

IN RE: Proposed Adoption of) DOCKET NO. 920617-OT
Rule 25-22.033 Communications)
Between Commission Employees) ORDER NO. PSC-93-0191-PCO-OT
And Interested Persons)
) ISSUED: 02/08/93 CORRECTED
)

ORDER ESTABLISHING PROCEDURES TO BE FOLLOWED
AT RULEMAKING HEARING

I. Background

On January 19, 1993, the Commission voted to propose new Rule 25-22.033, Florida Administrative Code, Communications Between Commission Employees and Interested Persons. The proposed rule governs written and oral communications between Commission employees and "interested persons", i.e., those who will or may be affected by Commission action. Notice of rulemaking was published in the January 29, 1993, edition of the Florida Administrative Weekly. On its own motion, the Commission set a public hearing on the rule.

II. Rulemaking Hearing

The following time and place have been set by the Commission for a hearing on Rule 25-22.033:

9:30 a.m, Monday, February 22, 1993
Room 106, Fletcher Building
101 East Gaines Street
Tallahassee, Florida

The hearing will be conducted in accordance with section 120.54 (3), Florida Statutes and applicable Commission rules contained in Chapter 25-22, Florida Administrative Code, Part II.

III. Hearing Procedures

The following procedures shall apply at the February 22, 1993, hearing:

1. Commission staff will present a brief summary of the rule and its economic impact;
2. Persons wishing to comment on the rule as proposed will be allowed to make oral presentations to the commission and submit proposed changes or other written materials;
3. Prefiling of written testimony and comments is not required. However, persons wishing to prefile testimony or comments may do so by submitting an original and 15 copies to the

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Commission's Director of Records and Reporting by February 18, 1993.

4. Persons wishing to submit alternative rule proposals for the Commission's consideration are urged to prepare them in rule format as shown in the example attached as Appendix I to this order. Sufficient copies should be prepared for distribution to the Commissioners, staff and other participating parties.

IV. Posthearing Procedures

The Commission may exercise its option to adopt a rule from the bench at the conclusion of the hearing. If it does not do so, a schedule for any post-hearing filings and further disposition of the rule will be announced.

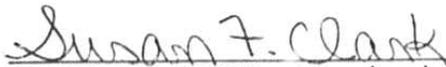
V. Alternative Rule Draft

The Prehearing Officer asks that persons attending the February 22, 1993, hearing consider the attached alternative draft of Rule 25-22.033 (Appendix II) and be prepared to comment on the desirability of its adoption.

In accordance with the foregoing, it is

ORDERED that this Order shall govern the conduct of these proceedings, as set forth above, unless modified by the Commission

BY ORDER of Commissioner Susan F. Clark, as Prehearing Officer, this 8th day of February, 1993.



SUSAN F. CLARK, Commissioner
and Prehearing Officer

(S E A L)

APPENDIX I

Rule 25-XX.XXXX Suggested format for rule proposals.

(1) Proposed rules and rule revisions must be submitted in writing, and must be typed, double-spaced, using type-and-strike format.

(2) Please redline suggested additions to and deletions from the proposed version of the rules. Explanatory comments should be keyed to the rule in some fashion, such as through footnotes.

(3) Example of redlined additions with explanatory comment:
The Florida Energy Efficiency and Conservation Act requires increasing the efficiency of the electric systems of Florida, increase the conservation of expensive resources, such as petroleum fuels, to and the end use of these sources of energy by reducing reduce weather-sensitive¹ peak demand, ~~oil consumption~~ and kilowatt hour consumption to the extent cost effective.

¹ Staff believes that the rule should address all peak demand, not just weather-sensitive peak demand.

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4 APPENDIX II

5 Rule 25-22.033 - Communications Between Commission Employees
6 and Parties - These rules shall govern communications between
7 Commission employees and parties to docketed proceedings before the
8 Commission. These rules shall not apply in proceedings under
9 sections 120.54, 120.565, 367.0814, Fla. Stat., proposed agency
10 action proceedings before the Commission has voted to issue a
11 proposed agency action order, non-rate case tariffs, workshops or
12 internal affairs meetings. Also exempted are docketed and
13 undocketed audits, telephone service evaluations, and electric and
14 gas safety inspections. Communications between attorneys regarding
15 procedural and other matters not concerned with the merits of a
16 case shall also be exempt from the requirements of these rules.

17 Nothing in these rules is intended to modify or supersede the
18 procedural requirements for formal discovery under the Commission's
19 rules and applicable provisions of the Florida Rules of Civil
20 Procedure.

21 (1) Written Communications - Copies of any written
22 communication between commission employees and parties shall be
23 provided to all parties to the proceeding at the same time as the
24 written communication is transmitted, whether by U. S. Mail or
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CODING: Words underlined are additions; words in
~~struck through~~ type are deletions from existing law.

4 other means. Copies of all written communications between staff
5 and parties shall be filed in the official docket file maintained
6 by the Commission's Director of Records and Reporting. The
7 original of any document sent directly to staff also shall be
8 placed in the official docket file.

9 (2) Scheduled Meetings and Conference Calls - All parties to
10 the proceeding shall be given advance notice of the time and place
11 of any scheduled meeting or conference call between Commission
12 employees and parties. Where practicable, notice will be given in
13 writing two working days before the scheduled meeting or conference
14 call. For purposes of this subsection, a conference call is
15 defined as a telephone call involving three or more persons.

16 (3) Response to Communications - Any party to a proceeding
17 may prepare a response to any communication between a Commission
18 employee and another party. Any such response shall be filed with
19 the Commission's Director of Records and Reporting within ten
20 working days of the meeting or conference call.

21 (4) Prohibited Communications - No commission employee shall
22 directly or indirectly relay to a Commissioner any communication
23 from an interested person which would otherwise be a prohibited ex
24 parte communication under section 350.042, Fla. Stat. Nothing in
25 this subsection shall preclude non-testifying advisory staff
members from discussing the merits of a pending case with a

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3 Commissioner, provided the communication is not otherwise
4 prohibited by law.

5 Specific Authority: 120.53, F.S.

6 Law Implemented: 120.53, F.S.
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