

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Proposed New Rules 25-) DOCKET NO. 941073-PU
4.021, 25-6.0151, 25-7.0151 and) ORDER NO. PSC-94-1567-NOR-PU
25-30.145, F.A.C., Audit Access) ISSUED: December 15, 1994
To Records)
_____)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

NOTICE OF RULEMAKING

NOTICE is hereby given that the Florida Public Commission, pursuant to Section 120.54, Florida Statutes, has initiated rulemaking to adopt new Rules 25-4.021, 25-6.0151, 25-7.0151 and 25-30.145, Florida Administrative Code, relating to audit access to records.

The attached Notice of Rulemaking will appear in the December 23, 1994 edition of the Florida Administrative Code Weekly.

If timely requested, a hearing will be held at the following time and place:

Florida Public Service Commission
9:30 a.m., January 25, 1995
Room 122, Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

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 32399-0870, no later than January 13, 1995.

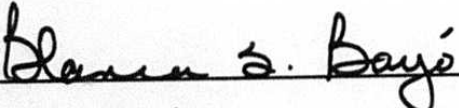
DOCUMENT NUMBER-DATE

12585 DEC 15 94

FPSC-RECORDS/REPORTING

ORDER NO. PSC-94-1567-NOR-PU
DOCKET NO. 941073-PU
PAGE 2

By ORDER of the Florida Public Service Commission, this 15th
day of December, 1994.



BLANCA S. BAYÓ, Director
Division of Records & Reporting

(S E A L)

RCB

ORDER NO. PSC-94-1567-NOR-PU
DOCKET NO. 941073-PU
PAGE 3

FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 941073-PU

RULE TITLE: RULE NO.:

Audit Access To Records 25-4.021

PURPOSE AND EFFECT: The purpose of this rule is to address the meaning of "reasonable access" as that term appears in §364.183(1) (366.093(1), 367.156(1)).

SUMMARY: The rule address "reasonable access" as that term relates to management and financial audits. The rule precludes assertion of relevancy standards narrower than those provided in the statutory provision concerning audit access, sets standards for establishing audit response times and establishes procedures to challenge audit response times. The rule also addresses measures for companies to safeguard records during audits, auditor access to company personnel and confidentiality for copies or notes made by auditors. The rule incorporates by reference Form PSC/AFA 6, "Audit Document and Record Request/Notice of Intent".

RULEMAKING AUTHORITY: 350.127(2), F.S.

LAW IMPLEMENTED: 364.183(1), F.S.

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.

HEARING: 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., January 25, 1995

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:

Rule 25-4.021 Audit Access To Records

1) This rule addresses the reasonable access to utility and
affiliate records provided by §364.183(1) for the purposes of
management and financial audits.

a) The audit scope, audit program and objectives, and audit
requests are not constrained by relevancy standards narrower than
those provided by §364.183(1).

b) Reasonable access means that company responses to audit
requests for access to records shall be fully provided within the
time frame established by the auditor. In establishing a due date,
the auditor shall consider the location of the records, the volume
of information requested, the number of pending requests, the
amount of independent analysis required, and reasonable time for
the utility to review its response for possible claims of
confidentiality or privilege.

c) In those instances where the utility disagrees with the auditor's assessment of a reasonable response time to the request, the utility shall first attempt to discuss the disagreement with the auditor and reach an acceptable revised date. If agreement cannot be reached, the utility shall discuss the issue with successive levels of supervisors at the Commission until an agreement is reached. If necessary, a final decision shall be made by the PreHearing Officer. If the audit is related to an undocketed case, the Chairman shall make the decision.

d) The utility and its affiliates shall have the opportunity to safeguard their records by copying them or logging them out, provided, however, that safeguard measures shall not be used to prevent reasonable access by Commission auditors to utility or affiliate records.

e) Reasonable access to records includes reasonable access to personnel to obtain testimonial evidence in response to inquiries or through interviews.

f) Nothing in this rule shall preclude Commission auditors from making copies or taking notes. In the event these notes relate to documents for which the company has asserted confidential status, such notes shall also be given confidential status.

g) Form PSC/AFA 6 (/), entitled "Audit Document and Record Request/Notice of Intent" is incorporated by reference into this rule. This form is used by auditors when requests are

formalized. This form documents audit requests, the due dates for responses, and all Notices of Intent to Seek Confidential Classification.

Rulemaking Authority: 350.127(2), F.S.

Law Implemented: 364.183(1), F.S.

History: New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Denise Vandiver

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: December 6, 1994

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.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 488-8371 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

HEARING: 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., January 25, 1995

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:

Rule 25-6.0151 Audit Access To Records

1) This rule addresses the reasonable access to utility and
affiliate records provided by §366.093(1) for the purposes of
management and financial audits.

a) The audit scope, audit program and objectives, and audit
requests are not constrained by relevancy standards narrower than
those provided by §366.093(1).

b) Reasonable access means that company responses to audit
requests for access to records shall be fully provided within the
time frame established by the auditor. In establishing a due date,
the auditor shall consider the location of the records, the volume
of information requested, the number of pending requests, the
amount of independent analysis required, and reasonable time for
the utility to review its response for possible claims of
confidentiality or privilege.

c) In those instances where the utility disagrees with the auditor's assessment of a reasonable response time to the request, the utility shall first attempt to discuss the disagreement with the auditor and reach an acceptable revised date. If agreement cannot be reached, the utility shall discuss the issue with successive levels of supervisors at the Commission until an agreement is reached. If necessary, a final decision shall be made by the PreHearing Officer. If the audit is related to an undocketed case, the Chairman shall make the decision.

d) The utility and its affiliates shall have the opportunity to safeguard their records by copying them or logging them out, provided, however, that safeguard measures shall not be used to prevent reasonable access by Commission auditors to utility or affiliate records.

e) Reasonable access to records includes reasonable access to personnel to obtain testimonial evidence in response to inquiries or through interviews.

f) Nothing in this rule shall preclude Commission auditors from making copies or taking notes. In the event these notes relate to documents for which the company has asserted confidential status, such notes shall also be given confidential status.

g) Form PSC/AFA 6 (___/___), entitled "Audit Document And Record Request/Notice of Intent" is incorporated by reference into this rule. This form is used by auditors when requests are

ORDER NO. PSC-94-1567-NOR-PU
DOCKET NO. 941073-PU
PAGE 10

formalized. This form documents audit requests, the due dates for responses, and all Notices of Intent to Seek Confidential Classification.

Rulemaking Authority: 350.127(2), F.S.

Law Implemented: 366.093(1), F.S.

History: New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Denise Vandiver

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: December 6, 1994

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.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 488-8371 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

HEARING: 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., January 25, 1995

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:

Rule 7.0151 Audit Access To Records

1) This rule addresses the reasonable access to utility and
affiliate records provided for in §366.093(1) for the purposes of
management and financial audits.

a) The audit scope, audit program and objectives, and audit
requests are not constrained by relevancy standards narrower than
those provided by §366.093(1).

b) Reasonable access means that company responses to audit
requests for access to records shall be fully provided within the
time frame established by the auditor. In establishing a due date,
the auditor shall consider the location of the records, the volume
of information requested, the number of pending requests, the
amount of independent analysis required, and reasonable time for
the utility to review its response for possible claims of
confidentiality or privilege.

c) In those instances where the utility disagrees with the auditor's assessment of a reasonable response time to the request, the utility shall first attempt to discuss the disagreement with the auditor and reach an acceptable revised date. If agreement cannot be reached, the utility shall discuss the issue with successive levels of supervisors at the Commission until an agreement is reached. If necessary, a final decision shall be made by the PreHearing Officer. If the audit is related to an undocketed case, the Chairman shall make the decision.

d) The utility and its affiliates shall have the opportunity to safeguard their records by copying them or logging them out, provided, however, that safeguard measures shall not be used to prevent reasonable access by Commission auditors to utility or affiliate records.

e) Reasonable access to records includes reasonable access to personnel to obtain testimonial evidence in response to inquiries or through interviews.

f) Nothing in this rule shall preclude Commission auditors from making copies or taking notes. In the event these notes relate to documents for which the company has asserted confidential status, such notes shall also be given confidential status.

g) Form PSC/AFA 6) (/), is entitled "Audit Document And Record Request/Notice of Intent" is incorporated by reference into this rule. This form is used by auditors when requests are

ORDER NO. PSC-94-1567-NOR-PU
DOCKET NO. 941073-PU
PAGE 14

formalized. This form documents audit requests, the due dates for responses, and all Notices of Intent to Seek Confidential Classification.

Rulemaking Authority: 350.127(2), F.S.

Law Implemented: 366.093(1), F.S.

History: New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Denise Vandiver

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: December 6, 1994

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.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 488-8371 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).

HEARING: 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., January 25, 1995

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:

Rule 25-30.145 Audit Access To Records

1) This rule addresses the reasonable access to utility and
affiliate records provided for in §367.156(1) for the purposes of
management and financial audits.

a) The audit scope, audit program and objectives, and audit
requests are not constrained by relevancy standards narrower than
those provided by §367.156(1).

b) Reasonable access means that company responses to audit
requests for access to records shall be fully provided within the
time frame established by the auditor. In establishing a due date,
the auditor shall consider the location of the records, the volume
of information requested, the number of pending requests, the
amount of independent analysis required, and reasonable time for
the utility to review its response for possible claims of
confidentiality or privilege.

c) In those instances where the utility disagrees with the auditor's assessment of a reasonable response time to the request, the utility shall first attempt to discuss the disagreement with the auditor and reach an acceptable revised date. If agreement cannot be reached, the utility shall discuss the issue with successive levels of supervisors at the Commission until an agreement is reached. If necessary, a final decision shall be made by the PreHearing Officer. If the audit is related to an undocketed case, the Chairman shall make the decision.

d) The utility and its affiliates shall have the opportunity to safeguard their records by copying them or logging them out, provided, however, that safeguard measures shall not be used to prevent reasonable access by Commission auditors to utility or affiliate records.

e) Reasonable access to records includes reasonable access to personnel to obtain testimonial evidence in response to inquiries or through interviews.

f) Nothing in this rule shall preclude Commission auditors from making copies or taking notes. In the event these notes relate to documents for which the company has asserted confidential status, such notes shall also be given confidential status.

g) Form PSC/AFA 6 (/), entitled "Audit Document and Record Request/Notice of Intent" is incorporated by reference into this rule. This form is used by auditors when requests are

ORDER NO. PSC-94-1567-NOR-PU
DOCKET NO. 941073-PU
PAGE 18

formalized. This form documents audit requests, the due dates for responses, and all Notices of Intent to Seek Confidential Classification.

Rulemaking Authority: 350.127(2), F.S.

Law Implemented: 367.156(1), F.S.

History: New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Denise Vandiver

NAME OF SUPERVISOR OR PERSON(S) WHO APPROVED THE PROPOSED RULE:
Florida Public Service Commission.

DATE PROPOSED RULE APPROVED: December 6, 1994

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.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (904) 488-8371 at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Florida Public Service Commission using the Florida Relay Service, which can be reached at: 1-800-955-8771 (TDD).