

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendments to Rule 25-9.001,
F.A.C., Application and Scope, Rule 25-9.002,
F.A.C., Definitions, Rule 25-9.050, F.A.C.,
Application and Scope, Rule 25-9.051,
Definitions, Rule 25-9.052, F.A.C., General
Submittal Instructions, and Rule 25-9.053,
F.A.C., Filing and Evaluation of Submittals.

DOCKET NO. 150187-PU
ORDER NO. PSC-15-0526-NOR-PU
ISSUED: November 9, 2015

The following Commissioners participated in the disposition of this matter:

ART GRAHAM, Chairman
LISA POLAK EDGAR
RONALD A. BRISÉ
JULIE I. BROWN
JIMMY PATRONIS

NOTICE OF RULEMAKING

BY THE COMMISSION:

NOTICE is hereby given that the Florida Public Service Commission, pursuant to Section 120.54, Florida Statutes, has proposed the repeal of Rule 25-9.050, Florida Administrative Code, and the amendment of Rules 25-9.001, 25-9.002, 25-9.051, 25-9.052, and 25-9.053, Florida Administrative Code relating to tariff requirements, tariff filing procedures for municipal electric utilities, and definitions applicable to Rules 25-9.003 through 25-9.045, Florida Administrative Code, and Rules 25-9.052 through 25-9.071, Florida Administrative Code.

The attached Notice of Proposed Rule appeared in the November 9, 2015 edition of the Florida Administrative Register.

If timely requested, a hearing will be held at a time and place to be announced in a future notice. Written requests for hearing and written comments on the rules must be received by the Office of Commission Clerk, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0862, no later than November 30, 2015.

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By ORDER of the Florida Public Service Commission this 9th day of November, 2015.



CARLOTTA S. STAUFFER

Commission Clerk

Florida Public Service Commission

2540 Shumard Oak Boulevard

Tallahassee, Florida 32399

(850) 413-6770

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Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

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Notice of Proposed Rule

PUBLIC SERVICE COMMISSION

RULE NOS.: RULE TITLES:

[25-9.001](#) Application and Scope
[25-9.002](#) Definitions
[25-9.050](#) Application and Scope
[25-9.051](#) Definitions
[25-9.052](#) General Submittal Instructions
[25-9.053](#) Filing and Evaluation of Submittals

PURPOSE AND EFFECT: To clarify and simplify the rules and delete unnecessary and redundant rule provisions, so that the rules are up to date and usable.

Docket No. 150187-PU

SUMMARY: The rules prescribe the procedures to be followed by municipal electric utilities and rural electric cooperatives in submitting documentation of rate schedules and contracts and agreements.

Rule 25-9.001, F.A.C. - Amendments clarify which rules apply to each type of utility by rule number. Remainder of the rule is deleted as obsolete and unnecessary;

Rule 25-9.002, F.A.C. - Amendments state that definitions are applicable to Rules 25-9.002 through 25-9.045, F.A.C., rather than a reference to these regulations;

Rule 25-9.050, F.A.C. - Amendments repeal this rule as it is obsolete due to amendments to Rule 25-9.001, F.A.C., identifying rules applicable to each type of utility;

Rule 25-9.05, F.A.C.1 - Amendments define the documentation to be submitted with the proposed change in rate structure, including rate schedules, and contracts and agreements;

Rule 25-9.052, F.A.C. - Amendments set forth instructions for the filing of documentation in support of a proposed rate structure;

Rule 25-9.053, F.A.C. - Amendments identify evaluation criteria for a proposed change in rate structure and describe role of staff and the Commission in the evaluation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has been prepared by the Agency.

The SERC examined the factors required by Section 120.541(2), F.S., and concluded that the rule amendments will not have an adverse impact on economic growth, business competitiveness, or small business and that affected entities potentially may benefit from the recommended rule changes.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based upon the information contained in the SERC.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: [350.127\(2\)](#), [366.05\(1\)](#), [367.121](#), [367.091](#), [367.101](#), F.S.

LAW IMPLEMENTED: [366.04\(2\)\(b\)](#), [366.05\(1\)](#), [366.06](#), [367.021](#), [367.091](#), [367.101](#), [367.081](#), F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAR.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela H. Page, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6214, phpage@psc.state.fl.us

THE FULL TEXT OF THE PROPOSED RULE IS:

25-9.001 Application and Scope.

~~(1) The provisions of Rules 25-9.002 through 25-9.045, F.A.C., Parts I, II and III of these rules shall only apply to public utilities as defined in Rule subsection 25-9.002(2), F.A.C., and the provisions of Rules 25-9.051 through 25-9.071, F.A.C., Parts IV and V of these rules shall only apply to municipalities and cooperatives as defined in Rule subsection 25-9.051(2), F.A.C. The provisions of this chapter shall not apply to Interexchange Companies, Pay Telephone Service Companies, Shared Tenant Service Companies, Operator Service Provider Companies, Alternative Access Vendor Service Providers, Competitive Local Exchange Companies, or Local Exchange Companies.~~

~~(2) The following shall prescribe the procedures to be used by public utilities in filing:~~

~~(a) Rules and Regulations.~~

~~(b) Rate Schedules.~~

~~(c) Standard Forms and Riders.~~

~~(d) Contracts and Agreements.~~

~~(e) Tariffs.~~

~~(3) No rules and regulations, or schedules of rates and charges, or modifications or revisions of the same, shall be effective until filed with and approved by the Commission as provided by law.~~

~~(4) Upon acceptable showing by any utility, the Commission may waive or modify, as to that utility, the provisions of any rule herein contained, except when such provisions are fixed by statute.~~

~~(5) No deviation from these rules shall be permitted unless authorized in writing by the Commission.~~

Rulemaking Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 366.04(2)(b), 366.05(1), 367.091, 367.101 FS. History—New 1-8-75, Repromulgated 10-22-75, Amended 8-9-79, Formerly 25-9.01, Amended 2-23-86, 1-8-95, 1-25-09,_____.

25-9.002 Definitions.

For the purposes of Rules 25-9.002 through 25-9.045, F.A.C., ~~these regulations~~ the following definitions shall apply:

(1) The word “Commission” refers to the Florida Public Service Commission.

~~(2) Except where a different meaning clearly appears from the context, T~~the word or words “utility” or “public utility” as used in these rules shall mean and include all electric and gas utilities, water systems, and wastewater systems, which are, or may hereafter be, subject to the rate jurisdiction of this Commission.

(3) through (6), No change.

(7) “Contracts and agreements” shall refer to special contracts entered into by the utility for the sale of commodities commodity or services in a manner or subject to provisions not specifically covered by its filed standard rate schedules.

(8) No change.

Rulemaking Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 366.05(1), 367.081, 367.091, 367.101, 367.021 FS. History—New 1-8-75, Repromulgated 10-22-75, Formerly 25-9.02, Amended 1-25-09,_____.

25-9.050 Application and Scope.

Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79, Formerly 25-9.50, Repealed _____.

25-9.051 Definitions.

For the purposes of Rules 25-9.051 through 25-9.071, F.A.C., ~~these rules~~ the following definitions shall apply:

(1) “Commission” refers to the Florida Public Service Commission.

(2) “Utility” refers applies to the municipal electric utilities and rural electric cooperatives subject to the jurisdiction of this Commission pursuant to Section 366.04(2), F.S. ~~except where a different meaning clearly appears from the context.~~

(3) through (5), No change.

(6) "Documentation" ~~refers~~ ~~applies~~ to the assembled volume containing the materials required by Rules 25-9.054 through 25-9.071, F.A.C. rate schedules, contracts and agreements and other materials required by these rules.

(7) "Rate structure" refers to the classification system used in justifying different rates and, more specifically, to ~~the rate relationship between various customer classes, as well as the rate relationship between members of a customer class.~~

(8) No change.

Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79, Amended 5-3-83, Formerly 25-9.51, Amended _____.

25-9.052 General Filing Submittal Instructions.

(1) Each utility shall ~~submit to the Commission~~ file with the Commission Clerk documentation as defined in Rule 25-9.051(6), F.A.C. documentation of all territory and customers served by it.

(2) All supplements, revisions, modifications or changes to the documentation shall be filed with the Commission Clerk submitted to the Commission in quadruplicate and in the form prescribed herein at least 30 days prior to ~~final~~ adoption by the utility. All materials filed with the Commission Clerk submitted to the Commission pursuant to subsection (1) of this rule will be reviewed for compliance with Rules 25-9.051 through 25-9.071, F.A.C., and retained in the Commission's files. After review, a letter indicating the Commission receipt of or comments on the utility's proposed rate structure will be transmitted to the utility. The comment letter may contain a request for data or explanation of the basis for any change in the utility's rate structure.

(3) All documentation filed with the Commission Clerk shall be accompanied by a list of the materials being filed. After reviewing Commission comments and adopting a final rate structure, the utility shall submit the adopted rate structure to the Commission, along with any response to the Commission's comment letter. The Commission will acknowledge these filings.

(4) When a utility's filing reflects a proposed change in rate structure, the utility shall provide documentation to support the change in rate structure. In the event the Commission determines that the rate structure of a utility may not be fair, just and reasonable, the Commission may initiate appropriate proceedings to prescribe a rate structure that is fair, just and reasonable. In so doing the Commission may, among other things, consider the cost of providing service to each customer class, as well as the rate history, value of service and experience of the utility, the consumption and load characteristics of the various classes of customers and the public acceptance of rate structures. The following principles may also be considered: simplicity, freedom from controversy, rate stability, fairness in apportioning costs, avoidance of undue discrimination and encouragement of efficiency.

(5) All documented materials filed with the Commission shall be accompanied by a letter listing the sheets being transmitted. The filing shall be acknowledged if the letter is sent in duplicate with a request for acknowledgement.

Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b) FS. History—New 8-9-79, Amended 5-3-83, Formerly 25-9.52, Amended _____.

25-9.053 Filing and Evaluation of Filings Submittals.

(1) A change to a utility's rate structure must meet one of the following criteria: (a) is cost based; (b) has historical precedent; (c) embodies pricing concepts previously approved by the Commission; or (d) is not unduly discriminatory. Each letter transmitting a utility's proposed documentation in which any change in rate structure is proposed shall be accompanied by supporting information in sufficient detail as to allow the Commission to determine the derivation of all rate structure modifications. The supporting information shall consist of either a utility specific cost study or an analysis of utility specific cost and operating data prepared using a methodology previously approved by the Commission for any comparable utility. All additional relevant information deemed necessary by the Commission shall be submitted in addition to the above request.

(2) After review of the utility's proposed change in rate structure, staff will send written notification to the utility indicating: (a) administrative approval of the documentation or (b) how the proposed rate structure is inconsistent with the criteria listed in subsection (1) of this rule. Upon receipt of staff's notification of

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~~inconsistency, the utility shall file an alternative proposed rate structure addressing staff's concerns or file a statement that the utility disagrees with the staff determination of inconsistency and requesting the Commission to consider the proposed rate structure as filed. If the utility does not submit such supporting information the Commission shall evaluate the proposed change in rate structure on the basis of cost and operating data from one or more comparably situated public electric utilities which the Commission determines to be most similar to the filing utility. Data from the comparable utilities shall be considered in conjunction with all submitted information which is specific to the filing utility.~~

(3) If the Commission finds the proposed rate structure inconsistent with subsection (1), the Commission shall direct the utility to file a rate structure that is consistent with the criteria in subsection (1) of this rule.

Rulemaking Authority 366.05(1) FS. Law Implemented 366.04(2)(b), FS. History--New 8-9-79, Formerly 25-9.53, Amended 1-17-93,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Elisabeth Draper

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 5, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 41, Number 71, April 13, 2015