

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: November 19, 2012
TO: Ann Cole, Commission Clerk, Office of Commission Clerk
FROM: Kathryn Cowdery, Office of the General Counsel
RE: Docket No. 110313-PU

RECEIVED-FPSC
12 NOV 19 PM 1:51
COMMISSION
CLERK

Please file the attached rule certification packet for Rules 25-7.059 and 26-7.071, in the docket file listed above.

Thank you.

Attachment

DOCUMENT NUMBER - DATE

07731 NOV 19 2012

FPSC-COMMISSION CLERK

COMMISSIONERS:
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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

November 19, 2012

Ms. Liz Cloud
Florida Department of State
Administrative Code and Weekly Section
Room 701, the Capitol
Tallahassee, FL 32399-0250

VIA HAND DELIVERY

Re: Rule Certification Packet for Rules, PSC Docket No. 110313-PU

Dear Ms. Cloud:

Enclosed for filing is a complete rule certification packet for Rules 25-7.059 and 25-7.071, F.A.C., consisting of:

- (1) One compact disc containing the coded text of the rules;
- (2) One original and two copies of the signed rule certification form;
- (3) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (4) One original and two copies of the summary of the rules;
- (5) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (6) One original and two copies of the summary of the hearings held on the rules.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2012 NOV 19 AM 11:59

FILED

DOCUMENT NUMBER DATE

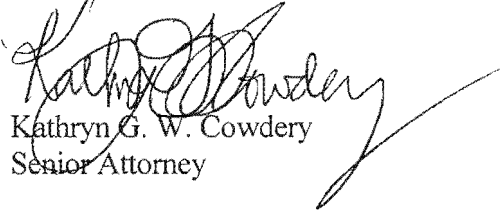
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FPSC-COMMISSION CLERK

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Please let me know if you have any questions. The contact name and information for this rule are Kathryn G. W. Cowdery, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6216, kcowdery@psc.fl.state.us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kathryn G. W. Cowdery', with a long, sweeping flourish extending to the right.

Kathryn G. W. Cowdery
Senior Attorney

Enclosures

CERTIFICATION OF FLORIDA PUBLIC SERVICE COMMISSION
ADMINISTRATIVE RULES FILED WITH THE DEPARTMENT OF STATE

I hereby certify:

(1) That all statutory rulemaking requirements of Chapter 120, F.S., and all rulemaking requirements of the Department of State have been complied with; and

(2) That there is no administrative determination under Section 120.56(2), F.S., pending on any rule covered by this certification; and

(3) All rules covered by this certification are filed within the prescribed time limitations of Section 120.54(3)(e), F.S. They are filed not less than 28 days after the notice required by Section 120.54(3)(a), F.S.; and

(a) Are filed not more than 90 days after the notice; or

(b) Are filed more than 90 days after the notice, but not more than 60 days after the administrative law judge files the final order with the clerk or until 60 days after subsequent judicial review is complete; or

(c) Are filed more than 90 days after the notice, but not less than 21 days nor more than 45 days from the date of publication of the notice of change; or

(d) Are filed more than 90 days after the notice, but not less than 14 nor more than 45 days after the adjournment of the final public hearing on the rule; or

(e) Are filed more than 90 days after the notice, but within 21 days after the date of receipt of all material authorized to be submitted at the hearing; or

(f) Are filed more than 90 days after the notice, but within 21 days after the date the transcript was received by this agency; or

(g) Are filed not more than 90 days after the notice, not including days the adoption of the rule was postponed following notification from the Joint Administrative Procedures Committee that an objection to the rule was being considered; or

(h) Are filed more than 90 days after the notice, but within 21 days after a good faith written proposal for a lower cost regulatory alternative to a proposed rule is submitted which substantially accomplishes the objectives of the law being implemented; or

(i) Are filed more than 90 days after the notice, but within 21 days after a regulatory alternative is offered by the Small Business Regulatory Advisory Committee.

Attached are the original and two copies of each rule covered by this certification. The rules are hereby adopted by the undersigned agency by and upon their filing with the Department of State.

Rule Nos.

25-7.059

25-7.071

Under the provision of Section 120.54(3)(e)6., F.S., the rules take effect 20 days from the date filed with the Department of State or a later date as set out below:

Effective: _____
(month) (day) (year)



ANN COLE

Commission Clerk _____

Title _____

Number of Pages Certified 3

25-7.059 Use of Meters.

(1) All gas sold by a utility and all gas consumed by the utility shall be metered except in case of emergency, ~~or when otherwise authorized by the Commission.~~

(2) ~~Unless otherwise authorized by the Commission,~~ Each utility shall provide and install at its own expense and shall continue to own, operate, and maintain all equipment necessary for the pressure control ~~regulation~~ and measurement of gas to its customers.

(3) Prepayment meters shall not be used, ~~except where otherwise authorized by the Commission.~~

(4) When there is more than one meter at a common location, the metering equipment shall be tagged or permanently marked to indicate the facility being metered.

Rulemaking Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 366.05(1) FS. History— Amended 10-20-73, Repromulgated 1-8-75, Amended 5-4-75, 2-13-84, Formerly 25-7.59, Amended _____.

25-7.071 Measuring Customer Service.

(1) All gas sold to customers shall be measured by commercially acceptable measuring devices owned and maintained by the utility, except where it is impractical to meter ~~loads~~, such as street lighting, temporary or special installations, in which case the consumption may be calculated, or billed on a rate or as provided in the utility's filed tariff.

(2)(a) Individual gas metering by the utility shall be required for each separate occupancy unit of new commercial establishments, residential buildings, condominiums, cooperatives, marinas, and trailer, mobile home and recreational vehicle parks for which construction is commenced after January 1, 1987. This requirement shall apply whether or not the facility is engaged in a time-sharing plan. Individual meters shall not, however, be required:

1. In those portions of a commercial establishment where the floor space dimensions or physical configuration of the units are subject to alteration, as evidenced by non-structural element partition walls, unless the utility determines that adequate provisions can be made to modify the metering to accurately

reflect such alterations;

2. For gas used in central heating, central water heating ventilating and air conditioning systems, or gas back up service to storage heating and cooling systems;

3. For gas used in specialized-use housing accommodations such as hospitals, nursing homes, living facilities located on the same premises as, and operated in conjunction with, a nursing home or other health care facility providing at least the same level and types of services as a nursing home, convalescent homes, facilities certificated under Chapter 651, F.S., college dormitories, convents, sorority houses, fraternity houses, motels, hotels, and similar facilities. For separate, specially-designated areas for overnight occupancy at trailer, mobile home and recreational vehicle parks where permanent residency is not established and for marinas where living aboard is prohibited by ordinance, deed restriction, or other permanent means;

4. In such multiple occupancy units which would require the provision of individual gas service above the second story, unless specifically requested.

(b) For purposes of this rule:

1. "Occupancy unit" means that portion of any commercial establishment, single and multi-unit residential building, or trailer, mobile home or recreational vehicle park, or marina which is set apart from the rest of such facility by clearly determinable boundaries as described in the rental, lease, or ownership agreement for such unit.

2. "Time-sharing plan" means any arrangement, plan, scheme, or similar device, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, or right-to-use agreement or by any other means, whereby a purchaser, in exchange for a consideration, receives a right to use accommodations or facilities, or both, for a specific period of time less than a full year during any given year, but not necessarily for consecutive years, and which extends for a period of more than three years.

3. The construction of a new commercial establishment, residential building, marina, or trailer,

mobile home or recreational vehicle park shall be deemed to commence on the date when the building structure permit is issued.

4. The individual metering requirement is waived for any time-sharing facility for which construction was commenced before January 1, 1987 in which separate occupancy units were not metered in accordance with paragraph (2)(a).

(3)(a) Where individual metering is not required under subparagraph (2)(a)3. and master metering is used in lieu thereof, sub-metering may be used by the customer of record/owner of such facility solely for the purpose of allocating the cost of the gas billed by the utility. The term "cost", as used herein represents only those charges specifically authorized by the gas utility's tariff including but not limited to the customer, energy, purchased gas adjustment, and conservation charges made by the gas utility plus applicable taxes and fees to the customer of record responsible for the master meter payments. The term cannot be construed to include late payment charges, returned check charges, the cost of the distribution system behind the master meter, or the cost for billing, ~~and other such costs.~~

(b) Each utility shall develop a standard policy governing the provisions of sub-metering as described herein. Such policy shall be filed by each utility as part of its tariffs. This policy shall have uniform application and shall be nondiscriminatory.

*Rulemaking Specific Authority 350.127(2), 366.05 FS. Law Implemented 366.03, 366.05(1) FS. History—
New 10-23-86, Amended _____.*

SUMMARY OF THE RULES

25-7.059, Use of Meters, is amended to replace the word “regulation” with the phrase “pressure control.” The phrases referencing “otherwise authorized by the Commission” have been deleted from subsections (1), (2), and (3) of the rule.

24-7.071, Measuring Customer Service, is amended to remove the word “loans” from subsection (1) and the phrase “other such costs” from paragraph (3)(a) of the rule.

WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULES

25-7.059, Use of Meters, is amended to accurately describe the “pressure control” function. The current term, “regulation,” causes confusion because many people do not understand its meaning in the context of this rule. The word “regulation” is replaced with the term “pressure control” which is a term which is easily understood in the industry. As suggested by JAPC, the phrases referencing “otherwise authorized by the Commission” were deleted from subsections (1), (2), and (3) of the rule. The deleted language was outdated. Section 120.542, F.S., provides the procedure to be followed to obtain a variance or waiver from the provisions of a rule.

25-7.071, Measuring Customer Service, is amended to remove the word “loans” from subsection (1) because that term had no meaning or context in the rule. The phrase “other such costs” was deleted from paragraph (3)(a) of the rule because it is unnecessary to the rule’s definition of “cost.”

SUMMARY OF ANY HEARINGS HELD ON THE RULES

A hearing was held on October 16, 2012. At hearing, the Commission considered comments submitted by staff of the Joint Administrative Procedures Committee (JAPC). Based upon JAPC’s comments, the Commission adopted changes to the proposed rules by Order No. PSC-12-0566-FOF-PU, issued October 23, 2012. A Notice of Change was published in the Florida Administrative Register on October 23, 2012.