

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

IN RE: Amendment of Rule 25-22.026,)
F.A.C., Parties.)
_____)

DOCKET NO. 910588-PU
ORDER NO. 24691
ISSUED: 6/21/91

NOTICE OF RULEMAKING

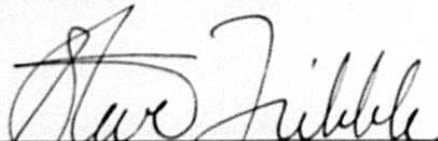
NOTICE is hereby given that the Commission, pursuant to section 120.54, Florida Statutes, has initiated rulemaking to amend Rule 25-22.026, F.A.C., relating to parties.

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 11, 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)

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DOCUMENT NUMBER-DATE

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REC-RECORDS/REPORTING

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FLORIDA PUBLIC SERVICE COMMISSION

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RULE TITLE:

RULE NO.:

Parties

25-22.026

PURPOSE AND EFFECT: The proposed addition to Rule 25-22.026 is an attempt to clarify the role of staff in those cases assigned by the Commission to the Division of Administrative Hearings, where staff is not an adversary of any party. The Commission's interest in these cases is to ensure that a complete record is available for the Commission's final action on the hearing officer's recommended order. The rule states that in other cases, where staff is advocating a position, the staff may testify and offer exhibits and evidence and will be subject to cross-examination to the same extent as any other party.

SUMMARY: The proposed amendment to Rule 25-22.026 provides that the Commission staff's role in cases assigned to the Division of Administrative Hearings is to ensure development of a complete record. Staff's role is not to advocate a position unless the Commission is a respondent or is enforcing rules or statutes.

RULEMAKING AUTHORITY: 120.53, F.S.

LAW IMPLEMENTED: 120.53, F.S.

SUMMARY OF THE ESTIMATE OF ECONOMIC IMPACT OF THIS RULE: The proposed amendment to this rule addresses a procedural matter and will not result in any additional cost to the Commission or

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affected parties.

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 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 11, 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:

25-22.026 Parties.

(1) Parties in any proceeding conducted in accordance with §120.57, F.S., are complainants, applicants, petitioners, protestants, respondents, or intervenors. Parties shall be entitled to receive copies of all pleadings, motions, notices, orders and other matters filed in a proceeding, and shall be entitled to all rights afforded under Chapter 120, F.S. According to the nature of the proceeding, the term "party" may include the Commission.

(2) If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the

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presiding officer may, upon motion of a party, or upon his or her own initiative enter an order requiring that the absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.

(3) The Commission staff may participate as a party in any proceeding. Their primary duty is to represent the public interest and see that all relevant facts and issues are clearly brought before the Commission for its consideration.

(4)(a) In cases assigned to the Division of Administrative Hearings, the Commission staff's role is to represent the public interest and be neither in favor of nor against any particular party, unless the Commission is enforcing rules or statutes through a show cause or similar proceeding, or unless the Commission is a respondent at the Division of Administrative Hearings. Staff is not a party in interest and has no substantial interests that may be affected by the proceeding. Commission staff's role shall be to assist in developing evidence to ensure a complete record so that all relevant facts and issues are presented to the fact finder. Any position that staff has prior to the hearing is preliminary; final positions are based upon review of the complete record.

(b) When advocating a position, Commission staff may testify and offer exhibits and such evidence shall be subject to cross-examination to the same extent as evidence offered by any other party.

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Specific Authority: 120.53, F.S.

Law Implemented: 120.53, F.S.

History: New 12/21/81, formerly 25-22.26.

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

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.