

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building
101 East Gaines Street
Tallahassee, Florida 32399-0850

M E M O R A N D U M

October 4, 1990

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF APPEALS (SMITH) *DES*
DIVISION OF CONSUMER AFFAIRS (HANNA) *GA*
DIVISION OF RESEARCH (HOPPE) *amb*
DIVISION OF ELECTRIC AND GAS (KUMMER) *SC RT*
DIVISION OF COMMUNICATIONS (CHEEK) *MHC*
DIVISION OF WATER AND SEWER (BIVINS) *BB*

RE : DOCKET NO.: 891195-PU - AMENDMENTS TO RULES 25-4.113,
25-6.105, 25-7.089, AND 25-30.320, F.A.C., PERTAINING
TO DISCONTINUANCE OF SERVICE

AGENDA : 10/16/90 - CONTROVERSIAL AGENDA - PARTIES MAY
NOT PARTICIPATE

PANEL : FULL COMMISSION

CRITICAL DATES: 90 DAYS FOR ADOPTION EXPIRES 11/10/90

ISSUES

ISSUE 1: Should the Commission adopt its proposed amendments to Rules 25-4.113, 25-6.105, 25-7.089, and 25-30.320, F.A.C., requiring that utilities give notice by mail at least five working days before discontinuance of service?

RECOMMENDATION: Yes. The Commission should adopt the rules as proposed with the additional provision that they become effective January 1, 1991.

STAFF ANALYSIS: At the July 17, 1990, agenda conference, the Commission voted to propose amendments to Rules 25-4.113, 25-6.105, 25-7.089, and 25-30.320, F.A.C. These rules specify the required notice period to be observed by utilities in discontinuing a customer's service for nonpayment. Proposed amendments would change the notice period from simply five calendar days to five working days.

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The notices of the proposed rule amendments were published in the Florida Administrative Weekly on August 10, 1990. In response, several parties filed comments suggesting changes in the rules as proposed. A summary of those comments and the staff's position with regard to them follow:

RULE 25-30.320 - WATER AND SEWER UTILITIES

Ortega Utility Company of Jacksonville filed comments suggesting that the rule be modified to allow the customer a total of ten days in which to pay a delinquent bill, as opposed to the current five days or five working days as proposed. However, Ortega Utility would shorten the current payment due date on bills from twenty days after mailing to fifteen days. Staff does not see the virtue of this proposal, and, in any case, the Commission has not proposed to change the length of time when the bill is payable but only the notice period for discontinuance of service.

No other individual water and sewer utilities filed comments. However, Marty Deterding filed comments representing concerns of the Florida Waterworks Association. The comments first expressed a concern with having to send a separate notice for discontinuance of service. That provision is in the current rule and was not addressed in the proposed amendment. Staff does not recommend undertaking to change the separate notice requirement.

The Association's comments go on to state its belief that the people who receive cut-off notices are generally chronic late pay-payers who contribute to increased rates for the general body of ratepayers by increasing administrative costs. Without giving any specifics, the comments go on to suggest that the Commission's proposed rule change will increase uncollectible accounts and administrative expenses.

Staff finds no grounds in these comments to retreat from the proposed rule change.

RULE 25-6.105 - ELECTRIC UTILITIES

Comments were filed on Rule 25-6.105 by Tampa Electric company (TECO), Florida Power and Light Company (FPL), Earl Jacobson of Custom Lawn Care and Repair, and Aaron McDonald of Brabham, Debay, and McDonald, Inc.

TECO stated that reprogramming costs to accommodate the change to five working days in the rule would be about \$90,000. They further asked that the rule be implemented 180 days from the date of the order by the Commission. Staff believes that a delay in

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implementation of the rule to allow necessary modifications of billing procedures is appropriate. Accordingly, staff recommends that the rule be effective January 1, 1991.

TECO also suggested adding a provision to subsection (10) to Rule 25-6.105, although the Commission did not propose to modify this provision. This subsection allows discontinuance of service on weekends and holidays under certain specified conditions. TECO would add a provision which would allow disconnections where:

Customer bankruptcy or other legally noticed conditions exist in which payout for service is similarly limited, or when the outstanding bill for a business or industrial customer is in excess of \$10,000.

Since the Commission has not proposed modifying this section of Rule 25-6.105, nor considered the economic impact of the modifications proposed by TECO, nor analyzed its legal basis, the Commission cannot adopt this amendment without going through the proposal stage.

FPL, like TECO, suggested that implementation of the rule be delayed. It suggested January 1, 1991, as recommended by the staff. FPL also suggested that a provision be added to the rule which would state:

If such notification is provided by notice delivered to the premises or if mailed notice is preceded by a telephone contact, a minimum of five (5) calendar days shall be allowed prior to discontinuance of service from the date of such notice delivery or mailing.

Staff believes that this would potentially allow the company to use the telephone contact to defeat the purpose of the proposed rule amendment. In addition, the potential for confusion and disputes on the basis of telephone contacts is precisely what a written notice is designed to preclude. Staff does not recommend incorporating this change.

Mr. Earl Jacobson of Custom Lawn Care and Repair expressed his belief that a customer who has been "with a utility for a couple of years" should be given "two months leeway before they threaten to cut off service." Staff believes that a two month's notice period might be excessive and does not recommend accepting the suggested change.

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Comments were also filed by Mr. Aaron McDonald of Brabham, DeBay, and McDonald, Inc., an engineering firm. Mr. McDonald's comments do not address the proposed amendments to the notice requirements of the rule, but, rather, address subsections (1), (2), and (4) of the rule which concern the initial provision of electric service by the utility. It would not be appropriate to consider changes proposed by Mr. McDonald in this rule amendment proceeding, since they do not address the proposed amendments.

RULE 25-4.113 - TELEPHONE COMPANIES

Only GTE Florida Incorporated (GTEFL) filed comments on the proposed amendment to the telephone rule. GTEFL's basic position is "if it ain't broke, don't fix it." The company states that the rule has worked well since its adoption in 1986, and there is no reason to further extend the time for people to pay their telephone bills. GTEFL's comments cite the negative effects of any extension of time to pay bills, including the effect on uncollectibles and cash-flow carrying costs. The company also cites the need to make changes in its data basis to comply with the proposed rule amendments.

Staff does not believe that GTEFL has stated anything that wasn't considered by the Commission in proposing the rule. Staff does not, therefore, recommend retreating from the proposed amendments. The Commission should adopt the proposed five working-day modification with the same January 1, 1991, effective date as for all other utilities.

RULE 25-7.089 - GAS UTILITIES

No comments were filed by gas utilities, and the rule must be adopted as proposed. Staff would suggest, however, that the January 1, 1991, effective date be applied to the gas utility rule as well, for uniformity's sake.

ISSUE 2: Should this docket be closed after the rules are filed for adoption?

RECOMMENDATION: Yes.

STAFF ANALYSIS: When these rules are filed with the Secretary of State, they will be officially adopted and effective in 20 days after filing; the docket can be closed.

CBM:prl
Attachments
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1 25-4.113 Refusal or Discontinuance of Service by Company.

2 (1) As applicable, the utility may refuse or discontinue
3 telephone service under the following conditions provided that,
4 unless otherwise stated, the customer shall be given notice and
5 allowed a reasonable time to comply with any rule or remedy any
6 deficiency:

7 (a) For non-compliance with and/or violation of any State or
8 municipal law, ordinance or regulation pertaining to telephone
9 service.

10 (b) For the use of telephone service for any other property
11 or purpose than that described in the application.

12 (c) For failure or refusal to provide the utility with a
13 deposit to insure payment of bills in accordance with the
14 utility's regulations.

15 (d) For neglect or refusal to provide reasonable access to
16 the utility for the purpose of inspection and maintenance of
17 equipment owned by the utility.

18 (e) For non-compliance with and/or violation of the
19 Commission's regulations or the utility's rules and regulations on
20 file with the Commission, provided five (5) working days' written
21 notice is given before termination.

22 (f) For non-payment of bills for telephone service, provided
23 that suspension or termination of service shall not be made
24 without five (5) working days' written notice to the customer,
25 except in extreme cases. The written notice shall be separate and

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1 apart from the regular monthly bill for service.

2 (g) For purposes of paragraphs (e) and (f), "working day"
3 means any day on which the utility's business office is open and
4 the U.S. Mail is delivered.

5 (h) ~~(g)~~ Without notice in the event of customer use of
6 equipment in such manner as to adversely affect the utility's
7 equipment or the utility's service to others.

8 (i) ~~(h)~~ Without notice in the event of tampering with the
9 equipment furnished and owned by the utility.

10 (j) ~~(i)~~ Without notice in the event of unauthorized or
11 fraudulent use of service. Whenever service is discontinued for
12 fraudulent use of service, the utility may, before restoring
13 service, require the customer to make, at his own expense, all
14 changes in facilities or equipment necessary to eliminate illegal
15 use and to pay an amount reasonably estimated as the loss in
16 revenues resulting from such fraudulent use.

17 (2) In case of refusal to establish service, or whenever
18 service is discontinued, the utility shall notify the applicant or
19 customer in writing of the reason for such refusal or
20 discontinuance.

21 (3) Service shall be initiated or restored when cause for
22 refusal or discontinuance has been satisfactorily adjusted.

23 (4) The following shall not constitute sufficient cause for
24 refusal of service to an applicant or customer:

25 (a) Delinquency in payment for service by a previous occupant

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1 of the premises, unless the current applicant or customer occupied
2 the premises at the time the delinquency occurred and the previous
3 customer continues to occupy the premises and such previous
4 occupant shall benefit from such new service.

5 (b) Delinquency in payment for service by a present occupant
6 who was delinquent at another address and subsequently joined the
7 household of the subscriber in good standing.

8 (c) Delinquency in payment for separate telephone service of
9 another subscriber in the same residence.

10 (d) Failure to pay for business service at a different
11 location and a different telephone number shall not constitute
12 sufficient cause for refusal of residence service or vice versa.

13 (e) Failure to pay for a service rendered by the utility
14 which is not regulated by the Commission.

15 (f) Failure to pay the bill of another customer as guarantor
16 thereof.

17 (5) When service has been discontinued for proper cause, the
18 utility may charge a reasonable fee to defray the cost of
19 restoring service, provided such charge is set out in its approved
20 tariff on file with the Commission.

21 Specific Authority: 350.127, F.S.

22 Law Implemented: 364.03, 364.19, F.S.

23 History: Revised 12/1/53, Amended 3/31/76, 10/25/84, 10/30/86.

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1 25-6.105 Refusal or Discontinuance of Service by Utility.

2 (1) Until adequate facilities can be provided, each utility
3 may refuse to serve an applicant if, in the best judgment of the
4 utility, it does not have adequate facilities to render the
5 service applied for.

6 (2) Each utility may refuse to serve any person whose service
7 requirements or equipment is of a character that is likely to
8 affect unfavorably service to other customers.

9 (3) Each utility may refuse to render any service other than
10 that character of service which is normally furnished, unless such
11 service is readily available.

12 (4) Each utility shall not be required to furnish service
13 under conditions requiring operation in parallel with generating
14 equipment connected to the customer's system if, in the opinion of
15 the utility, such operation is hazardous or may interfere with its
16 own operations or service to other customers or with service
17 furnished by others. Each utility may specify requirements as to
18 connection and operation as a condition of rendering service under
19 such circumstances.

20 (5) If the utility refuses service for any reason specified
21 in this subsection, the utility shall notify the applicant for
22 service as soon as practicable, pursuant to subsection (7), of the
23 reason for refusal of service. If the utility will discontinue
24 service, the utility shall notify the customer at least five (5)
25 working days prior to discontinuance of that service will cease

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1 unless the deficiency is corrected in compliance with the
2 utility's regulations, resolved through mutual agreement, or
3 successfully disputed by the customer. The five-day notice
4 provision does not apply to paragraphs (h), (i), or (j). In all
5 instances involving refusal or discontinuance of service the
6 utility shall advise in its notice that persons dissatisfied with
7 the utility's decision to refuse or discontinue service may
8 register their complaint with the utility's customer relations
9 personnel and to the Florida Public Service Commission at
10 1-800-342-3552, which is a toll free number. As applicable, each
11 utility may refuse or discontinue service under the following
12 conditions:

13 (a) For non-compliance with and/or violation of any state or
14 municipal law or regulation governing electric service.

15 (b) For failure or refusal of the customer to correct any
16 deficiencies or defects in his wiring and/or equipment which are
17 reported to him by the utility.

18 (c) For the use of energy for any other property or purpose
19 than that described in the application.

20 (d) For failure or refusal to provide adequate space for the
21 meter and service equipment of the utility.

22 (e) For failure or refusal to provide the utility with a
23 deposit to insure payment of bills in accordance with the
24 utility's regulation, provided that written notice, separate and
25 apart from any bill for service, be given the customer.

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1 (f) For neglect or refusal to provide safe and reasonable
2 access to the utility for the purpose of reading meters or
3 inspection and maintenance of equipment owned by the utility,
4 provided that written notice, separate and apart from any bill for
5 service, be given the customer.

6 (g) For non-payment of bills or non-compliance with the
7 utility's rules and regulations, and only after there has been a
8 diligent attempt to have the customer comply including at least
9 five (5) working days' written notice to the customer, such notice
10 being separate and apart from any bill for service, provided that
11 those customers who so desire may designate a third party in the
12 company's service area to receive a copy of such delinquent
13 notice. For purposes of this subsection, "working day" means any
14 day on which the utility's business office is open and the U.S.
15 Mail is delivered.

16 (h) Without notice in the event of a condition known to the
17 utility to be hazardous.

18 (i) Without notice in the event of tampering with meters or
19 other facilities furnished and owned by the utility.

20 (j) Without notice in the event of unauthorized or fraudulent
21 use of service. Whenever service is discontinued for fraudulent
22 use of service, the utility may, before restoring service, require
23 the customer to make at his own expense all changes in facilities
24 or equipment necessary to eliminate illegal use and to pay an
25 amount reasonably estimated as the loss in revenue resulting from

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1 such fraudulent use.

2 (6) Service shall be restored when cause for discontinuance
3 has been satisfactorily adjusted.

4 (7) In case of refusal to establish service, or whenever
5 service is intentionally discontinued by the utility for other
6 than routine maintenance, the utility shall notify the applicant
7 or customer in writing of the reason for such refusal or
8 discontinuance.

9 (8) The following shall not constitute sufficient cause for
10 refusal of service to an applicant or customer:

11 (a) Delinquency in payment for service by a previous occupant
12 of the premises to be served.

13 (b) Failure to pay for merchandise purchased from the utility.

14 (c) Failure to pay for a service rendered by the utility
15 which is non-regulated.

16 (d) Failure to pay for a different type of utility service,
17 such as gas or water.

18 (e) Failure to pay for a different class of service.

19 (f) Failure to pay the bill of another customer as guarantor
20 thereof.

21 (9) When service has been discontinued for proper cause, each
22 utility may charge a reasonable fee to defray the cost of
23 restoring service, provided such fee is included in its filed
24 tariff.

25 (10) No utility shall discontinue service to any

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1 noncommercial customer between 12:00 noon on a Friday and 8:00
2 a.m. the following Monday or between 12:00 noon on the day
3 preceding a holiday and 8:00 a.m. the next working day. Provided,
4 however, this prohibition shall not apply when:

5 (a) Discontinuance is requested by or agreed to by the
6 customer; or

7 (b) A hazardous condition exists; or

8 (c) Meters or other utility owned facilities have been
9 tampered with or

10 (d) Service is being obtained fraudulently or is being used
11 for unlawful purposes.

12 Holiday as used in this subsection shall mean New Year's Day,
13 Memorial Day, July 4, Labor Day, Thanksgiving Day and Christmas
14 Day.

15 (11) Each utility shall submit, as a tariff item, a procedure
16 for discontinuance of service when that service is medically
17 essential.

18 Specific Authority: 366.05, F.S.

19 Law Implemented: 366.05(1), F.S.

20 History: New 2/25/76, Amended 2/3/77, 2/6/79, 4/13/80, 11/26/80.
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1 25-7.089 Refusal or Discontinuance of Service by Utility.

2 (1) Until adequate facilities can be provided a utility may
3 refuse to serve an applicant if, in the best judgment of the
4 utility, it does not have adequate facilities and/or supply of gas
5 to render the service applied for, or if the service is of a
6 character that is likely to affect unfavorably service to other
7 customer.

8 (2) If the utility refuses service for any reason specified
9 in this subsection, the utility shall notify the applicant for
10 service as soon as practicable, pursuant to subsection (5), of the
11 reason for refusal of service. If the utility will discontinue
12 service, the utility shall notify the customer at least five (5)
13 working days prior to discontinuance that service will cease
14 unless the deficiency is corrected in compliance with the
15 utility's regulations, resolved through mutual agreement, or
16 successfully disputed by the customer. The five-day notice
17 provision does not apply to paragraphs (h)(i) or (j). In all
18 instances involving refusal or discontinuance of service the
19 utility shall advise in its notice that persons dissatisfied with
20 the utility's decision to refuse or discontinue service may
21 register their complaint with the utility's customer relations
22 personnel and to the Florida Public Service Commission at
23 1-800-342-3552 which is a toll free number. As applicable, each
24 utility may refuse or discontinue service under the following
25 conditions:

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1 (a) For non-compliance with or violation of any State or
2 municipal law or regulation governing gas service.

3 (b) For failure or refusal of the customer to correct any
4 deficiencies or defects in his piping or appliances which are
5 reported to him by the utility.

6 (c) For the use of gas for any other property or purpose than
7 that described in the application.

8 (d) For failure or refusal to provide adequate space for the
9 meter and service equipment of the utility.

10 (e) For failure or refusal to provide the utility with a
11 deposit to insure payment of bills in accordance with the
12 utility's regulations provided that written notice, separate and
13 apart from any bill for service, be given the customer.

14 (f) For neglect or refusal to provide reasonable access to
15 the utility for the purpose of reading meters or inspection and
16 maintenance of equipment owned by the utility provided that
17 written notice, separate and apart from any bill for service, be
18 given the customer.

19 (g) For nonpayment of bills or noncompliance with the
20 utility's rules and regulations, and only after there has been a
21 diligent attempt to have the customer comply, including five (5)
22 working days' written notice to the customer, such notice being
23 separate and apart from any bill for service. For purposes of
24 this subsection, "working day" means any day on which the
25 utility's business office is open and the U.S. Mail is delivered.

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1 Upon request of the customer, the utility shall give a copy of the
2 notice of discontinuance to a designated third party in the
3 service area of the utility.

4 (h) Without notice in the event of a condition known to the
5 utility to be hazardous.

6 (i) Without notice in the event of tampering with regulators,
7 valves, meters or other facilities furnished and owned by the
8 utility.

9 (j) Without notice in the event of unauthorized or fraudulent
10 use of service. Whenever service is discontinued for fraudulent
11 use of service, the utility, before restoring service, may require
12 the customer to make at his own expense all changes in piping or
13 equipment necessary to eliminate illegal use and to pay an amount
14 reasonably estimated as the deficiency in revenue resulting from
15 such fraudulent use.

16 (3) Service shall be restored when cause for discontinuance
17 has been satisfactorily adjusted.

18 (4) When service has been discontinued for proper cause, the
19 utility may charge a reasonable fee to defray cost of restoring
20 service provided such charge is set out in its approved tariff on
21 file with the Commission.

22 (5) In case of refusal to establish service, or whenever
23 service is discontinued, the utility shall notify the applicant or
24 customer in writing of the reason for such refusal or
25 discontinuance.

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1 (6) The following shall not constitute sufficient cause for
2 refusal or discontinuance of service to an applicant or customer.

3 (a) Delinquency in payment for service by a previous occupant
4 of the premises unless such previous occupant will receive benefit
5 from such service.

6 (b) Failure to pay for appliances purchased from the utility.

7 (c) Failure to pay for a different type of utility service,
8 such as electricity or water.

9 (d) Failure to pay for a different class of service.

10 (e) Failure to pay the bill of another customer as guarantor
11 thereof.

12 (7) No utility shall discontinue service to any noncommercial
13 customer between 12:00 noon on a Friday and 8:00 a.m. the
14 following Monday or between 12:00 noon on the
15 day preceding a holiday and 8:00 a.m. the next working day unless
16 such discontinuance is at the request of the customer or is
17 necessary in the interest of safety. Holiday as used in this
18 subsection shall mean New Years Day, Memorial Day, July 4, Labor
19 Day, Thanksgiving Day, and Christmas Day.

20 (8) Each utility shall submit, as a tariff item, a procedure
21 for discontinuance of service when that service is medically
22 essential.

23 Specific Authority: 366.05 F.S.

24 Law Implemented: 366.05(1) F.S.

25 History: Amended 10/20/73, 12/15/73, 1/8/75, 5/4/75, 1/3/77,
11/26/80, 9/29/82, formerly 25-7.89.

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1 25-30.320 Refusal or Discontinuance of Service.

2 (1) Until adequate facilities can be provided, a utility may
3 refuse to serve an applicant if, in the best judgment of the
4 utility, it does not have adequate facilities, and/or supply to
5 render the service applied for, or if the service is of character
6 that is likely to affect unfavorably service to other customers.

7 (2) As applicable, the utility may refuse or discontinue
8 service under the following conditions provided that, unless
9 otherwise stated, the customer shall be given notice and allowed a
10 reasonable time to comply with any rule or remedy any deficiency:

11 (a) For noncompliance with and/or violation of any state or
12 municipal law or regulation governing such utility service.

13 (b) For failure or refusal of the customer to correct any
14 deficiencies or defects in his piping and/or equipment which are
15 reported to him by the utility.

16 (c) For the use of utility service for any other property or
17 purpose than that described in the application;

18 (d) For failure or refusal to provide adequate space for the
19 meter and/or service equipment of the utility.

20 (e) For failure or refusal to provide the utility with a
21 deposit to insure payment of bills in accordance with the
22 utility's regulation.

23 (f) For neglect or refusal to provide reasonable access to
24 the utility for the purpose of reading meters or inspection and
25 maintenance of equipment owned by the utility.

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1 (g) For nonpayment of bills or noncompliance with utility's
2 rules and regulations in connection with the same or a different
3 type or a different class of utility service furnished to the same
4 customer at the same premises by the same or affiliated utility
5 only after there has been a diligent attempt to have the customer
6 comply, including at least five (5) working days' written notice
7 to the customers. Such notice shall be separate and apart from
8 any bill for service. For purposes of this subsection, "working
9 day" means any day on which the utility's office is open and the
10 U.S. Mail is delivered.

11 (h) Without notice in the event of a condition known to the
12 utility to be hazardous.

13 (i) Without notice in the event of tampering with regulators,
14 valves, piping, meter or other facilities furnished and owned by
15 the utility.

16 (j) Without notice in the event of unauthorized or fraudulent
17 use of service. Whenever service is discontinued for fraudulent
18 use of such service, the utility, before restoring service, may
19 require the customer to make at his own expense all changes in
20 piping or equipment necessary to eliminate illegal use and to pay
21 an amount reasonably estimated as the deficiency in revenue
22 resulting from such fraudulent use.

23 (3) Service shall be restored when cause for discontinuance
24 has been satisfactorily adjusted.

25 (4) In case of refusal to establish service, or whenever

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1 service is discontinued, the utility shall notify the applicant or
2 customer in writing of the reason for such refusal or
3 discontinuance and of his right of appeal to the Commission.

4 (5) The following shall not constitute sufficient cause for
5 refusal of service to an applicant or customer:

6 (a) Delinquency in payment for service by a previous occupant
7 of the premises unless such previous occupant will receive benefit
8 from such service.

9 (b) Failure to pay for appliances or equipment purchased from
10 the utility.

11 (c) Failure to pay for a different class of service, except
12 where two or more classes of service are rendered to the same
13 customer at the same premises.

14 (d) Failure to pay the bill of another customer as guarantor
15 thereof.

16 (6) No utility shall discontinue service to any customer,
17 between 12:00 noon on a Friday and 8:00 a.m. the following Monday
18 or between 12:00 noon on the day preceding a public holiday and
19 8:00 a.m. the next working day; provided, however, that this
20 prohibition shall not apply when:

21 (a) Discontinuance is requested by or agreed to by the
22 customer; or

23 (b) A hazardous condition exists; or

24 (c) Meters or other utility-owned facilities have been
25 tampered with; or

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1 (d) Service is being obtained fraudulently or is being used
2 for unlawful purposes.

3 Specific Authority: 367.121, F.S.

4 Law Implemented: 367.081, 367.121, F.S.

5 History: Amended 9/12/74, 4/3/80, formerly 25-10.74, Transferred
6 from 25-10.074 and Amended 11/9/86.

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