

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:** October 1, 2012  
**TO:** Ann Cole, Commission Clerk, Office of Commission Clerk  
**FROM:** Kathryn Gale Winter Cowdery, Senior Attorney, Office of the General Counsel  
**RE:** Docket No. 110313-PU

---

RECEIVED-FPSC  
12 OCT -1 AM 9:57  
COMMISSION  
CLERK

Please enter the attached in Docket No. 110313-PU.

DOCUMENT NUMBER-DATE  
06548 OCT-1 2012  
FPSC-COMMISSION CLERK

COMMISSIONERS:  
RONALD A. BRISÉ, CHAIRMAN  
LISA POLAK EDGAR  
ART GRAHAM  
EDUARDO E. BALBIS  
JULIE I. BROWN

STATE OF FLORIDA



GENERAL COUNSEL  
S. CURTIS KISER  
(850) 413-6199

# Public Service Commission

September 7, 2012

John Rosner  
Joint Administrative Procedures Committee  
Room 680, Pepper Bldg.  
111 W. Madison Street  
Tallahassee, Florida 32399-1400

Via Hand Delivery

Re: Public Service Commission Rules 25-7.059, 25-7.060, 25-7.061, and 25-7.071, F.A.C.  
PSC Docket No. 110313-PU

Dear Mr. Rosner:

This letter responds to your letter of August 14, 2012 concerning Florida Public Service Commission ("Commission") proposed rules in Chapter 25-7, F.A.C., submitted to you by letter of July 20, 2012, pursuant to Paragraph 120.54(3)(a)4, F.S. Your comments and the responses are as follows:

## JAPC Comment:

### 25-7.059(1), (2) and (3)

The rule provides in three instances that unless "otherwise authorized by the Commission" the regulated entity shall take the actions as set forth. However, no criteria are set forth to apprise the reader of the circumstances governing when the Commission will provide such authorization or what such authorization would entail. Thus the rule is vague, fails to establish adequate standards for the Commission's decisions and vests unbridled discretion in the Commission pursuant to s. 120.52(8)(d), F.S.

## PSC Staff Response:

Commission staff agrees that this "otherwise authorized by the Commission" language should be deleted from the rule. The language is outdated. Section 120.542, F.S., sets forth the proper procedure to be followed if a variance or waiver from rule provisions is sought. Staff intends to bring a recommendation to the Commission that this "otherwise authorized by the Commission" language should be deleted from this rule.

DOCUMENT NUMBER-DATE

06548 OCT-1 2

FPSC-COMMISSION CLERK

**JAPC Comment:**

**25-7.060(2)**

Please identify the specific statutory authority supporting the statement that the customer may be responsible for the costs as described.

**PSC Staff Response:**

Rule 25-7.060 requires that the customer furnish a safe place in which the meter can be installed, operated and maintained, and that if changes in conditions on the customer's premises adversely affect the convenience, accessibility or safety of the meter location, the customer shall be responsible for the cost of relocation. Subsection 366.05(1), F.S., currently listed as the implementing authority for Rule 25-7.060, F.A.C., gives the Commission the power to prescribe fair and reasonable rates and charges, classifications, standards of quality and measurements, and service rules and regulations to be observed by each public utility.

In Commission rulemaking Docket No. 083453-GU, the Commission added the provision, now numbered as 25-7.060(2), that if changes in conditions on the customer's premises adversely affect the convenience, accessibility or safety of the meter location, the customer shall be responsible for the cost of relocating the meter, its appurtenance, and related piping to a location meeting the requirements of 25-7.060(1). The economic impact statement prepared in Docket 083453-GU states that this language was added in order to avoid assessing the cost of meter relocation to the entire body of ratepayers when the move benefits only one customer. Thus, the language in 25-7.060(2) is directly related to the Commission's power to prescribe fair and reasonable rates and charges. In addition, Commission staff intends to add sections 368.03 and 368.05(2), F.S., to the rulemaking authority listed for Rule 25-7.060, F.A.C., and to add sections 368.03 and 368.05, F.S., to the implementing authority for the rule. Sections 368.03 and 368.05 give the Commission authority to establish rules and regulations which include gas metering, and require that such rules be adequate for safety under conditions normally encountered in the gas industry. Rule 25-7.060, F.A.C., implements these statutory sections by requiring that customer meters be located in a safe location.

**JAPC Comment:**

**25-7.061(2)**

Has part twelve of the American Gas Association's Gas Measurement Manual been filed for adoption previously? If not, please provide me with a copy.

**PSC Staff Response:**

When this rule was last amended in 1984, paragraphs 120.54(11)(a) and (b), F.S. (1983), did not require a copy of material incorporated by reference to be provided to JAPC or filed with the Department of State. An original copy of the American Gas Association's Gas Measurement Manual: Meter Proving Part No. Twelve, 1978

edition, is enclosed with this letter. As we previously discussed, please return this copyrighted original to this office after you have completed your review, as we will be filing it with the Department of State when we file Rule 25-7.061, F.A.C., for adoption.

**JAPC Comment:**

**25-7.071(3)(a)**

The rule construes the term "cost" as defined, but not including late payment charges, returned check charges, the cost of the distribution system behind the master meter, the cost for billing and "other such costs." What is the meaning of "other such costs"?

**PSC Staff Response:**

Commission staff believes that the phrase "other such costs" should be deleted from the rule as unnecessary. The definition of "cost" is clear, and the phrase "other such costs" does not assist interpretation of the rule. Staff intends to bring a recommendation to the Commission that this language should be deleted from the rule.

**JAPC Comment:**

The statement of federal standards does not deal with the rules in chapter 25-7. Please provide me with a proper copy of the document.

**PSC Staff Response:**

The statement of federal standards addresses both chapter 25-7 and 25-12 rules. The July 20, 2012 letter you reviewed lists the proposed rules in the subject line of the first page and on the header on the page containing the statement of federal standards, as follows: "Rules 25-7.059, 25-7.060, 25-7.061, 25-7.062, 25-7.064, 25-7.065, 25-7.066, 25-7.070, 25-7.071, 25-7.084, 25-12.005, 25-12.008, 25-12.027, 25-12.052, and 25-12.082." The statement on federal standards specifically addresses Rules 25-12.005, 25-12.008, and 25-12.027, F.A.C. The statement's final sentence: "There are no federal standards for the remaining proposed rules" refers to Rules 25-7.059, 25-7.060, 25-7.061, 25-7.062, 25-7.064, 25-7.065, 25-7.066, 25-7.070, 25-7.071, 25-7.084, 25-12.052, and 25-12.082, F.A.C. Since this sentence lacks the specificity needed to make its intent clear, we have prepared and attached a statement of federal standards which addresses each proposed rule by rule number.

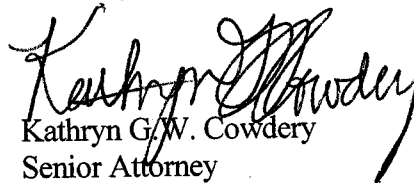
Pursuant to my letter to Mr. Plante of September 7, 2012, the Commission plans to file Rules 25-7.062, 25-7.064, 25-7.065, 25-7.066, 25-7.070, 25-7.084, 25-12.005, 25-12.008, 25-12.027, 25-12.052, and 25-12.082, F.A.C., for adoption with the Department of State on September 14, 2012. As stated above, staff intends to bring a recommendation to the Commission to change Rules 25-7.059 and 25-7.071. Because these rules will be brought to hearing before the Commission, tentatively October 16, 2012, the 90 day time period for filing the rules for adoption, which runs on October 25, 2012, will be extended pursuant to the terms of subparagraph 120.54(3)(e)2, F.S. Although staff is not

John Rosner  
Page 4  
September 6, 2012

planning on bringing a recommendation to the Commission to change Rules 25-7.060 and 25-7.061, F.A.C., for which you submitted comments, we are not planning on filing these two rules with the Department of State for adoption until after you have had an opportunity to review this response and we can verify that you have no additional comments or questions.

Thank you for your assistance. Please let me know if you have any questions or require any additional information. My office number is 413-6216.

Sincerely,

  
Kathryn G.W. Cowdery  
Senior Attorney

KC

Rules 25-7.059, 25-7.060, 25-7.061, 25-7.062,  
25-7.064, 25-7.065, 25-7.066, 25-7.070,  
25-7.071, 25-7.084, 25-12.005, 25-12.008,  
25-12.027, 25-12.052, and 25-12.082, F.A.C.  
Docket No. 110313-PU

#### STATEMENT ON FEDERAL STANDARDS

Proposed Rules 25-12.005 and 25-12.008, F.A.C., are no more restrictive than the federal standards.

Proposed Rule 25-12.027, Welder Qualifications, is more restrictive than federal standards or rules on this subject because of the removal from the rule of the option of qualifying pursuant to 49 C.F.R. 192.227, Qualification of Welders using section IX of the ASME Boiler and Pressure Vessel Code.

There are no federal standards for proposed Rules 25-7.059, 25-7.060, 25-7.061, 25-7.062, 25-7.064, 25-7.065, 25-7.066, 25-7.070, 25-7.071, 25-7.084, 25-12.052, and 25-12.082, F.A.C.