

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Amendment of 25-22.028, F.A.C.,)	DOCKET NO. 910587-PU
Filing of Documents)	ORDER NO. 24689
_____)	ISSUED: 6/21/91

NOTICE OF RULEMAKING


NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-22.028, F.A.C., relating to filing of documents.

The attached Notice of Rulemaking will appear in the June 28, 1991 edition of the Florida Administrative Weekly. If requested, a hearing will be held at the following time and place:

9:30 a.m., Wednesday, September 18, 1991
 Room 122, Fletcher Building
 101 East Gaines Street
 Tallahassee, Florida

Written requests for hearing and written comments or suggestions on the rule must be received by the Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, FL 32399, no later than July 19, 1991

By Direction of the Florida Public Service Commission, this
 21st day of JUNE, 1991.


 STEVE TRIBBLE, Director
 Division of Records & Reporting

(S E A L)

CTM

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DOCUMENT NUMBER-DATE

06229 JUN 21 1991

REPORTING

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FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 910587-PU

RULE TITLE:

RULE NO.:

Filing, Service of Documents, and
Computation of Time

25-22.028

PURPOSE AND EFFECT: The purpose of amending this rule is to improve efficiency and accuracy by reducing the volume of material that is submitted by parties in Commission proceedings and that must then be re-typed by Commission staff to prepare orders or other documents. Documents that are prepared by companies using word processing or spreadsheet software may be easily duplicated and furnished to the Commission on diskette which will also reduce the time and effort necessary to handle and reproduce documents.

The provision restricting the filing of documents by facsimile transmission is necessary because a "faxed" copy is not an original, signed document and does not furnish the Commission with the requisite number of copies.

SUMMARY: Amended Rule 25-22.028 requires companies with gross annual intrastate operating revenues exceeding \$750,000, and parties to proceedings involving those companies, to file a copy of certain documents on computer diskette, unless an exception is granted by the prehearing officer. The rule also states that documents transmitted by facsimile do not satisfy the filing requirement except in an emergency situation if prior approval is obtained. In the event a facsimile transmission is accepted for

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filing, the original document and copies must be filed within two business days. Subsection (4) of Rule 25.22.028 is revised to conform the Florida Statute section numbers that are referenced in the rule to changes made since the rule was last revised in 1981.

RULEMAKING AUTHORITY: 120.53, F.S.

LAW IMPLEMENTED: 120.53, F.S.

SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THIS RULE: The Commission will benefit from the proposed amendment to Rule 25-22.028 by a reduction in the amount of time spent by Commission staff in re-typing large portions of documents filed by parties in Commission proceedings, thus saving secretarial time and copying costs. Paper and time will be saved because staff may access documents for review without getting a hard copy. Most of the documents filed by the majority of parties in these proceedings are generated using word processing or spreadsheet software and can be copied onto diskettes with minimal additional costs. Many companies already voluntarily submit diskette copies and the rule will apply only to companies exceeding \$750,000 in annual gross intrastate revenues, and parties to proceedings involving those companies. Exceptions to the rule may be granted.

The rule amendment that limits filing by facsimile transmission is expected to have no economic impact.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE

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PROCEEDING. IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 A.M., September 18, 1991

PLACE: Room 122, 101 East Gaines Street, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THIS RULE AND THE ECONOMIC IMPACT STATEMENT IS: Director of Appeals, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE RULE IS:

25-22.028 Filing, Service of Documents, and Computation of Time.

(1) Filing. Filing shall be accomplished by submitting the original document and the appropriate number of copies, as provided by rule, to the Division of Records and Reporting (Division). Filing filing with the Commission Clerk and may be made by U.S. Mail, hand delivery, or courier service. Filing shall not be accomplished by facsimile transmission except in emergency situations and with the prior approval of the Director of the Division. If a document transmitted by facsimile is accepted for filing, the original document and the appropriate copies shall be filed no later than the close of business on the second working day following facsimile transmission. Filings on behalf of companies with gross annual operating revenues derived from intrastate business in excess of \$750,000, and parties to proceedings affecting these companies, shall also include a copy of the document on diskette in word processing or spreadsheet format.

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whichever is appropriate, when filing documents capable of being generated by word processing or spreadsheet software. Information about the word processing and spreadsheet software currently being used by the Commission may be obtained from the Director of the Division. For purposes of the requirement that copies of documents be filed on diskette, "document" means all pleadings, prehearing statements, post hearing statements of positions on issues or briefs, proposed findings of fact and conclusions of law, minimum filing requirements, and modified minimum filing requirements. The prehearing officer assigned to the proceeding may grant exceptions to the requirement for filing documents on diskette on a case-by-case basis, for good cause shown. Filing shall be completed upon receipt by the Division Clerk; provided, however, that during the course of a hearing before the Commission or a panel thereof, the presiding chairman may accept a document for filing and shall note the filing date and transmit it to the Division Office of the Clerk. In this situation the responsible party shall ensure that a copy of the document is submitted on diskette to the Division within 5 working days. The date a document is submitted for filing shall be noted by the person making the filing on the first page of the document filed. Where a document is served upon a party pursuant to these rules, its original and the appropriate copies shall be filed with the Division Commission Clerk no later than 5 days after service.

(2) Service. A copy of all documents filed pursuant to these

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rules shall be served on each of the parties no later than the date of filing. In the event that the parties are so numerous that this requirement is onerous, the Commission on motion may limit the number of copies to be served. Service by mail shall be completed upon mailing.

(3) Method and Proof of Service.

(a) When service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the Commission. Service on the attorney or party shall be made by hand delivery or by mail to the last known address. Delivery of a copy within this rule shall mean handing it to the attorney or to the party, or leaving it at the party's or attorney's usual office with the clerk or other person in charge, or if there is no one in charge, leaving it in a conspicuous place within the office, or if the office is closed, leaving it at the party's or attorney's usual place of abode with some person of the family above fifteen years of age and informing that person of the contents.

(b) When an attorney or a party certifies in substance:

"I certify that a copy hereof has been furnished to (here insert name or names) by (delivery) (mail) this _____ day of _____, 19_____.

_____"

Signature

the certificate shall be taken as prima facie evidence of service

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in compliance with this rule.

(4) Additional Time after Service by Mail. Whenever a party is required or permitted to do an act within a prescribed time after service of a document, and the document is served by mail, five days shall be added to the prescribed time, except that responses to notices pursuant to Section 350.113, 364.335, ~~367.041(4)~~ and 367.045 ~~367.151~~ F.S. shall be filed within the time specified by statute. Any action required by a Commission order shall be completed on the specified date, if any, in the order.

(5) Computation of Time. In computing any period of time prescribed or allowed by these rules, by order of a presiding officer, or by any applicable statute, the day of the act from which the designated period of time begins to run shall not be included. The last day of the period shall be included unless it is a Saturday, Sunday or legal holiday in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday. As used in these rules, legal holiday means those days designated in §110.117, F.S., and any other day the Agency's offices are closed.

Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: Transferred from 25-2.58 and Amended 12/21/81, formerly 25-22.28.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert D. Vandiver,
Director, Division of Legal Services

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NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:

Florida Public Service Commission

DATE PROPOSED RULE APPROVED: June 11, 1991

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.