

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO: 030575-PI

IN RE: PROPOSED AMENDMENT TO RULE 25-22.032, F.A.C.,  
CUSTOMER COMPLAINTS

NOTICE OF CHANGE

TO

ALL INTERESTED PERSONS

ISSUED: December 10, 2003

NOTICE is hereby given pursuant to Section 120.54, Florida Statutes, that the Florida Public Service Commission has approved changes to proposed Rule 25-22.032, Florida Administrative Code.

We voted to propose amendments to Rule 25-22.032 on August 19, 2003. On October 2, 2003, the staff of the Joint Administrative Procedures Committee (JAPC) provided comments on the proposed rule amendment.

The first comment JAPC made in regard to the proposed rule amendment pertains to subsection (6)(b). Specifically, JAPC refers to the phrase "Unless the Commission staff requests that the company not contact the customer directly, . . . ." and states that the Commission should provide criteria pursuant to which Commission staff will request that a company not make direct contact with a customer. The phrase in subsection (6)(b) to which JAPC takes issue was included to take into account the rare times when customers have specifically stated that they want to deal only with the Commission, not the utility, in resolving complaints.

After some discussion, JAPC counsel and Commission staff counsel arrived at alternative language for this section that would address JAPC's concerns. The first part of subsection (6)(b) is hereby changed to state: "If the customer specifically makes a request to the Commission that he or she not be contacted by the company, Commission staff will request that the company not contact the customer directly. Otherwise, the company shall make direct contact with the customer. . . ."

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The second comment JAPC provides pertains to the incorporation of Form PSC/CAF10 in subsection (8)(a) of the proposed rule. We hereby change the proposed rule so that it complies with section 120.55(1)(a)4, Florida Statutes.

JAPC also comments on the use of the word "may" in subsection (8)(c) of the proposed rule and on the very last line of Form PSC/CAF10. JAPC staff indicated to Commission staff counsel that the use of "may" in this regard gives us too much discretion. JAPC staff indicated that subsection (8)(c) could be remedied by changing the beginning phrase in (8)(c) from "Staff handling the informal conference may permit any participant to file additional information, documentation, or arguments. . . ." to "Any participant may file additional information, documentation, or arguments. . . ." We hereby make this change to the rule.

As for the Form PSC/CAF10 language stating that "Failure to provide this information may result in denial of the informal conference request," this language shall be deleted from the form. Changing the language to require that we will deny the informal conference request if the information is not provided could result in this Commission being required to dismiss a complaint even when the customer may have substantially complied with the requirement to fill out the form. We note that removal of the language will not foreclose us from dismissing a complaint if a customer fails to fill out the form as required. If there is an instance where this is problem, the matter can be handled on a case-by-case basis, and if a major problem develops in this regard, the rule can be amended at a future date.

JAPC's final comment on Rule 25-22.032 pertains to subsection (11)(a) of the proposed rule. Specifically, JAPC inquired as to the criteria that we will consider for a request for additional extension of time to file the Commission required forms and the criteria upon which the time of such extension will be set.

This portion of subsection (11)(a) shall be deleted from the rule. Listing criteria may unduly complicate the rule. Furthermore, if companies are in need of an additional extension of time, they may still file motions for extension of time pursuant to Rule 28-106.204, Florida Administrative Code. We can address any such motions on a case-by-case basis.

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The attached Notice of Change will appear in the December 19, 2003, edition of the Florida Administrative Weekly.

By DIRECTION of the Florida Public Service Commission, this 10th day of December, 2003.

BLANCA S. BAYÓ, Director  
Division of the Commission Clerk  
and Administrative Services

By: Kay Flynn  
Kay Flynn, Chief  
Bureau of Records and Hearing  
Services

( S E A L )

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FLORIDA PUBLIC SERVICE COMMISSION

OFFICE OF THE GENERAL COUNSEL

DOCKET NO. 030575-PU

RULE NO: 25-22.032                      RULE TITLE: Customer Complaints

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 36, September 5, 2003, issue of the Florida Administrative Weekly. The changes have been made to the proposed rule to address comments made by the Joint Administrative Procedures Committee.

Paragraph (6)(b) is changed as follows:

(b) If the customer specifically makes a request to the Commission that he or she not be contacted by the company, Commission staff will request that the company not contact the customer directly.

~~Unless the Commission staff requests that the company not contact the customer directly,~~ Otherwise, the company shall make direct contact with the customer verbally or in writing and provide to the customer its response to the complaint within 15 working days after the Commission staff sends the complaint to the company. Responses sent by mail must be postmarked within the 15 working day time period. The company shall also provide to the Commission staff,

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within 15 working days after the Commission staff sends the complaint to the company, a written response to the customer's complaint. However, in the case of those complaints where the company has proposed, under the provisions of subsection (5) of this rule (complaints resolved in 3 days), a resolution with which the customer is not satisfied, the company shall respond within twelve (12) working days of the case being resent to the company.

Paragraph (8)(a) is changed as follows:

(a) If the Process Review Team identifies a complaint for an informal conference, Division of Consumer Affairs staff will notify the company and provide to the customer a Dispute Resolution Form PSC/CAF10 (XX/OX), incorporated herein by reference, via certified mail. The customer shall return the completed Dispute Resolution Form PSC/CAF10 to the Division of Consumer Affairs postmarked within 15 working days after the date of its being sent to the customer. If the completed Dispute Resolution Form PSC/CAF10 is not received from the customer with a postmark within the required 15 working days, the customer's complaint will be closed at that point. If the Dispute Resolution Form is completed and returned by the customer, Commission staff will provide a copy to the company.

Paragraph (8)(c) is changed as follows:

(c) ~~Staff handling the informal conference may permit~~ Any

participant may ~~to~~ file additional information, documentation, or arguments; however, such additional information, documentation or arguments shall be limited to the issues from the customer's original complaint which are identified in the customer's Dispute Resolution request Form PSC/CAF10.

Paragraph (11)(a) is changed as follows:

(a) In the event of a storm named by the National Hurricane Center, a tornado recorded by the National Weather Service, a flood, a telephone cable cut, a severe gas or water main break, a major electrical outage, an extreme weather disturbance or fire causing activation of the county emergency operation center, acts of terrorism, or work stoppage, any of which substantially affects its operations and resources, a company may file a notice which will automatically extend by three working days the time for filing responses, forms, reports and other submissions required by this rule. Such notice shall be submitted in writing to the Director of the Division of Consumer Affairs and shall state a reason for the three day extension. The utility will send one written request that will apply to all complaints or reports pending or received during the extension period. When the company does provide complaint responses or reports containing information on complaints affected by an extension of time, the extension must be noted on the

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complaint or report. For complaints, the three day extension shall apply to any complaints pending at the time such notification is given and to new complaints received during the extension period.

~~A company may also seek an additional extension of time upon application to the Director of the Division of Consumer Affairs. The request for additional extension of time must be accompanied by a statement of good cause and shall specify the date by which the information will be filed. "Good cause" means a demonstration that the company has worked diligently to prepare the information and that the additional time period requested to complete and submit the information is both reasonable and necessary given the company's particular circumstances.~~

The last paragraph of Form PSC/CAF10 is changed as follows:

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