

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-**

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**DATE:** January 15, 2013  
**TO:** Ann Cole, Commission Clerk, Office of Commission Clerk  
**FROM:** Cindy Miller, Office of the General Counsel *CM*  
**RE:** Docket No. 120258-GU

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RECEIVED-FPSC  
 13 JAN 15 PM 2: 29  
 COMMISSION  
 CLERK

Please file the attached rule certification packet for Rules 25-7.0851 and 25-7.0852, F.A.C. in the docket file listed above.

Thank you.

Attachment

DOCUMENT NUMBER-DATE  
 00293 JAN 15 2013  
 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

January 15, 2013

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

VIA HAND DELIVERY

FLORIDA DEPARTMENT OF STATE  
TALLAHASSEE, FLORIDA

2013 JAN 15 AM 11:43

FILED

**Re: Rule Certification Packet for Rules 25-7.0851 and 25-7.0852, F.A.C.**

Dear Ms. Cloud:

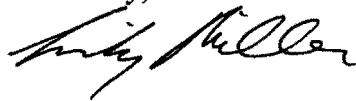
Enclosed for filing is a complete rule certification packet for Rules 25-7.0851 and 25-7.0852, F.A.C., consisting of:

- (1) One compact disc containing the coded text of the rules;
- (2) There are no materials incorporated by reference into these rules.
- (3) One original and two copies of the signed rule certification form;
- (4) One original and two copies of the coded text of the rules, including the legal citations and history notes;
- (5) One original and two copies of the summary of the rules;
- (6) One original and two copies of the detailed written statement of the facts and circumstances justifying the rules; and
- (7) One original and two copies of the summary of the hearings held on the rules.

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Please let me know if you have any questions. The contact name and information for this rule are Cindy Miller, Florida Public Service Commission, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0250, (850) 413-6082, [cmiller@psc.state.fl.us](mailto:cmiller@psc.state.fl.us).

Sincerely,

A handwritten signature in black ink, appearing to read "Cindy Miller". The signature is written in a cursive style with a prominent flourish at the end.

Cindy Miller  
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.

25-7.0851

25-7.0852

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

25-7.0851 Underbillings and Overbillings Backbilling.

(1) A utility may not backbill customers for any period greater than 12 months for any undercharge in billing which is the result of the utility's mistake. The utility shall allow the customer to pay for the unbilled service over the same time period as the time period during which the underbilling occurred or some other mutually agreeable time period. The utility shall not recover in a ratemaking proceeding any lost revenues which inure to the utility's detriment on account of this provision.

(2) In the event of overbillings, the utility shall refund the overcharge to the customer for the period during which the overcharge occurred, based on available records. If commencement of the overcharging cannot be fixed, then an estimate of the overcharge shall be made, based on past consumption, and refunded to the customer. The amount and period of the adjustment shall be based on the available records. The refund shall not include any part of a minimum charge.

(3) In the event of an overbilling, the customer may elect to receive the refund as a credit to future billings or as a one-time credit.

*Specific Authority 367.121 FS. Law Implemented 367.121 FS. History--New 5-8-91, Amended \_\_\_\_\_.*

Rule 25-7.0852 Unauthorized Use

(1) In the event of unauthorized or fraudulent use or meter tampering, the utility shall bill the customer on an estimate of the gas used, based on the customer's past consumption.

*Specific Authority 367.121 F.S. Law Implemented 367.121 F.S. History- New \_\_\_\_\_*

#### SUMMARY OF THE RULE

Amendments to Rule 25-7.0851, F.A.C., address overbillings as well as underbillings due to gas utility error, and specify the process of issuing refunds. Rule 25-7.0852, F.A.C., provides for gas utilities to estimate usage, when unauthorized usage has occurred through meter tampering or other fraudulent acts.

#### WRITTEN STATEMENT OF THE FACTS AND CIRCUMSTANCES JUSTIFYING THE RULE

The existing Rule 25-7.0851, F.A.C. only addresses underbillings due to gas utility errors, and there is a need to clarify the process when overbillings occur. There has been no rule on unauthorized use, and the process is now clarified.

#### SUMMARY OF ANY HEARINGS HELD ON THE RULE

No timely request for a hearing was received by the agency, and no hearing was held.