 disputes, subject to the Commission's jurisdiction, that occur  
11 between regulated companies and individual customers accomplish  
12 that intent. This rule applies to all companies regulated by the  
13 Commission. It provides for expedited processes for customer  
14 complaints that can be resolved quickly by the customer and the  
15 company ~~without extensive Commission participation.~~ It also  
16 provides a process for informal Commission staff resolution of  
17 complaints that cannot be resolved by the company and the customer.

18 (2) Processing of Complaints

19 (a) Any customer of a Commission regulated company may file  
20 a complaint with the Division of Consumer Affairs whenever the  
21 customer has an unresolved dispute with the company regarding  
22 electric, gas, telephone, water, or wastewater service that is  
23 subject to the Commission's jurisdiction. The complaint may be  
24 communicated orally or in writing. The complaint shall include the  
25

CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU`  
2 DATE: AUGUST 7, 2003

3 name of the company against which the complaint is made, the name  
4 of the customer of record, and the customer's service address.  
5 Upon receipt of ~~the~~ a complaint by telephone, ~~a~~ Commission staff  
6 ~~member~~ will determine if the customer has contacted the company.  
7 ~~and,~~

8 (b) In the case of complaints made by telephone, if the  
9 customer agrees, Commission staff will put the customer in contact  
10 with the company for resolution of the complaint using the  
11 telephone transfer-connect system described in subsection (4)(3),  
12 or by other appropriate means if the company does not subscribe to  
13 the telephone transfer-connect system. If the customer does not  
14 agree to be put in contact with the company, then, in the case of  
15 ~~for those~~ companies subscribing to the telephone transfer-connect  
16 system, ~~the~~ staff member will submit the complaint to the company  
17 for resolution in accordance with the ~~three-day complaint~~  
18 ~~resolution process provisions~~ set forth in subsection (5)(4).

19 (c) For those companies not subscribing to the telephone  
20 transfer-connect or to the E-mail transfer system described in  
21 subsection (4), ~~the~~ staff member will submit the complaint to the  
22 company for resolution in accordance with the provisions of  
23 subsection (6)(5).

24  
25  
CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

3 ~~(3)(6)~~ Protection from Disconnection.

4 During the complaint process described in sections (5) - (9),  
5 a company shall not discontinue service to a customer because of  
6 any unpaid disputed amount until the complaint is closed by  
7 Commission staff bill. However, the company may require the  
8 customer to pay that part of a bill which is not in dispute. If the  
9 company and the customer cannot agree on the amount in dispute,  
10 Commission the staff member will make a reasonable estimate to  
11 establish an interim disputed amount until the complaint is closed  
12 by Commission staff resolved. If the customer fails to pay the  
13 undisputed portion of the bill, the company may discontinue the  
14 customer's service pursuant to Commission rules.

15 ~~(4)(3)~~ Telephone Transfer-connect and E-mail Transfer  
16 systems.

17 (a) Each company subject to regulation by the Commission may  
18 provide a telephone transfer-connect ~~(warm transfer)~~ telephone  
19 number by which the Commission may directly transfer a customer to  
20 that company's customer service personnel. When the telephone  
21 transfer is complete, any further charges for the call shall be the  
22 responsibility of the company and not the Commission or the  
23 customer. Each company that subscribes to the telephone transfer-  
24 connect system must provide customer service personnel to handle  
25

CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU`  
2 DATE: AUGUST 7, 2003

3 transferred calls during the company's normal business hours and at  
4 a minimum from Monday through Friday, 9:00 A.M. to 4:00 P.M.,  
5 Eastern time, excluding all holidays observed by the company.  
6 Telephone transfer-connect calls shall not be initially answered by  
7 a recorded voice but shall be answered by a person ready to receive  
8 information about the complaint.

9 (b) A company may also provide to the Commission an E-mail  
10 address by which the customer may directly E-mail a complaint to  
11 the company's customer service personnel from the Commission's  
12 Internet Web site. The company shall acknowledge the customer's E-  
13 mail to the customer by no later than the working day after the  
14 date of receipt.

15 ~~(5)-(4)~~ Complaints resolved within three (3) days by  
16 companies participating in the Telephone Transfer-Connect System or  
17 the E-mail Transfer System.

18 Companies that subscribe to the telephone transfer-connect or  
19 E-mail transfer system may resolve a customer complaints within  
20 three days in the following manner:

21 (a) The Commission staff ~~member~~ handling the complaint will  
22 forward a description of the complaint to the company for response  
23 and resolution. The three day period will begin ~~at 5:00 p.m. on~~  
24 the working day after the day the information is sent to the  
25

CODING: Words underlined are additions; words in ~~struck through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU  
2 DATE: AUGUST 7, 2003

3 company and end at 5:00 p.m. Eastern time on the third working day,  
4 excluding weekends and company holidays. If the company  
5 satisfactorily resolves the complaint, the company shall notify  
6 Commission ~~the staff member~~ of the resolution in writing by no  
7 later than 5:00 p.m. Eastern time on the third day.

8 (b) ~~The Commission will contact the customer to confirm that~~  
9 ~~the complaint has been resolved.~~ If the customer does not object  
10 to the company's resolution to the complaint ~~confirms that the~~  
11 ~~complaint has been resolved~~, the complaint will not be reported in  
12 the total number of complaints shown for that company in the  
13 Commission's Consumer Complaint Activity Report. However, the  
14 Commission will retain the information for use in enforcement  
15 proceedings, or for any other purpose necessary to perform its  
16 regulatory obligations.

17 (c) If the customer informs ~~the~~ Commission staff ~~member~~ that  
18 the complaint has not been resolved, the Commission staff will  
19 notify the company and require a full report as prescribed in  
20 subsection (6)(5).

21 (d) For purposes of this subsection a complaint will be  
22 considered "resolved" if the company report indicates that the  
23 problem has been corrected or the company report indicates that the  
24 company and the customer have agreed to a plan to correct the

25  
CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

3 ~~problem. and the customer indicate that the problem has been~~  
4 ~~corrected, or the company and the customer indicate that they have~~  
5 ~~agreed to a plan to correct the problem.~~

6 ~~(6)(5)~~ General Commission Staff Complaint Investigation.

7 ~~Complaints not resolved within three days.~~

8 If the customer is not placed in direct contact with the  
9 company by means of the telephone transfer connect or E-mail  
10 transfer system for resolution of his complaint, does not agree to  
11 contact the company directly, if the customer is not satisfied with  
12 the company's proposed resolution of the complaint, or if the  
13 company does not subscribe to the transfer-connect system, a  
14 Commission staff member will investigate the complaint and attempt  
15 to resolve the dispute in the following manner:

16 (a) Commission ~~The~~ staff member will acknowledge receipt of  
17 the complaint to the customer, notify the company of the complaint  
18 and request a written response from the company. Notification to  
19 the company by Commission staff will be to the primary Commission  
20 liaison for each certificate unless the company has provided to the  
21 Director of the Division of Consumer Affairs a name, address,  
22 telephone and facsimile numbers and E-mail address for a separate  
23 point of contact for complaint handling for each certificate. It is  
24 preferable for a company to have a single point of contact for  
25

CODING: Words underlined are additions; words in ~~struck~~  
through type are deletions from existing law.



1 DOCKET NO. 030575-PU  
2 DATE: AUGUST 7, 2003

3 complaint handling but a company may identify up to a maximum of  
4 three points of contact for complaint handling per certificate.  
5 However, if Commission staff directs a complaint to any one of the  
6 identified multiple complaint handling contacts, the company shall  
7 process the complaint and not return the complaint to Commission  
8 staff for redirecting the complaint to other company points of  
9 contact. ~~The company shall provide its response to the complaint~~  
10 ~~within fifteen (15) working days.~~

11 (b) Unless the Commission staff requests that the company not  
12 contact the customer directly, the company shall make direct  
13 contact with the customer verbally or in writing and provide to the  
14 customer its response to the complaint within 15 working days after  
15 the Commission staff sends the complaint to the company. Responses  
16 sent by mail must be postmarked within the 15 working day time  
17 period. The company shall also provide to the Commission staff,  
18 within 15 working days after the Commission staff sends the  
19 complaint to the company, a written response to the customer's  
20 complaint. However, in the case of those complaints where the  
21 company has proposed, under the provisions of subsection (5) of  
22 this rule (complaints resolved in 3 days), a resolution with which  
23 the customer is not satisfied, the company shall respond within  
24 twelve (12) working days of the case being resent to the company.

25  
CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU`  
2 DATE: AUGUST 7, 2003

3 (c) The company's response to the Commission staff shall  
4 explain the company's likely cause of the problem, all actions  
5 taken by the company to resolve the customer's complaint, and the  
6 company's resolution or proposed resolution of the complaint and  
7 shall answer any specific questions raised by Commission staff.  
8 The company response shall also include letters or E-mails sent to  
9 the customer that contain the company's proposed resolution of the  
10 complaint or statement of position in addressing or resolving the  
11 complaint. Upon Commission staff request, other documentation  
12 related to the complaint shall be provided to Commission staff.  
13 ~~actions in the disputed matter and the extent to which those~~  
14 ~~actions were consistent with applicable statutes and regulations.~~  
15 ~~The response shall also describe all attempts to resolve the~~  
16 ~~customer's complaint. If the company's proposed resolution has not~~  
17 ~~yet been implemented at the time of the response to the Commission~~  
18 ~~staff and customer, the company shall fully set forth in its~~  
19 ~~response the steps that will be taken by the company to resolve the~~  
20 ~~complaint and the dates by which each step will be taken by the~~  
21 ~~company. The company shall promptly notify the customer if it is~~  
22 ~~subsequently unable to take its proposed action as scheduled and~~  
23 ~~shall provide to the customer and, upon request, to Commission~~  
24 ~~staff, a new resolution schedule for the complaint.~~

25  
CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU  
2 DATE: AUGUST 7, 2003

3 (d) Commission staff will not normally further respond to the  
4 customer. However, if a customer objects to the company response  
5 to the complaint, the customer may request further review of the  
6 complaint by Commission staff. Commission staff will then propose  
7 a resolution of the complaint. The proposed resolution to the  
8 customer may be either oral or written. Upon request of either the  
9 customer or the company, Commission staff shall provide the  
10 proposed resolution in writing.

11 (e)(b) Commission ~~The~~ ~~staff member~~ ~~investigating the~~  
12 ~~complaint~~ may request copies of bills, billing statements, field  
13 reports, written documents, or other information in the  
14 participants' possession that may be necessary to resolve the  
15 dispute. The company shall respond in 7 working days to each  
16 subsequent request by staff after the initial company response. If  
17 a complete response cannot be provided in the 7 working days, the  
18 company shall provide an update regarding the response every 15  
19 working days until the response is completed. Such update shall  
20 identify all actions taken since the last report, an explanation of  
21 why a complete response cannot be provided, and a time schedule for  
22 providing a complete response. ~~The~~ Commission ~~staff member~~ may  
23 perform, or request the company to perform, any tests, on-site  
24 inspections, and reviews of company records necessary to aid in the  
25

CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU`  
2 DATE: AUGUST 7, 2003

3 resolution of the dispute.

4 (7) Process Review Team.

5 (a) If the customer or the company is not in agreement with  
6 Commission staff's proposed resolution, the Division of Consumer  
7 Affairs will refer the complaint to a Process Review Team  
8 consisting of staff from the Office of the General Counsel, the  
9 Division of Consumer Affairs, and the appropriate technical  
10 division. This Process Review Team will review the complaint file  
11 to determine further handling of the complaint.

12 (b) If the Process Review Team finds that the subject matter  
13 of the complaint may be within the Commission's jurisdiction, that  
14 the relief sought can possibly be granted by the Commission, that  
15 the basis of the complaint is not an objection to current statutes,  
16 rules, company tariffs, or orders of the Commission, and that a  
17 violation of an applicable statute, rule, company tariff or order  
18 of the Commission may have occurred, the Division of Consumer  
19 Affairs shall schedule an informal conference. The fact that an  
20 informal conference is scheduled shall not preclude any participant  
21 or Commission staff from later taking a position that the complaint  
22 does not fall into one or more of the above categories.

23 (c) The Process Review Team will recommend that the Office of  
24 the General Counsel send a closure letter to the participants if

25  
CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

3 the team finds that:

4 1. The case involves issues or concerns that fall outside the  
5 jurisdiction of the Commission,

6 2. The relief sought cannot be provided by the Commission,

7 3. The basis of the complaint is an objection to current  
8 statutes, rules, company tariffs, or orders of the Commission, or

9 4. It does not appear that a violation of applicable  
10 statutes, rules, company tariffs, or orders of the Commission  
11 occurred.

12 (d) Once the closure letter has been sent, the case will be  
13 closed.

14 ~~The staff member will propose a resolution of the complaint based~~  
15 ~~on the information provided by all participants to the complaint~~  
16 ~~and applicable statutes and regulations. The proposed resolution~~  
17 ~~may be either oral or written. Upon request, either participant~~  
18 ~~shall be entitled to a written copy of the proposed resolution.~~

19 **(8) Informal Conference.**

20 (a) If the Process Review Team identifies a complaint for an  
21 informal conference, Division of Consumer Affairs staff will notify  
22 the company and provide to the customer a Dispute Resolution form  
23 (PSC/CAF10) via certified mail. The customer shall return the  
24 completed Dispute Resolution Form (PSC/CAF10) to the Division of

25  
CODING: Words underlined are additions; words in ~~struck~~  
through type are deletions from existing law.

1 DOCKET NO. 030575-PU  
2 DATE: AUGUST 7, 2003

3 Consumer Affairs postmarked within 15 working days after the date  
4 of its being sent to the customer. If the completed Dispute  
5 Resolution Form (PSC/CAF10) is not received from the customer with  
6 a postmark within the required 15 working days, the customer's  
7 complaint will be closed at that point. If the Dispute Resolution  
8 Form is completed and returned by the customer, Commission staff  
9 will provide a copy to the company.

10 (b) A customer's completed Dispute Resolution Form  
11 (PSC/CAF10) shall consist of:

12 1. A statement describing the facts that give rise to the  
13 complaint and, to the extent known, an explanation of why the basis  
14 of the complaint may be a violation of the applicable statutes,  
15 rules, company tariffs, or orders of the Commission. The  
16 statements filed by the customer should not raise any new issues  
17 not addressed in the initial complaint.

18 2. A statement of the issues to be resolved.

19 3. Any dollar amount in dispute.

20 4. A statement of the relief requested.

21 ~~If a participant objects to the proposed resolution, the~~  
22 ~~participant may request an informal conference on the complaint.~~

23 ~~(a) The request for an informal conference shall be in~~  
24 ~~writing and filed with the Division of Consumer Affairs within 30~~

25  
CODING: Words underlined are additions; words in ~~struck~~  
through type are deletions from existing law.

1 DOCKET NO. 030575-PU  
2 DATE: AUGUST 7, 2003

3 ~~days after the proposed resolution is sent to the participants.~~

4 ~~(b) When the request for an informal conference is received,~~  
5 ~~the Director of the Division of Consumer Affairs will assign a~~  
6 ~~Commission staff member to process the request for an informal~~  
7 ~~conference. The staff member will advise the participants to~~  
8 ~~complete Form X (PSC/CAF Form X), incorporated by reference herein,~~  
9 ~~and return the form to the Commission within fifteen (15) days. A~~  
10 ~~copy of Form X may be obtained from the Division of Consumer~~  
11 ~~Affairs. At a minimum, the participants shall provide the following~~  
12 ~~information on the form:~~

- 13 ~~1. A statement describing the facts that give rise to the~~  
14 ~~complaint,~~  
15 ~~2. A statement of the issues to be resolved, and~~  
16 ~~3. A statement of the relief requested.~~

17 ~~The informal conference shall be limited to the complaint and the~~  
18 ~~statement of facts and issues identified by the participants in the~~  
19 ~~form. The Commission staff will notify the requesting participant~~  
20 ~~that the request for an informal conference will be denied if the~~  
21 ~~requesting participant's form is not received within the 15 days.~~

22 (c) Staff handling the informal conference may permit any  
23 participant to file additional information, documentation, or  
24 arguments; however, such additional information, documentation or  
25

CODING: Words underlined are additions; words in ~~struck~~  
through type are deletions from existing law.

3 arguments shall be limited to the issues from the customer's  
4 original complaint which are identified in the customer's Dispute  
5 Resolution request form (PSC/CAF10).

6 ~~(c) The Director of the Division will review the statements~~  
7 ~~and either appoint a staff member to conduct the informal~~  
8 ~~conference, or make a recommendation to the Commission for~~  
9 ~~dismissal based on a finding that the complaint states no basis~~  
10 ~~upon which relief may be granted.~~

11 (d) When an informal ~~if a~~ conference is scheduled granted,  
12 the presiding staff member appointed to conduct the conference  
13 shall not have participated in the ~~investigation or proposed~~  
14 resolution of the complaint. The appointed staff shall be  
15 comprised of a representative of the Division of Consumer Affairs  
16 staff, an attorney from the Office of the General Counsel, and a  
17 staff member from appropriate technical staff. The representative  
18 from the Division of Consumer Affairs will preside at the informal  
19 conference.

20 (e) ~~After consulting with the participants, the~~ After  
21 receiving the Dispute Resolution Form from the customer, Commission  
22 ~~staff member~~ will send a written notice to the participants setting  
23 forth the unresolved issues, the procedures to be followed at the  
24 informal conference, and the dates by which written materials are  
25

CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.



1 DOCKET NO. 030575-PU`  
2 DATE: AUGUST 7, 2003

3 to be filed ~~and the time and place for the conference.~~ A company  
4 may at this time respond to information contained on the customer's  
5 Dispute Resolution Form. Each participant may be represented at  
6 the informal conference by an attorney or other representative or  
7 may represent himself. Each participant shall be responsible for  
8 his own expenses in the handling of the complaint. The conference  
9 may be held no sooner than ten days following a notice, unless all  
10 participants agree to an earlier date. The conference may be held  
11 by telephone conference, video teleconference, or in person, no  
12 sooner than ten days following the notice.

13 (f) At the conference, the participants shall have the  
14 opportunity to present information, orally or in writing, in  
15 support of their positions. During the conference, ~~the~~ staff  
16 ~~member~~ may encourage the parties to resolve the dispute. The  
17 Commission staff will be responsible for tape-recording, but not  
18 transcribing, the informal conference. A participant may arrange  
19 for transcription at his own expense.

20 ~~(g) The staff member may permit any participant to file~~  
21 ~~additional information, documentation, or arguments. The opposing~~  
22 ~~participant shall have an opportunity to respond.~~

23 (hg) If a settlement is not reached within 20 working days  
24 following the informal conference and if the complaint is not  
25

CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU  
2 DATE: AUGUST 7, 2003

3 ~~withdrawn, or the last post-conference filing, whichever is later,~~  
4 the staff member shall submit a recommendation to the Commission  
5 for consideration at the next available Commission Agenda  
6 Conference. Copies of the recommendation shall be sent to the  
7 participants by the Office of the General Counsel.

8 ~~(i) If the Director denies the request for an informal~~  
9 ~~conference, the participants shall be notified in writing. Within~~  
10 ~~20 days of giving notice, the staff shall submit a recommendation~~  
11 ~~for consideration at the next available Agenda Conference. Copies~~  
12 ~~of the recommendation shall be sent to the participants.~~

13 (jh) The Commission will address the matter by issuing a  
14 notice of proposed agency action or by setting the matter for  
15 hearing pursuant to section 120.57, Florida Statutes.

16 ~~(9) At any point during the complaint proceedings, a~~  
17 ~~participant has the right to be represented by an attorney or other~~  
18 ~~representative. For purposes of this rule a representative may be~~  
19 ~~any person the party chooses, unless the Commission sets the matter~~  
20 ~~for hearing. If the Commission sets the matter for hearing, the~~  
21 participants may be represented by an attorney or a qualified  
22 representative as prescribed in Rule 28-106.106, Florida  
23 Administrative Code, or may represent themselves. Each participant  
24 shall be responsible for his own expenses in the handling of the

25  
CODING: Words underlined are additions; words in ~~struck~~  
through type are deletions from existing law.

1 DOCKET NO. 030575-PU`  
2 DATE: AUGUST 7, 2003

3 complaint.

4 (9) ~~(10)~~ Settlement.

5 At any time the participants may agree to settle their dispute. If  
6 a settlement is reached, the participants or their representatives  
7 shall file with the Division of Consumer Affairs a written  
8 statement to that effect. The statement shall indicate that the  
9 settlement is binding on all ~~both~~ participants, and that the  
10 participants waive any right to further review or action by the  
11 Commission. If the complaint has been docketed, the Division of  
12 Consumer Affairs shall submit the settlement to the Commission for  
13 approval. If the complaint has not been docketed, the Division of  
14 Consumer Affairs will acknowledge the statement of settlement by  
15 letter to the participants.

16 (10) ~~(11)~~ Record Rretention, Reports, and Auditing.

17 (a) All companies shall retain ~~notes~~ or documentation  
18 relating to each Commission complaint for two years after the date  
19 ~~beginning when~~ the complaint was closed by the Commission first  
20 ~~received~~.

21 (b) All companies that participate in the telephone-transfer  
22 connect, E-mail transfer or three day complaint resolution options  
23 shall file with the Commission's Division of Consumer Affairs, by  
24 the fifth working day of each month beginning 60 days after the  
25

CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU  
2 DATE: AUGUST 7, 2003

3 ~~effective date of this rule and monthly thereafter,~~ a report in  
4 tabular form that summarizes the following information for the  
5 preceding calendar month:

6 1. The ~~total~~ number of calls handled via telephone transfer-  
7 connect, including the date received, customer's name, a brief  
8 description of the complaint, and whether ~~or not~~ the complaint was  
9 addressed;

10 2. The number of complaints handled via E-mail transfer,  
11 including the date received, the customer's name, the Commission  
12 assigned tracking number, a brief description of the complaint, and  
13 whether the complaint was addressed.

14 3. The number of complaints handled under the three day  
15 complaint resolution procedure, including the date received, the  
16 customer's name, the Commission assigned filing number, a brief  
17 description of the complaint, and whether the complaint was  
18 resolved.

19 (c) Companies shall provide access to the Commission to all  
20 such records for audit purposes. ~~The Commission shall have access~~  
21 ~~to all such records for audit purposes.~~

22 (11) Extensions of Time.

23 (a) In the event of a storm named by the National Hurricane  
24 Center, a tornado recorded by the National Weather Service, a

25  
CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU`  
2 DATE: AUGUST 7, 2003

3 flood, a telephone cable cut, a severe gas or water main break, a  
4 major electrical outage, an extreme weather disturbance or fire  
5 causing activation of the county emergency operation center, acts  
6 of terrorism, or work stoppage, any of which substantially affects  
7 its operations and resources, a company may file a notice which  
8 will automatically extend by three working days the time for filing  
9 responses, forms, reports and other submissions required by this  
10 rule. Such notice shall be submitted in writing to the Director of  
11 the Division of Consumer Affairs and shall state a reason for the  
12 three day extension. The utility will send one written request  
13 that will apply to all complaints or reports pending or received  
14 during the extension period. When the company does provide  
15 complaint responses or reports containing information on complaints  
16 affected by an extension of time, the extension must be noted on  
17 the complaint or report. For complaints, the three day extension  
18 shall apply to any complaints pending at the time such notification  
19 is given and to new complaints received during the extension  
20 period. A company may also seek an additional extension of time  
21 upon application to the Director of the Division of Consumer  
22 Affairs. The request for additional extension of time must be  
23 accompanied by a statement of good cause and shall specify the date  
24 by which the information will be filed. "Good cause" means a

25  
CODING: Words underlined are additions; words in ~~struck~~  
~~through~~ type are deletions from existing law.

1 DOCKET NO. 030575-PU`  
2 DATE: AUGUST 7, 2003

3 demonstration that the company has worked diligently to prepare the  
4 information and that the additional time period requested to  
5 complete and submit the information is both reasonable and  
6 necessary given the company's particular circumstances.

7 (b) If the company participates in the transfer connect  
8 system described in subsection (4), and the circumstances described  
9 in paragraph (11)(a) affect the operation of the transfer connect  
10 system, the company may establish an alternative, temporary means  
11 of transmitting customer concerns from the Commission to the  
12 company for handling within the transfer connect program.

13 **Specific Authority 350.127(2), 364.19, 364.0252, 366.05, 367.121,**  
14 **FS.**

15 **Law Implemented 364.01, 364.0252, 364.03(1), 364.183, 364.185,**  
16 **364.15, 364.19, 364.337(5), 366.03, 366.04, 366.05, 367.011,**  
17 **367.111, 367.121, 120.54, 120.569, 120.57, 120.573, FS.**

18 **History--New 01-03-89, Amended 10-28-93, 06-22-00, XX-XX-XX.**

19  
20  
21  
22  
23  
24  
25  
CODING: Words underlined are additions; words in ~~struck~~  
through type are deletions from existing law.



## FLORIDA PUBLIC SERVICE COMMISSION DISPUTE RESOLUTION FORM

FPSC Complaint Number: \_\_\_\_\_

Utility: \_\_\_\_\_

*Consumer to provide the following information:*

Consumer's Name: \_\_\_\_\_

Address/Apartment: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Daytime Telephone Number: \_\_\_\_\_ Home: \_\_\_\_\_

FAX: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Authorized Representative (if applicable): \_\_\_\_\_

*Utility to provide the following information:*

Account Holder: \_\_\_\_\_

Utility Contact Person: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ FAX: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

---

---

*Please address the following statements using additional pages if necessary.*

Describe the facts that gave rise to the complaint and the reason why it appears to be a violation of applicable statutes, rules, company tariffs, and/or orders of the Commission. **Statements should not raise any new issues not addressed in the initial complaint.**

---

---

---

---

---

---

---

---

---

---

DOCKET NO. 030575-PU  
DATE: AUGUST 7, 2003

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Identify the issue(s) to be resolved. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Identify any specific dollar amount in dispute, if applicable. \_\_\_\_\_

Provide a suggested resolution or the relief sought. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



DOCKET NO. 030575-PU  
DATE: AUGUST 7, 2003

---

---

**NOTICE:** This form must be postmarked by \_\_\_\_\_. Failure to provide this information may result in denial of the informal conference request.

PSC/CAF Form PSC/CAF10 (12/2002) [G:\PSC Forms\redo.form.PSCCAF10 pr.wpd]



# Public Service Commission

## -M-E-M-O-R-A-N-D-U-M-

---

**DATE:** July 28, 2003  
**TO:** OFFICE OF THE GENERAL COUNSEL (CIBULA) *CBA*  
**FROM:** DIVISION OF ECONOMIC REGULATION (HEWITT) *HW*  
**RE:** STATEMENT OF ESTIMATED REGULATORY COSTS FOR PROPOSED  
AMENDMENT TO RULE 25-22.032, F.A.C., CUSTOMER COMPLAINTS;  
DOCKET NO. 030575-PU

---

Currently, Rule 25-22.032 provides informal customer complaint procedures so that disputes between regulated companies and their customers can be resolved quickly, effectively, and inexpensively.

Proposed Amendment to Rule 25-22.032 would provide a new process for closing complaints where the customer does not agree with PSC staff's proposed resolution. An additional step would be inserted which consists of a review by a PSC three person Process Review Team. This team would determine jurisdiction, recommend a closure letter if appropriate, or if not, recommend staff mediation and potentially an informal conference. Other modifications to the rule would require reconnection if the customer has been disconnected but has paid non-disputed portions of the bill, make the E-transfer program more visible to all companies, and to clarify certain response times and requirements.

The Administrative Procedures Act encourages an agency to prepare a Statement of Estimated Regulatory Costs (SERC). PSC staff would need to develop new procedures for the rule amendments but would handle these steps with existing personnel. However, there should be minimal costs and no significant negative impacts on regulated companies, small businesses, small cities, or small counties. Therefore, a SERC will not be prepared for the proposed rule amendment at this time.

CH:kb

cc: Mary Andrews Bane  
Richard Tudor  
Hurd Reeves